

LAND USE BOARD MINUTES
February 18, 2015

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, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Bruce Mackie, Ed Kerwin, Michael Moriarty, Ed D'Armiento, Alt. #1, Kurt Rahenkamp, Alt. #2 and Glenn Stein, Alt. #3.

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

Absent: Shirley Czajkowski, Robert Becker and David Larsen, Alt. #4.

There were 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 8, 2015.

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. Maser Consulting – Land Use Board General Land Use Work, invoice #263824 (\$195.00)
2. Maser Consulting – Land Use Board Escrow – Taylor (B37, L7), invoice #263826 (\$65.00)
3. Maser Consulting – Land Use Board Escrow – Green Power Energy (Becker) (B31, L7.03), invoice #263827 (\$292.50)
4. Maser Consulting – Land Use Board Escrow – Sprint Spectrum (B11, Lot 38.01), invoice #263825 (\$32.50)
5. Suburban Consulting Engineers, Inc. – Land Use Board Inspection – Beaux Champs Manor Estates (B6.04, L23.01), invoice 000000023648 (\$1,804.70)

Roll Call Vote:

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Moriarty, Mr. Kerwin, Mr. D’Armiento, Mr. Rahenkamp, Mr. Stein and Mr. Johnstone

Those Opposed: None

CORRESPONDENCE

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

1. A letter dated December 29, 2015 from Robert Boak withdrawing Appl. No. 14-10, Magic Shop.
2. The New Jersey Planner, November/December 2014.
3. Notice dated December 30, 2014 from Navneet and Reema Puri re: Highlands Applicability Determination application for Block 32, Lot 7.08, 40 Still Hollow Road.
4. A copy of a letter dated January 23, 2015 from the Hunterdon County Planning Board to Matthew Suchodolski, United States Department of Commerce re: Hunterdon’s Comprehensive Economic Development Strategy (CEDS).
5. Memorandum dated February 6, 2015 from Chief Holmes re: Appl. No. 14-13, Block 37, Lot 7.
6. Notification dated January 30, 2015 from PS&S re: Multi-permit application for freshwater wetlands general permit No. 1 for JCP&L vegetative maintenance, utility infrastructure maintenance and repair and replacement activities.
7. A copy of a letter dated December 16, 2014 from Alliance for Historic Hamlets to NJDEP re: comments on application for NJDEP line delineation letter of interpretation for 19 King Street, Block 44, Lot 26, American Towers, LLC.
8. A copy of a letter dated December 21, 2014 from Alliance for Historic Hamlets to NJDEP re: comments on application for NJDEP line delineation letter of interpretation for Block 47, Lot 48 (Springfield Farm), Bellemead Development Corporation.
9. A letter dated January 27, 2015 from David Smith of Natural Systems Utilities re: Treatment Works Approval Application (NJPDES Permit #NJ0104396) Crossroads at Oldwick Wastewater Treatment Facility, Fine Screen Installation.
10. A letter dated February 13, 2015 from William Burr re: Taylor, Appl. No. 14-13, Block 37, Lot 7.

MINUTES

- August 6, 2014

The minutes of August 6, 2014 were approved as submitted by motion of Mr. Van Doren and seconded by Mrs. Baird. All were in favor. Mr. D’Armiento and Mr. Stein abstained.

ORDINANCE REPORT

Mr. Mackie reported on a hospitality zone ordinance from Readington Township in the area of the Ryland Inn. He opined that the ordinance is location specific and therefore had no recommendations.

PUBLIC PARTICIPATION

Mr. Johnstone asked the public if there were any questions or comments regarding anything not on the agenda. There being no comments or questions, Mr. Johnstone closed the public participation portion of the meeting.

PUBLIC HEARING

- Taylor
Appl. No. 14-13
Block 37, Lot 7
Impervious Coverage Variance
Action Deadline – 5-20-15

Jeff Egarian, Engineer, Susan and Michael Taylor, homeowners and Hernan Messuti, owner of Inca pools were sworn in by Mr. Bernstein.

Mr. Egarian noted that he has been a licensed engineer since 2010 and has worked at his firm since 2005. He prepares residential grading plans for properties within New Jersey regularly. The Board accepted Mr. Egarian's qualifications as a professional engineer.

Mr. Egarian explained that the project involves proposed renovations to the existing in-ground swimming pool, replacing the existing hot tub with a new spa and adding a large pool patio area. When asked by Mr. Johnstone if the current spa is located on the plans, Mr. Egarian responded in the negative. Mrs. Taylor noted that it is a portable spa located on the existing patio. Ms. Desiderio asked for clarification of the existing spa to which it was explained that there is a water feature that involves a raised bon beam. Mr. Egarian noted that the proposed feature will have a spa with jets. Mrs. Taylor noted that they have a portable hot tub that is not in a good place given its location at the bottom of a steep set of stairs. Mr. Egarian went on to explain that the project consists of a 60 sq. ft. spa, 1,040 sq. ft. of new patio and a 32 sq. ft. equipment pad. The materials for the pool patio will be a dry laid travertine, the raised patio will be constructed of the raised bon beam and a concrete slab. The outdoor kitchen will consist of a grill with a countertop and a refrigerator underneath. Mr. Egarian addressed the issue with the fence that is within the wetlands buffer and provided the Board with a letter from the NJDEP permitting the fence to remain. Ms. Goodchild noted that the letter was from the former Zoning Officer Randy Benson not the NJDEP. The letter was marked as **Exhibit A-1**. Mr. Egarian assured the Board that the project will not encroach on the wetlands, buffers or conservation easement; no re-grading will occur and no fill will be brought into the site.

When asked to describe the proposed detention measures, Mr. Egarian indicated that the applicant isn't proposing anything at this time as they wanted to gain approval for the variance before proceeding with the design of detention. He noted that they understand that they will need to provide stormwater management as part of the Grading and Surface Water Management Plan process.

When asked by Mr. Burr if the existing wooden deck on the rear of the house will be removed and replaced with patio area, Mr. Egarian responded in the positive. When asked if there will be a net change in coverage, Mr. Egarian responded in the negative. When asked the amount of new impervious coverage, Mr. Egarian responded 1,168 sq. ft. When asked what the raised area is near the pool, Mr. Egarian was unsure and deferred questions about the pool to Mr. Messuti. Mr. Burr noted that the plan shows the new patio directly next to the conservation easement line and asked how it will be possible to build the patio without encroaching into the easement. Mr. Egarian explained that the plan is to have the easement staked by a licensed surveyor to make sure there is no disturbance within the easement. He added that there is no re-grading planned which will make it easier to stay out of the easement area. When asked if there is a drywell on the property, Mr. Egarian responded in the positive and explained that all of the roof leaders discharge into the ground. Ms. Goodchild questioned the location of the drywell noting that the grading plan that was approved in 2005 showed it in a different location than described by the applicant. When asked about lighting, Mr. Egarian deferred the question to the property owner.

Mr. Bernstein noted that the NJDEP approval of the fence in the wetlands doesn't approve the encroachment into the conservation easement that runs to the Township; the applicant would have to seek approval from the Township Committee for the fence to remain.

When asked by Mr. Mackie when the fence was installed, Mr. Egarian deferred the question to the property owner.

When asked by Mr. Van Doren if the improvements could be pulled back from the conservation easement, Mr. Egarian responded in the positive. When asked the size of the proposed patio space, Mr. Egarian responded 1,040 sq. ft.

When asked by Ms. Desiderio if the proposed spa could be moved to a different location away from the conservation easement, Mr. Egarian deferred the question to the property owner.

Mrs. Susan Taylor, applicant and property owner, testified that they bought the property with all of the current improvements. She explained that they have three (3) children living in the home and the outside living area is limited; on several occasions people sitting at the outside dining area have almost fallen into the pool. The proposed project would expand the seating area to accommodate everyone safely. Additionally, the decking around the pool and the interior finish on the pool needs to be replaced. The pool currently only has one (1) light and the proposal is to add at least one (1) or maybe

two (2) additional lights for safety. Addressing the issue of the location of the proposed spa, Mrs. Taylor explained that they didn't want to place the spa at the other end of the pool because that area gets the most sun and is the best spot for the expanded patio area.

When asked by Ms. Goodchild if the only lighting proposed is within the pool, Mrs. Taylor noted that they would also like some low voltage lighting and a fixture above the table for dining. When asked what type of light, Mrs. Taylor responded a pole light.

When asked by Mr. Johnstone if additional patio is being added to the southern end of the pool, Mrs. Taylor responded in the positive and explained that the purpose is for people to lounge in that area since it is the sunniest spot of the yard. When asked why there is expanded patio/walkway in the rear of the pool near the proposed spa, Mrs. Taylor explained that it is needed so that people can get in and out of the spa. Mr. Johnstone opined that it was an excessive amount of space to be used to get in and out of the spa.

When asked by Mr. Moriarty if the pool is being enlarged, Mrs. Taylor responded in the negative.

When asked by Mr. Van Doren if they have done any improvements to the exterior of the home to increase the coverage, Mrs. Taylor responded in the negative. Ms. Goodchild noted that when the house and improvements were constructed the maximum impervious coverage allowed was 8% and when the DRO was revised it was reduced to 5%. Mrs. Taylor noted that when they bought the house they knew that it was 8% so they thought they would have the room to expand without the need for a variance. Mr. Van Doren indicated that he was uncomfortable with the patio extending so close to the conservation easement line and opined that the next owner may not realize it and encroach into the conservation easement. Mr. Van Doren suggested that the applicant reconfigure the project to pull it away from the conservation easement. Mrs. Taylor explained that the challenge is trying to create a space large enough to accommodate a table and chairs with enough room to comfortably walk around without the safety hazard of falling into the pool.

When asked by Mrs. Baird if the wooden deck is being removed, Mrs. Taylor responded in the positive. When asked if the patio will be at ground level, Mrs. Taylor explained that it will be elevated to the same level as the existing deck.

Discussion ensued between Ms. Desiderio, Mr. Van Doren and Mrs. Taylor about moving the spa to the right side of the pool where the applicant currently proposes an extension of the patio to take advantage of the sun. Ms. Desiderio and Mr. Van Doren suggested placing the spa in that location and extending the proposed patio beyond the spa. Mr. Stein noted that he understood the concern with encroaching into the conservation easement but he felt that the "line is the line" and the applicant has testified that they will not encroach into the easement. Mrs. Taylor felt that moving the spa to the right of the pool would create more impervious coverage. Mr. Kerwin suggested reducing the width of the sidewalk near the conservation easement. Mr. Johnstone agreed and noted that a typical sidewalk is three (3) feet and the proposed sidewalk is

four (4) and a half feet. Mrs. Taylor expressed concern with a narrow walkway since she has she has teenage children who may run and get hurt.

Mr. Hernan Messuti, owner of Inca pools, indicated that moving the spa a few feet from the conservation easement would not be a problem and the applicant could still construct a four (4) foot walkway on each side. Mr. Bernstein suggested that the applicant consider reducing the size of the project below 1,000 sq. ft. of new impervious surface to eliminate the need for a Grading and Surface Water Management Plan.

When asked by Mr. Van Doren if the corner of the spa is still close to the conservation easement line, Mr. Messuti responded in the positive.

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

Mr. Rahenkamp opined that it was petty to worry about the easement line since the project does not encroach into the conservation easement and he did not have a problem with the layout as proposed by the applicant. He suggested a site walk if the Board had more questions.

Mr. D'Armiento agreed with Mr. Rahenkamp and noted that the easement is defined for a reason and the applicant has demonstrated that they will not disturb the conservation easement.

When asked by Mr. Johnstone if there is a way to identify the easement line during and after construction, Mr. Burr responded in the positive and indicated that temporary stakes could be installed during construction and permanent carsonite stakes could be used at the end of construction.

If the variance is approved, Mr. Van Doren suggested that the Board require the lighting to be reviewed and approved by the Land Use Board Engineer.

Mr. Michael Taylor noted that the fence came up during the purchase and they were assured by the DEP and the Township that they were grandfathered and that the fence issue had been settled. Mrs. Taylor indicated that she would check her files for a letter from the former Zoning Officer and submit it to Ms. Goodchild.

Ms. Desiderio made a motion to approve the application as submitted with the following conditions as outlined by Mr. Bernstein. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

Conditions as outlined by Mr. Bernstein:

1. Prior to construction there would be a stake out by a licensed survey.
2. No grading as part of the project.
3. No encroachment into the conservation easement area.

4. After construction, permanent markers shall be installed identifying the conservation easement.
5. Conditions as outlined in Bill Burr's review letter.
6. Lighting plan to Mr. Burr's approval.
7. Grading and Surface Water Management Approval.
8. Plan to be revised to the approval of Mr. Burr showing the existing dry well and proof that the existing dry well is in working condition.
9. Plan is to be revised to remove the trellis that is no longer on the property.
10. Applicant will need to seek approval from the Township Committee for the placement of fence within 90 days of variance approval.
11. Payment of fees and escrows.

Mr. Mackie noted that the applicant's engineer indicated during his testimony that he would address how the applicant was going to handle the additional runoff from the proposed patio area. Mr. Egarian noted that they would demonstrate to the Land Use Board Engineer that the runoff could be handled by the existing drywells by exposing the existing tanks to demonstrate that they are in working order and under capacity. Mr. Bernstein noted that the applicant would need to apply to the Township Engineer for a Grading and Surface Water Management Plan and it should be addressed at that point.

Roll Call Vote:

Those in Favor: Mrs. Baird, Ms. Desiderio, Mr. Moriarty, Mr. Kerwin, Mr. D'Armiento, Mr. Rahenkamp and Mr. Stein

Those Opposed: Mr. Van Doren, Mr. Mackie and Mr. Johnstone

PUBLIC HEARING

- Cellco Partnership d/b/a Verizon Wireless & Global Tower - POSTPONED
 Appl. No. 13-03
 Block 44, Lot 26
 Conditional Use, Site Plan and Variance (Use variance due to deviation from condition use standards)
Action Deadline – Indefinitely

Mr. Van Doren and Ms. Desiderio were recused from the meeting.

When asked by Mr. Johnstone to update the Board on the Cellco cell tower application, Ms. Goodchild noted that she reached out to Mr. Meese regarding their attendance at the meeting tonight. Because Cellco has not heard back from PSE&G about locating on an existing tower Mr. Meese requested to postpone the hearing. She went on to explain that she provided Mr. Meese with several dates for future public hearings so that the date could be announced but he did not respond. Ms. Goodchild noted that the applicant will be required to re-notice.

When asked by Mr. Johnstone if the Board has a right to have them start the application over, Mr. Bernstein indicated that he would request that they start over. He expressed concern that all of the Cellco witnesses have only provided partial testimony.

Ms. Goodchild noted that Cellco has applied for an NJDEP permit for the original site and the Citizens to Save Tewksbury have submitted comments on that application.

Mr. Johnstone reminded Board members that the Cellco application is still pending and that it should not be discussed with the public outside of the public forum.

Mr. Johnstone announced the postponement of the hearing with no new date to be announced. Any future hearing will have new notice to property owners within 200 feet and the newspaper as required by the MLUL.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:04 p.m. by motion of Mrs. Baird and seconded by Mr. Moriarty. All were in favor.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator