

**LAND USE BOARD MINUTES**  
**February 20, 2013**

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 7:30 p.m.

Present: Blake Johnstone, Shaun Van Doren, Mary Elizabeth Baird arrived at 7:40 p.m., Bruce Mackie, Elizabeth Devlin, Michael Moriarty, Shirley Czajkowski, Ed Kerwin arrived at 7:34 p.m., Robert Becker, Alt. #1, Eric Metzler, Alt. #2, Ed D'Armiento, Alt. #3 and David Larsen, Alt. #4.

Also present: Chuck McGroarty, Township Planner and Shana L. Goodchild, Land Use Administrator.

Absent: Dana Desiderio

There was approximately one (1) person 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 04, 2013.

**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 Mr. Van Doren seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 2-6-13 LUB meeting – invoice dated February 7, 2013 (\$450.00)
2. Suburban Consulting Engineers – Land Use Board Inspection – Johnson (B23, L4, 20 & 36), invoice #000000019977 (\$523.82)

Roll Call Vote:

Those in favor: Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Becker, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

Abstentions: Mr. Larsen

**CORRESPONDENCE**

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

1. A letter dated February 13, 2013 from Henry Kreuter re: Newell, Appl. No. 12-16, Block 34, Lot 13.01 requesting postponement of hearing.
2. Memorandum dated February 13, 2013 from Chief Holmes re: Newell, Appl. No. 12-16, Block 34, Lot 13.01.
3. Memorandum dated February 13, 2013 from Chief Holmes re: Old Turnpike Realty, Appl. No. 12-15, Block 23, Lot 27.
4. A letter dated February 15, 2013 from William Burr re: Newell, Appl. No. 12-16, Block 34, Lot 13.01.
5. A memo dated February 19, 2013 from Dan Bernstein re: Oldwick Re-zoning.

**ORDINANCE REPORT**

Mr. Mackie reported on an ordinance from Califon Borough eliminating references to the Permit Review Sub-Committee. He also reported on a Re-examination of the Master Plan from Lebanon Borough; Mr. Mackie passed the Lebanon Borough ordinance on to Ms. Goodchild.

**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. 13-08** – Oldwick Fire Company, Block 44, Lot 22.01

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

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
RESOLUTION # 13-08

WHEREAS, THE OLDWICK FIRE COMPANY has applied to the Land Use Board of the Township of Tewksbury for a site plan waiver in conjunction with the construction of two apartments within the Oldwick Fire House which is located at 163

Oldwick Road on property designated as Block 44, Lot 22.01 on the Tewksbury Township Tax Map, which premises is located in the Piedmont (PM) Zone, and

WHEREAS, the Oldwick Fire Company had previously applied to this Board in application #02-03 for a minor subdivision, preliminary site plan approval, and variances and/or waivers for the construction of a fire house, and

WHEREAS, said application was approved and a memorialization resolution was adopted on October 16, 2003, and

WHEREAS, final site plan was approved on February 18, 2004 and a memorialization resolution was adopted on March 3, 2004, and

WHEREAS, amended final site plan was approved on August 3, 2005 and a memorialization resolution was adopted on September 7, 2005, and

WHEREAS, the fire house was constructed, and

WHEREAS, the Oldwick Fire Company sought permission from the Zoning Officer to construct two duty crew apartments within the fire house which would share a kitchen and bathroom, and

WHEREAS, the testimony disclosed that Township Attorney Michael Selvaggi, Esq. informed the Zoning Officer that the proposed use was accessory to the Fire Company's mission, subject to the caveat that it only be used by fire company members and not rented, and

WHEREAS, the Oldwick Fire Company sought a site plan waiver from the Land Use Board which was presented by Attorney Robert Boak, Esq.; Oldwick Fire Company President Webster B. Todd; and Oldwick Fire Company Building and Grounds Chairman Rick Brady at the February 6, 2013 Land Use Board meeting, and

WHEREAS, the applicant's representatives discussed the need for night crews during emergency situations such as FEMA alerts, and

WHEREAS, the witnesses and Mr. Boak discussed a program whereby Raritan Valley Community College students who are studying fire fighting would be allowed to sleep in the apartments providing they serve as a night crew, and

WHEREAS, Board Members were concerned that the college students be subject to supervision, and

WHEREAS, the testimony disclosed that there was ample parking on site, the requested apartments would not generate the need for any site improvements, nor were any site improvements proposed.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 20<sup>th</sup> day of February 2013 that the application of THE OLDWICK FIRE COMPANY for a site plan waiver be approved.

Roll Call Vote

Those in Favor: Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker and Mr. Johnstone

Those Opposed: None

➤ **Resolution No. 13-09** – Gordon, Appl. No. 12-14, Block 6, Lot 41.02

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

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 12-14  
RESOLUTION # 13-09

WHEREAS, JEFF GORDON and CATHERINE HARTLEY have applied to the Land Use Board of the Township of Tewksbury for a lot coverage variance for the

expansion of their single family residence which is located at 37 Big Spring Road on property designated as Block 6.04, Lot 41.02 on the Tewksbury Township Tax Map, which premises is located in the HL (Highlands) Zone, and

WHEREAS, the application was presented at the February 6, 2013 Land Use Board meeting by Jeff Gordon, Civil Engineer and Professional Planner Wayne J. Ingram, Jr., P.E., P.P., of the firm of Engineering & Land Planning Associates, Inc., and Civil Engineer Richard A. Nusser, P.E., 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 applicants and Mr. Burr, has made the following factual findings:

A. The Subject Property.

1. The subject lot is part of the Fox Fell subdivision which was approved by the Tewksbury Township Planning Board in the 1980's.
2. The parcel contains 4.342 acres with 35 feet of frontage on Big Spring Road.
3. The subject lot is an irregularly diamond shaped parcel with the point cutoff at Big Spring Road.
4. The site slopes from the front to the rear.
5. There are no wetlands or flood plains on the site.
6. Located 307 feet from the road is a two story residence containing 3,989 square feet of living space with an attached three car garage of about 500 square feet. Other improvements include a long paved driveway, a brick walkway from the

front of the home to the driveway, a wood deck, an in-ground swimming pool and concrete deck, a children's swing set, and two sheds.

7. The site is heavily treed.

B. The Proposal.

8. The applicants propose to construct a 1,758 square foot addition to the front and west side of the home, including a wrap around porch. The first floor addition of 1,138 square feet of living space will consist of a foyer, expanded living room, and sunroom. The 1,050 square foot of living space addition to the second floor will consist of a new master bedroom area, another new bedroom, an expanded bedroom and a library/home office with bookshelves and no closets (created from an old bedroom space) which would be used by Catherine Hartley who works from the home.

9. Jeff Gordon testified that there were currently four bedrooms in the home and that the addition and reconfiguration would result in the home having four bedrooms. Board Members were concerned that a future owner of the property could convert the library/home office into a fifth bedroom which would require Board of Health approval for an increase in the number of bedrooms.

10. The proposed addition would result in the home having a total of 2,838 square feet of living space on the first floor, a wrap around porch, and the three car garage containing about 500 square feet. The second floor would contain 3,339 square feet of living space.

C. Required Variance.

11. The subject property is currently undersized, being located in the HL Zone, where the minimum lot size is 12 acres.

12. The maximum impervious lot coverage in the HL Zone is 5%. The existing lot coverage is 7.41% which is proposed to be increased to 8.42%.

13. The rationale for the limitation on impervious lot coverage is two-fold, aesthetic and the control of water runoff.

14. The addition will exceed all setback requirements in the HL Zone for 12 acre lots. The extensive tree foliage on the site will buffer the addition from the adjoining parcels and Big Spring Road.

15. This Board has required applicants for impervious lot coverage variances to detain water runoff over the amount caused by the excessive lot coverage. That would result in reducing water runoff to 5% with the instant application.

16. Section 706F of the Tewksbury Township Development Regulations Ordinance (DRO) *grandfathers* existing undersized lots which existed as of 2002 and which were made nonconforming by subsequent down zoning requiring larger minimum lot sizes. To be *grandfathered*, the owner of the undersized lot cannot own an adjacent lot. The applicants meet all of the requirements of 706F of the DRO except the provision that the lot have a width of at least 225 feet. The Zoning Officer and the Land Use Board Engineer have interpreted this provision as requiring a 225 foot lot width at the building setback line which in the HL Zone is 100 feet. Because of the unusual configuration of the site, the width at the 100 foot setback is about 190 feet, although it widens to about 550 feet where the home is located.

17. The maximum lot coverage for a *grandfathered* lot between 3 – 5 acres under Section 706F(3) of the DRO is 8% for a 3 acre lot which decreases by 1% for each additional acre.

18. Most lot coverage variances which this Board has entertained involve undersized lots which are *grandfathered* under Section 706F of the DRO, with a less restrictive lot coverage requirement than for a conforming lot. The Board finds a hardship under N.J.S.A. 40:55D-70c(1) by reason of the unusual shape of the subject property which precludes it from being designated as an undersized lot of record because of the width at the building setback line.

19. A subsidiary grounds for the variance, but not one which would justify it, is the topography of the site, which has resulted in the placement of the home at the back of the lot, which necessitates a long driveway with about 3.25% lot coverage. Standing alone, this factor would not justify the requested variance.

20. The home with the proposed addition is consistent with the homes in the area.

21. The Board finds that it is reasonable to require the applicant to reduce the water runoff to an effective coverage of 6.25% which would be the approximate coverage if the runoff from the entire existing dwelling were captured in drywells or other stormwater management facilities.

22. Based on the extensive front yard setback for the addition of 283 feet, while the underlying HL Zone merely requires a 100 foot front setback, and the proposed minimum side yard setback of 133.5 feet, while the underlying HL Zone requires 100 feet, and the extensive foliage on the property, the Board finds that there would be no aesthetic impairment caused by the variance.

23. Based on the requirements imposed in Conditions 2.9 and 6.a herein that the water runoff be limited to that produced by total impervious lot coverage

of 6.25%, the Board finds that there would be no impairment to adjoining parcels created by the excessive lot coverage.

24. The requested relief, with appropriate conditions, 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.

C. Notice.

25. The list of the property owners within 200 feet of the site which was prepared by Tewksbury Township lists as the owners of Block 6.05, Lot 4 (46 Big Spring Road) Matthew and Jamie Werbel. According to Jeff Gordon they moved and the current owners are Jim and Jill Irwin.

26. Since the Irwins are not listed as the owners of the foregoing property, the applicants must provide proof which is acceptable to the Land Use Administrator Shana Goodchild, LUA, that the Irwins were, in fact, the owners of the foregoing property at the time of the Public Hearing namely February 6, 2013. The failure to satisfy this requirement within 30 days of the adoption of the within resolution shall void the Public Hearing and the approval and the within resolution which will become a nullity.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 20th day of 2013 that the application of JEFF GORDON and CATHERINE HARTLEY be approved in accordance with a plan titled: "VARIANCE PLAN 37 BIG SPRING ROAD BLOCK 6.04 LOT 41.02, TAX MAP SHEET NO. 1 TOWNSHIP OF TEWKSBURY HUNTERDON COUNTY NEW JERSEY" prepared by Richard A. Nusser, P.E. and Salvatore Miklowcic, L.S. consisting

of 2 sheets dated October 18, 2012 and last revised January 7, 2013 and architectural plans titled: "PROJECT NAME: HARTLEY – GORDON RESIDENCE ADDITION/RENOVATION #37 BIG SPRING ROAD CALIFON, (TEWKSBURY) NJ 07830 LOT #41.02 BLOCK #6.04" prepared by Casper G. Huizenga, Architect consisting of Sheets A-1 through A-4 dated January 18, 2013 subject, however, to the following conditions:

1. The applicants shall submit evidence which is satisfactory to Land Use Administrator Shana Goodchild that Jim and Jill Irwin, who received notice of the public hearing, were the owners of Block 6.05, Lot 4 (46 Big Spring Road) as of the date of the public hearing, namely February 6, 2013, and not Matthew and Jamie Werbel who were listed as the owners of that property on the list supplied by the Township of Tewksbury. Failure to satisfy this requirement within 30 days of the adoption of the within resolution will invalidate the within approval and render it null and void.

2. Conditions recommended by Land Use Board Engineer William H. Burr, IV, P.E. in his memorandum of February 1, 2013 as modified by the Land Use Board:

"TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed addition including the proposed renovations, proposed use of the various new spaces, number of existing and proposed bedrooms, exterior style, materials, color, etc. Will the proposed exterior improvements have any negative visual impacts on the adjacent neighboring properties?

*The proposed addition will be barely visible from the adjoining properties to the west and south, and not visible from either the road or the properties to the east.*

2. The applicant should provide testimony to support the proposed lot coverage variance. The property is currently 4,571.75 S.F. in excess of the permitted lot coverage and the applicant is proposing an increase (net) of 1,895 S.F. as part of this application. Therefore, the total excess lot coverage as a result of the

proposed improvements, beyond that which is permitted, is proposed to be 6,466.75 S.F.

Can any existing lot coverage areas be removed as a way to decrease the amount of coverage on this property?

*See Factual Findings 11-24.*

3. In an effort to mitigate the increase in stormwater runoff from the proposed building addition, the applicant has provided a small detention pond (bio-retention basin) behind the existing in-ground swimming pool. The Township Engineer has already reviewed a Grading & Surface Water Management Plan and has issued two (2) disapproval letters, with the most recent letter being dated December 13, 2012. Upon review of this stormwater management proposal, I have the following comments:
  - a. Additional information should be provided either on the plans or by submission of separate stormwater calculations to confirm that the basin has been sized properly.
  - b. The plan and details should be revised to clearly reflect how the 6" PVC roof leader drain will evenly disperse the roof runoff into the proposed basin.
  - c. The plans should be revised to reflect clean-outs at all underground pipe bends to allow for future maintenance and cleaning.
  - d. If the variance is approved by this Board, the applicant will also need to address the Township Engineer's comments in his December 13, 2012 letter mentioned above.

*The applicants agreed to comply with these requirements. The plan will also be revised to reflect the entire roof area to be drained to drywells or other stormwater management facilities, which will reduce the effective lot coverage to about 6.25%. This revised plan shall be submitted to the Land Use Board Engineer for review and approval.*

4. Will any trees or other existing landscape plantings be impacted by the proposed addition? If so, are the applicant's proposing to plant new landscape materials?

*A few small trees may need to be removed to accommodate the installation of the detention basin; however, additional landscaping will be planted after the addition is constructed.*

5. The architectural plans reflect new proposed exterior lights (i.e. wall mounted and recessed) to be installed as part of the addition including wall-mounted lights on the second floor balcony at the new doorways and recessed lights in the ceiling of

the covered porch. The applicant should provide testimony to confirm the wattage of these proposed lights and to confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632. All lighting should be minimal wattage and be down-shielded to ensure compliance with the above requirements.

*The lighting shall comply with the requirements of Section 632 of the DRO. All lighting shall be shielded and shall not create glare or sky glow. All lighting is subject to the approval of the Land Use Board Engineer.*

6. The applicant should provide testimony to clarify number of existing and proposed bedrooms, and that there will be no impact to the existing septic system.

*The testimony disclosed that there are presently four bedrooms in the residence. After the construction of the addition and the reconfiguration of the rooms there will be four bedrooms. Because the library/home office could be readily converted by a future owner of the home to a fifth bedroom, the Board requires a deed restriction pursuant to Condition 6b herein.*

7. In the Zoning Chart of Plan Sheet 2, there is a proposed coverage amount of 45 S.F. listed with no label as to what it is for? This should be updated.

*This is an error which will be corrected on the revised plans.*

8. The applicant should clarify whether any walkway is planned from the proposed covered porch addition on the west side of the dwelling to the rear of the property?

*No additional walkway is proposed.*

9. A Grading and Surface Water Management Plan (GSWMP) will need to be approved by the Township Engineer prior to any building permits being issued. The applicant appears to have commenced this process ready as evidenced by the previous disapproval letters issued by the Township Engineer (as described in Comment No. 3 above).

*A grading and surface water management plan is to be submitted to the Township Engineer for his approval which shall reduce water runoff to that produced by no more than 6.25% lot coverage.*

3. The variance for the expansion of the residence must be utilized within one year from the date of this memorialization resolution or the variance shall be null and void and of no further effect.

4. The applicants shall comply with all rules, regulations, ordinances and statues 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 statues.

5. This resolution and the issuance of a building permit hereunder are conditioned upon the applicants paying all escrows and fees.

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

a. The submission of a Grading and Surface Water Management Plan required in Condition 1.9 herein to the Township Engineer for his approval. The plan is to be implemented to his approval. These facilities shall reduce the effective runoff to that produced by 6.25% lot coverage. These facilities shall be permanently maintained in accordance with the NJDEP Best Management Practices and any subsequent revisions and successor regulations.

b. The within addition is approved subject to the condition that the home remain a four bedroom residence. Any increase in the number of bedrooms will require an application and approval from the Land Use Board Administrator and the appropriate Board of Health.

7. The plans shall be revised to the approval of the Land Use Board Engineer within 45 days of the adoption of the within resolution. Subsequent revisions shall be made within 15 days of the Land Use Board Engineer's request.

Roll Call Vote

Those in Favor:

Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. Becker, Mr. Metzler, Mr. D'Armiento and Mr. Johnstone

Those Opposed: None

### **Land Use Board Discussion Item**

- Residential Generators and A/C Condensers – discussion regarding relaxing the bulk requirements for the placement of this equipment on residential lots

Ms. Goodchild explained that generators and A/C condensers need to meet the same bulk requirements as any other structure. She explained that due to the recent storms there has been an increase in generator permits and there have been a significant amount of those permits denied because they cannot meet the setback or impervious coverage requirements. When asked by Mr. Johnstone the downside of allowing generators to be installed without getting a variance, the general consensus was that noise may be an issue for neighbors. Mrs. Devlin noted that when her neighbor's generator tests once a week for 30 minutes it comes on at an inconvenient time and the smell of the exhaust blows into their yard. Mr. Metzler opined that had the neighbor appeared before the Board for approval the Board could have required the test to be done at a reasonable time that would not be obnoxious for neighbors. Ms. Goodchild noted that staff tried to make the recent application for the A/C condenser a simpler process for the property owner and suggested doing the same for any generator applications that come before the Board. Mr. Moriarty expressed concern with relaxing the requirements which might foreclose the neighbor from having an opportunity to comment at a hearing. Mr. Johnstone agreed. Mr. Van Doren suggested changing the fee structure for applying for a variance for a generator or A/C condenser and eliminate most of the professional review; the Board would continue to retain the jurisdiction but it becomes a simplified application process. Ms. Goodchild confirmed that the applicant would only provide the information that is typically required for the zoning permit but would provide full notice for the variance and there would be no engineering review. Mr. Metzler noted that some of the larger generators on lots where they won't require variances may be just as obnoxious to neighbors but they won't be regulated. Mr. Johnstone opined that the large generators referenced by Mr. Metzler are hopefully not typical. The consensus of the Board was to recommend to the Township Committee to amend the ordinance for the fees and to simplify the application process for these two (2) types of variance applications (generators and A/C Condensers). Mrs. Baird made a motion and Mr. Moriarty seconded the motion. All were in favor.

### **Public Hearing**

- Re-examination Report and Land Use Plan Element Amendment (Village Residential Zoning Amendment)

Mr. McGroarty noted that the Board received a draft copy of the Re-examination report and Land Use Plan Element Amendment. He explained that the Land Use Subcommittee recommended modifications to the setbacks in the Village Residential Zone. The re-examination report sets the stage by addressing the normal report findings as well as identifying this objective by reducing the setback requirements in the Village Residential District to be consistent with the Village Business District. It would allow a

front yard setback of five (5) feet instead of 75 feet, a rear yard setback of 25 feet instead of 50 and side yard setback of 15 feet instead of 30 feet. The Master Plan amendment was triggered by one (1) area in Pottersville where there is a subdivision that dates back to 1966 (Glenbrook); identified in Exhibit 1. The streets of Addison, Keats and Dryden and several properties on the periphery will be included in a separate zone district to be known as Village Residential – 1 Zone (VR-1). The reason this was done is because under the Municipal Land Use Law the zoning regulations have to be uniform throughout each district; the solution was to create the VR-1 District. In the VR-1 district everything would remain the same except for the front setback which would go from 75 feet to 65 feet; consistent with the standard that was in place when the subdivision was approved in 1966. Mr. McGroarty noted that Ms. Goodchild provided examples of recent variances to support the changes.

Mr. McGroarty noted that the proposal is consistent with the Municipal Land Use Law (MLUL), specifically 40:55D-62, the power to zone. Also, under purposes set forth in the MLUL, there are four (4) areas furthered by the amendment, subsections a, g, i and j. Lastly, the proposed change is consistent with the Master Plan, specifically the Historic Preservation Plan Element.

Ms. Devlin questioned whether this will allow owners to build right up to the property line. Mr. McGroarty explained that it is still subject to impervious coverage restrictions but the existing homes are already out of compliance.

Mr. Moriarty asked for clarification on the 65 foot front setback in the proposed VR-1 District. Mr. McGroarty explained that when he reviewed the Glenbrook subdivision plans the side and rear setbacks were unspecified but the front setback was specifically mentioned at 65 feet. As long as the zoning is being modified it makes sense to go back to the 65 foot setback. It will help those that want to make a modification to a porch; they won't need to appear before the Land Use Board for a variance for a small modification.

Mr. Larsen asked if there was a certain organization asking for the change to which Mr. McGroarty explained that it was a recommendation from the Land Use Sub-committee based on the volume of variances in the villages. Ms. Goodchild noted that it was originally discussed by the Land Use Board and was then further discussed by the Land Use Sub-committee. Mr. Johnstone noted that the upside to the amendment is that it reduces the number of variance applications which reduces the expense to the taxpayers. He noted that the downside is that the Land Use Board loses control over the setback issues however the Board would still see impervious coverage variances since the maximum coverage will stay the same. Mr. Van Doren noted that the Historic Preservation Commission will retain jurisdiction over the design and scale of the projects in Oldwick, Mountainville and Pottersville.

Mr. Metzler asked about adjusting the impervious coverage. Mr. McGroarty explained that he was not asked to address coverage as part of the amendment. Mr. Van Doren

noted that the Land Use Sub-committee discussed coverage and it was not a recommendation to change to the coverage.

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

Mr. John Melick, 18 Church Street, Oldwick was present and explained that he is the poster child for the amendment. He noted that he lives at 18 Church Street and everything is non-conforming on his lot. He went on to explain that approximately a year ago he purchased one of the last vacant lots in Oldwick adjacent to his existing property. It is an acre lot and he is close to finishing the design but he's held back on finalizing the design and permitting process knowing that this amendment was being considered. Mr. Melick expressed his endorsement of the amendment because good planning takes into account existing conditions. However, he opined that the impervious coverage at 15% is too restrictive noting that many of the lots that are a 1/3 of an acre or smaller will continue to have to apply to the Land Use Board for coverage variances; some relief for the coverage should be included in the amendment.

Mr. Johnstone noted that the Board has struggled with the impervious coverage and continues to want to be able to control, to a certain degree, through the variance process what goes on. The Board retains the ability to negotiate with a homeowner by having them remove some existing coverage or provide detention facilities. Without the variance process that negotiation opportunity will not exist. Mr. Johnstone expressed his support for the amendment as drafted.

Mrs. Baird agreed with the recommendations suggested but wondered if the Land Use Sub-committee should take a look at the coverage issue in the villages. Ms. Goodchild was unsure what would result from another review and opined that it is basically a policy decision by the Land Use Board; should the Board retain jurisdiction or not. She added that if the coverage is increased or mitigation measures are built into the ordinance the Board loses jurisdiction and there will also be no forum for public comment. Mr. Johnstone indicated that he did not want to lose that discretion.

Mr. Van Doren made a motion to adopt the Master Plan Re-examination Report and Land Use Plan Element Amendment dated February 20, 2013. Mrs. Devlin seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

**Public Hearing**

➤ Newell

Appl. No. 12-16  
Block 34, Lot 13.01  
Use Variance  
**Action deadline – 5/08/13**

Mr. Johnstone announced that the public hearing was postponed until March 20, 2013 and no new notice will be required.

**Escrow Closing**

- Hill and Dale - #701721 - \$44.75
- Hill and Dale - #701722 - \$1,529.73

Mr. Van Doren made motion to close the above referenced escrows and return the balance to the applicant. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

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

Those Opposed: None

Abstained: Mr. Larsen

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:30 p.m. by motion of Mr. Van Doren and seconded by Mrs. Devlin.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator