

**LAND USE BOARD MINUTES**  
**November 2, 2011**

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Lebanon, New Jersey. The meeting was called to order at 7:34 p.m.

Present: Blake Johnstone, Dana Desiderio, Elizabeth Devlin, Bruce Mackie, Michael Moriarty arrived at 7:37 p.m., Ed Kerwin, Arnold Shapack, Alt. #1, Tom Dillon, Alt. #3 and Ed D'Armiento, Alt. #4.

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

Absent: Shaun Van Doren, Mary Elizabeth Baird, Shirley Czajkowski and Eric Metzler, Alt. #2.

There were approximately thirty nine (39) 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 6, 2011.

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

1. Bernstein & Hoffman – Land Use Board Professional Services – Attendance at October 19, 2011 meeting - invoice dated October 20, 2011 (\$400.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Schmitt (B11, L6) – invoice dated October 13, 2011 (\$225.00)
3. Bernstein & Hoffman – Land Use Board Escrow – Regan (B40, L5) – invoice dated October 19, 2011 (\$784.50)
4. Maser Consulting – Land Use Board Escrow – Pierson (B21, L3), invoice #171360 (\$245.00)
5. Maser Consulting – Land Use Board Escrow – Johnson (B23, L23), invoice #171338 (\$812.50)
6. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #171339 (\$357.50)

7. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #171340 (\$292.50)
8. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #171341 (\$227.50)
9. Maser Consulting – Land Use Board Escrow – Johnson (B23, L2), invoice #171342 (\$32.50)
10. Maser Consulting – Land Use Board Escrow – PNC Bank (B45, L1), invoice #171343 (\$292.50)
11. Maser Consulting – Land Use Board Escrow – Kian (B34, L19.04), invoice #171344 (\$130.00)
12. Maser Consulting – Land Use Board Escrow – Glasgow (B38, L12), invoice #171345 (\$455.00)
13. Maser Consulting – Land Use Board Escrow – Regan (B40, L5), invoice #171346 (\$1,007.50)
14. Maser Consulting – Land Use Board Escrow – Vliettown Farm (B43, L4), invoice #171349 (\$2,515.00)

Roll Call Vote:

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

Nays: None

**CORRESPONDENCE**

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

1. Notice dated October 20, 2011 from Nextel of New York re: Highlands Applicability Determination Application for Block 11, Lot 38.01.
2. Press Release from the Hunterdon County Planning Board dated October 25, 2011 re: Coffee with the County on November 9, 2011.

**MINUTES**

- September 21, 2011

The minutes of September 21, 2011 were approved by motion of Mr. Dillon and seconded by Mrs. Devlin. All were in favor. Mr. Moriarty and Ms. Desiderio abstained.

- October 5, 2011

The minutes of October 5, 2011 were approved by motion of Mr. Dillon and seconded by Mr. Kerwin with a minor correction on page 8. All were in favor. Mrs. Devlin, Ms. Desiderio, Mr. Moriarty 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, Mr. Johnstone closed the public participation portion of the meeting.

**Resolution**

- **Resolution No. 11-24** Berry, Appl. No. 11-13, Block 31, Lot 21  
*Eligible to vote: Mrs. Baird, Ms. Desiderio, Mr. Mackie, Mrs. Czajkowski, Mr. Kerwin, Mr. Metzler, Mr. Dillon, Mr. D'Armiento and Mr. Johnstone*

Ms. Desiderio made a motion to adopt Resolution No. 11-24, seconded by Mrs. Devlin. The motion carried by the following roll call vote:

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 11-13  
RESOLUTION # 11-24

WHEREAS, HAROLD AND JENNIFER BERRY have applied to the Land Use Board of the Township of Tewksbury for permission to add a second story and a bay window bump out to their single family residence which is located at 49 Water Street on property designated as Block 31, Lot 21 on the Tewksbury Township Tax Map, which premises is located in VR (Village Residential) Zone, and

WHEREAS, the application was presented by Jennifer Berry; Civil Engineer James O. Madsen, P.E. of the firm of Apgar Associates; and Architect Keith Hone, R.A. at the October 19, 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, the Board, after considering the evidence presented by the applicants and Mr. Burr, has made the following factual findings:

- A. The Subject Property.

1. The subject property contains 1.471 net acres. The site is somewhat irregularly shaped with 252.97 feet of frontage on Water Street which narrows to a width of 170.38 feet at the rear property line.

2. The lot is improved with a 1-1/2 story single family residence with a covered front porch and a two car garage.

3. A tributary of the Rockaway Creek traverses the site.

4. The wood deck which is attached to the home encroaches by 3.2 feet on the property to the west. The fence along the western property line encroaches on the property to the west a maximum distance of 6.2 feet.

B. The Proposal.

5. The existing residence is relatively small, containing 1,341.62square feet on the first floor, 786.17 square feet on the second half story, with the front porch containing 225.70 square feet.

6. The applicants propose to add a second story addition of about 695 square feet.

7. The rooms on the first and second floor will be reconfigured, but the number of bedrooms will not change.

8. The applicants propose to increase the number of bathrooms from 2.5 to 3 by eliminating an existing half bath on the first floor and adding a new full bathroom on the second floor.

9. The applicants propose to add a bay window to the east side of their home with a foundation of about 38.91 square feet.

10. Renovations will be made to the porch with some windows being replaced and the front door being relocated slightly to the west.

11. The site is in the Mountainville Historic District. The Tewksbury Historic Preservation Commission has approved the proposed construction.

C. The Requested Variance.

12. The front porch has a front yard setback of 15.79 feet from Water Street, the existing residence and the proposed two story addition will have a front yard setback of 23.78 feet, the bay window will have a front yard setback of 26.75 feet, while the zoning ordinance requires a minimum front yard setback of 75 feet in the VR Zone.

D. Justification for Variance.

13. The present variance request neatly fits within the rubric of N.J.S.A. 40:55D-70c(1)(c). The existing residence has a nonconforming front yard setback. The applicant's propose to construct a second story addition and a bay window which will be setback farther from the road than the porch, but will not meet the required front yard setback. The practical difficulty and undue hardship is based on the location of the existing home. In fact, the entire residence is within the required front yard setback. In order to build a second story addition, or even a one story addition, a front yard setback variance would be required.

14. The architectural plans disclose an attractive second story addition which will enhance the appearance of the home. Therefore, 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 2<sup>nd</sup> day of November 2011 that the application of Harold and Jennifer Berry be approved in accordance with engineering plans titled: “VARIANCE PLAN PROPOSED HOUSE ADDITION 49 WATER STREET BLOCK 31 LOT 21 TEWKSBURY TOWNSHIP HUNTERDON COUNTY NEW JERSEY” prepared by Apgar Associates (James O. Madsen, P.E.) on June 25, 2011 and revised August 23, 2011 consisting of three (3) sheets and architectural plans titled “Berry Residence 49 Water Street Mountainville New Jersey” prepared by Hone + Associates (Keith Hone, R.A.) on October 19, 2011 consisting of Sheets A-0.10, A-1.10, A-1.20, A-2.00, A-2.10, A-2.20 and A-2.30 subject, however, to the following conditions:

1. Conditions recommended by Land Use Board Engineer William H. Burr, IV., P.E. in his report of October 14, 2011, as modified by the Land Use Board:

“TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed addition to the existing dwelling and related improvements including the proposed use of the new space and exterior style, material, color, size, etc. *Architect Hone testified that the renovated home will have the appearance of a Federal style farmhouse. He noted the improvements to the front porch and the replacement of some windows.*
2. The applicant and its professionals should provide testimony to support the proposed front and side yard variances, including testimony as to the size of the proposed addition in relation to the adjacent residential dwellings and surrounding vegetation. *The justification for the requested variance is found in findings 12 and 13 herein. The home with the second story addition and bay window bump out will remain relatively small but comparable with the homes in the area.*
3. This property is located within the Mountainville Historic District. The applicant has received approval from the Township Historic Preservation Commission by way of Resolution of Approval No. 2011-08. The applicants are reminded that compliance with the conditions of this approval is required. *The construction must comply with the requirements of the Tewksbury Township Historic Preservation Commission.*

4. Testimony should be provided to clarify the height of the proposed addition. I note there is a discrepancy between the height indicated on the variance plans versus that shown on the architectural plans (29'-8" vs. 26'-8"). *The height of the addition will be 29'-8" as measured from the average ground elevation along the front of the house.*
5. The plans contain a note stating that the proposed site improvements will not include any new lighting. The applicants should provide testimony confirming this. *The testimony disclosed that there will be no new exterior lighting in connection with the proposal. A note to this effect shall be added to the plans.*
6. The plans indicate that the deck and fence located along the western portion of the property encroach onto adjacent Lot 12. The applicant should provide information (i.e. letter) to the Board to clarify that the neighbor has no objection to these encroachments. *The applicants must obtain a letter from the neighbor to the west stating that they have no objection to the deck and fence encroachments.*
7. Testimony should be provided with regards to whether there is any increase in the number of bedrooms to the dwelling? If so, approval from the Hunterdon County Health Department would be required. *There will be no increase in the number of bedrooms.*
8. It appears that an NJDEP Flood Hazard Area "Permit by Rule" would be required since improvements are being proposed within regulated areas on the property. The applicant's engineer should update the Board relative to whether a permit has been sought or received. *The "Permit by Rule" has not been obtained. Applicants engineer acknowledged that a permit was necessary.*
9. Per Chapter 13.12 of the Township Code of Ordinances, a Grading and Surface Water Management Plan (GSWMP) does not appear to be required for this application because the proposed improvements do not meet the threshold requirements for a GSWMP pursuant to Chapter 13.12. *There is presently about 6.99% impervious lot coverage which will be increased to 7.05% with the bay window. The VR Zone permits total impervious lot coverage of up to 15%."*

2. The applicants agreed to install silt fence as shown on the plans between the existing dwelling and the stream, and will maintain the silt fence during construction, even though a permit from Hunterdon County Soil Conservation District is not necessary.

3. The approval must be utilized within one year from the date of this memorialization resolution or the variance shall be void and have no further effect.

4. The applicant 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.

5. This resolution and the issuance of a building permit hereunder is conditioned upon the applicant paying all escrow fees and real estate taxes.

Roll Call Vote

Those in Favor: Ms. Desiderio, Mr. Mackie, Mr. Kerwin, Mr. Dillon, 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 – November 30, 2011**

**PLEASE SEE TRANSCRIPT**

**A break was taken from 9:10 p.m. to 9:20 p.m.**

**The next public hearing is scheduled for November 16, 2011, 7:30 p.m. at the Municipal Meeting Hall, 60 Water Street, Lebanon, NJ.**

**ADJOURNMENT**

There being no further business, the meeting adjourned at 10:34 p.m. by motion of Mr. Shapack and seconded by Mr. Moriarty.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator