

2012-9

**RESOLUTION OF FINDINGS AND CONCLUSION**

**BOARD OF ADJUSTMENT**

**BERLIN TOWNSHIP PLANNING/ZONING BOARD**

**398 RT 73**

**Block 820, Lot 2**

**WHEREAS**, HJ Petroleum LLC, is the record owner of the property located at 398 RT 73, having made application to the Berlin Township Zoning/Planning Board of the Township of Berlin, for a "Use" variance to expand a pre-existing condition, a Parking variance to allow double parking, a setback variance and an amended site plan for the property located upon Block 820, Lot 2, as shown on the Official Map of the Township of Berlin, located in a C-1 Highway Zone, said application being represented by Robert Borbe, Esq.; and

**WHEREAS**, the Board after carefully considering the representations made by the applicant at the public hearing held on October 25, 2011 as well as having reviewed the application and evidential exhibits at said hearing, has made the following factual findings and conclusions based thereon;

1. The applicant, HT Petroleum LLC, is the record owner of the property located at 398 RT 73, in Berlin Township as shown by Block 830, Lot 1 and is located in a C-1 Highway Zone.
2. Proper notice was afforded all adjacent property owners as provided by the applicable statutes and ordinances, and the applicant provided proof of said notice.
3. All property taxes were paid to date.
4. After being sworn, the applicant testified he was seeking to convert an existing below ground fuel storage tank from the storage of gasoline to diesel fuel. He also stated he

intended to install a blending 4-grade gasoline dispenser and a diesel fuel dispenser, each on separate concrete islands. The proposed dispensers will be located and lined with and in between the existing kiosk and the existing gasoline dispenser island. He also indicated he needed a variance to have the dumpster in the front yard on Blaine Avenue where 50 ft. is required he would only have 3-1/2 ft.

5. The applicant introduced into evidence an amended Site Plan prepared by John W. Storb, a Professional Engineer, revised October 6, 2011 and incorporated in to the testimony.

6. The owner testified that this would provide the owner and customer with easier access and protection and that this would be out of the way and would present no problems. He indicated the trash pickup is on Friday mornings every two weeks. The applicant also testified that the hours of operation would be 6:00 AM to 11:00 PM.

The Board was concerned about outside storage and the applicant agreed there would be no outside storage and that as a condition of approval, he would do away with the used tire rack. The only outside storage would be for trash which would be in an enclosed bin and would be landscaped.

The Board also questioned as to whether or not the applicant had DEP clearance and the applicant indicated that if he had same he would submit a copy to the Board. The applicant also stated that the only place to place the dumpster would be in the front yard on Blaine Avenue. The applicant also agreed as a condition of approval, that there would be no more than 11 parking spaces on the site and he would restrict the number of overnight parking outside to 5 cars between the hours of 11:00 PM and 6:00 AM.

7. The Board also reviewed a letter from the fire marshal dated September 12, 2001 and the applicant agreed with the comments therein.

8. The Board also reviewed 2 letters from Charles Riebel, Jr.; the Director of Public Works dated September 9<sup>th</sup> and a revised copy of October 25<sup>th</sup> 2-011. The applicant was in agreement with the conditions enumerated in the letter except he testified that there is no lawn irrigation system and the Board granted a waiver of same.

9. There were no objections to the request for the variance presented at the hearing.

**UPON MOTION** duly made and seconded to grant the applicant a variance to expand the pre-existing non-conforming use, a variance to allow double stacking parking and a variance for the front yard setback from 50 ft. to 3-1/2 ft. along with an amended Site Plan, the Board voted seven (7) in favor, zero (0) against and zero (0) abstentions, thus granting the relief requested; and

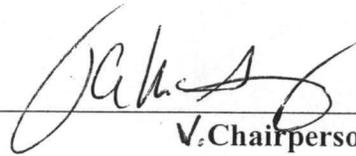
**WHEREAS**, the Board has determined that the relief requested by the applicant may be granted without substantial detriment to the public good and otherwise without impairing the intent and purpose of the Zoning Plan and Ordinances of the Township of Berlin because of the size and shape of the lot and the Board was of the opinion that the benefits exceed any detriment; and also to the fact that there was a pre-existing gasoline station on the site for many years.

**WHEREAS**, the statutory purposes will be advanced by the granting of the relief requested;

**NOW THEREFORE BE IT RESOLVED**, by the Planning/Zoning Board of Adjustment of the Township of Berlin on this 25<sup>th</sup> Day of October 2011 that the applicant, HJ Petroleum LLC, is hereby granted the aforesaid amended site plan and variances for the property located upon, Block 820, Lot 2 as shown on the Official Tax Map of the Township of Berlin, consistent with the testimony, application and exhibits, same of which are incorporated herein and made a part hereof.

This approval is conditioned upon the applicant submitting a DEP Clearance Letter if he has one and further conditioned upon the applicant doing away with the used tire rack, and it is further conditioned upon the applicant receiving all approvals that may be necessary from applicable local, county, State or Federal agencies and shall comply with all such laws, rules and regulations.

**BERLIN TOWNSHIP PLANNING/ZONING BOARD**

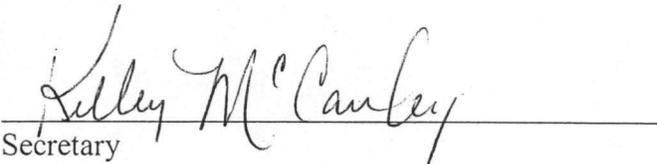


V. Chairperson



Secretary

I hereby certify that the foregoing is true and correct copy of a Resolution adopted on by the Berlin Township Planning/Zoning Board at a meeting held on 14<sup>th</sup> Day of February, 2012.



Secretary

Prepared by:  
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