

LAND USE BOARD MINUTES
March 7, 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, Dana Desiderio, Shaun Van Doren, Mary Elizabeth Baird, Bruce Mackie, Shirley Czajkowski, Ed Kerwin arrived at 8:07 p.m., Arnold Shapack, Alt. #1 and Eric Metzler, Alt. #2.

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer and Randall S. Benson, Zoning Officer.

Absent: Elizabeth Devlin, Michael Moriarty, Tom Dillon, Alt. #3 and Ed D'Armiento, Alt. #4.

There were approximately twenty eight (28) 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 Professional Services – Attendance at February 15, 2012 meeting - invoice dated February 16, 2012 (\$450.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Koplowitz (B6, L24.18), invoice dated February 14, 2012 (\$150.00)
3. Bernstein & Hoffman – Land Use Board Escrow – Vliettown Farm/JUJ 1944 Trust (B43, L4), invoice dated February 14, 2012 (\$3,979.00)
4. Maser Consulting – Land Use Board Professional Services, invoice #177448 (\$325.00)
5. Maser Constuling – Land Use Board Escrow – Johnson (B23, L23), invoice #177449 (\$877.50)
6. Maser Constuling – Land Use Board Escrow – Furlong (B23, L29.0), invoice #177450 (\$877.50)

7. Maser Constuling – Land Use Board Escrow – Johnson (B23, L20), invoice #177451 (\$97.50)
8. Maser Constuling – Land Use Board Escrow – Johnson (B23, L4), invoice #177452 (\$97.50)
9. Maser Constuling – Land Use Board Escrow – Johnson (B23, L36), invoice #177453 (\$97.50)
10. Maser Constuling – Land Use Board Escrow – Johnson (B23, L2), invoice #177454 (\$65.00)
11. Maser Consulting – Land Use Board Escrow – Taggart (B23, L26), invoice #177455 (\$195.00)
12. Maser Constuling – Land Use Board Escrow – Stavola (B44, L24), invoice #177456 (\$97.50)
13. Maser Constuling – Land Use Board Escrow – Nextel (B11, L38.01), invoice #177457 (\$32.50)
14. Maser Consulting – Land Use Board Escrow – Lauezzari (B31, L25), invoice #177460 (\$487.50)
15. Maser Consulting – Land Use Board Escrow – Thompson (B14, L13), invoice #177461 (\$325.00)
16. Maser Consulting – Land Use Board Escrow – Vliettown Farm (B43, L4), invoice #177458 (\$1,852.50)
17. Maser Consulting – Land Use Board Escrow – Koplowitz (B6, L24.18), invoice #177459 (\$812.50)
18. Maser Consulting – Land Use Board Escrow – Caracciolo (B41, L1), invoice #177462 (\$1,690.00)
19. Suburban Consulting Engineers – Land Use Board Inspection – PNC Bank (B45, L1), invoice #18117 (\$47.50)
20. Suburban Consulting Engineers – Land Use Board Inspection – A.M. Best (B46, L2.01, 5 & 6), invoice #18075 (\$247.50)
21. Suburban Consulting Engineers – Land Use Board Inspection – Johnson (B23, L4, 20 & 36), invoice #18110 (\$665.00)

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Czajkowski, Mr. Shapack, Mr. Metzler and Mr. Johnstone

Nays: 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 February 28, 2012 from Randall Benson re: Caracciolo, Appl. No. 12-02, Block 41, Lot 1.
2. Notice dated February 2012 from PSE&G re: application for modified freshwater wetlands statewide general permit #2 for installation of new natural gas distribution mains in public rights of way.

3. A copy of the summons and complaint of Richard O'Neil and Abby O'Neil v. Tewksbury Township Land Use Board; Randall Benson; Mark Wood and Kathleen Wood.
4. Memorandum dated March 7, 2012 from Chuck McGroarty re: proposed final draft – State Strategic Plan: NJ State Development and Redevelopment Plan.

MINUTES

- December 21, 2011

The minutes of December 21, 2011 were approved by motion of Mr. Van Doren and seconded by Mrs. Baird. All were in favor.

ORDINANCE REPORT

Mr. Mackie reported on two (2) ordinances, the first being from Clinton Township which amends and supplements their sign regulations. Mr. Van Doren noted that the Township Committee is about to undertake a review of the sign ordinance based on the number of complaints and issues and asked for a copy of the ordinance.

The second ordinance is from Chester Township dealing with renewable energy facilities and Mr. Mackie passed that on to Ms. Goodchild.

PUBLIC PARTICIPATION

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

PUBLIC HEARING

- Caracciolo
Appl. No. 12-02
Block 41, Lot 1
Front Setback and Coverage Variances
Action Deadline – 5-24-12

Mr. and Mrs. Caracciolo were present along with their architect Mr. Columbro. Mr. Bernstein explained that the Board was waiting for a letter from the Historic Preservation Commission which has since been received and the resolution of approval has been drafted. Mr. Burr explained that at the last meeting there was some uncertainty as to whether they could capture enough of the roof area to meet the 15% coverage. Mr. Burr noted that he received a plan from their engineer last week and they were able to mitigate the runoff to 15%.

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

RESOLUTION

- **Resolution No. 12-07** Caracciolo, Appl. No. 12-02, Block 41, Lot 1

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 12-02
RESOLUTION # 12-07

WHEREAS, JOSEPH CARACCIOLO and JUSTINE MOAKES have applied to the Land Use Board of the Township of Tewksbury for permission to construct an addition to their single family residence which is located at 6 Joliet Street, Oldwick on property designated as Block 41, Lot 1 on the Tewksbury Township Tax Map, which premises is located in VR (Village Residential) Zone, and

WHEREAS, the application was presented by Joseph Caracciolo, Justine Moakes, Architect Ezio Columbro, R.A., of the firm of Columbro Architecture, and Civil Engineer David E. Fantina, P.E. at the February 15, 2012 and March 7, 2012 Land Use Board meetings, and

WHEREAS, the application was reviewed by Land Use Board Engineer William H. Burr, IV, P.E. of the firm of Maser Consulting, P.A., and

WHEREAS, the Board, after considering the evidence presented by the applicants and their consultants, Mr. Burr, and adjoining property owners, has made the following factual findings:

A. The Subject Property.

1. The subject property contains about 17,810 square feet. The site is somewhat irregularly shaped with a triangular shaped two-sided rear property line. The lot has 104.30 feet of frontage on Joliet Street and 142.76 feet of frontage on Cow Alley, a municipal lane.

2. The site is improved with a two-story frame dwelling, a detached frame garage, walkways, and a brick patio.

3. Photographs which were submitted with the application and discussed by Architect Columbro show an attractive, well-maintained home.

4. The detached garage fronts on Cow Alley which provides vehicular access to the site.

B. The Proposal.

5. The applicants propose to construct an addition to the east side of the home. The first floor will consist of a bedroom, bathroom, sitting room, and porch as living quarters for Ms. Moakes 77 year old father. There will be no kitchen, although there will be a wet bar and sink in the sitting room, and there may be a refrigerator and microwave. Board Members were concerned that a future owner of the property could use the first floor addition as a separate dwelling unit on account of the number and size of the rooms and the separate entrance.

6. The applicants agreed to a deed restriction that a portion of the home will not be rented or leased. This condition would not preclude the applicants from permitting Ms. Moakes father-in-law or others to stay in the addition, but not use it as a rental unit. This condition would not preclude the rental of the entire home.

7. The applicants also agreed to a deed restriction that there will be a single kitchen in the home.

8. The smaller second story addition would consist of a master bathroom and a walk-in closet which would adjoin the master bedroom.

9. A basement would be dug under the addition.

10. The basement would not likely reach the height of a basement for a new home, as there was a concern that the digging of the new basement could lead to the collapse of the existing home.

11. The clapboard siding and windows on the addition would match the exterior materials on the existing home. The roof for the second story addition would either match the existing home or the applicants will install a new roof for the entire building aside from the one-story portion of the addition, where the applicant's propose to install a standing seam copper roof. The existing fieldstone foundation would be extended with a matching fieldstone veneer around a portion of the addition.

12. Architect Columbro testified that the existing home contains about 3,046 square feet, the first floor addition would contain approximately 493 square feet, and the second story addition was estimated at 285 square feet. The size of the home with the addition would be 3,824 square feet.

C. Requested Variances.

13. There are a number of nonconformities associated with the subject premises. The lot contains about 17,810 square feet while the minimum lot size in the VR Zone is 1.5 acres or 65,340 square feet. The residence has a minimum front yard setback of 17.46 feet from Joliet Street and 6.05 feet from Cow Alley. The detached garage has a minimum front yard setback of 6.81 feet from Cow Alley. The ordinance requires a minimum front yard setback of 75 feet in the VR Zone. The proposed two-story portion of the addition will have a minimum front yard setback of 18.81 feet and the one-story portion of the addition will have a front yard setback of 20.83 feet. While that is nonconforming, it is consistent with the existing front yard setback.

14. The existing lot has approximately 20% lot coverage, which is proposed to increase to 23.4%, while the maximum permitted lot coverage in the VR Zone is 15%.

D. Justification for Variances.

15. This Board takes quasi judicial notice of the small lots in Oldwick having homes with nonconforming front yard setbacks and lot coverages above 15%.

16. Engineer Fantina testified that the key map shows the subject property to be one of the largest parcels in the neighborhood. He noted that the adjoining residences were close to the street.

17. Architect Columbro testified that the architecture of the addition would be compatible with the existing residence and the eclectic style of the neighborhood.

18. Stephen Griggs and Margaret Griggs are the adjoining neighbors to the east. Both Griggs supported the application.

19. The front yard variance is justified under N.J.S.A. 40:55D-70C(1)(c). The existing residence has a nonconforming front yard setback on Joliet Street. Various portions of the addition will be slightly recessed from the existing home. The practical difficulty and undue hardship is based on the location of the existing residence.

20. Both the front setback variance and the lot coverage variance are 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:

“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;” *The proposed addition, constitutes a modest expansion of the existing residence. The size of the subject lot and the expanded residence are consistent with that of the neighborhood.*

“g. To provide sufficient space in appropriate locations for a variety of . . . residential . . . uses . . . according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;” *The expanded home will provide an attractive village residence.*

“i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement.” *The proposed addition will be harmonious with the existing residence and create an attractive visual environment.*

21. The benefits from the deviation substantially outweigh any detriments.

22. The requested relief can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zone plan and zoning ordinance of the Township of Tewksbury.

D. Tewksbury Township Historic Preservation Commission Review.

23. The Tewksbury Township Historic Preservation Commission is charged with reviewing land use applications in historic zones and issuing reports to the Land Use Board. As of the initial February 15, 2012 hearing, a report had not been issued. Therefore, the Land Use Board continued the application to the March 7, 2012 meeting. Prior to the second meeting, the Historic Preservation Commission issued a letter dated February 28, 2012 approving the application, subject to a thorough architectural review.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 7th day of March 2012 that the application of JOSEPH CARACCIOLO and JUSTINE MOAKES be approved in accordance with a plan titled:

“VARIANCE PLAN FOR 6 JOILET STREET of **TAX LOT 1 – BLOCK 41** LOCATED IN THE TOWNSHIP OF TEWKSBURY HUNTERDON COUNTY, NEW JERSEY” prepared by James P. Deady surveyor, LLC dated November 3, 2011 and last revised January 26, 2012 consisting of a single sheet, an engineer plan titled: “Drywell Plan & Details for Lot 1 Block 41 located in Tewksbury Township, Hunterdon County, New Jersey” prepared by David E. Fantina, NJPE, prepared on November 5, 2011 and last revised December 31, 2011 consisting of a single sheet, and architectural plans titled: “PROPOSED ADDITION & ALTERATION FOR JOSEPH & JUSTINE CARACCILO 6 JOLIET STREET TEWKSBURY, NEW JERSEY”, prepared by Columbro Architecture on November 4, 2011 and last revised January 25, 2012 consisting of two sheets, subject, however, to the following conditions:

1. Conditions recommended by Land Use Board Engineer William H. Burr, IV, P.E. in his report of February 9, 2012 as modified by the Land Use Board:

“TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed addition to the existing dwelling and related improvements including the proposed use of the space and exterior style, material, color, size, etc. *The proposed addition is described in factual findings 5 – 12 herein.*
2. The applicant and its professionals should provide testimony to support the proposed front yard variance, including testimony as to the location of residential dwellings on adjoining properties and surrounding vegetation. *The front yard setback of the existing residence, the proposed additions, and the homes in the neighborhood are discussed in factual findings 13, 16, and 17 herein.*
3. The applicant and its professionals should provide testimony to support the proposed lot coverage variance. *The requested lot coverage variance is discussed in factual findings 14 and 20 herein.*
4. This property is located within the Oldwick Historic District. The applicant should provide testimony as to whether an application has been submitted to the Township Historic Preservation Commission. *An application has been submitted*

to the Tewksbury Township Historic Preservation Commission. The Historic Preservation Commission in a letter dated February 28, 2012 approved the application subject to the submission of more detailed plans.

5. On previous lot coverage variance applications resulting in increases to lot coverage beyond the maximum permitted amount, this Board has required drywells or other stormwater management facilities to be installed as a way to mitigate the impacts of stormwater runoff and reduce the “effective” runoff to no more than that produced by the maximum permitted lot coverage. I have the following comments regarding the stormwater management for this application:
 - a. In an effort to mitigate the increase in stormwater runoff resulting from the proposed addition, a plan has been submitted which proposes the construction of an underground drywell. The proposed drywell has been sized to handle the runoff from the proposed addition only and does not reduce the “effective” runoff to that produced by 15% lot coverage. *The applicant shall reduce runoff to that produced by 15% lot coverage.*

I estimate that an additional 867 S.F. of lot coverage (1,500 s.f, total) would need to be directed to the drywell (or other stormwater facility) if the Board chooses to require the applicant provide stormwater mitigation to meet the 15% lot coverage requirement.
 - b. Soil tests will need to be performed to confirm adequate soil conditions to allow for the installation of the drywell as proposed. This issue could be addressed as a condition of any Board approval. *The applicant agreed to this condition.*
6. The applicant should clarify whether any trees or shrubs will be removed, impacted or damaged as a result of this project. *The proposed addition will result in the removal of one large flowering Cherry Tree. A Blue Spruce tree which is about four feet in front of the addition may also be removed or be impacted by the proximate construction. The applicants agreed to submit a landscape plan to compensate for the loss of the 1 – 2 trees to the Land Use Board Engineer’s office for the approval of its landscape architect.*
7. The variance plan must be revised to reflect the proposed grading/spot elevations around the exterior of the proposed addition. *The applicant agreed to this condition.*
8. The architectural plans reflect a proposed copper wall lantern-style light fixture adjacent to the proposed entrance at the rear of the addition. The applicant should describe the proposed light fixture (i.e. style, wattage, etc.) and confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632. *The proposed light fixture will have a wattage of between 100 - 140. It will not cause sky glow or glare on adjoining properties. It shall*

comply with section 632 of the Tewksbury Township Development Regulations Ordinance.

9. Testimony should be provided with regards to whether there are any improvements proposed to the sewer connection from the dwelling to the sewer main located within Joliet Street. *Any new or modified changes to the existing sewer connection is subject to the approval of the Township Engineer.*

10. Per Chapter 13.12 of the Township Code of Ordinances, a Grading and Surface Water Management Plan (GSWMP) does not appear to be required for this application because the proposed improvements do not meet the threshold requirements for a GSWMP pursuant to Chapter 13.12. *The applicants must submit and receive approval from the Land Use Board Engineer for a Grading and Stormwater Plan which will reduce water runoff to that caused by 15% impervious lot coverage and implement the plan to the approval of the Land Use Board Engineer.*

2. There shall be a single kitchen in the home. This shall not preclude a refrigerator or microwave in the first floor addition.

3. The variance for the expansion of the residence must be utilized within one year from the date of this memorialization resolution or the variance shall be void and have no further effect.

4. The applicants shall comply with all rules, regulations, ordinances and statutes of the Federal, State, County and local municipal governments that may apply to the premises. The applicants shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statutes.

5. This resolution and the issuance of a building permit hereunder are conditioned upon the applicants paying all escrows and fees.

6. The applicants shall file a deed restriction to the approval of the Land Use Board Engineer and the Land Use Board Attorney requiring:

a. The submission of a Grading and Storm Water Management Plan required in Condition 1.10 herein to the Land Use Board Engineer for his approval. The

plan is to be implemented to his approval. These facilities shall reduce the effective runoff to that produced by 15% lot coverage. These facilities shall be permanently maintained in accordance with the NJDEP Best Management Practices and any subsequent revisions and successor regulations.

b. There shall be a single kitchen in the residence. This condition shall not preclude a refrigerator or microwave oven in the first floor addition.

c. A portion of the home shall not be rented or leased. This condition does not preclude the applicant's from permitting Ms. Moakes father or others to stay in the first floor addition, but neither it nor the balance of the home may be used as a rental unit. This condition does not preclude the rental of the entire home.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie,
Mrs. Czajkowski, Mr. Shapack, Mr. Metzler & Mr. Johnstone

Those Opposed: None

LAND USE BOARD DISCUSSION

➤ Update by Mayor on Highlands Conformance Process

Mayor Desiderio explained that on February 14, 2011 the Township Committee made a motion to proceed forward with Tewksbury's petition for full conformance and that resolution was approved by the Highlands Council on February 17, 2011. The Township Committee has asked the Land Use Board to proceed with the work the Board needs to do to adopt the appropriate full conformance Master Plan, Master Plan Re-examination Report and the Highlands Master Plan Element.

Mayor Desiderio also put on display the new Hunterdon County Preservation map; Hunterdon County leads in the State for the number of acres preserved.

Mr. Van Doren noted that the Environmental Commission adopted the Highlands ERI at their February meeting. The Land Use Board needs to schedule a review of the draft of the Master Plan Re-Examination report. He added that the Township Committee will be reviewing the other necessary documents at their second meeting in March (Checklist Ordinance and the Planning Area Ordinances). When asked about the timeframe, Mr. Van Doren noted that if the documents are introduced in late March or early April, public

hearings would be scheduled in May so he suggested that the Land Use Board have the Master Plan Re-examination Report approved by early May at the latest. Mr. McGroarty noted that the Re-examination and Checklist Ordinance would be the first items to be approved and the Highlands Master Plan Element would follow that; the Land Use Ordinance would follow after the Master Plan Element. Mr. McGroarty explained that he will have the draft Master Plan Re-Examination Report for the Board's review at the April 4, 2012 meeting. Mr. Johnstone asked Mr. McGroarty to have it drafted by mid to late March so the Board has it to review prior to the April 4, 2012 meeting. Mr. Johnstone recommended that Board members send any comments on the draft to Ms. Goodchild so she can send it out to the other Board members. Mayor Desiderio stressed that the vote was 3 to 2 to move towards full conformance. She noted that Ms. Held asked how many people would be impacted by opting in and so an analysis is being worked on by Eileen Swan and Chuck McGroarty. She noted that the Bellemead property is a big consideration and she opined that Tewksbury should reach out to them to find out what they want to do with the property. Mr. Van Doren disagreed and opined that they should approach the Township and be open and transparent and present any concept plan to the Land Use Board in a public meeting. Mr. Johnstone suggested that Ms. Goodchild reach out to Bellemead to let them know that the Land Use Board is open to a meeting to discuss plans for the property.

LITIGATION

Mr. Van Doren made a motion to authorize the Land Use Board attorney to file a response in the case of O'Neil vs. Tewksbury Township Land Use Board. Mayor Desiderio seconded that motion. The motion carried by the following roll call vote:

Ayes: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Czajkowski, Mr. Shapack and Mr. Johnstone

Nays: None

PUBLIC HEARING

- Johnson
Application No. 09-05
Block 23, Lot 23 – Preliminary and Final Site Plan and Use Variance
Action Deadline – March 31, 2012

Mr. Van Doren, Mayor Desiderio, Mrs. Czajkowski and Mr. Metzler recused themselves from the meeting at this time.

SEE TRANSCRIPT

The next public hearing was scheduled for March 21, 2012 at the Tewksbury Elementary School for public comment.

The time for the Board to act was extended by the applicant to May 31, 2012.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:14 p.m. by motion of Mrs. Baird and seconded by Mr. Mackie.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator