

**LAND USE BOARD MINUTES**  
**May 15, 2013**

The Tewksbury Township Land Use Board met in a special meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Mountainville, New Jersey. The meeting was called to order at 8:31 a.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Elizabeth Devlin, Michael Moriarty, Shirley Czajkowski, Ed Kerwin and Eric Metzler, Alt. #2,

Also present: Shana Goodchild, Land Use Administrator.

Absent: Shaun Van Doren, Dana Desiderio, Bruce Mackie, Robert Becker, Alt. #1, Ed D'Armiento, Alt. #3 and David Larsen, Alt. #4.

There were approximately two (2) 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 May 9, 2013.

**PLEDGE OF ALLEGIANCE**

Those present stood and pledged allegiance to the American flag.

**PUBLIC PARTICIPATION**

Mr. Johnstone asked the public if there were any questions or comments regarding anything not on the agenda.

Mr. Terence Hayes, 17 Laurel Mountain Way, was present and explained that he moved into his home in 2000 (built in 1992) and no changes were made while he owned the home. In 1992 the Township approved the Certificate of Occupancy for the home. The home has been for sale for 18 months and when the home was inspected by the Zoning Officer it failed due to the impervious coverage. He was told by the Zoning Officer that a variance would be required for lot coverage before the home could be sold. Mr. Hayes explained that he has a buyer and the contract may fall through if the house does not close by June 15, 2013. Mr. Hayes noted that he has hired an attorney to file a variance application to be heard at an upcoming Land Use Board meeting but is concerned that he will lose the sale.

Ms. Goodchild noted that in August of 2012 Mr. and Mrs. Hayes had a buyer for the property and when the former Zoning Officer, Randy Benson, inspected the property it failed due to the impervious coverage; 12% is permitted and the property exceeds 17%. She went on to explain that Mr. Benson failed the inspection because the building permits that were issued for the property (tennis court, swimming pool, driveway) do not match

the improvements on the property. She believed that the configuration of the pool and patio was different than what was approved. It was noted that the property owner was informed of the failed inspection in August of 2012.

Mr. Johnstone pointed out to Mr. Hayes that the Land Use Board has a meeting before his scheduled closing and action would be taken at that meeting. Ms. Goodchild noted that she has been working with Mr. Hayes' attorney for the June 5, 2013 Land Use Board meeting. Mr. Hayes pointed out that his attorney sent a letter to Mr. Bernstein.

Mrs. Devlin expressed concern that Mr. Hayes knew that the house failed the inspection in August of last year but submit the variance application until recently. Mr. Hayes agreed that he failed to address the issue when it was brought to his attention.

Mr. Johnstone explained to Mr. Hayes that the Land Use Administrator and Land Use Board Attorney will work with him to streamline the process. Mr. Hayes asked why a decision couldn't be made and Mr. Johnstone explained that an application has to be filed with the Board, a public hearing scheduled and notice provided to property owners within 200 feet.

There being no additional members of the public, Mr. Johnstone closed the public participation portion of the meeting.

#### **RESOLUTIONS**

- **Resolution No. 13-16** – Tewksbury Land Trust, Appl. No. 13-02, Block 29, Lot 8.02

Mrs. Baird recused herself from the meeting.

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

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 13-02  
RESOLUTION # 13-16

WHEREAS, the TEWKSBURY LAND TRUST has applied to the Land Use Board of the Township of Tewksbury for a minor subdivision and variances for property which is located at 27A Fox Hill Road and designated as Block 29, Lot 8.02 on the Tewksbury Township Tax Map, which premises is located in the Highlands (HL) Zone, and

WHEREAS, the application was presented by Attorney Lawrence A. Calli, Esq. of the firm of Porzio Bromberg & Newman, P.C.; Civil Engineer and Professional Planner Robert Lorentz, P.E., P.P. and Professional Land Surveyor Patrick H. Fatton, P.L.S. of the firm of Heritage Consulting Engineers; Ken Klipstein, the President of the Tewksbury Land Trust and Beth Davisson, Black River Greenway Manager of the New Jersey Conservation Foundation at the May 1, 2013 Land Use Board meeting, and

