

**FRANKLIN TOWNSHIP LAND USE BOARD**

**MINUTES**

**SEPTEMBER 27, 2023**

**7:30 PM**

**Location: online on "Zoom" login information below**

**Call to Order & Open Public Meeting Statement:** Dave Dallas 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.

**Pledge of Allegiance:** Dave Dallas led all present in the Flag Salute

**Roll Call**

John Bencoter	absent	Mike Chabra	absent	James Witkowski	absent
Ken Weiss	present	Dave Dallas	present	Deanna Seiple	absent
Philip Koury	absent	John Thonet	present	Rick Ramalho	present
Stephen Willis	present				

**Approval of Minutes:** Minutes carried until next meeting

**Approval of Bills:** none

**New Business**

**1. 1<sup>st</sup> Hearing:** Application has been made by James and Ursula Stryker regarding 319 and 329 Sidney Road, Pittstown, NJ. Block 21 Lots 9 & 9.01. The applicant is looking for approval to adjust the lot line between lots 9 and 9.01 thereby forming 2 non-undersized lots.

Jim Stryker was sworn in by Roger Thomas, he stated his name and address, 1501 Bayshore Blvd, Tampa, Florida.

Mr. Brent LaMaire was also sworn in, he is representing Mr. Stryker. He is from law office of John Carrino, 53 Old Turnpike Rd, Oldwick, NJ 08858

Mr. Stryker presented an introductory statement. He stated they are proposing a lot line adjustment. They feel that this will provide better alignment. One property is 5 acres with a 5-bedroom home and the other is 25 acres with a 2-bedroom home. They are interested in creating 2 lots of approximately, equal size. They are not looking to do any new construction or ground destruction.

Adam Wisniewski, Board Engineer stated that he issued a report on September 21. In his report he requested information on deeds, access easements, draft meets and bounds. Mr. Wisniewski stated that these were all provided. In terms of completeness Mr. Wisniewski felt that the application was complete to move onto a hearing.

Roger Thomas stated that if the board was so inclined it would be appropriate to make a motion.

Motion to deem the application complete: John Thonet Seconded: Stephen Willis

John Bencotter	absent	Mike Chabra	absent	James Witkowski	absent
Ken Weiss	no	Dave Dallas	yes	Deanna Seiple	absent
Philip Koury	absent	John Thonet	yes	Rick Ramalho	yes
Stephen Willis	yes				

Mr. Brent LaMaire stated that a variance was being requested, it is a c2 variance pertaining to the shed on lot 1.

Mr. Stryker provided a brief history of the property, and an explanation of the application. Mr. Stryker said they owned the property for 50 years. Raised 2 kids on the property and have lived there for 40 years. They originally purchased the 13 acre wooded lot. If you look at the site plan itself, and look at the eastern border of the 5-acre lot and continue that line to left, everything to east of this line is the 13-acre lot purchased in 1972. There were some issues with road access so they contacted the owner of the adjoining 17-acre lot which included a 2-bedroom cottage. And they went thru a subdivision and subdivided the 5 acres off of the 17 acres. The right of way all came out of this hearing. Shortly after that, the owner of the remaining 12 acres decided to see the property with the 2-bedroom cottage, and the Stryker's purchased this. Sometime in the 70's the 13-acre wood lot was merged with the 12-acre cottage property. During the time they have lived there they have treated it all as one lot. Initially they tried to see the property as a 30-acre property but it hasn't brought much interest.

When they look at it, the 5-acre lot has a number of municipal ordinance land use issues and it is too small for the size of the house that is there so they decided to apply for the lot line adjustment to create two 15 acre lots. What they did was take the SW boundary of the property and extend it all the way back as a straight and simple division. By doing it this way they removed the requirement for a setback variance on the pole barn. They are also no longer violating the setback on the tennis court or shed on 9.0. There were also issues of the lot coverage on 9.0 this property was close to exceeding the limit. Now by doing this adjustment there is no concern. By doing this lot line adjustment it did create a minor side yard setback issue.

There are 5 properties that are accessed by a paved shared driveway. They are looking to change the right of way on this driveway from 50-100 feet. Mr. Stryker states that he feels this lot line adjustment is a positive change.

Mr. LaMaire pointed out that the site plan shows a number of pre-existing non conforming conditions while requiring a single c2 variance. If this lot line adjustment is granted it will correct a number of conditions which Jim Stryker explained that would otherwise require certification from the board as pre-existing non conforming. However there are other pre-existing non conforming certifications which will be needed. Depending on where the front yard is located they will request a certification for the front yard setback as it pertains to the detached garage on lot 9, a front yard setback as it pertains to the dwelling on 9.01, front yard setback on the farm equipment barn on lot 9 and proposed lot 9.01 and the accessory structure size issue as the farm equipment barn which is presently on lot 9 but if lot line adjustment is granted will be on 9.01.

Jim Stryker spoke about the front yard setback issue. He stated that the Ordinance does not clearly define front, side, and back of properties that have no road frontage. This property is not even a flag lot. They are interior lots which are accessed by a shared driveway. He believes there is flexibility within the definition. Looking at the cottage, the front door faces north. This is where they put the front setback. The planner commented that they preferred a front yard that aligns with Sidney Road. Mr. Stryker felt Sidney Road should have no bearing since it is an interior lot.

Mr. LaMaire responded to the responses in the engineering report.

- B1 requested testimony in support of the classification that certain items were pre-existing non conforming. Mr. LaMaire stated that he requested ordinances from the township and was informed that the township doesn't have ordinances prior to 2004. The only ordinances prior to this date are in meeting minutes. There is no complete document showing all of the ordinances at a certain time. Without this there is no reasonable way to show that these structures were pre-existing non conforming.

Roger Thomas stated that there could be testimony as to when the structures were established and then the Board could determine if they are pre-existing non conforming.

Mr. LaMeire asked what year the main dwelling on lot 9.01 constructed: Mr. Stryker answered 1980. At this time the side yard set back was 125'.

Mr. LaMeire asked when the garage was constructed. Mr. Stryker stated in the 1950's. If his memory serves him right there were no municipal rules regarding land use. The detached garage, cottage were both built in 50's.

**B2: discrepancy regarding the lot size. There is about an acre discrepancy from what the plan says and what is on the tax map. Mr. LaMaire stated that when it was a wood lot non specific measures were used. These measurements were incorrect. The Stryker's professionals went and conducted a survey so the numbers they are presenting on the plan are correct.**

**Ken Weiss asked for clarification. Mr. LaMaire explained that the wood lot was measured in non specific data points. Tax map, deeds, and survey are all inconsistent. Mr. Weiss stated he was unclear as to why it was determined that old numbers were inaccurate.**

**Adam Wisniewski stated the tax map indicates a 26 acre, deed references 27.1 acre tract. He wanted to see if we could determine why there is a discrepancy. He is not sure why it would be off to this degree.**

**Ken Weiss said he felt losing one acre is unacceptable.**

**Roger Thomas suggested that the board possibly request an affidavit from Mr. Parker regarding how he conducted his survey.**

**Ken Weiss asked if the applicant would agree to pay for the township to do another survey to confirm.**

**John Thonet expressed concern that this would not only effect this property but also the adjoining properties.**

**Mr. Thomas felt it was most important to verify that the lot transferred total is clear.**

**Mr. Stryker commented that he spoke to his engineer and the engineer confirmed that his surveyor put a great deal of time into the survey researching any type of discrepancies which were found.**

**John Thonet confirmed that he would definitely like an affidavit to be submitted by Mr. Parker stating that he did his due diligence, and the survey is an accurate representation of the properties.**

**Ken Weiss stated that he feels its important to confirm where the missing acre is due to the fact that this effects a number of residents.**

**Mr. Stryker commented that by placing his signature and seal on the survey the surveyor was attesting to it being accurate. Mr. Thonet commented that unfortunately a document can't be cross examined. And the surveyor is not present at the meeting.**

Mr. LaMaire stated that he will provide the affidavit tomorrow.

Ken Weiss asked when the tennis court was constructed. Mr. Stryker stated it was constructed in 2001.

Dave Dallas stated that he has less faith in how the tax map lines were done. Mr. Dallas commented that he didn't want to burden the applicant with paying for another survey when in fact he is losing an acre.

John Thonet commented that if the surveyor has looked at all of the adjoining property surveys he should be able to attest to where the difference is. He ultimately may not be able to tell exactly where the acre is but he can confirm that he looked at all of the surrounding surveys.

Dave Dallas stated that he would accept an affidavit.

Adam Wisniewski stated that the only lot discrepancy they are seeing is in the lot 9 listed as 26.07 acres.

The tax maps dated 1962, prepared by John Studer updated various times 1977, 1973, 2010.

Once he receives the affidavit he can confirm that the surveyor looked at all of the adjoining surveys, doing deed research and established the existing area of lot 9, which is on this plan 25.09 acres.

Continuation with response to comments

B3 engineer is creating new amended plan

B4 surveyor provided existing easement information. Surveyor will provide proposed easement information tomorrow

B5 waivers- they will bypass this until later

B6 intended use of shed one is to hold log splitter. It is on edge of logging trail and will likely be used for this.

Planners report

E1 testimony to support c variance- this will be discussed later

E5 draft of easement will be provided tomorrow

E6 declining to do this as the ordinance that defines front, side and rear yards is not definitive. They are proposing that front yard be on the northerly lot line

Darlene stated that nowhere in the ordinance does it say that the applicant pick the front yard.

Mr. LaMaire stated that if the town requires that the front yard be on the westerly side then they will request a certification that the detached garage is preexisting non conforming

E8: Board also requested coverage calculations. Mr. LaMeire will have these included with the affidavit tomorrow.

E9 Number of bedrooms in existing dwellings: lot 9 has 2 bedrooms, lot 9.01 has 4 bedrooms and an extra room that could be made into a bedroom however there is no closet.

E10 Request for Area of certain structures on property, dwelling on lot 9 is 1200 sq. ft. dwelling on 9.01 approximately 3900 sq. ft., existing far equipment barn is roughly 1800 sq. ft.

Darlene Green commented that the ordinance caps accessory structures at 1210 sq. ft.

Mr. LaMaire stated that the building stores farm equipment so it is exempt from the regulation under the right to farm act.

John Thonet asked if the property is farmland assessed. Mr. Stryker confirmed that it is farmland assessed.

E11: Request for additional sizes of structures: detached garage on lot 9 is 400sq. ft., shed 1 on lot 9 is approx.160 sq. ft., shed on 9.01 is about 120 sq. ft.

Ken Weiss asked what the size was of the main dwelling. Mr. LaMeire confirmed it was 4 or 5.

Ken Weiss asked how many additions are in the new addition and if there is a CO on this addition. Mr. Stryker testified that it was completed in 2004. The objective was to bring Mr. Stryker's mother home, and out of the nursing home.

Ken Weiss asked if everyone had seen the information regarding COAH fees which had not been paid as well as inspections not completed on permit 03-55

Roger Thomas read a letter which was sent to Mr. Stryker in July 2012 regarding a request for COAH fees and completion of permits.

Roger Thomas was unclear if these items had been resolved.

Mr. LaMaire commented that with respect to the COAH fee in section 179-31 B2 it states that additions shall not be required to pay a development fee.

With respect to the CO Mr. Stryker believes that the CO was issued. Mr. Stryker remembers George Reichert coming thru doing the inspections at the time.

Mr. LaMaire discussed the pre existing non conforming conditions which may be requested.

If the front yard is set at the northerly lot line it would require 4 certifications, front yard setback with respect to detached garage on lot 9, the front yard setback on the existing dwelling on lot 9.01, the front yard setback on the farm equipment barn on 9 and 9.01 and the size of an accessory structure on the farm equipment barn which could be bypassed due to the right to farm.

If these are granted then one c variance would be requested for the shed to remain at 5.7 feet from the lot line of lot 9. It is not feasible for it to be relocated, as this would require cutting trees and disturbance of steep slopes.

Mr. LaMaire testified how granting the variance and lot line adjustment would benefit the township by removing at least 3 non conforming issues while still furthering the purpose and intent of the MLUL.

Dave Dallas asked if the Board had any additional questions. Ken Weiss asked how the meeting got carried from last meeting and if it was noticed properly. Dave Dallas stated that the meeting was carried from the September 13<sup>th</sup> meeting with no further notice.

Comments from the public: Frank Tota stated that he did have a question however it was already answered.

Roger Thomas told the board that he had prepared a draft resolution. It outlines a series of conditions, but does not include some specifics. Conditions would include correcting the discrepancies, an affidavit would need to be supplied. There would be a requirement that minor subdivision plan be revised. Requirement that board professionals would review meets and bounds descriptions of the easements. And approval subject to payment of all fees and approvals of outside agencies. The resolution would include all certifications.

Dave Dallas stated that someone will need to review if development fee is applicable.

Roger Thomas will review the COAH fee and hopefully find a reference to what the ordinance was at the time.

Ken Weiss also suggested that it be determined if the CO was acquired. He suggested that the township has records that will be helpful.

Roger Thomas also stated that it must be determined where the front yard is set.

Dave Dallas suggested that the front yard setback should be with Darlene Greens recommendation of being on the westerly property line.

Roger Thomas suggested that the Board vote on asking for a submission of an affidavit by the surveyor.

Motion to certify survey: John Thonet Second: Stephen Willis

John Bencoter	absent	Mike Chabra	absent	James Witkowski	absent
Ken Weiss	no	Dave Dallas	yes	Deanna Seiple	absent
Philip Koury	absent	John Thonet	yes	Rick Ramalho	yes
Stephen Willis	yes				

Motion passes

Roger Thomas stated that if the Board was comfortable they could vote on the draft as submitted with certifications requested and conditions added.

Motion to adopt resolution: John Thonet Second: Stephen Willis

John Bencoter	absent	Mike Chabra	absent	James Witkowski	absent
Ken Weiss	no	Dave Dallas	yes	Deanna Seiple	absent
Philip Koury	absent	John Thonet	yes	Rick Ramalho	yes
Stephen Willis	yes				

Motion passes

Dave Dallas asked the applicant if it was a hardship to wait until the next meeting to memorialize the resolution as it would be more comfortable to have a clean document.

Mr. LaMaire asked if it was acceptable to advertise the determination of the Board. Roger Thomas agreed that it was.



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

**Adjournment:** motion to adjourn Stephen Willis Second: Rick Ramalho

meeting adjourned at 9:00 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.

Topic: Franklin Land Use Board Meeting

Time: Sep 27, 2023 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85255902512?pwd=F2rsLooe95thfZVRuSI7E1EfpCdXxY.1>

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Prepared by Catherine Innella



C. Innella

Approved December 27, 2023