

**FRANKFORD TOWNSHIP LAND USE BOARD**  
**APRIL 20 , 2005 – 7:00 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. Hahn, Mr. Risdon, Mr. Zappile, Mr. McDowell, Mr. Martin, Mr. Nadolny, Mr. Romania, and Mrs. Caldwell. Also present was Mr. Clark and Mr. Pellow.

Those absent: Mr. Ayers (excused), Mr. Hatler (excused) and Mr. Gstattenbauer (excused).

**PUBLIC PARTICIPATION:**

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

Gary Lawrence appeared before the board with regard to the letter sent from the applicant, Sussex Commons, to the residents of Frankford Township. He questioned the board if there was anything in that letter that was not true. Mr. Romania indicated that he just read the letter and he feels that the issues in that letter are a Township Committee issues, not Land Use Board issues.

Paul Supten questioned the board what is the Ordinance Review on the agenda this evening. Mr. Romania indicated that the board is reviewing all the different Ordinances that are in accordance what they are trying to do in the Master Plan.

Barbara Kelly indicated that the meeting with the applicant Sussex Commons should be held in a location larger than the town hall. The board indicated that they have been dealing with High Point High School to hold the meetings there instead of the town hall.

David Mince indicated that the Stakeholders Committee completed its report and it is denoted as a recommendation to the Land Use Board and made available to the board and the public.

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

**APPLICATIONS CARRIED FROM PREVIOUS MEETING:**

**Barry & Tawnie Scymanski – LUB 04-43 – Block 109. Lot 50 – 156 Lower North Shore Road – “C” Variance:**

A letter was received from the attorney representing the applicant requesting that this matter be carried to the April 27, 2005 Land Use Board meeting without further notice. A Motion was made by Mr. Nadolny and seconded by Mr. Martin to carry this matter to the April 27, 2005 Land Use Board meeting without further notice. All were in favor. The Motion was carried.

**BOARD BUSINESS:**

**Ordinance Review:**

Mr. Clark handed out to the board an Ordinance for Stormwater Detention Basin Maintenance Fee based on a letter that Mr. Pellow sent to the committee and the board's discussion on stormwater management and who maintains the basins. In the letter, they thought if the township could come up with a formula as to what the appropriate cost would be for maintenance for a municipality that it might be something that a township should do contrary to what the long standing policy in most rural communities which is to make the homeowner's association or more likely an individual property owner do the maintenance. What happens is, if it is left to a single homeowner, they will not do any maintenance. Under the new stormwater management regulations, you can not leave that responsibility to an individual property owner, you must have either a homeowner's association or the municipality must take the obligation. He asked that the board members review this Ordinance to discuss at the next meeting. Mr. Clark indicated that this should be sent to the County for their review and comment.

**Master Plan Reexamination Report:**

Mr. Clark indicated that Mr. Troast has modified his Reexamination Report submitted to the board. The paragraph added was under section 1.10-d paragraph "8": "Review parcels of land for future location of community facilities including Block 82, Lots 7 & 8 for a firehouse location. Modify the Master Plan and Land Development Ordinances." The board voted to accept this report at the last meeting.

Mr. Martin indicated, however, there is one item he would like to see corrected on page "5" item "1.01-c.2" In the middle of the paragraph it states "The current Master Plan of Frankford Township has proposed a **village** center at Ross' Corner..." Mr. Martin indicated that this is not true. The current Master (on page 26 and 27) called for a **town center** at Ross' Corner. He would like to see this corrected in the reexamination report.

A motion was made by Mr. Martin and seconded by Mr. Nadolny to correct paragraph 1.01-c.2 of the reexamination report to read town center instead of village center as proposed. All were in favor. The Motion was carried.

**RESOLUTIONS:**

**Municipal Stormwater Management Plan:**

The Resolution was reviewed. A Motion was made by Mr. Martin and seconded by Mr. Nadolny to approve the Resolution for Adoption of Master Plan Amendments for "Municipal Stormwater Management Plan for Frankford Township, Sussex County, New Jersey, dated February 23, 2005". All were in favor. The Motion was carried.

**Master Plan Re-Examination Report:**

The Resolution was reviewed. A Motion was made by Mr. Martin and seconded by Mrs. Caldwell to approve the Resolution for the Adoption of Master Plan Reexamination Report with the change from "village center" to "town center" on paragraph 1.01-c.2 of the Master Plan prepared by the board planner, David Troast, dated March 30, 2005. Roll Call:

YES:           6       Risdon, Zappile, Martin, Nadolny, Romania, Caldwell

NO:            1       McDowell

ABSTAIN: 1 Hahn

The Motion was carried.

**Richard Hamilton – LUB 04-40 – Block 270, Lots 1 & 7 – Planning Variance:**

Appearing before the board was William Haggerty, Esq., the attorney for the applicant. He submitted a revised map to Harold Pellow today because there was a mistake on one of the distances on the map. He requested that the board approve the map for signature this evening so that his son could start construction. Mr. Pellow indicated that he did receive the revised map; however, he has not had a chance to review the revisions yet.

A Motion was made by Mr. Martin and seconded by Mr. Hahn to give approval for signature of the revised map if Mr. Pellow finds the changes to be acceptable. All were in favor. The Motion was carried.

Mr. Haggerty indicated that they need a letter from the Blue Ridge Rescue Squad; they have a letter from the Frankford Fire Department saying access is adequate. The Blue Ridge Rescue Squad did not respond. They did receive a letter from Blue Ridge Rescue Squad on another application previous to this application and they indicated that they did not feel it is appropriate to respond to these requests. The applicant does not know what more they can do. The board agreed to this.

**APPLICATIONS FROM PREVIOUS MEETING:**

**James & Delores Fernandez – LUB 04-42 – Block 172, Lot 6 & Block 170, Lot 14 – “C” Variance:**

Mr. Martin stepped down from this application.

Appearing before the board was the applicant’s attorney, Les Anderson, their engineer, Kenneth Wentink and the applicant’s James and Delores Fernandez.

Mr. Anderson indicated that the board adopted a Resolution on March 30, 2005 memorialized an approval in February 2005 with certain conditions. One of the conditions was that the applicant must design and resubmit septic plans to the Sussex County Board of Health meeting the new construction standards. If the applicant could not design the septic system to meet new construction standards, they were to return to the Land Use Board for additional relief. Mr. Wentink will explain to the board the extent to which he was able to design a system meeting the board’s requirements.

Mr. Wentink was sworn in by the board attorney. Mr. Wentink indicated that in response to the board’s condition of approval and in response to a gentlemen, who is the President of the Normanach Association, they moved the septic system back further from the street to provide the 50 foot clearance to the storm sewer. They put in 4 feet of select fill under the crushed stone, which is for a new system rather than an alteration. The only thing the

applicant could not meet for a new septic system, because of the existing soil conditions across the street, they have to have at least 24 inches to the water table, which is the modeled soil, and they were approximately 6 inches under the top soil. This is the only condition of a new septic system that the applicant could not meet. Mr. Wentink sent this revised design to the County Health Department and they approved this design as an alteration.

Mr. Clark questioned Mr. Wentink, so from a regulatory point of view, the septic design is acceptable to the County Board of Health.

Mr. Anderson indicated that the reason the applicants are back is that the wording of the Resolution states "to meet the standards for a new construction". He indicated that Mr. Wentink was able to design a system, but because of where it is located, it does not meet the standard if it was a brand new system on a site never having had a system.

Mr. Risdon questioned Mr. Wentink if you have modeling 2 feet or less from the surface, does it automatically void the whole site from building. Mr. Wentink indicated that that is true for a new home. This lot had an existing structure on it and it was submitted as an alteration. He indicated that Mr. Fernandez has recorded a deed that, in affect, marries the lot with the proposed septic with the lot across the street which the structure is on. Therefore, the applicant can not sell one without the other.

Mr. Wentink indicated that whenever he does an alteration, when a person has a failing system, the accepted practice is the crushed stone is 24 inches above the modeled soil. They just continue the bank run sand and gravel up. In this system, he raised it 48 inches above the modeled soil. He also put in select fill rather than bank run, which select fill, is what they would require in the new system.

Mr. Pellow questioned Mr. Wentink as to the height from the existing ground to the top of the system. Mr. Wentink indicated it is approximately between 4 to 5 feet, which will be landscaped.

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

Richard St. John, President of the Normanach Association was sworn in by the board attorney. Mr. St. John indicated that he listened to the testimony this evening and he believes that the applicants have made every effort they could to reasonably get as close as they could to a design for a new home. He appreciates the board's and the homeowner's efforts in trying to make this more acceptable to the health of the lake.

Mr. Hahn questioned Mr. Wentink if the County Board of Health reviewed this proposal. Mr. Wentink indicated that they have reviewed the system and approved it. Mr. Clark indicated that the applicant's needs to provide a copy of the approval to the board secretary.

Tom Powers the applicant's neighbor and was sworn in by the board attorney. Mr. Powers indicated that everything that the Fernandez's have done in the neighborhood have been top notch. He feels that the septic across the street is excellent. He sees no problem with this application.

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

Mr. Nadolny asked if there was a copy of the Deed merging the two lots in question this evening. Mr. Anderson indicated that he has a deed recorded in the Sussex County Clerk's Office which he will submit to the board this evening. Mr. Clark indicated that he has not seen this deed to review as of this date. Mr. Anderson indicated that the language that the Department of Health required is "subject to the restriction that this property may not be sold or developed until the individual subsurface sewage disposal system which is installed on this

property to serve property commonly known as 41 Lakeview Point Avenue and more particularly described as Lot 14, Block 170 on the current Frankford Township Tax Map as abandoned and removed. Mr. Clark indicated that this board approves the deeds as part of the board process to make sure the condition is satisfied. Mr. Anderson indicated that this was done a year ago in order to get the original septic design. Mr. Romania indicated that one of the conditions of the Resolution is that these two lots must be merged and it is subject to the board's professionals to review the deeds to make sure they are correct. Mr. Clark indicated that it does not have to be done again; however, he should see the deed and review same to make sure it meets the condition of Resolution by the board.

A Motion was made by Mrs. Caldwell and seconded by Mr. McDowell to amend the Condition "5" of the Resolution previously adopted on March 30, 2005 to approve the revised design of the septic plans as presented this evening dated February 16, 2005. Roll Call:

YES: 6 Hahn, Zappile, McDowell, Nadolny, Romania, Caldwell

NO: 1 Risdon

ABSTAIN: 0

The Motion was carried.

A Motion was made by Mr. Hahn and seconded by Mr. Romania to take a 5 minute recess at 8:00 p.m. All were in favor. The Motion was carried.

A Motion was made by Mr. Nadolny and seconded by Mr. Martin to reconvene the meeting at 8:10 p.m. All were in favor. The Motion was carried.

#### **NEW APPLICATIONS:**

#### **Sussex Commons Associates, LLC – LUB 04-041 – Block 11, Lots 13, 13.04, 13.05, 13.06, 13.07, 13.09, 13.11, 13.12, 13.13, 13.14, 13.15 & 15:**

See the verbatim transcripts of this hearing prepared by Linda Hoffmann, C.S.R. which are attached hereto and made a part hereof.

A Motion was made by Mr. Zappile and seconded by Mr. Hahn to have the applicant provide transcripts to the Frankford Township Land Use Board at no cost to the township. All were in favor. The Motion was carried.

A Motion was made by Mr. Zappile and seconded by Mr. Martin to deem this application complete with the waivers requested some being permanent, some are temporary, and some are conditional as described. Roll Call:

YES: 7 Hahn, Risdon, Zappile, Martin, Nadolny, Romania, Caldwell

NO: 1 McDowell

ABSTAIN: 0 The Motion was carried.

A Motion was made by Mr. Martin and seconded by Mr. Zappile to take a 5 minute recess at 9:00 p.m. All were in favor. The Motion was carried.

A Motion was made by Mr. Nadolny and seconded by Mr. Martin to reconvene the meeting at 9:05 p.m. All were in favor. The Motion was carried.

#### **EXECUTIVE SESSION:**

A Motion was made by Mr. Zappile and seconded by Mr. Risdon to go into executive session to discuss litigation. All were in favor. The Motion was carried.

A Motion was made by Mr. Zappile and seconded by Mr. Nadolny to reconvene the regular meeting. All were in favor. The Motion was carried.

**ADJOURN:**

A Motion was made by Mr. Hahn 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