

LAND USE BOARD MINUTES
June 18, 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, Michael Moriarty, Shirley Czajkowski, Robert Becker, Alt. #1, Ed D'Armiento, Alt. #2, Kurt Rahenkamp, Alt. #3 and David Larsen, Alt. #4.

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer and Dennis Allen, Zoning Officer.

Absent: Dana Desiderio, Bruce Mackie and Ed Kerwin.

There were approximately ten (10) 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 6-4-14 LUB meeting, invoice dated June 5, 2014 (\$450.00)
2. Bernstein & Hoffman, Land Use Board Escrow – Zamarra, Block 14, Lot 17.11 (\$225.00)
3. Maser Consulting, Land Use Board Escrow – Wood, Block 10, Lot 5.07, invoice #237622 - \$95.00
4. Maser Consulting – Land Use Board Escrow – Cellco Partnership – Verizon Wireless (B44, L26), invoice #237623 (\$1,040.00)
5. Maser Consulting – Land Use Board Escrow – Beatrice Snyder, invoice #237624 (\$65.00)
6. Maser Consulting – Land Use Board Escrow – Natale (B33, L4), invoice #237625 (\$32.50)

7. Maser Consulting – Land Use Board Escrow – Fraser (B16, L12.03), invoice #237628 (\$97.50)
8. Maser Consulting – Land Use Board Escrow – Roddy (B33, L7.19), invoice #237629 (\$97.50)
9. Maser Consulting – Land Use Board Escrow – Sargent (B38, L3.04), invoice #237626 (\$65.00)
10. Maser Consulting – Land Use Board Escrow – Giello (B14, L41), invoice #237627 (\$1,040.00)
11. Maser Consulting – Land Use Board Escrow – Lyons (B32, L37.07), invoice #237631 (\$195.00)
12. Maser Consulting – Land Use Board Escrow – Wollmer (B11, L20), invoice #237632 (\$162.50)
13. Maser Consulting – Land Use Board Inspection – JCP&L (B17, L2.01, 2.02), invoice #237633 (\$390.00)
14. Maser Consulting – Land Use Board Escrow – A.M. Best (B46, L2.01, 5 & 6 - landscaping), invoice #237630 (\$682.50)

Roll Call Vote:

Those in Favor: Mrs. Baird, Mr. Van Doren, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Becker, Mr. D’Armiento, Mr. Rahenkamp, Mr. Larsen 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. Application information from the NJDEP re: 2014 Governor’s Environmental Excellence Awards.

ORDINANCE REPORT

Due to Mr. Mackie’s absence there was no ordinance report.

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. 14-10 Lance, Appl. No. 14-08, Block 39, Lot 1
Eligible to vote: Mrs. Baird, Ms. Desiderio, Mrs. Devlin, Mr. Moriarty, Mr. Becker, Mr. D’Armiento, Mr. Rahenkamp, Mr. Larsen and Mr. Johnstone

Mrs. Devlin made a motion to approve the following resolution. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 14-08
RESOLUTION #14-10

WHEREAS, LEROY LANCE has applied to the Land Use Board of the Township of Tewksbury for permission to change the use of the first floor of a two story stone building to a floral consultant and accessory florist shop on property located at 1 Church Street and designated as Block 39, Lot 1 on the Tewksbury Township Tax Map, which premises are located in the Village Business (VB) Zone, and

WHEREAS, the application was presented by Leroy Lance and Pamela Hillner at the June 4, 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, the subject property has 65.52 feet of frontage on Old Turnpike Road (County Road 517), 69.58 feet of frontage on Church Street, and contains 5,682 square feet, and

WHEREAS, the two story stone building on the site contains an office on the first floor and a one bedroom apartment on the second floor, and

WHEREAS, also located on the site is a two story frame building (Blue Building) which contains Tewksbury Travel on the first floor and a single one bedroom apartment on the second floor, and

WHEREAS, access to the site is through an alley way which leads to Lot 27 (*street address*) and through Lot 28 (*street address*) to the site, and

WHEREAS, the aforementioned properties are currently owned by Leroy Lance, and

WHEREAS, there is no parking on the subject property but the seven parking stalls on adjoining Lot 28 which is also owned by Leroy Lance has been used by the occupants and visitors of Lots 1 and 28, and

WHEREAS, it was estimated that the Development Regulations Ordinance (DRO) requires Lot 1 to have approximately ten parking spaces to accommodate the various uses while there is no on-site parking, and

WHEREAS, the Board recognizes that the structures on site have existed for decades without any on site parking, and

WHEREAS, Ms. Hillner testified that she is a floral designer who works with customers for events and celebrations such as weddings, retirement dinners, and the like, and

WHEREAS, she will have a small floral inventory to prove her *bonafides* to prospective customers, but she anticipates minimal retail traffic, and

WHEREAS, the Board finds that Ms. Hillner's business, being an extremely low traffic generator, is well suited for the first floor of the stone building, and

WHEREAS, 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 for the Township of Tewksbury.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 18th day of June 2014 that the application of Leroy Lance for a parking variance for the occupancy of the first floor stone building for a floral

design and accessory flower shop be approved subject, however, to the following conditions:

1. The parking variance is granted solely for a floral design business with an accessory florist shop on the first floor of the stone building.
2. The filing of an easement allowing the tenants and visitors of the buildings on Lot 1 to use the parking lot on Lot 28, which is subject to the approval of the Land Use Board Attorney and the Land Use Board Engineer.

Roll Call Vote

Those in Favor: Mrs. Baird, Mrs. Devlin, Mr. Moriarty, Mr. Becker, Mr. D'Armiento, Mr. Rahenkamp, Mr. Larsen and Mr. Johnstone

Those Opposed: None

- Resolution No. 14-11 Wollmer, Appl. No. 14-07, Block 11, Lot 20
Eligible to vote: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mrs. Devlin, Mr. Becker, Mr. D'Armiento, Mr. Rahenkamp, Mr. Larsen

Mrs. Devlin made a motion to approve the following resolution. Mr. Becker seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 14-07
RESOLUTION # 14-11

WHEREAS, STEFFEN WOLLMER has applied to the Land Use Board of the Township of Tewksbury for permission to construct a two-story addition to his single family residence which is located at 19 Water Street, Lebanon on property designated as Block 11, Lot 20 on the Tewksbury Township Tax Map, which premises is located in Highlands (HL) Zone, and

WHEREAS, the application was presented by Attorney Marcia Polgar Zalewski, Esq.; Civil Engineer and Professional Planner John Hansen, P.E., P.P. of the

firm of Ferriero Engineering, Inc.; and Steffen Wollmer at the June 4, 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, the Board, after considering the evidence presented by the applicant, neighboring property owners, and Mr. Burr, has made the following factual findings:

A. The subject Property.

1. The subject property is an irregularly shaped parcel which is located on Water Street. The site was acquired by the applicant in 2011.

2. An existing two-story home is located on the 1.584 acre parcel. The original part of the home was constructed around 1810.

3. To the rear of the home a tributary of the North Branch of the Rockaway Creek traverses the property. Substantially all of the northern portion of the property is constrained with wetlands, wetlands buffer, and a flood hazard area.

4. The applicant also owns and uses in conjunction with the subject property Block 32, Lot 33 which consists of approximately 0.875 acres. It is improved with a garage, frame building, and in-ground swimming pool.

5. Block 32, Lot 33 is traversed with another tributary of the North Branch.

B. The Proposal.

6. The applicant proposes to construct a two-story addition to the rear of his home. The footprint of the addition will be 1,135 square feet. A portion of the

addition will be constructed in an area of existing impervious coverage. The increase in impervious coverage from the addition and the small concrete pads described in factual finding #9 herein is 700 square feet.

7. The first floor would consist of a two car garage. The second story would consist of a master bedroom suite.

8. There are presently three bedrooms and 2 bathrooms in the home. After the construction, there will be three bedrooms and 3 bathrooms in the home.

9. The applicant also proposed to install small concrete pads for an air conditioning unit, an emergency generator, under a step from the home, and for a propane tank which would serve a fireplace.

10. Civil Engineer and Professional Planner John Hansen testified that his firm had spent a year obtaining the necessary wetlands and flood hazard permits for the construction of the addition. He was concerned that any new construction would require additional DEP approvals.

C. Required Variances.

11. The subject property is undersized, containing 1.584 acres, while the minimum lot size in the HL Zone is 12 acres.

12. The site is *grandfathered* under Section 706F of the Development Regulations Ordinance (DRO). The minimum front yard setback for *grandfathered* lots under three acres is 75 feet and the minimum side yard setback is 40 feet.

13. The existing residence has a front yard setback of 34.63 feet, the proposed addition will have a front yard setback of 54 feet, while the minimum front yard setback is 75 feet.

14. The side yard setback for the addition is 41.10 feet, the side yard setback for the roof overhang is 37.70 feet, while the zoning ordinance requires a minimum side yard setback of 40 feet.

15. The present application is a classic example of a variance on the basis of practical difficulty and undue hardship under N.J.S.A. 40:55D-70(c)(1)(c) by reason of the location of the existing residence on the lot.

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.

17. John Hansen had originally calculated that overall lot coverage after construction at 9.9%. He had recalculated coverage at 9.1%. The ordinance permits the subject property to have 12% lot coverage.

D. Flooding.

18. Neighbors Wilma Frey who resides at 23 Water Street, and Bruce Winters who resides at 25 Water Street spoke eloquently about the flooding on their properties. Ms. Frey spoke about the flooding as “death by 1,000 cuts.”

19. The Board discussed conditioning the approval of the application on the applicant providing stormwater detention. The majority of the Board decided that stormwater detention facilities were not warranted, as the proposed construction would result in impervious lot coverage under that permitted in the Ordinance.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 18th day of June 2014 that the application of Steffen Wollmer be approved in accordance with a plan titled: “VARIANCE PLAN 19 WATER

STREET LOT 20 ~ BLOCK 11 TEWKSBURY TOWNSHIP HUNTERDON COUNTY, NEW JERSEY” prepared by Ferriero Engineering Inc. on March 25, 2014 last revised on May 9, 2014, subject, however, to the following conditions:

1. Conditions recommended by Land Use Board Engineer William H. Burr, IV, P.E. in his report of May 30, 2014 as modified by the Land Use Board:

TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed addition including the proposed use of the space and exterior style, materials, color, etc. *(The addition will look like the existing home with cedar siding and a similar roof.)*
2. The applicant should provide testimony to support the proposed front and side yard variances, including testimony as to the location of residential dwellings on adjoining properties and surrounding vegetation. Can the proposed addition be located so that the roof overhang does not encroach upon the side yard setback? *(See Factual Finding 15 herein.)*
3. The plans do not propose any stormwater management facilities to capture and infiltrate runoff from the proposed addition. 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 even though a lot coverage variance is not required for this application, the applicant will still likely be required to address stormwater management under the Grading & Surface Water Management Plan process – see Comment No. 14 below. *(The Board finds that the 700 square foot increase in impervious coverage which will result in less coverage than permitted by the DRO does not warrant any stormwater management facility.)*
4. The applicant should clarify if any trees or shrubs will be removed or impacted as a result of this project. *(The single bush that will be impacted by the new construction will be moved to another location.)*
5. There is a slight discrepancy with the side yard setback distance for the proposed addition - 37.75 feet on Plan Sheet 1 versus 37.70 ft. on Sheet 2. This distance should be clarified. *(The applicant’s engineer will revise the plan to address this discrepancy.)*
6. A review of the architectural plans indicated that there is no Sheet 3. If this was left out unintentionally, it should be submitted to the Board for review. *(A roof plan was not included in the plans which were submitted to the Board but was presented at the public hearing. It showed that the roof of the addition will be comparable to that of the existing residence. Since the applicant had only one*

copy of the plan, he agreed at the public hearing to have another copy made and provided it to the Board.)

7. There are discrepancies with the lot coverage calculations between the variance plans (8.1% existing, 9.9% proposed) versus the lot coverage form (2.8% existing, 4.5% proposed) attached to the variance application. This discrepancy should be clarified. *(John Hansen recalculated the lot coverage at 9.1%. He will verify the coverage figure with Land Use Board Engineer Burr through a revised plan submission.)*
8. 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. *(The new lighting will be comparable to that of the existing lighting. All new lighting shall comply with Section 632 of the DRO. The lights shall not cause glare or sky glow on other properties or public streets.)*
9. The applicant should clarify what will be the height of the new addition compared to the existing dwelling. *(The height of the ridge line of the new addition shall be lower than that of the ridge line of the existing home.)*
10. The plan reflects a new concrete pad on the east side of the proposed addition, but does not label what it is intended for. *(The concrete pad will be under the steps from the home.)*
11. The plan reflects a “Concrete Pad for Propane Tank” on the east side of the main dwelling. Is this existing or proposed? If proposed, will the tank be screened from Water Street? *(A concrete pad for the propane tank is proposed. It will be screened to the approval of the Land Use Board Engineer.)*
12. The approved NJDEP permits allow for a very limited area of disturbance around the proposed addition. Will construction of the addition even be possible within this limit of disturbance? *(John Hansen said that the construction was feasible.)*
13. The applicant should clarify if the existing driveway will need to be enlarged or otherwise modified to meet the proposed addition/garage. *(There will be no change in the existing driveway.)*
14. 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. *(Since the increase in lot coverage is less than 1,000 square feet, a grading and stormwater management plan is not required.)*

2. A foundation survey for the concrete slab under the addition shall be submitted to the Land Use Board Engineer and Land Use Board Administrator.

3. John Hansen shall confirm to the Land Use Board Engineer that the necessary NJDEP approvals have been obtained for the construction of the addition.

4. 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.

5. This resolution and the issuance of permits are conditioned on the applicant paying all escrows and fees.

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

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Mrs. Devlin, Mr. Becker, Mr. D’Armiento, Mr. Rahenkamp and Mr. Larsen

Those Opposed: None

Public Hearing

- Lyons
Appl. No. 14-06
Block 32, Lot 37.07
Side and Rear Setback Variance, Impervious Coverage and Steep Slope Variances for addition and detached garage
Action Deadline – 9/12/14

James Chmielak, applicant’s engineer, was previously sworn in. He explained that revised plans were submitted to the Board. He displayed colored versions of those plans, marked as **Exhibit A-9** and **Exhibit A-10**; **Exhibit A-9** is a colored version of Sheet 2 of the site plan dated 6-11-14 and **Exhibit A-10** is a colored version of Sheet 3 of the site plan dated 6-11-14. Mr. Chmielak noted that subsequent to the last meeting there was a site walk by the Board. He went on to explain that the original location of the garage was

15 feet from the property and so based upon Mr. Lyons' attendance at the site walk and the Board's feedback some adjustments were made to the plan which are shown on the revised plans dated 6-11-14. Referencing **Exhibit A-9**, Mr. Chmielak explained that the property boundary is shown in orange, the required setback is highlighted in a dashed pink line, the existing home is highlighted in green, the proposed addition to the existing home is highlighted in yellow and the proposed garage is shown in pink. The revision to the location of the garage shows that it is now connected to the residential dwelling by a ten (10) foot breezeway. The size of the garage is in keeping with the previously proposed garage and it includes the stairs to access the second floor study/office. There is no longer a side yard setback variance required for the garage as it is now proposed at 40.2 feet. The rear yard setback is in keeping with the prior plan but has been slightly reduced; the previous plan showed the garage at 10 feet and the revised plan shows it at 10.7 feet. The garage cannot be pushed forward because of the need for cars to access the garage bays and for turning radius. Part of the revisions called for a slight bump out of the driveway on the East side which will enable cars backing out of the garage to turn and exit the driveway. The revised plan proposes a reduction of impervious coverage from the previous plan, the prior plan was 10.97% and the proposed plan is at 10.76%. The revised plan results in a decrease of the slope disturbance, 940 sq. ft. was proposed originally and the revised plan calls for 709 sq. ft. of critical slope disturbance. The applicant is proposing a special seed mix of a stabilizing type grass around the vicinity of the proposed garage to help with stabilization of the area. The revised plan also eliminates the need to remove three (3) trees. In summary, the changes address a large amount of the concerns expressed by the Board at the last meeting.

Mr. Burr noted that he reviewed the grading plan and it still looks like the entire critical slope area will be disturbed. When asked to confirm that a portion of the driveway will be paved due to the adjustment in the grade of the driveway, Mr. Chmielak responded in the positive. When asked if the runoff from the paved area will run off to the East side, Mr. Chmielak responded in the positive and noted that the goal is to guide the water to the rip rap swale.

When asked by Mr. Bernstein to confirm that there is no reduction in the critical slopes to be disturbed, Mr. Chmielak responded in the positive.

When asked by Mr. Moriarty about the reduction in impervious coverage, Mr. Chmielak explained that the reduction was due to the garage being pulled closer to the existing house.

Mr. Van Doren noted that during the site walk several of the Board members were concerned about the sheeting of water and expressed concern about how the applicant will channel the water coming from the area of critical slopes that will be disturbed. When asked if he looked at that issue, Mr. Chmielak responded in the positive and explained that the water, based on the contours, will go around the structure; after grading, the slopes will be more gradual. Mr. Chmielak explained that they will channel the runoff around the rear of the house and around the South end of the property on the ground.

Mr. Johnstone noted that he had a conversation with both Mr. and Mrs. Lyons about the issue of drainage and his biggest concern was the water flowing down the hill and driveway. Mr. Johnstone expressed concern with channeling the water behind the house and preferred to see the installation of a culvert next to the garage to alleviate the water coming from uphill. Mr. Johnstone was in favor of the realigned location of the proposed garage but still had concern with the runoff.

Mrs. Baird echoed Mr. Johnstone and Mr. Van Doren's comments.

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

When asked by Mr. Van Doren his opinion regarding the drainage issue, Mr. Burr noted that while he did not look at the specific area of concern when he visited the property he opined that some lawn inlets could be installed behind the proposed garage to direct the water around the garage to where the drywell is positioned. Mr. Burr opined that it would be difficult to accomplish it through swales above ground. Mr. Chmielak agreed to install some type of inlet behind the garage to get the water to the system in the front of the home. When asked if she would agree to the use of inlets, Mrs. Lyons indicated that if it corrected the runoff issue and alleviated the concerns of the Board she would be in favor of installing the necessary inlets.

Mr. Bernstein noted that since the Board will not be voting on the application until the next meeting the applicant's engineer and the Board engineer can work together to alleviate the runoff issue prior to the next public hearing.

Mr. James Weill, the applicant's architect and planner, was present to discuss the planning criteria. Mr. Bernstein reminded the Board that Mr. Weill was still under oath. Mr. Weill noted that there are still four (4) variances, the side setback (for the addition to the existing home) and rear setback variance (for the proposed garage), the impervious coverage variance and the critical slope variance. He noted that they are all covered by the same proofs; the lot is an existing undersized and narrow lot with a narrow building envelope. Most importantly the existing structure is already pushed to the rear of the lot which restrains any improvements in a normal way. The existing building is skewed to the setback lines which created problems with improvements. These conditions create practical difficulties and hardships. There are no negative impacts to the public or neighbors or any substantial impacts to the zone plan. Based on his review, Mr. Weill concluded that the benefits substantially outweigh the detriments.

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

Mr. Johnstone noted that he generally is in favor of the application if the engineers can resolve the runoff issue and opined that the solution described by Mr. Burr seemed like the appropriate fix.

Mrs. Baird agreed with Mr. Johnstone's comments.

Mr. Van Doren opined that the revised plan is a big improvement to what was originally presented and encouraged the engineers to work through a solution and return to the next meeting.

When asked by Mrs. Devlin why the Board can't vote on the application, Mr. Bernstein explained that the revised plans were not filed at least ten (10) days prior to the meeting and there are runoff issues that need to be worked out.

Mr. Johnstone announced that the hearing would be continued on July 2, 2014 with no new notice. Mr. Bernstein noted that he would have a draft resolution prepared for that meeting.

Board Discussion/Action Items

- Volunteers for COAH Committee

Mrs. Baird and Mr. Moriarty volunteered for the Committee.

- Ordinance No. 03-2014 – Certificate of Inspections

Mr. Johnstone noted that the Land Use Board has discussed their concerns with this ordinance in the past. He noted that the hearing for the ordinance is scheduled for next Tuesday and encouraged anyone interested in the ordinance to attend the Township Committee meeting to voice their concerns. Mr. Johnstone opined that the inspection process should remain as it is with a caveat that the Township is not responsible for errors. Mr. Bernstein noted that opinion letters have been sent from the Board to the Township Committee.

When asked by Mr. Moriarty what recourse a purchaser has under the new ordinance, Mr. Van Doren explained that if the Township inspection process is removed the buyer will have to go after the seller for any violations. Mr. Johnstone opined that the Township Committee is trying to remove the Township from the process to avoid potential litigation by the purchaser.

Mr. Moriarty opined that the Board will deal with a lot more hardship applications as a result of doing away with the inspection process.

Mr. Van Doren noted that the Township Committee intends to look at the ordinance in 6 to 9 months to see if it is working and if it is the burden that some people believe it will be then the Committee will likely repeal the ordinance and there will be no process at all.

When asked by Mr. Larsen if the paperwork will be between the buyer and the seller, Mr. Van Doren responded in the positive.

Mrs. Czajkowski asked if a closing can occur if a seller refuses to sign the certification. Mr. Bernstein was not sure if a closing could be held up but the seller would be in violation of the ordinance.

When asked by Mr. Becker if he could share the Township Committee's deliberations regarding how quickly the Township can process hardship variances if the ordinance passes, Mr. Van Doren indicated that the Township Committee did not discuss that issue but there would not be any different process than there is currently. When asked if the Township Administrator has considered enhancing some of the training that the Township Staff receives to better serve the tax payers, Mr. Van Doren noted that the Township Committee reduced the Zoning Officer position from a full time to a part time position. He opined that the reduction in hours impaired the Zoning Officer's ability to enforce the current CCO certification process. When asked who on the Township Committee voted for the ordinance being discussed, Mr. Van Doren explained that it was unanimous to introduce the ordinance. Mr. Becker reiterated that he feels that the ordinance is an exit tax and will hurt senior citizens.

Mr. D'Armiento opined that the Township is reneging on its responsibility and should have to perform the inspection. He suggested that it will take longer than 6 or 9 months to judge the impact of the ordinance.

Mr. Rahenkamp opined that the Township should not abandon its role in the process.

Mr. Larsen agreed with Mr. Becker, Mr. D'Armiento and Mr. Rahenkamp and added that the buyer should request that they have some type of certification because the seller may not tell the truth so that the sale goes through.

Mr. Johnstone opened the meeting up to the public for comments.

Kelly Gordon, Leaf Realtors, was present and noted that the State Division of Consumer Affairs has a recommended, but not required, seller's disclosure form that addresses some of the issues discuss by the Board. She opined that there may be an opportunity to create a less complicated solution by piggybacking that form. She also noted that the Construction Code (International Code) is enforced differently in each town. She opined that the proposed ordinance would be very onerous on sellers. She also opined that the primary intent of the existing inspection process is to identify safety issues such as lack of a pool fence, etc.

Howard Weinreich, President of the Tewksbury Township Senior Club, was present and opined that the proposed ordinance is an impossible burden on sellers and, as an attorney, he noted that he would not advise a client to sign off on the certification. When asked if he agreed, Mr. Bernstein reiterated that the Board put its opinion on the record and that he generally agrees with the comments by the public tonight.

Mr. Johnstone reiterated that the Land Use Board feels the same way that the public does and encouraged members of the public to attend the ordinance public hearing at the Township Committee meeting scheduled next week.

When asked by Mr. Rahenkamp if an error resulted in a lawsuit to the Township, Mr. Van Doren responded that he was not aware of a lawsuit. Mr. Rahenkamp opined that the Township was trying to fix something that has not occurred.

➤ Close the following escrow accounts:

Mrs. Baird made a motion to close the following escrow accounts and return the balance to the applicant. Mrs. Czajkowski seconded the motion. All were in favor.

Shoemaker - \$100
Johnson (B23, L20) - \$0
Johnson (B23, L2) - \$642.26
Johnson (B23, L4) - \$24.25
Johnson (B23, L36) - \$328.39

ADJOURNMENT

There being no further business, the meeting adjourned at 8:50 p.m. by motion of Mr. Becker and seconded by Mr. Moriarty.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator