

**TOWNSHIP COMMITTEE
SEPTEMBER 10, 2013 MINUTES**

The Tewksbury Township Committee met in a regular session on the above date at the Municipal Building, Mountainville, NJ.

The meeting was called to order at 7:30 PM, roll call held and a quorum established. Mr. Van Doren presided.

Other officials in attendance were Township Committee members Peter Melick and William Voyce.

Dana Desiderio was absent.

Jesse Landon, Township Administrator, Roberta Brassard, Municipal Clerk and Michael Selvaggi, Township Attorney were in attendance.

There were approximately four members of the public in attendance.

1. Open Public Meetings Statement

The Open Public Meetings Statement was read by Mr. Van Doren.

2. Flag Salute

Those present stood and pledged allegiance to the American flag.

3. Public Participation

No comments were heard from the public.

4. Actions to be taken

➤ **Ordinance Public Hearing**

Dr. Voyce made a motion to open the Public Hearing on Ordinance #08-2013, seconded by Mr. Melick. The motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio, DiMare.

Ms. Brassard provided proof of publication from the 8/30/13 Courier News and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

There being no comments from the public, Mr. Melick made a motion to close the Public Hearing on Ordinance #08-2013, seconded by Dr. Voyce. The motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio, DiMare.

Dr. Voyce moved adoption of Ordinance #08-2013, seconded by Mr. Melick. A roll call vote was taken and the motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio, DiMare.

ORDINANCE NO. 08-2013

**ORDINANCE OF THE TOWNSHIP OF TEWKSBURY,
COUNTY OF HUNTERDON, STATE OF NEW JERSEY,
TO AMEND, REVISE AND SUPPLEMENT**

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**SECTION 702.2 OF ARTICLE VII OF THE
DEVELOPMENT REGULATIONS ORDINANCE OF THE TOWNSHIP OF
TEWKSBURY TO AMEND SAID REGULATIONS
PERTAINING TO GENERATORS AND
AIR CONDITIONING SYSTEM COMPRESSORS**

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has previously adopted Ordinance No.05-2013, which said ordinance regulated permanent standby generators and air conditioning system compressors within the Township; and

WHEREAS, upon adoption of said ordinance, it was discovered that certain provisions contained therein needed to be revised.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, in the County of Hunterdon, State of New Jersey, the Development Regulations Ordinance of the Township of Tewksbury, Article VII (“Zoning Provisions”) Section 702.2 is amended, revised and supplemented to add the following:

Section 1

Section A, (3) is amended to include the definition for “air conditioning system compressor” as follows:

***Air Conditioning System Compressor** - Mechanical pump driven by an electric motor that lies within a condensing unit and is responsible for compressing and circulating refrigerant in a dwelling. May also include a heat pump that circulates heat in a dwelling by means of a mechanical pump.*

Section A, (9) is amended to further include the following:

The amount of impervious surface used for a permanent standby generator or air conditioning system compressor of the lot’s overall impervious coverage shall not be included in any subsequent calculation as may otherwise be required by any other applicable Development Regulation Ordinance for Tewksbury Township, provided that the amount of the impervious surface is less than 100 sq. ft. and is devoted solely to the use of a permanent standby generator or air conditioning system compressor.

Section A(4)(b) shall be removed in its entirety and Section A (4)(c) shall be identified as Section A (4)(b).

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Section 2:

All other Sections shall remain unchanged.

Section 3:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 4.

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 5.

Effective Date. This Ordinance shall take effect upon final passage and publication.

Louis DiMare
Mayor

Dr. Voyce made a motion to open the Public Hearing on Ordinance #09-2013, seconded by Mr. Melick. The motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio, DiMare.

Ms. Brassard provided proof of publication from the 8/30/13 Courier News and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

Betsy Baird thanked the Committee for considering Ordinance #09-2013 as she felt the amendment will help the Land Use Board with application dealing with coverage issues. She added that she felt the Ordinance amendment was needed for some time.

There being no additional comments from the public, Dr. Voyce made a motion to close the Public Hearing on Ordinance #09-2013, seconded by Mr. Melick. The motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio, DiMare.

Dr. Voyce moved adoption of Ordinance #09-2013, seconded by Mr. Melick. A roll call vote was taken and the motion was approved. Ayes: Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio, DiMare.

ORDINANCE NO. 09-2013

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON,
STATE OF NEW JERSEY, TO AMEND, REVISE AND**

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**SUPPLEMENT ARTICLE VII “ZONING PROVISIONS,” OF THE
DEVELOPMENT REGULATIONS ORDINANCE AND TO
REVISE SECTION 706 “EXCEPTIONS”**

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has determined that there is a need to revise Section 706 entitled “Exceptions”, Subsection F of the Development Regulations Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, in the County of Hunterdon, State of New Jersey, that the Development Regulations Ordinance of the Township of Tewksbury Article VII “Zoning Provisions”, Subsection F is hereby amended, revised and supplemented to add the following:

Section 1:

§ 706 - EXCEPTIONS

F. Existing Undersized Lots.

1. Any lawfully created parcel of land less than three (3) acres in lot area in the HL Highlands District, LT Lamington District, FP Farmland Preservation District, or PM Piedmont District:
 - a. Which has a lot area less than that now prescribed for a lot in the District in which such parcel is located, and
 - b. Which was in existence at the time of the adoption of any zoning ordinance regulation of this Township [including the zoning regulations of the Tewksbury Township Development Regulations Ordinance (2002), and any amendment thereto], by which the minimum lot area applicable thereto was increased so as to exceed the area of such lawfully created parcel of land, may be used for single-family dwelling purposes as a principal use. Any single-family dwelling or accessory structure to it thereon which shall accidentally be destroyed may be replaced in the same location and footprint as it occupied on the lot immediately prior to said accidental destruction, and shall not constitute a non-conforming use or structure, provided that:
 - (i) All regulations except the minimum lot area, minimum lot width, minimum front yard, minimum side yard, minimum rear yard, maximum lot

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coverage and maximum floor area ratio, regulations, now prescribed by this Ordinance for the District in which such parcel is located shall be complied with;

- (ii) Either the owner thereof owns no adjoining land or the parcel was granted either minor or final major subdivision approval by the Township Planning Board or Board of Adjustment;
- (iii) The parcel shall not be further reduced in lot area, lot width, lot depth or lot frontage; and
- (iv) For existing and new, principal and accessory structures: The front yard setback shall be a minimum of seventy-five (75) feet, the side yard setback shall be a minimum of forty (40) feet, the rear yard setback shall be a minimum of forty (40) feet, the floor area ratio requirement shall not apply and the maximum lot coverage shall not exceed the following: 12% for lots under 3 acres; 10% for lots of 3 to 3.99 acres; 8% for lots of 4 to 4.99 acres; and 5% for lots of 5 acres or more.

- 2. Any lawfully created parcel of land, at least three (3) acres in lot area in the HL Highlands District, LT Lamington District, FP Farmland Preservation District, or PM Piedmont District:
 - a. Which has a lot area less than that now prescribed for a lot in the District in which such parcel is located, and
 - b. Which was and in existence at the time of the adoption of any zoning ordinance regulation of this Township [including the zoning regulations of the Tewksbury Township Development Regulations Ordinance (2002), and any amendment thereto], by which the minimum lot area applicable thereto was increased so as to exceed the area of such lawfully created parcel of land, may be used for single-family dwelling purposes as a principal use. Any single-family dwelling or accessory structure to it thereon which shall accidentally be destroyed may be replaced in the same location and footprint as it occupied on the lot immediately prior to said accidental destruction, and shall

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not constitute a non-conforming use or structure, provided that:

- (i) All regulations except the minimum lot area, minimum lot width, minimum front yard, minimum side yard, minimum rear yard, maximum lot coverage and maximum floor area ratio, regulations, now prescribed by this Ordinance for the District in which such parcel is located shall be complied with;
- (ii) Either the owner thereof owns no adjoining land or the parcel was granted either minor or final major subdivision approval by the Township Planning Board or Board of Adjustment; and
- (iii) The parcel shall not be further reduced in lot area, lot width, lot depth or lot frontage.

