

**LAND USE BOARD MINUTES**  
**December 7, 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 7:30 p.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Bruce Mackie, Michael Moriarty, Ed Kerwin and Arnold Shapack, Alt. #1.

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

Absent: Elizabeth Devlin, Shirley Czajkowski, Eric Metzler, Alt. #2, Tom Dillon, Alt. #3 and Ed D'Armiento, Alt. #4.

There were approximately four (4) 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. Baird seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 11/16/11 LUB Meeting – invoice dated November 17, 2011 (\$450.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Murray (B12, L36), invoice dated November 8, 2011 (\$112.50).
3. Maser Consulting – Land Use Board Professional Services, invoice #172734 (\$130.00)
4. Maser Consulting – Land Use Board Escrow – Vliettown Farm (B43, L3), invoice #172746 (\$292.50)
5. Maser Consulting – Land Use Board Escrow – Berry (B31, L21), invoice #172745 (\$1,040.00)
6. Maser Consulting – Land Use Board Escrow – Nextel (B11, L38.01), invoice #172747 (\$130.00)

7. Maser Consulting – Land Use Board Escrow – Regan (B40, L5), invoice #172744 (\$487.50)
8. Maser Consulting – Land Use Board Escrow – Taggart (B23, L26), invoice #172742 (\$130.00)
9. Maser Consulting – Land Use Board Escrow – Blauvelt (B39, L8), invoice #172741 (\$32.50)
10. Maser Consulting – Land Use Board Escrow – Wood (B10, L5.07), invoice #172740 (\$390.00)
11. Maser Consulting – Land Use Board Escrow – Johnson (B23, L2), invoice #172739 (\$162.50)
12. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #172738 (\$520.00)
13. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #172737 (\$520.00)
14. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #172736 (\$487.50)
15. Maser Consulting – Land Use Board Escrow – Johnson (B23, L23), invoice #172735 (\$975.00)
16. Suburban Consulting Engineers – Land Use Board Escrow – Glasgow (B38, L12) invoice #17477 (\$22.00)
17. Suburban Consulting Engineers – Land Use Board Escrow – Vlietown Farm (B43, L3) invoice #17478 (\$264.00)
18. Suburban Consulting Engineers – Land Use Board Inspection – Johnson (B23, L4, 20 & 36) invoice #17466 (\$507.00)
19. Suburban Consulting Engineers – Land Use Board Inspection – Sblendorio Tewksbury Holdings (B45, L41), invoice #17467 (\$163.00)
20. Suburban Consulting Engineers – Land Use Board Inspection – A.M. Best (46, L2.01, 5 & 6), invoice #17531 (\$6,185.25)
21. Suburban Consulting Engineers – Land Use Board Inspection – PNC Bank (B45, L1), invoice #17494 (\$1,546.50)

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Moriarty, Mr. Kerwin, Mr. Shapack and Mr. Johnstone

Nays: None

**CORRESPONDENCE**

A motion was made by Mrs. Baird and seconded by Mr. Moriarty acknowledging receipt of the following items of correspondence. All were in favor.

1. Notice of application by Cecilia Castillo to the NJDEP for a General permit authorization for Block 32, Lot 28.
2. Town Hall Meeting presented by Senator Michael J. Doherty on Tuesday, January 17, 2012, 7 p.m. at the Mountainville Meeting Hall.

3. Notice of application by A.M. Best Company to the NJDEP for individual transition area waiver and placement of pavement for Block 46, Lot 2.01, 5 & 6.
4. A copy of a letter dated November 18, 2011 from Eileen Swan, Executive Director of the Highlands Council to Jesse Landon re: Plan Conformance Implementation Extension Request.
5. A copy of a letter dated November 14, 2011 from James Stachura to Andrew Holt re: Vliettown Farm Subdivision, Block 43, Lot 3 driveway conditions.
6. A memo dated Nov. 29, 2011 from Shaun Van Doren, Twp. Historian to Shana Goodchild re: Vliettown Farm report & public hearing on application.
7. A letter dated Dec. 7, 2011 from Andrew Holt to Shana Goodchild re: Vliettown Road, Block 43, Lot 3, driveway design waivers.

### **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.

### **PUBLIC HEARING**

- Vliettown Farm  
Appl. No. 11-14  
Block 43, Lot 3  
Prel./Final Major Subdivision w/Variance and Waivers  
**Action deadline – 12-20-11**  
*Eligible to vote: Mr. Johnstone, Mrs. Baird, Ms. Desiderio, Mr. Mackie, Mr. Kerwin and Mr. Shapack*

Mr. Van Doren and Mr. Moriarty recused themselves from the meeting.

Mr. Rob Simon, attorney on behalf of the applicant, was present and noted that a site walk took place after the last hearing. Mr. Simon suggested having Mr. Kennedy, engineer for the applicant, review some of the details of the site walk and answer any questions from the last hearing.

Mr. Kennedy, using Exhibit A-1 for reference, outlined the route taken by those present on the site walk. Mr. Kennedy noted that the only change that resulted from the last meeting was the flag stem for proposed Lot 3.05; the flag staff will be reduced to 35 feet instead of the 50 feet shown on the plan. When asked if he had an opportunity to review Mr. Holt's letter of December 7, 2011, Mr. Kennedy responded in the positive. He indicated that the applicant would comply with the recommendations by Mr. Holt.

Mr. Burr asked if the LOI had been received to which Mr. Kennedy responded in the negative. He noted that DEP has been out several times to perform their inspections.

Mr. Johnstone announced that any future subdivision of the property will be looked at more stringently than this large lot subdivision for estate planning purposes. Mr. Johnstone asked Mr. Bernstein to include language in the resolution similar to the language in the other recent Johnson subdivisions.

Mr. Bernstein noted that the Historical Society suggested encumbering the railroad line with an easement. Mr. Bernstein asked Mr. Kennedy to highlight the old railroad bed in solid red on Exhibit A-1. Mr. Kennedy noted that there is no evidence of the old railroad bed (no railroad ties, spikes, etc.). He noted that there is a raised area near the tract boundary line near Lot 3.06. Mr. Johnstone agreed that there is a raised bed in a wooded area; not an area that can be easily walked through due to the density of the forest. Mr. Bernstein asked Mr. Kennedy to circle, in orange, the environmentally sensitive areas on proposed Lots 3.05 and 3.06. Mr. Kennedy noted that the environmental constraints consist of two (2) stream corridors and associated wetlands, transition areas and riparian buffers. When asked if there is any intent to change the railroad right of way, Mr. Kennedy responded in the negative.

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.

There being no further witnesses, Mr. Johnstone opened the meeting up for public comment.

Kurt Rahenkamp, 27 Welsh Road, was sworn in by Mr. Bernstein. Mr. Rahenkamp was present as Chairman of the Scenic Roads and Bridges Commission and President of the Tewksbury Historical Society. Mr. Rahenkamp noted the Shaun Van Doren, Township Historian, provided the Board with a letter dated November 29, 2011 and offered to answer any Board questions based on the letter. He added that the Rockaway Railroad has great historical significance to Tewksbury Township and it is a once time opportunity to provide protection. He suggested that the applicant preserve the area even if there is not intent to provide public access. Mr. Rahenkamp provided a map of the old railroad and a historic background of the railroad which was marked as Exhibit P-1.

Mr. Shapack asked if there were examples of other public access railroads. Mr. Rahenkamp cited one in Califon that is used for a bike path however it was noted that it is not privately owned. Mr. Bernstein opined that the Board had no right to force the applicant to grant an easement. Mr. Johnstone asked if the applicant would agree not to disturb the site. Mr. Johnstone noted that the members of the Board that walked the site agree that there are no remnants of the railroad that exist in the field. Mr. Kennedy opined that if it was worded in such a way that it didn't promote public access it might be acceptable by the applicant. Mr. Simon noted that the concern is that there will be valuation or tax implications with this type of restriction. Mr. Rahenkamp understood the hesitance to place a restriction on the property but noted that the desire of Mr. Van Doren was to create a walking path to link communities. Mr. Johnstone opined that it is not a walkable path in the current condition. When asked if there is a railroad easement in existence today, Mr. Kennedy explained that the easement does not exist and there was

never a metes and bounds description. In approximately 1931 the defunct railroad gave all of the land back to the landowners and nothing exists in title. Mr. Mackie noted that the Township tax map shows a railroad right of way on Lot 2.02 (identified as abandoned).

Mr. Bernstein explained that after speaking with Mr. Kennedy and Mr. Simon he can include in the resolution language that would indicate that the Johnson's would not disturb the railroad area and if they wish to disturb or build in the area they would need to return to the Board for permission. Mr. Bernstein also noted that most of the railroad area is in environmentally sensitive areas and subject to NJDEP permits for any disturbance.

There being no further comments from the Board or the public, Mrs. Baird made a motion to approve the application subject to the conditions as outlined by Mr. Bernstein. Mr. Bernstein noted that the conditions would include the two (2) memos from the Land Use Board Engineer and relevant conditions from the previous Johnson subdivision resolutions. Mr. Johnstone seconded the motion. The motion carried by the following roll call vote:

Ayes: Mrs. Baird, Ms. Desiderio, Mr. Mackie, Mr. Kerwin, Mr. Shapack and Mr. Johnstone

Nays: None

Mr. Van Doren returned to the meeting at this time (8:25 p.m.).

## **LAND USE BOARD DISCUSSION**

### **➤ 2012 Budget**

Mr. Johnstone read into the record a memo from Ms. Goodchild regarding the 2012 budget and any special projects the Board has in mind.

Mr. Van Doren didn't think that the alternative energy/solar ordinance was critical as he opined that Tewksbury is not conducive to this type of use.

The Board asked to readdress the Environmental Constraints ordinance in 2012. Mrs. Baird asked Mr. Benson to research the old DRO's to see what the Township had in the late 80's (1988).

Mr. Van Doren suggested budgeting money for the Planner to research downzoning; if the Township Committee decides not to opt into the Highlands the Land Use Board may want to amend the Master Plan to downzone areas in the Planning Area of the Highlands plan.

It was suggested that the Board budget \$5,000 to \$10,000 for possible downzoning of the Planning Area if the Township Committee decides not to opt in.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:35 p.m. by motion of Mr. Van Doren and seconded by Ms. Desiderio. All were in favor.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator