

LAND USE BOARD MINUTES
January 18, 2012
7:30 p.m.

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Mountainville, New Jersey. The meeting was called to order at 7:32 p.m.

Present: Blake Johnstone, Dana Desiderio, Mary Elizabeth Baird, Elizabeth Devlin, Bruce Mackie, Ed Kerwin, Michael Moriarty, Arnold Shapack, Alt. #1, and Ed D'Armiento, Alt. #4.

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer and Randall S. Benson, Zoning Officer.

Absent: Shaun Van Doren, Shirley Czajkowski, Eric Metzler, Alt. #2 and Tom Dillon, Alt. #3.

There were approximately twenty nine (29) people in the audience.

OPEN PUBLIC MEETING ACT STATEMENT

Mr. Johnstone opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on January 05, 2012.

PLEDGE OF ALLEGIANCE

Those present stood and pledged allegiance to the American flag.

CLAIMS

Mr. Johnstone asked the Board if there were any questions or comments regarding the following claims to which the response was negative. Ms. Desiderio made a motion to approve the claims listed below and Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Land Use Board Professional Services – Attendance at January 4, 2012 meeting - invoice dated January 5, 2012 (\$450.00)
2. Maser Consulting – Land Use Board Escrow – Johnson (B23, L23), invoice #174630 (\$910.00)
3. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #174631 (\$65.00)
4. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #174632 (\$65.00)
5. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #168234 (\$292.50)
6. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #174633 (\$65.00)

7. Maser Consulting – Land Use Board Escrow – Sheft (B33, L7.18), invoice #174635 (\$65.00)
8. Maser Consulting – Land Use Board Escrow – Taggart (B23, L26), invoice #174636 (\$795.00)
9. Maser Consulting – Land Use Board Escrow – Vliettown Farm (B43, L4), invoice #174637 (\$747.50)
10. Maser Consulting – Land Use Board Escrow – Koplowitz (B6, L24.18), invoice #174638 (\$1,040.00)
11. Maser Consulting – Land Use Board Escrow – Lauezzari (B31, L25), invoice #174639 (\$357.50)
12. Maser Consulting – Land Use Board Escrow – Wood (B10, L5.07), invoice #174634 (\$780.00)
13. Banisch Associates – Land Use Board Escrow – Johnson (B23, L23), invoice #P11-19657 (\$426.00)
14. Banisch Associates – Land Use Board Planning Services, invoice #P11-19658 (\$35.50)
15. Suburban Consulting Engineers – Land use Board Inspection – PNC Bank (B45, L1), invoice #17846 (\$229.00)
16. Suburban Consulting Engineers – Land Use Board Escrow – Vliettown Farm (B43, L3), invoice #17842 (\$873.64)
17. Suburban Consulting Engineers – Land Use Board Escrow – NJ Conservation Foundation (B51, L80), invoice #17839 (\$682.50)
18. Suburban Consulting Engineers – Land Use Board Inspection – Sblendorio Tewksbury Holdings (B45, L41), invoice #17838 (\$442.00)
19. Suburban Consulting Engineers – Land Use Board Inspection – Johnson (B23, L4, 20 & 36), invoice #17837 (\$66.00)
20. Suburban Consulting Engineers – Land Use Board Inspection – Stickel (B37, L7), invoice #17806 (\$89.76)

Roll Call Vote:

Ayes: Mrs. Baird, Ms. Desiderio, Mr. Mackie, Mrs. Devlin, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. D’Armiento and Mr. Johnstone

Nays: None

CORRESPONDENCE

A motion was made by Ms. Desiderio and seconded by Mrs. Devlin acknowledging receipt of the following items of correspondence. All were in favor.

1. An e-mail dated January 11, 2012 from ANJEC re: a seminar for Economic Development Opportunities in the Highlands.
2. A letter dated January 5, 2012 from Michael Learn re: the Nextel of NY d/b/a Sprint application (Appl. #11-12), Block 11, Lot 38.01.
3. A letter dated January 5, 2012 from the Office of Planning Advocacy re: six public hearings for the draft Final State Strategic State Plan; NJ State Development and Redevelopment Plan.

MINUTES

➤ December 7, 2011

The minutes of December 7, 2011 were approved by motion of Ms. Desiderio and seconded by Mr. Shapack. All were in favor. Mrs. Devlin and Mr. D’Armiento abstained.

ORDINANCE REPORT

Mr. Mackie had no ordinances to report on.

PUBLIC PARTICIPATION

Mr. Johnstone asked the public if there were any questions or comments regarding anything not on the agenda. There being no questions or comments from the public Mr. Johnstone closed the public portion of the session.

RESOLUTION

➤ **Resolution No. 12-04** Koplowitz, Appl. No. 11-15, Block 6, Lot 24.18
Eligible to vote: Mrs. Baird, Ms. Desiderio, Mr. Van Doren, Mr. Mackie, Mrs. Czajkowski, Mr. Shapack, Mr. Metzler, Mr. D’Armiento and Mr. Johnstone

Mrs. Baird made a motion to adopt the following resolution. Ms. Desiderio seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 11-15
RESOLUTION # 12-04

WHEREAS, MICHAEL and MARTINE KOPLOWITZ have applied to the Land Use Board of the Township of Tewksbury for permission to expand their home, construct a larger swimming pool in the area of their existing swimming pool, and add a pool patio to their property which is located at 26 Big Spring Road and designated as Block 6, Lot 24.18 on the Tewksbury Township Tax Map, which premises is located in Highlands (HL) Zone, and

WHEREAS, the application was presented by Michael and Martine Koplowitz, Civil Engineer Gregory (Greg) E. Yannaccone, P.E. of the firm of

Yannaccone Villa & Aldrich, LLC and Architect Vincent (Jim) Matarazzo Jr., R.A. of the firm of VJM Architecture at the December 21, 2011 Land Use Board meeting, and

WHEREAS, the application was reviewed by Land Use Board Engineer William H. Burr, IV, P.E. of the firm of Maser Consulting, P.A., and

WHEREAS, after considering the testimony presented by the applicants, Mr. Burr, and neighbors, the Board has made the following factual findings:

A. The Subject Property.

1. The subject property contains 3.034 acres. The site has 190 feet of frontage on Big Spring Road and widens to a width of 376.50 feet at the rear property line.

2. The property is bisected by a 50 foot wide Tidewater Pipe Company easement.

3. Because of the pipeline, the home was constructed in back of the easement 342.5 feet from the road. An existing concrete swimming pool is located behind the home. Located in front of the home 209.7 feet from the road is a 575 square foot paved basketball court.

4. The driveway to the home is about 380 feet long.

5. The property slopes from the rear to the front.

6. The lot is wooded with mature trees.

B. The Proposal.

7. The applicants propose to add a one story addition to the west side of their home which will include a 16 feet x 20 feet guest room with two walk-in closets, a guest bathroom, and a library which will contain a baby grand piano.

8. The guest room will be used by Martine Koplowitz's parents when they visit the home. The parents will not be staying on a permanent basis, as they currently own three residences, one of which is being sold.

9. A one-story addition to the northeast side of the home will include a powder room, mud room, gallery, all season room, breakfast area, covered loggia (deck) and deck.

10. A master bedroom is planned over the existing two car garage. The master suite on the second floor will include two walk-in closets, a master bathroom, and a master sitting/dressing room. An existing bedroom will be converted to a den.

11. There are presently four bedrooms and 2-1/2 bathrooms in the residence. After the expansion and renovations, the number of bedrooms will not change, but the number of bathrooms will increase from 2-1/2 to 3 full bathrooms and 2 half bathrooms.

12. Exterior changes include the replacement of the vinyl siding with hardyplank and cultured stone.

13. Based on the architectural elevations of the expanded residence, and the photographs of the existing home, the Board concludes that the expansion will substantially enhance the appearance of the home.

14. The square footage of the home will be increased from 2,836 square .feet. to 4,399 square feet.

15. The existing 20 feet x 40 feet in-ground concrete swimming pool lacks stairs and a sloped area for entry, and is not appropriate for the applicants' young children. The existing swimming pool will be reconstructed/replaced with a 20 feet by

50 feet in-ground swimming pool. The new swimming pool will have both a ladder and sloped entry area.

16. The construction of the home additions and swimming pool will result in the removal of mature trees along the rear property line.

17. The plans show a 1,523 square foot patio will be installed around the new swimming pool.

18. New outdoor lighting will consist of a post light and low voltage lighting around the swimming pool.

C. Required Variances.

19. The subject property is in the HL Zone which requires a minimum lot size of 12 acres. The subject property is *grandfathered* as it meets the requirements of Section 706F2 of the DRO by containing at least three acres, having a lot width of at least 225 feet at the required front setback in the zone of 100 feet, and a lot depth of more than 300 feet.

20. *Grandfathered* lots are subject to reduced standards. The building setback for a *grandfathered* lot is 75 feet. The subject property has a lot width of 218 feet at the reduced front yard setback, thus requiring a lot width variance.

21. The Board regards this as a technical variance as the lot width is in conformance with the stricter HL requirement.

22. This variance is justified under N.J.S.A. 40:55D-70c(1)(a) on the basis of the shape of the subject property which *fans out* from the road to the rear property line.

23. The proposed swimming pool equipment pad is shown with a 39.7 foot rear yard setback while *grandfathered* lots under 706F3(c) require a 40 foot rear yard setback. Engineer Yannaccone testified that the pool equipment pad would be moved in a southern direction to comply with the rear yard setback.

24. *Grandfathered* lots under Section 706F3(d) are limited to maximum lot coverage of 8% which is reduced for the area over three acres. Land Use Board Engineer Burr in his comprehensive report of December 16, 2011 stated that the DRO limits lot coverage on the subject property to 7.989%. There presently exists 8.2%, and the proposed construction including the swimming pool and patio will increase lot coverage to 10.2%.

25. Civil Engineer Yannaccone testified that 253 square feet of coverage would be eliminated by the removal of a portion of the pool patio area. He further stated that the removal and revised calculations reduced proposed lot coverage to 9.9%.

26. The applicants agreed to a stormwater management system that would reduce off-site runoff to that produced by 7.989% lot coverage. The applicants further agreed to submit a landscape plan for the backyard, subject to the approval of the Land Use Board Engineer's office.

27. The purposes of lot coverage restrictions in the DRO is to control water runoff and maintain aesthetics. The Grading and Stormwater Management Plan will limit water runoff to that produced by conforming lot coverage. The trees planted in the rear property pursuant to an approved landscape plan will buffer the swimming pool, which has a larger rear yard setback than required under the DRO.

28. The lot coverage variance is justified under N.J.S.A. 40:55D-70c(2) by advancing the following purposes of the Municipal Land Use Law under N.J.S.A. 40:55D-2:

“a. To encourage municipal action to guide the appropriate use or development of all lands in the State, in a manner which will promote the public health, safety, morals, and general welfare” *by the ladders and sloped entry into the pool which will improve safety over the existing swimming pool.*

“g. To provide sufficient space in appropriate locations for a variety of . . . recreational . . . uses . . . both public and private . . .”. *by the construction of a new swimming pool.*

“i. To promote a desirable visual environment. . . .” *The proposed construction will substantially enhance the appearance of the home.*

29. The benefits from the deviations substantially outweigh any detriments.

30. A secondary justification for the lot coverage variance under N.J.S.A. 40:55D-70c(1)(c) is the long paved driveway.

31. Antranig (Peter) Tarpinian, who lives at 30 Big Spring Road which adjoins the subject property to the east, Robert Fernicola, who lives at 24 Big Spring Road which adjoins the subject property to the west, and Kim Chen, who resides at 28 Big Spring Road which adjoins the subject property to the north, all supported the application.

32. The requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Township of Tewksbury.

NOW, THEREFORE BE IT RESOLVED by the Land Use Board of the Township of Tewksbury on this 18th day of January 2012 that the application of MICHAEL and MARTINE KOPLOWITZ be approved in accordance with engineering plans titled: "VARIANCE PLAN FOR KOPLOWITZ PROJECT 26 BIG SPRING ROAD LOT 24.18 ~ BLOCK 6 TEWKSBURY TOWNSHIP HUNTERDON COUNTY, NEW JERSEY" prepared by Yannaccone Villa & Aldrich, LLC and last revised November 17, 2011 consisting of four sheets and architectural plans titled: "Project Name: KOPLOWITZ RESIDENCE ADDITION/ALTERATION Location: 26 BIG SPRING RD. TEWKSBURY TWP., NJ" prepared by VJM Architecture on October 16, 2011 and last revised November 17, 2011 consisting of a single sheet, subject however, to the following conditions:

1. Conditions recommended by Land Use Board Engineer William H. Burr, IV, P.E. in his report of December 16, 2011, as modified by the Land Use Board:

1. The applicant should describe in detail the proposed additions and related improvements including the proposed interior renovations, number of existing and proposed bedrooms/bathrooms, use of the space and exterior style, materials, color, etc. *The additions and modifications to the home and the swimming pool and patio are described in factual findings 7 - 17 herein.*

2. The applicant and its professionals should provide testimony to support the lot coverage variance. The property is currently about 323 S.F. in excess of the permitted lot coverage and the applicant is proposing an additional 2,592 S.F. as part of this application. The total excess lot coverage as a result of the proposed improvements, beyond that which is permitted, is proposed to be 2,914.93 S.F. The applicant should clarify if there are any existing lot coverage areas on the property that

could be eliminated as a way to decrease the amount of impervious coverage on this property? *The elimination of 253 square feet from the proposed pool patio and the recalculation of lot coverage results in requested lot coverage of 9.9%. The justification for the lot coverage variance is found in factual findings 24 – 29 herein.*

3. The proposed swimming pool equipment is proposed to be located 39.7 feet from the rear yard property line, where a 40 ft. setback is required. I would recommend that the applicant consider moving this equipment slightly to the south, out of the 40 ft. rear yard, which would eliminate the need for a rear yard variance. *The applicants agree to comply with the 40 foot rear yard requirement.*

4. In an effort to mitigate the increase in stormwater runoff from the proposed building additions, the applicant has provided two (2) drywells to capture runoff from the new additions and covered porch, and a portion of the existing dwelling. In total, the proposed drywells have been sized to handle a total of 2,775 S.F. of existing lot coverage. I have the following comments regarding stormwater management for this application:

a. As with previous applications, I would recommend that the proposed stormwater facilities be sized to bring the effective lot coverage down to the maximum permitted amount of 7.989% (10,558.07 S.F.), which in this case would require an additional 140 S.F. of lot coverage to be captured by the drywells. If the Board agrees, the variance plan will need to be revised to reflect this. *The applicants agreed to limit water runoff to that reduced by a conforming 7.989% lot coverage. The plans need to be revised accordingly to the approval of the Land Use Board Engineer. See also condition 1.9 herein.*

b. Soil tests will need to be performed to confirm adequate soil conditions to allow for the installation of the drywell as proposed. This issue could be addressed as a condition of any Board approval. *Soil tests shall be performed to confirm that drywells will work properly. In the event that water will not percolate into the ground, the applicants must come up with another Grading and Surface Water Management Plan which is acceptable to the Township Engineer.*

5. The plans call for the removal of several existing trees to allow for the proposed improvements. The applicant should provide testimony to clarify if any new trees are proposed to be planted to offset this tree removal. *The applicants will be retaining a landscape architect to prepare a plan for buffering the swimming pool on the northern property line. The plan is subject to the approval of the Land Use Board Engineer's office. The landscaping must be planted and permanently*

maintained. Dead, diseased, and missing vegetation must be replaced to the approval of the Land Use Board Engineer's office.

6. The architectural plan reflects new proposed exterior lights as part of this application including a post light for the stairs to the driveway and low voltage landscape lighting around the pool. The applicant should provide testimony to confirm the style and wattage of proposed lights and to confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632. *All new lighting in conjunction with the present application is subject to the approval of the Land Use Board Engineer. (Cut sheets shall be supplied to the Land Use Board Engineer). The lighting shall be directed downward and shall not cause glare or sky glow on adjoining properties. The lighting shall conform with Section 632 of the DRO.*

7. There is a discrepancy on Sheet 3 of the plans related to the remaining lot coverage amounts (i.e. 8,397 S.F. vs. 8,640 S.F.). This discrepancy should be clarified. *The actual lot coverage figure is 8,397 square feet.*

8. The Zone Requirements Table on Sheet 2 should be revised to reflect the Section 706(F)(3) zone requirements. *The applicants agreed to make this revision.*

9. A Grading and Surface Water Management Plan (GSWMP) will need to be submitted to the Land Use Administrator for review by the Township Engineer prior to the Construction Permit application. This GSWMP must comply with Chapter 13.12 of the Township Code of Ordinances.

Soil logs will also need to be provided to the Township Engineer with the GSWMP to confirm the drywell is above the seasonable high water table and infiltration is feasible. *The applicants agreed to install stormwater detention facilities that will reduce stormwater runoff to that produced by 7.989% lot coverage.*

2. There shall be no exterior entrance to the guest quarters. The entrance to these quarters shall be through the existing residence.

3. The guest quarters shall not be rented or leased. This condition does not preclude the applicants from permitting their in-laws or others to stay in the

guest quarters, but not to use it as a rental unit. This condition does not preclude the rental of the entire home.

4. There shall be a single kitchen in the home.

5. The lot coverage shall be reduced from the existing plan to a maximum of 13,082 square feet, or 9.9%.

6. The variance for the expansion of the residence must be utilized within one year from the date of this memorialization resolution or the variance for the home expansion shall be void and have no further effect.

7. The variance for the swimming pool and patio must be utilized within two years from the date of this memorialization resolution or the variance for the swimming pool and patio shall be void and have no further effect.

8. The applicants shall comply with all rules, regulations, ordinances and statutes of the Federal, State, County and local municipal governments that may apply to the premises. The applicants shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statutes.

9. This resolution and the issuance of a building permit hereunder are conditioned upon the applicants paying all escrows and fees.

10. The applicants shall file a deed restriction to the approval of the Land Use Board Engineer and the Land Use Board Attorney requiring:

a. The submission of a Grading and Surface Water Management Plan required in condition 1.9 herein to the Township Engineer for his approval. The plan is to be implemented to the approval of the Land Use Board Engineer. These facilities shall

be permanently maintained in accordance with the NJDEP Best Management Practices and any subsequent revisions and successive regulations.

b. The planting and maintenance of the landscape plan required in condition 1.5 herein. The landscaping shall be permanently maintained, dead, diseased, or missing landscaping shall be replaced to the approval of the Land Use Board Engineer's office.

11. The plans shall be revised within 90 days hereof to the approval of the Land Use Board Engineer. Subsequent revisions shall be made within 15 days of subsequent requests.

12. The swimming pool is to meet all requirements in the DRO and all other Township Requirements except for the coverage variance approved herein.

Roll Call Vote

Those in Favor: Mrs. Baird, Ms. Desiderio, Mr. Mackie, Mr. Shapack, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

PUBLIC HEARING

- Johnson
Application No. 09-05
Block 23, Lot 23 – Preliminary and Final Site Plan and Use Variance
Action Deadline – January 31, 2012

Mayor Desiderio recused herself from the meeting at 7:50 p.m.

Mrs. Baird noted for the record that she was absent at the September 21 and November 2, 2012 hearings and has listened to the recording and signed the affidavit.

SEE TRANSCRIPT

The next public hearing was scheduled for March 7, 2012 in Mountainville and March 21, 2012 at the Tewksbury Elementary School for public comment and summations.

The time for the Board to act was extended by the applicant to March 31, 2012.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:17 p.m. by motion of Mr. Moriarty and seconded by Mrs. Baird.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator