

LAND USE BOARD MINUTES
June 15, 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 7:30 p.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Bruce Mackie arrived at 7:34 p.m., Shirley Czajkowski, Elizabeth Devlin, Michael Moriarty arrived at 7:40 p.m., Arnold Shapack, Alt. #1, Tom Dillon, Alt. #3 and Ed D'Armiento, Alt. #4.

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

Absent: Ed Kerwin and Eric Metzler, Alt. #2.

There were approximately ten (10) people in the audience.

OPEN PUBLIC MEETING ACT STATEMENT

Mr. Johnstone opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on January 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. Ms. Desiderio made a motion to approve the claims listed below and Mrs. Devlin seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 6/1/11 LUB Meeting – invoice dated June 2, 2011 (\$400.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Goss (B42, 9.04) - invoice dated June 2, 2011 (\$405.00)
3. Bernstein & Hoffman – Land Use Board Escrow – Fernandes (B32, L23) - invoice dated June 6, 2011 (\$465.00)

Roll Call Vote:

Ayes: Mrs. Baird, Ms. Desiderio, Mr. Van Doren, Mrs. Devlin, Mrs. Czajkowski, Mr. Shapack, Mr. Dillon, Mr. D'Armiento and Mr. Johnstone

Nays: None

CORRESPONDENCE

Mr. Van Doren asked if entities such as the Fire Company or Environmental Commission could be asked to testify at a hearing if they have submitted a comment letter on a pending application. Mr. Johnstone opined that they could be asked to testify and Mr. Bernstein agreed.

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

1. A letter dated May 20, 2011 from John Hansen re: LUB Application 10-10, Wood Bulk Variances, Block 10, Lot 5.07.
2. Photographs from Mark Wood showing computer enhances views of the sport court in green as well as with proposed tree row/buffer.
3. A letter dated June 1, 2011 from the Oldwick Fire Company re: Appl. No. 09-05, Johnson Helistop, Block 23, Lot 23.
4. Notice dated May 23, 2011 from James L. Johnson of an application to the NJDEP for general permit authorization for Block 23, Lots 23, 28.03 and 29.
5. A letter dated May 20, 2011 from Anthony Sblendorio, CEO of Ecological re: services.
6. E-mails from Mark Wood dated June 5, 2011 with photographs of the sport court on Block 10, Lot 5.07.
7. A letter dated June 14, 2011 from Andrew Holt re: Block 10, Lot 5.07, Wood Sport Court Inspection, Appl. No. 10-10.

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. 11-15 – Fernandes, Appl. No. 11-06, Block 32, Lot 23
Eligible to vote: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mr. Moriarty, Mr. Kerwin, Mr. Shapack, Mr. Dillon and Mr. D'Armiento

Mr. Van Doren made a motion to adopt Resolution No. 11-15. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 11-06
RESOLUTION # 11-15

WHEREAS, ROBERT AND GINA FERNANDES have applied to the Land Use Board of the Township of Tewksbury for permission to construct a new home on property located at 11 School House Lane, a private road, and designated as Block 32, Lot 23 on the Tewksbury Township Tax Map, the premises being located in the HL (Highlands) Zone, and

WHEREAS, the application was presented by Robert Fernandes at the May 18, 2011 Tewksbury Township 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, access to the subject property is over School House Lane, a private road, that provides access for a number of homes to Water Street, a public street, and

WHEREAS, N.J.S.A. 40:55D-35 provides:

“No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. . . .”

AND, WHEREAS, N.J.S.A. 40:55D-36 provides:

“Where the enforcement of section 26 of P.L. 1975, c.291 (C.40:55D-35) would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the board of adjustment may upon application or appeal, vary the application of section 26 of P.L. 1975, c.291 (C.40:55D-35) and direct the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety . . .”

AND, WHEREAS, the applicants propose to raze the contemporary home along with two sheds on the 25.13 acre subject property and to construct a new residence,

in-ground swimming pool, and to install a barn which requires approval from the Land Use Board under N.J.S.A. 40:55D-36, and

WHEREAS, Chief Kevin Saharic of the Lebanon Fire Company in his report of May 16, 2011 stated:

“The demolishing of the existing home and construction of a new home, barn and pool; application number 11-06, is of interest to the Fire Company since an onsite water source becomes available as a firefighting resource. However that availability is based on how we can pump from that impoundment. In looking at the proposed layout perhaps some consideration can be made to allow a pumper unit to be driven adjacent to the pool security fencing. The area chosen would not have to be paved but have the ability to support the vehicle only in times of emergency. Also any changes to the security fencing i.e. gates/entrance points to be locked, must have a means for emergency response access. The following must also be considered if any changes are anticipated to the driveway.

1. Turning radius for emergency vehicles considered at driveway entrance, gate/monument openings.
2. Driveway width at least 10’ at straightaway.
3. Critical curves in driveway to be 12’.
4. Tree plantings adjacent driveway to consider height of fire trucks 12’.”

AND, WHEREAS, Robert Fernandes proposed to use the existing driveway rather than to construct a new one, and

WHEREAS, Robert Fernandes spoke about cleaning up the property and anticipates raising 3 – 8 cattle and reconstructing a Bucks County barn which he had dismantled, and

WHEREAS, neighbors testified about drainage concerns, and

WHEREAS, the Board finds that with appropriate conditions, emergency service vehicles can adequately serve the subject property, and

WHEREAS, the denial of the present application would entail a practical difficulty and unnecessary hardship, as without relief under N.J.S.A. 40:55D-36 the 25.13 acre subject property could not be developed.

NOW, THEREFORE, be it resolved by the Land Use Board of the Township of Tewksbury on this 15th day of June 2011 that the application of ROBERT and GINA FERNANDES for permission to construct a home, in-ground swimming pool, and to install a barn on the subject property be approved in accordance with a plan titled: "VARIANCE FOR BLOCK 32: LOT 23, (TAX MAP SHEET 11), TOWNSHIP OF TEWKSBURY HUNTERDON COUNTY, NEW JERSEY" prepared by Page Engineering Consultants, PC on April 22, 2011 and last revised May 5, 2011 consisting of four (4) 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 May 12, 2011, as modified by the Land Use Board:

TECHNICAL REVIEW:

1. The applicant and its professionals should describe the application in detail and provide testimony to support approval by the Board under NJSA 40:55D-35. *Testimony was provided by Robert Fernandes and William Burr as to access.*

2. A review of the proposed improvements indicates that this project qualifies as a major development (over 1 acre of disturbance) and therefore compliance with the Township Stormwater Control Ordinance (Chapter 625) is required. The applicants engineer's has provided a copy of the plot plan and stormwater management calculations which were previously submitted to the Township Engineer, Andrew Holt, P.E., to address the Grading & Surface Water Management Ordinance (Chapter 13.12) requirements. In addition, I am in receipt of a May 10, 2011 correspondence from Andrew Holt conditionally approving this project. Upon review of the submitted stormwater calculations, I concur with the Township Engineer that this project meets the requirements of the Township Stormwater Control Ordinance. *Mr. Burr testified that the Township Engineer had reviewed and approved the applicants' stormwater calculations.*

3. The plans should be provided to the applicable Township Fire Department and Rescue Squad for review and approval of site access & circulation, building accessibility and the proposed entrance gate. *See condition 4 herein.*

4. The applicant should provide testimony to clarify the intended use of the proposed barn adjacent to the proposed swimming pool. What will be stored in this barn? *Robert Fernandes said two tractors, a small truck, hay and grain would be stored in the barn.*

5. The applicant should provide testimony to clarify the proposed livestock feeding areas and related fenced-in enclosures as shown on the variance plan. What type of livestock is proposed to be kept on the premises? The applicant should be aware that if horses are proposed, then compliance with the requirements of DRO Chapter 709.C.11 will be necessary. *A 10 feet by 10 feet concrete pad with a fountain in the center will provide water for the proposed 3 – 8 cattle.*

6. Additional information should be provided on the proposed fence (i.e. type, height, etc.) to be placed around the proposed livestock areas to confirm compliance with Section 719 of the DRO. Section 719 requires that no wall or fence shall be erected or altered so that said wall or fence shall be over four (4) feet in height in front yard areas and six (6) feet in height anywhere else on the lot. I recommend a construction detail or notes be added to the plans clarifying the fencing that is proposed. *The fence will comply with the Tewksbury Township Zoning Ordinance.*

7. According to the variance plans, the proposed barn adjacent to the swimming pool is proposed to be located 101 ft. from the side property line (east), whereas 100 ft. is required. Caution must be exercised during the construction of this barn to ensure that the structure is not constructed over the side yard setback line. *Robert Fernandes testified that he will take care in installing the barn to ensure the 100 foot setback.*

8. The applicant should clarify if there will be any walkways constructed between the existing dwelling and the proposed pool. If so, the plans and lot coverage calculations should be revised to reflect this. *Robert Fernandes said there will be no walkways.*

9. The architectural plan for the proposed barn has been revised to reflect pendant lights over the main front door and side door. Are these the only exterior lights proposed? Information should be provided by the applicant regarding the type, location and quantity of lights that are proposed to confirm that there will not be any undesirable effects to the surrounding properties in accordance with the Township Lighting Ordinance - Section 632. *Robert Fernandes testified that the lighting will comply with the Tewksbury Township Zoning Ordinance.*

10. The applicant should provide testimony as to whether there will be any additional tree removal as part of this application. *No additional tree removal is planned. Neighbors complained about tree removal which had already taken place.*

11. The plans reflect a proposed target shooting enclosure and target wall along the western portion of the property. Since this use would likely be determined to be a Personal Recreational Facility or Activity according to the DRO, compliance with Chapter 726 will be necessary. Chapter 726 states that such use may be located in the

side or rear yard provided it satisfies the applicable side and rear yard setback requirements (100 ft. and 50 ft., respectively). *Robert Fernandes stated that the shooting and archery would be toward a cleared out hollow in the ground and that no structures were proposed. Robert Fernandes also stated that a target enclosure does not exist nor is one proposed.*

12. According to the Plan Sheet 3, the proposed reserve septic area is proposed in the same location as a portion of the proposed paved driveway to the barn. This reserve septic should be relocated to a location that would be fully buildable (without any conflicts) should the primary septic fail. *In the event that a reserve septic area is required in the future, the applicants or their successors will either remove a portion of the driveway or select a new location.*

13. As I understand, a portion of the recently constructed stone wall has been constructed over the property line across the public access easement on the adjacent Olsen tract. According to the plans, this section of stone wall will be removed. This applicant should confirm that this is true? *Robert Fernandes noted that he moved the stone wall off of the adjoining property.*

14. The Grading and Surface Water Management Plan (GSWMP) has been conditionally approved by the Township Engineer via letter dated May 10, 2011. The applicant will need to comply with the conditions in this letter. *Robert Fernandes agreed to comply with the conditions in the Township Engineer's letter.*

15. A driveway permit application will need to be submitted pursuant to Chapter 12.08 of the Township Code. *The Township Engineer issued a driveway permit.*

2. As an accommodation to their neighbors, the applicants agreed to plant 10 Evergreen trees, 8 – 10 feet tall, on the subject property as screening for the property owned by Henry and Charlotte Povalski at Block 32, Lot 25.01, and 5 Evergreen trees, 8 – 10 feet tall, on the subject property as screening for the property owned by Thomas Stransky at Block 32, Lot 21.03.

3. The plans shall be revised (including widening the driveway to 12 feet, paving, installing bump outs, a lock box, and reinforced access to the swimming pool for fire trucks) to the approval of the Land Use Board Engineer and Fire Chief Kevin Saharic within 90 days of the adoption of the within resolution.

4. 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.

5. The applicants 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.

6. Payment of all fees and escrow fees and real estate taxes.

7. Unconditional approval by the Township Engineer of the Grading and Stormwater Management Plan.

8. Submission to the Land Use Administrator of an Affidavit of Service.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mr. Shapack, Mr. Dillon and Mr. D'Armiento

Those Opposed: None

- Resolution No. 11-16 – Sheft, Appl. No. 11-04, Block 33, Lot 7.18
Eligible to vote: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mr. Metzler, Mr. Kerwin, Mr. Shapack, Mr. Dillon and Mr. D'Armiento

Mr. Dillon noted a minor correction on page 8.

Mr. Van Doren made a motion to adopt Resolution 11-16 as amended. Mrs. Baird seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 11-04
RESOLUTION # 11-16

WHEREAS, DR. STANLEY A. SHEFT has applied to the Land Use Board of the Township of Tewksbury for permission to construct an in-ground swimming

pool, raised spa, two patios, and walkways on his residential lot which is located at 9 Stillery Road on property designated as Block 33, Lot 7.18 on the Tewksbury Township Tax Map, which premises is located in HL (Highlands) Zone, and

WHEREAS, the application was presented by Dr. Stanley Sheft; Civil Engineer Paul D. Fox of the firm of Apgar Associates; and landscape designer Frederick Learey at the May 18, 2011 Land Use Board meeting, and

WHEREAS, the application was reviewed by the Land Use Board Engineer William H. Burr, IV of the firm of Maser Consulting, P.A., and

WHEREAS, the Board, after considering the evidence presented by the applicant and Mr. Burr, has made the following factual findings:

A. The Subject Property.

1. The subject property has approximately 236 feet of frontage along Stillery Road and depths of 581.16 feet along the northern side line and 587.61 feet along the southern side line.

2. The existing residence was constructed in 1996. It has a front yard setback of 400.68 feet and a rear yard setback of 87.79 feet.

3. The front yard is constrained with a conservation easement and a drainage easement.

4. The Board finds that the site is unusually shaped, being exceptionally deep. Another unique feature is the substantial front yard setback of the home.

B. The Proposal.

5. The applicant proposes to construct an in-ground swimming pool, raised spa, two patios, and walkways in the back of his home.

6. A trench drain will be installed around the rear of the swimming pool, adjacent to the base of the proposed retaining wall, and the edge of a patio.

7. Frederick Learey testified that there would be low wattage pathway lights close to the ground and fixtures containing 20 watt bulbs attached to trees, along with low wattage, down-lit, shielded, wall mounted lights to the face of the proposed retaining wall.

C. Required Variances.

8. The Highlands Zone requires a minimum lot size of 12 acres. Lots in the Highland Zone of at least 3 acres with a lot width of at least 225 feet and a depth of at least 300 feet are *grandfathered*. The requirements for Lots between 3 – 5 acres are set forth in 706F3. The minimum front yard setback is 75 feet and the minimum side and rear yard setbacks are 40 feet. The proposed pool meets these requirements.

9. The present application does not meet the requirement of 706F3(d) which states:

“(d) Maximum lot coverage. The maximum lot coverage shall be 8%; which percentage shall be reduced by 1% for each additional acre or part thereof over 3 acres of the area of the parcel.”

10. Existing lot coverage on the lot is 9.97%, proposed lot coverage is 12%, while the zoning ordinance limits lot coverage under section 706.F.3(d) to 7.989%.

D. Justification for Variance.

11. The existing residence is setback over 400 feet from Stillery Road, while the zoning ordinance permits a minimum front yard setback of 75 feet. That

substantial setback requires a long driveway which has increased the lot coverage over the minimum in the Zone.

12. The requested variance is justified under N.J.S.A. 40:55D-70c(1)(c) on the basis of the existing development of the property.

13. 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.

E. Fire Protection Measures.

14. Fire Chief Kevin Saharic of the Lebanon Fire Company in a letter dated May 16, 2011 made the following comments about the within application:

“The construction of a patio and pool; application number 11-04, is of interest to the Fire Company since a water source becomes available as a firefighting resource. However that availability is based on how we can pump from that impoundment. In looking at the proposed layout perhaps some consideration can be made to allow a pumper unit to be driven between the deer fence and the pool security fence whereby a suction house could be used. The area in question does not need to be paved but rather only support the vehicle during an emergency if ever needed. This innovation in all probability would be of interest to the insurance company of the owner.”

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 15th day of June 2011, that the application of DR. STANLEY SHEFT to construct a in-ground swimming pool, raised spa, two patios and walkways be approved, in accordance with plans titled: “VARIANCE PLAN, AND LOT GRADING, SOIL EROSION, AND SEDIMENT CONTROL PLAN LOT 7.18 BLOCK 33 9 STILLERY ROAD TEWKSBURY TOWNSHIP HUNTERDON COUNTY NEW JERSEY”, “BOUNDARY AND TOPOGRAPHIC SURVEY OF LOT 7.18 BLOCK 33 9

STILLERY ROAD TEWKSBURY TOWNSHIP HUNTERDON COUNTY NEW JERSEY”, “CONSTRUCTION DETAILS LOT 7.18 BLOCK 33 9 STILLERY ROAD, TEWKSBURY TOWNSHIP HUNTERDON COUNTY NEW JERSEY”, prepared by Apgar Associates on February 23, 2011 and last revised April 18, 2011 consisting of three (3) sheets, and a plan titled: “OUTDOOR LIGHTING” prepared by Environmental Landscape Associates, Inc., on April 18, 2011, subject, however, to the following conditions:

1. Conditions recommended by Land Use Board Engineer William H. Burr, IV in his report of May 13, 2011 as modified by the Land Use Board:

TECHNICAL REVIEW:

1. The applicant and its professionals should provide testimony to support the proposed lot coverage variance. The property is currently 2,613.50 S.F. in excess of the permitted lot coverage and the applicant is proposing an additional 2,680.93 S.F. as part of this application. The total excess lot coverage as a result of the proposed improvements, beyond that which is permitted, is proposed to be 5,294.43 S.F. *The requested variance is justified under N.J.S.A. 40:55D-70c(1)(c) on the basis of existing development of the subject lot.*

2. In an effort to mitigate the increase in stormwater runoff from the proposed swimming pool and surrounding hardscape areas, the applicant has provided two (2) drywells to capture runoff from a portion of the existing dwelling, a portion of the existing driveway, and the proposed pool surround and adjacent patio area. The proposed drywells have been sized to handle a total of 5,422 S.F. of existing lot coverage to reduce the stormwater runoff impacts to the permitted 7.989% lot coverage. While I have no objections to the conceptual design of this drywell, I do have the following comments:

a. The plans proposed two (2) inlets to be constructed on either side of the existing paved driveway to drain runoff from these areas. Additional information (i.e. spot elevations, etc.) should be provided on the plans to confirm that the drainage plan will work as proposed and that runoff will actually drain to these inlets. *Engineer Fox agreed to revise the plans to include elevations to the approval of the Land Use Board Engineer that the drainage plan will actually work.*

- b. The plans should be revised to reflect clean-outs at all underground pipe bends to allow for future maintenance and cleaning. *The plans will be revised accordingly.*
- c. The Drywell Plan detail on Sheet 3 should be revised to indicate an 8” PVC pipe proposed to enter the drywell from Inlet No. 2 to match the information should on the roof drain detail. *The plans will be revised accordingly.*

3. The color photographs which were submitted with the application reflect what appears to be an existing stone swale or drainage channel along the south side of the existing driveway in the vicinity of the proposed drywells; however, this drainage feature is not reflected on the plans. Comment should be provided on whether this is an active drainage channel and whether it will be preserved or worked into the proposed drainage plans for the improvements. *What is shown on the photograph is decorative stone edging material around landscaping which will be removed in the area of the drywells. This decorative edging is not a formal drainage feature and its removal will have no impact on the site.*

4. The applicant should clarify whether any trees or shrubs will be removed, impacted or damaged as a result of this project – in particular with respect to the proposed drywell construction. *Three ornamental trees will be removed prior to the construction of the swimming pool. Five new trees will be planted including one shade tree. Four – six pine trees in the area of the drywells will either be removed and replanted to another location on the property or replaced. The landscaping plan and the planting is subject to the approval of the Land Use Board Engineer. New trees and replanted trees shall have a one year guarantee subject to the approval of the Land Use Board Engineer.*

5. Additional information should be provided on the proposed fence (i.e. type, height, etc.) to be placed around the pool and patio to confirm compliance with Section 719 of the DRO. I note that Section 719 requires that no wall or fence shall be erected or altered so that said wall or fence shall be over four (4) feet in height in front yard areas and six (6) feet in height anywhere else on the lot. In addition, any deer fencing shall be an open type wire grid installed to a maximum height of eight (8) feet. *The applicant will be installing both a deer fence and a four foot tall swimming pool fence. The fencing will conform with the requirements of the DRO.*

6. The proposed lighting and landscape plan reflects numerous proposed exterior lights as part of this application including a combination of path lights, wall lights and decorative up-lighting around landscape plantings. The applicant should confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632. *The lighting will include low intensity pathway lights and fixtures with 20 watt light bulbs up-lighting trees, along with low wattage, down-lit lights mounted on the proposed retaining wall. The lights shall not create any glare or sky glow on adjoining properties.*

7. There is a minor discrepancy on Sheet 1 of the plans in note #1 under the column labeled “Variances”. The required variance is from Section 709 of the DRO, not 710.1E. *Discrepancy will be corrected.*

8. A construction detail of the proposed retaining wall shown around the rear of the swimming pool should be provided on the plans. *A construction detail will be provided of the retaining wall which will be a maximum of 18” high.*

9. 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 applicant agreed to this request.*

2. The applicants must submit and receive approval from the Township Engineer for a Grading and Surface Water Management Plan. The Grading and Surface Water Management Plan shall reduce water runoff to no more than that produced by 7.989% impervious lot coverage. The plan shall eliminate the runoff caused by the excessive 4.011% lot coverage. The Grading and Surface Water Management Plan is to be constructed to the approval of the Township Engineer.

3. The applicants shall file a deed restriction to the approval of the Land Use Board Engineer and the Land Use Board Attorney requiring: The perpetual maintenance of the Grading and Surface Water Management Plan and the required improvements in accordance with the NJDEP Best Management Practices and any subsequent revisions and subsequent successor regulations.

4. The plans shall be revised to provide an access gate in the proposed pool security fence and reinforced turf pavers to allow fire vehicles access to the pool area to the approval of the Land Use Board Engineer and Fire Chief Saharic.

5. The plans shall be revised to the approval of the Land Use Board Engineer within 90 days of the adoption of the within resolution.

6. 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.

7. 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.

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

9. The exterior lighting shall be turned off no later than 11:00 PM.

10. The plans shall be revised to extend the silt fence around the entire limit of disturbance. (including the entire topsoil stockpile area).

11. An Affidavit of Service must be submitted to the Land Use Administrator.

Roll Call Vote

Those in Favor: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mr. Shapack, Mr. Dillon and Mr. D'Armiento

Those Opposed: None

- Resolution No. 11-07 - Blauvelt, Appl. #11-03, Block 39, Lot 8
Eligible to vote: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mr. Moriarty, Mr. Metzler, Mr. Kerwin, Mr. Shapack, Mr. Dillon and Mr. D'Armiento

Mrs. Baird abstained from the vote as she did not receive the resolution in time to review it prior to the meeting.

Mr. Van Doren made a motion to adopt Resolution No. 11-17. Mrs. Devlin seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 11-03
RESOLUTION # 11-17

WHEREAS, THOMAS and KRISTEN BLAUVELT have applied to the Land Use Board of the Township of Tewksbury for permission to enlarge a single-family residence which is located 21 Church Street, Oldwick, on property designated as Block 39, Lot 8 on the Tewksbury Township Tax Map, which premises is located in the VR (Village Residential) Zone, and

WHEREAS, the application was presented by Kristen Blauvelt and Architect Jonathon E. Booth, R.A. at the May 18, 2011 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 evidence presented by the applicants and Mr. Burr, has made the following factual findings:

A. The Subject Property.

1. The subject property is a corner lot, being located at the intersection of Church Street and Miller Avenue. Under Tewksbury Township's DRO (Development Regulations Ordinance), a building on a corner lot must provide the minimum front yard setback from both streets.

2. The subject property contains 19,799 square feet with 81.29 feet of frontage on Church Street and 252.34 feet of frontage on Miller Avenue.

3. The subject property is improved with a 2-1/2 story frame dwelling, a detached frame garage, a detached masonry garage, a frame shed, walkways, and a gravel driveway.

4. The existing residence is small, containing 810 square feet on the first floor and 800 square feet on the second floor, for a total of 1,610 square feet.

5. There is tight living space on the first floor and three small bedrooms on the second floor.

B. The Proposal.

6. The applicants propose to add 466 square feet to both the first and second floors, which would enlarge the home to 2,542 square feet, which would be a relatively small sized home.

7. The addition would include a study, laundry room, powder room, and entry area on the first floor and a master bedroom on the second floor.

8. A small covered porch will be added to the back of the home.

C. Required Variances.

9. The subject property is severely undersized, containing 19,799 square feet while the minimum lot size in the VR Zone is 1-1/2 acres. The small size of the lot results in a number of dimensional nonconformities.

10. The existing residence has a front yard setback of 25.2 feet from Miller Avenue, the additions will have a front yard setback 25.8 feet, while the zoning ordinance requires a minimum front yard setback of 75 feet in the VR Zone.

11. The existing residence has a side yard setback of 23.2 feet, a covered landing will have a side yard setback of 25.8 feet, and the addition will have a side yard setback of 29.5 feet, while the zoning ordinance requires a minimum side yard setback of 30 feet in the VR Zone.

12. The applicant's propose to remove the frame garage, some walkways, and a portion of their gravel driveway. The removal of these structures, along

with the new construction, will reduce impervious lot coverage from 26.8% to 25.5%, while the zoning ordinance limits impervious lot coverage to 15% in the VR Zone.

13. Architect Booth presented Exhibit A-1, which is a map of the lots on Church Street and Miller Avenue. The map discloses small lots, which are substantially undersized, developed with homes with nonconforming setbacks. The proposed enlarged Blauvelt home, with its nonconforming setbacks and excessive lot coverage, will be consistent with the existing development pattern along Church Street and Miller Avenue.

D. Justification for Variances.

14. The requested variances are justified under N.J.S.A. 40:55D-70c(1) on the basis of the small size of the subject property.

15. The requested variances are also justified under N.J.S.A. 40:55D-70c(1)(c) on the basis of the existing structures on the subject property. While the additions will have nonconforming setbacks, the setbacks will be greater than the existing front and side yard setbacks. Similarly, the proposed construction will exceed maximum lot coverage, but will reduce lot coverage over the existing condition. The addition to the home will not exacerbate existing nonconformities.

16. The proposed variances are also justified under N.J.S.A. 40:55D-70c(2) by advancing a purpose of the Municipal Land Use Law under N.J.S.A. 40:55D-2i by promoting a desirable visual environment. Based on the photographs of the existing residence and the architectural plans which were both submitted with the application, the Board finds that the residence will be visually enhanced by the proposed construction.

17. The benefits from the deviation substantially outweigh any detriments.

18. 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 (DRO) of the Township of Tewksbury.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 15th day of June 2011 that the application of THOMAS and KRISTEN BLAUVELT be approved in accordance with engineering plans titled: "VARIANCE PLAN FOR BLAUVELT PROJECT 21 CHURCH STREET LOT 8 - BLOCK 39 TEWKSBURY TOWNSHIP HUNTERDON COUNTY, NEW JERSEY" prepared by Yannaccone Villa & Aldrich, LLC on February 7, 2011 and last revised April 11, 2011 consisting of three sheets and architectural plans titled: "Blauvelt Residence 21 Church Street Oldwick, New Jersey" prepared by Jonathon E. Booth, Architect on March 11, 2011, consisting of four sheets, subject, however, to the following conditions:

1. Conditions recommended by Land Use Board Engineer William H. Burr, IV, in his report of May 12, 2011, as modified by the Land Use Board:

1. The applicant should describe in detail the proposed addition to the existing dwelling and related improvements including the proposed use of the space and exterior style, materials, color, etc. *Architect Booth described the proposed additions.*
2. The applicant and its professionals should provide testimony to support the proposed front and side yard variances, including testimony as to the location of residential dwellings on adjoining properties and surrounding vegetation. *The requested variances are strongly supported. See factual findings 14 - 18 herein.*
3. The applicant and its professionals should provide testimony to support the proposed lot coverage variance. *The small size of the subject property and the*

reduction in the amount of impervious lot coverage support the lot coverage variance. See factual findings 12 & 15 herein.

4. This property is located within the Oldwick Historic District. The applicant has provided a copy of Resolution No. 2011-02 from the Township Historic Preservation Commission which grants conditional approval. The applicant should comment on whether revised architectural plans have been submitted to address the conditions of this approval. *Revised plans have been submitted to the Tewksbury Township Historic Preservation Commission. The within approval is subject to the final approval of the Tewksbury Township Historic Preservation Commission.*
5. The submitted architectural plans contain a note that states the existing frame garage is to be removed/relocated. The applicant should confirm if this garage is proposed to be removed entirely or if it is proposed to be relocated elsewhere on the property. *The frame garage shall be removed.*
6. In an effort to mitigate the increase in stormwater runoff resulting from the proposed addition, a plan has been submitted which proposes the construction of an underground drywell. The proposed drywell has been sized to handle the runoff from the existing masonry garage to the rear of the dwelling, which in effect would offset the stormwater runoff impacts from the proposed building addition. I have the following comments regarding the stormwater management for this application:
 - d. On previous lot coverage variance applications resulting in increases to lot coverage beyond the maximum permitted amount, this Board has required drywells or other stormwater management facilities to be installed as a way to mitigate the impacts of stormwater runoff and reduce the “effective” runoff to no more than that produced by the maximum permitted lot coverage. In this case, the applicant is proposing a drywell that will infiltrate runoff from the existing garage to offset the building addition; however, stormwater facilities have not been provided to bring the effective lot coverage down to the maximum permitted amount of 15%. The Board should discuss this situation and make a determination as to how you want to handle this project.

I estimate that an additional 1,292 S.F. of lot coverage (i.e., roof areas) would need to be directed to a drywell if the Board chooses to require the applicant provide stormwater mitigation to meet the 15% lot coverage requirement. *The Board is requiring the application to include drywells, but without reducing effective coverage to 15%.*

b. There is a note on Sheet 3 of the plans that states the existing garage has no gutters or downspouts. The plans should clarify if gutters and downspouts are in fact proposed to be tied into the proposed drywell? If not, the applicant

should clarify how runoff from the garage roof will drain into the drywell. *The plans will be revised accordingly.*

c. Soil tests will need to be performed to confirm adequate soil conditions to allow for the installation of the drywell as proposed. This issue could be addressed as a condition of any Board approval. *The soil tests are a condition of the within approval. In the event that the ground will not accept the additional water, the applicants must provide an alternative method of stormwater management as approved by Land Use Board Engineer.*

7. Sheet 3 contains a construction detail for a proposed Trench Drain. The plan should clarify where this trench drain is proposed to be located. If the detail was placed on the plans in error, it should be removed. *There will be no trench drain.*

8. The applicant should clarify the current and proposed use of the existing masonry garage located at the rear of the property - is it intended to park/store vehicles? I raise this question because the plans propose to remove a portion of the existing gravel driveway area in front of this garage in an effort to reduce the overall lot coverage. *This garage is not currently being used to park vehicles, nor is this envisioned in the future.*

9. A construction detail should be added to the plans for the proposed driveway addition (which is proposed near the existing masonry garage).

10. The applicant should clarify whether any trees or shrubs will be removed, impacted or damaged as a result of this project. *No trees will be removed.*

11. The proposed architectural plans call for exterior recessed lighting as part of the covered porch addition, as well as, the covered landing at the new entrance on the west side of the proposed addition. The applicant should clarify whether there is any other exterior lighting proposed as part of this application. If so, the applicant should provide information to confirm that there will not be any undesirable effects to the surrounding properties in accordance with DRO Section 632. *The lights shall provide no glare or skyglow on adjoining properties, and will comply with the DRO.*

12. There is a minor discrepancy on Sheet 2 of the plans related to the existing lot coverage amounts which should be clarified and addressed through plan revision. The existing lot coverage in the Zoning Table is reflected as 5,315 S.F.; however, in the Existing Lot Coverage Table this amount is shown as 5,308 S.F. *The discrepancy shall be corrected.*

13. Township Board of Health approval will be needed since it appears an additional bedroom is being proposed, increasing the total number of bedrooms to four.

14. Per Chapter 13.12 of the Township Code of Ordinances, a Grading and Surface Water Management Plan (GSWMP) does not appear to be required for this application because the proposed improvements do not meet the threshold requirements

for a GSWMP pursuant to Chapter 13.12. *Stormwater management facilities need be provided as a condition of the within resolution.*

2. The applicants must submit and receive approval from the Land Use Board Engineer for a Stormwater Management Plan consisting of gutters and leaders from the existing masonry garage directing runoff to one or more drywells. In the event the subsurface soil conditions preclude the effective use of a drywell, an alternate Stormwater Management Plan shall be submitted to the Land Use Board Engineer for his approval. The Stormwater Management Plan shall reduce runoff to no more than that produced by the proposed house addition.

3. The applicants shall file a deed restriction to the approval of the Land Use Board Engineer and the Land Use Board Attorney requiring: The perpetual maintenance of the Stormwater Management Plan and the required improvements in accordance with the NJDEP Best Management Practices and any subsequent revisions and subsequent successor regulations.

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.

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. The applicants 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.

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

8. An Affidavit of Service must be submitted to the Land Use Administrator.

Roll Call Vote

Those in Favor: Mr. Van Doren, Mr. Mackie, Mrs. Devlin, Mr. Shapack, Mr. Dillon and Mr. D'Armiento

Those Opposed: None

Abstained: Mrs. Baird

Mr. Moriarty arrived at this time.

Johnson Helistop

- Announce date and time of site walk and location of August 3, 2011 public hearing

Ms. Desiderio, Mr. Van Doren and Mr. Dillon recused themselves from the meeting.

Ms. Goodchild announced that the August 3, 2011 hearing will be held at the Tewksbury Elementary School, 109 Fairmount Road East at 7:30 p.m. Mr. Anthony Sblendorio was present on behalf of the Johnson family and after discussing several dates the Board set the site walk for Wednesday, June 29, 2011, 6:30 p.m. at 87 Homestead Road.

Ms. Desiderio, Mr. Van Doren and Mr. Dillon returned to the meeting.

PUBLIC HEARING

- Wood
Application No. 10-10
Block 10, Lot 5.07 – Bulk Variances
Action Deadline – July 6, 2011
Eligible to vote: Mr. Van Doren, Mrs. Baird, Mrs. Devlin, Mr. Moriarty, Mr. Mackie, Mrs. Czajkowski, Mr. Shapack, Mr. Dillon and Mr. Johnstone

Ms. Desiderio noted that she read the transcript from the first hearing and signed the certification to be eligible to vote.

See transcript

The next public hearing was scheduled for September 7, 2011. The applicant extended the time for the Board to act to September 21, 2011.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:15 p.m. by motion of Mr. Van Doren and seconded by Mr. Shapack.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator