

# LAND USE BOARD MINUTES

January 4, 2012

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 7:30 p.m.

Present: Blake Johnstone, Shaun Van Doren, Dana Desiderio, Mary Elizabeth Baird, Elizabeth Devlin, Shirley Czajkowski, Michael Moriarty, Arnold Shapack, Alt. #1, Eric Metzler, Alt. #2, and Ed D'Armiento, Alt. #4.

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer and Shana L. Goodchild, Land Use Administrator.

Absent: Bruce Mackie, Ed Kerwin and Tom Dillon, Alt. #3.

There were approximately seven (7) people in the audience.

## OPEN PUBLIC MEETING ACT STATEMENT

Ms. Goodchild 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 December 8, 2011.

## PLEDGE OF ALLEGIANCE

Those present stood and pledged allegiance to the American flag.

## REORGANIZATION

Ms. Goodchild announced the following appointments to the Land Use Board for the year 2012:

Dana Desiderio	Class 1 Mayor	1 year term
Shaun Van Doren	Class 3 Township Committee	1 year term
Shirley Czajkowski	Class 2 Township Official	1 year term
Bruce Mackie	Class 4 EC Rep	3 year term
Eric Metzler	Class 4 Alt. #2	2 year term
Tom Dillon	Class 4 Alt. #3	2 year term

## NOMINATION OF OFFICERS

### ➤ Chairman

Ms. Goodchild opened the meeting up for nominations for the Office of Chairman.

Mr. Blake Johnstone received the single nomination by motion of Mrs. Baird, seconded by Ms. Desiderio. There being no other nominations, Ms. Goodchild cast a unanimous ballot electing Mr. Blake Johnstone as the 2012 Land Use Board Chairman.

### ➤ Vice Chairman

Mr. Johnstone opened the meeting up for nominations for the Office of Vice Chairman. Mrs. Mary Elizabeth Baird received the single nomination by motion of Mr. Johnstone, seconded by Mr. Van Doren. There being no other nominations, Mr. Johnstone cast a unanimous ballot electing Mrs. Mary Elizabeth Baird as the 2012 Land Use Board Vice Chairman.

## **APPOINTMENTS**

➤ Secretary

A motion was made by Mrs. Baird and seconded by Mrs. Devlin to appoint Shana Goodchild as the 2012 Land Use Board Secretary. All were in favor. A unanimous ballot was cast appointing Ms. Goodchild as the 2012 Land Use Board Secretary.

➤ Ordinance Reviewer

A motion was made by Ms. Desiderio appointing Bruce Mackie as the 2012 Ordinance Reviewer. Mr. Van Doren seconded the motion. All were in favor.

## **RESOLUTIONS**

➤ Resolution No. 12-01 – Official Newspaper and Meeting Dates

Mr. Johnstone asked the Board if there were any questions or comments regarding Resolution No. 12-01 to which the response was negative. Mrs. Baird made a motion to adopt Resolution No. 12-01 and Ms. Desiderio seconded that motion. The motion carried by the following roll call vote:

### **LAND USE BOARD TOWNSHIP OF TEWKSBURY RESOLUTION NO. 12-01**

WHEREAS, the Open Public Meetings Act, Chapter 231, P.L. 1975, requires that certain notices of meetings be submitted to the press and other interested persons.

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of the Township of Tewksbury, County of Hunterdon, State of New Jersey, as follows:

1. The schedule of regular meetings of the Land Use Board for 2012 is hereby approved.
2. The Secretary is designated as the person responsible for the distribution of the following list of regular meetings and those other than regular meetings to those persons and newspapers that request same.

January 4 and 18	July 18
February 1 and 15	August 1 and 15
March 7 and 21	September 5 and 19
April 4 and 18	October 3 and 17
May 2 and 16	November 7 and 21
June 6 and 20	December 5 and 19

3. The Secretary is also designated as the person responsible for posting the list of regular meetings and notice of any other meetings on the bulletin board in the Municipal Building and filing same in the Municipal Office.

4. The Hunterdon Review, Hunterdon County Democrat, Star Ledger and Courier News are hereby designated to receive all notices of meetings as required under this Act, as it is determined that these are newspapers which would fulfill the requirements of the Act.

5. Requests for notice made by interested persons and news media shall be granted without cost.

6. This resolution shall take effect immediately.

### **ROLL CALL VOTE**

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

➤ Resolution No. 12-02 – Professional Services Contract (Attorney/Engineer/Planner)

Mr. Johnstone asked the Board if there were any questions or comments regarding Resolution No. 12-02 to which the response was negative. Mrs. Baird made a motion to adopt Resolution No. 12-02 and Mrs. Devlin seconded the motion. The motion carried by the following roll call vote:

### **LAND USE BOARD TOWNSHIP OF TEWKSBURY RESOLUTION NO. 12-02**

WHEREAS, there exists a need for a (a) Land Use Board Attorney, (b) Land Use Board Engineer and (c) Land Use Board Planner

WHEREAS, the local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for “Professional Services” without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Tewksbury Township Land Use Board, County of Hunterdon, State of New Jersey, as follows:

1. The Land Use Board Chairman and Secretary are hereby authorized and directed to execute an agreement with the following:

- a. Daniel S. Bernstein of Bernstein & Hoffman, Land Use Board Attorney
- b. William Burr of Maser Consulting, Land Use Board Engineer
- c. Chuck McGroarty of Banisch Associates, Land Use Planner

2. These contracts are awarded without competitive bidding as a “Professional Service” under the provisions of the Local Public Contracts Law because these are recognized professionals licensed and regulated by law and it is not feasible to obtain competitive bids.

3. A copy of this resolution shall be published in the Hunterdon County Democrat as required by law within ten days of its passage.

## ROLL CALL VOTE

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

- Resolution No. 12-03 – Appointment of Application Review Committee

Mr. Johnstone asked the Board if there were any questions or comments regarding Resolution No. 12-03 to which the response was negative. Mrs. Baird made a motion to adopt Resolution No. 12-03 and Mrs. Devlin seconded that motion. The motion carried by the following roll call vote:

### LAND USE BOARD TOWNSHIP OF TEWKSBURY RESOLUTION NO. 12-03

#### RESOLUTION

WHEREAS, the Land Use Board of the Township of Tewksbury has reviewed at public hearings the completeness of applications which have been submitted to the Board, and

WHEREAS, it is difficult to make a completeness review at a public hearing while applicants, interested residents, and their professionals are awaiting public hearings, and

WHEREAS, N.J.S.A. 40:55D-10.3 states that a municipal agency “or its authorized committee or designee” shall certify that an application is complete or that it lacks information required on a checklist, and

WHEREAS, the Land Use Board finds that it is appropriate for the Land Use Board Chairman to appoint an **Application Review Committee**, to determine completeness, comprised of two employees of either the Land Use Board or the Township.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Tewksbury on this 4<sup>th</sup> day of January, 2012, that the Land Use Board Chairman be authorized to appoint an **Application Review Committee** for the Land Use Board and for the purposes of determining the completeness of application for development. The Application Review Committee shall be comprised of the Land Use Board Engineer, and two employees of either the Land Use Board or the Township.

## ROLL CALL VOTE

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

## 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. Devlin seconded the motion. The motion carried by the following roll call vote:

1. New Jersey Planning Officials – 2012 Dues – invoice #MPJ-207262011 (\$315.00)
2. Bernstein & Hoffman – Attendance at 12-21-11 LUB meeting – invoice dated December 22, 2011 (\$400.00)
3. Bernstein & Hoffman - Land Use Board Escrow – Wood (B10, L5), invoice dated December 20, 2011 (\$3,500.00)

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Nays: None

### **CORRESPONDENCE**

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

1. A copy of a resolution from Readington Township re: S1954/A4358, Forest Harvest on State Lands.
2. The NJ Planner, Volume 72, No. 5 – November 2011.
3. A letter dated December 29, 2011 from William Burr, Maser Consulting re: Appl. No. 11-16, Block 31, Lot 25.
4. A letter dated December 29, 2011 from William Burr, Maser Consulting re: Appl. No. 11-07, Block 23, Lot 26.

### **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.

### **PUBLIC HEARING**

- Lauezzari  
Appl. No. 11-16  
Block 31, Lot 25  
Variances  
**Action Deadline – 3-13-12**

Mrs. Lloyd Tubman, Attorney for the applicant, was present along with Ronald Kennedy, Engineer, Chris Pickell, Architect, Elizabeth McKenzie, Planner and the applicant, Margit Lauezzari.

Ms. Tubman explained that the property is located at 31 Water Street and is improved with an existing condemned house, a stone building and a barn. She explained that the existing house was extensively vandalized by the prior owner. The lot is substandard in size and the applicant is seeking a front yard setback variance for a home and garage that will replace the existing house and barn.

Ronald Kennedy, Engineer, was sworn in by Mr. Bernstein. Mr. Kennedy has been accepted in the past and was recognized as an expert witness.

Mr. Kennedy marked the following as exhibits:

Exhibit A-1 – a neighborhood aerial plan dated January 4, 2012

Exhibit A-2 – an existing conditions rendered plan dated January 4, 2012

Exhibit A-3 – a proposed site plan rendering plan dated January 4, 2012

Using Exhibit A-1, Mr. Kennedy described the property as Block 31, Lot 25 on the Tewksbury Township Tax map. The parcel boundary is generally Water Street, Longview Road and Potter Lane. He noted that the lot does not front on the Potter Lane as there is a separate lot that was deeded as a conservation easement between the subject lot and Potter Lane. The lot is approximately 2.2 acres (the net acreage is 1.9 acres). The property is improved with a house, a stone structure (an old summer kitchen) and a barn structure; all of the existing structures are close to the roadway and in a state of disrepair due to damage, etc. Mr. Kennedy noted that there is a pattern of substandard lots along Water Street near the subject lot and associated with that are houses close to the roadway; the subject house and setting is similar to the existing neighborhood.

Using Exhibit A-2, Mr. Kennedy explained that the existing 1 ½ story house (approximately 1500 sq. ft.) is 23 feet from the right of way line. There is a one story barn located along the center of the property which is 15 feet from the right of way. The stone structure near the stream corridor exists and there are no proposed changes to that structure. The North Branch of the Rockaway Creek is located along the bottom of the exhibit along with a tributary that runs along Longview Road which has a fairly large drainage area and has a flood plain and riparian buffers associated with it. Mr. Kennedy explained that the combination of all of these features renders the whole site under NJDEP regulations. Due to the encumbrances there was a substantial approval required with NJDEP known as an individual permit for the flood hazard rules. Additionally the site is in the Highland Preservation Area and an exemption process was also necessary. He added that there is a small man made pond (approximately 1,000 sq. ft. in size), no substantial wooded areas or steep slopes on the property.

Mr. Kennedy explained that the desire of the property owner is to reconstruct the house in a similar location to the existing house. The owner resided in the neighborhood a number of years ago and enjoyed living along the Water Street corridor and wants the opportunity to build a high quality house along Water Street indicative of many of the other houses that have been rehabilitated along the roadway. The proposed house has a footprint of 1,250 sq. ft; a two (2) story house with a basement. It will be setback further than the existing house; the current house is 23 feet from the right of way and the proposed house will be 35 feet (the Township requirement is 75 feet). The owner is proposing a two (2) story, two (2) car garage that will be a separate structure located to the east of the proposed house site. Also proposed are walkways, a small patio to the rear and a proposed wall along the front; proposed at 1 to 1 ½ feet high with a cap and a fence that will be consistent with the ordinance (no more than four (4) feet high).

The property will be served by an on-lot septic system because of the high groundwater in the area the systems will be mounded. The Township and County Board of Health have granted conditional approval for the design (pending NJDEP approval) and the necessary NJDEP permits were secured. In addition to the primary and reserve septic system there is an infiltration system

proposed to satisfy the Township's Stormwater Management requirement. The existing well will be abandoned and a new well drilled.

Mr. Kennedy explained that they have been through the Highlands Exemption process and received the exemption from the NJDEP. Some of the NJDEP permits have been received; they are waiting for the flood hazard permit. The Scenic Roads and Bridges Commission have approved the application.

Mr. Kennedy reviewed the December 29, 2011 review letter from Mr. Burr and agreed to comply with the items raised. He noted that there are a total of seven (7) trees to be removed. The NJDEP rules require tree replacement so 48 trees will be planted to the rear of the property. Mrs. Tubman noted that she has filed the deed notice of regulation required by the State on August 26, 2011.

When asked by Mr. Bernstein what structures will be removed, Mr. Kennedy explained the house, a barn/garage and associated driveway improvements (restored to grass or mulch) and a 10 x 10 shed will be removed.

Mrs. Baird noted that there appears to be a section of the wall that is in the right of way. Mr. Kennedy noted that that portion of the wall exists. When asked if any changes will be made to that section of the wall, Mr. Kennedy responded in the negative.

Mrs. Devlin asked if the owner will be residing there to which the response was positive.

When asked by Mr. Van Doren about the stream corridor and the floodplain, Mr. Kennedy explained that in order to get the NJDEP permit they had to study the stream corridor and run an analysis to determine the location of the floodplain and stream encroachment line. Mr. Van Doren asked if having a full basement would create a problem to which Mr. Kennedy noted that the owner will need to mitigate that with construction techniques. When asked if the existing house has a basement, Mr. Kennedy responded in the positive. When asked if there will be room to park between the edge of pavement and the proposed wall, Mr. Kennedy opined approximately ten (10) feet. He added that the wall and fence do not impede sight distance. When asked why the trees being planted were clustered in the rear of the property, Mr. Kennedy explained that they had to establish a disturbance line with the NJDEP and the plantings are outside of the disturbance line. When asked if the septic was designed for a four (4) bedroom house, Mr. Kennedy responded in the positive.

Mr. Moriarty asked if any waivers to the NJDEP rules were granted. Mr. Kennedy explained that the approval is pending and there aren't really waivers but there are allowances for certain things; no allowances were requested. When asked if special conditions will be placed on the property if the permit is granted, Mr. Kennedy responded in the positive and noted that basically the undisturbed areas will need to remain undisturbed.

Mr. Shapack asked if there is a backup power source for the pump used in the septic system. Mr. Kennedy explained that that level of construction detail has not been discussed. He noted that the wet wells in the system being used take into account loss of power so there is storage capacity available.

There being no additional questions from the Board, Mr. Johnstone opened the meeting up to the public for questions. There being none, Mr. Johnstone closed the public portion.

When asked by Mrs. Czajkowski the location of the well, Mr. Kennedy indicated that it would be located between the house and the garage.

Mr. Christopher Pickell, Architect, was sworn in by Mr. Bernstein. Mr. Pickell provided the Board with his credentials and he was accepted by Board.

Mr. Pickell explained that the directive from his client was to make a reproduction house that looks as if has existed for years. He noted that the historical pattern of development is that the houses are close to the road which provides a certain sociability. The proposed house is approximately 2,300 sq. ft. and was designed as a traditional NJ vernacular stone house with a wooden addition to give it the look that it grew through time. Mr. Pickell explained that the stone structure by the stream is a summer kitchen with a beehive oven; this structure is really unusual because it has a full basement. The wood is rotting and the roof will need to be replaced and so it will be repaired and restored and used as a garden shed.

Mr. Pickell, using the architectural plans, explained that the main 2 story house will be local stone and the wood portion will be a 1 ½ story wing; the roof will be cedar and the gutters will be copper. He explained that the outbuilding will be a reproduction carriage house with vertical siding, barn doors and heating and cooling on the second floor. Mr. Pickell presented a colored rendering of the architectural plans that was marked at Exhibit A-4. He explained that the interior of the house is not totally traditional in layout describing the first floor as an entrance hall, living room, stairs and an office in the stone section and a kitchen and keeping room with fireplace, mud room, powder room and laundry in the wood portion of the house. The second floor of the house is designed for three (3) bedrooms and 2 bathrooms. The proposed outbuilding is a two (2) car garage with extra space for garden equipment, bikes, etc. The second floor is a workout/exercise room with a bathroom and a kitchenette (sink and under-counter refrigerator). The finished space above the garage was requested by the client to provide a little extra space since the main house is a modest size. There is a full unfinished basement which will be used for storage and mechanical equipment and a modest attic space that will likely house the air conditioning equipment.

When asked by Mr. Burr the total number of baths, Mr. Pickell explained that there are two (2) full baths upstairs and a half bath on the first floor and a bathroom in the second floor of the garage. When asked about the exterior lighting, Mr. Pickell explained that the garage will have a goose neck fixture with a green metal shade which typically takes a 100 watt bulb but looks better with a 60 watt bulb; the lighting is directed downward. There is one (1) over each garage door and one (1) by the back door. Traditional lanterns are proposed on the house by the side door and by the front door would be a traditional box lantern with three (3) sides in glass.

Mr. Bernstein expressed concern about the second floor finished space and the potential for it to turn into a rental opportunity since it has everything necessary for a dwelling unit except for the stove.

Mrs. Baird agreed with Mr. Bernstein's concern noting that while there may be no intent by the current owner, future owners could allow that to happen. When asked if the Board could place a restriction on the approval, Mr. Bernstein explained that deed restrictions are impossible to enforce.

Mrs. Devlin asked if 60 watt bulbs conform to the Township ordinance. Mr. Burr pointed out that there is no requirement just that there be no negative impact on the neighbors.

When asked by Mr. Van Doren if the height of the house will comply with the Township ordinance, Mr. Pickell explained that the house is close to 25 feet high. When asked why the house has lightening rods and if it was a code requirement, Mr. Pickell responded in the negative and explained that they were just a detail added to the plans and may not be installed. When asked if the stream runs into the basement of the summer kitchen, Mr. Pickell noted that he did not see any evidence of the stream in the basement of the structure. When asked if the owner would consider a preservation easement on the summer kitchen, Mrs. Lauezarri responded in the positive. Mrs. Margit Lauezarri was sworn in by Mr. Bernstein. She explained that she previously lived at 34 Boulder Hill Road and she had no issue with agreeing to a preservation easement to preserve the summer kitchen. When asked if they would agree to a condition regarding lighting, Mrs. Lauezzari responded in the positive. When asked if the office on the first floor could be turned into a bedroom, Mr. Pickell responded in the positive but explained that technically a bedroom should have a closet so that alteration would need to be made.

Ms. Desiderio questioned the need to remove the bathroom from the living space above the garage; she opined that a deed restriction would be sufficient. Mr. Bernstein explained that it is almost impossible to enforce deed restrictions; once it's constructed an owner could have someone make interior alterations without permits. He added that historically the Board has been reluctant to approve this type of arrangement.

Mrs. Czajkowski asked how deep the basement will be to which Mr. Pickell explained that eight (8) foot ceilings are proposed. Mrs. Czajkowski expressed concern with the basement getting wet. Mr. Pickell explained that precautions need to be taken to avoid that issue. When asked if the basement will be the entire footprint of the first floor, Mr. Pickell responded in the positive.

When asked by Mr. Moriarty if the first floor will stay dry, Mr. Kennedy explained that they are approximately three (3) to five (5) feet above the flood plain; approximately one (1) foot higher than the existing house.

Mr. Shapack asked if the space above the garage is large enough to qualify as a COAH unit. Mr. Van Doren noted that a COAH unit needs to be less than 900 sq. ft. but there is no minimum. Mr. Bernstein explained that a future owner could return to the Board to remove the deed restriction and allow for a COAH unit.

Mrs. Tubman explained that the house was not oversized to provide for an exercise room and if the Board is not allowing heat or air-conditioning the use of the site is severely restricted.

Mr. Metzler noted that the terrace on the architectural plans is a different shape than what is shown on the engineering plans. Mr. Pickell explained that the engineering plans have been submitted to the NJDEP so it is a closer representation of what will be constructed.

Mr. D'Armiento asked if there will be lights on the porch to which Mr. Pickell responded in the positive and explained that there will be ceiling mounted lights.

When asked by Mrs. Baird the type of heat proposed in the garage, Mr. Pickell explained that a split system is used which is combined heating and cooling. When asked if the applicant would consider removing the shower, Mr. Lauezzari explained that the space was to be used as her exercise room. She likes to take a shower and then have a cup of coffee. She said she would consider it but would prefer not to remove it from the plan. When asked if the applicant would be willing to remove the sink and refrigerator, Mrs. Lauezzari responded in the positive.

There being no additional questions from the Board, Mr. Johnstone opened the meeting up to the public for questions. There being no questions from the public, Mr. Johnstone closed the public portion of the meeting.

Betsy McKenzie, Professional Planner was sworn in by Mr. Bernstein. It was noted that Ms. McKenzie has been accepted by the Board in the past.

Ms. McKenzie thanked Mr. Kennedy and Mr. Pickell for providing a very thorough description of the proposal. She explained that the variance being sought is for the front yard setback for both the house and garage; both will be closer than the 75 feet required for an undersized lot in the Highlands zoning district. Even though the historic house is being removed it is being replaced with a home that has been designed to be consistent with the character of other homes along Water Street. It's proposed location that is close to the location of the existing house so as you drive along Water Street the property will have the same visual impact that it does currently which is important because Water Street is a scenic roadway in the Master Plan. This particular property and the properties around it are in a proposed Historic District in the Master Plan to be called the Water Street Historic District; in the Master Plan the area is characterized by buildings that are located close to the road. The applicant has attempted to design a site that will have as little impact as possible on the existing streetscape and for that reason the house is proposed at 35 feet from the roadway and the proposed garage 41.1 feet from the roadway. The variance is not requested on the basis of a C1 argument even though the site has a number of regulation issues with the NJDEP. However, the request is for a C2 variance as it promotes at least 3 of the purposes of the Municipal Land Use Law and also supports the Master Plan goals of preserving Scenic roadways and historic sites and districts. Purpose A, I and J of the Municipal Land Use Law are being promoted by the application. Ms. McKenzie opined that there would be no substantial detriment to the zone plan because the lot will retain the existing character. Based on aforementioned and the fact that the applicant has made efforts to design a house that replicates the character of nearby homes Ms. McKenzie opined that the project is a wonderful example of why a C2 variance should be granted.

There being no questions by the Board, Mr. Johnstone opened the meeting up to the public for questions of the witness. There being none, Mr. Johnstone closed the public portion of the meeting.

Mrs. Tubman reiterated that because of the scale and design of the main house she opined that the use of the second floor of the carriage house is appropriate. Mr. Johnstone noted that the worry is not with this applicant but with future owners.

A brief discussion ensued regarding the future use of the space above the carriage house. Mr. Johnstone opined that a deed restriction should be part of the approval. Mr. Van Doren noted that there are two (2) enforcement mechanisms in place to catch a violation, a zoning inspection at re-sale and the day to day observations by either a Township official or a neighbor. Mrs. Baird explained that she likes the proposed use of the property and doesn't have an issue with the heat and air-conditioning but would rather not have the shower and the sink. Mrs. Devlin agreed with Mrs. Baird and noted that two (2) sinks in the carriage house was unnecessary.

Mr. Van Doren made a motion to approve the application with the conditions as outlined below. Ms. Desiderio seconded the motion. The motion carried by the following roll call vote:

Ayes: Mr. Van Doren, Ms. Desiderio, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler and Mr. Johnstone

Nays: Mrs. Baird

Mr. Bernstein outlined the following conditions:

1. Conformance with Bill Burr's review letter
2. Permit for the abandonment of the well
3. All NJDEP permits
4. The wall/fence along the front will not exceed the ordinance (four (4) feet) and that it does not encroach upon the right of way or block sight distance
5. Lighting approval is subject to the Land Use Board Engineer
6. A preservation easement to encumber the summer kitchen; any demo or construction permit should be reviewed by the Historic Preservation Commission
7. The basement will be consistent with construction code
8. Deed restriction for the finished area above the carriage that no kitchen is allowed and it cannot be a living unit
9. Payment of fees, etc.
10. The approval will expire in two (2) years if a construction permit hasn't been approved

## **PUBLIC HEARING**

- Taggart  
Appl. No. 11-07  
Block 23, Lot 26  
Minor Subdivision  
**Action Deadline – 3-27-12**

Mr. Van Doren noted that he is a property owner within 200 feet and therefore is recused.

Mr. Robert Boak, Attorney for the applicant was present. Mr. Boak explained that approximately one (1) year ago Mr. Taggart discovered that the subdivision that was approved 17 years ago had not been perfected. Mr. Boak explained that the prior application was done on the cusp of his termination from employment in Oldwick and when he left that firm the application was handed off to his successor who saw the application through to approval by the Planning Board. The deeds were signed and stamped but were never filed in the County Clerk's office to perfect the subdivision.

Joe Modeleski, Engineer for the applicant, was sworn in by Mr. Bernstein. Mr. Modeleski provided his qualifications and was accepted by the Board.

Mr. Modeleski explained that the entire property is approximately 48.7 acres. It has frontage on County Route 517 and Church Street. In 1992 a twelve (12) acre lot was created with frontage on Church Street. Since that time the zoning has changed but the same configuration is proposed so the lots conform to the current zoning requirements. The only bulk variance required is for a setback variance for an existing tennis/paddle ball court; from the proposed new lot line it would be located approximately 39.3 feet. The remaining lands would be approximately 35 acres and would contain the existing residence of Mr. Taggart as well as an affordable housing unit within an existing two (2) story barn. Mr. Taggart's home and the affordable housing unit are accessed from Old Turnpike Road through an existing easement near the Magic shop. The property is prominently encumbered by a conservation easement; the only unencumbered portion would be the proposed 12 acre lot.

Mr. Modeleski agreed to address the comments in Mr. Burr's review letter.

When asked if any improvements were being proposed, Mr. Modeleski responded in the negative.

When asked by Mr. Bernstein about the access easement, Mr. Modeleski explained that there is a prescriptive easement within the deeds for the access; it is inferred but there is no metes and bounds description.

Ms. Goodchild asked if the newly created lot would be served by the Oldwick Sewer System and if capacity was approved to which Mr. Boak responded in the positive.

There being no additional questions from the Board, Mr. Johnstone opened the meeting up to the public. There being no public questions, Mr. Johnstone closed the public portion of the meeting.

Mr. Desiderio made a motion to approve the application with the conditions that Mr. Burr's review letter is complied with along with the conditions from the prior resolution. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

Ayes: Mrs. Baird, Ms. Desiderio, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Nays: None

#### **LAND USE BOARD DISCUSSION**

##### ➤ Criteria for granting variances

Mr. Johnstone thanked the members for re-electing him as the 2012 Chairman. He explained that he asked that this discussion be placed on the agenda so that there could be a discussion about what the Board is looking for when reviewing applications. He opined that the Board has granted most of the variances because the applicant is willing to comply with requests to mediate through drywells, etc. When asked, Ms. Goodchild noted that the discussion was put on the agenda shortly after the hearing held on the Koplowitz application when there appeared to be a divide on the Board about the proposal from the applicant. She reminded the Board that in the Kian application the Board was in favor of a large project because the applicant was capturing all of the runoff through the use of drywells as well as the fact that all of the applicant's neighbors came out in support of the project; some of the Board members that were against the application were swayed by the neighbor support.

Mrs. Baird explained that one of the standard questions that the former Board of Adjustment would ask was if the applicant could buy land from a neighbor to bring the property into conformance. She did note that with the change in zoning and the Highlands regulations that is no longer an option. Mrs. Baird found it difficult to discuss a policy when each application needs to be looked at on its own merits. She opined that the Board should be looking for concessions; if there is an excessive amount of driveway or other impervious surface the Board should ask for it to be removed.

A discussion ensued about coverage and if the concern is about aesthetics or the drainage. Mr. Shapack explained that when he sat on the Board of Adjustment they talked about recharging water but he opined that if you only look at that a property owner could pave over their lot which then becomes an aesthetic issue.

When asked if there were projects that were approved that they wish they wouldn't have approved, the consensus of the Board was yes. Ms. Goodchild asked if the Board would like to see a before and after comparison of the projects that they have approved over the course of a year, to which the response was positive.

Mr. Bernstein opined that Tewksbury's ordinance is very restrictive. Mr. Shapack suggested that by being restrictive the township retains a lot of control. Mr. Johnstone recommended keeping it restrictive so that applicants are required to appear before the Board and there is more control. Mrs. Baird noted that many long driveways exist which in turn consumes a lot of coverage but they were put in by developers to get to the developable land; a self created hardship. Ms. Goodchild noted that some municipalities have ordinances to exclude a certain portion of the long driveway because the town encourage homes sites to be located further back on the lot.

Mr. Metzler opined that the troublesome applications are when the lots are small but the owner wants approval for a project that belongs on a much larger lot. Mr. Johnstone agreed that he is much more inclined to be more flexible with a project on a larger lot.

Mr. Shapack found it useful to hear from Board members during the deliberations and why they would vote no on an application.

Mr. Burr noted that most of the variance applications before the Board are on lots that don't conform with the minimum lot size for the district; existing undersized lots. Ms. Goodchild agreed and noted that the Kian application was one of the only recent applications that wasn't an undersized lot.

Mr. Moriarty asked Mr. Johnstone if the Board could have more deliberation about an application before the vote to which Mr. Johnstone agreed.

Mr. Johnstone encouraged the Board members and professionals to feel free to make recommendations during the year.

Mayor Desiderio explained that she has spoken to all of the Boards, Committees and Commissions and from her discussions with the Board of Health they said they want to talk to the Township Committee about community septic systems because of the failing systems in the southern portion of the Township. Mr. Metzler noted that New Jersey is extremely behind the times in septic design approval.

## **ADJOURNMENT**

There being no further business, the meeting adjourned at 10:28 p.m. by motion of Mrs. Devlin and seconded by Mr. Moriarty.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator