

LAND USE BOARD MINUTES
May 21, 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, Dana Desiderio, Shaun Van Doren, Dana Desiderio, Bruce Mackie, Shirley Czajkowski, Robert Becker, Alt. #1 and Kurt Rahenkamp, Alt. #3

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer, Chuck McGroarty, Planner and Shana Goodchild, Land Use Administrator.

Absent: Mary Elizabeth Baird, Elizabeth Devlin, Michael Moriarty, Ed Kerwin, Ed D'Armiento, Alt. #2 and David Larsen, Alt. #4.

There were approximately three (3) 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. Ms. Desiderio made a motion to approve the claims listed below and Mrs. Czajkowski seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 5-7-14 LUB meeting, invoice dated May 8, 2014 (\$450.00)
2. Menkes Associates, LLC, Land Use Board Escrow – Cellco Partnership d/b/a Verizon, Block 44, Lot 26, invoice No. 404 - \$1,650.00

Roll Call Vote:

Those in Favor: Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Czajkowski, Mr. Becker, Mr. Rahenkamp and Mr. Johnstone

Those Opposed: None

CORRESPONDENCE

None

ORDINANCE REPORT

Mr. Mackie reported on an ordinance from Washington Township regulating the storage of trailers in residential districts and exempting pools and small sheds from the Ridgeline Ordinance. He also reported on an ordinance from Lebanon Township regarding the land use ordinance and the appointment of an exemption designee for the Highlands.

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.

PUBLIC HEARING

- Zamarra/Ganek
Appl. No. 14-04
Block 14, Lot 17.11
Impervious Coverage and Rear Setback Variance
Action Deadline – 8/29/14

Mr. John Zamarra 1, Whitenack Road was present and sworn in by Mr. Bernstein. Mr. Zamarra explained that he applied for a permit to install a 30 kW generator and was denied due to a non-conforming shed on his property that was there when he purchased the home but was not discovered during the continuing certificate of occupancy inspection performed by the Zoning Officer. When asked about the non-conformity, Mr. Zamarra explained that the shed violates both the impervious coverage and the rear setback. When asked the size of the shed, Mr. Zamarra responded that it is an 8 x 10 shed that he would like to leave in its place.

When asked by Mr. Burr if the new generator will be in the same place as the existing generator, Mr. Zamarra explained that he is moving it away from the house but within the required setbacks.

When asked by Mr. Rahenkamp if the existing generator is on a concrete pad, Mr. Zamarra explained that it is on crushed.

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

Mr. Van Doren made a motion to approve the application as submitted with no conditions. Mr. Becker seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Czajkowski, Mr. Becker, Mr. Rahenkamp and Mr. Johnstone

Those Opposed: None

- Hill
Appl. No. 14-05
Block 32, Lot 31
Front Setback Variance
Completeness Deadline – 5/30/14

Mr. Guy Wilson, Attorney, was present representing Mr. and Mrs. Hill along with Jonathan Wurst, Contractor, to testify about the subject property.

Jonathan Wurst, 120 Rockaway Road, was sworn in by Mr. Bernstein. Mr. Wurst explained that he has been the general contractor for Mr. and Mrs. Hill for the past 12 years and has been responsible for projects and improvements on the property during that time.

Mr. Wilson explained that that application is for a front yard setback variance for a proposed generator for the existing house. He went on to explain that the required setback under the Existing Undersized Lot provisions (Section 706) is 75 feet however the hardship is that all of the improvements on the property are within the front yard setback. Mr. Wilson marked into the record the following photographs taken by Mr. Jonathan Wurst:

Exhibit A-1 – taken from opposite side of the stream facing Water Street.

Exhibit A-2 – taken from Water Street looking at the house.

Exhibit A-3 – taken from Water Street looking at the side and front of the garage.

Exhibit A-4 – photo of location of proposed generator in the rear of the existing garage.

Exhibit A-5 – photo of the rear of the house.

Exhibit A-6 – photo of the garage showing the location of the proposed generator and proposed propane tank.

When asked how long he has worked on the property, Mr. Wurst replied since 1989 explaining that he is familiar with the layout of the property. When asked by Mr. Wilson if it is possible to place the generator on the other side of the stream, Mr. Wurst explained that it would require more disturbance and NJDEP permits.

When asked by Mr. Mackie if they can get the power from the proposed location to the existing house, Mr. Wurst responded in the positive. When asked if there is any concern of flooding, Mr. Wurst explained that the highest level he's ever seen the water rise is to the patio; the back of the garage is approximately 2 to 3 feet higher than the patio.

When asked by Mr. Van Doren to describe how the current electrical service reaches the house relative to where the generator is proposed, Mr. Wurst explained that the service is above ground now. When the generator is installed the plan is to trench the line from the garage to the house with a transfer switch inside the house which will tie back into the garage. When asked the size of the generator, Mr. Wurst replied 20 kW. When asked if it will run the whole house and garage, Mr. Wurst responded in the positive. When asked what the fuel source is for the proposed generator, Mr. Wurst replied an above ground propane tank on the side of the garage. When asked if the proposed tank will be visible from the street, Mr. Wurst explained that he will landscape the tank to screen it from the street. When asked why the location for the proposed

generator is so far from the house, Mr. Wurst explained that if it is placed closer to the house it will interfere with the walkway and the property owner did not want the noise next to the house.

When asked by Mr. Becker the linear run from the generator to the house, Mr. Wurst opined 75 feet. Mr. Becker opined that it is approximately 120 feet and asked how soil erosion would be managed. Mr. Wurst explained that the walkway is deteriorating and so it will partially be trenched in the area where the walkway needs to be improved.

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

Mr. Van Doren made a motion to approve the application granting a front setback variance for the generator and propane tank with the following conditions 1) the propane tank must be screened from Water Street since it is a Scenic Road identified in the Master Plan and 2) compliance with Section 702.2 of the Development Regulations Ordinance. Ms. Desiderio seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Czajkowski, Mr. Becker, Mr. Rahenkamp and Mr. Johnstone

Those Opposed: None

COURTESY REVIEW

- Tewksbury Township Public Library
Block 44, Lot 11 – proposed patio and handicapped walkway (Boy/Girl Scout projects)

Patrick Ricciardi, representing the library was present and sworn in by Mr. Bernstein. Mr. Ricciardi confirmed that he is an advisor for the Girl Scout group but the Girl Scout responsible for the project could not attend due to work.

Mr. Ricciardi explained that the project is a handicapped access ramp with a small patio in the rear. The proposed walkway will lead from the existing parking lot, run west along the southern side of the building and take a 90 degree turn to the rear of the building where there is a three (3) foot opening for a handicapped access lift to allow handicapped people to get to the second floor of the building. The walkway is proposed as a concrete walkway per the plan prepared by local architect Wilbur Lupo.

When asked by Mr. Burr if it had been designed in accordance with ADA requirements, Mr. Ricciardi responded in the positive and explained that Mr. Lupo has done a lot of work for United Cerebral Palsy.

Ms. Goodchild noted for the record that both projects were reviewed and approved by the Historic Preservation Commission.

When asked by Ms. Desiderio when the projects would be completed, Mr. Ricciardi explained that it would take approximately a week to a week and a half from start to finish and anticipates the work to be finished by the summer. Ms. Desiderio she encouraged Mr. Ricciardi to submit the project to Hunterdon County as a project for consideration. **LAND**

USE BOARD MINUTES

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Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer, Chuck McGroarty, Planner and Shana Goodchild, Land Use Administrator.

Absent: Mary Elizabeth Baird, Elizabeth Devlin, Michael Moriarty, Ed Kerwin, Ed D'Armiento, Alt. #2 and David Larsen, Alt. #4.

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

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Roll Call Vote:

Those in Favor: Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mrs. Czajkowski, Mr. Becker, Mr. Rahenkamp and Mr. Johnstone

Those Opposed: None

CORRESPONDENCE

None

ORDINANCE REPORT

Mr. Mackie reported on an ordinance from Washington Township regulating the storage of trailers in residential districts and exempting pools and small sheds from the Ridgeline Ordinance. He also reported on an ordinance from Lebanon Township regarding the land use ordinance and an exemption designee for the Highlands.

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When asked by Mr. Burr if the new generator will be in the same place as the existing generator, Mr. Zamarra explained that he is moving it away from the house but within the required setback.

When asked by Mr. Rahenkamp if the existing generator is on a concrete pad, Mr. Zamarra explained that it is on crushed stone as will the new generator.

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

Mr. Van Doren made a motion to approve the application as submitted. Mr. Becker seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Czajkowski, Mr.

Becker, Mr. Rahenkamp and Mr. Johnstone

Those Opposed: None

- Hill
Appl. No. 14-05
Block 32, Lot 31
Front Setback Variance
Completeness Deadline – 5/30/14

Mr. Guy Wilson, Attorney, was present representing Mr. and Mrs. Hill. Mr. Wilson explained that he also had Mr. Jonathan Wurst, Contractor, to testify about the property.

Jonathan Wurst, 120 Rockaway Road, was sworn in by Mr. Bernstein. Mr. Wurst explained that his relationship with Mr. and Mrs. Hill for the past 12 years as the general contractor doing improvements on the property.

Mr. Wilson explained that that application is for a front yard setback variance for a proposed generator for the pre-existing house. While the required setback under the Existing Undersized Lot provisions (Section 706) is 75 feet the hardship is that practically all of the improvements on the property are within the front yard setback. Mr. Wilson marked into the record the following photographs taken by Mr. Jonathan Wurst:

- Exhibit A-1** – taken from opposite side of the stream facing Water Street.
- Exhibit A-2** – taken from Water Street looking at the house.
- Exhibit A-3** – taken from Water Street looking at the side and front of the garage.
- Exhibit A-4** – photo of location of proposed generator in the rear of the existing garage.
- Exhibit A-5** – photo of the rear of the house
- Exhibit A-6** – photo of the garage showing the location of the generator as well as the proposed propane tank.

When asked how long he has worked on the property, Mr. Wurst replied since 1989 explaining that he is familiar with the layout of the property. When asked by Mr. Wilson if it is possible to place the generator on the other side of the stream, Mr. Wurst explained that it would require more disturbance and NJDEP permits.

When asked by Mr. Mackie if they can get the power from the proposed location to the existing house, Mr. Wurst responded in the positive. When asked if there is any concern of flooding, Mr. Wurst explained that the highest level he's ever seen the water rise is to the patio; the back of the garage is approximately 2 to 3 feet higher than the patio.

When asked by Mr. Van Doren to describe how the current electrical services reaches the house relative to where the generator is proposed, Mr. Wurst explained that the service is above ground now. When the generator is installed the plan is to trench the line from garage to the house with a transfer switch inside the house and tie back into the garage. When asked the size of the generator, Mr. Wurst replied 20 kW. When asked if it will run the whole house and garage, Mr.

Wurst responded in the positive. When asked what the fuel source is for the proposed generator, Mr. Wurst replied propane that will be in an above ground tank on the side of the building. When asked if the proposed tank will be visible from the street, Mr. Wurst explained that he will landscape the tank to screen it from the street. When asked why the location for the proposed generator is so far from the house, Mr. Wurst explained that if it is placed closer to the house it will interfere with the walkway and the noise will be next to the house.

When asked by Mr. Becker the linear run from the generator to the house, Mr. Wurst opined 75 feet. Mr. Becker opined that it is approximately 120 feet and asked how soil erosion would be managed. Mr. Wurst explained that the walkway is deteriorating and so it will part be trenched in that area where the walkway needs to be improved.

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

Mr. Van Doren made a motion to approve the application granting a front setback variance for the generator and propane tank with the condition that the propane tank be screened from Water Street since it is a Scenic Road identified in the Master Plan and compliance with Section 702 of the Development Regulations Ordinance. Ms. Desiderio seconded the motion. The motion carried by the following roll call vote:

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Those Opposed: None

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Mr. Ricciardi explained that the project is a handicapped access ramp with a small patio in the rear. The walkway would lead from the existing parking lot run west along the southern side of the building and take a 90 degree turn and run to the rear of the building where there is a three (3) foot opening for a handicapped access lift to allow handicapped people to get to the second floor of the building. The walkway is proposed as a concrete walkway per the plan prepared by local architect Will Lupo.

When asked by Mr. Burr if it has been designed in accordance with ADA requirements, Mr. Ricciardi responded in the positive and explained that he has done a lot of work for United Cerebral Palsy.

Ms. Goodchild noted for the record that both projects were reviewed and approved by the Historic Preservation Commission.

When asked by Ms. Desiderio when the projects would be completed, Mr. Ricciardi explained that it would take approximately a week to a week and a half from start to finish and anticipates the work to be finished by the summer. Ms. Desiderio encouraged Mr. Ricciardi to submit the project to Hunterdon County as a project for consideration under their Planning Award program.

When asked by Mr. Rahenkamp if the sidewalk will be concrete, Mr. Ricciardi responded in the positive.

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

When asked by Mr. Mackie if the concrete would be tinted, Mr. Ricciardi explained that the Historic Preservation Commission requested that it be a sandstone color to match the existing sidewalk.

The Board had no objection to the projects and thanked Mr. Ricciardi for attending the meeting.

BOARD DISCUSSION/ACTION ITEMS

- Chuck McGroarty – Review of Draft Highlands Master Plan Element

The Board received a copy of the Draft Highlands Master Plan Element in their packets for review and Mr. McGroarty explained that the Highlands Act required all municipalities with land in the Preservation Area to amend their Master Plan to include the Highlands Master Plan Element to be consistent with the Highlands Regional Master Plan. The Act also included a provision that if a municipality voluntarily chose to subject the entire municipal land area to the Highlands Plan (commonly referred to as opting in) they can do so by way of ordinance; in April, 2012 Tewksbury Township chose to opt in. The proposed Highlands Master Plan Element consists of 91 pages with 10 exhibits (separate maps) all prepared by the model language prepared by the Highlands Council staff with minor modifications by Tewksbury staff, volunteers and professionals. Mr. McGroarty explained that the Highlands Master Plan Element essential co-exists with the Township Master Plan and the more restrictive applies. Tewksbury is required to adopt the plan for at least the Preservation Area and as a result of the Township's decision to opt in the plan will impact the township in its entirety. The Housing Plan on Page 31 of the draft before the Board will need to be amended to address the new COAH rules. After adoption of the Highlands Master Plan Element by the Land Use Board the next step would be for the Township Committee to move forward with adopting the Highlands Land Use Ordinance. The Ordinance would co-exist with the Township's land use regulations ordinance. Mr. McGroarty noted that Tewksbury could adopt the exemption ordinance similar to Lebanon Township and he noted that Ms. Goodchild and others have gone to the exemption training. It allows Tewksbury to issue exemptions to residents rather than requiring them to go to the Highlands or NJDEP.

When asked by Mr. Van Doren if elements such as the Historic Preservation Element would be lost, Mr. McGroarty responded in the negative. He referenced page two (2) of the document and noted that Tewksbury's Historic Preservation Element is far more detailed and extensive and that would be the one that would apply. When asked if there will be two (2) plans in existence, Mr. McGroarty responded in the positive and added that the Highlands Element is in addition to the existing Tewksbury Master Plan. When asked if the Highlands Council will review the Housing Element, Mr. McGroarty responded in the positive and noted that the numbers for Tewksbury should be lower because the township is in the Highlands region and chosen to opt in. When asked if the township would be precluded from pursuing a ridgeline ordinance, Mr. McGroarty responded in the negative and noted that it would be consistent with the policies of the Highlands Master Plan.

Mr. Van Doren confirmed with Ms. Goodchild that the Township has not designated an exemption designee to which Ms. Goodchild responded in the positive. She explained that she and Mr. Landon have both attended the training sessions and have left with concerns about Tewksbury taking on the responsibility for reasons of liability, limited staff and for the fact that the exemptions are still very difficult to apply on an individual basis. She explained that several Tewksbury scenarios were given at the exemption training and they were met with interpretation issues. When asked by Mr. Van Doren who an applicant can appeal an exemption decision to, Mr. McGroarty indicated that a resident can appeal to the Highlands Council or the NJDEP. He noted that if a township staff person is uncomfortable making the determination they can pass on the exemption and direct the applicant to go to the NJDEP or Highlands Council.

Mr. Johnstone noted that he is comfortable with the township's Master Plan and is confident that adopting the Highlands Master Plan Element won't prevent the Board from adopting more restrictive language in the future..

When asked by Mr. Becker who determines what regulations are the more restrictive, Mr. McGroarty explained that township staff and professionals could make that determination. When asked the cost for an exemption application, Mr. McGroarty did not know the cost of an appeal but said that in his experience people have met with Highlands staff to resolve the issue. Ms. Goodchild explained to the Board the current exemption review process by the Zoning Officer; if a project appears to fall under one of the seven (7) exemptions the Zoning Officer processes the application and the homeowner proceeds at their own risk without a formal exemption from the Highlands/NJDEP.

Mr. Rahenkamp noted that the Scenic Roads reference should be changed to Scenic Roads and Bridges Commission (page 70). He also asked that a reference to the stone arch bridges be included in the document to which Mr. McGroarty responded in the positive. Mr. Van Doren noted that the County did a stone arch bridge survey a number of year ago.

There being no additional questions from the Board, Mr. Johnstone opened the meeting up to the public.

Mr. George Cassa, Guinea Hollow Road, thanked Mr. McGroarty and the sub-committee for the work that went into the document and asked what the next steps are beyond tonight's meeting. Mr. McGroarty explained that there will be a formal Master Plan public hearing with formal notice. Prior to adoption the revised draft would be sent to the Highlands staff to alert them to the Master Plan public hearing. Once the Element is adopted the next step would be for the Township Committee to consider adopting the Highlands Land Use Ordinance. The Highlands Land Use Ordinance would render the existing checklist ordinance obsolete.

There being no additional questions or comments from the public, Mr. Johnstone closed the public portion of the meeting.

Mr. McGroarty indicated that he would make the changes discussed and will forward it to the Highlands Council and wait to hear from them before scheduling the Master Plan public hearing.

➤ Volunteers for COAH Committee

Mr. Van Doren explained that the Township Committee feels there is a need to create a Committee to review the proposed rules. He noted that he and Dr. Voyce will be participating from the Township Committee and two (2) volunteers from the Land Use Board are needed to participate in meetings with Mr. McGroarty, Ms. Goodchild and the Township Administrator/Housing Officer to begin the process of reviewing and commenting on the rules.

Mr. McGroarty explained that the rules have not been published yet but there will be a comment period upon publication and are subject to adoption in November. He noted that many people have indicated that the rules, as written, will not survive. Mr. McGroarty provided the following brief history and breakdown of the rounds and obligations: the prior round is from 1987 through November of 2014. Tewksbury's previous obligation was 119 but has increased to 158 based on the new rules; analysis will be done to determine how Highlands impacts the numbers. The third round will start in November 2014 and runs for ten (10) years. Tewksbury's previous obligation was 81 but is now 64. Total obligation a few years ago was 200 units but under the new rules the obligation is 222 units. Mr. McGroarty recommended doing a vacant land adjustment analysis to demonstrate that these numbers can't be accomplished given the restrictions that are in place. When asked what Tewksbury has already accomplished, Mr. McGroarty indicated that he and the Township Administrator are trying to figure that out noting that COAH has 58 units that have been achieved thus far but they didn't count the RCA's, etc. He noted that Tewksbury is the only Town with a successful accessory apartment program.

Ms. Goodchild noted that Mrs. Baird offered to volunteer. There being no other volunteers, Mr. Van Doren asked Ms. Goodchild to place the matter on the next available agenda when more Board members are present.

➤ Shana Goodchild – Review of proposed new well and above ground oil tank at Mountainville Meeting Hall

Ms. Goodchild explained that there are two (2) potential locations for the proposed above ground (330 gallon) oil tank one of which would be in the rear setback. The current oil tank is

underground and will be removed. She noted that the Superintendent of Public Works appeared before the Historic Preservation Commission and the Commission preferred the location in the rear of the building. She also noted that due to the increase in the use of the building (mainly the court) the existing well is having trouble keeping up with the demand and so a new well will be drilled. Ms. Goodchild provided the Board with a map showing the proposed location of the well and the two (2) possible locations for the oil tank. Mr. Bernstein noted that it is a township building and generally exempt from municipal zoning ordinances therefore a formal variance is not required.

When asked by Mr. Becker who is removing the tank, Ms. Goodchild believed it to be a contractor certified to remove underground tanks.

In conclusion, the Board had no issue with the tank placement in the rear of the building.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 p.m. by motion of Mr. Van Doren and seconded by Ms. Desiderio.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator