

FRANKFORD TOWNSHIP LAND USE BOARD
JUNE 21, 2006 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING

CALL TO ORDER

The meeting was called to order by the board Chairman, Mr. 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. Risdon, Mr. Gstattenbauer, Mr. McDowell, Mr. Martin, Mr. Larson, Mr. Romania, Mr. Smolen, Mr. Dolan. Also present was Mr. Clark, the board attorney and Mr. Stoner, representing the board engineer.

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

BOARD BUSINESS

Executive Session:

A Motion was made by Mr. Martin and seconded by Mr. Gstattenbauer to go into executive session to discuss law suits and issues with Morris Coachworks. All were in favor. The Motion was carried.

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

PUBLIC PARTICIPATION

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

NEW APPLICATIONS

Brian McAlister – LUB 06-09 – Block 267, Lot 2.04 – Bonning Road (Lake Owassa)
“C” Variance and Planning Variance:

Appearing before the board was the applicant, Brian McAlister, and his attorney, William Haggerty. Mr. McAlister was sworn in by the board attorney.

Mr. Haggerty indicated that this is an application for construction of a single family home on an undersized lot that is not on an improved public road having access to the property which also require a multiple of “c” variances because the lot is not on a 5 acre lot.

Mr. Stoner reviewed Mr. Pellow’s report dated May 11, 2006 and revised June 19, 2006 for completeness:

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

“ITEM 9”: Listing of all variances, design standards and checklist waivers. Mr. Stoner indicated that the zoning chart on the map was revised to show the 5-acre requirement.

NEW APPLICATIONS CONT.

Brian McAlister – LUB 06-09 – Block 267, Lot 2.04 – Bonning Road (Lake Owassa)
“C” Variance and Planning Variance Cont.:

“ITEM 11”: A recent photograph of the property. Mr. Haggerty indicated that he does have the 4 photographs of the property which will be submitted and explained during testimony of the hearing.

“ITEM 15”: County of Sussex County Health Department application. Mr. Haggerty indicated that he will submit to the board a copy of the County of Sussex Health Department Application during testimony.

“Item 26”: Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area ratio, parking. Mr. Stoner indicated that this was added to the plan.

“Item 75”: Building floor plan, elevation views and first floor elevation with overall building height. This was not included in the packet. Mr. Haggerty indicated that the applicant is requesting a Waiver of this item because the applicant is a contract purchaser and does not know which house he is building or if this application will be approved. He further indicated that the applicant is allowed 3,063 square feet of floor area according to the Ordinance and he will be staying under that square footage. He indicated that they will comply with all the height and bulk standards that are applicable for a single family home. He stated that the lot is a large lot comparatively for a lake community although it is undersized for 5 acres.

A Motion was made by Mr. Risdon and seconded by Mr. Martin to deem this application complete with the waiver requested for the Building Floor Plans. All were in favor. The Motion was carried.

Mr. Haggerty submitted to the board 4 photographs of the property. The photographs were labeled “A-1” through “A-4”. Photograph “A-1” is a photograph looking towards the cul-de-sac on Bonning Road. The property in question is on the right and the lake is on the left. Photograph “A-2” is a photograph of the house across the street (Lot 2.01) with the cul-de-sac. Photograph “A-3” is a photograph of the house on Lot 5 at elevation 415 on the map. Photograph “A-4” is a photograph of the topography of the whole lot.

Mr. Haggerty submitted to the board a copy of the septic application to the County Health Department Application. This application was marked as Exhibit “A-5”. The septic is designed for a 4 bedroom home.

Mr. Haggerty indicated that the applicant is proposing to construct a single family, 4 bedroom home on the site. The allowed floor area ratio of this lot is 3,063 square feet. Mr. McAlister indicated that he proposes a smaller home which will comply with the height requirements of the township. He further indicated that the house will be similar to the architecture style and appearance of the homes in the neighborhood. Mr. McAlister further stated that he has not submitted architectural plans to the board because he does not want to lock into a particular home because he does not want to build a spec house on the lot.

Mr. Risdon indicated that the plan shows a 1 story dwelling. Mr. McAlister indicated that he is proposing a 2 story dwelling. He further indicated that the plans submitted are incorrect which show approximately a 3300 square foot home. He is proposing to build a house approximately 2700 square feet. He stated that the base footprint will be under 1500 square feet. Mr. Clark questioned the applicant when he will decide to lock himself into a particular plan. Mr. McAlister indicated that he would like to wait until he gets an approval so he knows what he can build. He does not own the property yet, he is a

NEW APPLICATIONS CONT.

Brian McAlister – LUB 06-09 – Block 267, Lot 2.04 – Bonning Road (Lake Owassa)
“C” Variance and Planning Variance Cont.:

contract purchaser. Mr. Haggerty indicated that the applicant recognizes that the board retains jurisdiction of this issue.

Mr. Stoner continued reviewing Mr. Pellow's report:

Paragraph “3”: The bulk requirement chart is incorrect relative to the floor area ratio. 7.8% is allowed as per the Township ordinance, which would equate to 3,063 square feet of floor area allowed. The applicant is proposing 4,950 square feet. Bulk variances will be required once the property bulk requirements are submitted. Mr. Haggerty indicated that the 4,950 square feet on the map was incorrect and the applicant intends to meet the floor area ratio requirement ordinance. The applicant stated that the house will have a garage under the house and the basement will not be a walk out basement. The size of the house will not exceed 50' x 30'. A lengthy discussion was held with regard to the applicant submitting architectural plans.

Paragraph “4”: The plan shows an existing private road running from Bonning Road up to County Route 521. This private road shows on the tax map, but it has no name. The applicant is proposing to use this private road for his access into his driveway. Who has rights over this road, and will the driveway be built within the existing 15 foot wide right-of-way? In addition, a profile, cross sections, and typical sections are needed for the improvements to the private road, along with a proposal to control drainage from the runoff down this private road onto Bonning Road. Bonning Road in front of this property consists of a gravel surface approximately 12 feet wide. It is only sufficient for once car width. If this application is approved, a driveway application will be needed from the Frankford Township Building Department. Mr. Haggerty indicated that the applicant does have rights to this private road. He submitted to the board a copy of a Deed which was marked as Exhibit “A-6”. Mr. Haggerty questioned Mr. McAlister on his plat it states “existing private road” is that how he proposes to access a home to be built on this site. Mr. McAlister indicated it was. He further questioned Mr. McAlister if this existing private road furnish access to another property. Mr. McAlister indicated that it does. It further stated that it is the stone house as shown in Exhibit “A- 3”. Mr. McAlister indicated that he has traveled this site in inclement weather. Mr. Haggerty questioned his client about the topography of the property. Mr. McAlister indicated that the property has a slope, but not a steep slope. He further indicated that the neighbors have been using this road for years to access their property. He indicated at this time he does not propose any improvements to the road because he feels that it does not need any improvements. Mr. Romania questioned the applicant what makes this a private road if its not a driveway to the stone house. Mr. McAlister indicated that he assumed it was an easement. It is on the tax map. He stated that this road goes right to the lake. Mr. McDowell questioned if the Deed mentions the road that is access to his house. Mr. Haggerty read from the Deed: “The party of the first part reserves the right of ingress and egress over that portion of the above described lot lying adjacent to and 6 feet West of the 1st course described above and grants the right of ingress and egress to that portion of the roadway lying adjacent to and east of the 1st course described above.” It further states: “The part of the 1st part grants to party of the 2nd part the right to use the roadway from Route #521 (West Shore Lake Owassa) to the lot herein described and also grants the party of the 2nd part the right of ingress and egress over land lying west of a lot owned by George Ling and east of a lot owned by Ferdinand F. Prandato and runs from Bonning Road to the shore of Lake Owassa.” Mr. Haggerty indicated that his interpretation is that this includes that right. A discussion was held with regard to the width of the road.

Mr. Haggerty indicated that they do recognize that the lot is undersized and he did send out letters pursuant to the Nash requirement. He submitted to the board a copy of a letter

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Brian McAlister – LUB 06-09 – Block 267, Lot 2.04 – Bonning Road (Lake Owassa)
“C” Variance and Planning Variance Cont.:

to Jack L. Utter and Ms. Kraus. This was submitted as Exhibit “A-7”. They are owners of the adjacent property. He did receive a response that they may be interested in purchasing the property. Attorneys from Morris, Downing & Sherred represents the seller, Mr. Johnson, followed up with a letter to them to indicate what the price might be. His indication to Mr. Haggerty was that there was no interest at that point. He also submitted a letter to Ronald and Betty DePue, a Nash letter. This letter was marked as Exhibit “A-8”. The letter from Morris, Downing & Sherred, was marked as Exhibit “A-9”.

Paragraph “5”: COAH obligation to be complied with. The applicant agreed.

Paragraph “6”: I believe the Township maintains Bonning Road during the winter, but this should be verified by Rich Pumphrey of the Township Road Department. It appears that they turn around in a type of cul-de-sac near the westerly side of the Applicant’s property. Mr. Risdon indicated that the township does plow this road in the winter.

Paragraph “7”: The map shows a proposed 4-bedroom dwelling, 55’ x 30’, which equates to 1,650 square feet, but their bulk requirements indicate that there will be a house built 4,950 square feet. If the 4-bedroom, 1-story dwelling is correct, then the floor area ratio has been satisfied. This issue has already by discussed.

Mr. Romania questioned how would the applicant widen the road to 20’ up to his driveway. Mr. Clark indicated that he would have to widen it on his property. Mr. Romania questioned the applicant if all 3 lots access this private road for access to their property. He indicated that it would only be him and the owner of the stone house shown in Exhibit “A-3”. The third lot accesses from Route 521.

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

Jack Utter was sworn in by the board attorney. He requested that the board not even entertain this application, because there is 5 acre zoning in the township at the present time. Mr. Utter indicated that there is a water problem in this area and when a well was dug by his house recently, his water has now turned to sulfur water. Mr. Clark questioned the applicant if he had expert testimony regarding the water. Mr. Utter indicated that he did not. He was made an offer to purchase this property from the applicant and he did decline. Mr. Utter also indicated that if the basement is underneath the house, the basement would have to be above ground in order to accommodate the garage. This then would be 3 floors because it is above ground. Mr. McAlister indicated that he is going to excavate the property and dig a hole for the foundation. Mr. Utter indicated that because of the topography of the property, the garage will not be underground.

Joanne Sorrentino of Lucas & Gaus appeared before the board on behalf of neighbors, Jerome and Gail Baron, Block 266, Lot 3. She indicated that her client’s object to the fact that the building plans were not submitted with the application as required by the checklist. She is objecting on behalf of her clients unless the plans are submitted, approved and reviewed.

Mr. Ferrante was sworn in by the board attorney. He indicated that the Road to Lake on the applicant’s map is not a private road. He indicated that his septic system is the original system and functioning properly. It is on the lakeside of the house. He questioned if the applicant’s have check the distance from his well and their septic

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Brian McAlister – LUB 06-09 – Block 267, Lot 2.04 – Bonning Road (Lake Owassa)
“C” Variance and Planning Variance Cont.:

Mr. Stoner indicated that the applicant's plans show this information. He indicated that he has water entering his basement periodically. His main concern is the road widening and paving this road, the water distribution and run off would funnel to his property.

Mr. Ronald Dupuy was sworn in by the board attorney. He indicated that the property is too small and does not meet the 5 acre requirement and this application should be denied.

Mr. Paul Barchet was sworn in by the board attorney. He questioned if this property had lake rights. Mr. Clark indicated that this is not an issue for the board to decide.

There being no further public, a Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to close this matter to the public. All were in favor. The Motion was carried.

It was decided that the board members should do an on site inspection of this property with the board engineer present. It was also agreed by the board that the map should be corrected because there are several errors on the map. Mr. Romania indicated that a style of house could be chosen by the applicant to show the board. He does not feel this is an expense to the applicant. The applicant agreed. Mr. McAlister indicated that the property is staked out and shows the septic and well locations.

A Motion was made by Mr. Risdon and seconded by Mr. Larson to have an on-site inspection of this property on June 28, 2006 at 5:00 p.m. and carry this application without further notice to the July 19, 2006 meeting. All were in favor. The Motion was carried.

GDS Enterprises/David Licata – LUB 06-13 – Block 11, Lot 13.02 – 124 Route 206N
Amended Site Plan:

Appearing on behalf of the applicant was David Licata, the applicant, and William Moran, the applicant's engineer. Mr. Moran and Mr. Licata were sworn in by the board attorney.

Mr. Moran indicated that they were appearing before the board for an Amended Site Plan application to convert part of the existing restaurant to office space on the second floor only. There is no proposed new construction on the plans. Mr. Moran indicated that he did make changes to the site plan as per Mr. Pellow's report. The last revised plans are dated June 14, 2006.

Mr. Stoner reviewed Mr. Pellow's report dated June 12, 2006 as to completeness:

“ITEM 26”: Zoning Chart listing existing/proposed requirements for area, setbacks, lot coverage height, density, floor area ratio, and parking. A waiver is requested since there are no structures or site work proposed. While no improvements have been proposed, the zoning chart for the C-2 Zone in Frankford should be added to the plan to illustrate any unconformities that may exist. Mr. Stoner indicated that this was added to the plans.

“ITEM 28”: Existing structures within 200 feet and distance to property line. A waiver is requested since there are no structures or site work proposed. Mr. Pellow had no objection to this waiver since there is no site work being proposed.

NEW APPLICATIONS CONT.

GDS Enterprises/David Licata – LUB 06-13 – Block 11, Lot 13.02 – 124 Route 206N
Amended Site Plan Cont.:

“ITEM 34”: Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow. A waiver is requested for the required scale not less than 1”=400’. The key map scale is 1”=800’. Mr. Pellow had no objection to this waiver.

“ITEM 42”: Building envelopes. A waiver is requested since there are no structures or site work proposed. It is recommended that even though this is a non-conforming lot, building envelopes should still be shown on the site plan. Mr. Stoner indicated that this was added to the plans.

“ITEM 48”: Existing and proposed contours at five foot (5’) intervals for slopes 15% or greater; 2’ intervals for lesser slopes. A waiver is requested since there are no structures or site work proposed. Mr. Pellow had no objection to this waiver.

A Motion was made by Mr. Martin and seconded by Mr. Risdon to deem this application complete with the approval of the waivers requested. All were in favor. The Motion was carried.

Mr. Stoner continued reviewing Mr. Pellow’s report:

Paragraph “3”: The property in question (Block 11, Lot 13.02) is located in the C-2 Commercial District. Professional offices and restaurants are permitted uses within the C-2 Commercial District.

Paragraph “4”: The existing lot and structures do not meet current requirements for the C-2, Commercial District and are, therefore, unconforming which includes minimum lot area, minimum lot width, minimum lot depth, minimum front yard setback, minimum side yard setback and minimum lot frontage. These are all pre-existing non-conforming.

Paragraph “5”: The Frankford Land Use Ordinance requires that the minimum parking area setback from a property line is 100 feet in the front and 25 feet in the side and rear. The existing parking areas do not meet these requirements and are non-conforming. Mr. Stoner indicated that this is an existing condition.

Paragraph “6”: The Frankford Land Use Ordinance require that the minimum parking area setback from the building is 20 feet except for loading area. The existing lot does not meet this requirement and is non-conforming. Mr. Stoner indicated that this is an existing condition.

Paragraph “7”: The Frankford Land Use Ordinance states that off-street loading is permitted in the side yard, provided the area is screened from the street with a wall, fence, or dense evergreen planting to obscure view. The existing loading zone has no screening and is non-conforming. Mr. Stoner indicated that this is an existing condition

Paragraph “8”: The Frankford Land Use Ordinance requires 1 space for every 200 square feet of gross floor area for office space and 1 space for every 3 seats and 1 space for each employee. Not including spaces for employees, this would require 4 spaces for the office space and 18 spaces for restaurant patrons, totaling 22 spaces. The existing site has 32 parking spaces. This will allow 10 parking spaces for use by employees. The applicant should provide testimony regarding the number of employees and verify that the parking is sufficient for the proposed use. Mr. Licata indicated that the restaurant has been operating since 1982 in full structure of the building. They had a fire in 2004 which took a year to get re-opened. They down sized the restaurant to the lower level. They

NEW APPLICATIONS CONT.

GDS Enterprises/David Licata – LUB 06-13 – Block 11, Lot 13.02 – 124 Route 206N
Amended Site Plan Cont.:

proposed to use the upstairs for office space. They have approximately half the amount of seats they had prior to the fire. On a busy night there can be as many as 6 to 7 employees. In 1983 they purchased the rear property and doubled the size of the parking lot. The applicant indicated that the restaurant has 54 seats in it at the present time. The upstairs has 1500 square feet and he is presently using it for personal storage. He feels it makes economical sense to use it for an office and try and find a tenant for it. As far as parking, they have never had any problems. He feels that 10 spaces for employees is sufficient. At the present time he does not have a tenant. He assumes that when he finds a tenant it will be a 9 to 5 office environment. The restaurant business is primarily 5 P.M. to 10 P.M.

Paragraph “9”: The submitted documentation for septic system capacity illustrates that the existing septic system is adequate for the proposed use. Verification from the Sussex County Health Department that the system is capable of hauling the change of use needs to be obtained. Mr. Moran indicated that they have received a verbal approval from the County. They will submit the written approval when they receive it.

Paragraph “10”: The approval boxes on the amended site plan need to be revised to reference the Township of Frankford Land Use Board not Planning Board. Mr. Stoner indicated that this change was made.

Paragraph “11”: Are any new signs proposed. Mr. Licata indicated that a 5’ x 4’ x 20’ two sided sign exists. There are no proposals for a new sign at this time.

Paragraph “12”: Hours of operation to be detailed. Mr. Licata indicated that the restaurant is opened from 11 a.m. to 10 p.m. 6 days a week, no Mondays. He assumes the office hours for the upstairs will be 9-5 Monday through Friday and possibly Saturday. Therefore the building will not be open any earlier than 8:00 a.m. and no later than 10:00 p.m.

Paragraph “13”: A dumpster has been placed in a parking space and should be relocated and fenced. Mr. Licata indicated that a fence will be installed.

Paragraph “14”: All of the shrubs in front of the building are dead and should be replaced. Mr. Licata indicated that he has hired a landscaper and this will be done.

Paragraph “15”: The parking stripes should be repainted. Mr. Licata agreed to this.

Paragraph “16”: A few pavement repairs are needed. Mr. Licata indicated that there have been a few problems with the neighbor regarding run off and this is why this has not yet been repaired. Mr. Stoner indicated that when they do intend to repair the parking lot, they are to contact Mr. Pellow’s office before doing so.

Mr. Romania questioned the applicant as to where the access for the office space on the 2nd floor is. Mr. Licata indicated that there is a separate stair well on the left side of the building standing on Route 206 looking at the front of the building, there is a stairway that goes upstairs, and there is a separate entrance.

Mr. Dolan questioned if the board should be concerned about the ADA requirements. Mr. Clark indicated that the construction department will have to enforce this matter.

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

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ADJOURN:

A Motion was made by Mr. Martin 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