- 3. As to a parcel complying with the provisions of subsection (F)(2) of this Section, which has a lot area of at least 3 acres but less than 5 acres, in lieu of the minimum front yard, minimum side yard, minimum rear yard, maximum lot coverage and maximum floor area ratio now prescribed for the District in which the parcel is located, the following shall apply for existing and new, principle and accessory structures:
 - (a) Front yard. The front yard shall be at least 75 feet in depth.
 - (b) Side yard. Each principal building shall be provided with a side yard, each at least 40 feet in width.
 - (c) Rear yard. Each principal building shall be provided with a rear yard at least 40 feet in depth.
 - (d) Maximum lot coverage. The maximum lot coverage shall be regulated by Section 706 F(1)(b)(iv) herein.
 - (e) Floor area ratio. A floor area ratio requirement shall not apply.

- 4. As to a parcel complying with the provisions of subsection (F)(2) of this Section, which has a lot area of at least 5 acres, in lieu of the minimum front yard, minimum side yard, minimum rear yard, maximum lot coverage and maximum floor area ratio now prescribed for the District in which the parcel is located, the following shall apply:
 - (a) Front yard. The front yard shall be at least 100 feet in depth.

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- (b) Side yard. Each principal building shall be provided with a side yard, each at least 50 feet in width.
- (c) Rear yard. Each principal building shall be provided with a rear yard at least 50 feet in depth.
- (d) Maximum lot coverage. The maximum lot coverage shall be regulated by Section 706 F(1)(b)(iv).
- (e) Floor area ratio. A floor area ratio requirement shall not apply.

Section 2:

All other sections shall remain unchanged.

Section 3:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 4.

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 5.

Effective Date. This Ordinance shall take effect upon final passage and publication.

Louis DiMare
Mayor

Mayor DiMare arrived at 7:40 PM.

➤ **Consent Agenda**

Mayor DiMare asked that item “r” from the Correspondence List be removed for discussion.

Mr. Van Doren moved adoption of the Consent Agenda as amended, seconded by Mr. Melick. A roll call vote was taken and the motion was approved. Ayes: DiMare, Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio.

**RESOLUTION #88-2013
REFUND AND CANCELLATION OF TAX**

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BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following payments.

Block	Lot	Name	Amount
34	13.04	Bruce & Elizabeth Shapiro 2011 Homestead Rebate 38 Bissell Rd Lebanon, NJ 08833	684.73
47	48	Bellemead Development Corp PO Box 1615 Warren NJ 07060	4,234.40

Cancellation of balances

7	22.01	2013	36.69
19	14.03	2013	12.37
23	2.03	2011	176.40
27	71-15	2013	126.85
39	3	2013	15.81

Louis DiMare
Mayor

RESOLUTION #89-2013

**APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT
CONTRACT WITH THE NEW JERSEY DEPARTMENT OF
TRANSPORTATION FOR THE BISSELL ROAD ROADWAY IMPROVEMENTS
- PHASE III PROJECT**

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Tewksbury formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk are hereby authorized to submit an electronic grant application identified as MA-2014-Tewksbury Township-00356 to the New Jersey Department of Transportation on behalf of the Township of Tewksbury.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Tewksbury and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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Louis DiMare
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO
- Regular minutes of 08-27-13
- Authorization to have Mayor sign Turn the Town Teal approval letter

ITEMS REMOVED FROM THE CONSENT AGENDA

In response to a request from Mayor DiMare, Mr. Landon stated that he and Hayden Hull looked at the property as noted in item “r” of the Correspondence List. Mr. Landon noted that the property in question was not in Tewksbury Township and was essentially an issue between two neighbors.

Mr. Van Doren moved to accept the Correspondence List, seconded by Dr. Voyce. The motion was approved. Ayes: DiMare, Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio.

- Correspondence List

5. Reports

➤ **Township Committee Sub Committees & Township Committee Comments**

Dr. Voyce noted the upcoming anniversary of the 9-11 attacks and referred to it as “Patriots’ Day.”

Mr. Melick noted that a 9-18-13 meeting of the finance subcommittee is scheduled to discuss the budget and the outside mowing contract.

He added that the two Township schools will have open houses this week and give parents a chance to meet the new Principal and Superintendent.

Mr. Van Doren noted that the 2013 budget needs to be reviewed and he requested a listing of Township owned vehicles for review.

He noted that he advised the LUB that the Committee is still looking into the matter of Zoning Officer inspections and will supply the LUB with a draft document once presented.

Mrs. Goodchild is working on drafting an Ordinance related to wind and solar power for presentation to the Committee for review.

Mayor DiMare noted that he heard a hurricane is forecast in the near future and questioned if everything was in place. He questioned if there is a definite start-up date for the substation.

➤ **Township Attorney**

Mr. Selvaggi noted that he had two items for discussion in Executive Session.

➤ **Township Administrator**

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Mr. Landon noted that information was distributed to Township employees regarding the Affordable Care Act.

6. Public Participation

Mike Manella, 109 Old Turnpike Road was present to discuss a matter related to tree removal. He stated that he was cutting dead trees on his property and was “turned in” to the Township by “environmentalists” who were taking pictures and harassing him. He stated that he spoke with the Zoning Officer and was informed (per the Tree Ordinance) that he would have to have an arborist look at the trees in order to determine their health.

He stated that he did not wish to pay for the services of an arborist as he felt he had the right to cut the trees. He added that during the recent storm, the trees fell, took down a power line and caused severe damage to his home and property. Mr. Manella stated that if he had been allowed to cut the trees, he would not be in the current position and have to pay for contractors and electrical inspections.

He questioned if a study had ever been done regarding the quality of the trees in this specific area of the Township as he felt the soils were overly rocky and not conducive to healthy growth.

Mayor DiMare stated that the Tree Ordinance has been in place for ten years and was specifically crafted in response to clear cutting on Old Turnpike Road. He noted that the requirement for an arborist is because the Township Zoning Officer is not a tree expert and the intent of the Ordinance is to protect Township trees. He added that he was unsure of Mr. Manella’s reasoning for suggesting a study regarding tree quality in the area under discussion.

Discussion followed regarding the ability of JCP&L to remove trees in the right of way and the possibility that the trees under discussion could fall into County Route 527.

Mr. Van Doren explained the language of the Tree Ordinance and added that anyone can go to the Tree Permit Appeals Board to argue the decision and state their opinion and business.

Additional comments were made regarding replanting trees, safety matters, Mr. Manella’s concern that he was being singled out by the “environmentalists”, the opinion of the Zoning Officer and the fact that Mr. Manella did not wish to pay for the services of an arborist.

It was the consensus of the Committee that Mr. Manella should go to the Tree Permit Appeals Board if he disagreed with the decision of the Zoning Officer. It was noted that there is no cost associated with this appeal.

7. Executive Session

At 8:08 PM Mr. Van Doren moved adoption of the following Resolution, seconded by Dr. Voyce. The motion was approved. Ayes: DiMare, Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio.

**RESOLUTION #90-2013
A RESOLUTION AUTHORIZING AN EXECUTIVE SESSION OF THE TEWKSBURY
TOWNSHIP COMMITTEE**

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BE IT RESOLVED, pursuant to N.J.S.A. 10:4-13 and 10:4-12 that the Tewksbury Township Committee hold a closed session to discuss Litigation Settlement and Litigation.

It is expected that the discussion undertaken in closed session can be made public at the time official action is taken.

Louis DiMare
Mayor

8. Reconvened

The meeting reconvened at 8:26 PM.

9. Action Taken

Mr. Van Doren made a motion to not grant the Consent Order for the Kneser vs. SADC et al in the matter as discussed in Executive Session, seconded by Dr. Voyce. The motion was approved. Ayes: DiMare, Melick, Van Doren, Voyce. Nays: None. Absent: Desiderio.

10. Adjournment

There being no further business, the meeting was adjourned at 8:27 PM.

Roberta A. Brassard
Municipal Clerk