LAND USE BOARD MINUTES
October 17, 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 7:32 p.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Dana Desiderio, Shaun Van Doren, Bruce Mackie, Elizabeth Devlin, Shirley Czajkowski, Ed Kerwin arrived at 7:40 p.m., Michael Moriarty, Arnold Shapack, Alt. #1, Eric Metzler, Alt. #2 and Ed D'Armiento, Alt. #3.

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

Absent: Fred Root, Alt. #4.

There were approximately three (3) 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. 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 – Attendance at 09/19/12 LUB Meeting – invoice dated September 2012 ($450.00)
2. Bernstein & Hoffman – Land Use Board Escrow – NJCF (B51, L80), invoice dated September 6, 2012
3. Bernstein & Hoffman – Land Use Board Escrow – Johnson (B23, L4), invoice dated September 19, 2012
4. Bernstein & Hoffman – Land Use Board Escrow – Johnson (B23, L20), invoice dated September 19, 2012
5. Bernstein & Hoffman – Land Use Board Escrow – Johnson (B23, L36), invoice dated September 19, 2012
6. Bernstein & Hoffman – Land Use Board Escrow – Johnson (B23, L2), invoice dated September 19, 2012

7. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #189974 ($552.50)
8. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #189975 ($552.50)
9. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #189976 ($552.50)
10. Maser Consulting – Land Use Board Escrow – Regan (B40, L5), invoice #189978 ($150.00)
11. Maser Consulting – Land Use Board Escrow – Stavola Quarries (B44, L24), invoice #189977 ($585.00)
12. Maser Consulting – Land Use Board Escrow – Hannon (B32.01, L3), invoice #189980 ($195.00)
13. Maser Consulting – Land Use Board Escrow – Snyder (B11, L9.16), invoice #189981 ($195.00)
14. Maser Consulting – Land Use Board Escrow – Schmitt (B11, L6), invoice #189983 ($260.00)
15. Maser Consulting – Land Use Board Escrow – JCP&L (B17, L2), invoice #189979 ($325.00)
16. Suburban Consulting Engineers – Land Use Board Inspections – Johnson (B23, L4, 20 & 36), invoice #000000019212 ($736.25)

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Shapack, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Nays: None

CORRESPONDENCE

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

1. Memorandum dated October 10, 2012 from Shana Goodchild re: Village Residential Zoning.
2. A letter dated October 11, 2012 from David Bunevich re: Old Turnpike Realty, LLC, Block 23, Lot 27.
3. 2012 NJPO Official Ballot from the NJ Planning Officials.
4. A copy of a letter dated October 7, 2012 from Neighbors Against The Proposed Johnson Helistop re: Johnson Application for Aeronautical Facility License, Cedar Lane Farm, 87 Homestead Road.
5. A copy of a letter dated October 8, 2012 from a group of private citizens referred to as "The Objectors" re: Johnson Application for Aeronautical Facility License Helistop, Cedar Lane Farm, 87 Homestead Road.
6. A copy of a letter dated October 4, 2012 from Daniel Bernstein re: Johnson Application for Aeronautical Facility License, Cedar Lane Farm, 87 Homestead Road.

7. A copy of a letter dated October 11, 2012 from Daniel Bernstein re: Johnson Application for Aeronautical Facility License, Cedar Lane Farm, 87 Homestead Road.
8. A letter dated September 26, 2012 from Sean Murray requesting and extension to a variance granted, Appl. No. 08-03, Block 12, Lot 36.

MINUTES

- July 18, 2012

A motion was made by Mr. Van Doren and seconded by Mrs. Devlin to approve the July 18, 2012 minutes. All were in favor. Ms. Desiderio and Mrs. Czajkowski abstained.

- August 15, 2012

A motion was made by Mr. Van Doren and seconded by Ms. Desiderio to approve the August 15, 2012 minutes with a correction to page 31, Environmental Constraints Ordinance discussion. All were in favor. Mrs. Devlin, Mr. Moriarty and Mr. Metzler abstained.

ORDINANCE REPORT

There were 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 comments or questions, Mr. Johnstone closed the public participation portion of the meeting.

DISCUSSION ITEMS

- Village Residential District – see memo from S. Goodchild

Ms. Goodchild reviewed with the Board her memo dated October 10, 2012 which outlines the research that was done regarding the Village Residential District zoning that encumbers the villages of Oldwick, Mountainville, Pottersville, Cokesbury and Vernoy. She noted that from the examples used when the Village Residential District zoning is applied it basically renders the property unbuildable without needing variances. Based on her research, Ms. Goodchild recommended that the Land Use Board consider recommending to the Township Committee that they change the Village Residential bulk requirements to that of the Village Business bulk requirements which would create a more useable/workable building envelope. She did note that the Land Use Board needed to discuss the impervious coverage, pointing out that the maximum in the Village Residential District is 15%. She opined that the coverage should remain the same and noted that the examples she listed in her memo show that most properties come in at a coverage over 20% and she opined that if the maximum is increased applicant's will just keep asking for a little more. In keeping with the desire expressed by the Board in the past she recommended that the coverage remain at 15%.

Mr. Johnstone explained that he agreed with Ms. Goodchild and the Board should continue to have control over the coverage by seeing applicants apply for coverage variances. He also agreed with her assessment of the setback requirements.

Mr. Moriarty asked Ms. Goodchild to speak about the issue she noted regarding the Keats and Dryden Roads subdivision. Ms. Goodchild noted that an example of a lot on Keats Road was in the packet and she expressed her concern that by applying the Village Business setbacks, specifically the front setback, would change the character of the neighborhoods; the areas would need to be covered by a subzone. Mr. Metzler noted that Addison should also be included in the subzone as they are similar to Keats and Dryden.

Ms. Desiderio thanked Ms. Goodchild for the work and thought that it was very easy to understand.

When asked by Mr. Moriarty if all of the villages had to have the same setbacks, Ms. Goodchild responded in the negative. Mr. Van Doren agreed that the Keats and Dryden areas should have some type of subzone but all of the villages have always had the same bulk requirements.

Mrs. Devlin made a motion to forward Ms. Goodchild's recommendation to the Township Committee with Addison, Dryden and Keats in Pottersville to be covered by a subzone. Mr. Shapack seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:
Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Devlin, Mr. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. Metlzer and Mr. Johnstone.

Nays: None

- NJPO Official Ballot

Ms. Desiderio made a motion to authorize Ms. Goodchild to fill out the NJPO Official Ballot for 2012. Mrs. Devlin seconded the motion. All were in favor. MR. Van Doren abstained.

Ms. Desiderio noted that the County changed the speed limit on the County road in front of the Oldwick General Store.

RESOLUTION
Mr. Van Doren made a motion to approve the following resolution. Mrs. Devlin seconded the motion. The motion carried by the following roll call vote:

- **Resolution No. 12-20** NJ Conservation Foundation, Appl. No. 11-17, Block 51, Lot 80

TOWNSHIP OF TEWKSBURY
APPLICATION # 11-17
RESOLUTION # 12-20

WHEREAS, the NEW JERSEY CONSERVATION FOUNDATION has applied to the Land Use Board of the Township of Tewksbury for submission waivers, preliminary and final major subdivision approval, and variances for property which is located along Parsonage Lot Road, Hill & Dale Road, and Rockaway Road and designated as Block 51, Lot 80 on the Tewksbury Township Tax Map, which premises is located in HL (Highlands) Zone, and

WHEREAS, Lot 80 was created by a minor subdivision in Application # 11-02 which was approved on May 4, 2011, and memorialized in Resolution # 11-12 which was adopted on June 1, 2011, and

WHEREAS, Factual findings 6 – 13 in Resolution # 11-12 provide a background for the current application:

> *"6. The applicant proposes to subdivide its property along hedge rows and farm fields into two lots.*
>
> *7. Proposed 41.721 acre Lot 80.07 would be located along the eastern side of the tract along Hill & Dale Road and Parsonage Lot Road. It would encompass a detached garage and two cottages. A farm driveway on Lot 80.07 provides access to the fields on both lots.*
>
> *8. Remaining 89.751 acre Lot 80 will include the farm fields, pastures, barns (including stables), and a single cottage.*
>
> *9. The well on Lot 80 serves the three cottages, two of which will be located on Lot 80.07.*
>
> *10. No new improvements are contemplated with the present application.*
>
> *11. The New Jersey Conservation Foundation anticipates purchasing remaining Lot 80 and Lot 80.07. Lot 80 will be purchased with Green Acres funds, except for a 14-20 acre parcel encompassing barns, and a cottage. It is anticipated that the New Jersey Conservation Foundation will seek a future subdivision from this Board of the 14 – 20 acre parcel which will be sold to a private party. There are not*

assurances that any future subdivision application will be approved by this Board.

Lot 80.07 will be acquired with State Agricultural Development Commission (SADC) funds, if such funds are available.

12. New Jersey Conservation Foundation intends that remaining Lot 80 will be restricted to passive recreational use, after being acquired with Green Acres funds. Passive recreational uses may include hiking, snow shoes, pedal bicycles (but not motorized bicycles), hunting and fishing, and camping. Lot 80.07 would be restricted to agricultural use with a small residential exception area, after the development rights are acquired by SADC.

13. While it is contemplated that the New Jersey Conservation Foundation will be acquiring Remaining Lot 80 and proposed Lot 80.07, the within subdivision and variances are not contingent on that occurrence and are not contingent upon and do not require that any restrictions be imposed. The proposed minor subdivision creates lots that are substantially larger than the 12 acre lots which are permitted in the HL Zone."

AND, WHEREAS, as envisioned in Resolution 11-12, the New Jersey Conservation Foundation has acquired what is now known as Lot 80 and proposes a two lot subdivision, and

WHEREAS, submission waivers were granted by the Application Review Committee, and

WHEREAS, the current application was presented at the June 20, 2012 Land Use Board meeting by Attorney James Wyse, Esq. of the firm of Coughlin Duffy, LLP; Ms. Beth Davisson, who is a Regional Manager of the New Jersey Conservation Foundation; and Licensed Land Surveyor Ryan Smith, L.S. of the firm of Yannaccone, Villa & Aldrich, LLC, and

WHEREAS, the application was reviewed by Township Engineer Andrew S. Holt, P.E. of the firm of Suburban Consulting Engineers, Inc., and

WHEREAS, the Board, after considering the evidence presented by the applicant, Mr. Holt, and a single resident has made the following factual findings:

A. The Subject Property.

1. Lot 80 contains of 89.751 acres.

2. Within the site are farm fields, pastures, barns, a silo, and a small cottage.

3. Environmental constraints on the property consists of wetlands, flood plains, a 100 year flood hazard areas, and steep slopes. There are 300 foot riparian buffers associated with two streams on site and the Rockaway Creek which adjoins Rockaway Road.

4. A driveway on adjoining Lot 80.07 to the east leads to the northern portion of Lot 80.

B. The Proposed Subdivision.

5. The present application would typically be considered a minor subdivision as it proposes to divide the subject property into two lots, and does not involve either a planned development, a new street, or the extension of off tract improvements. However, the definition of a minor subdivision in Section 301 of the Tewksbury Township Development Regulations Ordinance (DRO) states:

> *"If the lot to be subdivided has been part of a minor subdivision under this Ordinance or any ordinance repealed hereby, a further division of the lot shall not be classified as a minor subdivision if it would result in three or more lots being created within a 3-year period, including the remainder of the original lot."*

Since Lot 80 was created in 2011, the applicant is required to seek a major subdivision in order to subdivide its property.

6. Proposed Lot 80.08 will contain 13.597 acres. Its unusual configuration was designed to meet the minimum lot size of 12 acres in the HL Zone. It

could not have encompassed additional land along the western side of the property as the access strip referred to in Finding 10 will be located there.

The Land Use Board would not have approved Lot 80.08 with its unusual configuration but for the applicant being a nonprofit organization, with the subdivision leading to 76.154 acres being deed restricted against future development and limited to passive recreation.

7. Proposed Lot 80.08 consists of eastern and western sections which are connected by a strip of land between 35 – 67.7 feet wide around the sides and rear of lot 81 which is owned by Hill & Dale Farms, Inc. The eastern section of the site contains about 5 acres. It is improved with a small three bedroom home and barn, and a well which serves the home as well as the two cottages on adjoining Lot 80.07. The western or southern portion of the site contains more than 7 acres. It is improved with barns, a silo, and a stable.

8. The eastern portion of the Lot 80.08 has frontage along Hill & Dale Road and the western or southern portion of the Lot has frontage along Hill & Dale Road and Rockaway Road.

9. Condition 10 in Resolution #11-12 regarding the well on the eastern section of Lot 80.08 is equally applicable to the current application:

> "*1.10. Applicant to provide testimony on the well serving three homes, two located on same lot, and the third dwelling located on a different lot. The testimony on the well is contained in finding 9 herein. The well on Remainder Lot 80 (now proposed Lot 80.08) may continue to service the two cottages on Lot 80.07 for so long as the New Jersey Conservation Foundation has contractual right to acquire that property, and if New Jersey Conservation Foundation acquires both Remainder Lot 80 (now proposed Lot 80.08) and Lot 80.7, the well may continue to serve all three (3) residences. If New Jersey Conservation Foundation no longer has contractual rights to acquire Lot 80.07, then the applicant*

shall decommission the pipes leading from the existing well on remaining Lot 80 (now proposed Lot 80.08) to Lot 80.07 and shall drill a new well on Lot 80.07 to serve the two cottages on that property within the time period required by its agreement with New Jersey Conservation Foundation. This condition shall be set forth in the subdivision deed."

10. Remaining Lot 80 would contain 76.154 acres with frontage along Parsonage Lot Road and Rockaway Road. It would retain approximately 189.41 foot wide access way along Rockaway Road which will provide access between Lot 80 and land owned by the applicant south of Rockaway Road, Block 36, Lots 1 and 1.02.

C. Requested Variances.

11. The applicant requested front yard variances for the home and barn on the eastern portion of proposed Lot 80.08.

12. The Land Use Board found that variances were not required for these conditions in Application 11-02 which was memorialized in Resolution #11-12.

"14. The Tewksbury Township Development Regulations Ordinance (DRO) requires structures to have a minimum front yard setback of 100 feet in the HL Zone. An existing cottage on Lot 80 will have a front yard setback of 12.2 feet, and one of the two cottages on Lot 80.07 will have a front yard setback of 29.4 feet after a dedication for road widening along Hill & Dale Road. These are existing conditions which will not be exacerbated by the requested subdivision. A barn on remaining Lot 80 will have a side yard setback of 62.3 feet while the DRO requires a side yard setback of 100 feet in the HL Zone.

15. The Land Use Board finds that front yard variances are not required for the cottages on remainder Lot 80 and Lot 80.07 to remain on the property. If a variance were required, one would be justified and the Board approves these variances under Hawrylo v. Board of Adjustment, 249 N.J. Super. 568 (App. Div. 1991) on the basis of retaining a useful structure on the property. The front yard setback variances are for the existing structures only and not for any new structures which may be built on the property.

16. The Board finds that the deficient side yard for the barn is de minimis and a pre-existing condition."

13. The proposed Lot 80.08 would have 6.8% Lot coverage while the DRO restricts lot coverage for that lot to 5%. A lot coverage variance is required.

D. Justification for Variance.

14. The applicant has configured a large, over-sized, although unusually shaped, 13.597 acre lot which encompasses barns, a silo, a stable, and a small home. Any increase in the size of the lot would diminish the open space which will be retained by the New Jersey Conservation Foundation. The lot could not be enlarged to the west without impeding the access way discussed in factual finding 10. Any reduction in the farm structures would diminish the ability of the site to remain as a viable farm.

15. The lot coverage variance is justified under N.J.S.A. 40:55D-70c(2) by advancing the following purposes of the Municipal Land Use Law under N.J.S.A. 40:55D-2:

> *"a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*
>
> * * *
>
> *c. to provide adequate light, air and open space;"*
>
> By the preservation of 76.154 acres by the New Jersey Conservation Foundation which will be deed restricted and used for passive recreation.
>
> * * *
>
> *"e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;"* By the establishment of an over-sized lot and the preservation of the environment.
>
> "*f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;"*
>
> The within subdivision and sale of Lot 80.08 will reimburse the New Jersey Conservation Foundation for the acquisition and

preservation of Remaining Lot 80 along with funds supplied by the State of New Jersey through the Green Acres Program.

"g. To provide sufficient space in appropriate locations for a variety of . . . recreational . . . and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;"

By the preservation of 76.154 acres.

"h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;"

By providing a connector for the lands south of Rockaway Road owned by the New Jersey Conservation Foundation and Remaining Lot 80.

"i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;"

By preserving a large tract of land.

"j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;"

By creating open space.

* * *

"m. To encourage coordination of the various public and private procedures and activity shaping land development with a view of lessening the cost of such development and to the more efficient use of land;"

By combining private and public funding, along with the sale to a private party a developed portion of the parcel, in order to create attractive open space.

16. The benefits from the deviations substantially outweigh the detriments.

17. 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.

18. Don Droughton of 35 Bissell Road testified that his wife had boarded her horses at the stable on proposed Lot 80.08. He estimated there were at least 20 stalls in the stable. The Board notes that under Section 709C11a:

> *"11. The keeping and boarding of horses on farms, as part of agricultural operations, and on single-family residential lots provided the noise, odor or contamination problems which might arise are eliminated or minimized by compliance with the following requirements (these requirements are intended to avoid adverse effects on ground water and surface waters as well as neighboring properties and their residents):*
>
> *a. The minimum lot size on which horses may be kept shall be three acres. The maximum number of horses permitted shall be two horses on the first three acres with one additional acre required for each additional horse."*

19. Based on the ordinance, the maximum number of horses which can be kept on-site is 12.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 17th day of October 2012 that the application of the NEW JERSEY CONSERVATION FOUNDATION for preliminary and final major subdivision approval and a lot coverage variance be approved in accordance with a plan titled: "THE NEW JERSEY CONSERVATION FOUNDATION PRELIMINARY MAJOR SUBDIVISION MAP LOT 80 – BLOCK 51 TEWKSBURY TOWNSHIP HUNTERDON COUNTY, NEW JERSEY", prepared by Yannaccone, Villa & Aldrich, LLC, prepared on November 10, 2011 and last revised February 22, 2012 consisting of 6 sheets and a plan titled: "FINAL MAJOR SUBDIVISION MAP

"NEW JERSEY CONSERVATION FOUNDATION" LOT 80 – BLOCK 51 – TAX MAP SHEET 14 TOWNSHIP OF TEWKSBURY HUNTERDON COUNTY, NEW JERSEY" prepared by Yannaccone Villa & Aldrich, LLC on February 3, 2012 consisting of three sheets subject, however, to the following conditions:

Conditions recommended by Township Engineer Andrew S. Holt, P.E. in his report of June 7, 2012, as modified by the Planning Board:

> "1. A copy of the referenced survey must be provided.
>
> 2. As there are no new improvements proposed, we see no engineering issues with the proposed major subdivision. The plans should, however, be revised to:
>
> a. Indicate a proposed new well to serve the two existing cottages on Lot 80.07;
>
> b. Annotate proposed connector width along all boundaries of existing Lot 81 (the westerly, northerly and westerly boundaries);
>
> c. Depict any required monuments on the plans. There shall be a minimum of one monument.
>
> d. The plans are to be revised to the approval of Andrew S. Holt, P.E.
>
> 3. The proposed odd shape lot and the possible impact of the connector area should be carefully reviewed from a planning perspective. We consider applicant's proposal to restrict the narrow connector against driveway use to be appropriate. *The connector area is to be deed restricted against the construction of a driveway and the use of the connector for vehicular traffic or the use by horses or other animals. The connector may be traversed by pedestrians.*
>
> 4. Applicant shall post a performance guarantee for the construction of the well on Lot 80.07 and the installation of the monuments required in accordance with the Map Filing Law – prior to approval of final plat.
>
> 5. Please note no maintenance guarantee is required.
>
> 6. A computer disk (a digital AutoCad file) of proposed subdivision shall be provided.
>
> SCE will review the subdivision from a survey/Map Filing Law point of view after subdivision is approved; all deed descriptions will have to be provided for review."

2. Certification by the applicant in writing to the Secretary of the Tewksbury Township Land Use Board that all necessary approvals from other governmental agencies including the Highlands Council have been obtained, with copies of said approvals or write-offs or letter of non-jurisdiction attached to said certification. A copy of all approvals and write-offs or letter of non-jurisdiction shall also be provided to the Township Engineer.

3. The plans are to be revised to the approval of the Township Engineer within 90 days of the adoption of the within resolution. Subsequent revisions are to be made to the Township Engineer within 30 days of subsequent request.

4. Payment of all outstanding escrows and fees.

5. The following shall be placed in a deed restriction which is subject to the approval of the Land Use Board Attorney:

a. *The well on proposed Lot 80.08 may continue to service the two cottages on Lot 80.07 for so long as the New Jersey Conservation Foundation has contractual right to acquire that property, and if New Jersey Conservation Foundation acquires both proposed Lot 80.08 and Lot 80.7, the well may continue to serve all three (3) residences. If New Jersey Conservation Foundation no longer has contractual rights to acquire Lot 80.07, then the applicant shall decommission the pipes leading from the existing well on proposed Lot 80.08 to Lot 80.07 and shall drill a new well on Lot 80.07 to serve the two cottages on that property within the time period required by its agreement with New Jersey Conservation Foundation.*

b. "*There is, or may be, farm uses adjacent or in close proximity to Lots 80 and 80.07 from which may emanate noise, odors, dust and fumes associated with*

agricultural practices permitted under the Right to Farm Ordinance, Chapter 5.08 of the Code of the Township of Tewksbury." This language must be continued on all subsequent deeds.

c. The connector between the eastern and the western/southern sections of Lot 80.08 shall not be improved or used as a driveway or equestrian trail but will be kept in an undeveloped, unimproved condition, as woodland, farm field, open meadow, or lawn. Vehicular traffic and the riding of horses on the strip is prohibited; provided, however, that nothing in this resolution shall be deemed to prevent horses and riders from crossing over (as opposed to traversing the length of) the connector strip in order to get to and from adjacent lands. The connector may be traversed by pedestrians.

d. The existing site exceeds the lot coverage permitted in the HL (Highlands) Zone. A variance is required to increase the existing amount of lot coverage.

e. The site shall be used in conformity with such restrictions on the keeping of horses as may be set forth in applicable ordinances of the Township of Tewksbury in effect from time to time. Currently, based upon the size of Lot 80.08, and without consideration of any lands that might be acquired or leased in the future, Section 709C11a permits no more than 12 horses to be kept on the site.

Roll Call Vote

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

Those Opposed: None

EXTENSION REQUEST

- Sean Murray
  LUB Application No. 08-03
  Block 12, Lots 36

Mr. Murray was present and explained that due to financial constraints he was hoping to have an additional year to secure the permit for the pool. Mr. Van Doren made a motion to grant a one (1) year extension to Mr. Murray to February 18, 2014. Ms. Desiderio seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:
Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. Metzler and Mr. Johnstone.

Nays: None

INFORMAL DISCUSSION

- Old Turnpike Realty, LLC, Block 23, Lot 27 – future use of a 1 ½ story office structure

Mr. Van Doren and Ms. Desiderio recused themselves from the meeting. Mr. Van Doren noted that he is a property owner within 200 feet and therefore remained in the audience.

Mr. Johnstone summarized by explaining that the applicant is appearing informally to discuss with the Board the ability for the owner to use the building currently occupied by Mr. O'Brien for something other than an architectural office. Mr. David Bunevich, attorney for the applicant, explained that the intention is to have Mr. O'Brien move his architectural office into the smaller building on the property (which is an acceptable use under the resolution). The applicant is hoping to get guidance from the Land Use Board on a use for the Timberpeg building (#66) as to the use since the resolution limits the building to the exclusive use of a single architect. Mr. Bunevich explained that they would like to have a simple application to the Land Use Board for a similar use. They are hopeful that they can find a use that will not increase the intensity of the use that currently exists. Mr. Bunevich explained that he and his client would prefer not to have to apply for a variance and site plan approval but if the Board finds it is necessary they would like guidance on the information that will be required with the application.

Mr. Bunevich explained that the property is one of the gateway properties into Oldwick and Mr. O'Brien has always maintained the property in the tradition of the township. Mr. Bunevich explained that they would like to have as simple of an application as possible if one is necessary.

Mr. Johnstone opened the meeting up to the Board for questions.

When asked for her opinion, Ms. Goodchild first noted that the hearing is an informal one and any opinions expressed by the Board or staff are informal and members are not bound by their statements. She pointed out that if the Board suggests a residence for #66 the Board should be cognizant of the fact that it would be two (2) residences on one (1) lot which is not a permitted use under the zoning. When asked if the property is connected to the Oldwick sewer, Mr. Bunevich responded in the positive. Ms. Goodchild

noted that the applicant would need to verify that any change in use would not require additional sewer capacity.

Mr. Kerwin asked if the applicant was leaning towards a residential use to which Mr. Bunevich responded in the negative. He explained that they would prefer to redefine the resolution to do something else noting that limiting it to a single office architect seems too restrictive. He noted that they would like to have the resolution redefined to allow for a professional use that is the same intensity for traffic and parking, etc. Mr. Kerwin asked if any analysis had been done to determine highest and best use, to which the response was negative.

Marina O'Brien, was sworn in by Mr. Johnstone, and explained that they prefer a business and would prefer not to have another residence in the building. One (1) person approached them about renting the space for his financial business; the interested party currently lives in Oldwick and doesn't want to commute into the city every day. Mrs. O'Brien explained that #64 has been rented out to Black River Roasters for their business use.

When asked if they would consider a COAH unit if a residence is proposed, Mrs. O'Brien was not sure if she was aware of the current regulations and would need to understand them before committing to that restriction.

Mrs. Baird asked if the requirement for the handicapped parking for the existing shed building (#64) needed to be increased. Mr. O'Brien was sworn in and responded in the negative.

Mr. O'Brien explained his involvement with Timberpeg and what led him to construct the Timberpeg building on his property that now serves as his office. He noted that a number of years ago Timberpeg decided not to work on small projects in rural New Jersey and refocused their efforts on larger projects on Lake Tahoe and the coast of Maine. Mr. O'Brien went on to explain that business has been quiet the last few years and the plan was always to move into #62 (the residence) and work in either of the other two (2) buildings on the property.

When asked by Mrs. Czajkowski about the interior of #66, Mrs. O'Brien explained that the entry area is 1 ½ stories and there is a set of stairs that lead to a loft area where there is a conference table. The first floor is open with the only enclosure being the closet under the stairs and the bathroom. Mrs. Czajkowski opined that #66 would be well suited to remain as a professional office.

Mr. Johnstone agreed that a professional office would be appropriate for the post and beam building (#66) as long as it stays within the confines of the number of people that was previously discussed.

Mr. Moriarty agreed and noted that it probably should have never been limited to architectural practice in the first place.

Mr. Johnstone noted that the consensus of the Board seems to be that there is no problem with a professional use in #66 and encouraged Mr. O'Brien to return with his proposal. Mr. Bunevich asked about the intensity of the submission to which Ms. Goodchild suggested that they follow the checklist but request waivers from items that they do not wish to provide.

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

MISCELLANEOUS

Ms. Goodchild noted that the Johnson's have filed a lawsuit regarding the helistop application denial and requested that the Board authorize Mr. Bernstein to file an answer. Mr. Johnstone made a motion to authorize Mr. Bernstein to file an answer contingent on the Township Committee providing the funding. Mr. Moriarty seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:
Ayes: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mr. Moriarty, Mr. Kerwin, Mr. Shapack and Mr. Johnstone

Nays: None

ADJOURNMENT
There being no further business, the meeting adjourned at 8:15 p.m. by motion of Mr. Moriarty and seconded by Mrs. Devlin.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator