

**LAND USE BOARD MINUTES**  
**April 18, 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, Bruce Mackie, Elizabeth Devlin, 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 Randall Benson, Zoning Officer.

Absent: Dana Desiderio, Shaun Van Doren, Mary Elizabeth Baird, Shirley Czajkowski, Michael Moriarty, Ed Kerwin and Tom Dillon, Alt. #3.

There were approximately six (6) 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. Mrs. Devlin made a motion to approve the claims listed below and Mr. Shapack seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Land Use Board Professional Services – Attendance at April 4, 2012 meeting - invoice dated April 5, 2012 (\$450.00)
2. Bernstein & Hoffman – Land Use Board Professional Services – Master Plan Re-examination Report Resolution – invoice dated April 5, 2012 (\$150.00)
3. Bernstein & Hoffman – Land Use Board Escrow – JUJ 1944 Trust (Vliettown Farm) – (B43, L4), invoice dated April 9, 2012 (\$795.00)
4. Maser Consulting – Land Use Board Escrow – Cedar Lane Farm (Johnson Helistop), invoice #179163 (\$617.50)
5. Maser Consulting – Land Use Board Escrow – Taggart (B23, L26), invoice #179164 (\$97.50)
6. Maser Consulting – Land Use Board Escrow – Nextel of NY (B11, L38.01), invoice #179165 (\$65.00)
7. Maser Consulting – Land Use Board Escrow – JUJ 1944 Trust (Vliettown Farm) (B43, L4), invoice #179166 (\$585.00)

8. Maser Consulting – Land Use Board Escrow – Koplowitz (B6, L24.18), invoice #179167 (\$162.50)
9. Maser Consulting – Land Use Board Escrow – Caracciolo (B41, L1), invoice #179168 (\$487.50)
10. Maser Consulting – Land Use Board Escrow – Cahill (Emmet) (B42, L6.01), invoice #179169 (\$325.00)
11. Maser Consulting – Land Use Board Escrow – JCP&L (B17, L2.01 & 2.02), invoice #179170 (\$455.00)
12. Suburban Consulting Engineers – Land Use Board Inspection – A.M. Best (B46, L2.01, 5 & 6), invoice #18451 (\$60.00)
13. Suburban Consulting Engineers – Land Use Board Inspection – PNC Bank (B45, L1), invoice #18272 (\$47.50)
14. Suburban Consulting Engineers – Land Use Board Escrow – JUJ 1944 Trust (Vliettown Farm) (B43, L3), invoice #18439 (\$810.00)
15. Suburban Consulting Engineers – Land Use Board Inspection – Johnson (B23, L4, 20 & 36), invoice #18436 (\$340.00)
16. Suburban Consulting Engineers – Land Use Board Inspection – Oldwick Animal Hospital (B45, L28), invoice #18430 (\$440.00)
17. Suburban Consulting Engineers – Land Use Board Inspection – A.M. Best (B46, L2.01, 5 & 6), invoice #18301 (\$166.25)
18. Suburban Consulting Engineers – Land Use Board Inspection – Johnson (B23, L4, 20 & 36), invoice #18269 (\$648.75)
19. Banisch Associates – Land Use Board Professional Services – State Strategic Plan, invoice #P12-20025 (\$177.50)
20. Banisch Associates – Land Use Board Escrow – Johnson (B23, L23), invoice #P12-20024 (\$497.00)

**Roll Call Vote**

Ayes: Mr. Mackie, Mrs. Devlin, Mr. Shapack, Mr. Metzler, Mr. D’Armiento and Mr. Johnstone

Nays: None

**CORRESPONDENCE**

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

1. A memo dated April 11, 2012 from Roberta Brassard, Township Clerk re: Master Plan Consistency review of Ordinance No. 06-2012.
2. A memo dated April 9, 2012 from Christopher Teasdale, Environmental Commission Chairman re: JCP&L, Appl. No. 12-04, Block 17, Lots 2, 2.01 & 2.02.
3. A memo dated April 9, 2012 from Glenn Likus, Environmental Commission Member re: Newell, Appl. No. 12-05, Block 34, Lot 13.01.
4. Notice dated March 2012 from PSE&G re: application to the NJDEP for a freshwater wetlands individual permit application.

5. A memo dated April 10, 2012 from Roberta Brassard, Board of Health Secretary re: Appl. No. 12-05, Block 34, Lot 13.01.
6. Memorandum dated March 15, 2012 from Randy Benson, Zoning Officer re: Amending the definition of a dwelling unit.
7. Memorandum dated April 12, 2012 from Chief Holmes re: Appl. No. 12-03, Block 42, Lot 6.01.
8. Memorandum dated April 12, 2012 from Chief Holmes re: Appl. No. 12-05, Block 34, Lot 13.01.
9. E-mail dated April 13, 2012 from Harold Wrede, Chairman of the Scenic Roads and Bridges Commission re: Appl. No. 12-05, Block 34, Lot 13.01.
10. E-mail dated April 13, 2012 from Harold Wrede, Chairman of the Scenic Roads and Bridges Commission re: Appl. No. 12-03, Block 42, Lot 6.01.
11. A letter dated April 13, 2012 from William Burr, Land Use Board Engineer re: Appl. No. 12-03, Block 42, Lot 6.01.
12. A letter dated April 13, 2012 from William Burr, Land Use Board Engineer re: Appl. No. 12-05, Block 34, Lot 13.01.
13. A Zoning Comparison chart prepared by Randy Benson re: impervious coverage comparisons with other Townships.
14. A memo dated April 16, 2012 from Robert Brassard re: Appl. No. 12-03, Block 42, Lot 6.01.

## **MINUTES**

- March 21, 2012

The minutes of March 21, 2012 were approved by motion of Mrs. Devlin and seconded by Mr. Shapack. All were in favor.

## **ORDINANCE REPORT**

Mr. Mackie reported on an ordinance from the Township of Bedminster which updates their ordinance definitions dealing with the transportation, air safety and zoning act of 1983. Mr. Mackie opined that it was the same ordinance as last month but passed it along to Ms. Goodchild to compare. He also reported on an ordinance from Readington Township which amends their ordinance pertaining to research office and manufacturing zoning to allow for warehouse and/or some wholesaling. Mr. Mackie had no recommendations on that ordinance.

## **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, Mr. Johnstone closed the public portion of the meeting.

## **PUBLIC HEARING**

- Cahill (Emmet)  
 Appl. No. 12-03  
 Block 42, Lot 6.01  
 Conditional Use  
**Action Deadline – 6-24-12**

Mr. Aaron Culton, attorney for the applicant, was present and explained that the applicant is appearing before the Board for conditional use approval to construct a low income accessory dwelling unit. He explained that Mr. Cahill is the applicant and builder of record and set to testify as to compliance with the conditions complied with as outlined in the conditional use section of the DRO.

Brian Cahill, 104 Ravenrock Road, Stockton, NJ, was sworn in by Mr. Bernstein. Mr. Cahill explained that the owner, Anne Emmet, is seeking to establish an accessory dwelling unit on the property for a caretaker and/or an employee of the farm. He explained that the project meets all of the conditional use requirements and the proposed low income housing unit provides an additional COAH unit within the Township. Mr. Cahill reviewed for the Board the April 13, 2012 letter from William Burr. Addressing a comment about the unit having two (2) bedrooms, Mr. Cahill explained that the unit will have one (1) bedroom. Mr. Cahill reviewed the conditions of the DRO and noted that the applicant complies with all of the conditions of the use. Mr. Cahill explained that the well has been drilled and will provide the water supply for both the primary residence as well as the apartment. The septic system was constructed and approved for five (5) bedrooms; the principal dwelling has three (3) bedrooms and the apartment has one (1) bedroom. When asked the number of parking stalls provided, Mr. Cahill responded two (2) to three (3) cars. Mr. Burr noted that two (2) parking spaces are proposed for the apartment and a large parking area is proposed near the principal building. Mr. Cahill indicated that Ms. Goodchild forwarded a copy of the applicant's plans to the Fire Chief. When asked if anything was received from the Fire Company, Mr. Cahill indicated that he received a verbal o.k. but that the Fire Chief would be issuing a letter. Mr. Johnstone explained that any approval would be conditioned on the receipt of that letter. When asked about the wattage of the light bulbs proposed, Mr. Cahill explained that they would be 75 to 125 watts. Mr. Cahill provided a cut sheet of the type of fixture which Mr. Bernstein marked as Exhibit A-1. Mr. Burr opined that the style and wattage was appropriate for the use. When asked the number of fixtures, Mr. Cahill reported approximately seven (7). Mr. Cahill noted that the owner has already obtained approval of the Grading and Surface Water Management Plan and the driveway permit.

Anne Emmet, owner of the property, was sworn in by Mr. Bernstein. When asked about the farming on the property, Mrs. Emmet explained that it is a hay crop.

Mr. Burr explained that they meet the setback required by the DRO and other conditions outlined in the ordinance.

When asked by Mrs. Devlin about the light post proposed, Mrs. Emmet confirmed that the post light will be eliminated.

Mr. Metzler noted that the Apgar plan labels the principal dwelling as a five (5) bedroom house and suggested that it be revised. Mr. Cahill agreed to have the plans revised to show the principal dwelling as a four (4) bedroom structure.

There being no further questions from the Board Mr. Johnstone opened it up to the public. There being no questions from the public, Mr. Johnstone closed the public hearing.

Mr. Benson asked that a condition of approval be that the applicant is to notify the police that there is an additional dwelling unit on the property.

Mr. Bernstein read the following conditions into the record:

1. The conditions in William Burr's review letter.
2. The Affidavit of publication.
3. Elimination of a post light.
4. Labeling of the principal building as a four bedroom and the garage/barn apartment as a one bedroom.
5. Applicant to notify the police department that there will be second dwelling on the property.
6. Variance expires in one year unless permits are received.
7. All outside agency approvals.
8. Fees and Escrows, etc.
9. Deed restriction for the COAH unit prior to the Certificate of Occupancy.

Mrs. Devlin made a motion to approve Application No. 12-03 subject to the conditions outlined. Mr. Metzler seconded the motion. The motion carried by the following roll call vote:

Ayes: Mr. Mackie, Mrs. Devlin, Mr. Kerwin, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Nays: None

## **PUBLIC HEARING**

- Newell  
Appl. No. 12-05  
Block 34, Lot 13.01  
Side Yard Setback and Impervious Coverage Variance  
**Action Deadline – 7/30/12**

John Timothy Newell, 20 Meadow Lane, was sworn in by Mr. Bernstein. Mr. Newell explained that he purchased the property last May and he wishes to add a single story, two (2) bay addition to the existing barn to serve as a garage. Exterior material and colors are proposed to match the existing barn. The variances requested are for a side yard setback and impervious coverage. When asked what the barn is currently used for, Mr. Newell explained that it is not used for anything. When asked why the barn wasn't used as the garage, Mr. Newell explained that there is an elevation issue that would require a ramp and more importantly the barn is historically significant and they do not wish to compromise the structure.

Mr. Newell reviewed the April 13, 2012 letter from William Burr. When asked if he considered constructing the addition on the opposite side of the barn to eliminate the setback variance, Mr. Newell explained that he did but architecturally it doesn't make sense because it is a bank barn on that side of the structure. When asked if he can remove any of the existing impervious coverage to reduce the coverage Mr. Newell explained that there really isn't anything he can remove. Mrs. Devlin suggested that Mr. Newell review the April 9, 2012 letter from the Environmental Commission. Mr. Mackie noted that the Environmental Commission opined that the property contains a great deal of gravel driveway and if some of it were trimmed off additional coverage could be eliminated. Mr. Bernstein noted that it may be cheaper to remove some of the driveway than to provide for and build a drainage system to handle the increase in coverage. Mr. Johnstone explained to Mr. Newell that he has a choice to either install the drainage system to handle the excess coverage or remove some of the driveway to bring the coverage down to the maximum permitted. When asked about the exterior lighting, Mr. Newell explained that there are two (2) proposed lights, one (1) at the entryway and one (1) between the garage doors. Mr. Burr requested a catalogue sheet or cut sheet to demonstrate the style of light proposed to which Mr. Newell agreed. When asked about the wattage, Mr. Newell explained 60 watts. Mr. Newell agreed to the plan revisions requested in Mr. Burr's letter.

Mr. Johnstone suggested that a condition of approval be that the applicant submits a landscape plan to Mr. Burr's office in an effort to buffer the proposed garage from the neighboring property. Mr. Newell agreed.

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

Henry and Ruth Kreuter, 19 Meadow Lane, were sworn in by Mr. Bernstein. Mr. Kreuter encouraged a non-shiny metal roof so as not to create a glare. Mr. Newell agreed. Mr. Kreuter noted that there is an underground pipe that runs from the Newell property to the neighboring property. Mr. Newell noted that he spoke to the neighbor and he had no issue with the application. Mr. Kreuter pointed out that the application indicates that it is a single family home however it received approval for an in-law suite. Mr. Newell explained that he bought the house for the purposes of the in-law suite for his mother in law. Mrs. Kreuter noted that a renter has been occupying the in-law suite for several months. Mr. Benson explained that an apartment was approved by the Board of Adjustment and explained that the Board of Adjustment placed a condition on the variance that it could only be used for the former owner's father. Mr. Benson explained that he is researching past minutes to see if the prior owner came before the Land Use Board to alter the condition. Mr. Bernstein noted that Mr. Kreuter raises an interesting issue however it does not need to be resolved tonight. When asked if he intends to use the apartment for his mother in law, Mr. Newell responded in the positive. When asked if he currently has a renter, Mr. Newell explained that he has a friend staying there that is in the process of a divorce. When asked if he is paying rent, Mr. Newell responded in the positive. Mr. Johnstone instructed Mr. Bernstein and Mr. Benson to look into the

apartment issue and get back to Mr. Newell. Mr. Bernstein suggested that it be discussed in executive session.

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

Mr. Bernstein outlined the following conditions:

1. The conditions as outlined in Mr. Burr' review letter dated April 13, 2012.
2. A landscape buffer plan to the approval of Mr. Burr's office with a deed restriction that it be permanently maintained.
3. The proposed garage will have a non-shiny metallic roof.
4. The applicant will need to file a drainage plan to handle the additional coverage or remove coverage to the approval of Mr. Burr.
5. Fees and escrows.
6. The variance will expire within one (1) year if a permit is not received.

Mrs. Devlin made a motion to approve Application No. 12-5 subject to the conditions outlined by Mr. Bernstein. Mr. Shapack seconded the motion. The motion carried by the following roll call vote:

Ayes: Mr. Mackie, Mrs. Devlin, Mr. Kerwin, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Nays: None

#### **MASTER PLAN CONSISTENCY REVIEW**

- Ordinance No. 06-2012 in accordance with 40:55D-26a

Mrs. Devlin made a motion to find Ordinance No. 06-2012 not inconsistent with the Master Plan. Mr. Metzler seconded the motion. The motion passed by the following roll call vote:

Ayes: Mr. Mackie, Mrs. Devlin, Mr. Kerwin, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Nays: None

#### **MISCELLANEOUS BOARD DISCUSSION**

- Definition of a Dwelling Unit

Mr. Benson explained that he has researched the issue and many of the options would put undue hardship on a property owner. Chairman Johnstone suggested that property owners be required to file a deed restriction for a three (3) fixture bath in an accessory structure. Mr. Benson explained that accessory structures with a three (3) fixture bath turn into dwelling units more easily than three (3) fixture baths in basements. Mr.

Johnstone asked Mr. Bernstein to prepare a draft deed restriction for the Board to look at and then make a recommendation to the Township Committee.

➤ Impervious Coverage Restrictions - comparison of surrounding municipalities  
Mr. Benson noted that at the Re-organization meeting the Board asked for a breakdown of restrictions in other municipalities as compared to Tewksbury Township. The chart shows the lot coverage for Tewksbury Township as well as surrounding municipalities and shows that Tewksbury is more restrictive but not by much. It was the consensus of the Board and staff to leave the maximum coverage as is.

### **EXECUTIVE SESSION**

➤ Potential Litigation

At 8:52 p.m. a motion was made by Mrs. Devlin and seconded by Mr. Shapack to adopt the following resolution:

BE IT RESOLVED, pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Tewksbury Township Land Use Board adjourn to Executive Session to discuss potential litigation.

No official action will be taken during said session; and

It is expected that the discussion undertaken in Executive Session can be made public when the personnel issue has been settled.

Roll Call Vote

Those in Favor: Mr. Mackie, Mrs. Devlin, Mr. Kerwin, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

The meeting reconvened at 9:05 p.m.

Mr. Johnstone explained that the Board discussed an issue regarding potential litigation which will require additional research by Mr. Benson and Mr. Bernstein. A report with a recommendation will be generated at a later date.

### **ADJOURNMENT**

There being no further business, the meeting adjourned at 9:07 p.m. by motion of Mrs. Devlin and seconded by Mr. Metzler.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator