

FRANKLIN TOWNSHIP LAND USE BOARD

MINUTES

MAY 25, 2022

7:30 PM

202 SIDNEY ROAD, PITTSTOWN, NEW JERSEY 08867

This meeting will be held remotely on Zoom

Zoom Meeting Information is below

Roger Soltys Called the meeting to Order and read the Open Public Meeting Statement

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.

Roger Soltys led all present in the Pledge of Allegiance

Roll Call

Roger Soltys	present	Mike Chabra	present	Alan Dilley	absent
Ken Weiss	present	Dave Dallas	absent		
Philip Koury	present	John Thonet	present		
Stephen Willis	absent	Jennifer Fisher	present		

Approval of Minutes: March 9, 2022

Motion to approve: John Thonet Second: Jennifer Fisher No comments or changes All members present voted in favor by saying aye.

Approval of Bills: Motion to approve: John Thonet Second: Jennifer Fisher

Roger Soltys	yes	Mike Chabra	yes	Alan Dilley	absent
Ken Weiss	yes	Dave Dallas	absent		
Philip Koury	yes	John Thonet	yes		
Stephen Willis	absent	Jennifer Fisher	yes		

New Business

- 1. Memorialization of resolution:** Applicant Avi Telyas, property owner of Block 4 Lot 2, 10 Sidney Road, Annandale, NJ. The Land Use Board has granted approval of the

following variances: minimum lot frontage, minimum lot width at front setback, minimum lot depth, minimum front yard setback, and minimum side yard setback.

Roger Thomas stated that there had been some modification and that they had been incorporated.

Motion to approve: Ken Weiss Second: John Thonet

No comments, questions or additions.

Roger Soltys	yes	Mike Chabra	yes	Alan Dilley	absent
Ken Weiss	yes	Dave Dallas	absent		
Philip Koury	yes	John Thonet	yes		
Stephen Willis	absent	Jennifer Fisher	yes		

- Hearing:** James Kontopodias, 121 Upper Kingtown Road, Pittstown, NJ, Block 24 Lot 23.01. Applicant has provided additional plans and is seeking a bulk variance from the Land Use Board to construct a one story, 3000 sq. ft. garage which exceeds the maximum allowable building size of an accessory building.

Mr. Kontopodias stated that his engineer Chris Naser was present. His attorney was on another call and would be joining the meeting shortly.

Roger Thomas stated that the application must first be deemed complete. Adam Wisniewski had provided a report dated May 10, 2022. In the report he recommended that the application be deemed complete.

Adam stated that he had recommended that Mr. Kontopodias provide a comprehensive plan and he had now done that.

Motion to deem the application complete: John Thonet

Second: Ken Weiss

All members present voted in favor by saying aye, none opposed.

Mr. Kontopodias was sworn in, stating his address is 121 Upper Kingtown road, Pittstown

Mr. Kontopodias gave a background on what they were hoping to accomplish. Property is approximately 9.5 acres, approximately 5 acres is cleared. They would like to put up a 3000 sq. ft. building for personal use. This exceeds allowable size. Building will be concrete base, steel structure, four garage bays, three of which will be used for vehicles and one which will be used for lawn equipment. The building will have electrical power, no plumbing.

Mr. Kontopodias had submitted a series of photos showing the property as part of his application.

The storage building will be going into a cleared area, no trees will be removed. Mr. Kontopodias stated that they are hobbyists and this will be for their own personal use.

Roger Thomas stated that if the board were to grant this application it would be for the sole purpose of personal use, and not for residential or commercial purposes.

Roger Soltys asked if the remainder of the 9.5 acres were wooded. Mr. Kontopodias stated that the wooded areas surround his property. There would be limited visibility to neighbors or to the street.

Ken Weiss commented that doubling the size of what is allowed raises questions as to why this size building is necessary. Mr. Kontopodias stated that they have a car collection of 7 vehicles. There will be about 4 vehicles parked in the structure. There will be a work area with an electric lift, and with tools used to work on the cars. There will also be a small woodshop, and then lawn equipment. The intent of this building is to cover all of their needs as opposed to coming back to construct an additional building if they run out of space.

Ken Weiss stated that he still questions if allowing a garage that is more than double the size of what is in our ordinance is necessary.

Roger Soltys asked if any other members of the board had questions for the applicant and they did not.

Comments from the public for the applicant:

Bruce DeRites asked if the impervious coverage was calculated. The question was deferred to the engineers testimony.

Mark Krok stated he was looking over the plans, since the original application it looks like a lot of changes have been made since original application. He had a couple of questions regarding drainage which were deferred to the engineer.

Mr. Naser, applicants engineer was sworn and provided testimony. Mr. Naser shared his screen showing the plans.

Sheet 2 shows the total property in the AR-7 zoning district. The home is located in the western portion of the property, at the end of a shared drive. There is a 3 car garage on the south side of the house. In the rear of the lot is the existing septic field. The drawing shows the existing tree line. At back north eastern corner there is a JCP&L right of way. Wooded areas are evergreen trees that provide a screen throughout entire year. The proposal is for a 3000 square foot to south east of home, tucked behind trees so it is out of sight from neighboring properties. Proposed access is with grass paver system. This is appropriate in this space because there will not be an everyday use. Summary of impervious coverage; existing impervious coverage on the lot is 3.35 %, proposed impervious coverage is 4.18%, allowable impervious coverage in this zone is 10% so the applicant is well below the allowable limits.

Sheet 2 shows grading and stormwater management plan. Mr. Naser stated that they worked with the Township engineer to make sure they satisfied the requirements of the municipality. The system is a combination which utilizes the grass paper access driveway. Routing the proposed garage building into an infiltration basin located to the east, and then discharging into the remaining portion of the property. Topographically, there is a ridge extending from house going south, water will run toward the right of way line, not toward neighboring property. The system is developed so there is no increase in runoff to surrounding properties. Man hole that is mentioned in plan set will be removed. Application otherwise meets all of the bulk requirements. The building also is less than 90% of the overall footprint of the existing structures.

Regarding the planning aspect of the application, this is not a hardship variance, it is a c2 variance. When they looked at other options of where to place the structure it could be attached to the existing house and would be compliant, however it would be a more visible location, and would close off a more massive overall structure. Another option would be to build multiple buildings, they could build 3 individual structures which would also comply. In Mr. Nusser's opinion this would be a poor option. Mr. Kontopodias is a full-time real estate agent and is not looking to utilize the building for a commercial purpose. There are certainly large farm structures within Franklin Township which are larger than this. If Mr. Kontopodias decided to farm, he would be able to put up a structure larger than the proposed under right to farm. Looking at over all intent, having one building with less visibility improves the visual environment with creative development techniques.

Roger Thomas asked what the building would look like. Mr. Kontopodias stated that it was a standard steel building, 14' high steel walls. Steel will be a tan color.

Phil Koury asked for clarification on the garage doors. Mr. Nusser stated that there will be three garage doors and one walk door on east side. One garage door on the north end.

Jennifer Fisher asked for clarification of the driveway. Mr. Kontopodias confirmed that original plan was to go around the tree line however recent storms had recently cleared a new path and taken down a couple of trees, there will be no other trees removed.

Jennifer Fisher also asked if this was granted would the use specified, for hobby cars etc. be carried to the next owner. Roger Thomas stated that it would be stated that the barn could only be used for personal use, not residential or commercial use.

John Thonet asked if there were calculations associated with stormwater management. Mr. Nusser stated that there were. Mr. Thonet stated that recent studies have been done and there will be significant increases with climate change and asked if this was taken into account and if there are larger storms where will the water go. Mr. Nusser stated that water would go toward rear of property where the JCP&L ROW is located.

No other questions from board members or the public for the engineer

Roger Thomas summed up that the applicant is seeking a variance for the size of the building. The building will be used for personal use only, and recommended that there be a deed restriction on the property stating this. Other options were given using alternative methods however those options are not particularly desirable and therefore the applicant chose to seek the variance. It is up to the board if they determine that the positive and negative criteria have been met. Conditions listed by the engineer would be required.

Motion to close the hearing to the public: John Thonet Second: Ken Weiss

All members voted in favor

Mike Chabra made a motion to approve the application with the conditions noted

John Thonet seconded the motion

Roger Soltys stated that the drawings must be updated and corrected.

Roger Soltys	yes	Mike Chabra	yes	Alan Dilley	absent
Ken Weiss	no	Dave Dallas	absent		
Philip Koury	yes	John Thonet	yes		
Stephen Willis	absent	Jennifer Fisher	yes		

Motion carried, project approved, resolution will be prepared and sent to applicant's attorney.

- Hearing:** Township of Franklin, 204 & 206 Sidney Road, Pittstown, NJ, Block 16, Lots 41 & 42. The applicant is the owner of the subject parcels, which were previously developed as single-family residential properties. The prior dwellings and improvements have been removed from the property and the lots are currently vacant. The existing lots are undersized as they are located in a minimum 5-acre zone. The proposal is to merge the properties in question to make them more in conformance with the code, and to obtain variances to permit future development of the merged lot into a single-family residential property. No improvements are proposed on the lots at this time. Due to the size of the proposed merged lot, the applicant requires certain "c" variance relief.

Phil Koury was recused due to this being a township matter. Phil Koury was sworn in.

Phil Koury stated that these properties were purchased years ago. It was thought that COAH funds were used to purchase the properties however upon further investigation this was not the case. Since the township will be relocating the municipal offices to a new location there is no reason to keep these properties and the committee is trying to reduce the number of properties they own and maintain. The committee feels that it would be a better option to merge the two properties to provide a more suitable building lot.

Adam Wisniewski was sworn in. He is representing the committee for this application. He is employed by Colliers Engineering and Design, 53 Frontage Road. He has been representing Franklin Township for 3 years and has represented multiple towns and testified before multiple boards and his professional credentials have been accepted.

Mr. Wisniewski shared the plan submitted on the screen.

Roger Thomas stated that it appears that the application is complete from a legal viewpoint

Motion to deem application complete: John Thonet Second: Jennifer Fisher

All in favor, Phil Koury recused

Mr. Wisniewski provided testimony. The properties are adjacent to the current municipal building. Their addresses were 204 and 206 Sidney Road. These were formerly two single family residential lots which included homes, wells, and septic systems. Both of these lots are currently owned by Franklin Township. Combined lot area will be 1.9 acres. Property is currently undeveloped. There is currently maintained lawn, trees to the rear, and a few isolated trees throughout as shown on plan. The township purchased lot 41 in September 2008, and Lot 42 in October of 2009. The prior improvements were demolished in August of 2013. The wells were abandoned and capped. The septic tanks were crushed in place. All records are on file with the County Health Department.

Regarding zoning, the properties are in the RR-5 zone. The lots are both undersized, and merged they will also be undersized. On Sidney Road many of the properties are undersized so these are consistent with the area. The intention is to place these properties back into productive use by returning them to residential use. By merging the lots it will make the property more desirable. The committee feels this will be a good use of the property.

The Township hired a local firm Bayer-Risse Engineering to do soil testing for septic. They identified multiple locations for principal and secondary septic locations. The lot will be sold with passing septic evaluation which was completed late October 2021.

The Township is seeking multiple bulk variances; minimum lot area, minimum lot width, minimum lot depth, front yard setback, rear yard setback, side yard setback and impervious coverage.

Roger Soltys asked for the overall dimensions. The width will be 250', and the depth 331.1' once merged.

John Thonet asked what was going to be done with the existing Municipal Building lot. Since it is adjacent to the properties being merged would it possibly be merged with these as well to create a lot which is closer to the 5 acre minimum in the zone. Adam Wisniewski stated that this would be better answered by the governing body. Phil Koury stated that there isn't an exact estimation on when the offices will be moving. The committee in the future will determine what will be done with the existing building. It isn't his intention to keep the current

municipal building in use but you never know what future committees will want to do. He is just looking for ways to save money currently and by selling these properties they would not need to maintain them. He stated that he is only one person on the committee, with only one vote, there are 4 other members that would need to vote as well.

Adam Wisniewski stated that the existing lots are non-conforming in depth, width and lot area and the proposed will be as well. The current widths of the two lots are 140' and 110' which when merged will be 250'. This will still be under the zone requirement of 350'.

In terms of setbacks, although there isn't currently a home on this property, 220-50d allows for non-conforming uses in lots. In this case minimum lot and side yard of 30' is being requested, and a lot coverage of 25% which is what is allowed on an under 2 acre non conforming lot according to the ordinance if there was a home on it. This would be a c2 variance in that the front yard setback is unique in that there is no allowance for undersized lots. To stay in harmony with the surrounding properties, he analyzed the 13 nearby properties which are on Sidney road. These properties range in size from .43 acres to 1.63 acres. So this property will be slightly larger than that. The properties analyzed on average a 72.6' front yard setback. They ranged from 54'-85'. The request for this property is 75'. By providing a larger building area it gives someone an option as to where they want to place their home on the property but still stays in keeping with the surrounding properties and there would be no particular negative impact.

John Thonet asked about the impervious coverage being proposed at 25%. This would allow approximately the same amount of coverage that would be allowed on a 5 acre lot. Adam Wisniewski stated that the amount requested is in line with the ordinance for non-conforming lots. This also takes into account the impervious coverage of Sidney road which is part of this property.

John Thonet asked about the large trees on the property. Adam Wisniewski stated that there are a few specimen trees that will need to be considered.

Roger Soltys asked if the County ROW would be possibly used for road widening. This is also something to take into consideration when looking at impervious coverage. Adam stated that there is a 16.5' half width.

Mike Chabra noted that the majority of the properties are in the same range in the area.

Bruce DeRites asked if a tank sweep was done. Adam Wisniewski stated they have records from the county and there were some tanks on the property which were properly demolished. The Township has records on everything.

No other questions from the public

Roger Thomas stated that the applicant is looking for a merger. The applicant has stated the variances being requested. There was testimony given that part of the impervious coverage is

roadway. This becomes a burden to the lot. The lot will be in character with the area which it is located in. The idea is there is no substantial detriment to the zone because they are trying to follow the ordinance provisions for the RR5 zone. If the Board finds that the applicant has met the positive and negative criteria it is appropriate to make a motion. The resolution should be attached to the new deed so that the future buyer would know what is granted.

Motion to close the meeting to the public: John Thonet Second: Ken Weiss

All members voted in favor, Phil Koury abstained

Motion to approve the merger with the conditions: John Thonet

Second: Ken Weiss

Roger Soltys and the other members felt this was a good decision by the Township Committee

Roger Soltys	yes	Mike Chabra	yes	Alan Dilley	absent
Ken Weiss	yes	Dave Dallas	absent		
Philip Koury	abstain	John Thonet	yes		
Stephen Willis	absent	Jennifer Fisher	yes		

Motion carried.

Public Comment

Comments from the Land Use Board, Non-Agenda Items, Other Business to come before the board: Yum and Chill will be on agenda for the next meeting. There have been no new updates from the Quakertown Solar Farm Application.

Roger Soltys commented that regarding the Yum and Chill application he remembered that at some point there was a limit placed on the number of eateries that could go in the shopping center. The Board Secretary looked into it a bit and found that in the late 80's there was a resolution that placed a limit but then it was rescinded in 1996. The Board asked Adam to speak to the applicant and request that they get something from the Town of Clinton showing approval of the use of the water. The Board Secretary will send the two resolutions to Roger Soltys.

Elizabeth Basile: Commented that she had forwarded two articles regarding Cannabis to the Board Secretary to forward to the Board. She asked if there was any plan for the Board to discuss how the master plan was amended with the Cannabis information and maybe go back. Roger Thomas stated that he did not think so. Ms. Basile found this concerning since everything seems to go back to the Master Plan and the Natural Resource inventory

Roger Thomas stated that the State of NJ has passed a statute based on a referendum passed by the voters in the State of NJ so Cannabis is now legal in the State of NJ. The Master Plan says that Cannabis is something that can potentially occur in the Township. There are no ordinances

right now that will allow it to occur. So right now there is no difference. But the Master Plan is recognizing that there are changes that are occurring in the State Government and surrounding properties. So from a land use standpoint there is nothing that needs to take place.

Ms. Basile stated that she is concerned due to that the Township is primarily well water.

John Thonet stated that the LUB gets applications that use a lot of water. Sustainable Aquaculture is an example. The Board required studies to analyze water usage and thorough studies were done regarding the water and how it would effect surrounding properties. This application was eventually approved but not before thorough studies were done. John Thonet stated that any application that came before the board would be looked at the same way regarding water usage.

John Thonet stated that in the next couple of weeks the EPA is going to require that projects be designed for climate change. All of the criteria used for stormwater management is now obsolete. All municipalities will have a year to change the criteria in their ordinances. This will effect every municipality.

Roger Soltys commented in the 1990's the zoning in town was 3 acres. The state came out with a report that said if you had a septic system and a well you would be introducing nitrates into the wells. This study is why the Township created larger lot sizes.

Ms. Basile stated that she felt the Master Plan was leaving things open ended and was not thought through thoroughly.

Phil Koury stated that there was a lot of work put into the master plan. It was not done on a whim.

Christine Faragalla, 205 Sidney Road, asked how a Master Plan Reexamination amendment works. She questioned the amendment related to Cannabis. She felt the amendment was inconsistent with the rest of the master plan.

Roger Thomas stated that there is a requirement to reexam the Master Plan every 10 years. There are requirements to take into account changes that have occurred in the state of NJ and in surrounding municipalities. There is a requirement to include affordable housing. Etc. In the event there is ever an ordinance regarding Cannabis, that ordinance will need to come before the board for a consistency review. If in turn there was ever an applicant, that applicant would also need to come before the Board just as they do for every other application. Roger Thomas felt the Master Plan Reexamination report was accurate in what it reflects.

Adjournment

Motion to adjourn: Roger Soltys Second: Ken Weiss

All in favor

Meeting adjourned at 9:58 pm

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.

Time: May 25, 2022 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/89823422237?pwd=aXVaWlJqQzd5SzVqKzVqWHhkYkRnZz09>

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Prepared by Catherine Innella



Approved November 9, 2022