

**LAND USE BOARD MINUTES**  
**April 2, 2014**

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Lebanon, New Jersey. The meeting was called to order at 7:30 p.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Elizabeth Devlin, Bruce Mackie, Michael Moriarty, Shirley Czajkowski, Ed Kerwin, Robert Becker, Alt. #1 arrived at 7:32 p.m. and Ed D'Armiento, Alt. #2.

Also present: Daniel Bernstein, Land Use Board Attorney, Craig Hermann on behalf of William Burr, Land Use Board Engineer and Shana L. Goodchild, Land Use Administrator.

Absent: Dana Desiderio, Kurt Rahenkamp, Alt. #3 and David Larsen, Alt. #4.

There were approximately four (4) 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 9, 2014.

**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 Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 3-5-14 Land Use Board meeting – invoice dated March 6, 2014 (\$450.00)
2. Bernstein & Hoffman – Attendance at 3-26-14 Land Use Board meeting – invoice dated February 27, 2014 (\$450.00)
3. Maser Consulting – Land Use Board Escrow – Beatrice Snyder (B11, L8.04), invoice #228291 (\$65.00)
4. Maser Consulting – Land Use Board Escrow – Fraser (B16, L12.03), invoice #228292 (\$130.00)
5. Maser Consulting – Land Use Board Escrow – Roddy (B33, L7.19), invoice #228293 (\$260.00)
6. Maser Consulting – Land Use Board Escrow – Cellco Partnership/Verizon (B44, L26), invoice #228290 (\$1,430.00)

7. Maser Consulting – Land Use Board Escrow – JUJ 1944 Trust (B43, L4), invoice #228289 (\$1,007.50)
8. Bernstein & Hoffman – Land Use Board Escrow – Fraser (B16, L12.03), invoice dated March 18, 2014 (\$1,050.00)

Roll Call Vote:

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

Those Opposed: None

**CORRESPONDENCE**

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

1. Hunterdon County Comprehensive Economic Development Strategy public meeting schedule.
2. 2014 Awards Fact Sheet and Nomination Form from the Hunterdon County Planning Board & Hunterdon County Cultural & Heritage Commission 2014 Awards Committee.
3. The NJ Planner, January/February 2014, Vol. 74, No.1.
4. A report from William Burr dated March 28, 2014 re: Roddy, Appl. No. 14-01, Block 33, Lot 7.19.
5. A letter dated March 14, 2014 from Gregory Meese re: Cellco Partnership d/b/a Verizon Wireless and Global Tower Partners, 19 King Street, Block 44, Lot 26.
6. Memorandum dated March 7, 2014 from Chief Holmes re: Roddy, Block 33, Lot 7.19.
7. Information sheet from the Hunterdon County Planning Board – Division of Planning Services re: County Planning Board Services.
8. Notice dated March 25, 2014 of a Freshwater Wetlands Application for an LOI for the Bellemead Development Corporation, Block 46.01, Lot 7.

**MINUTES**

- January 8, 2014

The minutes of January 8, 2014 were approved as submitted by motion of Mr. Van Doren and seconded by Mrs. Baird. All were in favor. Mrs. Czajkowski abstained.

- February 26, 2014

The minutes of February 26, 2014 were approved as submitted by Mr. Van Doren and seconded by Mrs. Baird. All were in favor. Mr. D’Armiento abstained.

**ORDINANCE REPORT**

Mr. Mackie reported on one (1) ordinance from Lebanon Township adding sections regarding escrow accounts. He did not feel it was necessary to pass it along to staff.

**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. 14-06** – Fraser, Appl. No. 13-19, Block 16, Lot 12.03  
*Eligible to vote: Mrs. Baird, Mr. Van Doren, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker, Mr. D’Armiento, Mr. Rahenkamp and Mr. Johnstone*

Mr. Bernstein noted that the applicant contacted Mrs. Goodchild and asked that the approval include heat in the garage. He noted that in the past the Board has permitted heat in garages. The applicant also advised Mrs. Goodchild that the plan is now to enter the garage from the side rather than the front and as a result he would be eliminating the driveway extension and reducing lot coverage; there will be a total of three (3) garage door bays. Mr. Bernstein opined that the changes were innocuous and the Board could approve the changes as part of the resolution.

When Mr. Van Doren asked the type of heat proposed, Mr. Fraser explained that he was still undecided about the type of heat. Mr. Van Doren reminded the applicant that the Board approval didn’t allow water to the building to which Mr. Fraser acknowledged.

Mr. Van Doren made a motion to approve the following resolution with the changes described by Mr. Bernstein. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 13-19  
RESOLUTION #14-06

WHEREAS, JAMES FRASER has applied to the Land Use Board of the Township of Tewksbury for permission to construct a barn/garage on his residential lot which is located at 39 Hollow Brook Road on property designated as Block 16, Lot 12.03 on the Tewksbury Township Tax Map, which premises is located in the Highlands (HL) Zone, and

WHEREAS, the application was presented by James Fraser and his Civil Engineer Stephen Parker, P.E., of the firm of Parker Engineer & Surveying, P.C. at the March 5, 2014 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, after considering the evidence presented by the applicant, Mr. Burr, and a single neighbor, the Land Use Board has made the following factual findings:

A. The Subject Property.

1. The subject property is a 7.396 acre flag lot.
2. The site is improved with a single-family residence and an attached two car garage.
3. The home is set back approximately 530 feet from the road. There is a 630 foot long driveway leading to the garage.
4. There is a 200 foot wide Public Service Electric and Gas easement along the eastern side of the property which the driveway traverses.
5. There are steep slopes in back of the home.
6. To the rear of the steep slopes are two c-1 category streams.
7. The existing home and the proposed barn/garage are within the 300 foot riparian buffer.
8. The photographs which were submitted with the application show an attractive home on a wooded lot.

B. The Proposal.

9. The applicant proposes to construct a 28 foot by 40 foot barn which would house a snowplow, small tractor, landscape equipment (used in conjunction with the applicant's Woodland Management Plan) and two classic cars which are currently stored off site.

10. A 900 square foot driveway extension was initially proposed to provide access to the front of the barn. The driveway extension was subsequently eliminated, and access will be from the existing driveway to the side of the barn.

11. Photographs which were submitted with the application show the proposed barn with siding, a peak shingle roof with a cupola. Mr. Fraser testified that the exterior of the barn would match the home.

C. Required Variance.

12. As previously noted, the subject property contains 7.39 acres, while the minimum lot size in the HL Zone is 12 acres.

13. As previously noted, the subject property is a flag lot. Section 706D6 of the Development Regulations Ordinance (DRO) requires flag lots to have 1.35 times the minimum lot area required in the zone exclusive of the access strip. This would require the subject property to be 16.20 acres.

The lot is grandfathered under Section 706F4 of the Development Regulations Ordinance. The maximum lot coverage for the site under Section 706F4D is 5%.

14. The site presently has 5.54% lot coverage which will be increased to 5.89% lot coverage with the construction of the barn.

D. Justification for Variance.

15. The existing residence was constructed when the zoning required a minimum lot size of 3 acres and 6 acres for flag lots on the subject property.

16. The applicant constructed his home about 530 feet from the road with a long driveway which results in extensive lot coverage.

17. The rationale behind lot coverage regulations is both aesthetic and to control water runoff.

18. The applicant has proposed to construct an attractive barn/garage which will be a visual enhancement.

19. The applicant has agreed to design a detention system which reduces effective runoff to that produced by the existing 5.54% lot coverage by gutters and leaders from the barn leading to a drywell system.

20. The requested relief is justified under N.J.S.A. 40:55D-70c(2) by advancing a purpose of the Municipal Land Use Law under N.J.S.A. 40:55D-2(i) by promoting a desirable visual environment through the construction of the attractive barn.

21. Adjoining neighbor Ron Garutti had “no objection” to the application.

22. The benefits of the deviations substantially outweigh any detriments.

23. 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.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 2<sup>nd</sup> day of April 2014 that the application of James

Fraser be approved in accordance with plans titled: “**VARIANCE MAP TAX MAP LOT 12.03 BLOCK 16 TOWNSHIP OF TEWKSBURY HUNTERDON COUNTY, NEW JERSEY**” prepared by Parker Engineering & Surveying, P.C. , dated November 26, 2013 and last revised on January 21, 2014, consisting of two (2) 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 28, 2014, as modified by the Land Use Board:

“TECHNICAL REVIEW:

1. The applicants should describe in detail the proposed barn/garage and related improvements including the following:
  - a. The proposed use of the space and what will be stored in it? *See factual finding 9 herein.*
  - b. The exterior style, materials, color, etc. *The exterior materials and color are as shown on the colored picture attached to the application and will match the residence.*
  - c. How many garage-bays are proposed? *Three bays.*
  - d. Is the barn/garage proposed to be equipped with running water, heat, air conditioning, etc.? Is a bathroom proposed in this space? *There will be no running water, air conditioning or bathroom within the barn. There will be heat.*
  - e. How many floors are proposed with the barn/garage? Is there a second floor space? *The barn will contain a single story.*
2. The applicants and its engineer should provide testimony to support the proposed lot coverage variance. The property is already developed over the permitted lot coverage and the applicants are proposing a further increase of 2,023 S.F. in lot coverage as part of this application. Can any existing lot coverage areas on the property be eliminated/removed as a way to decrease the amount of coverage on this property? *Civil Engineer Parker testified that the home was set back a substantial distance from the road when zoning regulations were less restrictive. The length of the driveway increased existing lot coverage. Mr. Parker noted that the proposal was for “a modest increase” in lot coverage.*
3. The plans do not propose any stormwater management facilities to capture and infiltrate runoff from the proposed barn/garage structure. As with previous lot coverage variance applications, the Board should consider whether or not to require the applicant to address stormwater management as part of this

- application. *Land Use Board Engineer Burr noted that the Township of Tewksbury Regulations requires a Grading & Surface Water Management Plan. See comment 1.10 herein. Mr. Parker testified that the applicant would comply with this requirement. See conditions 1.10 and 4 herein, and factual finding 19 herein.*
4. DRO Section 704 prohibits disturbance of slopes over 25%. The plans reflect steep slopes in close proximity and confirmation should be provided by the applicant's engineer that the structure can be constructed as proposed without actually disturbing these areas. *In back of the barn is a steep slope area. Mr. Parker testified that the barn will be built into the site with minimal grading and no disturbance to the steep slopes.*
  5. There is an existing 200 ft. wide PSE&G easement running along the east side of the property directly adjacent to the proposed barn/garage. In fact, the plans reflect the driveway expansion and some grading taking place within this easement. The applicants and its engineer should provide confirmation that this work is allowed within the PSE&G easement limits. *A driveway extension is no longer proposed.*
  6. A construction detail of the proposed driveway section leading to the barn/garage should be provided on the plans. *The driveway extension is no longer proposed.*
  7. The applicant should clarify whether any trees will be removed, impacted or damaged as a result of this project. Is any new landscaping proposed to offset the trees that are to be removed? *Six trees in the area of the barn will be removed. No new landscaping is proposed as the site is heavily wooded.*
  8. The applicant should confirm whether there is any new exterior lighting proposed on the barn/garage. In accordance with DRO Section 632 (Lighting Ordinance), there cannot be any undesirable effects to the surrounding properties from proposed lighting. *Any new exterior lights shall not cause glare or sky glow on other properties or public roads. The lighting need be approved by the Land Use Board Engineer. It shall comply with Section 623 of the DRO.*
  9. The existing house and proposed barn/garage are located within the 300 ft. Riparian Buffer of the Category-1 stream to the rear of the property. This project would appear to qualify for a NJDEP Flood Hazard Area Permit by Rule; however, the applicant's engineer should confirm this. *Engineer Parker testified and Land Use Board Engineer Burr agreed that the barn will be permitted by the NJDEP as a Permit by Rule.*
  10. 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. ” *The applicant agreed to comply with this requirement.*

2. The applicant 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.

3. This resolution and the issuance of a building permit for the barn expansion are conditioned on the applicant paying all escrows and fees.

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

The submission of a Grading and Surface Water Management Plan required in condition 1.10 herein to the approval of the Township Engineer. The plan is to be implemented to the approval of the Township Engineer. The facility shall reduce the effective storm water runoff from the site to that produced by 5.54% lot coverage. The facility shall be permanently maintained in accordance with the NJDEP Best Management Practices and any subsequent revisions and successor regulations.

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

6. The applicant shall provide a foundation location survey to the Land Use Administrator prior to obtaining a Certificate of Occupancy for the barn/garage.

7. The plans shall be revised to the approval of the Land Use Board Engineer to show the elimination of the driveway extension.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

**PUBLIC HEARING**

- Roddy  
Appl. No. 14-01  
Block 33, Lot 7.19  
Impervious Coverage Variance  
**Action Deadline – 7/01/14**

Wayne Ingram, Engineer/Planner, Charles Iuliano, Landscape Architect and John and Lisa Roddy, owners were all sworn in by Mr. Bernstein. The Board recognized Mr. Ingram as a professional Engineer and Planner.

Mr. Roddy explained that he and his wife would like to put an in-ground swimming pool, patio and shed in their backyard and are seeking an impervious coverage variance. Mr. Bernstein noted that the pictures provided with the application show a heavy buffer in the backyard which would buffer the swimming pool from the adjoining property to which Mr. Roddy agreed.

Mr. Ingram presented a revised plan which was marked as **Exhibit A-1**. He explained that it is an updated version of sheet 2 of the plan set dated April 2, 2014. He noted that the updates to the plan addressed the comments in Mr. Burr's review letter. The total impervious coverage requested is 11.54% where 10% is permitted. Mr. Ingram noted the coverage variance is required due to the location of the existing home; the required setback is 75 feet and the home is 292 feet from the street which is served by a very long driveway. Mr. Ingram pointed out that the property directly to the north applied for an impervious coverage variance in 2011 and their permitted coverage was 12% for a pool and patio. Due to the excessive length of the driveway, Mr. Ingram opined that the property owner has a hardship condition. When asked, Mr. Ingram noted that the current impervious coverage is 9.1% and 3,187 sq. ft. of additional coverage is requested. The proposed pool will be constructed in an open area behind the home. To mitigate the increase in coverage the owners propose to collect a portion of the existing roof area in a drywell system. Mr. Ingram noted that since there is more coverage than was originally designed for he will be increasing the drywell size to make up for the extra coverage. Mr. Ingram went on to say that the hardship is due to the distance the home is from the road and noted that approximately 3,000 sq. ft. of the coverage is from the driveway. Mr. Ingram noted that the lot consists of 3.01 acres and if the lot were 2.99 acres the

ordinance would allow for 12% coverage. When asked, Mr. Ingram agreed to comply with all of the comments in Mr. Burr's letter dated March 28, 2014.

When asked by Mr. Bernstein the number of trees to be removed, Mr. Ingram responded four (4) trees are to be removed. When asked if it is less than 20% of the trees on site, Mr. Ingram responded in the positive. When asked if the location of the pool equipment is shown on the revised plan, Mr. Ingram responded in the positive and noted that it will meet the required setbacks. When asked if the impervious coverage calculations included all walkways and stairs, Mr. Ingram responded in the positive and noted that all proposed walkways have been shown on the plan and included in the calculations. He noted that there is a gap in the walkway which is intended. When asked if he is aware that a Grading and Surface Water Management Plan is required along with a deed restriction that will require that the system be permanently maintained, Mr. Ingram responded in the positive.

Ms. Goodchild clarified the variance that was granted on the neighboring property (Lot 7.18).

When asked by Mr. Hermann for clarification on the proposed lighting, Mr. Ingram noted that any lighting proposed will be low level ground lighting, no flood or spot lights are proposed.

When asked by Mrs. Baird if there will be a light in the pool, Mr. Ingram responded in the positive and noted that it is required to meet code.

When asked by Mrs. Czajkowski if the proposed shed will have water or electric, Mr. Ingram indicated that there would be no electric or water in the shed.

Mr. Becker cautioned the applicant regarding the placement of improvements (shed and pool equipment) to make sure they adhere to the setback requirements.

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

Mr. Van Doren made a motion to approve the application subject to the following conditions:

1. Compliance with Mr. Burr's report dated March 28, 2014.
2. The equipment shed shall not contain electric or water.
3. Deed restriction to maintain the detention system.
4. Payment of fees and escrows.
5. Variance must be utilized within one (1) year.
6. Certification to the Land Use Administrator.

Mr. Becker 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, Mr. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

**Board Discussion Items**

- Dana Desiderio, Chair of the Hunterdon County Planning Board
  - Upcoming County Planning Board events
  - Update on the progress of the County Comprehensive Economic Development Strategy (CEDS)
  - Input on the 2014 Breakfast Talk series

This item was tabled due to Ms. Desiderio's absence.

**MISCELLANEOUS**

Ms. Goodchild spoke to the Board regarding a recent request by AM Best to remove the existing landscaping at their office building which will be replaced with new plantings. Ms. Goodchild recommended to the Board that they waive site plan approval and require an administrative review of the proposed plan by the Landscape Architect at Maser Consulting. The Board was in favor of the recommendation and asked Ms. Goodchild to have AM Best establish an escrow to pay for the review time.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:07 p.m. by motion of Mr. Van Doren and seconded by Mr. Moriarty.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator