

LAND USE BOARD MINUTES
December 5, 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, Mary Elizabeth Baird arrived at 7:34 p.m., Dana Desiderio, Shaun Van Doren, Bruce Mackie, Elizabeth Devlin, Shirley Czajkowski, Michael Moriarty arrived at 7:34 p.m., Ed Kerwin arrived at 7:36 p.m., Arnold Shapack, Alt. #1, and Ed D'Armiento, Alt. #3 arrived at 7:31 p.m.

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

Absent: Eric Metzler, Alt. #2 and Fred Root, Alt. #4.

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. Ms. Desiderio made a motion to approve the claims listed below and Mr. Van Doren seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Land Use Board Escrow – PNC Bank (B45, L1), invoice dated November 13, 2012 (\$300.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Murray (B12, L36), invoice dated October 22, 2012 (\$150.00)
3. Maser Consulting – Land Use Board Professional Services – General Land Use Work, invoice #192103 (\$130.00)
4. Maser Consulting – Land Use Board Escrow – JUJ 1944 Trust (Vliettown Farm – B43, L4), invoice #194038 (\$390.00)
5. Maser Consulting – Land Use Board Escrow – Gale/Fantozzi (B26, L4), invoice #194044 (\$260.00)
6. Maser Consulting – Land Use Board Escrow – Caracciolo (B41, L1), invoice #192109 (\$195.00)

7. Maser Consulting – Land Use Board Escrow – Snyder (B11, L9.16), invoice #194043 (\$162.50)
8. Maser Consulting – Land Use Board Escrow – Snyder (B11, L9.16), invoice #192113 (\$910.00)
9. Maser Consulting – Land Use Board Escrow – Stavola (B44, L24), invoice #192107 (\$260.00)
10. Maser Consulting – Land Use Board Escrow – Hannon (B32.01, L3), invoice #192111 (\$130.00)
11. Maser Consulting – Land Use Board Escrow – Hannon (B32.01, L3), invoice #194041 (\$130.00)
12. Maser Consulting – Land Use Board Escrow – Thompson (14, L13), invoice #194039 (\$162.50)
13. Maser Consulting – Land Use Board Escrow – Thompson (B14, L13), invoice #192108 (\$1,235.00)
14. Maser Consulting – Land Use Board Escrow – Rothpletz (B38, L1.03), invoice #192112 (\$390.00)
15. Maser Consulting – Land Use Board Escrow – Rothpletz (B38, L1.03), invoice #194042 (\$65.00)
16. Maser Consulting – Land Use Board Escrow – JCP&L (B17, L2.01 & 2.02), invoice #194040 (\$487.50)
17. Maser Consulting – Land Use Board Escrow – JCP&L (B17, L2.01 & 2.02), invoice #192110 (\$650.00)
18. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #194090 (\$682.50)
19. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #194091 (\$682.50)
20. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #194092 (\$682.50)
21. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #192115 (\$975.00)
22. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #192106 (\$975.00)
23. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #192104 (\$975.00)
24. Suburban Consulting – Land Use Board Escrow – NJCF (B51, L80), invoice #000000019347 (\$427.50)
25. Suburban Consulting – Land Use Board Escrow – Glasgow (B38, L12), invoice #000000019503 (332.50)
26. Suburban Consulting – Land Use Board Inspection – Johnson (B23, L4), invoice #000000019345 (\$166.25)
27. Suburban Consulting – Land Use Board Inspection – Johnson (B23, L4), invoice #000000019502 (\$570.00)

Roll Call Vote:

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

Nays: None

CORRESPONDENCE

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

1. A letter dated November 26, 2012 from Rick and Krista Geoffrion requesting a waiver from filing an application with the LUB for a fence permit on property known as 12 Halsey Farm Lane, Block 32, Lot 22.05.
2. A letter dated November 14, 2012 from David Feigley requesting a waiver from filing an application with the LUB for a generator permit on property known as 5 Rinehart Lane, Block 33, Lots 12.01 & 13.
3. A copy of Memorandum dated October 19, 2012 from Shana Goodchild to Mayor and Township Committee Members re: Johnson Litigation, Docket No. L-585-12, Block 23, Lot 23.
4. A copy of a letter dated October 9, 2012 from NJDEP to Paul Delman re: Highlands Applicability and Water Quality Management Plan Consistency Determination, Notice of Technical Incompleteness, Block 13, Lot 3.
5. The NJ Planner, September/October 2012, Vol. 73, No.5.
6. A copy of a letter dated November 28, 2012 from Roberta Brassard to Shana Goodchild re: PNC Bank, Block 45, Lot 1, Appl. No. 10-12.
7. A copy of a letter dated November 29, 2012 from Randall Benson to John Mills, III re: Leah Meiterman, 16 Farmersville Road, Block 14, Lot 16.
8. A memo dated December 3, 2012 from Dan Bernstein re: Block 32, Lots 22.05 & B33, Lot 12.01 and 13.
9. A memo dated December 4, 2012 from Dan Bernstein re: Block 32, Lot 22.05 & Block 33, Lots 12.01 and 13.

MINUTES

- September 5, 2012

A motion was made by Mr. Van Doren and seconded by Mrs. Devlin to adopt the September 5, 2012 minutes. All were in favor. Ms. Desiderio and Mrs. Czajkowski abstained.

- September 19, 2012

A motion was made by Mr. Johnstone and seconded by Ms. Desiderio to adopt the September 19, 2012 minutes. All were in favor. Mrs. Devlin, Mr. Van Doren and Mr. Kerwin 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.

RESOLUTIONS

➤ **Resolution No. 12-22** – Murray, Appl. No. 08-03, Block 12, Lot 36

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

*Extension of Variance
for swimming pool, patios and
walkways to February 18, 2014*

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 08-03
RESOLUTION #12-22

WHEREAS, SEAN MURRAY had applied to the Land Use Board of the Township of Tewksbury for permission to construct a single-family residence and in-ground swimming pool on property which is located at 37 Philhower Road and designated as Block 12, Lot 36 on the Tewksbury Township Tax Map, which premises is located in HL (Highland) Zone, and

WHEREAS, the application was approved on January 7, 2009 and a memorialization resolution was adopted on February 18, 2009, and

WHEREAS, Condition 4 in the memorialization resolution provides:

“4. The variance for the new residence must be utilized within one year from the date of this memorialization resolution and the construction of the swimming pool, patios and walkways shall be utilized within three years of the approval of this memorialization resolution or the variance shall be void and have no further effect.”

AND, WHEREAS, a new home has been constructed but not a swimming pool, and

WHEREAS, Sean Murray sought an extension in 2011 for the construction of a swimming pool, patios and walkways for an additional year to February 18, 2013, and

WHEREAS, that extension was approved on October 19, 2011 and a memorialization resolution was adopted on November 16, 2011, and

WHEREAS, a request for additional extension was made in 2012, and

WHEREAS, Sean Murray, on public notice made his extension request to the Tewksbury Township Land Use Board on October 17, 2012 on the basis of financial considerations, and

WHEREAS, the Board finds that an additional one year extension is warranted.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 5th day of December 2012 that the portion of the variance which was granted to Sean Murray for the construction of an in-ground swimming pool, patios and walkways be extended to February 18, 2014.

BE IT FURTHER RESOLVED that all conditions in the February 18, 2009 memorialization resolution shall remain in effect.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

PUBLIC HEARING

- Leah Meiterman
Appl. No. 12-12
Block 14, Lot 6
Certification as to non-conforming use (40:55D-68 or Section 706 of DRO)

Mr. Bernstein noted that the applicants are purchasers under contract and they want a certificate of prior non-conforming use however, he does not believe they are entitled to that certification because it is a permitted use under the grandfathering provisions (Section 706F) in the Development Regulations Ordinance. The house can remain, if it is totally destroyed the property owners can construct a new house in the same location and any new construction (addition) must meet the requirements under Section 706F. Mr. Bernstein noted that a letter to that effect was sent to the applicant's attorney from Randy Benson, Zoning Officer. He explained that the applicant wanted to appear to hear from the Board that the lot and the house are grandfathered under our ordinance. Mr. Bernstein read into the record Section 706F.1 of the DRO.

John Mills, attorney for the applicant, was present and explained that the Meiterman's are purchasers under contract and are seeking two (2) certifications. One would be a certification that 16 Farmersville Road was a lawfully created lot and the second would be that, due to a zoning change in 2004, the lot, which was created in 2002, was lawfully pre-existing prior to that zoning change and became non-conforming. They would like confirmation that the lot fits within the requirements of Section 706F.1b. so that they can expand on the property as long as it is done in a conforming location. Mr. Mills explained that a portion of the existing house encroaches into the required front and side yards. The lot is 1.8 acres in a 12 acre zone and is therefore an undersized lot with the house partially located in a non-conforming area; they are seeking a certification pursuant to 40:55D-68, certification of pre-existing non-conforming use. Mr. Mills noted that he disagrees philosophically with Mr. Bernstein because it can't be conforming if the yard requirements are violated. Mr. Bernstein pointed out that under Section 706F it is grandfathered and any additions would need to comply with those standards. Mr. Mills noted that eventually his clients want to build a new house in the middle of the lot in a conforming location. He explained that his clients are seeking some assurance from the Board, in the form of a resolution, that affirms the facts discussed.

Steven Meiterman, was sworn in by Mr. Bernstein, explained that when he read the ordinances they appeared to be two (2) distinct issues. Section 705 offers the opportunity to get a certification which also comes with some additional rights that are not covered under Section 7906F Undersized Lots. Since the existing house is in a non-conforming location he is seeking a certification from the Board to provide the added comfort before he purchases the property. Mr. Bernstein agreed that any additions or new structures would have to conform to Section 706F.1.B.d or a variance would be required. Mr. Bernstein admitted that Section 706 does lack clarity and he and Ms. Goodchild have discussed this in the past.

Mr. Johnstone expressed concern that there is ambiguity in the DRO and asked the professionals to look into it and make a recommendation to the Land Use Board on how to clarify that in the future.

Mr. Van Doren asked about the future plans for the lot. Mr. Meiterman explained that the immediate plan is to renovate the existing house by adding at least one more bedroom

and a one car garage. At some point the plan is to build a new home in the center of the lot. When asked the size of the current home, Mr. Meiterman responded 800 sq. ft. and the plan is to add 930 sq. ft. for the garage and bedroom.

Mrs. Czajkowski asked about the size of the septic system on the property. Mr. Meiterman explained that part of the sale is that the current owner is going to replace the septic with an upgraded five (5) bedroom system. When asked if the percs and soil lots have been done, Mr. Meiterman responded in the positive. When asked if there is room for a reserve septic system, Mr. Meiterman responded in the positive.

Mr. Johnstone opened the meeting up to the public. There being no questions or comments from the public Mr. Johnstone closed the public portion of the meeting.

Mr. Van Doren made a motion to grant the certification as the applicant requested and authorize Mr. Bernstein to draft a resolution which states that the lot conforms with Section 706F.1 of the DRO and the house is a prior non-conforming structure. 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. Czajkoski, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. D'Armiento and Mr. Johnstone

Nays: None

Waiver from Application required in connection with 40:55D-35

- Feigley – Block 33, Lot 12.01 and 13 – installation of a generator
- Geoffrion – Block 32, Lot 22.05 – installation of a fence

Mr. Bernstein explained that 40:55D-35 states that structures are supposed to be related to an improved public street giving direct access. He reminded the Board that this was discussed awhile ago and it was the Board's opinion that when a property owner expands a house a new certification from the Board would be required. Ms. Goodchild and Mr. Benson brought the above referenced situations to his attention and he thought it was fair to bring them before the Board to see if the Board was going to require approval under 40:55D-36. Mr. Bernstein noted that he drafted a memo and it was distributed to the Board wherein he recommended that the Board waive the need for these types of improvements to apply to the Board for approval. It was the consensus of the Board to take Mr. Bernstein's recommendation and no application would be necessary.

Mr. Johnstone agreed with Mr. Bernstein that the solution is to leave it to the discretion of the Land Use Administrator and Zoning Officer; if they feel that the improvement should come before the Board they will direct the property owner to apply. Mr. Van Doren opined that there should be a motion and something in the minutes so that it searchable in the future.

A motion was made by Ms. Desiderio to direct Mr. Bernstein to draft a resolution that states that with respect to applicants for minor accessory structures on residential lots that lack frontage on an improved/approved public street but have access through and easement or private road the Board will leave these decisions to the discretion of the Land Use Administrator and the Zoning Officer to determine whether or not the applicant has to come before the Board under 40:55D-36. Mrs. Baird 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. D'Armiento and Mr. Johnstone

Nays: None

Ms. Goodchild asked if this also applies to additions and the consensus of the Board was that an expansion of a home requires the applicant to appear before the Board under 40:55D-36.

Mr. Johnstone explained to Mr. and Mrs. Geoffrion and Mr. Feigley that they do not need to apply to the Land Use Board but to proceed with getting a zoning permit.

ESCROW CLOSING

- DeFelice, Appl. No. 08-05 - \$425.70

Mr. Van Doren made a motion to close the escrow and return the balance to the applicant. Mrs. Devlin 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, Mr. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. D'Armiento and Mr. Johnstone

Nays: None

Mr. Bernstein left the meeting at this time.

Executive Session

- Personnel

At 8:04 p.m. a motion was made by Mr. Van Doren and seconded by Ms. Desiderio 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 personnel.

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: Blake Johnstone, Shaun Van Doren, Mary Elizabeth Baird, Bruce Mackie, Elizabeth Devlin, Shirley Czajkowski, Michael Moriarty, Ed Kerwin, Arnold Shapack, Alt. #1, and Ed D'Armiento, Alt. #3.

Those Opposed: None

The meeting reconvened at 8:12 p.m. by motion of Mr. Van Doren and seconded by Ms. Desiderio.

Mr. Van Doren announced that the Township Committee will be re-organizing on New Year's Day.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:15 p.m. by motion of Ms. Desiderio and seconded by Mr. Van Doren.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator