

**FRANKFORD TOWNSHIP LAND USE BOARD
FEBRUARY 20, 2008 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING**

CALL TO ORDER

This 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. McDowell, Mr. Bennett, Mrs. Fountain, Mr. Gstattenbauer, Mr. Sutphen, Mr. Shelton, Mr. Larson, Mr. Romania, Mrs. Albanese, Mr. Dolan, and Mr. Nadolny. Also present were Mr. Clark, the board attorney and Mr. Pellow, the board engineer.

Those absent were: Mr. Capalbo (excused).

RESOLUTIONS

Mark & Carole Vogel – LUB 07-24 – Block 266, Lot 7 – 44 Bonning Road – “C” Variance:

The Revised Resolution was reviewed. A Motion was made by Mr. Dolan and seconded by Mr. Gstattenbauer to approve the Resolution for Mark and Carole Vogel for a “C” Variance. Roll Call:

YES: 6 Ayers, McDowell, Gstattenbauer, Larson, Romania, Dolan

NO: 0

ABSTAIN: 0

The Motion was carried.

BOARD BUSINESS

Plan Endorsement Committee:

It was discussed that the Plan Endorsement Committee was going to hold a meeting on March 10, 2008 at 7:00 p.m. at the township hall.

Echo Housing Ordinance:

It was agreed to carry this Ordinance to the February 27, 2008 meeting.

Floodplain Ordinance:

It was agreed to have Mr. Pellow and Mr. Clark review this ordinance and carry it to the March Planning Board meeting.

Growth Share Ordinance:

Mr. Clark indicated at the last meeting the board requested that he prepare a draft Resolution of objections of the COAH regulations so that the Land Use Board and the Governing Body could send in a Resolution to the State within the comment period time. It was agreed to carry this to the February 27, 2008 meeting so the board members have time to review the Resolution.

BOARD BUSINESS CONT.

Growth Share Ordinance cont.:

Mr. Clark also presented to the board a proposed revised Growth Share Ordinance which he recommends to the board that the ordinance be passed by the land use board for recommendation to the Township Committee for Adoption. The revisions are based on the new regulations of COAH. It was agreed to carry this ordinance to the February 27, 2008 meeting of the Land Use Board.

Mr. Clark indicated that the biggest problem with the new regulations is how to give incentives to the developers for their providing affordable housing. The new regulations are not clear.

Correspondence:

The correspondence was reviewed. No formal action was taken.

The board did review the new Septic Ordinance passed by the Board of Health. Mr. Dolan indicated that the intent of this Ordinance was to quantify the types of sewage disposal systems that exist on properties where there is remodeling or reconstruction. Mr. Sutphen indicated that the septic system has to be brought up to current code if there is these various items being done and if you can't bring your septic up to current code then you have to come before the Board of Health for a Variance.

Small Wind Energy Systems Ordinance:

Appearing before the board was Frank DeWitt. He indicated that back in December he appeared before the board to discuss the possibility of adopting a model Wind Ordinance. He has 4 farmers currently who have applications and state grants awarded to them and they have a time table to put these systems in before these state grants go away. They also made a recommendation to the municipality here to also consider wind technology at the township hall. He did submit a copy of the model ordinance that was adopted by Ocean Gate Township. This township was the first township to adopt the model ordinance that the state had put together. This ordinance has been reviewed and accepted by the DCA. He indicated that they are currently working with Sparta, Stillwater and Green Townships.

Mr. Larson questioned Mr. DeWitt if there is any information regarding decibel levels, because this type of equipment can be relatively loud. Mr. DeWitt indicated that between the universities and the small wind group, there are decibel levels that are already within our codes that have to be met. These systems that are being suggested to go into these locations, meet those decibel levels. He indicated that most townships are 65 during the day and 55 at night. The systems that they are recommending meet these requirements. He indicated that for farmers who have more open space, it is true that different units make different sound levels. He stated that the industry has pitched the blades to allow the sound level to come down, but it also reduces productivity. It was thought that if you have a certain amount of acreage, maybe you could be granted the ability to have a different technology put in. It would make a little bit of noise, but you are out in a field, away from everybody and you could produce more electric from it. This is something that the model ordinance does not deal with.

Mr. Romania questioned Mr. DeWitt if there is anything in the ordinance that mentions how close in proximity these wind tunnels can be to one another. He indicated that he does not want to see these all over the place. Mr. DeWitt indicated that the state is working on a community wind application that could be put in so that you don't have that. At this time there is nothing in place with this model ordinance regarding this issue. He indicated that there are standards as to how far you want to keep these systems apart;

BOARD BUSINESS CONT.

Small Wind Energy Systems Ordinance cont.:

there would not be 2 backing up to each other. This is up to the wind analyst because if they are too close, it will not be as productive. Mr. Romania indicated that he was concerned about the aesthetics. Mr. DeWitt indicated that the state is suggesting community systems with one large system instead of everyone having one on the street.

Mr. Clark questioned Mr. DeWitt as to the height of these systems. Mr. DeWitt indicated with wind, the higher the better. When you are dealing with wind turbulence and wind sheer, you have to be at least 30 feet above any obstruction within 500 feet

Mr. Romania questioned if this system would fall under the township's tower ordinance which is a maximum of 200'. He would like the professionals review this issue.

Mr. Shelton indicated that in his review of these systems, each blade is about 60 to 70 feet long. People are concerned about aesthetics, noise, killing birds, ice flying off of them damaging nearby structures, etc. He questioned Mr. DeWitt as to what scale he is referring to in this area. Mr. DeWitt indicated that with the small wind that they are recommending, which is different from commercial systems, they are dealing with 100 kilowatts or less. All 4 of the applications as mentioned earlier are 10 kilowatt units; the blades are 11 foot; and they are 120' towers. He further stated that 140' the is largest standard tower after that is a special order. Therefore, you will not find too many going over this maximum standard height. Most of them will range no lower than 60', but the average will probably between 90' and 120'.

Mr. Gstattenbauer had concerns about the abandonment portion of the ordinance. It goes through six (6) steps in terms of when someone abandons the tower. The bottom line is the owner is responsible for removing the generator on top, but it is not required that they remove the tower. Therefore, potentially you can have a lot of towers sitting around without generators and the ordinance will not prohibit that. Mr. DeWitt indicated that this could be added to the ordinance.

Mr. Clark indicated that this is really an aesthetic issue for the board to review. He also indicated that the cell tower ordinances were very favorably received in the courts. Mr. Romania indicated that the cell towers benefit everyone because normally they are used by cell phone companies that share a tower. This tower is specific to one house and only benefits the one person. Mr. DeWitt indicated that you should also consider the clean air that will come from these towers, which will benefit everyone.

Mrs. Albanese questioned Mr. DeWitt how far apart the wind towers have to be. Mr. DeWitt indicated typically double the distance of the height of the tower.

Mr. Clark requested Mr. DeWitt to submit the names of the 4 applicants in Frankford Township that he referred to earlier.

It was agreed to carry this matter to the March Land Use Board meeting in order for Mr. Pellow and Mr. Clark to review the Ordinance and make comments for the board.

PUBLIC PARTICIPATION

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

There was no public participation.

PUBLIC PARTICIPATION CONT.

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

Frankford Township Newsletter:

Mr. Romania indicated that the Township Committee will be preparing a newsletter monthly and would like an article from the Land Use Board on their activities.

APPLICATIONS CARRIED FROM PREVIOUS MEETING

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

A letter was received from the applicant to carry this application without further notice to the February 27, 2008 Land Use Board meeting. It was noted that the applicant has re-noticed this hearing and no motion was necessary to carry without further notice.

NEW APPLICATIONS

Brian & Melissa Weis – LUB 08-01 – Block 47, Lot 12.10 – 136 Madison Road – “C” Variance:

Appearing on behalf of the applicant was the applicants, Brian and Melissa Weis, and their surveyor, Daniel Kent. Mr. and Mrs. Weis and Mr. Kent were sworn in by the board attorney.

Mr. Pellow reviewed his report dated January 25, 2008 and revised February 5, 2008 for completeness:

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

“ITEM 75” – Building floor plan, elevation views and first floor elevation with overall building height. The second story floor plan, both existing and proposed, to be submitted 10 days prior to the Land Use Board meeting. Mr. Pellow indicated that these plans have been submitted.

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

Mr. Kent indicated that the applicant’s are the owners of 136 Madison Road which is an existing 1 ½ floor home with an attached 2 car garage. The house fits within the setback lines of the former zoning ordinance. The applicant’s wish to add a garage on the southerly side of the existing house, a one story addition and then raise the house and the garage to two stories. In doing so, the proposed garage will extend to within 8’ of the adjoining property on the south, which is Block 47, Lot 12.11. They are seeking a side yard variance. If they are within the setbacks of the grandfathered lot, they do not need a variance to make a vertical expansion; however, if this is incorrect, the applicant’s will seek a variance this evening. Mr. Kent indicated that the expansion will not increase the number of bedrooms in the house. It is a 3 bedroom house and will remain a 3 bedroom house. The garage is in an area that is kind of landlocked due to the construction of the septic bed and the septic tank. By landlocked, it prevents access to the rear of the lot from the side of the house they are proposing the addition on. By putting the addition on right side of the house, there is still room on the north side of the lot to reach the rear of the property. The septic bed is a raised bed, so it creates an island behind the house.

NEW APPLICATIONS CONT.

Brian & Melissa Weis – LUB 08-01 – Block 47, Lot 12.10 – 136 Madison Road – “C”
Variance cont.:

Mrs. Fountain questioned where the shed will be relocated as indicated on the plans. Mr. Weis indicated he will move the shed in the far back yard.

Mr. Pellow continued reviewing his report:

“1” The applicant is seeking a side yard variance to construct an addition to the existing house. Forty feet is required and 8 feet is proposed. The addition will be used for a two-car garage, mudroom/laundry room, closets, and storage on the ground floor; and an attic overhead. The existing garage to be converted into a family room on the first floor and a second floor for which no plan has been submitted.

“3”. The application is submitted under the grandfather provisions (Ordinance 2003-07) for an improved nonconforming lot. The existing lot and structure conform to the prior 1 acre zoning for area and bulk requirements. I believe that with the proposed addition, which requires a side yard setback variance, the zoning schedule has to comply with the 5-acre requirements. If this is the case, then an additional variance is needed to expand the existing dwelling vertically. Mr. Clark indicated that vertical expansion, even in the setback, requires a variance.

“4” The drive will be expanded to access the new garage.

“5” COAH regulations do not have to be adhered to, as the house exists.

“6” The Road Trust Fund deposit is not needed, as the lot exists.

“7” The proposed addition will be only 42.8 feet from the adjoining house on Lot 12.11, Block 47.

“8” The map depicts the 10’ x 12’ shed to be relocated. Where will the relocation take place.

“9” The applicant to indicate the number of bedrooms that exist, how many were approved for the existing septic system, and how many bedrooms will there be after the addition to the house and the expansion of the former two-car garage. The applicant testified that there will be 3 bedrooms with the new renovations and 3 bedrooms exist. They will not increase the number of bedrooms and their septic is for a 3 bedroom home. Mr. Romania questioned when the septic system was installed. Mr. Weis indicated it was installed in 1986.

Mr. Ayers indicated that there is always an issue when one room is referred to as an “office” and that it will be turned into a bedroom later on. He questioned the applicant as to the size of the office, because there are no measurements on the plans for this room. He was also concerned with the closet next to the office. Mr. Weis indicated that he would be willing to eliminate this closet.

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

Richard Bickar appeared before the board. He indicated that he lives at 134 Madison Road and is the applicant’s neighbor and has no objection to the project.

NEW APPLICATIONS CONT.

Michael J. & Jeanne K. Poehner – LUB 08-04 – Block 134, Lot 4 – Lower North Shore Road – “C” & “D” Variance cont.:

“ITEM 21”: Applicant’s name, address, phone number and fax number. Phone number and fax number are missing. Mr. Pellow indicated that this was on the revised map dated 2/07/08.

“ITEM 28”: Existing structures within 200 feet (200’) and distance to property line. Distances from the two adjoining houses to the property line to be shown on the plan. Mr. Pellow indicated that this was on the revised plan.

“ITEM 56”: Provisions for certification and approvals. The approval boxes to be shown on the plan. Mr. Pellow indicated that this was on the revised plan.

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

Mr. Haggerty indicated that the applicant is an owner of a lake front home at Culver’s Lake. He submitted to the board Exhibits “A-1”, “A-2” and “A-3” which were photographs of the existing home which were taken a few weeks ago. Mr. Haggerty asked Mr. Poehner as to the existing condition of the house at the present time. Mr. Poehner indicated that the house has not been upgraded in any way for a very long time. Many of the windows in the rear portion of the house (lakeside of house) do not function. The house has one bathroom and is very small and does not have a bathtub, it only has a shower stall. The bathroom is on the second floor. He would like to expand this bathroom in order to fit a bathtub and add a small bathroom downstairs for his parents when they visit. They would like to put a small addition to the front of the house to accommodate the upgrading of the upstairs bathroom and the new bathroom downstairs. On the rear side, the lake side, he is proposing to change the roofline. They are not proposing to change the number of bedrooms in the home. They are proposing 4 bedrooms and it currently has 4 bedrooms. They are also proposing to build a deck on the lakeside of the home. The house will not come any closer to the lake other than the deck area. The deck area will be built over an existing stone patio. Mr. Haggerty indicated that the impervious surface of the home would only be increased on the road side for the small bump out for the bathrooms, otherwise the applicant is staying in the 4 corners of the existing foundation. Mr. Poehner indicated that the home will be consistent in size with the other homes on the lake. Mr. Haggerty submitted to the board Exhibit “A-4” which is a chart of the homes in the area, their lot sizes and improvements on the property just to show a comparison. Mr. Haggerty referred to a letter from the applicant’s architect dated February 14, 2008 which letter indicates the FAR with the proposed addition is 2,080 square feet on this application. He reviewed Exhibit “A-4” with the board which is as follows:

BLOCK	LOT	OWNER	LOT SIZE SQ/FT	LIVING AREA	GARAGE	SHED
134	4	Poehner	9,175	1,710 existing; 2080 proposed		96
134	1	Campbell	9,600	2,278	572	343
134	2	Ayers	9,500	1,864	660	
134	3	Bronster	9,350	1,954		192
134	5	Livingston	13,500	2,328	484	
134	6	Rasilla	13,125	1,590		
134	7	Distefano	8,550	1,684	360	

NEW APPLICATIONS CONT.

Michael J. & Jeanne K. Poehner – LUB 08-04 – Block 134, Lot 4 – Lower North Shore Road – “C” & “D” Variance cont.:

Mr. Haggerty indicated that the applicant is in keeping with the surrounding homes with a smaller floor area than most of the surrounding homes. The variances that they are requesting this evening is FAR and a side yard setback. He indicated as to the FAR variance his position is it is a very minimal increase in the footprint which would be needed in any event to get a bathroom on the first floor to the plumbing configuration that currently exists. Otherwise they are staying within the building footprint. They feel this is a much better aesthetic appearance, it gives 2 nice views from the bedrooms on the second floor and it enables the applicant to upgrade the electrical and plumbing for the home. This renovation will modernize the home. This will be a substantial upgrade to the home without being out of character of the neighborhood.

Mr. Pellow continued reviewing his report:

“2”: The applicant is proposing many renovations to the existing house on this lot as follows:

- a. The front addition, which they say is an open porch but I say is an enclosed porch, approximately 5' x 11', will be removed and a new first floor bathroom, 5'-2" x 6'-4", will be added; and a 5'-8" x 19'-4" bathroom and bedroom expansion on the second floor. This will result in a net gain of 54 square feet for the front portion of the house (roadside).
- b. The rear of the building (lakeside) will expand to a two-story addition by removing an 8'-6" x 30'-0" portion of the house and adding an 8'-6" x 30' area to the dining and living room area on the first floor, and adding an 8'-6" x 25'-8" second floor addition to expand two bedrooms. This will result in a net gain of 218 square feet for the rear of the house or lakeside.
- c. The 34'-0" x 12'-0" raised deck will be added to the rear of the house (lakeside). Mr. Pellow indicated that on the township's website there is an ordinance with regard to the permitted deck size which is 360 square feet. This will also require a variance for the size of the deck because the proposed deck is 408 square feet.
- d. The architect's plans show many revisions to most of the roof lines of this house.

“3”: The architect to show the floor areas for the existing and proposed first and second floors of this house so that the floor area ratio can be checked with my calculations. Mr. Pellow indicated that Mr. Schaffer did respond as indicated by Mr. Haggerty to this request.

“4”: A “D” Variance for floor area ratio is needed as follows:

- a. The permitted floor area for this lot is 17.4% or 1,596 square feet. The existing house has 1,750 square feet and with the proposed additions, there will be 2,022 square feet—an increase of 272 square feet over the existing square footage and 426 square feet over what is allowed on this lot.

“5”: Side yard variances are needed: 15' is required and 3.7' exists, and is proposed on the west side of the house; 11.8' is proposed to the side of the deck on the east side of the house.

NEW APPLICATIONS CONT.

Michael J. & Jeanne K. Poehner – LUB 08-04 – Block 134, Lot 4 – Lower North Shore Road – “C” & “D” Variance cont.:

“6”:

The proposed two-story addition on the lakeside of the house may alter sight lines of the lake from the two adjoining houses.

“7”:

An on-site inspection reveals that vehicles will still have to back out into Lower North Shore Road from the driveway, which is a dangerous condition but I do not believe a turnaround area can be constructed on this lot.

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

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

Mr. Clark summarized the application. He indicated that it is a “D” Variance application for the FAR. The permitted FAR is 1596 square feet. The existing square footage of the home 1719 square feet. The applicant’s are proposing 2080 square feet. The increase in the FAR is due to the expansion for the bathrooms. This is also a vertical addition which could impact the view of the neighbors. The other variances requested are “C” Variances for side yard setbacks and for the size of the deck.

A Motion was made by Mr. Shelton and seconded by Mr. Larson to approve the FAR “D” Variance request. Roll Call:

YES: 7 Bennett, Fountain, Gstattenbauer, Shelton, Larson, Romania, Albanese

NO: 0

ABSTAIN: 0

The Motion was carried.

A Motion was made by Mr. Larson and seconded by Mr. Gstattenbauer to approve the “C” Variance requests of the applicant for side yard setbacks and the size of the deck. Roll Call:

YES: 7 Bennett, Fountain, Gstattenbauer, Shelton, Larson, Romania, Albanese

NO: 0

ABSTAIN: 0

The Motion was carried.

The applicant requested a waiver of the reading of the resolution in order to submit their construction permits. A Motion was made by Mrs. Fountain and seconded by Mr. Shelton to waive the reading of the Resolution so the applicant could submit their construction permits and begin construction at their own risk. All were in favor. The Motion was carried.

Mr. McDowell, Mr. Sutphen and Mr. Ayers returned to the meeting.

NEW APPLICATIONS CONT.

Donald W. & Paula Baldwin – LUB 08-03 – Block 105, Lot 1 – East Shore Culver Road - “C” Variance:

Appearing before the board were the applicants, Donald and Paula Baldwin, and their attorney, William Haggerty. Mr. and Mrs. Baldwin were sworn in by the board attorney.

Mr. Haggerty indicated that they are the owners of a home on East Shore Culver Road which is in a deteriorated condition and has a lot of mold. The applicant would like to remove the home and replace the home with a new home. They have built a new septic system at the rear of the lot. The home would be offset a little bit closer to Carter Street. This property is a corner lot which faces Carter Street and East Shore Culver Road. He indicated that Carter Street is more of a driveway which serves the applicant's home and 3 other homes. The location of the proposed new home would provide a little bit greater setback. In taking down the home they would have to adhere to the 5 acre zone, which the map will be revised to reflect this.

Mr. Pellow reviewed his report dated February 8, 2008 for completeness:

“ITEM 3”: Certification of taxes, liens, assessments paid. Taxes have been paid through the fourth quarter of 2007, and first quarter taxes are due as of February 1st. The board secretary indicated that the taxes were paid.

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

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

Mr. Pellow continued reviewing his report:

“2”: The applicant is proposing to remove the existing one-story dwelling and construct a new two-story dwelling. The existing dwelling has 1,004 square feet of floor area, and the proposed dwelling has 1,320 square feet on the first floor, and approximately 771 square feet on the second floor, for a total of 2,091 square feet. Two thousand six hundred and twenty-eight (2,628) square feet is permitted for an 18,000 square foot lot. The zoning table to be corrected before the meeting, and the architect to verify the floor areas and show them on the revised plan prior to the meeting. It was discussed that the applicant is under the floor area ratio for this application and the architect's verification is not needed.

“3”: An on-site inspection revealed that a new mounded septic system has been constructed at the rear of the property, along with a new well in the front of the property. The copy of the certified construction of the septic system to be submitted to the Board.

“4”: Since the house will be completely removed, the zoning will fall under the five-acre requirements, and many bulk variances will be needed, which shall be shown on a revised plan. Dick Clark to comment on this item. Mr. Clark indicated that the applicant will need all the bulk variances except for front and rear yard setbacks.

“5”: Carter Street is a private street, and it appears that the Applicant parks in the street. A new parking area should be construction out of the street right-of-way and shown on the revised plan. Mr. Haggerty indicated that they do have a gravel area where they will park which is shown on the plan. Mr. Pellow indicted that this gravel area is in the right-of-way. Mr. Haggerty indicated that the gravel area can be moved into the property out of the right-of-way.

