

**FRANKFORD TOWNSHIP LAND USE BOARD
JANUARY 28, 2004 – 7:30 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER:

The meeting was called to order by the board Chairman, Jay Romania, by announcing that notice appeared in the New Jersey Herald and the New Jersey Sunday Herald in accordance with the requirements of The Open Public Meetings Act.

Flag Salute

ATTENDANCE:

Those Present were: Mr. Ayers, Mr. Hahn, Mr. Risdon, Mrs. Kristensen, Mr. Martin, Mr. Nadolny, Mr. Romania, Mr. Gstattenbauer, and Mrs. Caldwell. Also present was Mr. Clark and Mr. Pellow.

Those absent: Mr. Hatler (excused) and Mr. Zappile (excused).

MINUTES:

The Minutes of the December 17, 2003 Regular Meeting were reviewed. A Motion was made by Mr. Nadolny and seconded by Mr. Martin to approve the minutes of the December 17, 2003 Regular Meeting. Roll Call:

YES:	7	Ayers, Hahn, Risdon, Kristensen, Martin, Nadolny, Romania
NO:	0	
ABSTAIN:	2	Gstattenbauer and Caldwell

The Motion was carried.

PUBLIC:

A Motion was made by Mr. Martin and seconded by Mrs. Kristensen to open this meeting to the public. All were in favor. The Motion was carried.

There was no public participation.

A Motion was made by Mr. Nadolny and seconded by Mr. Martin to close this matter to the public. All were in favor. The Motion was carried.

BOARD BUSINESS:

Land Use Board Fee Schedule:

A Motion was made by Mr. Martin and seconded by Mrs. Kristensen to have Mr. Clark make some modifications to the Land Use Board Fee Schedule as discussed at the Joint

Meeting of the Township Committee and the Land Use Board and also to review the Driveway Permit Application for the modifications discussed at the joint meeting. All were in favor. The Motion was carried.

ZONING OFFICER' S REPORT:

The Zoning Officer' s Report dated January 15, 2004 was reviewed. No formal action was taken.

APPLICATIONS CARRIED FROM PREVIOUS MEETING:

Paul Oehlke – LUB 03-08 – Block 26, Lot 13, Allen Road & Bauer Road – “ C” Variance:

A Motion was made by Mr. Martin and seconded by Mr. Nadolny to dismiss this application without prejudice. When the applicant receives the information needed from the DEP, they can re-appear before the Land Use Board without further fees; however, they will have to re-notice the application. If the information is not received by April 23, 2004 (1 year from filing the application), the applicant will have to submit an entirely new application. All were in favor. The Motion was carried.

EXTENSIONS:

Steven Worthington and Steven Weissman – LUB 02-14 – Block 27, Lots 5 & 6 – Lot Line Adjustment:

Mr. Clark indicated that the approval for the Lot Line Adjustment will expire on January 29, 2004. The applicant has done the work; however, there is a policy issue as to whether the governing body wants to accept the road dedication. This is not the applicant' s fault. They are waiting from an answer from the governing body.

A Motion was made by Mr. Ayers and seconded by Mr. Nadolny to extend the time to file the deeds for this application 30 days. All were in favor. The Motion was carried.

EXTENSIONS:

Bob Vesper – LUB 03-10 – Block 66, Lot 5 – Minor Subdivision:

A letter was received from the applicant' s attorney requesting an extension to file the deeds with regard to this application which will expire on January 29, 2004. A Motion was made by Mr. Ayers and seconded by Mr. Nadolny to extend the time to file the deeds for this application 30 days. All were in favor. The Motion was carried.

Diane Masker – LUB 03-26 – Block 23, Lot – 9, Morris Avenue – Minor Subdivision:

Appearing on behalf of the application was her attorney, Michael Gaus; the applicant,

Diane Masker; her husband, William Masker; and their engineer, George R. Gloede, Jr.

Mr. Gaus indicated that this application was before the board on November 24, 2003 and all the witnesses were sworn in at that time and they are still under oath. He further stated that the applicant has amended their application to include requests for variances to build outside the one-half acre unconstrained area as well as variances in connection with site distances for the driveways. The application was noticed in the paper and served on property owners. Affidavits of notice were submitted to the board secretary back in December. This application was originally scheduled for December 17th; however, since the site inspection had to be postponed on December 15th because of the weather, the application was carried without further notice until this meeting.

Mr. Gaus stated that the application creates two additional building lots in a two (2) acre zone. One of the lots is approximately 13 ½ acres and the other is approximately 22 acres. The remainder parcel which does have a house on it is approximately 75 acres. Mr. Gloede has slightly moved the proposed locations for both houses. The movement of one of the houses has put it in an area of approximately 1.5 acres of unconstrained land. This lot, which Mr. Pellow agrees with, would not need the variance for building outside the constrained area. The other lot is very close; however, it technically still needs the variance.

Mr. Gloede reviewed with the board the revised page 6 of 6, the constraints map. Mr. Gloede referred to proposed lot 9.05 with regard to the unconstrained property which was highlighted in yellow. The unconstrained property is 1.56 acres. The house was originally above that and they revised the map so that the house is totally in the unconstrained area. Mr. Gloede further referred to lot 9.04, which needs the variance because it is not in the unconstrained area.

Mr. Gaus indicated that this is a C-2 Variance from Section 16.41(iii) from Frankford Township's Ordinance which requires that the house be located within one-half acre of unconstrained land. Mr. Gaus indicated by locating the house at this location, they are protecting the view of the ridge line. Mr. Gloede indicated that the property does have unconstrained property at the ridge line, which the applicant would prefer not to build at this location for safety reasons and visual reasons. The applicant feels the proposed location of the house is a better location. Mr. Gloede indicated that there are areas of unconstrained land throughout the property; however, it is not contiguous one-half acre.

Mrs. Kristensen questioned the applicant how much unconstrained land is there were the proposed house location is. Mr. Gloede indicated that it is approximately ¼ of an acre short at the proposed location.

Mr. Gaus questioned Mr. Gloede with regard to the site distances from the proposed driveways. Mr. Pellow indicated that they walked the property and the site distances are all okay, however, they may need some brush clearing. According to Mr. Pellow the site distance should be 425 feet each way. Mr. Gloede indicated that they now presently have site distance of: 292 feet, 425 feet with some clearing on lot 9.04 The

other driveway they do meet the 425 feet site distance.

Mr. Clark indicated that there would be a road trust fund amount due in the amount of \$5,000.00 which is \$2,500 per lot.

Mr. Pellow reviewed his report of November 13, 2003:

“ Item 17” Sheet size of map is 30” x 42” . The applicant is requesting a waiver and is acceptable due to the large size of the property.

“ Item 26” This item is in regards to the variance needed on lot 9.04 with regard to the unconstrained lands which was discussed previously in the meeting.

“ Item 32” Owner’ s names are to be shown on the map within a 200 foot perimeter.

“ Item 36” A waiver was requested for the metes and bounds of proposed lots until the application was accepted. Mr. Pellow agreed this waiver was acceptable.

“ Item 53” This item referred to the variance needed with the site distances of the driveway

“ Item 55” Conservation easements will be required for the wetlands and they will run with the land.

“ Item 70” A letter of Interpretation will be needed. The applicant indicated that this has been submitted.

“ Paragraph 4” The wetland buffer shown on the plan are 50’ , but this is only an estimate. After receiving the LOI, the non-constrained area of Lot 9.04 could change. Mr. Clark questioned if this would make a difference with regard to the Variance requested. Mr. Gloede indicated that the only place on this lot with unconstrained land is on top of the ridge.

“ Paragraph 5” Driveway permits will be required at the time of building permit application.

“ Paragraph 6” Wetlands and buffer areas should be conveyed as conservation easements. Applicant to explain “ probable water easement” on Lot 9.05. Mr. Gaus indicated that there is an old deed that gave to the adjoining property owner the right to use a well on the property. It has not been used in more than 20 years. The applicant is sure that it is abandoned. Mr. Masker indicated that the deed goes back into the 1800’ s, which it is really not a well, it is a hole. He assumes it might have been a spring house, when a barn might have been located up their. Mr. Gaus indicated that it does not affect the development of the property.

“ Paragraph 7” The applicant will have to make contribution to the Road Trust Fund of \$5,000 prior to signing of the Deeds.

“ Paragraph 8” Sussex County Planning Board approval or Letter of No Interest must be submitted. Mr. Gaus indicated that they have been submitted to the board secretary.

“ Paragraph 9” A fifty (50) scale road plan have now been submitted, but the scale on the plans is incorrect. The applicant indicated that this will be revised prior to signing the deeds.

“ Paragraph 10” Mr. Pellow questioned the applicant if the remainder lot will be subdivided. The applicant indicated that at this time they do not know.

“ Paragraph 11” The proposed lots are irregular in shape. Mr. Pellow indicated that the applicant’ s have corrected this on the new map.

Mr. Ayers questioned if the house could be moved to the right with a conservation easement so they still have the protection of privacy which is the same thing that the board did on another application. Mr. Clark indicated that this applicant has demonstrated that they have a suitable house site on a buildable lot. The applicant could build on this lot on the top of the hill. This application is not a hardship, it is a C2, and this is a better zoning alternative to build in the partial unconstrained land. Mr. Clark further indicated this is a different situation then the neighbors who appeared before this board. The neighbors could not demonstrate 20,000 square feet of contiguous land at all. This is not hardship; it is a better planning design. A lengthy discussion was held with regard to moving the lot line and the contiguous land.

Mr. Masker indicated that were they are proposing the house is the best location in this entire area. It is in the old apple orchard which sits up behind the stone wall. He does not see what the board would gain by moving the house to the east. There is a little bit more unconstrained land; but when you move the lot line you get right back into constraints again. Mr. Gloede indicated that it really is not contiguous.

A Motion was made by Mr. Martin and seconded by Mr. Risdon to open this matter to the public.

There was no public participation.

A Motion was made by Mr. Martin and seconded by Mrs. Kristensen to close this matter to the public.

Mr. Clark summarized that this is a two lot minor subdivision with a remainder for a variance on proposed lot 9.04 for site distance. The two new lots will not be further subdivided. It is subject to the other conditions discussed by the board and Mr. Pellow’ s report. The issue with lot 9.04 is to grant or deny a C2 variance which is a better planning solution for this lot. The board must determine if the benefits of building in the

proposed location out weigh the detriments. If the benefits of not building on the ridge

out weigh the detriment of the ordinance standard to have 20,000 square feet of unconstrained land.

A Motion was made by Mr. Martin to approve the minor subdivision with the two variances requested with the house where the applicant proposes and the site distance. Mr. Risdon seconded the Motion.

A discussion was held with regard to moving the line to the right to obtain more constrained area and leaving the house in the proposed location.

Mr. Nadolny asked to modify the motion to have a full map of unconstrained areas by the house be shown on the map as a condition of approval. No one seconded to amend the motion. The amendment to the motion was withdrawn.

Roll Call on original Motion by Mr. Martin to approve the minor subdivision with the two variances requested:

YES: 8 Hahn, Risdon, Kristensen, Martin, Nadolny, Romania,
Gstattenbauer, Caldwell

NO: 1 Ayers

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS:

Invoices:

The Invoices were reviewed. A Motion was made by Mr. Ayers and seconded by Mr. Nadolny to approve the attached bill list for January, 2004. Roll Call:

YES: 9 Ayers, Hahn, Risdon, Kristensen, Martin, Nadolny, Romania,
Gstattenbauer and Caldwell

NO: 0

ABSTAIN: 0 The Motion was carried

Correspondence:

Mr. Risdon requested that the board secretary sign him up for the March 6th Seminar at Sussex County Community College. A Motion was made by Mr. Ayers and seconded by Mr. Martin to approve the seminar for any board member who wishes to attend the March 6th Seminar at Sussex County Community College. Roll Call:

YES: 9 Ayers, Hahn, Risdon, Kristensen, Martin, Nadolny, Romania,
Gstattenbauer and Caldwell

NO: 0

ABSTAIN: 0

The Motion was carried.

A Motion was made by Mr. Ayers and seconded by Mr. Nadolny to send a letter to Mrs. Fountain for her years of service to the Land Use Board. All were in favor. The Motion was carried.

ADJOURN:

A Motion was made by Mr. Ayers and seconded by Mr. Nadolny to adjourn the meeting. All were in favor. The Motion was carried.

Respectfully submitted,

SHARON M. YAROSZ
Land Use Administrator