

**LAND USE BOARD MINUTES**  
**April 1, 2015**

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Mountainville, New Jersey. The meeting was called to order at 7:32 p.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Bruce Mackie, Ed Kerwin, Michael Moriarty, Ed D'Armiento, Alt. #1, Kurt Rahenkamp, Alt. #2 and David Larsen, Alt. #4.

Also present: Shana L. Goodchild, Land Use Administrator.

Absent: Robert Becker and Glenn Stein, Alt. #3

There was no one in the audience.

**OPEN PUBLIC MEETING ACT STATEMENT**

Mr. Johnstone opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on January 8, 2015.

**PLEDGE OF ALLEGIANCE**

Those present stood and pledged allegiance to the American flag and remained standing in a moment of silence for Shirley Czajkowski.

Mr. Johnstone noted that Ms. Czajkowski passed away last Friday after having been diagnosed with cancer. He noted that the Board of Health was gathering money from its members for donations to Sloan Kettering and he asked that those Land Use Board members that wish to donate forward money to Ms. Goodchild who will coordinate the Land Use Boards donations.

**CLAIMS**

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

1. Bernstein & Hoffman – Attendance at 3-4-15 LUB meeting, invoice dated March 9, 2015 (\$375.00)
2. Maser Consulting – Land Use Board Escrow – Taylor (B37, L7), invoice #268121 (\$33.75)
3. Maser Consulting – Land Use Board Escrow – Green Power Energy (Becker) (B31, L7.03), invoice #268122 (\$675.00)

4. Maser Consulting – Land Use Board Escrow – Sprint Spectrum (B11, Lot 38.01), invoice #271637 (\$637.50)
5. Maser Consulting – Land Use Board Escrow – Weber (B27, L96 & 154), invoice #268125 (\$337.50)
6. Maser Consulting – Land Use Board Escrow – Quenault (B6.04, L7.03), invoice #268123 (\$67.50)
7. Maser Consulting – Land Use Board Escrow – Nicholson (B45, L4), invoice #271644 (\$236.25)
8. Maser Consulting – Land Use Board Escrow – Fritz (B51, L59), invoice #271642 (\$202.50)
9. Maser Consulting – Land Use Board Escrow – Vliettown Farm (B43, L4), invoice #271636 (\$135.00)
10. Maser Consulting – Land Use Board Escrow – Taylor (B37, L7), invoice #271638 (\$1,255.00)
11. Maser Consulting – Land Use Board Escrow – Weber (B27, L96 & 154), invoice #271640 (\$1,677.50)

Roll Call Vote:

Those in Favor: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Bruce Mackie, Ed Kerwin, Michael Moriarty, Ed D’Armiento, Kurt Rahenkamp, Alt. #2 and David Larsen, Alt. #4.

Those Opposed: None

**CORRESPONDENCE**

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

1. A memo dated March 26, 2015 from Roberta Brassard, Township Clerk re: Ordinance No. 02-2015.
2. A copy of a letter dated March 15, 2015 from Peggy Doyle, Secretary of the Dinner Pot Homeowners Association to Ken Klipstein, President of the Tewksbury Land Trust re: their review of his letter dated February 26, 2015 requesting permission to use the Dinner Pot Road to provide access to the Tewksbury Land Trust property (formerly Weber property), Block 27, Lot 96.
3. The NJ Planner, January/February 2015 edition, Vol. 76, No. 1.

**MINUTES**

- October 1, 2014

The minutes of October 1, 2014 were approved as submitted by motion of Mr. Van Doren and seconded by Mrs. Baird. All were in favor. Ms. Desiderio abstained.

- October 15, 2014

Mr. Larsen noted that the vote on the claims omitted his, Ed D'Armiento and Kurt Rahenkamp's names. The minutes of October 15, 2014 were approved as corrected by motion of Mr. Van Doren and seconded by Mrs. Baird. All were in favor. Ms. Desiderio abstained.

**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.

**RESOLUTIONS**

- Resolution No. 15-04 - Taylor, Appl. No. 14-13, Block 37, Lot 7 Impervious Coverage Variance  
*Eligible to Vote: Mrs. Baird, Ms. Desiderio, Mr. Moriarty, Mr. Kerwin, Mr. D'Armiento, Mr. Rahenkamp and Mr. Stein*

Mrs. Baird made a motion to adopt the following resolution and Mrs. Desiderio seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 14-13  
RESOLUTION #15-04

WHEREAS, SUSAN and MICHAEL TAYLOR have applied to the Land Use Board of the Township of Tewksbury for permission to remove a wood deck and stairs, and to replace these items with a larger patio area, a raised patio around an existing swimming pool, and to construct an elevated spa on the east side of the swimming pool, and to install an outdoor kitchen on property which is located at 1 Hildebrant Road and designated as Block 37, Lot 7 on the Tewksbury Township Tax Map, which premises is located in the Piedmont (PM) Zone, and

WHEREAS, the application was presented by Civil Engineer Jeff Egarian, P.E., of the firm of DJ Egarian & Associates, Inc.; Hernando Messuti, the owner of Inca Pools; and Susan Taylor at the February 18, 2015 Land Use Board meeting, 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 and testimony presented by the applicants and Mr. Burr, has made the following factual findings:

A. The Subject Property.

1. The subject property is an unusually shaped four-sided 5.0477 acre parcel.

2. The property is a corner lot with about 260 feet of frontage on Hildebrant Road and approximately 855 feet of frontage on Welsh Road.

3. The parcel is improved with a two-story home fronting on and within 79.65 feet of Hildebrant Road and about 78 feet from Welsh Road. In back of the home is an in-ground swimming pool with a patio.

4. The wooded center of the property is constrained with wetlands, wetlands transition areas, and state open water. The area has been placed within a conservation easement to Tewksbury Township. A fence and trellis had encroached into the conservation area. The trellis has been removed.

5. Two old barns are located around the middle of the Welsh Road frontage within 14.41 feet and 17.14 feet from the road.

6. A Tewksbury Trail Association 10 feet wide equestrian easement bisects the lot near its northern end.

B. The Proposal.

7. The applicants propose to remove the wood deck and stairs, to install a raised travertine patio and a larger pool patio. A raised spa (hot tub) will be installed on the east side (back end) of the swimming pool. The swimming pool will be refinished and equipped with interior lights, but not expanded. A proposed outdoor kitchen consisting of a bar and barbeque would be placed on the new patio adjoining the home.

C. Required Relief.

8. The subject property is situated in the P.M. Zone which requires a minimum lot size of 5 acres. As noted in factual finding 1, the subject property contains 5.0477 acres.

9. Existing lot coverage is 5.9%, which has not changed since the applicants acquired the property and moved into the home on December 23<sup>rd</sup>, 2010. The expansion of the patio and the installation of the spa will increase lot coverage to 6.4%. The Development Regulations Ordinance limit lot coverage in the P.M. Zone to 5%.

10. The rationale for restricting lot coverage is both to control drainage and aesthetics.

11. Civil Engineer Egarian testified that water from the roof of the home is directed from gutters and leaders to underground pipes to drywells. The applicants' engineer agreed to provide satisfactory proof to Board Engineer Burr that the existing detention system is properly working. If satisfactory proof is not provided, the applicants will submit a detention plan which is satisfactory to Mr. Burr, and implement it to his approval.

12. The proposed improvements will increase lot coverage by about 1,168 square feet. Chapter 13.12 of the Tewksbury Township Ordinances requires a Grading and Surface Water Management Plan for increases in lot coverage of 1,000 square feet or more. (See Condition 10.8 herein). The applicants were advised of this fact and decided at the public hearing not to reduce the additional lot coverage below 1,000 square feet and avoid the Grading and Surface Water Management Plan.

13. Between a variable 1-8 feet of the existing patio is the conservation easement area which is mainly wooded. The increase in lot coverage will have no negative aesthetic impacts.

14. The requested relief is justified under N.J.S.A. 40:55D-70c(2) by advancing two purposes of the Municipal Land Use Law under N.J.S.A. 40:55D-2:

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

*“i. To promote a desirable visual environment ...”*

15. The benefits from the deviations substantially outweigh any detriments.

16. 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.

D. The Conservation Easement.

17. The existing patio is between 1-8 feet from the conservation easement, and a fence encroaches within the easement area. The encroachment has been

approved by a former Zoning Officer, on advice from the Township Attorney.  
(Information supplied after public hearing and prior to adoption of this resolution).

18. Mr. Messuti, the owner of Inca Pools, testified the new pool patio and spa is proposed to be within six inches of the conservation easement. In order to protect the conservation easement, the Board requires permanent surveyor's markers to be placed adjoining the swimming pool and the proposed patio area prior to any construction or site disturbance taking place in order to preclude an incursion into the wetlands. The type of markers, the number, the placement, and their installation are subject to the approval of the Land Use Board engineer.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 1<sup>st</sup> day of April 2015 that the application of Susan and Michael Taylor be approved in accordance with a plan titled: "PROPOSED SPA, POOL PATIO, OUTDOOR KITCHEN & VARIANCE FOR THE TAYLOR RESIDENCE 1 HILDEBRANDT ROAD BLOCK 37 LOT 7 TOWN OF TEWKSBURY, HUNTERDON COUNTY, NJ" prepared by DJ Egarian & Associates, Inc., in June, 2014 and last revised on January 8<sup>th</sup>, 2015, consisting of Sheet 1 of 1, and a plan titled: "Taylor Residence 1 Hildebrandt Road Tewksbury Hunterdon County New Jersey Lot# Block #" prepared by Inca Pool Corp dated April 4<sup>th</sup>, 2014, consisting of Sheet 1 of 1, subject, however, to the following conditions:

1. The applicants shall install permanent surveyor's markers adjoining the swimming pool and patio area which will designate and identify the conservation easement area. The type of markers, the number, the placement, and the installation are subject to the approval of the Land Use Board Engineer, prior to any

construction or site disturbance taking place. The markers shall permanently remain on the property. The plans shall be revised to show the markers.

2. Prior to any construction or a site disturbance taking place, the applicants shall have a snow fence installed to protect the conservation easement area. It shall not be removed until all construction and site disturbance has taken place. The type of snow fence, location, and the installation is subject to the approval of the Land Use Board Engineer.

3. The applicants shall submit a Location Survey to the Land Use Board Engineer for his approval with copies to the Land Use Board Administrator, Zoning Officer, and Construction Official prior to any construction, and an As Built Survey post construction to the approval of the Land Use Board Engineer with copies to the Land Use Board Administrator, Zoning Officer and Construction Official.

4. Compliance with all ordinances dealing with swimming pools.

5. 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 applicant shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statutes.

6. This resolution and the issuance of permits are conditioned on the applicants paying all escrows and fees.

7. The variance shall be utilized within one year of the date of this memorialization resolution. If it is not utilized within one year, this approval shall become void and have no further effect.

8. Pursuant to the testimony, the installation will not change the grading of the property, nor encroach within the conservation easement area.

9. The applicants' engineer shall provide sufficient proof to the Land Use Board Engineer that water from the roof is directed through gutters and leaders to underground pipes to existing drywells which properly operate. If sufficient proof is not provided, then the application is subject to the applicant's engineer submitting plans for a new drainage and detention system which is subject to the approval of the Land Use Board Engineer. *If a drainage and detention system is required, it is subject to a deed restriction which is subject to the approval of the Land Use Board Attorney and the Land Use Board Engineer.*

10. Conditions recommended by Land Use Board Engineer William H. Burr, IV, P.E. in his report of February 13, 2015, as modified by the Land Use Board:

“TECHNICAL REVIEW:

1. The applicant and its professionals should describe in detail the proposal including an overview of the proposed improvements, use of space, materials, etc. Additional information should be provided on what is proposed as part of the outdoor kitchen? *The proposed spa and coping will contain 96 square feet, the proposed additional pool patio will occupy 1,040 square feet and the pool filter pad will be 32 square feet for a total of 1,168 square feet. The outdoor kitchen will consist of a barbeque and bar.*
2. The applicant and its professionals should provide testimony to support the proposed lot coverage variance. The property is currently above the maximum lot coverage requirements and the applicants are proposing to further increase the coverage by a total of 1,168 S.F. as part of this application. Can any existing or proposed lot coverage areas on the property be reduced in size or eliminated as a way to decrease the amount of coverage on this property? *Factual findings 10-16 explain the justification for the lot coverage variance. There was testimony that the patio could not be reduced.*
3. The plans do not propose any stormwater management facilities to capture and infiltrate runoff from the proposed improvements. The Board should consider whether or not to require the applicant to address stormwater management as part

of this application. It should be noted that the applicant will likely be required to address stormwater management under the Grading & Surface Water Management Plan process – see Comment No. 8 below. Where does the roof runoff from the existing dwelling currently drain to? *The applicant's engineer testified that runoff from the home was directed from gutters and leaders to underground pipes to drywells. He has to provide sufficient proof to the Land Use Board Engineer Burr that the system exists and is properly operational. If sufficient proof is not presented to Mr. Burr in his opinion then the applicant shall provide a drainage and detention system to the approval of Mr. Burr.*

4. A conservation easement exists to the rear of the existing dwelling and the improvements are proposed to extend all the way to the limits of this easement. The conservation easement contains language that states “No buildings, structures, fences or other improvements shall be erected or placed within the Easement Areas...” Testimony should be provided to clarify if the proposed improvements can actually be constructed on grade with no disturbance to the existing conservation easement? How will the raised spa be constructed without encroaching into the easement area? *There was testimony that the spa will not encroach on the easement area. Conditions 1 and 2 herein should preclude this from taking place.*
5. In addition, according to the plan, it appears that the existing black metal pool fence and trellis already encroach within the conservation easement. How did these encroachments come to be? *The trellis has been removed and the plans shall be revised accordingly. See Finding 17 as to the fence encroachment.*
6. Note 10 on the general notes states that “Any proposed retaining walls shall conform with the ordinances set forth by the Township of Chester.” This note should be revised to reflect Tewksbury, not Chester. In addition, the applicant’s engineer should clarify if there are any walls anticipated? *The applicants agreed to this condition. No retaining walls are anticipated.*
7. The applicant should clarify whether there is any other exterior lighting proposed as part of this application. If so, the applicant should provide information to confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632. *There was testimony that the swimming pool would be equipped with lighting and that exterior lighting may be installed. If there is exterior lighting, it must be shown on a revised plan with construction details, which is subject to the approval of Land Use Board Engineer Burr. The lighting shall comply with Section 632 of the Development Regulations Ordinance and shall not create glare or sky glow on other properties or public streets.*
8. A Grading and Surface Water Management Plan (GSWMP) will need to be submitted to the Land Use Administrator for review by the Township Engineer prior to the Construction Permit application. This GSWMP must comply with Chapter 13.12 of the Township Code of Ordinances. *Subsequent to the approval*

*of the application on February 18<sup>th</sup>, 2015 and prior to the adoption of the within resolution, the applicant's representative expressed an interest in reducing lot coverage to less than 1,000 square feet, and thereby avoiding a GSWMP. The applicants are given that option. Within 60 days of the adoption of this resolution, the applicants may reduce the increase in impervious lot coverage on their plans to less than 1,000 square feet, to the approval of the Land Use Board Engineer, in which event a GSWMP will not be required. Otherwise, it will be required.*

Roll Call Vote

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

Those Opposed: None

- Resolution No. 15-05 – Weber, Appl. No. 15-02, Block 27, Lots 96 and 154  
Minor Subdivision/LLA and Variances  
*Eligible to Vote: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Becker, Mr. Moriarty, Mr. Kerwin, Mr. Rahenkamp, Mr. Stein, Mr. Larsen and Mr. Johnstone*

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

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 15-02  
RESOLUTION #15-05

WHEREAS, JOSEPH H. WEBER has applied to the Land Use Board of the Township of Tewksbury for a minor subdivision/lot line change and continued variance relief for property which is located at 9 Dinner Pot Road and designated as Block 27, Lots 96 and 154 on the Tewksbury Township Tax Map, which premises are located in the Highlands (HL) Zone, and

WHEREAS, the application was presented by Attorney Steven J. Schaffer, Esq. of the firm of Burns & Schaffer; Civil Engineer and Professional Planner Robert F. Lorentz, P.E., P.P. and Professional Land Surveyor Patrick H. Fatton, P.L.S. of the firm

of Heritage Consulting Engineers; Consultant Beth Davisson with the New Jersey Conservation Foundation; and the applicant Joseph H. Weber at the March 4, 2015 Land Use Board meeting, 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 and testimony presented by the applicant, Mr. Burr, and members of the public, has made the following factual findings:

A. The Subject Property.

1. Lot 154 is a 9.542 acre irregularly shaped 4 sided parcel which is improved with a single family residence. The lot lacks road frontage and is approximately 800 feet from Dinner Pot Road, a private road.

2. Fronting Dinner Pot Road is 15.412 acre vacant Lot 96.

3. A winding gravel driveway about 900 feet long on Lot 96 provides access to Lot 154.

4. Along the eastern side yard of Lot 96 is a 50 foot wide utility easement benefiting Lot 154.

B. Dinner Pot Road.

5. Dinner Pot Road is a meandering private road about 10 feet wide.

6. Christopher Teasdale, who resides at 11 Dinner Pot Road, testified at the hearing.

7. Mr. Teasdale is the President of the Dinner Pot Road Homeowners Association which has rules and dues based on home ownership. The Association

charges dues to the homeowners with access to Dinner Pot Road for the upkeep of the road.

8. Mr. Teasdale submitted to the Land Use Board for its records the Dinner Pot Road Homeowner's Association Rules of Dues. The Rules provide that owners of lots on Dinner Pot Road, which are developed with a residence, must pay dues for the upkeep of the road. The rules have been recorded in the Hunterdon County Records Office.

C. Prior Approval.

9. James H. Seibert, Jr. and Marjorie H. Seibert applied to the Tewksbury Township Board of Adjustment, a predecessor to the Land Use Board, for permission to construct a home on Lot 154 which lacked frontage pursuant to N.J.S.A. 40:55-1.39 and N.J.S.A. 40:55-1.40 of the Municipal Planning Act, which preceded the Municipal Land Use Law of 1975 (MLUL). The application proposed access through the 50 feet wide utility easement on Lot 96, which was owned by Seibert, Inc., to Dinner Pot Road. Relief under the MLUL for the construction of a building on a lot not fronting an improved, approved public street is under N.J.S.A. 40:55-36.

10. The application was approved on September 15<sup>th</sup>, 1975.

11. Among the conditions in the memorialization resolution were:

“e. Applicants and their heirs, assigns and successors in interest shall neither permit, suffer nor allow any additional further subdivision of Lot 154, Block 27, the premises in question, to create additional building lots to be served by the driveway required by this variance.

f. Applicants and their successors in interest shall be responsible for the maintenance of the driveway to be constructed on the easement set forth hereinabove.

g. Applicants and their successors in interest shall be responsible for the maintenance of the Dinner Pot Driftway from Route 517 to lands now or formerly owned by Kolbe. Said maintenance shall consist of grading the Driftway annually and applicants shall clear the Driftway to a width and height of 12 feet and place crushed stone on the Driftway where necessary.

h. The restrictions and requirements of this variance shall be restrictive covenants which shall run with the land and shall act as an encumbrance thereon binding applicants, their heirs, assigns and successors in interest. Such conditions shall be incorporated in the appropriate deeds to be placed of record by applicants.”

12. A new driveway was not constructed within the utility easement as proposed and approved. Rather, a gravel driveway was constructed through Lot 96 to provide access to Lot 154. This gravel driveway is what provides current access to Lot 154.

13. No easement or deed restrictions were filed, as required in Condition h.

D. The Proposal.

14. The applicant proposes to convey from Lot 96 two parcels to Lot 154. A 0.430 acre portion of Lot 96 will be conveyed to Lot 154. There is a deed overlap of 0.479 acres between Lots 96 and 154. The overlap parcel will also be conveyed to Lot 154. There is a deed overlap of 0.191 acres between Lot 96 and adjoining Lot 155. The applicant will either convey the overlap parcel to the owner of Lot 155 or relinquish its interest in a deed. The resulting conveyances will result in Lot 96 being reduced to 14.312 acres and Lot 154 being increased to 9.972 acres.

15. The dwelling on Lot 154 has a front yard setback of about 25 feet to the overlap parcel and 60 feet to Lot 96. The two conveyances will increase the front

yard setback to 101.0 feet, which complies with the 100 foot front yard setback requirement in the HL Zone.

E. Zoning Relief.

16. The subject property is located in the HL Zone where the minimum lot size is 12 acres. Lot 154 in its current configuration and after the minor subdivision/lot line change will be minimally undersized.

17. Lot 154 is not grandfathered pursuant to Section 706F2b(b) of the Development Regulations Ordinance (DRO):

“Either the owner thereof owns no adjoining land or the parcel was granted either minor or final major subdivision approval by the Township Planning Board or Board of Adjustment; and”

However, the Board finds that the lots have retained their separate identity and were not merged into a single parcel.

18. Surveyor Fatton testified that Lot 96 was established by the Austen Park Woodlands map which was filed on November 23<sup>rd</sup>, 1896. Lot 154 was separately created.

19. The Board finds that a technical lot area variance is required for Lot 154. However, at 9.974 acres the lot is substantially conforming and was historically recognized as a separate lot.

20. The minor subdivision/lot line change results in Lot 154 being more conforming in lot area and provides a conforming front yard setback.

21. 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.

22. While relief was obtained in 1975 for building a home on Lot 154 which lacked road frontage, the access was not constructed in accordance with the approval.

23. Civil Engineer and Planner Lorentz testified that the current driveway is significantly flatter and provides safer access than the 1975 approved, but unbuilt, driveway which would have traversed the utility easement. Mr. Lorentz said that the existing driveway is at least comparable to and possibly in better condition than Dinner Pot Road.

24. Based on the testimony of Mr. Lorentz, the Board approves access to Lot 154 through the existing driveway rather than requiring the construction of a new driveway through the utility easement pursuant to Condition h of the 1975 resolution.

25. The Board finds that the driveway is adequate to serve a single home on Lot 154, but may not be sufficient for a home on Lot 96.

D. Tewksbury Land Trust.

26. The Tewksbury Land Trust has an option to acquire Lot 96. The lot would be used for passive recreation which would include hiking.

27. Beth Davisson, who is consulting with the Tewksbury Land Trust, noted that the parcel is part of an emerging greenway that is proximate to the Hill & Dale Preserve and the Hell Mountain Preserve. Ms. Davisson noted that parcels are acquired when they become available and are not always directly adjacent to other preserved properties.

28. The sole anticipated improvements to Lot 96 would be a sign and possibly hiking and/or equestrian and biking trails in the future. The driveway would not be used by the public and parking for public purposes would not be available on site.

E. Conclusion.

29. The Board finds that Lot 154 is appropriate for a dwelling on a parcel lacking road frontage under the present configuration as shown on the Heritage Consulting Engineers Minor Subdivision/Lot Line Adjustment plan, despite its deviation from the 1975 approval.

30. A driveway easement is required for access from Lot 154 over Lot 96.

31. The driveway may be appropriate to serve Lot 154 (See Condition 5 herein), but it may not be sufficient if a home were to be constructed on Lot 96.

32. This Board has supported the preservation of land. However, it recognizes that the within subdivision/lot line change and variance is warranted, subject to appropriate conditions, regardless of whether the Tewksbury Land Trust acquires Lot 96.

33. Prior to a home being constructed on Lot 96, approval would need to be obtained under N.J.S.A. 40:55D-36 for the construction of a home on property not fronting an improved, approved public road. Approval would also have to be obtained for the use of the driveway to serve Lot 96 from the Township Engineer.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 1<sup>st</sup> day of April 2015 that the application of Joseph H. Weber be approved in accordance with a plan titled: “MINOR SUBDIVISION/LOT

LINE ADJUSTMENT FOR JOSEPH H. WEBER BLOCK 27 - LOTS 96 & 154 TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY, NEW JERSEY” prepared by Heritage Consulting Engineers dated January 8<sup>th</sup>, 2015 and last revised February 2<sup>nd</sup>, 2015 consisting of a single sheet, subject, however, to the following conditions:

1. 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 applicant shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statutes.

2. This resolution and the issuance of permits are conditioned on the applicants paying all escrows and fees.

3. The variance shall be utilized within one year from the date of this memorialization resolution. The perfecting of the minor subdivision, the driveway easement and deed(s) in accordance with finding 14 herein will satisfy this condition. If it is not utilized within one year, this approval shall become void and have no further effect.

4. Conditions recommended by Land Use Board Engineer William H. Burr, IV, P.E. in his report of February 27, 2015, as modified by the Land Use Board:

“TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed lot line adjustment and provide testimony to support the above referenced variance requests. *See findings 14 -25 herein.*
2. The proposed subdivision plan reflects an existing deed overlap between Lots 96, 154 and adjacent Lot 155. The applicant should describe for the Board how this lot line adjustment will resolve the existing overlap? *See finding 14 herein.*
3. The applicant should clarify is there are any site improvements proposed as part of this application? *See finding 28 herein.*

4. In 1975, the Township Board of Adjustment approved variances to allow construction of a single family dwelling on Lot 154. This approval was conditioned upon the applicant addressing a number of conditions including constructing turn-around areas for use by emergency vehicles. The applicant should comment whether these turn-arounds were ever constructed? On a related note, the current Township Driveway Ordinance (Chapter 12.08) requires that all driveways longer than 500 ft. shall have bump-outs every 300 ft. Based on the existing plan, the existing driveway does not appear to contain any bump-outs. The Board, after hearing testimony whether the required turn-arounds exist, may want to consider requiring the applicant to install bump-outs as a condition of any Board approval. *The Board opted not to require a bump out at this time as the driveway will only serve the home on Lot 154.*
5. According to the 1975 approval, the applicant was to be responsible for the maintenance of the Dinner Pot Driftway from Route 517 to lands now or formerly owned by Kolbe. Does a maintenance agreement for Dinner Pot Road exist and will the applicant continue to maintain their portion of the driftway? *The applicant is relieved of Condition h in the 1975 resolution so long as Lot 154 is bound to the Dinner Pot Road Homeowners Association Rules which is confirmed by Christopher Teasdale.*
6. There is a discrepancy with Line 22 of the Driveway easement between the plan and description. The plan shows a bearing of N 52°22'31" W while the previously submitted deed descriptions describe it as N 52°33'31" W. *This discrepancy will be corrected.*
7. Easement documents will need to be provided to the Board Attorney and Engineer for review and approval. *This condition will need to be complied with.*
8. A computer disk (containing a digital AutoCad file) of the proposed subdivision should be submitted to the Land Use Board Administrator as a condition of any Board approval. *This condition will need to be complied with."*

5. This applicant must provide a subdivision deed(s) which is subject to the approval of the Land Use Board Attorney and the Land Use Board Engineer.

Among the provisos in the subdivision deed(s) shall be the following:

"1. The within minor subdivision/lot line change recognizes the reconfiguration of Lots 96 & 154 in Block 27. No home or other structure (other than signs and hiking trails and/or equestrian and biking trails) may be constructed on Lot 96 without approval being obtained under N.J.S.A. 40:55D-36 for the construction of a home or other structure on a lot lacking frontage on an improved, approved public street. Were a home or other structures proposed

to be constructed on Lot 96, there must also be a driveway permit issued by the Township Engineer for the use of a driveway serving Lot 96. That may require an amendment to the existing driveway and driveway easement which is a condition of the within minor subdivision/lot line change approval.”

“There shall be no further subdivision of Lots 96 and 154 in Block 27.”

6. The Applicant shall submit a driveway easement permitting access to and from Lot 154 through Lot 96 and a deed(s) pursuant to finding 14 herein which is subject to the approval of the Land Use Board Attorney and Land Use Board Engineer.

7. The plans shall be revised within sixty (60) days of the adoption of the within resolution to the approval of the Land Use Board Engineer. Subsequent revisions required by the Land Use Board Engineer shall be made within fifteen (15) days of the request and are subject to his approval.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Moriarty, Mr. Kerwin, Mr. Rahenkamp, Mr. Larsen and Mr. Johnstone

Those Opposed: None

➤ Resolution No. 15-06 – 2014 Annual Application Report

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

**LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
RESOLUTION NO. 15-06**

Be it resolved by the Land Use Board of the Township of Tewksbury in the County of Hunterdon that the following shall represent the report from the Board in accord with the requirements of N.J.S.A. 40:55D-70.1.

Be it further resolved that the Secretary of the Board shall cause copies of this report to be sent to the Governing Body.

The applications in 2014 were as set forth in the attached Exhibit A:

### **ROLL CALL VOTE**

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

Those Opposed: None

### **MASTER PLAN CONSISTENCY REVIEW**

- Review Ord. No. 02-2015 for consistency with the Master Plan pursuant to MLUL 40:55D-31

Mrs. Baird made a motion to find Ordinance No. 02-2015 not inconsistent with the Master Plan. Mr. Johnstone seconded the motion. The motion carried by the following roll call vote:

#### Roll Call Vote:

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

Those Opposed: None

### **ESCROW CLOSINGS**

- Emmet B42, L6.01 - \$217.50
- A.M. Best Co, Inc. B46, L2.01, 5 & 6 - \$250.00
- Hannon B32.01, L34 - \$276.25

Mrs. Baird made a motion to close the above referenced accounts and return the balance to the applicants. Ms. Desiderio seconded the motion. The motion carried by the following roll call vote:

#### Roll Call Vote:

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

Those Opposed: None

### **ADJOURNMENT**

There being no further business, the meeting adjourned at 7:46 p.m. by motion of Mrs. Baird and seconded by Ms. Desiderio. All were in favor.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator