

**MINUTES**

**DECEMBER 3, 2013**

**BOARD OF ADJUSTMENT**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman Behr called the meeting to order at 8:13 P.M.

He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in December, 2012.

**MEETING CUT-OFF**

The Chairman Behr, read the following statement: Announcement is made that, as a matter of procedure, it is the intention of the Board of Adjustment not to continue any matter past 11:00 P.M. at any Regular or Special Meeting of the Board unless a motion is passed by the members then present to extend the meeting to a later specified cut-off time.

**CELL PHONES AND PAGERS**

The Chairman Behr, read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll the following were present:

Excused:

E. Thomas Behr, Chairman  
Edwin F. Gerecht, Jr., Member  
Michael O'Mullan, 1st Alternate  
Michael Pudlak, 2<sup>nd</sup> Alternate  
Kevin O'Brien, Twp. Planner  
Cyndi Kiefer, Secretary

Sandy Raimer, Vice-Chairman  
Jerry Aroneo, Member  
Richard Keegan, Member  
Michael Pesce, Member  
Felix Ruiz, Member  
Thomas Lemanowicz, Bd Engr.  
B. Hoffman, Bd. Attorney

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**EXECUTIVE SESSION**

It was determined that there was no need to hold an executive session.

**STIRLING LIBRARY, LLC**

91 Central Avenue  
Block 13103, Lot 6

#07-03Z  
Status Update of  
Condition 2(d)

Chairman Behr provided a quick review of the application. This application has been carried since July of 2007. Subsequent meetings were held in December of 2008, January of 2009, October of 2009, November of 2009, January of 2011, and July of 2012. The essence of the issue is that the Applicant has a commercial property which used to be the library. Parking is not sufficient according to the code. On-street parking can not be used to satisfy a parking requirement.

Chairman Behr stated that, in the past, the Board felt that until the Applicant was able to achieve full occupancy of the property, they were uncertain whether the additional parking spaces would be needed. Over the years, the Board has given the Applicant relief from having to comply with

the requirement to complete the parking as required by code for that reason. The situation has not changed in terms of assessing whether, with full occupancy, it will prove necessary to add the additional parking. The area is currently vegetated with a large specimen tree, all of which would have to be removed if parking was brought up to code. In addition, head in parking and other factors existing in a residential area might have some negative impact on the surrounding community.

Chairman Behr outlined the three (3) choices available to the Board: (1) continue as has been done since 2007 to defer the decision for another 12 to 18 months, (2) require the additional parking to be constructed in what is now on the plans indicated as a reserved area, or (3) relieve the Owner, successors, and assigns from any obligation to install the required additional parking if it is the Board's belief that requiring the Applicant to do this is unreasonable and unnecessary and might produce more harm than good. The latter would allow the situation as it is now to become the permanent situation. Chairman Behr noted that if either of the last two (2) choices were elected, it would have to be at a publically noticed hearing. He suggested the January 7th, 2014 meeting.

Mr. O'Brien said that in 2007 when the Board heard this application, the Board weighed whether or not the parking area was required in front of the library which would remove a number of trees and park cars on the sides of both residences on either side of the library. In 2007, the Applicant outlined what he considered the uses of the building to be and the Board considered them and what that building would look like when fully occupied. The Board decided that the parking provided on Central Avenue was adequate to meet those needs because the only real demand in the area is the school. The application has been continued numerous times since 2007 because the building has never been at full occupancy. There have been no reports from the police department about any impact. The Board of Education has not made any comment about any impact on their facility. Mr. O'Brien felt the Board could be comfortable that enough time has passed with this building and the resolution being in operation since 2007 that what is working will continue to work. Should the building become more occupied, the Board could be comfortable that it would not have any type of effect on Central Avenue or the surrounding area. When the need for parking on the street is weighed against putting in a parking lot which would remove not only a very large tree but put cars on the side yards pointing their headlights at the buildings on either side, it would seem that the latter choice would have a grave negative impact on that neighborhood. There has been no demonstrated need for that parking. He stated that should the Board decide to close the resolution, there would have to be a notice of the hearing.

Michael Gurval, 41 Shawnee Path, Millington, was sworn in as the Owner of the property by Chairman Behr.

Mr. Gurval agreed that there has been no negative impact. He felt, if anything there was a positive impact because the building has been improved and the neighborhood is nicer. He added that the building could not support a parking lot. With the waste water run off and with the irrigation required, the cost of a parking lot would be in excess of \$150,000. The last lot that he proposed only had six (6) spaces and it would not help him to secure tenants. Financially, he is struggling to carry the building currently.

Mr. Gerecht asked if there would be any potential need for a parking lot where people other than the tenants would have to park when they visit those tenants.

Mr. Gurval answered no. He stated he has one tenant now who has three (3) employees. That tenant has had only five (5) visitors in 2-1/2 years.

Mr. Gurval added that his business has not changed. He visits his clients. They rarely visit him.

Mr. Gerecht asked what the nature of the current tenant's business was.

Mr. Gurval answered that the tenant was a group health insurance broker.

Mr. Pudlak asked Mr. Gurval what the nature of his business was.

Mr. Gurval answered that he was a risk management consultant. He stated that he had a staff of five (5) and the other tenant had three (3) so for the last three (3) years there have been eight (8) people in the building.

Chairman Behr asked if the Board had any further questions. There being none, he asked the public if they had any questions of this witness. There being none, he closed the meeting to the public.

Chairman Behr outlined the choices again: continue to defer for 12 to 18 months, decide to require the Applicant to add the parking, or decide to relieve the Applicant, successors, and assigns from any obligation to install the required additional parking. The last two options would have to be handled at the January 7th, 2014 meeting.

Mr. Gerecht stated that procedurally the Applicant would have to assume the burden of noticing the 200 feet.

Mr. O'Brien stated that that would be handled by the Applicant and Mrs. Wolfe.

Chairman Behr then asked the board members how they felt about the options.

Mr. Gerecht thought the third (3<sup>rd</sup>) option was appropriate. It is a small building and the need for parking will not expand beyond the building capacity.

Mr. O'Mullan stated that based on what was said at this meeting, this was a prudent way to proceed. If there was any additional information on impact from the public, it would be heard at the meeting and could be taken into account in their decision-making process as Mr. Gerecht suggested.

Mr. Pudlak felt that based on what he had heard at this meeting and on Mr. O'Brien's opinion, Option #3 made sense.

Chairman Behr concurred with the other board members. He felt that if there was a problem, the Board would have known it by now. A number of factors weighed in. Would the decision of insisting upon the regulations have a negative impact on the immediate environment and he felt that it would have a negative effect. The advantage of providing additional parking which has not been indicated as needed against the cost is conclusive in saying that it would be appropriate to relieve the Owner, successors, and assigns.

Chairman Behr stated that this would be noticed and heard at the January 7, 2014 meeting.

Mr. Gurval said that he would be ready.

Chairman Behr stated that the Board through a consensus has expressed an opinion that this matter should be dealt with by the full Board based upon the information they have received from the Applicant and from the community. He added that at the point that there was a noticed hearing, it would be appropriate to reveal the conversations that the Board had tonight and make that part of the public record.

Mr. O'Brien stated that it would also be appropriate to point out to the rest of the Board that this Board met and the consensus was to move this matter along based upon what they heard this evening.

Chairman Behr noted that at the beginning of the year the Board of Adjustment put in place a "Performance Evaluation Process for the Consultants". The evaluation committee was Chairman Behr, Mrs. Raimer ex-officio, Mr. Gerecht and Mr. Pesce. The four (4) consultants were divided up between the committee members. The Board had created criteria by which the consultants would be evaluated so that the evaluation would be clear, reasonable, and fair to all parties involved. He indicated that they will be meeting with all four (4) consultants and will ask them to review the goals established for them for the past year. They will have an opportunity to

measure themselves and express how they felt they performed. He, Mr. Gerecht, and Mr. Pesce will share their observations and at the end of the process there will be a recommendation for rehiring those consultants for the following year. There will not be an opportunity to meet as a Board since this is the last meeting of the year however; there will a report given to the entire Board. Chairman Behr has asked the consultants to take some steps to improve the efficiency of what they do with a partial result of lowering the cost and impact on Applicants who appear before the Board. These measures should reduce the financial burden on the Applicant and increase the speed of resolution.

Chairman Behr moved on to the Procedural Rules of the Board of Adjustment. He felt that the important ethical portions were completed at the last meeting and he thanked the board members for that. What remains is taking a look at procedural rules and getting them in writing, as the law requires.

Chairman Behr asked for a motion to adjourn. Mr. Gerecht made the motion, Mr. Pudlak seconded it. A voice vote was taken and the motion passed. Meeting was adjourned at 8:37 P.M.

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CYNTHIA KIEFER  
Planning and Zoning Secretary