

**FRANKLIN TOWNSHIP LAND USE BOARD**

**Minutes**

**August 12, 2020**

**7:30 PM**

**Location: Franklin Township School, 226 Quakertown Road  
Cafeteria**

Roger Soltys Called the meeting to Order at 7:40 and read the Open Public Meeting Statement

This is a regularly scheduled meeting of the Franklin Township Combined Land Use Board. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in the Hunterdon County Democrat and the Express Times and the notice of this meeting was posted on the bulletin board in the Municipal Building.

**Pledge of Allegiance**

**Roll Call**

Roger Soltys	present	Mike Chabra	absent	Jennifer Fisher	present
Ken Weiss	absent	Dave Dallas	present	John Thonet	present
Phil Koury	present	Alan Dilley	present	Lou Moreira	absent
Stephen Willis	present	Eric Blew	absent		

**Old Business: Approval of July 8, 2020 minutes**

Roger Soltys asked if there were any comments from the board on the minutes. There were none.

Motion to approve: Dave Dallas                      Second: Phil Koury

All in favor    None opposed

**Approval of Bills: No bills at this time**

**New Business**

1. **1<sup>st</sup> Hearing:** Peter and Margaret Boreland, Block 20 Lot 2, 50 Sidney School Road, Applicant seeks a setback variance for an agricultural fence.

Roger Thomas swore in Mr. Peter Charles Boreland of 50 Sidney School Road. Roger then asked him to explain what he was looking to do. Mr. Boreland began by thanking the board for meeting in person to hear his application. He explained that they want to install two new fence lines to contain their 30 head of sheep. They had already began installing the fence posts on their property line when they learned of the 5' setback. This is why they are seeking the variance to be able to keep the fence on the line. If they are to abide by the 5' setback, given the length of fence they will lose approximately 50 bales of hay which is equivalent to about

one month's feed. They also found out Monday that they are a commercially registered farm with the USDA.

Adam Wisniewski, Land Use Board Engineer explained that he issued a report which reviewed the plat as well as other information provided by the surveyor. The survey provided focused strictly on the property line in question. He explained that there were some checklist items missing from the application such as a full survey however they were comfortable waiving these items if the board found it acceptable to do so. It was his recommendation that the application be deemed complete.

Motion to deem the Boreland application complete: Dave Dallas Second: Phil Koury

Roger Soltys	yes	Mike Chabra	absent	Jennifer Fisher	yes
Ken Weiss	absent	Dave Dallas	yes	John Thonet	yes
Phil Koury	yes	Alan Dilley	yes	Lou Moreira	absent
Stephen Willis	yes	Eric Blew	absent		

Application was deemed complete

Mr. Boreland was asked by attorney Roger Thomas if he had anything further to add to his testimony in regard to the positive and negatives relating to the variance he is applying for. Mr. Boreland stated he would begin with the positives. He explained that they take their farmland assessment quite seriously. They have their own equipment to harvest their hay and have a fairly large flock that produces about 15 lambs per year. He believes it is beneficial to the township, being a farming community to have the sheep. Many cars go down the road and enjoy seeing the sheep. Franklin Township has been very forward thinking in preserving farmland so he believes they would want to encourage farming. With what they have now in hay field they are able to get just enough hay. They generate about 500-600 bails a year which is just enough for the size of the flock. One of the things they discovered, particularly in the past few years is that they have a lot of dry weather in the later part of the summer, where you think the grass is going to grow back and it doesn't. They need the front field so that they can allow the sheep to graze particularly in October and November. The main purpose of the fence is to get a larger area for the sheep to graze. Without being able to do this they will have to reduce the size of the flock. The other hardship is that they have already installed the fence posts. He stated he isn't getting any younger and his sons have flown the coop so he doesn't have the help to move them.

As far as any negatives, Mr. Boreland doesn't feel there are any negatives. His understanding was that the five foot setbacks on large tracts of land were to allow for passage of wildlife. By having the posts on the property line he doesn't believe that this will create a problem. The deer and other wildlife run freely thru and across the properties.

Roger Thomas questioned Mr. Boreland stating that he had indicated if he had to move the fence back in accordance with the setback he would lose about 50 bales of hay. Mr. Boreland said that this is true. The area is about 1500 feet long.

John Thonet clarified with Mr. Boreland that the purpose of the fence was not so that he could grow hay. And Mr. Boreland said the purpose is to provide additional grazing.

Roger Thomas asked what the 50 bales meant to the flock in relation to feeding. Mr. Boreland stated that they feed the sheep two bales a day and they have a horse as well so in total  $2\frac{1}{2}$  -3 bales per day. So 50 bales provides feed for the flock for about  $\frac{1}{2}$  to  $\frac{3}{4}$  of a month.

Roger Thomas asked if they lost the 50 bales what would they have to do in relation to the flock. Mr. Boreland responded that they would then have to buy additional hay which can be difficult to do. He said that the sheep are rather fussy, and second or third cutting hay is getting rather expensive.

He stated that they keep their lambs for about a full year because they feel that this is a kinder way of raising them.

Members of the board then asked Mr. Boreland to specify on the map exactly where the fence was being placed and where the existing fence was. When doing the calculations, the area lost will be about .2 acres lost.

John Thonet asked Mr. Boreland if he had to maintain the fence if he would be able to do so without going onto the neighbor's property. Mr. Boreland said he believed that he would not need to go on the other side of the fence to maintain the agricultural fence.

Roger Thomas then opened the meeting up to the public with regard to the testimony that was given.

Roger Thomas swore in Mr. James Swick, attorney. Mr. Swick was present representing Jill Kagan, 52 Sidney School Road.

Mr. Swick said that if he understands correctly the main reason for the variance is so that the Borelands can produce more hay. Mr. Boreland responded that the purpose was to provide more grazing area for his sheep. Mr. Swick responded that if the fence were pushed back the sheep would still have pasture, just less area. Mr. Boreland responded that that was correct however it wasn't the grazing it was the loss of hay that was the issue.

Mr. Swick then asked if any soil samples had been taken and Mr. Boreland said no.

Mr. Swick asked Mr. Boreland to confirm that there were already posts there and asked if they were on the line. Mr. Boreland said yes, but they weren't on the line, they are just inside the line. Mr. Swick then asked that if they didn't get the variance would they move the posts? Mr.

Boreland said yes and they would lose hay production. Mr. Boreland stated that if they didn't get the variance they would remove the posts and not put a fence up because they would lose too much hay production. Mr. Boreland stated that they would most likely get rid of their sheep if they are not able to get the variance. Mr. Boreland said that they need to maintain a balance with feeding, when they bring the sheep back from where they send them to graze a portion of the year they need to be able to graze them for two months on the 2 ½ acres that they are proposing to fence in and then the lambs go off to market.

Mr. Swick asked how many animals they have. Mr. Boreland responded a ram, and about 16-18 ewes. They will produce about 15-17 lambs. They participate in a program where the lambs get shipped out in about May and stay for the whole summer season.

Mr. Swick asked if there was any difference in the soil that would prevent the posts from being placed in another location. Mr. Boreland said that this area is full of shale so essentially you never know when you dig how deep you will be able to go without hitting it.

This completed Mr. Swick's questions.

Roger Thomas asked if there were any other questions.

Jill Kagan was sworn in by Roger Thomas. Jill Kagan stated she resides at 52 Sidney School Road. Jill Kagan stated her property borders the Boreland property. She has owned the property since 2017 and just finished building her home this year. Ms. Kagan stated she stated that it was upsetting to her because the Borelands did not approach her to discuss the fence prior to beginning installation. She said that she also has a farm and plans to have animals as well. She said that prior to installing the poles the Borelands used an electric fence. She stated that when she was sold the property and also based on several surveys she has had done, there is also an existing fence that is on her property. She felt that the setbacks should be where they are meant to be. She stated that she cuts hay in the area between her driveway and the fence posts. The posts are making it difficult to cut her portion so she is losing area. Her attorney asked if she would grant an easement to the Borelands if they should need to maintain the fence if it was placed on the property. She stated that she would need to think about it but didn't believe so because she has had some issues with Mr. Boreland. She went on to list multiple issues that she had with the Borelands.

Roger Thomas pointed out that the issues regarding the legacy fence and other issues have no bearing on this application. He asked her if Mr. Boreland had asked her to put up the fence posts where they are now or within the five foot setback, would that have satisfied her. She said absolutely.

Roger Soltys asked how far away from the property line is Ms. Kagan's driveway. Ms. Kagan said at least 10-15 feet. Mr. Boreland said it is 25 feet.

This completed Ms. Kagan's comments.

Maggie Boreland was sworn in by Roger Thomas, she also resides at 50 Sidney School Road. She made a statement saying that when power goes out with an electric fence lambs put their heads thru and get strangled.

This completed Mrs. Boreland's comments.

Roger Soltys asked Ms. Kagan what type of farming she was planning on doing. Ms. Kagan said that at this time she was doing hay however she is still working on a plan for the future.

Christina Faragalla, resident of Franklin Township commented that they are proud of Franklin as a farming community. They take friends and family for rides around town particularly to Sidney School Road because it is so beautiful and it would be a shame to lose a property with sheep.

Mr. Boreland made additional comments that in regards to being a good neighbor he had helped Ms. Kagan get her farmland assessment the first year while she was building. He had given her hay which he felt was being a pretty good neighbor. Then she could maintain it once she moved into the house. In regards to the fence posts and Ms. Kagans comments on having difficulty cutting her hay with the posts there. Mr. Boreland stated that if he moves the posts then she gains five feet and he loses five feet.

Phil Koury asked if this is an application that should have been made to the county ag board. Roger Thomas explained that the Land Use Board and County Ag Board have joint jurisdiction. That they certainly could have brought this to the county ag board however they brought it to the Land Use Board.

Christina Faragalla by Roger Thomas, resident of Franklin Township. She commented that they are proud of Franklin as a farming community. They take friends and family for rides around town particularly to Sidney School Road because it is so beautiful and it would be a shame to lose a property with sheep.

Phil Koury made a motion to close the hearing      Seconded by Dave Dallas

All in favor

John Thonet stated that we have an ordinance. He hasn't heard any good reason why this is a hardship and if it is a hardship it is self imposed. The reason is the applicant wants to farm a certain way and raise a certain number of lambs every year however the property doesn't support it. He said it was no different than building more houses on a piece of land then it has water to support it. He believes that when you have a farm you use it within its barriers. And to grant a variance like this that potentially impacts the next door neighbor is wrong unless there is an agreement between the two neighbors in which case problem would be solved.

Phil Koury asked, if we grant this variance can a future owner change the fence to something like a stockade fence that would need to be maintained or painted. Roger Thomas stated that it would be a reasonable condition if the variance was approved to state that it can only be maintained as a post and wire agricultural fence.

Jennifer Fisher commented that she would want a survey to confirm the location, Roger Thomas stated that this is based on Mr. Borelands testimony. If it turns out the fence is not on the Borelands property they would be required to move the fence.

Adam Wisniewski, Township Engineer stated that the application packet does provide a survey which does identify where the fence falls along the property line in question. The survey was prepared by Boren and Boren. The survey does indicate that some of the post faces are .2 feet over the property line and some are on the property line. The survey also identifies capped iron pins on the property line and corners on the line in question. If Ms. Kagans surveyors disagree with Mr. Borelands surveyor that is something the courts would have to adjudicate.

Stephen Willis sympathizes with the Borelands but feels this application falls under Right to Farm.

Motion to grant fence variance fence variance was made by Dave Dallas

Motion was seconded by Alan Dilley

Roger Soltys	no	Mike Chabra	absent	Jennifer Fisher	no
Ken Weiss	absent	Dave Dallas	no	John Thonet	no
Phil Koury	no	Alan Dilley	no	Lou Moreira	absent
Stephen Willis	no	Eric Blew	absent		

The motion was not carried therefore the variance was not granted

Public Comment: none

Comments from the Land Use Board, Non-Agenda Items, Other Business to come before the board: none

Motion to adjourn: Dave Dallas      Second: Phil Koury

All in favor

Meeting adjourned at 9:15

No new business after 10:00PM unless agreed to by the Board. Any remaining items will be placed on the agenda for the next available meeting. Information pertaining to any item on the agenda is available for public review at the Municipal Building during normal business hours.

Date Approved 9-9-20

Catherine Innella, Land Use Board Clerk Catherine Innella