

LAND USE BOARD MINUTES
July 20, 2011

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, Bruce Mackie, Elizabeth Devlin, Shirley Czajkowski, Arnold Shapack, Alt. #1 and Tom Dillon, Alt. #3.

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

Absent: Shaun Van Doren, Dana Desiderio, Michael Moriarty, Ed Kerwin, Eric Metzler, Alt. #2 and Ed D'Armiento, Alt. #4.

There were approximately eight (8) 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 6, 2011.

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:

CLAIMS

1. Bernstein & Hoffman – Attendance at 7/6/11 LUB Meeting – invoice dated July 7, 2011 (\$450.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Johnson (B23, L2) - invoice dated July 6, 2011 (\$225.00)
3. Banisch Associates, Inc. – Land Use Board Inspection – Oldwick Animal Hospital (B45, L28), invoice #P11-19049 (\$284.00)
4. Banisch Associates, Inc. – Land Use Board Escrow – Johnson (B23, L2), invoice #P11-19008 (\$44.02)
5. Banisch Associates, Inc. – Land Use Board Escrow – Johnson (B23, L4), invoice #P11-19009 (\$44.02)
6. Banisch Associates, Inc. – Land Use Board Escrow – Johnson (B23, L36), invoice #P11-19010 (\$115.02)

7. Banisch Associates, Inc. – Land Use Board Escrow – Johnson (B23, L2), invoice #P11-19011 (\$44.02)
8. Suburban Consulting Engineers – Land Use Board Escrow – Wood (B10, L5.07), invoice #16792 (\$407.94)
9. Suburban Consulting Engineers – Land Use Board Escrow – Hill & Dale Farms (B51, L80), invoice #16779 (\$719.00)
10. Suburban Consulting Engineers – Land Use Board Escrow – Hill and Dale Farms (B36, L1, 1.01), invoice #16780 (\$627.00)
11. Suburban Consulting Engineers – Land Use Board Escrow – Johnson (B23, Lots 2, 4, 20 & 36), invoice #16772 (\$1,067.00)

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Shapack, Mr. Dillon and Mr. Johnstone

Nays: None

CORRESPONDENCE

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

1. A letter dated July 8, 2011 from David Cohen to Miles Winder re: Tewksbury Township, Johnson Heliport Application.
2. A letter dated July 15, 2011 from Bill Burr re: Furlong, Appl. No. 10-14, Block 23, Lots 29/29.01.
3. A letter dated July 15, 2011 from Bill Burr re: Glasgow, Appl. No. 11-09, Block 38, Lot 12.
4. A letter dated July 13, 2011 from Chief Holmes re: Glasgow, Appl. No. 11-09, Block 38, Lot 12.
5. A letter dated July 14, 2011 from the Tewksbury Environmental Commission re: Glasgow, Appl. No. 11-09, Block 38, Lot 12.
6. A letter dated July 15, 2011 from the Hunterdon County Planning Board re: Furlong, Appl. No. 10-14, Block 23, Lots 29/29.01.
7. A letter dated July 18, 2011 from the Scenic Roads and Bridges Commission re: Glasgow, Appl. 11-09, Block 38, Lot 12.
8. A letter dated July 18, 2011 from the Oldwick Fire Company re: Kian, Appl. 11-05, Block 34, Lot 19.04.

MINUTES

- June 1, 2011

The minutes of June 1, 2011 were approved by motion of Mrs. Devlin and seconded by Mr. Shapack. All were in favor.

- June 15, 2011

The minutes of June 15, 2011 were approved by motion of Mrs. Devlin and seconded by Mr. Dillon. All were in favor.

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 questions, Mr. Johnstone closed the public participation portion of the meeting.

RESOLUTION

- Resolution No. 11-19 - Kian, Appl. #11-05, Block 34, Lot 19.04
Eligible to vote: Mrs. Baird, Mr. Moriarty, Mr. Metzler, Mr. Kerwin, Mr. Shapack, Mr. D'Armiento and Mr. Johnstone

Mrs. Baird made a motion to approve Resolution No. 11-19, seconded by Mr. Johnstone. The motion carried by the following roll call vote:

LAND USE BOARD
 TOWNSHIP OF TEWKSBURY
 APPLICATION # 11-05
 RESOLUTION # 11-19

WHEREAS, MASOUD KIAN has applied to the Land Use Board of the Township of Tewksbury for permission to construct a detached six car garage (a/k/a motor stable) on his residential property which is located at 5 Alpaugh Farm Road and designated as Block 34, Lot 19.04 on the Tewksbury Township Tax Map, which premises is located in the HL (Highlands) Zone, and

WHEREAS, the application was presented at the July 6, 2011 Land Use Board meeting by attorney David Bunevich, Esq., Civil Engineer James Madsen, P.E., and Masoud Kian, 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, Mr. Burr, and neighboring property owners, has made the following factual finds:

A. The Subject Property.

1. The subject property is a 10.0703 acre flag lot.

2. The site is improved with a large single family residence, three attached two car garages, an in-ground swimming pool, pool patio, shed, walkways, terraces and a driveway.

3. The Tewksbury Township Development Regulations Ordinance (DRO) in Section 704 provides:

“Steep slopes and critical slopes, as defined herein, shall be identified on subdivisions and site plans. There shall be no disturbance on slopes greater than 25% except that an access driveway and an access for utility services may cross slopes greater than 25% provided they generally follow contours and conform with the driveway ordinance. No structure may be erected on slopes greater than 25%, except for a driveway approved under the Township’s driveway ordinance. Slope shall be calculated and mapped using 2 foot contour intervals.”

4. A horizontal east/west band of the subject property containing about 2 acres is constrained with steep slopes of more than 25%.

5. The driveway is about 1,470 feet long and 14 feet wide, was designed to minimize disturbance to steep slopes, with steep slope crossings limited to areas of about 40 and 35 feet

B. The Proposal.

6. Masoud Kian collects cars. In addition to the Range Rovers which he and his wife drive, and the Audi which his son drives, Mr. Kian owns three Ferraris, two Rolls Royces, two old Cadillacs, a 1990 Corvette, three Porsches, and a

Mini Cooper. There is insufficient room in the existing garages for the Kian's personal vehicles, their maintenance equipment, backhoe, and truck, and the classic cars, which are either stored outside the existing garages or offsite in commercial garages. Mr. Kian desires to store his family's personal vehicles, some of his car collection, and his truck, back hoe and maintenance equipment in garages on his homesite.

7. The applicant seeks permission to construct a 74 feet x 35 feet detached six car garage which was shown on the plans with four garage doors and in the middle with a double garage door. While the applicant contended the facility was a five car structure, the garage doors and the size indicate room for at least six vehicles. The height of the structure to the top of the peaked roof will be about 26 feet. Extending beyond the roof would be a cupola.

8. The detached garage would be located along the northwest portion of the site, outside of the steep slopes, and adjacent to the driveway. It would be set back 197.67 feet from the lot to the north, Block 34, Lot 19.05 which is owned by Kathleen Kamine, who along with her husband Harold, own Block 34, Lot 19.06 were they reside at 6 Alpaugh Farm Road.

9. Harold Kamine testified that there were 400 feet of woods between his home and the Kian property. He commended the Kians on their beautiful property.

10. The detached garage would be 147.01 feet from Block 34, Lot 24 which is owned by Peter D. Muller and Jill C. Dany, who live on adjoining Block 34, Lot 25, 39A Still Hollow Road, which they also own.

11. Peter Muller testified Lot 24 is a vacant lot planted with hay. There are pine and spruce trees buffering his lots from the subject property. He can barely see the Kian residence from his property.

12. Lance Lamarca's parents live at Block 34, Lot 19.01, 52 Bissell Road (mailing address 49 Bissell Road) south of the subject property. He and his parents have no objection to the requested variance. They will not see the garage. The Lamarca family commends the Kians on the first rate job they have done in developing their property.

13. John Antonopoulous lives at Block 34, Lot 19.03, 3 Alpaugh Farm Road, east of the site. He commended the Kians on the quality work they have done.

14. Other than the garage doors, the proposed structure with the stone veneer, slate peaked roof, dormers and cupola, has the appearance of a carriage house.

15. The first floor of the garage can accommodate six vehicles (the architect erroneously showed the garage filled with equipment and maintenance vehicles, but with no room for the classic cars). The first floor would include a bathroom consisting solely of a toilet and sink. There would be no shower, no kitchen or kitchen facilities. The building would be heated and air conditioned. The second floor would be reached by a ladder or drop stairs and would be used solely for storage.

16. The applicant agreed to a deed restriction incorporating the provisions of condition 15.

C. Requested Variances.

17. The subject property is located in the HL Zone, where the minimum lot size is 12 acres. As noted in Factual Finding #1, the site contains 10.0703 acres.

18. The site is grandfathered under Section 706F4 of the DRO as it contains more than five acres and has a lot width of at least 225 feet beyond the flag mast.

19. Pursuant to 706F4 the minimum side yard is 50 feet. The proposed side yards for the detached garage are 197.67 feet and 147.01 feet.

20. The existing driveway contains 38,508 square feet and constitutes lot coverage of 8.78%. The residence and other improvements contain 28,431.78 square feet, for 6.47% lot coverage. There is presently 66,939.78 square feet of impervious lot coverage which equates to 15.25% lot coverage. The garage and the additional paved area would increase lot coverage to 71,278.80 square feet or 16.25%. The applicants propose to remove the turnaround at the beginning of the driveway which contains 1,971.71 square feet and convert that area to lawn. The removal of the turnaround would be subject to the approval of the Oldwick Fire Department which had previously requested this improvement. The removal of the turnaround along with the construction of the garage and surrounding paved area would result in 69,307.09 square feet of impervious lot coverage which equates to 15.80% lot coverage.

21. The applicant has proposed a detention system which would retain the run-off created by the additional lot coverage.

22. Section 709c(1) of the DRO permits garages as accessory structures in the HL Zone. A private garage is restricted to housing a maximum of five vehicles. The present application is for six vehicles.

23. The Tewksbury Township Zoning Officer has ruled that a residential lot is restricted to five garages. The applicant proposes to add six garages to the existing six garages on the site.

D. Justification for Variances.

24. The Tewksbury Township Board of Adjustment, a predecessor to the Land Use Board, in 1998 approved an application by Masoud Kian for the construction of a 12,000 square foot home, six attached garages, a detached five car garage (a/k/a motor stable), a driveway and a tennis court. The storm water facility accompanying the application was approved and a resolution was adopted on June 15, 1998. The resolution included conditions which are pertinent to the present application. The home and driveway were constructed but not the detached garage (motor stable) and tennis court. Pursuant to the DRO, the unused variances lapsed.

25. The subject property presently has 15.25% lot coverage which was approved in the 1998 variance. The requested increase in lot coverage to 15.8% with the removal of the driveway turnaround and 16.25% without the removal of the driveway turnaround. The lot coverage variance is justified under both N.J.S.A. 40:55D-70c(1)(b) and (c). The variance is justified under N.J.S.A. 40:55D-70c(1)(b) on the basis of the exceptional topographic conditions of the property. The home was setback in order to avoid impacting steep slopes. The driveway was designed to minimize disturbance to slopes and trees. The unique topography of the site and the prudent development created

the existing lot coverage. The requested variance is also justified under N.J.S.A. 40:55D-70c(1)(c) on the basis of the existing lawful structures on the property.

26. The proposed garage and paved area will minimally increase lot coverage.

27. The limitation on lot coverage is based on water runoff and aesthetic considerations. The applicants have agreed to install and deed restrict the maintenance obligation for a grading and surface water management plan which will retain the runoff caused by the additional lot coverage created by the current application. The aesthetics of the neighborhood will not be impaired by the garage as it is not likely to be seen or at most barely seen, by the adjoining neighbors.

28. Furthermore, the garage, having the appearance of a carriage house, will have a pleasing appearance.

29. The excessive number of garages is justified under N.J.S.A. 40:55D-70c(2) by advancing the following purposes of the Municipal Land Use Law under N.J.S.A. 40:55D-2:

“g. To provide sufficient space in appropriate locations for a variety of . . . residential, recreational . . . uses *by permitting the applicant to construct a garage primarily for the storage of his classic automobiles.*

i. To promote a desirable leisure environment. *By constructing a carriage house type of garage.*

30. The benefit of the deviations substantially outweigh any detriments.

31. 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 20th day of July 2011 that the application of MASOUD KIAN be approved in accordance with the engineering plan “VARIANCE PLAN OF PROPOSED MOTOR STABLE LOT 19.04, BLOCK 34 TAX MAP SHEET 12 5 ALPAUGH FARM ROAD TOWNSHIP OF TEWKSBURY HUNTERDON COUNTY, NEW JERSEY” prepared by Apgar Associates Engineers – Land Surveyors – Planners prepared on September 21, 2010 and last revised March 9, 2011 consisting of a single sheet and architectural plans titled: “KIAN BARN LOT: 19.04 BLOCK: 34 LEBANON, HUNTERDON COUNTY, NEW JERSEY” prepared by Beer & Coleman Architects and Associates, LLC dated January 15, 2010 and May 6,2011 consisting of 10 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 July 1, 2011 as modified by the Land Use Board:

TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed motor stable and related improvements including the following:
 - a. The proposed use of the space and what will be stored it? *Lawn equipment, a backhoe, truck and ATV's are shown on Sheet A1 of the architectural plans with no room for Masoud Kian's car collection. The architectural plans shall be revised to provide some parking spaces for the cars.*
 - b. The exterior style, materials, color, etc. *The garage exterior will be stone veneer with limestone accents and a slate roof.*
 - c. Is the motor stable proposed to be equipped with running water, heat, air conditioning, etc.? Is a bathroom proposed in this space? *The garage will*

have heat and air conditioning. There will be a single bathroom which will be limited to a sink and toilet.

- d. *How many floors is the proposed motor stable? The garage shall have a first floor and a second story which shall be reached by a ladder or drop stairs. The garage shall not be used for living space. There will be no kitchen.*
2. The applicant and its professionals should provide testimony to support the proposed lot coverage variance, including testimony as to the location of residential dwellings and structures on adjoining properties and surrounding vegetation. *The testimony on the appropriateness of the garage site and the lack of visibility was provided by the adjoining neighbors. See Factual Findings 8 through 13 herein.*
 3. As mentioned above, a variance is required due to the number of vehicles that could be stored in the proposed motor stable. A review of the proposed architectural plans reflect five (5) garage doors on the motor stable, with the center door being a 20 ft. wide double door which actually could accommodate storage for six (6) vehicles. The applicant and its professionals should provide testimony to support this variance. *The justification for the garage is found in Factual Findings 24 through 31 herein.*
 4. As previously mentioned, the Township Board of Adjustment approved variances in June 1998 to allow construction of a similar sized motor stable in a location similar to that of the current proposal. Upon review of the recently submitted plans versus those that were approved previously by the Board of Adjustment, I have the following comments:
 - a. The previously approved plan called for a drywell to infiltrate the roof runoff from the motor stable; however, the current plan contains no provisions to handle stormwater runoff. The applicants engineer should address this discrepancy. *The applicant's engineer James Madsen, P.E. testified that the runoff from the detached garage (motor stable) would be directed to drywells. A grading and surface water management plan must be submitted to the Township Engineer for his approval. See condition 1.10 herein.*
 - b. The previously approved plan called for the motor stable to contain a new septic tank and connection to the existing disposal field; however, the current plan does not show the motor stable being connected to the existing septic system. I note that the architectural plans show a proposed bathroom in the motor stable. This issue should be clarified and if a bathroom is proposed, approval will be needed from the Hunterdon County Health Department/Township Board of Health. *Engineer Madsen testified that the septic system had been previously approved by the Township Board of Health. The applicant must obtain approval or a write-off from the Hunterdon County*

Health Department/Township Board of Health for the connection of the proposed bathroom.

- c. The previously approved plan called for a walkway to be constructed on the slope from the main dwelling for access to the motor stable; however, the current plan does not reflect any walkway/stairs. The applicant should clarify this issue – I note that the area between the existing dwelling and proposed motor stable contains slopes that are greater than 25% and disturbance in these areas is not permitted per DRO Section 704. *Masoud Kian testified that there would be no walkway from the home to the detached garage.*
5. The plans call for the removal of an existing paved turn-around area in an attempt to minimize the increase in impervious coverage. My understanding is that this area was constructed to satisfy the Township Fire Department as part of the previous approval and therefore I would not recommend the removal of this turn-around area unless the Fire Dept. and Township Engineer agree that the turn-around is no longer necessary. If this driveway turn-around area (1,971.71 S.F.) were to remain, then the proposed lot coverage would be 71,278.80 S.F. or 16.25%, instead of 69,307.09 (15.80%) as currently proposed. *The Land Use Administrator shall contact the Oldwick Fire Department to ascertain whether the paved turnaround area can be removed. If the answer is in the affirmative, then the applicant shall remove the paved area and convert it to lawn.*

Subsequent to the approval of the application, but prior to the adoption of the within memorialization resolution, the Chief of the Oldwick Fire Company sent a letter to the Land Use Board recommending that the “turn outs remain in place . . .”. Therefore, the turnaround/turn outs shall remain and be maintained.

6. The plan shows two (2) limit of disturbance (LOD) areas on the north side of the existing driveway (across from the proposed motor stable); however, there are no improvements shown in these areas. I note that the previously approved plan reflects a drywell and septic tank as being proposed in these areas. The applicants engineer should clarify this discrepancy. *The applicant’s engineer testified that this information was accidentally omitted from the plans and would be shown on revised plans.*
7. A construction detail of the proposed driveway section leading to the motor stable should be provided on the plans. *The applicant will provide a construction detail.*
8. 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? *The construction will result in the removal of seven trees. There is no need to replace these trees as the substantial number of trees on both the subject property and the adjacent properties obviate the need for new plantings.*

9. The proposed architectural plan reflects several wall-mounted lights associated with the motor stable. The applicant should confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632 (Lighting Ordinance). *There will be five lights on the walls of the proposed garage which will comply with Section 632 of the DRO. The lights shall be shielded and will utilize 100 watt bulbs or lower. The lights shall not cause glare or sky glow on adjoining properties.*

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 plan must result in eliminating the water runoff from the additional impervious lot coverage, through construction of new stormwater management facilities, caused by the within relief.*

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

1. The perpetual maintenance of the Grading and Surface Water Management Plan required in condition 1.10 and the required improvements in accordance with the NJDEP Best Management Practices and any subsequent revisions and subsequent successor regulations.

2. The detached garage shall be limited to a single bathroom with a sink and toilet and no other fixtures.

3. There shall be no kitchen or cooking facilities within the detached garage.

4. Access to the second floor of the detached garage shall be provided by either a ladder or drop stairs.

5. The detached garage shall not be used for living space.

3. The shed shall be moved to a conforming location on the property.

4. The plans shall be revised to the approval of the Land Use Board Engineer within 90 days of the adoption of the within resolution. Included in the revision shall be the movement of the detached garage closer to the existing driveway, which will minimize the additional paving used in conjunction with the garage.

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

6. Conditions in the 1998 Board of Adjustment resolution:

3. These variances are subject to the following conditions:

b. The applicant shall construct a 10,000 gallon in ground storage tank near the front of the house with access for fire vehicles to fight fires on the site. This shall be in addition to the 20,000 gallons available in the swimming pool to fight fires.

c. The gatehouse shall have no roof or there shall be an appropriate bypass of the gatehouse for emergency vehicles access.

e. The applicant shall construct the premises in accord with the plans and specifications submitted with the application. Specifically the cross drains tying into Alpaugh Farm Lane and the drywells to accept the runoff from the roofs of the principal and accessory structures shall be constructed.

7. The Land Use Board Engineer shall examine the existing drainage facilities to insure that they are operational. In the event the Land Use Board Engineer finds any part of the drainage facilities are not appropriately working, the facility shall be fixed to his approval.

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

9. This resolution and the issuance of a building permit hereunder is conditioned upon the applicant paying all escrow fees and real estate taxes.

10. The exterior lighting shall be turned off no later than 11:00 PM and will contain light bulbs no brighter than 100 watts each.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Shapack and Mr. Johnstone

Those Opposed: None

PUBLIC HEARING

- Glasgow
Appl. No. 11-09
Block 38, Lot 12 – King Street
Variance – Side and Front Setback
Action deadline – 10/27/11

Mr. Sam and Judy Glasgow were present along with their architect Keith Hone and their engineer James Madsen of Apgar Associates; all were sworn in by Mr. Bernstein.

Mr. Glasgow explained that they were excited to find the subject house in Oldwick which is in need of repair. He explained that he and his his wife have always lived in and renovated old houses and saw this as an opportunity to live in a desirable area as well as repair an old home. With the help of Mr. Hone they have developed a plan that will accommodate their needs as well as add something to the community.

Mrs. Devlin asked if Mr. and Mrs. Glasgow have received approval from the Historic Preservation Commission to which Mr. Glasgow responded in the positive.

Mr. James Madsen was present and it was noted that Mr. Madsen has appeared on numerous occasions before the Board and his license has not been revoked or suspended since his last appearance.

Mr. Madsen presented to the Board a rendered copy of the plan submitted as part of the application (**marked as Exhibit A-1**). Using Exhibit A-1 Mr. Madsen explained that the lot is an .89 acre property located on King Street in the Piedmont Zone. The light brown area on the exhibit represents the existing structure which is a one and half story stone and wood frame building. There is a small shed to the rear that will be removed to eliminate the existing setback violation. A paved driveway along the easterly side

provides access to an existing barn and apartment at the rear of Lot 11.01 and is also the access for Mr. and Mrs. Glasgow's property. There is a small gravel parking area adjacent to the paved driveway. Mr. Madsen explained that a wetland investigation was performed and the letter is on file which indicates there are no wetlands associated with the stream but there is a riparian buffer. The property slopes from the front left corner to the right side of the property as well as towards the stream. The lot is primarily open with scattered trees and some brush near the stream that traverses the rear of the property. There are several non-conformities including the required lot area, front yard setback, lot width and lot depth. The application proposes to remove and reconstruct the rear portion of the existing structure, add an addition to build in the "L" shaped area and add a porch to the westerly side. It also includes the construction of a new, detached garage. When asked if there is an existing garage, Mr. Madsen replied in the negative. The garage is proposed to be located 18.98 feet away from the easterly property line which is one of the variances requested; 40 feet is required. A variance is also needed for the existing structure as the reconstruction and new additions to the structure are all within the front yard setback. The existing lot coverage is 8.46% where 12% is allowed and the proposed is 11.94% so no coverage variance is required.

Mr. Burr reviewed for the Board his July 15, 2011 report which was addressed by Mr. Madsen as follows:

1. Addressed by the above testimony.
2. Mr. Madsen explained that the property to the east is about 40 off of King St. and located approximately 130 feet from the easterly property line. There is an existing apartment and garage to the rear of the property. The property to the west does not contain a structure. The area was selected because the existing gravel driveway accommodates the garage by not requiring additional coverage. There is also a view to the rear that the owners would like to maintain.
3. The Historic Preservation Commission approved the application.
4. The applicants are aware of the limitations for future improvements.
5. Mrs. Glasgow attempted to contact the adjacent neighbors regarding the driveway access but they have not responded in writing; they provided a verbal approval.
6. Mr. Madsen noted that the existing driveway has served as the access for many years.
7. Mr. Burr suggested stormwater measures for the addition and new garage.
8. No trees are to be removed.
9. The applicant agreed to comply with the lighting ordinance.
10. Construction details will be added.
11. The applicant will comply.
12. The applicant will comply. The Board asked that the applicant be required to get something in writing from the Sewer Committee.

13. The applicant agreed to apply to the NJDEP for a Permit By Rule.

Mr. Burr opined that the applicant should clarify the permission to use the adjacent driveway for access to the proposed garage and the stormwater issue. Mr. Johnstone noted that the applicant would be required to get approval from the adjacent property owner to use the driveway as access.

Mr. Bernstein asked if the driveway could be moved slightly noting that if there was ever a disagreement with the owner of the adjoining property it would put the Glasgows in a terrible position. Mr. Madsen explained that they looked into other locations but it would require more disturbance and another variance.

Mrs. Devlin asked if the applicant would agree to the recommendations made by the Environmental Commission. Mr. and Mrs. Glasgow agreed.

Mr. Johnstone asked about the increase in the footprint of the structure to which Mr. Madsen explained that the existing structure is 1384.6 and with the proposed addition it will be 1721 sq. ft. When asked if there will be gutters on the home, Mr. Madsen responded in the positive and explained that they will deposit onto the lawn. When asked, Mr. Burr explained that the water will run to the rear of the property to the existing ditches. When asked if he had an issue with it flowing into the ditches, Mr. Burr had no issue or immediate concern.

Mr. Shapack asked Mr. Bernstein to explain the difference between a written easement and an easement by prescription. Mr. Bernstein opined that the owners may have an easement by prescription which is similar to squatter's rights. He explained that it would have been best if the Glasgows secured an easement when they purchased the property.

Mr. Dillon asked if parking was permitted along King Street. Mrs. Glasgow explained that they were told that they could use it because their property legally extends to the middle of the street. When asked what the distance is from the paved driveway to the garage, Mr. Madsen responded 23 feet. When asked about the swale, Mr. Madsen believed it to be a manmade swale to keep water away from the house.

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

Mr. Keith Hone was present and it was noted that he has been accepted by the Board in the past. Mr. Hone presented the following items which were marked as follows:

- Exhibit A-2 an aerial photograph
- Exhibit A-3 photographs of the existing conditions
- Exhibit A-4 existing floor plans and demolition plans
- Exhibit A-5 proposed floor plans
- Exhibit A-6 architectural rendering

Exhibit A-7 and Exhibit A-8 are exterior elevations

Mr. Hone noted that the driveway is jointly owned; the drive actually straddles the property line. He opined that it would be difficult for either party to change the driveway.

Mr. Hone displayed for the Board the photographs of the existing structure. He explained that the age of the original structure is approximately between 1725 and 1825 and the remainder of the structure was developed in the 1950's. The original house was about 17 x 22 feet (one floor and a loft space). He explained that a number of conditions preclude a renovation, the existing rooms are very small, the existing home is in disrepair and the windows are small and in disrepair. The stone portion of the building including the 50's addition will be renovated; most of the stone restoration and window replacement have been done. The proposal is to maintain the foundation from the 1950's portion of the home and the deck but to demolish the walls above them. The existing footprint will be utilized and an addition will be added to the west (to fill in the "L" shape). In addition, a porch is proposed on the west side as well as a small bay window on the ground floor. An 800 sq. ft. addition is proposed for the second floor to consist of two (2) bedrooms, a bath and an oversized hall with a library. The first floor will consist of a family room, small kitchen and dining spot. The front door will be oriented towards the east which allows the kitchen, dining and porch area to be on the more private side of the home. Mr. Hone explained that the bulk of the addition is a traditional five (5) bay façade. The materials consist of white painted clapboard, dark asphalt shingles and standing seam metal roof on the porch. The garage is proposed as a free standing post and beam structure with a salt box form and board and batten siding.

When asked, Mr. Hone noted that the existing structure is 1900 sq. ft. and the final proposed total is 3100 sq. ft. When asked about the proposed garage, Mr. Hone explained that it is 24 feet x 24 feet and 18.6 feet high (from the low point to the peak). When asked if there is a second floor, Mr. Hone explained that there is a loft space. When asked if there is electricity or plumbing, Mr. Hone responded that there would be no plumbing but he would recommend electricity. When asked the height of the house, Mr. Hone responded 30.6 from the low point of the grade to the peak of the roof.

When asked by Mrs. Devlin how high the ceilings are, Mr. Hone responded 8 feet 6 inches for the ground floor and 8 feet for the second floor. When asked if there is an attic, Mr. Hone responded in the positive and noted that there will be pull down stairs as access. Mrs. Devlin opined that the addition towers over the original portion of the home. Mr. Hone explained that the height was discussed with the Historic Preservation Commission and rafters have been dropped to take out approximately 8 to 10 inches to keep the height of the structure to a minimum. When asked if there are walkways behind the proposed garage, Mr. Hone responded in the positive.

When asked by Mrs. Czajkowski the number of rooms at the conclusion, Mr. Hone explained that it will be the same as present except one (1) bathroom is being added to the second floor.

When asked by Mr. Mackie if the proposed garage will have any plumbing, Mr. Hone responded in the negative.

When asked by Mr. Shapack the exterior material, Mrs. Glasgow explained that it will be cedar clapboard for the house and pine for the garage.

When asked by Mr. Dillon about the existing fireplace in stone and the proposed fireplace in brick, Mr. Hone explained that it was his recommendation not to try and mimic the existing stone fireplace. When asked if there is drainage that will come from the proposed porch, Mr. Glasgow explained that when it rains the water disappears.

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

Mrs. Judy Glasgow noted that she felt the proposed addition and garage would complement the existing house. She provided the Board with a brief history of the house.

There being no questions by the Board or public Mr. Johnstone closed the public portion of the meeting.

Mr. Johnstone opined that it was a well thought out project and would vote to approve the project with the conditions discussed.

Mr. Dillon was in favor of not requiring additional storm water measures since they meet the criteria and the property already has swales that mitigate runoff.

Mr. Shapack questioned the notation about the driveway with gravel and brick. Mrs. Glasgow noted that it will all be removed and will be chip and tar.

Mrs. Devlin made a motion to approve Appl. No. 11-09 with the following conditions:

1. A letter from the neighbor stating that they have no objection to the driveway access
2. William Burr's report
3. The non-conforming shed to be removed
4. Compliance with the Environmental Commission report
5. No plumbing in the garage
6. Leaders and gutters to be shown on the plan
7. Standard conditions such as 1 year expiration, all other governmental approvals and payment of fees and escrows
8. Letter from the Utility Commission.

The motion was seconded by Mr. Shapack. The motion carried by the following roll call vote:

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Shapack, Mr. Dillon and Mr. Johnstone

Nays: None

Mrs. Czajkowski and Mr. Dillon recused themselves from the meeting due to a conflict with the Furlong application.

PUBLIC HEARING

- Furlong
Appl. No. 10-14
Block 23, Lots 29 and 29.01 – Homestead Road
Amended Site Plan and Variances for addition to existing equine hospital
Action deadline – 8/23/11

Philip Rosenbach, attorney, was present on behalf of the applicant along with Dr. Brendan Furlong, applicant, Ralph Finelli, applicant's architect and Steve Risse, the applicant's engineer; all were sworn in by Mr. Bernstein.

Dr. Furlong explained that times have changed since the clinic was constructed, diagnostics have advanced and new equipment is needed which requires additional room. The application proposes two (2) additional treatment areas (12 x 12) and another 12 x 12 area to house the high tech equipment. When asked if he has the equipment, Dr. Furlong responded in the positive and explained how it has to be moved around due to lack of room. The second floor of the addition will serve as an archiving area for patient records and reports. When asked if the improvements will increase human or horse traffic on the site, Dr. Furlong responded in the negative. When asked about the existing isolation barn and its use, Dr. Furlong explained that approximately four (4) years ago there was an outbreak of the equine herpes virus in New Jersey which is highly contagious and potentially fatal. At the time a policy was established to have every horse that came to the facility isolated if they had a fever. The Amish delivered the barn on a truck; the structure has no foundation. Mr. Rosenbach explained that the barn was placed on the property in an emergency and it encroaches onto the Johnson property (Lot 29) but the Johnson's provided a letter of consent; a variance is being sought as part of the application. When asked why a variance was not requested sooner, Mr. Rosenbach explained that Dr. Furlong approached him over a year ago to pursue the application and it took awhile to put the application together in order to show the existing and proposed improvements.

Mr. Rosenbach explained that there is rubber matting on the ground that creates additional impervious coverage and asked Dr. Furlong to describe the purpose. Dr. Furlong explained that the rubber mats are used to create a level surface from which to do lameness/performance evaluations and gate analysis; a consistent surface is needed to do these types of evaluations. When asked when the matting was installed, Dr. Furlong opined 8 years ago. Mr. Rosenbach noted that the matting also requires a variance.

When asked why it took eight (8) years to request a variance, Dr. Furlong explained that he was not aware that rubber mats needed a variance. When asked about the three (3) sheds on the property, Dr. Furlong explained that one is for hay storage, one for tools and lawnmowers and one for shavings. When asked if there is any other location for the sheds, Dr. Furlong responded in the negative. When asked why he didn't apply for a variance sooner, Dr. Furlong explained that he wasn't aware that something that sits on the ground and had no footings required a variance or approval.

When asked by Mr. Bernstein how many veterinarians are employed, Dr. Furlong responded six (6) full time veterinarians and some part time employees that respond for emergency issues. On a typical day there are approximately eight (8) employees on site and from January through March Dr. Furlong is in Florida. When asked the number of parking stalls proposed, Dr. Furlong reported fifteen (15). On a typical day there are approximately 8 or 9 patients. When asked if they still use the isolation barn, Dr. Furlong explained that it is used if the horse is considered to be threat to the other horses. When asked if the adjoining property is owned by the Johnsons, Dr. Furlong responded in the positive.

When asked by Mr. Benson when the outdoor riding ring was installed, Dr. Furlong explained that it is a fenced in area with stone dust and has been there for 20 years. Mr. Benson noted that it was not on the plan for the original approval. When asked by Mr. Johnstone if a variance is required for a stone dust riding area, Mr. Benson explained that it is the Township's policy to consider this as a structure and impervious surface and therefore a variance for coverage would be required. Mr. Rosenbach reminded the Board that the lot was never formally subdivided the property so he asked that the Board consider the entire tract (Lots 29 and 29.01). Mr. Bernstein opined that although the property was not formally subdivided it has always been treated as a separate 3.4 acre parcel and should be treated that way for this application. Mr. Bernstein explained that by treating it as one large lot it creates a problem because there is a house on the large lot and therefore there would be two (2) principal uses. Mr. Benson noted that Dr. Furlong would have to secure building permits for the three (3) sheds to which he agreed.

Mr. Burr noted that the location of the proposed addition was shown on the original site plan as a loading zone and asked if it is still utilized. Dr. Furlong explained that the loading zone will shift into the drive aisle.

Stephen Risse, engineer, was present. When asked by Mr. Johnstone if his license has been revoked or suspended since the last appearance before the Board, Mr. Risse responded in the negative.

Mr. Risse explained that the property is in the Farmland Preservation Zone, it appears on the tax map as a separate lot from Lot 29 but was never officially subdivided; a lease line was created by the Tax Assessor for assessment purposes. Mr. Risse described for the Board the flow of traffic, parking areas, traffic control signs, lighting, detention basin and manure bins. When asked about the rubber matting over the septic system, Mr. Risse opined that it would have no impact on the septic system.

Mr. Risse explained that the proposed addition will be built over a paved area and will square off the building (a 592 sq. ft. footprint).

When asked about the proposed parking, Mr. Risse explained that the original parking spaces were designated as 10 x 20 spaces and it is more common to use 9 x 18 spaces. Using the office space requirement for parking spaces, the addition requires three (3) more parking spaces. By reducing the size of the parking stalls to 9 x 18 five (5) additional parking spaces are shown in the rear, nine (9) across the front of the building and one (1) additional space in the gravel area for a total 15 parking stalls. When asked if he disagrees with the rational used, Mr. Burr responded in the negative. When asked about the coverage, Mr. Risse indicated that the existing coverage is 1.46% and if the application is approved it will increase to 1.58% (based on the entire Lot 29 and not Lot 29.01). When asked about the lighting, Mr. Risse testified that the existing lighting is adequate and no new lighting is proposed. When asked if there is any other logical place for the rubber matting, isolation barn or storage sheds to be placed, Mr. Risse responded in the negative.

When asked by Mr. Burr if there will be an issue with maneuverability of the horse trailers, Mr. Risse responded in the negative because there typically is not a full parking lot of cars. When asked if the stormwater basin is sufficient to handle additional runoff, Mr. Risse responded in positive. When asked if any new lighting is proposed, Mr. Risse responded in the negative.

Mr. Risse addressed Mr. Burr's report and agreed to make any necessary plan changes. When asked about the variances, Mr. Risse explained that the facility is an existing use that was approved and it is an application for an expansion of that use. Mr. Risse opined that the use is well suited given the equine community. When asked if there would additional sanitary sewer volumes, Mr. Risse responded in the negative.

When asked by Mr. Mackie the thickness of the rubber mats, Mr. Risse opined $\frac{3}{4}$ of an inch. When asked if they have been pulled up, Mr. Risse explained that he picked them up to inspect the septic system. When asked if DEP has an issue with the three (3) sheds and the rubber matting within the 150 buffer, Mr. Risse explained that the sheds are on existing paved area so he didn't feel the DEP would have an issue.

When asked by Mr. Shapack if the matting is solid, Mr. Risse explained that they are solid interlocking pieces.

Ralph Finelli, architect for the applicant, noted that his license has not be suspended or revoked. When asked what Board's he's been recognized by Mr. Finelli listed Raritan, Clinton, Readington Townships, Clinton Borough and Flemington. When asked if he has worked on veterinary buildings, Mr. Finelli responded in the positive and listed Basking Ridge and Fords Township in Pennsylvania. The Board recognized Mr. Finelli as an expert witness.

Mr. Finelli presented a copy of the plan as presented to the Board with some color hatching (**marked as Exhibit A-1**). Mr. Finelli described the interior of the building and the proposed addition. Mr. Finelli explained that the construction will be concrete block with a natural stone veneer. When asked if the appearance will change, Mr. Finelli explained that the view of the building from Homestead Road will be unchanged.

In summary, Mr. Finelli noted that the use of the space will continue to be for the equine practice with state of the art diagnostics. The exterior style is commensurate with the existing building. The first floor addition is 592 sq. ft. and the second floor is 842 sq. ft. for a total increase of 1434 sq. ft. When asked if there will be any plumbing in the addition, Mr. Finelli responded in the negative and noted that it is not contemplated as living space. When asked about handicap access, Mr. Finelli explained that the back of the building is at grade access so the building is currently handicapped accessible.

When asked by Mr. Bernstein about the number of existing treatment rooms, Dr. Furlong explained that many of the areas (such as the grooming stall) serve double duty as a treatment area.

Mr. Johnstone opined that Dr. Furlong was remiss in getting the proper permits from the Zoning and Construction Officials. Having said that, Mr. Johnstone was not opposed to the application but made it clear to Dr. Furlong to pursue proper permits for any future improvements.

Mrs. Devlin questioned how the Board was going to handle the stone dust riding ring. Mr. Burr opined that more detention would not be required for the riding ring; the existing detention basin is adequate. Mr. Bernstein opined that the riding ring needs a variance and should be based on the equine facilities leased area (Lot 29.01) not the entire lot; the original variance was based on the leased area (Lot 29.01) not the entire tract. When asked what the coverage would be on the leased area (Lot 29.01), Mr. Burr noted that it would be 25.3%.

Mr. Mackie, Mrs. Baird and Mr. Shapack concurred with Mr. Johnstone.

Mr. Bernstein suggested that Mr. Burr's report be the basis for the conditions. The Board made it clear that the variance that was granted was for an equine use only (the use is limited to horses not dogs, cats, etc.); any other type of business/service would need to return to the Board for approval.

Mrs. Devlin made a motion to approve Appl. No. 10-14 subject to the conditions outlined in the engineers report. The motion was seconded by Mrs. Baird. The motion carried by the following roll call vote:

Roll Call Vote:

Ayes: Mrs. Baird, Mr. Mackie, Mrs. Devlin, Mr. Shapack and Mr. Johnstone

Nays: None

ADJOURNMENT

There being no further business, the meeting adjourned at 10:23 p.m. by motion of Mrs. Baird and seconded by Mr. Mackie.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator