

**FRANKFORD TOWNSHIP LAND USE BOARD
MAY 25, 2005 – 6:00 P.M.
MINUTES OF THE REGULAR MEETING**

Special Note: Documents which are attached to the minutes (information handed out at the meetings, the transcripts for the application for Sussex Commons) are available at the Municipal building if the public would like a copy.

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 (arrived at 6:30 p.m.), Mr. Risdon, Mr. Hatler (arrived at 6:30 p.m.), Mr. McDowell, Mr. Martin, Mr. Nadolny, Mr. Romania, Mr. Gstattenbauer and Mrs. Caldwell. Also present were Mr. Clark, the board attorney and Mr. Pellow, the board engineer.

Those absent: Mr. Zappile (excused).

BOARD BUSINESS

Town Center Presentation – Presented by H2M:

Appearing before the board was Stanley Puszcz of H2M Group who gave his qualifications to the board. Also appearing from H2M was Janice Talley, who also gave her qualifications to the board.

Mr. Puszcz indicated that they had a lot of basis to work from. Their information was taken from the current Master Plan, recommendations made by the Land Use Board and Stakeholders Committee. Their objective was to build on the work that the township has done previously, identify where State policy and the advancements in planning and relationships have been established and bring it into the current regulatory program. What they are focused on this evening is a two step process. The process that they are submitting this evening is exclusively on Ross' Corner, the Town Center. However, the center exists within the township as a whole. He indicated that by looking at a lot of the planning work that the township has done up to this point, the township is looking at not just how the center can be developed, but also how the balance of the township will be developed over the years, the build out potential and the like. The second phase of the process is the Transfer Development Rights (TDR), which is a program that exists for municipalities which is a variation on the cluster development concept where you consolidate development in one location. The TDR takes into consideration moving development that would have occurred in one location to an area where you desire. Ms. Talley submitted to the board a presentation of the Frankford Center Concept Plan which is attached hereto and made a part hereof.

It was suggested that the board review the proposed Concept Plan and submit their views to H2M prior to the next meeting on June 22nd when this matter will be reviewed again.

The board indicated that they should have a special meeting to discuss the Concept Plan submitted this evening.

The revised Minutes of the March 23, 2005 Joint Meeting of the Township Committee and Land Use Board Meeting were reviewed. A Motion was made by Mr. McDowell and seconded by Mr. Nadolny to approve the revised minutes of the March 23, 2005 Joint Meeting of the Township Committee and Land Use Board. All were in favor, except Mr. Hatler, who abstained. The Motion was carried.

The revised Minutes of the March 23, 2005 Joint Executive Session of the Township Committee and Land Use Board were reviewed. A Motion was made by Mr. Nadolny and seconded by Mr. Risdon to approve the revised minutes of the March 23, 2005 Joint Executive Session of the Township Committee and Land Use Board. All were in favor, except Mr. Hatler, who abstained. The Motion was carried.

The Minutes of the April 20, 2005 Regular meeting were reviewed. A Motion was made by Mr. Risdon and seconded by Mrs. Caldwell to approve the minutes of April 20, 2005 Regular Minutes. All were in favor, except Mr. Ayers, Mr. Hatler and Mr. Gstattenbauer who abstained. The Motion was carried.

The Minutes of the April 20, 2005 Executive Session were reviewed. A Motion was made by Mr. Risdon and seconded by Mr. Martin to approve the minutes of the April 20, 2005 Executive Session. All were in favor, except Mr. Ayers, Mr. Hatler and Mr. Gstattenbauer, who abstain. The Motion was carried.

The Minutes of the April 27, 2005 Regular meeting were reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Martin to approve the minutes of the April 27, 2005 Regular Minutes. All were in favor, except Mr. Hatler, who abstained. The Motion was carried.

PUBLIC PARTICIPATION

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

Paul Sutphen appeared before the board to compliment the Land Use Board on the last meeting at the Richard's Building and he indicated that he wishes that all the other meetings for the applicant Sussex Commons could be held at the fairgrounds. Mr. Ayers indicated that the fair grounds will be available for the 3rd Wednesday in June, July and August. He further stated that they will be using the barn, not the Richard's Building during the months of July and August.

Mr. Sutphen appeared before the board as a representative of the Board of Health and further spoke to the board with regard to septic systems on the small lots around the lake areas of Frankford Township. He suggested a joint project of the Board of Health and Land Use Board to develop an Ordinance for a septic upgrade on these small lots.

David Mintz appeared before the board and stated that the Ordinance for the Town Center should be passed. The reason is that the existing C2 bearings in the Master Plan for the town center is inconsistent with the 2000 Master Plan. It is also inconsistent with the County Plan. It is also inconsistent with a town center or village center under the State Plan. Finally it is inconsistent with the Stakeholders recommendation and the presentation from H2M. He is recommending that the board pass an Ordinance which is consistent with the ability of this board and this township to create a center that makes sense.

There was no further public participation. A Motion was made by Mr. Martin and seconded by Mr. Hahn to close this matter to the public. All were in favor. The Motion was carried.

ZONING OFFICER' S REPORT

The Board reviewed the Zoning Officer's Report dated May 25, 2005. No formal action was taken.

NEW APPLICATIONS

Walter M. & Ruth T. Winkler – LUB 05-09- Block 261, Lots 22.02 – 8 Drake Road “C” Variance & Planning Variance:

Appearing before the board was the applicant, Walter Winkler, and his engineer, Daniel Kent. Mr. Winkler and Mr. Kent were sworn in by the board attorney.

Mr. Pellow reviewed his report dated May 18, 2005 and revised May 24, 2005 for completeness:

Paragraph 4: The application is not complete unless the following items are either provided by the hearing or waived by the Board. Items 15, 42 & 75 to be addressed by the Applicant at the meeting on the 25th.

Item #15: Copy of Sussex County Health Department application. Mr. Pellow indicated that this will be provided by the applicant at the hearing this evening. Mr. Winkler submitted a copy of the Septic Permit and application for septic permit to the board. Mr. Pellow reviewed same and indicated that it was acceptable.

Item #42: Building envelopes – Setback lines should be shown. Mr. Kent indicated that he has a negative building envelope so he can not show it. Mr. Pellow indicated that since there is a negative building envelope, this waiver is acceptable.

Item #75: Building floor plan, elevation views and first floor elevation with overall building height. This was provided May 20, 2005, however, the plans are not signed by New Jersey architect and there are no elevations which show total height. Mr. Winkler indicated that he spoke to Jason at Mr. Pellow's office and he gave all the dimensions of each room to him. The height will be approximately 31 feet maximum, it is probably a little bit less than that.

Mr. Clark indicated that the legal notice was sufficient.

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

Mr. Winkler indicated that he purchased this property approximately 20 years ago. With regard to the septic issues on the property, they have done 12 revisions for the septic, which they have finally obtained.

Mr. Kent indicated that this property is Block 261, Lot 22.02, which is the last lot that would be constructed on this road. This property is directly across the street from Erin Fischer, who received a Variance to raise the floor on 5 Drake Road in 1998. The issue about Drake Road being widened and safe for emergency vehicles was discussed in the Resolution, which he submitted to the board this evening. At that particular time, the Fire Department wrote a letter that the road should be a minimum of 10 feet wide and there was some clearing required for the overhead branches. Mr. Winkler has since put on six inches of shale, the road is 10 to 12 feet wide. The fire company and the rescue squad no longer issue letters that the road is sufficient for access. It is clear that it would support construction equipment and emergency vehicles.

Mr. Kent further stated that the turn around that is proposed is actually a driveway that leads from Drake Road to other lands of Mr. Winkler which comes in to the back of his home which is constructed on Lot 24.02 in Block 261. The road is used by him currently and they thought this

would be the best place on Drake Road to put the turnaround for emergency vehicles or other vehicles coming into the road. Mr. Kent indicated that Mr. Pellow's report requested that the surface be 6 inches of 5A. Mr. Winkler indicated that this would not be a problem.

Mr. Pellow continued reviewing his report:

Paragraph " 5" : The width of Drake Road is 10' -12' ; not wide enough for two vehicles to pass through at the same time. This could cause access problems in the event of an emergency. Letters from the fire department and rescue squad should be submitted which verify that access to the lots on Drake Road is reasonable. Mr. Kent previously gave testimony with regard to this issue. Mr. Pellow indicated that the width of the road is sufficient.

Paragraph " 6" : Access Easement for Lots 22.01, 23 and 24.03 should be discussed. Mr. Winkler stated that he sent letters to the Lake Owassa Community Association and requested to purchase the adjoining lots. He received an e-mail from the Association indicating that they will not sell any of their property. Mr. Winkler submitted a copy of the e-mail to the board for their review. This e-mail was marked as Exhibit " A-1" . Mr. Winkler indicated that he is not going to shut off the road.

Paragraph " 7" : Who maintains this private road? Mr. Winkler indicated that property owners presently maintain the road.

Paragraph " 8" : The modified wetlands transition area limit goes through the house. Is this what NJDEP approved? Conservation easements may be required. A copy of the NJDEP-approved plan and proof of the required deed restriction was provided on May 19, 2005. Mr. Kent indicated that the modified wetlands transition goes around the house and garage and is picked up again by the proposed well, it does not go through the house. Mr. Kent submitted to the board a letter from the DEP and they also had to file an instrument which is called a " Declaration of Restriction for Modified Transition Area" . This was marked as Exhibit " A-2" .

Paragraph " 9" : The proposed driveway which services the proposed garage does not conform to Ordinance standards. The applicant is proposing to utilize portions of the right-of-way and Lot 24.02, Block 262 (across the street) to provide a turn-around area. The exact limits of the " K" turn to be explained and should be construction of dense graded aggregate base, 6" thick. Mr. Pellow indicated that there was testimony this evening that the applicant is going to top the road with 6" thick 5A stone which is sufficient.

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

Mr. Clark summarized the variances needed on this application is Lot Area (5 acres required; 1.75+/- provided), Lot Depth (300' required/170 +/- provided), Side Yard (60' required/59.2' provided), Front Yard (75' required/15.3' proposed), Rear Yard (75' required/35' +/- provided), and Road Frontage (required Public Improved/Private Unimproved provided). Mr. Clark stated that these are all "C" Variances based upon the conditions that were testified to with regard to wetlands. There was testimony with regard to the Planning Variance and how the prior owners treat it.

A Motion was made by Mr. Martin and seconded by Mr. Nadolny to approve the "C" Variances and Planning Variances requested. Roll Call:

YES: 10 Ayers, Hahn, Risdon, Hatler, McDowell, Martin, Nadolny
Romania, Gstattenbauer, Caldwell

NO: 0

ABSTAIN: 0

The Motion was carried.

**Gregg A. & Jeanine Paschenko – LUB 05-07 – Block 266, Lot 4 – 36 Bonning Road “C”
Variance & Planning Variance:**

Appearing before the board was the applicant’s attorney, William Haggerty. Also appearing was Michael Gaus, representing an adjoining property owner.

Mr. Haggerty indicated that the applicants purchased this property which had a small lake house on the lot. The contractor was directed to do some renovation and went way beyond the renovation and it is down to the foundation. The condition of the house was poor. The issue that will be presented with this application is whether the Nash Case would apply. Mr. Gaus has indicated that the adjoining owner has an interest in purchasing the property and has gone so far as to obtain an appraisal. The issue presented to the Court is in the form of do we have to adhere or does the board deem that it is appropriate and necessary to adhere to the Nash criteria and proceed in that fashion.

This property was improved historically until just this year with a single family home that was used by the applicant’s family as a seasonal home. They applied to the board in the past for variances to construct a new home on the site. The plan involved a much larger home that is now proposed. That plan was rejected and they intended to come back to the board with this new proposal, however, the house was taken down. The argument that he is presenting to the board is that the Nash criteria is an available tool for the board, but not a necessary mechanism that is required to be followed. In this particular case they do have a distinction since there was a residence on the property. The applicant intended to build primarily on the existing foundation. It is somewhat larger than the existing foundation. If the board finds that the Nash criteria must be applied and the procedure followed, then he request of the board that the application hearing process be suspended for a period of time to allow the applicant to obtain an appraisal so that when the application is presented, they can present it uniformly and with continuity.

Mr. Gaus indicated that he represents Jerome and Gayle Baron who are the surrounding property owners of Block 266, Lot 3- 34 Boning Road. Mr. Gaus indicated that his client’s did obtain an appraisal that was finalized yesterday and he sent Mr. Haggerty a draft of it last week.

Mr. Romania questioned what was on the property at the current time. Mr. Haggerty indicated that there is a well, a new septic system that was built with approvals and the foundation. Mr. Paschenko submitted to the board a copy of photograph taken of the property taken within the last month. This picture was marked as Exhibit “A-1”.

A Motion was made by Mr. Martin and seconded by Mr. Hatler to carry this application without further notice to the July 27th meeting of the Frankford Township Land Use Board in order for the applicants and the objector’s attorney to obtain an appraisal of the property. All were in favor. The Motion was carried.

RESOLUTIONS

James Huff – LUB 04-27 – Block 18, Lot 18 – Minor Subdivision:

A Motion was made by Mr. Ayers and seconded by Mr. Hatler to approve Mr. Clark to write a letter to the Zoning Officer, Frankford Township Board of Health, and Building Department with regard to this issue. All were in favor. The Motion was carried.

ADJOURN:

A Motion was made by Mr. Hatler 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