

FRANKFORD TOWNSHIP LAND USE BOARD
FEBRUARY 25, 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, Mr. Hatler, Mrs. Kristensen, Mr. Martin, Mr. Nadolny, Mr. Romania, Mr. Gstattenbauer, and Mrs. Caldwell. Also present was Mr. Clark and Mr. Pellow.

Those absent: Mr. Zappile (excused).

MINUTES:

The Minutes of the January 21, 2004 Re-organization and Regular Meeting were reviewed. A Motion was made by Mr. Martin and seconded by Mr. Nadolny to approve the minutes of the January 21, 2004 Re-organization and Regular Meeting. All were in favor, except Mr. Hatler, who abstained. The Motion was carried.

The Minutes of the January 28, 2004 Regular Meeting were reviewed. A Motion was made by Mr. Nadolny and seconded by Mr. Martin to approve the minutes of the January 28, 2004 Regular Meeting. All were in favor, except Mr. Hatler who abstained. The Motion was carried.

The Minutes of the January 28, 2004 Joint Meeting of the Frankford Township Land Use Board and Township Committee were reviewed. A Motion was made by Mr. Martin and seconded by Mr. Hahn to approve the Joint Meeting Minutes of January 28, 2004. All were in favor, except Mr. Hatler, who abstained. The Motion was carried.

PUBLIC:

A Motion was made by Mr. Martin and seconded by Mr. Hatler 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. Martin and seconded by Mr. Nadolny to close this matter

to the public. All were in favor. The Motion was carried.

ZONING OFFICER' S REPORT:

The Zoning Officer' s Report dated February 25, 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:

Mrs. Kristensen stepped down from this application.

Appearing on behalf of the applicant as his attorney, William Haggerty, Esq., and the applicant, Paul Oehlke.

Also appearing was attorney, John Williams, on behalf of adjoining property owner, Padula, and attorney, Samuel Wiener, on behalf of the Lake Owasa Community Association.

Mr. Oehlke was sworn in by the board attorney.

Mr. Pellow reviewed his report as to completeness:

1. The application may be complete or incomplete depending on what items have been submitted since last March, 2003. These to be determined at the meeting on February 25, 2004:

“ ITEM 7” : Compliance with legal notice requirements. Mr. Clark indicated that the notice was satisfactory.

“ ITEM 9” : Listing of all variances, design standards and checklist waivers. The new zoning schedule has been shown. The constraints and the non-constrained area have not been shown.

‘ ITEM 13” : Copy of Soil Erosion/Sediment Control Application. A waiver should be requested, as the checklist has this item as being submitted. The applicant' s engineer stated that this will be provided under separate cover. Mr. Haggerty indicated that this has not yet been done until an approval is granted.

“ ITEM 20” : Record owner name and address. The application states that Dorothy Oehlke is the owner, and the map depicts Paul Oehlke as the owner. Mr. Haggerty indicated that Dorothy Oehlke is the owner. Paul Oehlke is the applicant.

Mr. Pellow indicated that the map needs to be changed to note that Dorothy Oehlke is

the owner of record.

“ ITEM 21” : Applicant’ s name, address, phone an fax numbers are needed. Mr. Haggerty indicated this will be put on the map.

“ ITEM 75” : Building floor plan, elevation views and first floor elevation with overall building height. The floor plan is to be signed. The floor plan shows only the first floor, but Mr. Pellow’ s assumes there could be a second floor to this structure. Mr. Haggerty indicated that the applicant is only asking for a single story house approximately 56’ x 28’ .

Mr. Clark indicated that this an application where the board will hear from one or more real estate experts on the issue of what the value is so that the adjacent property owners have an opportunity to purchase. He further stated the board has the option of not deeming it complete because of some of the missing items for completeness; however, the hearing will not take place. The board could also deem it conditionally complete subject to the requirement that “ Item 9” of the completeness review be added before the board has to make a final decision on this application.

Mr. Haggerty indicated that the applicant does have an LOI and the General Permit #6.

Mr. Clark indicated that generally with regard to “ Item 9” of Mr. Pellow’ s report, the constraints Ordinance talks about new lots. It is not to say that the board shouldn’ t have this information to determine were on the lot, if any, were the board should allow this. The board by deeming this application complete without “ Item 9” is not waiving this requirement. It is stating that the applicant must satisfy this condition in the hearing process.

A Motion was made by Mrs. Caldwell and seconded by Mr. Nadolny to deem this application complete provided “ item 9” of Mr. Pellow’ s report is furnished to the board prior to finalizing the hearing. All were in favor. The Motion was carried. Mr. Haggerty submitted the following exhibits to the board:

- 1) Exhibit “ A-1” – Letter of Interpretation for the New Jersey Department of Environmental Protection stamp dated February 4, 2004.
- 2) Exhibit “ A-2” – General Permit #6 stamp dated February 4, 2004.
- 3) Exhibit “ A-3” – Septic Permit issued by the County Health Department dated February 10, 2004.
- 4) Exhibit “ A-4” – A previous Resolution of Steven Worthington – Memorialized 12/18/02 under Block 271, Lot 29.
- 5) Exhibit “ A-5” – A previous Resolution of Steven Worthington – LUB 01-17 –

Memorialized 8/15/01 under Block 271, Lot 6.

6) Exhibit “ A-6” – Letter of History from Dolan & Dolan dated February 25, 2004.

Mr. Williams indicated to the board that he has not seen anything listed except for the septic permit. He was not in receipt of the Letter of Interpretation or the General Permit #6 or the other two Resolutions submitted this evening.

Mr. Williams further stated that he was not aware that his client was supposed to have his appraiser at this meeting. He was not furnished with an additional appraisal from the applicant prior to this evening.

Mr. Williams further stated his objection to the Letter of Interpretation to the board having not reviewed that or having been provided it. There is an issue for his client as to whether the Letter of Interpretation is proper. They want an opportunity to review it.

Mr. Haggerty indicated that the appraisal submitted this evening uses the same comparables as the appraisal previously submitted. Mr. Haggerty indicated to date that he has not received an offer for this property from the objectors.

Mr. Williams wanted it on record that at the prior meeting, it was clear that there would be an exchange of reports. From his client’ s position, this is undisclosed information.

Mr. Haggerty gave a history of the property. He indicated the Oehlke family purchased this property back in the mid 50’ s. After they purchased the property, they brought two trailers to the lot and constructed a wooden porch on one of the trailers. The Oehlke family uses the premises as a summer residence until the mid 1980’ s. At that time Frankford Township directed the removal of all trailers. At that time, due to financial constraints, the Oehlke’ s weren’ t able to pursue the construction of a single family home on the property until the present application. It is the applicant’ s request to build a two bedroom home on the property for his own use. The applicant needs variances set forth because of the lot limitations that are pre-existing. The applicant has received a Letter of Interpretation and General Permit #6. The applicant is here on hardship relief this evening. If they are not granted variances to build, then there certainly is a hardship. The applicant can only use the property to put a picnic table on. They do have an appraiser here this evening to talk about value pursuant to the Nash Case. In a previous Resolution, which was furnished to the board, there was a notation that Nash does not have to be followed in every particular case; however, the applicant is here this evening to proceed in this manner.

Mr. Williams indicated that he would like to cross examine Mr. Oehlke at a later date because he is not prepared to cross examine given that he was just provided the information that makes that cross examination substantive.

Mr. Pellow continued reviewing his report:

Paragraph “ 2” : The applicant is proposing to construct a house on a 1.01 acre lot needing many variances which the Applicant has detailed on a revised map.

Paragraph “ 3” : An L.O.I. is required due to the wetlands on this lot. A note has been shown on the plan that the 50 foot buffer was established by the DEP. The applicant to provide source documents for this information. Mr. Pellow indicated that we do have this information. He noted that there are isolated wetlands that can be filled in noted on the map. Mr. Pellow further stated that on the general permit #6, page 2 it does mention: “ The Department has noted possible disturbance of a forested/scrub-shrub wetland and associated transition area (east of the General Permit No. 6 area). This forested/scrub-shrub wetland occupies the entire eastern half of the site and is directly associated with, and connected to, Lake Owassa. Due to this possible non-permitted disturbance, by copy of this letter, the Department is notifying its office of Compliance and Enforcement for follow up.” Mr. Pellow further stated that this takes care of the LOI requirement.

Paragraph “ 4” : The septic permit has been submitted.

Paragraph “ 5” : A 35 foot radius return to be shown on the plan and this return area to be deeded to the Township as existing pavement falls on a portion of this lot, and this will clear up this encroachment. A sight easement is proposed, but the return has not been shown. Both roads are private, and the Township may want these easements. Mr. Clark indicated that this could an easement by a Deed restriction which can be enforced by the township.

Paragraph “ 6” : The map shows a floor slab at elevation 888.0, and the adjoining driveway to the west is around 88.6. It appears that runoff from this proposed dwelling and grading could run onto the adjoining lot; therefore, cross sections are needed down the west property line from the proposed house over to the existing dwelling to the west so that it can be determined how runoff will affect the adjoining lot. Cross sections not provided and five (5) are needed. Mr. Pellow indicated that this should be submitted at the next meeting.

Paragraph “ 7” : The applicant’ s engineer to show turning radii for cars backing out of the garage into the turnaround area to see if it is feasible. Not shown on map. The board reviewed the driveway and turning area prepared by the applicant and marked as Exhibit “ A-7” . Mr. Pellow indicated that this needs to be addressed.

Paragraph “ 8” : A driveway application will be needed at the time of building permit application.

Paragraph “ 9” : The floor plan shows a house 50 feet long plus a porch 27’ 8” wide, but the map shows the house 38 feet long with a 24 foot wide garage. Which is correct. The house has been revised to a footprint of 28’ x50’ with 7’ 2” porch.

The map shows a length of 56' . The applicant' s did submit a plan which is 28' 56' , 2 bedroom, 1 story which acceptable to Mr. Pellow. Mr. Haggerty also indicated that color drawings were submitted showing the Front and Rear Elevations (marked as Exhibit " A-8a"); Right and Left Side Elevations (marked as Exhibit " A-8b"); pictures of the property (marked as Exhibit " A-9").

Mr. Wiener indicated to the board that he represents the Lake Owasa Community Association. He requested of the board that the permit when and if to start construction should have some conditions: (1) He spoke with the DEP yesterday and they indicated

that the land from the house to the lake is not to be disturbed. (2) The work to be done with respect to whatever earthwork to be done is to be done by a licensed contractor who is an expert in handling landfill. (3) The final condition, if the board is able, no work on Saturdays and Sundays from June 1st to September 30th, which is the time of the use of the lake were the noise of the machinery digging annoys the use, recreation of the land. (4) The entire project to be completed in one year.

Mr. Haggerty submitted to the board Chris Sullivan, a Real Estate Appraiser. Mr. Sullivan was sworn in by the board attorney.

Mr. Sullivan gave his qualifications to the board.

Mr. Williams indicated again that he is unable to substantively cross examine this witness having just received his report and any indication that he would be here this evening.

Mr. Sullivan indicated I did an off site inspection of the property on January 14, 2004. At that time, he walked the property and took photographs. He then reviewed the activity in the neighborhood and the zoning of this neighborhood. They found seven (7) properties listed in the report which was considered in the estimated value of the subject property as if it was a buildable site.

Mr. Haggerty questioned Mr. Sullivan if he reviewed two properties: 30 Blackford Road and 78 Blackford Road which are properties that he submitted prior Resolutions to the board previously this evening. Mr. Sullivan stated he did review these properties and he further stated that they were purchased as improved properties. Mr. Sullivan indicated that the one Resolution indicates that the buyer had immediate intent to knock down the house and rebuild. The second Resolution indicates that the applicant intended to intensely remodel the house. In those two properties Mr. Sullivan indicated that in terms of dimension and the nature of those properties are comparable to the lot that is the subject of this application before the board this evening. Mr. Sullivan indicated that the property located at 30 Blackford Road that is on the same side of the lake as the subject property this evening. That property sold for \$150,000 on February 3, 1999. This was a lake front type of property with .55 acres. Mr. Sullivan indicated that the property located at 78 Blackford Road sold for \$142,500 on October 15, 2001. This was also a lake front parcel with 1.43 acres.

This was located at the end of Blackford Road. Mr. Sullivan indicated that these were two properties he appraised by land extractions.

Mr. Sullivan further stated that the third sale he looked at was 277 East Shore Lake Owassa Road. This property sold for \$120,000 on August 6, 2002. This is a lakefront property on .11 acre of the east shore of Lake Owassa. It was improved with a small summer cottage and was sold in an "as is" condition. This property was an extremely steep driveway.

Mr. Sullivan stated that the properties on 78 Blackford Road and 277 East Shore Lake Owassa Road both have very steep driveways. There is very difficult ingress and egress on both of these properties. The subject site this evening is relatively level with relatively easy ingress and egress.

Mr. Sullivan reviewed his fourth sale on 4 Bonning Road. This property sold for \$270,000 on June 13, 2003. This was an improved parcel with a lakefront cottage. The property was .21 acres with a gradual slope similar to the subject property this evening. It was approximately 1600 square feet of building area. Using a land extraction technique they applied \$65.00 per square foot to that and subtracted from the sale \$104,000 to obtain a land contribution of \$166,000.

Mr. Sullivan reviewed his fifth sale on 23 Marron Road. This property is under contract for \$299,900 with .2 acres of land. This is at the end of a dead end street. The dwelling was estimated to contain 1,900 square feet at a depreciated rate of \$65 per square foot. The building contribution was estimated to be \$123,500. Given the list price, this would indicate a land contribution on \$176,400.

Mr. Sullivan reviewed his sixth sale on Culver's Lake, 75 Lakeview Point Avenue. This sold for \$175,000 on June 4, 2003. This was a vacant parcel. Very similar to the subject property this evening. This was a level lot containing .43 acres. It has approximately 75 feet of lake frontage and 250 feet deep. There was also a sale that went along with this, it was directly across the street and it was a cottage for \$120,000 with .52 acres of land.

Mr. Sullivan reviewed his seventh sale on Culver's Lake, East Shore Drive. This lot is currently vacant with 1.51 acres with a lakefront site. This property is separated and there is another part of this parcel that is across the street referred to as Block 82, Lot 1 which is also vacant with approximately 1 acre of land. These properties are currently on the market as a combined parcel at \$339,000 since March 23, 2003. There reportedly was an offer for \$300,000 made on the property.

Mr. Sullivan stated that after review of the seven sales, it is his opinion that the subject property as a fully approved building site has a value as of January 14, 2004 of \$175,000.

Mr. Clark asked Mr. Sullivan what the best comparables are in the seven that he

reviewed. Mr. Sullivan indicated that the first two comparables were the best comparison, 30 Blackford Road and 78 Blackford Road. He also indicated that the sixth, 75 Lakeview Point Avenue, comparable on Culver' s Lake, the vacant land portion was also a good comparison.

Mr. Martin questioned if Mr. Sullivan reviewed the letter from the DEP prior to preparing his appraisal. Mr. Sullivan indicated he did review the report after he prepared the appraisal. Mr. Martin brought to the attention of the board the first sentence of the fourth paragraph of the report which states: " Please note that the wetlands found within the area of disturbance is the subject of a separate action by the Department." Mr. Clark questioned if this statement went to value. Mr. Haggerty indicated that they do not know the outcome of this statement at this point.

Mr. Oehlke indicated that in that statement they are referring to the General Permit No. 6, which has been granted.

Mr. Haggerty indicated that the houses referenced in the Resolution that have been provided with the first two comparables, the Resolutions themselves indicate that the house size on Lot 6 is 1260 square feet and the house size on Lot 29 has an area of 2000 square feet. The house that is proposed is actually a little bigger than Lot 6.

A Motion was made by Mr. Hatler and seconded by Mr. Hahn to open this matter to the public. All were in favor. The Motion was carried.

Mr. George Schoch was sworn in by the board attorney. He indicated that Mr. Wiener' s concerns will be addressed by the noise ordinance adopted by the Township Committee.

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

Mr. Romania indicated that this application must be carried to next month' s Land Use Board meeting until Mr. William' s client has submitted their appraisal. Mr. Williams indicated that his appraiser will be ready for next month' s meeting with his appraisal.

A Motion was made by Mr. Martin and seconded by Mr. Hatler to carry this application to the March 24, 2004 Land Use Board meeting without further notice. All were in favor. The Motion was carried.

A Motion was made by Mr. Risdon and seconded by Mr. Hatler to take a five (5) minutes recess. All were in favor. The Motion was carried.

A Motion was made by Mr. Hatler and seconded by Mr. Risdon to reconvene the meeting. All were in favor. The Motion was carried.

NEW APPLICATIONS:

Culvermere Alliance LLC – LUB 04-08 – Block 181, Lot 2, US Route 206 & Lakeview Point Avenue – Minor Subdivision:

Mr. Hatler, Mrs. Kristensen, Mr. Hahn, Mrs. Caldwell stepped down from this application.

Appearing on behalf of the applicant was William Haggerty, the applicant's attorney, Doug Dykstra and Owen Dykstra, the applicant's engineers, and John Rubin, the applicant. Mr. Doug Dykstra, Mr. Owen Dykstra and Mr. Rubin were sworn in by the board attorney.

Mr. Pellow reviewed his report with regard to completeness:

Paragraph " 4" : The application is complete as long as the following minor items are submitted to the board secretary by February 18, 2004:

" ITEM 70" : NJDEP Letter of Interpretation. The wetlands have been delineated, but an LOI is required to determine the wetland buffers. Mr. Haggerty indicated that this has been submitted and they are still waiting for a response.

Culvermere Alliance LLC – LUB 04-08 – Block 181, Lot 2, US Route 206 & Lakeview Point Avenue – Minor Subdivision Cont.:

" ITEM 71" : Written confirmation from Tax Assessor that proposed lot numbers are acceptable. The board secretary indicated to Mr. Pellow that she received this.

Paragraph " 5" : The following waiver has been requested:

" ITEM 15" : Copy of Sussex County Health Department application. Mr. Pellow indicated this is acceptable, as septic approvals from the County are not required until a building permit has been applied for from the Township.

A Motion was made by Mr. Risdon and seconded by Mr. Martin to deem this application complete. All were in favor. The Motion was carried.

Mr. Haggerty indicated that this a two lot residential subdivision of property that essentially now is vacant. There are some dilapidated buildings, which the applicant has proposed to remove from the property. The property contains an area of 11.37 acres. The applicant would also seek a lot line adjustment to annex the dam area of the lot to Culver Lake property owned by the Normanoch Association, a Homeowner's Association for Culver's Lake. That area would be .285 acres which would include the dam and the bridge. The note on the map indicates a " concrete dam" . It should note a " concrete bridge" to provide access to the dam. This will be corrected. The approval of the application would require variances for a

net area of proposed lot 1 after constraints. The gross area would be 3.099 acres. The net area after constraints that would be applied .97 acres and there is the requirement, because this is a subdivided lot application, of 20,000 square foot non-constrained area in the building envelope. The applicant would not have that 20,000 square feet primarily because of that water table around the lake. As to proposed lot 2, the gross area would be 7.994 acres with a net area of 1.91 acres and the same variance for a 20,000 square foot non-constrained area around the building envelope for the proposed lot. The lots would comply with all other requirements of Frankford' s zone.

Mr. Martin questioned if the .285 acres is a lot now. Mr. Haggerty indicated that it is not a lot. This .285 acres will be annexed to the Lake itself so it would become part of the Normanoch Association property and become part of the lake bed. At the present time it is part of the applicant' s property. Mr. Haggerty indicated that the Normanoch Association has not accepted this .285 acres at this time. Mr. Rubin has a very weak easement in his deed from the Lake Association when it conveyed out property of a right

to access to the dam for purposes of maintenance. It does not in that deed include any right of ingress or egress over the bridge at all. The roadway to the bridge is not on the applicant' s property. The roadway is on property that is now for sale and he has a concern that if someone buys this property, they may not be happy with the Normanoch Association' s driveway being on that property. If that access is taken away from Normanoch Association, they have no way to get to the dam except by boat. The piece of property is owned by the township that is now for sale. What the applicant is proposing is to acquire this strip of land from the township, which offered it to the applicant for \$1,000, and annex it to proposed lot 2, subdivide a piece for access to the dam. This would give the lake direct road access onto East Shore and avoid the problem the Lake Association now has with the driveway on the Fletcher property. Mr. Haggerty marked Exhibit " A-1" labeled " Minor Subdivision of Plat prepared by Dykstra" . This is a modification of the plat submitted to the board previously. Mr. Haggerty indicated that if the Lake does not want that part of the dam, they just drop this part of the proposal and the applicant keeps the dam with the property and the easement stays as is and the Lake can deal with it if the issue comes up in the future and they are barred from using the bridge or barred from crossing lot 2.1.

Mr. Haggerty submitted to the board Exhibit " A-2" the Princeton Hydro study November, 2000. He also submitted Exhibit " A-3" the Deed from Normanoch Association, Inc. to Real Vacation Corporation, which is the predecessor of the applicant. There is a reservation in that deed of an easement which states " excepting there from and reserving to the party of the first part all rights, title and interest in and to the outlet or dam of Culver Lake located on the shore line of the property hereby conveyed and reserving the party of the first part the right of ingress and egress over the lands herein conveyed for the purpose of making repairs to same and for lowering and raising the gate, thereof for the purpose of regulating the height or depth upon the

premises” .

Mr. Pellow continued reviewing his report.

Paragraph “ 1” he plans provided consist of four (4) sheets entitled “ Minor Subdivision Plans for Culvermere Alliance, Tax Lot 2, Block 181” , prepared by Dykstra Associates, dated April 18, 2003, last revised January 29, 2004.

Paragraph “ 2” The applicant is proposing to subdivide 11.37 acres into two (2) new lots for single-family houses. The lots are situated in the AR zoning district.

Paragraph “ 3” The Applicant is requesting the following variances:

a. The lot areas for both lots after density constraint calculations are less than the minimum required of two acres: proposed Lot 1 = 0.94 acres; proposed Lot 2 = 1.89 acres after constraint calculations.

b. Both lots do not have one-half acre of contiguous, non-constrained area because the lots are situate din soils with a seasonal high water table.

Paragraph “ 6” The applicant is proposing to subdivide an 0.5 acre tract from Lot 2 to become annexed to Lot 1, Block 69. This will convey the dam and access drive to the Normanoch Association, Inc. The Normanoch Association should indicate by letter that they are willing to accept this parcel of land and all of the maintenance responsibilities that go with it.

Paragraph “ 7” The sluiceway structure should be shown and labeled on the plan.

Paragraph “ 8” An inspection and report was prepared by Princeton Hydro, LLC, Lambertville, New Jersey for the Year 2000, but a response has not been received from the DEP relative to this report, as there were recommendations made by the Normanoch Association about the condition of the dam. This should be taken care of.

Paragraph “ 9” The driveway profile shows proposed slopes at 15% which is the maximum allowable slope according to the Ordinance.

Paragraph “ 10” Tree and brush clearing will be required and should be shown on the plan. The applicant agreed to do this.

Paragraph “ 11” Driveway access permits will be required at the time of building permit application.

Paragraph “ 12” Flood plain and flood hazard areas are required to be shown on the plans. The applicant agreed to do this.

Paragraph “ 13” Wetlands and buffer areas to be conveyed as conservation easements and run with the land.

Paragraph “ 14” The property in question is situated in Norwich and Wurtsboro soils according to the USDA Sussex County Soil Survey. Norwich soils are typically associated with seasonal high water table at the surface. This poses a severe limitation to the construction of structures with basements or without basements. Wurtsboro soils are typically associated with seasonal high water table perched between ½ and 2 feet from existing ground. This poses a severe limitation to the construction of structures with basements and moderate limitations to structures without basements.

Paragraph “ 15” The proposed wells should be shown on the plans. The applicant agreed to do this.

Paragraph “ 16” All existing structures on the property in question are in poor condition and should be completely removed and this should be noted on the plan. The applicant agreed to do this.

Paragraph “ 17” A contribution to the Road Trust Fund in the amount of \$1,700 is required.

Paragraph “ 18” County Planning Board approval or Letter of No Interest is required. Mr. Haggerty indicated that this application was in connection with a three lot subdivision that is dated November 3, 2003. He offered that if the County had no interest in a three lot subdivision, he feels that will not be interested in a two lot subdivision. Mr. Pellow accepted this.

Paragraph “ 19” All development shall comply with the rules and regulations of the Normanoch Association. Mr. Haggerty indicated that there is not a mandatory membership provision with the Normanoch Association. It is a voluntary membership.

Paragraph “ 20” Sight easements to be conveyed at the intersection of East Shore Road and Route 206, and at the intersection of Lakeview Point Avenue and Route 206.

Paragraph “ 21” Soil logs and permeability test results should be shown on these plans.

Mr. Pellow indicated also that a COAH contribution will have to be made. Mr. Haggerty indicated that if the Normanoch Association does not agree to take the dam area from the applicant, then there would be no need to purchase the lot previously referred to from Frankford Township.

Mr. Clark questioned Mr. Haggerty if the applicant acquires the lot from the town, would it make the lots more conforming. Mr. Haggerty indicated that it would almost get them the net area of 2 acres because if you look at the wetland buffer line and the 50 feet, they are looking at .09 acres. The gross area would be more than .09;

however, in terms of unconstrained, there is approximately .09 unconstrained acres.

Mr. Haggerty indicated that the neighboring owner, Mr. Fletcher expressed no interest in purchasing this lot from Frankford Township. Mr. Clark asked to have that in writing when and if the purchase of this strip of land from Frankford Township occurs.

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

Paul Sutton was sworn in by the board attorney. Mr. Sutton had some concern with regard to the stream that goes through the property to the highway. He feels that there should be a condition of the applicant to take care of this stream so that it does not dam up with debris. Mr. Haggerty indicated that there can be an advisory in the deed for that lot, that the purchaser of that lot would recognize that there would be a responsibility to keep the stream clean.

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

Mr. Clark summarized this application. This is a two lot subdivision proposal which require variances for proposed lot 1 for constraints and contiguous area and a variance for lot 2 for the same with the possible exception that if lot 3 owned by the township should be acquired, the constraints portion may be satisfied. The conditional aspect would be to convey which was shown the dam to the Normanoch Association, if the Association is willing to accept it. This would be a merger of Lot 2 along with the portion from the township that would be acquired. If Normanoch Association does not acquire the proposed section of Lot 2, then the applicant will at least give an easement to get to the dam to Normanoch. There are other conditions which this application was subject to,

which were discussed previously. These are “ C” Variances and a Minor Subdivision. The “ C” Variances would relate to the hardship of the property based upon the conditions on the site.

Mr. Haggerty indicated that the applicant has argued the benefits of the “ C2” Variances. They would take the dilapidated structures down. They will hopefully acquire the property from Frankford Township and eliminate a non-buildable lot that Frankford has. Mr. Clark indicated this would be better planning. Mr. Haggerty indicated that also this lot was used commercially and they converted it to a residential use so the applicant would bring this into compliance with the allowed zoning. Mr. Clark indicated that this test is that the benefits outweigh the detriments.

A Motion was made by Mr. Risdon and seconded by Mr. Ayers to approve the Minor Subdivision and “ C” Variance and the conditions set forth above Roll Call:

YES: 6 Ayers, Risdon, Martin, Nadolny, Romania, Gstattenbauer
NO: 0
ABSTAIN: 0

The Motion was carried.

RESOLUTIONS:

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

The Resolution was reviewed. A Motion was made by Mr. Martin and seconded by Mr. Nadolny to approve the Resolution for a Minor Subdivision. Roll Call:

YES: 5 Risdon, Martin, Nadolny, Romania, Gstattenbauer
NO: 0
ABSTAIN: 0

The Motion was carried.

Charles R. Ferruggia, Sr. – LUB 01-01 – Block 11, Lot 13.09 – Extension of Preliminary Major Site Plan with Variances:

The Resolution was reviewed. A Motion was made by Mr. Nadolny and seconded by Mr. Martin to approve Resolution for an Extension of the Preliminary Major Site Plan with Variances. Roll Call:

YES: 7 Ayers, Risdon, Martin, Nadolny, Romania, Gstattenbauer, Caldwell
NO: 0
ABSTAIN: 0

The Motion was carried.

Virgil Oliver, Jr. – LUB 03-05 – Block 63, Lot 4 – Planning Variance Extension:

A letter was received by the applicant requesting an extension of the Planning Variance approved on January 22, 2003 and Memorialized February 26, 2003. A Motion was made by Mr. Martin and seconded by Mr. Risdon to approve a two year extension of the Planning Variance. All were in favor. The Motion was carried.

BOARD BUSINESS:

Invoices:

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

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

NO: 0

ABSTAIN: 0

The Motion was carried

Fee Schedule:

Mr. Pellow submitted to the board a copy of his report that his office prepared for the charges for various applications since 2000 for minor subdivisions, site plans, major subdivision and residential variances. Mr. Clark was asked to prepare a similar report in order that the board can review the escrow fees.

Master Plan:

Mr. Clark handed out to the board a proposed Notice to Amend the Master Plan and asked the board to set a meeting dating for the hearing. This would be to amend the Master Plan to include the Open Space and Recreation Plan and also amend the master plan to make it to conform more to the Residential Ordinance the Board passed for the five (5) acre zoning. This change makes the master plan consistent with the zoning ordinance that was already passed.

A Motion was made by Mr. Nadolny and seconded by Mr. Martin to tentatively approve the changes to the master plan and schedule the public hearing for this Notice on March 17, 2004. All were in favor. The Motion was carried.

Correspondence:

The correspondence was reviewed. No formal action was taken.

ADJOURN:

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

Respectfully submitted,

SHARON M. YAROSZ
Land Use Administrator