

**FRANKFORD TOWNSHIP LAND USE BOARD
SEPTEMBER 19, 2007 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER

The meeting was called to order by the board Acting Chairman, Mr. Martin, 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: Mrs. Kristensen, Mr. Risdon, Mr. Zappile, Mr. Gstattenbauer, Mr. McDowell, Mr. Martin, Mr. Larson and Mr. Dolan. Also present were Mr. Clark, the board attorney and Mr. Pellow, the board engineer.

Those absent: Mr. Ayers (excused), Mr. Romania (excused) and Mr. Smolen (excused).

MINUTES

The Minutes of the July 18, 2007 Regular Meeting of the Land Use Board were reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Larson to approve the Minutes of the July 18, 2007 regular Meeting of the Land Use Board. All were in favor, except Mrs. Kristensen, who abstained. The Motion was carried.

The Minutes of the July 25, 2007 Regular Meeting of the Land Use Board were reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. Larson to approve the Minutes of the July 25, 2007 regular Meeting of the Land Use Board. All were in favor. The Motion was carried.

RESOLUTIONS

Susan Lee (Hillside View) – 04-01 – Block 7, Lot 4 – Preliminary Major Subdivision Extension:

The Resolution was reviewed. A Motion was made by Mr. Gstattenbauer and seconded by Mr. McDowell to approve the Resolution for Susan Lee (Hillside View) for an approval of a 1 year extension of the Preliminary Major Subdivision. Roll Call:

YES: 6 Risdon, Gstattenbauer, McDowell, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

Timothy & Anne Keller – LUB 06-22 – Block 104, Lot 5 – “C” & “D” Variances (6 month extension):

Mr. Clark indicated that he received a letter from the applicant’s attorney requesting that this approval of the Resolution be carried to the October meeting of the Land Use Board.

A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to carry this matter to the October Land Use Board meeting. All were in favor. The Motion was carried.

RESOLUTIONS CONT.

Diane Masker – LUB 07-06 – Block 23, Lot 9 – 34 Morris Avenue – Minor Subdivision & Variance:

The Resolution was reviewed. A Motion was made by Mr. Risdon and seconded by Mr. Dolan to approve the Resolution for Diane Masker for an approval of a Minor Subdivision & Variance. Roll Call:

YES: 6 Risdon, Gstattenbauer, McDowell, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

David Cammarato – LUB 07-11 – Block 35, Lot 5 – 69 Haggerty Road – “C” Variance:

The Resolution was reviewed. A Motion was made by Mr. Risdon and seconded by Mr. Larson to approve the Resolution for David Cammarato for an approval of a “C” Variance. Roll Call:

YES: 6 Risdon, Gstattenbauer, McDowell, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

North Plains Holdings, Inc. – LUB 07-08 – Block 1, Lot 2 – Route 565 & North Plains Road – Pre. Site Plan, Minor Subdivision & “C” & “D” Variance (“D” Variance Hearing Only):

The Resolution was reviewed. A Motion was made by Mr. Larson and seconded by Mr. Risdon to approve the Resolution for North Plains Holdings, Inc. for an approval of a “D” Variance. Roll Call:

YES: 5 Risdon, Gstattenbauer, Martin, Larson, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS CONT.

Subcommittee Reports:

The TDR Committee and the Technology Committee had nothing to report to the board.

Correspondence:

The correspondence was reviewed. No formal action was taken.

Correspondence cont.:

Mr. Clark reviewed correspondence sent to the board regarding TDR. He indicated that you can't have your own version of TDR, you have to follow the Statute strictly.

Mr. Pellow indicated that he sent a letter to the board with regard to the TDR. He noted that we are going to go to Trenton in two weeks and we still do not have the Market Analysis Report with regard to the TDR which has been promised for months.

Mr. Clark reviewed a letter sent to the board with regard to the lawsuit with MTAE and he has recommended to the board that he file a motion to dismiss this case. They had originally carried it to wait until the new COAH regulations would be resolved, however, COAH has not completed the regulations.

The board received a letter from the attorney representing High Ridge. He indicated in the letter that the lighting has been installed in accordance with the approved plan. He is concerned about making changes to the lighting without authorization from the board for the requested changes. They will agree to make the requested changes to the lighting if it is approved by the board. The board requested that Mr. Pellow check the plans and see if the lighting was done according to the plans. Mr. Clark indicated if the applicant is concerned about changing the lighting, then the board could take action to change it.

Invoices:

A Motion was made by Mr. Dolan and seconded by Mr. Gstattenbauer to approve the September, 2007 Invoices on the Bill list attached hereto and made a part hereof. Roll Call:

YES: 7 Kristensen, Risdon, Zappile, Gstattenbauer, Martin, Larson, Dolan
NO: 0
ABSTAIN: 1 McDowell

The Motion was carried.

General Zoning Ordinances:

Mr. Clark questioned the members of the Township Committee if they have had a first reading on the General Zoning Ordinances of Frankford Township which was passed at the July meeting by the Land Use Board. Mrs. Kristensen indicated that they have had a first reading and no changes were made.

A Motion was made by Mr. Risdon and seconded by Mr. Zappile that the ordinance has been introduced on first reading by the Township Committee and referred back to the Land Use Board for review without any changes and the Land Use Board recommends the adoption of the ordinance. Also, the board acknowledges that there are some inconsistencies with the Master Plan which will be more fully set forth in the planner's re-examination report. All were in favor. The Motion was carried.

NEW APPLICATIONS

**Office Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway
Route 206 – Preliminary & Final Major Site Plan & “C” Variance:**

A Letter was received from the applicant's attorney that they will re-notice the application for the October 17th meeting due to a letter that was received from an objector questioning the form of notice.

NEW APPLICATIONS CONT.

Office Shore Marine, Inc. – LUB 07-12 – Block 50, Lot 3.01 – 352 US Highway
Route 206 – Preliminary & Final Major Site Plan & “C” Variance Cont.:

A Motion was made by Mr. Risdon and seconded by Mrs. Kristensen to carry this matter to the October 17th meeting without further notice. All were in favor. The Motion was carried.

ZONING OFFICER’S AGENDA

The Zoning Officer reviewed his report dated September 19, 2007. No Formal action was taken.

Mr. Paterson referred to the Budget Truck Rental in the Creamery. There has been a complaint filed with this business. The owner of Budget Rental felt that he can run this operation without a site plan approval. Mr. Paterson indicated that he reviewed the site plan resolution for the Creamery and the parking that was designated for the building. There is no additional parking for truck rentals, etc. The ordinance does not address truck rentals. In his opinion this would need some kind of site plan. The owner of the existing business, which is a moving business, feels this truck rental is an accessory use to his business. He does not agree with this interpretation of the applicant. He has a separate telephone number for Budget Rental, there is a drop box for the keys, a sign and 4 trucks stored outside. Mr. Clark agreed with Mr. Paterson that they would need site plan or amended site approval.

Appearing before the board was Joseph Indelicato who is the owner of Indelicato Moving and Storage and also the Budget Rentals. He indicated that he has owned this Indelicato Moving and Storage at the Creamery for approximately 2 years. He recently secured a Budget Truck Rental Agency. He feels this is an accessory to the moving and storage business he operates. The business has the same tax identification number, he did not create another business. He already had his moving trucks parked on the site. He did not feel it was any different whether the trucks said Budget or Indelicato. Mr. Paterson indicated that he already had moving trucks on the site for his existing business. He further stated that there are other trucks on the site which are available to the general public for Budget Rental. He feels this is 2 different entities in his interpretation.

Mr. Indelicato indicated that he is affiliated with E-move which is a service of U-Haul, a website called Moving.com, Service Magic, and another service called Moving Staffers. He indicated that all these companies provide for professional move labor to people who are renting trucks. He has been doing this type of work in this area for 2 years at the Creamery. He indicated that in the moving industries one of the fastest growing parts is the self-move industry, we not only rent trucks, but we give professional assistance. He feels that renting trucks is part and parcel of his business and just an additional service that he provides his customers, whether he just rents them the truck, whether he provides his truck and labor, or whether he just provides labor for their rental truck.

Mr. Clark indicated that the issue here is the zoning officer has not approved this use. Mr. Indelicato has the right to file an appeal to this board of the zoning officer’s decision. Mr. Clark indicated that Mr. Indelicato is doing onsite storage for rental to members of the public; this very well could require site plan approval, which the zoning officer indicated to the board. He further stated that until the board gets all the facts, the board can not make a determination.

BOARD BUSINESS CONT.

Echo Housing Ordinance:

Mr. Paterson submitted to the board a copy of a sample Ordinance for Echo Housing as requested at the last meeting. Mr. Martin requested that this be put on the agenda for the next meeting.

PUBLIC PARTICIPATION

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

EXTENSIONS

Barry & Tawnie Scymanski – LUB 04-43 – Block 109, Lot 50 – 156 Lower North Shore Road – “C” Variance (1 year extension):

A letter was received from the applicant indicating that he is still trying to obtain county approval for the septic issues and requested a 1 year extension of his variance.

A Motion was made by Mr. Gstatenbauer and seconded by Mr. Dolan to approve the 1 year extension of the “C” Variance for Barry and Tawnie Scymanski. All were in favor, except Mrs. Kristensen, who abstained. The Motion was carried.

NEW APPLICATIONS

Frankford Township – LUB 07-16 – Block 46, Lot 2.01 – 31 Perry Road – Review by Planning Board for Capital Projects (Salt Shed):

Appearing before the board was the Township Clerk/Administrator, Louanne Cular, and the Township Road Department Supervisor, Richard Pumphrey. Ms. Cular and Mr. Pumphrey were sworn in by the board attorney.

Mr. Clark indicated that the township is making a presentation that involves township property. Because this is township property, they are exempt from zoning. The procedure that the courts and statutes say, even so it is in the public interest to come before the Land Use Board for input and discussion.

Ms. Cular indicated that the township is proposing to build a salt shed at the DPW Garage located at 31 Perry Road, which is township owned property.

Mr. Pumphrey indicated that the proposed salt shed is a 50’ x 80’ engineered building. It is engineered to withstand snow loads and windshield. He indicated that the building is designed that if any section of the building is damaged, the support structure can be replaced separately without having to replace the whole building.

Mr. Pumphrey indicated that the existing salt shed will be removed once the new one is completed. The existing salt shed has 3 sides and is open faced with no front door and is not a safe structure. He indicated that the new building will solve the problems. He further indicated that under Storm Water Management the state requires a front door. The proposed building will be a 4 sided building with a front door so the salt will be completely contained inside the structure. The structure will be located behind the

NEW APPLICATIONS CONT.

Frankford Township – LUB 07-16 – Block 46, Lot 2.01 – 31 Perry Road – Review by Planning Board for Capital Projects (Salt Shed) cont.:

existing garage. The estimated price for the salt shed will be \$95,000 which includes the building, the installation of the building, and the asphalt pad inside the building. In the future they may build an oil and stone roadway leading to the building, but right now it is a dirt roadway.

Mr. Clark indicated that in the past there are been lawsuits against townships with salt entering the aquifer. He questioned Mr. Pumphrey if there are any regulations that he is aware that have to be dealt with so this may not happen here. Mr. Pumphrey indicated that he does not know if there are. However, there are not going to be any floor drains in the building and the final grade of the impervious surface will be above the existing grade of grounds so if there is any run off, it will run away from the building, not into the building.

Mr. Gstattenbauer questioned Mr. Pumphrey why they did not purchase the dome shaped building. Mr. Pumphrey indicated that they chose the rectangular building because of the cost. The dome shape building would cost approximately \$420,000.

Mr. Dolan questioned Mr. Pumphrey as to the life span of this building. Mr. Pumphrey indicated that it has a 10 year warranty.

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

A Motion as made by Mr. Risdon and seconded by Mr. Larson to approve the Salt Shed submitted by Frankford Township at the location of the DPW garage. All were in favor, except Mrs. Kristensen and Mr. McDowell, who abstained. The Motion was carried.

Frankford Township – LUB 07-17 – Block 4, Lot 5 – 28 Pelletown Road – Review by Planning Board for Capital Projections (Claws):

Mrs. Kristensen and Mr. McDowell stepped down from this application.

Appearing before the board was the Township Clerk/Administrator, Louanne Cular, and the Township Road Department Supervisor, Richard Pumphrey. Ms. Cular and Mr. Pumphrey indicated that they were still under oath from the previous application.

Ms. Cular indicated that this property was purchased by the Township in 2004 or 2005 mainly because the property backed up to the township's gravel pit. She indicated that the house is in poor condition. When the tenant moved out, the township was left with approximately 50 cats and kittens. Claws Rescue, which is a non-profit organization presently located in Sussex, approached the township to move their shelter to Frankford Township at this location. The Township Committee has entered into a lease with Claws Rescue. She further indicated that Claws will be remodeling the house and she presented to the board a model of how they will renovate the house and grounds.

Ms. Cular further indicated that Claws Rescue is a cat shelter. They took in approximately 340 cats last year in Sussex County. Ms. Cular indicated that the township and Claws is very excited about this project. She further stated that Claws is remodeling

NEW APPLICATIONS CONT.

Frankford Township – LUB 07-17 – Block 4, Lot 5 – 28 Pelletown Road – Review by Planning Board for Capital Projections (Claws) cont.:

and putting money into the home to get it into shape in lieu of the rent. They will also be handling all of Frankford Township's cat problems. The zoning permit and the building permits necessary will be applied for by the Township. She feels this is a very good agreement and the Claws are very active with local organizations such as the school, SCARC and the 4H clubs.

Mr. Clark questioned Ms. Cular about the access issues to this property. Mr. Pellow indicated that the road in front of this property has been redone by the High Ridge Estates project and it has good access.

Mr. Dolan questioned if this organization is for neighboring municipalities or just Frankford Township. Ms. Cular indicated that it will be for Sussex County.

Mr. Martin questioned Ms. Cular if the owner of Claws will be residing in this house. Ms. Cular indicated that she will not be living there. She further indicated that there will be security cameras on the property and the property will be fenced and gated.

Mr. Clark questioned if this property is opened to the public in any sense. Ms. Cular indicated that she believes that it is, because they encourage the public to come there and adopt the cats and kittens. They are also doing fund raising and events.

Mr. Gstattenbauer questioned Ms. Cular if the cats will be caged or roaming in this house. Ms. Cular indicated that the animals will be caged.

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

A Motion was made by Mr. Risdon and seconded by Mr. Gstattenbauer to approve the Claws Rescue project with Frankford Township. All were in favor. The Motion was carried.

Mrs. Kristensen and Mr. McDowell returned to the meeting.

James F. Bain – LUB 07-14 – Block 26, Lots 15, 17 & 17.01 – Route 206 – Minor Subdivision & "C" Variance:

Mr. Martin stepped down from this application. Mr. Zappile took over as Acting Chairman.

Appearing before the board was the applicant, James Bain, and his surveyor, Daniel Kent. Mr. Kent and Mr. Bain were sworn in by the board attorney.

Mr. Pellow reviewed his report for completeness:

"2": The application is complete with one wavier requested for Item #70 – NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan. For minors only, a delineation is needed and an

NEW APPLICATIONS CONT.

James F. Bain – LUB 07-14 – Block 26, Lots 15, 17 & 17.01 – Route 206 – Minor Subdivision & “C” Variance cont.:

absence/presence letter to determine buffer width. There will be a wetland transition buffer on a portion of Lot 15, as we did a survey on Lot 13, Block 26 where the Branchville sewer facilities will be located, and there are wetlands adjacent to the northwesterly lot line of Lot 15. Dan Kent can use our map to scale the wetlands and show a 150' buffer width. Mr. Kent indicated that the buffer will be on the remainder tract.

Mr. Clark indicated that the notice was sufficient.

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

Mr. Pellow continued reviewing his report:

“3”: The applicant is proposing to subdivide Parcel “B” containing 0.397 acres from Lot 15 and parcel “A” containing 1.560 acres from Lot 17 to become annexed to Lot 17.01 which will contain 3.396 acres after annexation. Mr. Pellow indicated this is an upgrade of the existing lot 17.01.

“4”: The following “C” variances are needed: 1) Lot Frontage for Remainder Lot 17: 300' is required and 297.52' remains along Route 206; 2) Lot Frontage for Remainder Lot 15: 300' is required and 129.94' remains along Route 206.

A question for Dick Clark: Since remainder Lot 17 and remainder Lot 15 do not conform, would they have to be merged, as they are both in the same ownership? They then would have the required frontage. Mr. Clark indicated that they do not have to be merged. He indicated that lots created by Planning Board even though adjacent do not automatically merge. If the lots were created under the old map filing act, they do have to merge.

“5”: Proposed Lot 17.01 will not have the required area (3.396 acres and 5.00 acres are required), but this is an upgrade to Lot 17.01. Proposed Lot 17.01 has a rear yard setback of 65' and 75' is required; a minimum lot depth of 242' and 300' is required, but these are both existing conditions.

“6”: Remainder Lots 15 and 17 do not depict the 20,000 square feet of contiguous, non-constrained land, but there are no wetlands on these lots only a buffer on Lot 15, and no slopes greater than 15%, and contain Bath soils. Mr. Pellow indicated that these are huge lots and will not have a problem meeting the 20,000 square feet of contiguous, non-constrained land.

“7”: COAH fees are not required, as a house exists on Lot 17.01. COAH fees will be needed if houses are constructed on remainder Lots 15 and 17.

“8”: Road Trust Fund fees are not required, as no new lots are being created.

“9”: NJDOT access permits will be required if houses are built on remainder Lots 15 and 17.

Mr. Clark questioned the applicant as to the reason for doing this annexation. Mr. Bain indicated to keep the lot in the family.

NEW APPLICATIONS CONT.

Sana Enterprises – LUB 07-15 – Block 65, Lot 23 – Route 206 – Preliminary Major Site Plan & “C” Variance:

It was noted by the board secretary that she received a telephone call from the applicant's attorney that they may not be appearing before the board this evening due to a conflict in scheduling. However, he never sent a letter or confirmed that he was or was not coming.

A Motion was made by Mr. Gstattenbauer and seconded by Mr. Risdon to carry this matter to the October 17, 2007 Land Use Board meeting without further notice. All were in favor. The Motion was carried.

ADJOURN:

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

Respectfully submitted,

SHARON M. YAROSZ
Land Use Administrator