WHEREAS, Attorney Richard Jon Contant, Esq. of the firm of Archer & Greiner, P.E. represented adjoining property owners Michael and Maggie Delia who reside at 21 Cold Spring Road on property designated as Block 29, Lot 8.03 on the Tewksbury Township Tax Map, 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, the Delias, other neighbors, and Mr. Burr, has made the following factual findings:

A. The Tewksbury Land Trust.

1. Ken Klipstein is the President of the Tewksbury Land Trust. He testified that the Tewksbury Land Trust is a 501c3 nonprofit organization with approximately 15 volunteer board members.

2. The Trust's mission is to preserve Open Space and Farmland in Tewksbury Township.

3. The New Jersey Conservation Foundation is consulting with the Trust on the acquisition of a portion of the subject property.

B. The Subject Property.

4. The property in question consists of 48.208 gross acres with approximately 356.16 feet of frontage on Fox Hill Road and about 70 feet of frontage on Cold Spring Road.

5. Along the northern side of the property is a 200 feet wide Public Service Electric and Gas right-of-way which is developed with large towers on which are strung electrical wires.

6. The property is improved with a single family residence which is located approximately 1,800 feet from Fox Hill Road.

7. The subject property is owned by Paul W. Sullivan. Adjoining the subject property to the south is flag Lot 8.06, Block 29 which is owned by Paul and Nancy Sullivan.

8. Access to the homes on Lots 8.02 and 8.06 is through a driveway within the flag mast on Lot 8.06.

9. An easement permits the owners of the subject property and their guests to use the driveway on adjoining Lot 8.06.

C. The Proposal.

10. The applicant proposes to subdivide the site into two lots.

11. Proposed Remainder Lot 8.02 would consist of 20.941 gross acres before the dedication of 0.174 acres to Tewksbury Township along Fox Hill Road and net acreage of 20.767 acres. The frontage along Fox Hill Road will be reduced from 356.16

feet to 306.04 feet on account of the 50 feet wide flag mast included with proposed Lot 8.021. Access for Remainder Lot 8.02 will remain through the driveway within the flag staff of Lot 8.06.

12. Proposed Lot 8.021 would be an irregularly shaped flag lot with a flag staff 1,642 feet long off of Fox Hill Road. The parcel would consist of 27.267 gross acres before dedication of .029 acres to Tewksbury Township along Cold Spring Road resulting in net acreage of 27,238 acres.

13. Proposed Lot 8.021 would have unusually shaped northern and southern sections which would be connected by a 50 foot wide corridor approximately 520 feet long.

14. The northern section (including the flag staff) would contain approximately 12.167 acres, the connector about 0.60 acres, and the southern portion approximately 14.50 acres.

15. The Tewksbury Land Trust proposes to acquire proposed Lot 8.021 with both private funds and State of New Jersey *Green Acres* Funds and funding from the office of Natural Resource Damages. The parcel was described as a “connector piece” and “strategically located” as a link in Tewksbury Township Open Space.

16. On the other side of Fox Hill Road about 700 feet from the subject property is the Lance tract designated as Block 28, Lot 27. Adjoining the southeastern portion of proposed Lot 8.021 is Block 29, Lot 10.04 which is owned by the Tewksbury Land Trust. Adjoining the northeastern portion of proposed Lot 8.021 is Block 29, Lot 18 which is owned by Tewksbury Township.

17. Attorney Contant and his client Maggie Delia were concerned about the use of proposed Lot 8.021. They were satisfied with Ken Klipstein's representation that the Lot would be deed restricted in a similar fashion to a deed from Tewksbury Land Trust and Lamington Conservancy to State of New Jersey and County of Hunterdon for Block 30, Lot 4.01 dated March 2, 2010 and recorded in the Hunterdon County Clerk's office on November 15, 2010 in Deed Book 2259 for said County at pages 698 et seq. and would be used for open space and passive recreation.

18. A small portion of the driveway easement for Remainder Lot 8.02 would cross a portion of Lot 8.021. The deed to the Tewksbury Land Trust would be made subject to the existing easement.

19. Access to proposed Lot 8.021 would be either through the 1,642 feet long flag mast from Fox Hill Road, the 70 feet of frontage on Cold Spring Road, or from the adjoining tract on Cold Spring Road designated as Block 29, Lot 10.04 on the Tewksbury Township Tax Map. Access has not been granted through the existing driveway which is exclusively for use of the owners and guests on Block 29, Lots 8.06 and 8.02.

B. The Requested Variances.

20. Mr. Lorentz described the requested variances. The ordinance requires a minimum lot width of 400 feet. The proposed subdivision will reduce the frontage on Fox Hill Road for Remainder Lot 8.02 from the existing 356.16 feet to 306.04 feet.

21. Proposed Lot 8.021 will have a flag mast of about 1,642 feet while the zoning ordinance limits flag masts to 1,000 feet.

C. Justification for Variances.

22. Mr. Lorentz testified and the Board finds that the variances are justified on the basis of the unusual shape of the subject property under N.J.S.A. 40:55D-70c(1).

23. The requested variances are also 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:

“c. To provide adequate light, air and open space;” *By establishing a large open space lot.*

“e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;” *By creating a 20.767 acre residential lot in a zone where the minimum lot size is 12 acres, and the preservation of the balance of the tract.*

“f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;” *“The Tewksbury Land Trust will be funding the acquisition of proposed Lot 8.021 with both public and private funds.*

“g. To provide sufficient space in appropriate locations for a variety of . . . uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey Citizens;” *By the establishment of a strategically located open space lot.*

“i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;” *By precluding development on an attractive 27.267 acre parcel.*

“m. To encourage coordinate of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;” *By the use of both public and private funds to establish open space.*

24. The benefits from the deviations substantially outweigh any detriments.

25. The requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and propose 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 15<sup>th</sup> day of May 2013 that the application of the Tewksbury Land Trust be approved in accordance with a plan titled: “OPEN SPACE SURVEY AND MINOR SUBDIVISION FOR **TEWKSBUARY LAND TRUST BLOCK 29 – LOT 8.02** 47 A FOX HILL ROAD, OLDWICK, N.J., 08858 TOWNSHIP OF TEWKSBUARY HUNTERDON COUNTY, NEW JERSEY” prepared by Heritage Consulting Engineers on January 28, 2013 and last revised March 1, 2013 consisting of 1 sheet, subject, however, to the following conditions:

1. Conditions recommended by Tewksbury Township Land Use Board Engineer William H. Burr, IV., P.E. in his report of April 26, 2013, as revised by the Land Use Board:

“TECHNICAL REVIEW:

1. The applicant should describe in detail the proposed subdivision and provide testimony to support the above referenced variance requests. *There was substantial credible evidence to support the requested variances. See factual findings 22 - 25 herein.*
2. Proposed Lot 8.021 is an unconventional, oddly shaped lot and should be reviewed by the Land Use Board from a planning perspective. In addition, the applicant should confirm that there are no site improvements proposed as part of this application. *Proposed Lot 8.021 is poorly shaped as a building lot, but is well located as an open space lot. No improvements are proposed or envisioned.*
3. In accordance with Township Master Plan, all frontages should be dedicated to 25 feet from the roadway centerline for a total right of way of 50 feet. Testimony must be provided to clarify the existing and proposed

right of way along Fox Hill Road and Cold Spring Road. I would recommend a 25 ft. right of way dedication be provided and the subdivision plan should be updated to reflect this. *The applicant shall make the dedications to the approval of the Township Attorney and Township Engineer, if not already made, prior to the signing of the subdivision deeds.*

4. The plan should be revised to include a revised area summary chart to include gross and net areas for the existing and proposed lots, including the right of way dedications. *The applicant agreed to this condition.*
5. Metes and bounds descriptions with supporting closure calculations for Lots 8.02 and 8.021 must be provided to this office for review and approval. The legal deed descriptions must be provided to the Board Attorney and this office for review and approval as well. *The applicant agreed to this condition.*
6. A computer disk (containing a digital AutoCad file) of the proposed subdivision should be submitted to the Land Use Board Administrator as a condition of any Board approval.” *The applicant agreed to this condition.*

2. A Deed of Conservation Restriction similar in form to the deed from Tewksbury Land Trust and Lamington Conservancy to State of New Jersey and County of Hunterdon for Block 30, Lot 4.01 dated March 2, 2010 and recorded on November 15, 2010 in the Hunterdon County Clerk’s office in Deed Book 2259 for said County at pages 698 et seq. shall be filed contemporaneously with the subdivision deed shall also contain a prohibition on the further subdivision of Lot 8.021.

The following “Right to Farm” language shall be placed within the subdivision deed and the plans:

Grantee is hereby given notice that there is, or may in the future be, farm uses adjacent or in close proximity to the within described premises from which may emanate noise, odors, dust and fumes associated with agricultural practices permitted under the Right to Farm Ordinance as set forth in Chapter 5.08 of the Code of the Township of Tewksbury.

The above language shall be included in all subsequent deeds.

The subdivision deed and Deed of Conservation Restriction are subject to the approval of the Land Use Board Attorney and Land Use Board Engineer.

3. The applicant shall comply with rules, regulations, ordinances and statues 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 statues.

4. The plans shall be revised and submitted to the Land Use Board Engineer within 60 days hereof for his approval. Any subsequent revisions shall be made within 15 days of subsequent request.

5. Payment of all fees and escrow.

Roll Call Vote

Those in Favor: Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty, Mr. Metzler and Mr. Johnstone

Those Opposed: None

Mrs. Baird returned to the meeting at this time.

➤ **Resolution No. 13-18** – Bligh, Appl. No. 13-06, Block 51, Lot 80.08

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

LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
APPLICATION # 13-06  
RESOLUTION #13-18

WHEREAS, MARTIN BLIGH has applied to the Land Use Board of the Township of Tewksbury for a side yard variance under N.J.S.A. 40:55D-70c for alterations to an existing barn and a use variance under N.J.S.A. 40:55D-70d for two dwelling units on property which is located on Hill and Dale Road and Rockaway Road

and designated as Block 51, Lot 80.08 on the Tewksbury Tax Map, which premises is located in Highlands (HL) Zone, and

WHEREAS, the application was presented by Attorney Michael Osterman, Esq.; Architect William P. Byrne, R.A.; Civil Engineer and Professional Planner John Hansen, P.E., P.P. of the firm of Ferriero Engineering, Inc.; and Martin Bligh at the May 1, 2013 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 testimony and evidence presented by the applicant, Mr. Burr, and members of the public, has made the following factual findings:

A. History of Subject Property.

1. The history of the subject property is set forth in Land Use Board Resolution 12-20 which was adopted on October 17, 2012 in Application 11-17 for the New Jersey Conservation Foundation.

“WHEREAS, Lot 80 was created by a minor subdivision in Application # 11-02 [for Hill and Dale Farms, Inc.] which was approved on May 4, 2011, and memorialized in Resolution # 11-12 which was adopted on June 1, 2011, and

WHEREAS, Factual findings 6 – 13 in Resolution # 11-12 provide a background for the current application:

‘6. *The applicant proposes to subdivide its property along hedge rows and farm fields into two lots.*

7. *Proposed 41.721 acre Lot 80.07 would be located along the eastern side of the tract along Hill & Dale Road and Parsonage Lot Road. It would encompass a detached garage and two cottages. A farm driveway on Lot 80.07 provides access to the fields on both lots.*

8. *Remaining 89.751 acre Lot 80 will include the farm fields, pastures, barns (including stables), and a single cottage.*

9. *The well on Lot 80 serves the three cottages, two of which will be located on Lot 80.07.*

10. *No new improvements are contemplated with the present application.*

11. *The New Jersey Conservation Foundation anticipates purchasing remaining Lot 80 and Lot 80.07. Lot 80 will be purchased with Green Acres funds, except for a 14-20 acre parcel encompassing barns, and a cottage. It is anticipated that the New Jersey Conservation Foundation will seek a future subdivision from this Board of the 14 – 20 acre parcel which will be sold to a private party. There are not assurances that any future subdivision application will be approved by this Board.*

*Lot 80.07 will be acquired with State Agricultural Development Commission (SADC) funds, if such funds are available.*

12. *New Jersey Conservation Foundation intends that remaining Lot 80 will be restricted to passive recreational use, after being acquired with Green Acres funds. Passive recreational uses may include hiking, snow shoes, pedal bicycles (but not motorized bicycles), hunting and fishing, and camping. Lot 80.07 would be restricted to agricultural use with a small residential exception area, after the development rights are acquired by SADC.*

13. *While it is contemplated that the New Jersey Conservation Foundation will be acquiring Remaining Lot 80 and proposed Lot 80.07, the within subdivision and variances are not contingent on that occurrence and are not contingent upon and do not require that any restrictions be imposed. The proposed minor subdivision creates lots that are substantially larger than the 12 acre lots which are permitted in the HL Zone.'*

AND, WHEREAS, as envisioned in Resolution 11-12, the New Jersey Conservation Foundation has acquired what is now known as Lot 80 and proposes a two lot subdivision, and

6. Proposed Lot 80.08 will contain 13.597 acres. Its unusual configuration was designed to meet the minimum lot size of 12 acres in the HL Zone. It could not have encompassed additional land along the western side of the property as the access strip referred to in Finding 10 will be located there.

The Land Use Board would not have approved Lot 80.08 with its unusual configuration but for the applicant being a nonprofit organization, with the subdivision leading to 76.154 acres being deed restricted against future development and limited to passive recreation.

7. Proposed Lot 80.08 consists of eastern and western sections which are connected by a strip of land between 35 – 67.7 feet wide around the sides and rear of lot 81 which is owned by Hill & Dale

Farms, Inc. The eastern section of the site contains about 5 acres. It is improved with a small three bedroom home and barn, and a well which serves the home as well as the two cottages on adjoining Lot 80.07. The western or southern portion of the site contains more than 7 acres. It is improved with barns, a silo, and a stable.

8. The eastern portion of the Lot 80.08 has frontage along Hill & Dale Road and the western or southern portion of the Lot has frontage along Hill & Dale Road and Rockaway Road.

9. Condition 10 in Resolution #11-12 regarding the well on the eastern section of Lot 80.08 is equally applicable to the current application:

*'1.10. Applicant to provide testimony on the well serving three homes, two located on same lot, and the third dwelling located on a different lot. The testimony on the well is contained in finding 9 herein. The well on Remainder Lot 80 (now proposed Lot 80.08) may continue to service the two cottages on Lot 80.07 for so long as the New Jersey Conservation Foundation has contractual right to acquire that property, and if New Jersey Conservation Foundation acquires both Remainder Lot 80 (now proposed Lot 80.08) and Lot 80.7, the well may continue to serve all three (3) residences. If New Jersey Conservation Foundation no longer has contractual rights to acquire Lot 80.07, then the applicant shall decommission the pipes leading from the existing well on remaining Lot 80 (now proposed Lot 80.08) to Lot 80.07 and shall drill a new well on Lot 80.07 to serve the two cottages on that property within the time period required by its agreement with New Jersey Conservation Foundation. This condition shall be set forth in the subdivision deed.'*

10. Remaining Lot 80 would contain 76.154 acres with frontage along Parsonage Lot Road and Rockaway Road. It would retain approximately 189.41 foot wide access way along Rockaway Road which will provide access between Lot 80 and land owned by the applicant south of Rockaway Road, Block 36, Lots 1 and 1.02. ”

2. The applicant Martin Bligh had made a study of the prior owners of the subject property. Among the prior owners was Thomas J. Watson, the Chairman and CEO of IBM.

B. The Proposal.

3. Martin Bligh is the purchaser under contract of Lot 80.08 from the New Jersey Conservation Foundation.

4. The applicant proposes to retain the three bedroom cottage and the barn on the northeast section of the property, which fronts on Hill and Dale Road.

5. The cottage had previously been a blacksmith shop. There are two similar cottages on adjoining Lot 80.07 which is owned by the New Jersey Conservation Foundation.

6. The cottage has been rented for a number of years to a mother and her horsewoman daughter who wish to remain in the residence.

7. The southwest portion of the tract adjoins to the south Rockaway Road and the Rockaway Creek, which is designated as a *c-1* stream and Hill and Dale Road to the east. Its 300 foot riparian buffer extends approximately 245 feet into the property.

8. Beyond the riparian buffer are two large barns – one to the east and one to the west – and a smaller accessory barn to the north. These barns form a square shape with an open courtyard area to the inside. Both of the large barns are traditional, stately, and in keeping with the agricultural and bucolic character of Tewksbury Township, which this Board endeavors to maintain. The smaller barn to the north was added well after the two main barns and undercuts the character and historic appearance of the main barns.

9. The exterior of the eastern barn would be renovated and remain as a stable. Photographs showed beautiful woodwork within the second floor of the barn which would be used for storage. The two silos in poor condition closest to Hill and Dale Road (east of the barn) would be removed and the two silos (north of the barn) in good

condition would be retained. A portion of the barn with a 62.3 foot side yard would be removed, increasing the side yard to 83.8 feet.

10. The stable is subject to condition 5e in the October 17, 2012 resolution 12-20:

“e. The site shall be used in conformity with such restrictions on the keeping of horses as may be set forth in applicable ordinances of the Township of Tewksbury in effect from time to time. Currently, based upon the size of Lot 80.08, and without consideration of any lands that might be acquired or leased in the future, Section 709C11a permits no more than 12 horses to be kept on the site.”

The applicant is aware of this condition and is not planning to board horses, except for a few friends and neighbors, but not as a commercial boarding operation. At the present time he owns two horses.

11. The western barn will be renovated, remodeled, and converted to a single-family residence. The first floor at grade level will consist of a three car garage, workshop, basement/game room, basement area, storage area, wine cellar, and patio under the proposed deck. The second floor will contain a master bedroom suite consisting of a bedroom, bathroom and closet, two additional bedrooms, a bathroom, living room, laundry room, lavatory, combination great room/dining room/kitchen and deck. The two silos to the west of this barn which are in poor condition will be removed.

12. While the exterior of the eastern and western barns will for the most part retain their current appearance (see factual finding 13 herein), the northern barn will be reconstructed to reduce its size and match the aesthetics of the main barns. The proposed northern barn structure will include a covered driveway pass-through to the

central courtyard and will also be used for the storage of farm equipment (tractor, backhoe) and other general storage.

13. The computer generated renderings of the renovated barns which the architect presented show traditional looking structures consistent with a 1940's style. The interior renovations and remodeling will include converting the western barn to an attractive three bedroom single family dwelling. The renovated eastern barn will remain as a stable and the reconstructed northern barn will include a driveway pass-through and storage area.

The exterior materials for the main barns will remain the same, and improvements to the structures will include introducing a few new dormers and windows and minor modifications to the existing dormers and windows to enhance the historic appearance of the barns. The appearance of the reconstructed northern barn will be made to match the appearance of the main barns. The barns will remain white as the applicant desires to maintain the original historic appearance of the farm.

14. The existing driveway will be slightly reconfigured and will lead to a courtyard with a turnaround at the center of the barns. The 6.8% lot coverage will not be increased because of the removal of a portion of the northern barn, four silos, and some of the gravel driveway areas.

C. The Requested Variances.

15. The applicant proposes to remove a portion of the horse barn, which would increase the side yard from 62.3 feet to 83.8 feet, while the zoning ordinance requires a minimum side yard of 100 feet in the HL Zone. This bulk or dimensional variance is justified under N.J.S.A. 40:55D-70c(1)(c) on the basis of the

location of the existing barn on the site. The applicant is minimizing the nonconformity. It would not be reasonable to require the removal of an additional area from the three barns in order to achieve a conforming side yard.

16. A variance is required under N.J.S.A. 40:55D-70d for two dwelling units on a lot. Testimony in support of the variance was presented by Civil Engineer and Professional Planner John Hansen.

17. The variance is justified, in part, on the basis of the unusual configuration of the site which consists of two discreet areas connected by a corridor around Lot 81 which is owned by Hill & Dale Farms.

18. The requested variance advances a number of 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 agricultural [and] residential, . . . uses according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;” *By the renovation of the horse barn and the continued equestrian use of the site.*

“i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement.” *By the extensive renovation, remodeling and conversion of the barns which will significantly improve the views from Hill and Dale Road and Rockaway Road which are scenic roads. The proposed renovations and remodeling as well as the site work will allow the farm to continue to function while preserving the existing historic structures. The plans have been carefully thought out to result in a project that minimizes disturbance and does not increase lot coverage.*

“j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the state and to prevent urban sprawl and degradation of the environment through improper use of the land;” *By the retention of the historic cottage, which has been a blacksmith shop, and is consistent with the two cottages on adjoining Lot 80.07.*

“m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;” *The retention of the cottage as*

*a rental property will in some small way contribute to the significant renovation expenses which the applicant will be undertaking.*

19. Hill & Dale Farms Inc. previously owned Lot 80.08. It still retains Lot 81 and other property in the neighborhood. Peter Alley, 19 Parsonage Lot Road, a representative of Hill and Dale Farms, spoke in favor of the requested variances. He couldn't *dream of* a better plan than that which was proposed.

20. 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 15<sup>th</sup> day of May 2013 that the application of Martin Bligh be approved in accordance with an engineering plan titled: "VARIANCE PLAN TAX MAP SHEET NO. 14 LOT 80.08 BLOCK 51 TEWKSBURY TOWNSHIP HUNTERDON COUNTY NEW JERSEY" prepared by Ferriero Engineering Inc. on February 25, 2013 and revised March 28, 2013 consisting of two sheets and untitled and undated architectural plans prepared by Byrne Design Associates, Inc., subject, however, to the following conditions:

1. Conditions recommended by Tewksbury Township Land Use Board Engineer William H. Burr, IV., P.E. in his report of April 26, 2013, as revised by the Land Use Board:

"TECHNICAL REVIEW:

1. The applicant and its professionals must provide testimony to prove the special reasons for granting of the use variance to permit a second single-family dwelling on the premises. In addition, proof must be provided that there will not be any substantial detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan and zoning

- ordinance. *See factual findings 16 - 20 for justification of the d variance which permits two dwelling units on a single lot.*
2. The applicant should describe in detail the proposed improvements to the existing barn(s) and related site improvements including the proposed use of the space, materials, color, size, etc. *See factual findings 12 - 14.*
  3. Is the exterior style or color of the barn(s) proposed to change? *See factual findings 13.*
  4. How will the remaining structures (barns, silos, etc.) around the proposed dwelling be utilized? *See factual findings 12 - 14. Two of the four silos on the eastern barn and the two silos on the western barn which are all in poor condition will be removed. The two silos closest to Hill & Dale Road on the eastern barn will remain.*
  5. The plans should be provided to the Township Fire Department for review and approval of site access, circulation and building accessibility. *Applicant will need to address this condition.*
  6. Sheet 2 (Left Side Elevation) of the architectural plans do not reflect the various windows and doors on the eastern barn. Is the exterior of this structure proposed to remain as is or are changes proposed? *There will be no major changes to the east and south sides of the barn. The windows and dormers will be enlarged on the north side.*
  7. The architectural plans appear to reflect a new light fixture over the proposed driveway entrance through the northern barn into the courtyard area. The applicant should provide testimony to describe the proposed exterior lights (type, style, quantity, wattage, etc.) 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 applicant agreed to provide a lighting plan which would show the location and style of the exterior lights. The applicant shall comply with the provisions of Section 632 of the DRO. All lighting shall be shielded and shall not cause glare or sky glow.*
  8. The plans should be revised to reflect a construction detail for the proposed driveway extensions. *The applicant agreed to this condition.*
  9. Note #15 on Sheet 2 of the Variance Plan indicates that the proposed impervious area is 39,982 S.F.; however, the Impervious Coverage Chart on the same sheet lists the proposed conditions to contain 40,276 S.F. of coverage. This discrepancy must be addressed. *The applicant agreed to this condition.*

10. Upon review of the previous Land Use Board Resolution of Approval No. 12-20 (which created Lot 80.08), there are several conditions that apply to this property as follows: *Which shall be incorporated in a deed restriction which is subject to the approval of the Land Use Board Attorney and Land Use Board Engineer.*
- a. Condition 5.c states that “The connector between the eastern and the western/southern sections of Lot 80.08 shall not be improved or used as a driveway or equestrian trail but will be kept in an undeveloped, unimproved condition, as woodland, farm field, open meadow or lawn. Vehicular traffic and the riding of horses on the strip is prohibited; provided, however, that nothing in this resolution shall be deemed to prevent horses and riders from crossing over (as opposed to traversing the length of) the connector strip in order to get to and from adjacent lands. The connector may be traversed by pedestrians.”
  - b. Condition 5.e. states that “The site shall be used in conformity with such restriction on the keeping of horses as may be set forth in applicable ordinances of the Township of Tewksbury in effect from time to time. Currently, based upon the size of Lot 80.08, and without consideration of any lands that might be acquired or leased in the future, Section 709C11a permits no more than 12 horses to be kept on the site.” This limitation may be altered by a subsequent ordinance.

The applicant should confirm that he is aware of these conditions and will continue to comply with them should the current application be approved by the Land Use Board. *This was confirmed.*

11. The plans indicate a proposed new septic system and well to be constructed on Lot 80.08 to serve the dwelling and barn. These facilities will need to be approved by the Hunterdon County Health Department as a condition of any Land Use Board approval. County approval will also be required to abandon the existing well connection between Lot 80.08 and adjacent Lot 81. *Applicant acknowledged these requirements and will comply.*
12. A Grading and Surface Water Management Plan (GSWMP) will need to be submitted to the Land Use Administrator for review and approval by the Township Engineer. This GSWMP must comply with Chapter 13.12 of the Township Code of Ordinances.
13. A Driveway Permit Application will also need to be submitted for review and approval prior to the issuance of any building permits.”

2. The applicant shall comply with all rules, regulations, ordinances and statutes of the Federal, State, County and local municipal governments that may apply to the premises. The applicant shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statutes.

3. The applicant must start the improvements approved by the Land Use Board within **one year** from the date of this memorialization resolution or variance for the improvements shall be void and have no further effect.

4. The plans shall be revised within 90 days hereof to the approval of the Land Use Board Engineer. Subsequent revisions shall be made within 15 days of subsequent requests.

5. The applicant shall file a foundation as-built survey with the Township Construction Department after the foundation for the northern barn is constructed to confirm compliance with the 83.8 feet side yard setback.

6. Payment of escrows and other fees.

Roll Call Vote

Those in Favor: Mrs. Baird, Mrs. Devlin, Mrs. Czajkowski, Mr. Moriarty and Mr. Johnstone

Those Opposed: None

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:47 a.m. by motion of Mrs. Devlin and seconded by Mrs. Baird.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator