



## MEMORANDUM

### Clarke Caton Hintz

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**To:** Montgomery Township Zoning Board of Adjustment

**From:** Michael Sullivan, ASLA, AICP  
Melissa McMullen, AICP

**Re:** **Golden Bison Investments, LLC**  
**Building Coverage Variance**  
59 Zion-Wertsville Road  
Block 11002, Lots 14 and 15  
MR Mountain Residential Zone

**Date:** January 3, 2023

### 1.0 Project & Site Description

**1.1 Project Description:** The applicant is seeking building coverage variance approval for a 112 sf. addition and renovations to an existing single-family dwelling. The proposed addition will fill an approximate 3.5'x30' gap through the rear center of the dwelling. Other proposed renovations include removing the side entrance stairs on the east side of the dwelling, six (6) new windows, and an updated interior layout of the dwelling. The applicant has proposed to reduce a portion of the existing paved driveway to mitigate some of the lot coverage on site. 9.5 feet of the property will be dedicated to the ROW of Zion-Wertsville Road. Additionally, the applicant has proposed to plant seven (7) evergreen trees along the eastern lot line and a install a new septic bed in the rear yard. The total existing lot area is 0.467 acres (20,342 sf.)<sup>1</sup>.

**1.2 Existing Site Conditions:** The subject 0.467-acre property is located in the MR Mountain Residential zoning district. The property contains an existing one-story single-family dwelling with a semi-circular driveway at the front of the property. The area of disturbance is 5,900 sf., which encompasses the portion of the dwelling affected by the addition, the eastern side yard, and a significant portion of the rear yard. The southern portion of the property contains trees and the remaining land primarily contains lawn.

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<sup>1</sup> The applicant has proposed a 9.5' wide R.O.W. dedication, resulting in a proposed lot size of 0.457 acres (19,888 sf).

John Hatch, FAIA  
George Hibbs, AIA  
Brian Slauch, AICP  
Michael Sullivan, AICP  
Michael Hanrahan, AIA  
Mary Beth Lonergan, AICP



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- 1.3 **Lot Consolidation.** Per §16-5.7, contiguous non-conforming lots held by the same owner shall be considered as a single lot. The applicant's property consists of two non-conforming lots which we have reviewed as one single lot. As a condition of approval, the applicant should consolidate the two lots.



- 1.4 **Site Context:** The subject property is located on the northwestern portion of the Township along the boundary with the Township of Hillsborough. The site is surrounded by adjacent single-family dwellings as well as the Mount Zion United Methodist Church, located across Zion-Wertsville Road in Hillsborough Township.

## 2.0 Use & Bulk Standards

- 2.1 **Permitted Principal Use.** The application is in compliance. The MR district, pursuant to §16-4.2a2, permits detached single-family dwellings within the zone. The applicant is proposing an addition to the single-family dwelling on the property.



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- 2.2 **Permitted Accessory Uses.** The application is in compliance. The proposed addition to the dwelling impacts the principal building. There are currently no existing accessory buildings/structures located on the property and no additional accessory buildings or structures are proposed.
- 2.3 **Height.** The application is in compliance. §16-4.2c states “no principal building shall exceed 35 feet in height...” The existing dwelling and proposed addition to the principal building is approximately 15 feet in height.
- 2.4 **Area & Yard Requirements. Variance relief is necessary.** The application does not meet the maximum building coverage required per 16-4.2d. The proposed 112 sf addition to the dwelling increases the property’s building coverage from 7% to 7.7%, requiring variance relief. Additionally, the proposed R.O.W. dedication reduces the lot area to 0.457 ac where 10 ac is required and the front yard to 59.7 ft where 100 ft is required. Each of these items require variance relief. See Table 1 for additional details on the applicant’s compliance with the area and yard requirements. The following analysis is based on looking at the two lots as a single consolidated lot.

Table 1: Area & Yard Requirements for Schools: §16-4.2d.				
	Required	Existing	Proposed	Variance
<b>Principal Building Minimums</b>				
<b>Lot Area (acres)</b>	<b>10</b>	<b>0.467</b>	<b>0.457*</b>	<b>Yes</b>
Lot frontage (feet)	350	53.47	53.47	ENC
Lot width	350	53.47	53.47	ENC
Lot depth	750	380.47	380.47	ENC
Side yard (each) (feet)	100	12.2	12.2	ENC
<b>Front yard (feet)</b>	<b>100</b>	<b>68.2</b>	<b>59.7*</b>	<b>Yes</b>
Rear yard (feet)	100	234.1	234.1	No
<b>Maximum Coverages</b>				
<b>Building coverage of principal building</b>	<b>7%</b>	<b>7.0%</b>	<b>7.7%</b>	<b>Yes</b>
Lot coverage	10%	13.3%	12.7%	No
Notes: ENC – Existing Non-Conformity * The applicant is dedicating an additional 9.5 feet of ROW to Zion-Wertsville Road. This dedication reduces the lot size to 0.457 ac and front yard setback to 59.7 ft.				

- 2.5. **Area & Yard Requirements.** In accordance with §16-6.2, properties made undersized due to voluntary R.O.W. dedication shall not be penalized regarding



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building coverage and other provisions of the Land Development Chapter. The proposed ROW dedication does not “*make*” the property undersized, but makes the property “*further*” undersized, as the property currently does not meet the ordinance standards. Therefore, variance relief may be required.



### 3.0 Off-Street Parking and Circulation

- 3.1. **Off-Street Parking Setback.** *Variance relief is necessary.* Pursuant to §16-4.2e, no parking area or driveway or driveway shall be located within 10 feet of any property line within the MR district. The applicant has proposed to alter the existing non-conforming semi-circular driveway on the property by reducing the paved driveway by 145 sf. After the proposed reduction, the driveway will be 1 ft inward from the eastern property boundary and 2.5 ft inward from the western property boundary.
- 3.2. **Sidewalks.** A sidewalk does not currently exist along Zion-Wertsville Road, nor does the applicant propose the provision of a sidewalk with their application. Per §16-5.14c1.(d), properties located on local, rural collector, and scenic collector





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roads within the MR zone are exempt from providing sidewalks for residential development. As such, the application does not require a design exception for this item.



### 4.0 Landscape Design & Plantings

The following includes a review of basic dimensional and quantitative regulations; however, the technical review of plantings is deferred to the Board Landscape Architect.

- 4.1. **Trees.** §16-5.6d.3, a minimum of 14 trees per acre of gross tract shall be planted throughout the tract of single-family residential developments. At 0.467 acres, this section requires a total of 7 ( $0.467 \times 14 = 6.538$ ) trees to be planted on the site. The applicant has proposed to plant seven (7) Green Giant Arborvitae along the eastern property boundary, providing a landscape buffer along the side yard.
- 4.2. **Street Trees.** *A design exception is required.* Street trees are to be planted at 50-foot intervals along all street frontages, per §16-5.6d.15. The subject property has



53.47ft of frontage along Zion-Wertsville Road, requiring a minimum of one street tree to be planted by the applicant.

## 5.0 Consideration of the Bulk Variances

The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts.

5.1. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

5.2. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.



## 6.o Design Exceptions

- 6.i. The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses the criteria for the granting of exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:

*The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.*

## 7.o Relevant Policy

- 7.i. **Master Plan Goals.** The Township Master Plan includes several goals which are relevant to the Board's consideration of this application. The following goals can be found on pages 6 through 8 of the 2017 Master Plan Reexamination Report:

2. *The identity of the Township as a totality and the integrity of individual neighborhood areas should be preserved, enhanced and created to the maximum extent possible.*

As the neighborhood is predominantly residential, the existing single-family detached dwelling enhances the single family pattern of development that exists in this area of the Township.

3. *The Development Plan should recognize the physical characteristics of the Township and acknowledge the inherent capabilities and limitations of the land to host different types of community development at appropriate densities and intensities.*

Although the property has a number of existing non-conformities in relation to the lot size and dimension requirements, the single-family detached dwelling and proposed addition comply with the overall lot coverage and are compatible with the characteristics of the surrounding residential community.



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**8.0 Materials Reviewed**

- 8.1 *Montgomery Zoning Board of Adjustment Application*, dated August 10, 2022.
- 8.2 *Variance Site Plan*, 1 sheet, prepared by Michael K. Ford, PE, Van Cleef Engineering, dated July 14, 2022, last revised September 15, 2022.
- 8.3 *Survey of Property*, 1 sheet, prepared by Adam R. Voigt, PLS, Land-Tech Services, LLC, dated February 14, 2022.
- 8.4 *Architectural Plans and Elevations*, 5 sheets, prepared by Lionel A. Scriven, LAS Architect LLC, dated February 21, 2022.

**9.0 Applicant / Owner / Professionals**

- 9.1 **Owner/Applicant:** Golden Bison Investments, LLC, 36 Mega Way, Furlong, PA 18925. Telephone: 609.638.1688. Email: goldenbisoninv@gmail.com.
- 9.2 **Attorney:** Jonas Singer, Esquire, Wells & Singer Law Office, LLC, 789 Farnsworth Avenue, Bordentown, NJ 08505. Telephone: 609.298.1350.
- 9.3 **Engineer:** Michael K. Ford, PE, Van Cleef Engineering Associates, LLC, 32 Brower Lane, P.O. Box 5877, Hillsborough, NJ 08844. Telephone: 908.359.8291. Email: mford@vancleefengineering.com.
- 9.4 **Architect:** LAS Architect LLC, 45 Delaware Avenue, Lambertville, NJ 08530. Telephone: 609.947.4069.

**10.0 Summary**

- 10.1 The applicant is seeking a variance for excessive building coverage and associated design exceptions for a 112 sf. addition to an existing detached single-family dwelling. The proposed addition will fill an approximate 3.5' x 30' gap through the rear center of the dwelling. Other development includes interior renovations to the dwelling, the installation of a proposed septic bed, and the planting of seven (7) evergreen trees. The total limit of disturbance for the project is 5,900 sf., whereas the total existing property size is 0.467 acres (20,342 sf.).

The following variances and design exceptions are required (additional variances and design exceptions may be identified by other Board professionals):





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- a) Variances
  - §16-4.2d Lot Area
  - §16-4.2d Front Yard
  - §16-4.2d Building Coverage
  - §16-4.2e Off-Street Parking Setback
- b) Design Exceptions
  - §16-5.6d.15 Street Trees

Please contact this office with any questions you may have.

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