

LAND USE BOARD MINUTES
March 6, 2013

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, Shaun Van Doren, Mary Elizabeth Baird arrived at 7:32 p.m., Bruce Mackie, Elizabeth Devlin, Michael Moriarty, Shirley Czajkowski, Ed Kerwin arrived at 7:37 p.m., Robert Becker, Alt. #1, Eric Metzler, Alt. #2, Ed D'Armiento, Alt. #3 arrived at 7:32 and David Larsen, Alt. #4.

Also present: Brian Schwartz was present on behalf of Dan Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer and Shana L. Goodchild, Land Use Administrator.

Absent: Dana Desiderio

There were approximately seven (7) 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 04, 2013.

PLEDGE OF ALLEGIANCE

Those present stood and pledged allegiance to the American flag.

CLAIMS

Mr. Johnstone asked the Board if there were any questions or comments regarding the following claims to which the response was negative. Mrs. Devlin made a motion to approve the claims listed below and Mr. Van Doren seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Land Use Board Escrow – (Gordon), invoice dated February 12, 2013 (\$1,920.00)
2. Maser Consulting – Land Use Professional Services, invoice #199919 (\$97.50)
3. Maser Consulting – Land Use Board Escrow – Gale/Fantozzi (B26, L4), invoice #199927 (\$130.00)
4. Maser Consulting – Land Use Board Escrow – Rothpletz (B38, L1.03), invoice #199926 (\$96.25)
5. Maser Consulting – Land Use Board Escrow – Old Turnpike Realty (B23, L27), invoice #199929 (\$227.50)
6. Maser Consulting – Land Use Board Escrow – Newell (B34, L13.01), invoice #199930 (\$227.50)

7. Maser Consulting – Land Use Board Escrow – McCatharn (B16, L25.03), invoice #199931 (\$325.00)
8. Maser Consulting – Land Use Board Escrow – JCP&L (B17, L2.01 & 2.02), invoice #199925 (\$1,170.00)
9. Maser Consulting – Land Use Board Escrow – JUJ 1944 Trust (Vliettown Farm) (B43, L3), invoice #199924 (\$1,495.00)
10. Maser Consulting – Land Use Board Escrow – Stavola (B44, L24), invoice #199923 (\$487.50)
11. Maser Consulting – Land Use Board Escrow – Johnson (B23, L4), invoice #199921 (\$715.00)
12. Maser Consulting – Land Use Board Escrow – Johnson (B23, L20), invoice #199920 (\$910.00)
13. Maser Consulting – Land Use Board Escrow – Johnson (B23, L36), invoice #199922 (\$715.00)
14. Maser Consulting – Land Use Board Escrow – Gordon (B6, L41.02), invoice #199928 (\$1,462.50)

Roll Call Vote:

Those in favor: Mr. Van Doren, Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Becker, Mr. Metzler, Mr. D’Armiento, Mr. Larsen and Mr. Johnstone

Those Opposed: 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 February 21, 2013 from Daniel Bernstein re: Tewksbury Resolutions.
2. Information from Together New Jersey, the New Jersey Transportation Planning Authority and Hunterdon County re: public workshop on March 18, 2013 at the Hunterdon County Complex.
3. A letter dated March 1, 2013 from William Burr re: Old Turnpike Realty, LLC, Appl. No. 12-15, Block 23, Lot 27.
4. A letter dated March 4, 2013 from Dan Bernstein re: Regan, Appl. No. 11-11, Block 40, Lot 5.

ORDINANCE REPORT

Mr. Mackie had 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.

RESOLUTION

- **Resolution No. 13-10** – Master Plan Amendment/Re-examination Report
Eligible to vote: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker, Mr. Metzler, Mr. D'Armiento, Mr. Larsen and Mr. Johnstone

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:

PLANNING BOARD
TOWNSHIP OF TEWKSBURY
RESOLUTION #13-10

WHEREAS, THE TEWKSBURY TOWNSHIP PLANNING BOARD adopted a Master Plan on October 22, 2003, and

WHEREAS, the Tewksbury Township Planning Board adopted a re-examination report on May 19, 2004, and

WHEREAS, the Tewksbury Township Planning Board adopted amendments to the Land Use Plan and the Housing Plan of the Master Plan on June 16, 2004, and

WHEREAS, the Land Use Board on December 1, 2010 adopted a Master Plan Re-examination Report, and

WHEREAS, the Land Use Board on April 4, 2012 adopted a Master Plan Re-examination Report, and

WHEREAS, the Tewksbury Township Land Use Board held a public hearing on February 20, 2013 on a Re-examination Report after which the Board adopted the Master Plan Re-examination Report and an amendment to the Land Use Plan element of the Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Tewksbury on this 6th day of March 2013 that the report titled: “Township of Tewksbury Hunterdon County, New Jersey PERIODIC REEXAMINATION REPORT OF THE MASTER PLAN AND DEVELOPMENT REGULATIONS AMENDMENT TO THE MASTER PLAN LAND USE PLAN ELEMENT February 20, 2013” prepared by Charles T. McGroarty, of Banisch Associates, Inc. be adopted as a Master Plan Re-examination Report and an amendment to the Land Use Plan element of the Master Plan.

BE IT FURTHER RESOLVED that a copy of the within resolution and attached Re-examination Report be forwarded to the Hunterdon County Planning Board, the Clerk of each adjoining municipality and the governing body of the Township of Tewksbury.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mrs. Czajkoski, Mr. Moriarty, Mr. Becker, Mr. Metzler, Mr. D’Armiento, Mr. Larsen and Mr. Johnstone

Those Opposed: None

ESCROW CLOSING

- Abbey Estates - \$1,645.22

Mrs. Baird made motion to close the above referenced escrows and return the balance to the applicant. Mr. Van Doren seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Van Doren, Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Becker, Mr. Metzler, Mr. D’Armiento, Mr. Larsen and Mr. Johnstone

Those Opposed: None

PUBLIC HEARING

- Regan
Appl. No. 11-11 (amended approval)
Block 40, Lot 5
Front and Side Setback and Imp. Coverage Variance

John Beatty, 150 Main Street, Whitehouse Station, Architect for the applicant, was present and sworn in by Mr. Schwartz. Mrs. Michelle Regan, applicant and owner, was also present. Mr. Beatty explained that there was a discrepancy with the plan that was approved by the Board and what was constructed. He explained that the site plan that was approved had a small garage that was removed. The surveyor, unintentionally, misrepresented the garage that was being removed from the side of the residence. When the addition was constructed and the as-built drawing submitted the discrepancy was identified. The Board reviewed the plan that was approved and the as-built and Mr. Beatty pointed out the discrepancy. Mr. Beatty explained that the garage was removed from the west side of the dwelling, the surveyor showed the garage on the plan but there was a course of cinder block that was not identified as being removed on the plan. The architectural plans showed it being straight lines with no jog (A-1 of the architectural plans). Mr. Beatty provided to the Board a photo which shows the garage before it was removed. The discrepancy is the width of the cinder block which is roughly 16 inches. When asked by Mr. Johnstone if he was on site when the foundation was being construction, Mr. Beatty responded in the positive but it wasn't shown that way on his architectural plans so he was not aware of a problem. When asked when it was discovered, Mr. Beatty explained that it was discovered when the as-built was requested by the Township. When asked by Mr. Burr if the addition remained the same size as shown on the plan, Mr. Beatty responded in the positive. When asked if notice was provided of the hearing tonight, Mr. Beatty responded in the positive. Ms. Goodchild noted that full notice of the hearing was provided.

Mr. Johnstone opened the meeting up to the public. There being no one in the public, Mr. Johnstone closed the meeting to the public.

Mr. Johnstone opened the meeting up to comment from the Board.

Mr. Larsen believed that the errors could have been avoided if a transit was used to measure off the survey pin.

Mrs. Baird opined that this happens too often and suggested that the Board discuss a way to correct the problem to avoid future issues.

Mr. Johnstone agreed that this was an error that could have been avoided. Three (3) sets of professionals were involved with this project and he opined that it was sloppy work by everyone.

Mr. Mackie agreed and noted that the applicant and professionals knew that there were setback issues so special attention should have been given to the placement of the foundation.

Mr. Johnstone recommended that the Board grant the amendment to the variance as requested.

Mr. Moriarty asked if the notice that was provided clearly stated what the hearing was about to which Ms. Goodchild responded in the positive and noted that the notice clearly stated what the amendment was being sought by the applicant.

Mr. Van Doren made a motion to approve the amendment. Mr. Moriarty seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin Mr. Becker and Mr. Johnstone

Those Opposed: None

Mr. Metzler noted that a foundation location survey would have caught this error before building proceeded. He explained that in some times the construction official only gives a partial permit until the foundation location survey is submitted and is approved at which time the construction official would sign off on the remainder of the permit to proceed. Mr. Johnstone suggested making a recommendation to the Township Committee to consider requiring foundation location surveys. Ms. Goodchild also suggested making it a condition in the resolution to which the Board agreed. When asked by Mr. Van Doren what additional burden is being put on the Construction Official, Mr. Metzler opined that he would need to review the as-built drawing to make sure it conforms to the approved drawing. Mr. Burr noted that a foundation location survey is not an unusual request; many other towns require it as part of the construction process.

Mr. Van Doren noted that the Township Committee can only ask the Construction Official if requiring a foundation location survey is feasible. Mr. Johnstone explained that he only wants to prevent these types of things happening noting that another example of a discrepancy is coming before the Board at the next meeting.

Mr. Metzler made a motion to recommend to the Township Committee that they require a foundation location survey for any structure. Mrs. Baird seconded the motion.

Mr. Ed O'Brien noted that a contractor may not want to wait for a surveyor to come out to prepare the foundation location survey and suggested the Board limit it to just the foundations that require variances. Mr. Johnstone opined that it should be for any structure.

The above mentioned motion carried by the following roll call vote:

Roll Call Vote:

Those in favor: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Kerwin, Mr. Becker, Mr. Metzler, Mr. Larsen and Mr. Johnstone

Those Opposed: Mr. Van Doren, Mr. Moriarty and Mr. D'Armiento

PUBLIC HEARING

- Old Turnpike Realty, LLC
Appl. No. 12-15
Block 23, Lot 27
Variance and Minor Site Plan Amendment
Action deadline – 5/14/13

Mr. Van Doren was recused from the hearing as he is a noticed property owner within 200 feet.

David Bunevich, attorney for the applicant, was present. Mr. Bunevich noted that he and the applicant appeared informally in October of 2012. He explained that in December of 2001 Mr. O'Brien constructed a Timberpeg structure for the purposes of his architectural office. At that point Mr. O'Brien was using the building as an office as well as an example of the type of work he did. Since 2001 the housing industry has changed and Mr. O'Brien's practice has diminished and he no longer represents Timberpeg. At the time the Timberpeg structure was approved there is was a house and another office, both are pre-existing non-conforming uses. Mr. Bunevich went on to explain that Mr. O'Brien potentially may move his practice into the smaller office building (known as #64 Old Turnpike Road) and also have the opportunity to rent the Timberpeg building (known as #66 Old Turnpike Road) to a like professional. The application before the Land Use Board asks for no changes to the original approval other than the use. The use would remain with the same restrictions as setforth in the resolution of approval and site plan from 2001. The request is for an expansion of the type of professionals that could occupy #66 Old Turnpike Road but with all of the same restrictions from 2001 (parking spaces, etc.). Mr. Bunevich read into the record the restriction from the 2001 resolution as follows: The new building shall be limited to the solo practice of an architect together with no more than three (3) full time employees in the new building (applicant recognizes that he or his successors of interest may re-apply to the Board to permit other users of this building). The house on the premises shall be continued as a single family residence. The existing shed building shall be used for professional office space for one person with one full time employee and shall not be used for retail purposes and shall be limited to use by an accountant, architect, planner, financial consultant, mortgage broker, real estate appraiser, traffic consultant, licensed professional engineer and a manufacturer service representative. Mr. Bunevich explained that #64 Old Turnpike Road is being occupied in the terms permitted by the resolution and has more permitted professional uses than in the larger space (#66 Old Turnpike Road). Mr. Bunevich again noted that the applicant is

willing to accept the same restrictions on the large space that is currently prescribed for the smaller shed building.

Ed O'Brien, 38 Fox Hill Road, was sworn in by Mr. Schwartz. Addressing Mr. Burr's letter dated March 1, 2013, Mr. O'Brien addressed each of the technical points raised in that letter as follows:

1. No exterior building renovations or site improvements will take place.
2. There are three (3) structures on the property, 62, 64 and 66 Old Turnpike Road. Currently #66 is occupied by Mr. O'Brien and his wife and consultants that pick up work, work off site, and bring it back. In #64, Black River Roasters operate a part time business. #62 is a single family structure and is rented on a continuous basis. The single driveway is shared by #62, 64 and 66 and there have been no issues with parking.
3. The request is to apply the same uses to #66 as is permitted in #64.
4. The applicant was willing to keep the same parking limitations and sees no impact. The restrictions on the number of employees would not change.
5. It is currently occupied.
6. Two (2) signs exist, one (1) 6 sq. ft. sign was approved by the Board of Adjustment in the site plan application and a second eight (8) inch sign shaped like a stop sign that reads "No Turning" is also on the site. The current business sign does not equal the 6 sq. ft. so an additional sign could be added to it but would still comply.
7. All conditions and required site improvements from the previous 2002 approval have been satisfied.

When asked by Mr. Larsen if he would occupy any of the buildings or if he is retiring, Mr. O'Brien explained that he would move to #64 if they can get the restriction on #66 changed and an interested renter. When asked if there is enough parking for customers, Mr. O'Brien explained most customers drop in and pick things up and are on their way. If there are meetings, employees park in the Cold Brook Preserve parking lot.

When asked by Mr. Becker about the paved driveway apron, Mr. O'Brien explained that it was paved in accordance with the standards established by Hunterdon County and was approved.

When asked by Mrs. Baird if the County approved the application before the Board tonight, Ms. Goodchild noted that application had not been made to the County since there were no exterior improvements.

Mr. Bunevich noted that Mr. O'Brien would like to include an attorney as a professional permitted in both buildings.

Mr. Schwartz noted that he was unclear how the Board of Adjustment came up with the list of uses they permitted but it appeared that they were trying to permit low intensity uses.

There being no additional questions by the Board of Mr. O'Brien, Mr. Johnstone opened the meeting up to the public. There were no questions from the public and so Mr. Johnstone closed the public portion of the meeting.

Mr. Metzler suggested changing the language so that it reads a total number of four (4) people rather than requiring one (1) to be a proprietor. The Board agreed.

Mr. Johnstone was in favor of the application and opined that the amendment will be helpful for the applicant and will have little or no impact on the Township since he is willing to adhere to the original conditions of the resolution.

Mrs. Devlin agreed with Mr. Johnstone and Mr. Metzler.

Mr. Devlin made a motion to approve the application with the conditions discussed and the conditions from the previous resolution. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker, Mr. Metzler and Mr. Johnstone

Those Opposed: None

Mrs. Goodchild noted for the record that the photographs that the applicant provided were marked as Exhibit A-1.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:45 p.m. by motion of Mrs. Baird and seconded by Mr. Moriarty.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator