

**FRANKFORD TOWNSHIP LAND USE BOARD  
MARCH 22, 2017 – 7:00 P.M.  
MINUTES OF THE REGULAR MEETING**

**CALL TO ORDER:**

The meeting was called to order by the Vice Chairman, Wolfgang Gstattenbauer, 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. Gstattenbauer, Dr. Castimore, Mrs. Albanese, Mrs. Tufaro, Mr. Risdon, Mrs. French, Mr. Dolan, Mr. Pierson, Mr. Kobis and Mr. Delima. Also present were Mr. Collins, the Board Attorney and Mr. Pellow, the Board Engineer.

Those absent: Mr. Hahn, Mr. Romania (excused), and Mr. Wingle (excused).

**MINUTES**

The Minutes of the February 22, 2017 Land Use Board Regular Meeting were reviewed. A Motion was made by Dr. Castimore and seconded by Mr. Delima to approve the Regular Meeting Minutes of the Land Use Board for February 22, 2017. All were in favor, except Mrs. Tufaro, who abstained. The Motion was carried.

**BOARD BUSINESS**

**Green Ordinance Committee:** Nothing to Report.

**COAH Committee:** Nothing to Report.

**Open Space Committee for Updates to LUB:** Nothing to Report.

**Master Plan Committee:** Nothing to Report

**Correspondence:**

The correspondence was reviewed. No formal action was taken.

**Digital Sign at Yetter's Diner:**

Mr. Pellow wrote a letter to the board with regard to the complaints about the brightness of the digital sign at night at Yetter's Diner. He indicated that he has inspected the sign and has noticed a drop in the brightness. He suggested that the board keep an eye on the sign for another month and see if any more complaints are filed before taking this any further. The test for the brightness will be expensive. He has estimated a cost of \$400.00.

A Motion was made by Mr. Risdon and seconded by Mr. Delima to wait another month on this issue to see if any further complaints are filed before having Mr. Pellow perform the testing of the brightness. All were in favor. The Motion was carried.

**ZONING OFFICER'S AGENDA**

The Zoning Report dated March, 2017 was reviewed. No formal action was taken.

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**PUBLIC:**

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

Appearing before the board was Peter Knipe. Mr. Knipe questioned the difference between a garage sale and a flea market, a discussion that was held during the Zoning Officer's Report.

There being no further public participation, a Motion was made by Mr. Dolan and seconded by Dr. Castimore to close this matter to the public. All were in favor. The Motion was carried.

**RESOLUTIONS**

**Sussex County Farm & Horse Show – 2017 List of Events and Waiver of Site Plan for an Addition to the Richard's Building:**

The Resolution was reviewed. A Motion was made by Mr. Delima and seconded by Mr. Risdon to approve the Resolution for The Sussex County Farm & Horse Show for their list of 2017 Events and a Waiver of Site Plan for an Addition to the Richard's Building. It was noted that the SCARC Walk-a-Thon was omitted from the list of events submitted and should be added. The Motion was amended to add the Walk-a-Thon to the list. Roll Call:

YES: 6 Gstattenbauer, Castimore, Albanese, Risdon, Pierson, Delima

NO: 0

ABSTAIN: 0

The Motion was carried.

**Matthew Wingle – LUB 17-02 – Block 33, Lot 9 – 233 Meyer Road – "C" Variance:**

The Resolution was reviewed. A Motion was made by Mr. Delima and seconded by Mr. Pierson to approve the Resolution for Matthew Wingle for a "C" Variance. Roll Call:

YES: 6 Gstattenbauer, Castimore, Albanese, Risdon, Pierson, Delima

NO: 0

ABSTAIN: 0

The Motion was carried.

**RESOLUTIONS CONT.**

**Sharon and Richard Tufaro – LUB 17-03 – 446 US Highway Route 206 - Block 64, Lot 3 – “C” & “D” Variances:**

Mrs. Tufaro stepped down from this application.

The Resolution was reviewed. A Motion was made by Mr. Delima and seconded by Mrs. Albanese to approve the Resolution for Sharon and Richard Tufaro for a “C” & “D” Variance. Roll Call:

YES: 4 Gstattenbauer, Albanese, Pierson, Delima

NO: 0

ABSTAIN: 0

The Motion was carried.

Mrs. Tufaro returned to the meeting.

**NEW APPLICATIONS**

**David and Kelly Nogueroles – LUB 17-05 – 35 Lakeview Point Avenue – Block 174, Lot 1 – “C” & “D” Variances:**

Dr. Castimore and Mr. Risdon stepped down from this application and left the meeting.

Appearing before the board was the applicant’s attorney, William Haggerty. Mr. Haggerty indicated that his client had a work emergency and was unable to attend the meeting. He also indicated that Mr. Glasson, the applicant’s engineer, also had a conflict for this evening and was not able to attend the meeting. He stated that he would be acting as the attorney and the witness this evening. Mr. Haggerty was sworn in by the board attorney and was accepted as a witness by the board.

Mr. Haggerty gave a description of the Variance before the board. He indicated that this is a lake front property. The applicant is the owner of single family lake front home with a garage on the road. The applicants are proposing to replace the garage with a larger garage. They will comply with the height requirement. The architectural design of the garage conform with the existing home on the property. They are proposing an entry on the side of the garage rather than facing the road. This will give them an opportunity for a turn-around which is provided on the map submitted to the board prepared by Mr. Glasson. The next consideration for the board is that the garage will be adjacent to a narrow road, which is an access which they call a right-of-way or a paper street to the lake. Therefore, it will not interfere or impact any adjoining property owner in this location. They are requesting a floor area ratio variance and a front and side yard variance. The garage location is similar to the garages in the neighborhood.

Mr. Pellow reviewed his report dated March 10, 2017 as to completeness.

Paragraph 3: The application can be found complete as long as Item #7 of the Checklist is approved by Tom Collins with regard to the notice and photos of the buildings are submitted. The aerial image is too small to read. Mr. Collins indicated that the notice was sufficient. Mr. Haggerty indicated that his client did submit photographs of the property to the board secretary.

The board deemed the application complete.

**NEW APPLICATIONS CONT.**

**David and Kelly Nogueroles – LUB 17-05 – 35 Lakeview Point Avenue – Block 174, Lot 1 – “C” & “D” Variances cont.:**

Mr. Pellow continued reviewing his report:

Paragraph 1: The applicant will be razing and existing accessory garage containing 180 sq. ft. and construction a new accessory garage containing 460 sq. ft.

Paragraph 2: The following variances are needed: a) Maximum Floor Area allowed: 17.6% or 1,680.80 sq. ft. and 2,386 sq. ft. habitable area exists = 25% floor area ratio. After construction of the garage, the habitable area will be 2,596 sq. ft. or 27.2% floor area ratio. b) Principal Structure: i) Side yard Setback: 15 ft. required and 7.9 ft. exists on the left side and 7.7 ft. exists on the right side. This is an existing condition; ii) Rear yard setback: 50 ft. required and 36.5 ft. exists. This is an existing condition; c) Accessory structure: i) Side Yard Setback: 10 ft. required and 1.0 ft. proposed on the north; ii) Front Yard Setback: No closer than the principal building, which is 113.9 ft. and 2.0 ft. is proposed.

Paragraph 4: The proposed garage will have an opening on the side so that vehicles can back out into the new driveway and not back out into the road. The back-out area should be 20' x 20'. Mr. Pellow indicated that the plans only show a 10' x 20' turn-around area. He questioned Mr. Haggerty if they could move it back another 10'. Mr. Haggerty indicated that he feels it can be moved back to make a 20' x 20' turn-around. A driveway permit will be required at the time of building permit application. New drives are paved, and the applicant is requesting the drive be gravel. I recommend the drive be paved, but I will let the Board decide. Also, the drive has to be 10 ft. off the property line so a variance is needed for this setback, as it is proposed to be constructed up to the property line. There are other garages on Lakeview Point Avenue that are next to the right-of-way line.

Paragraph 5: The proposed driveway will adjoin the driveway next door to the south. The vehicle on that lot has to back out into Lakeview Point Avenue.

Paragraph 6: The proposed garage designed by Charles Schaffer is very attractive.

Paragraph 7: The height of the garage is 14 ft. and 15 ft. is the maximum permitted. The height is the distance from the average grade at the front of the building to them mid-point between the eaves and the ridgeline—as per the Township ordinance.

Paragraph 8: The proposed garage borders Meadow Road, which is an unimproved right-of-way 50 ft. wide.

Paragraph 9: Sight distances should be shown starting 10 ft. back from the edge of the Lakeview Point Avenue pavement. Also, sight distances from other drives should be checked, as the proposed garage is 3.7 ft. closer to the right-of-way. Mr. Haggerty indicated that he will have Mr. Glasson show this on the map.

A discussion was held with regard to the paving of the driveway. Mr. Haggerty indicated that the cost of paving and the drainage are the two issues as to why the applicants would like to keep a gravel driveway. After a lengthy discussion, the board would like to have the driveway paved. It was noted that gravel driveways after it is packed down is considered impervious coverage, the same as pavement.

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

**NEW APPLICATIONS CONT.**

**David and Kelly Nogueroles – LUB 17-05 – 35 Lakeview Point Avenue – Block 174, Lot 1 – “C” & “D” Variances cont.:**

There being no public participation, a Motion was made by Mrs. Albanese and seconded by Mr. Delima to close this matter to the public.

A Motion was made by Mr. Delima and seconded by Mr. Pierson to approve the application for a “C” & “D” Variance for reconstruction of a garage with the condition that the driveway turn around area be 20’ x 20’ and the applicant pave the driveway. Also, the applicant requested a waiver of the Reading of the Resolution in order to pull a building permit at their own risk. Roll Call:

YES:           8       Gstattenbauer, Albanese, Tufaro, French, Dolan, Pierson, Kobis, Delima

NO:            0

ABSTAIN:    0

The Motion was carried.

**Dana and Kenneth French – LUB 17-04 – 232 Mattison Reservoir Avenue – Block 42, Lot 6.02 – “D” Variance:**

Mrs. French stepped down from this application.

Appearing before the board was the applicant, Dana French. Mrs. French was sworn in by the board attorney.

Mrs. French is before the board applying for a “D” Variance for their basement area to be used for a mother/daughter. They are a caregiver of their 90 year old grandmother. It would be a single level. Currently there are 15 stairs to go up to the main house, where she is living now. It is very difficult for her to climb the stairs which is the main living area. At the present time it is a very challenging struggle that they are living with. They do not want to put their grandmother in a nursing home and this is the reason they are requesting the variance so they can take care of her. By remodeling the basement area for her, her grandmother will have some personal and private space. Also, there will be personal and private space for her kids to be kids. This will also give her grandmother some privacy in the caregiving aspect at this stage in life. The floor plan is an open concept with a livingroom area and kitchen area. A handicapped accessible bathroom and a bedroom. In the bedroom area, there will be shelving for her personal belongings. There is an egress window as per the building inspector said was needed. This egress window is the only thing that will affect the exterior area of the house. The extension is just for a window area that she could physically climb out of if there were a fire. The egress window will be in the front of the house. The window is a kit that comes with the egress window. At the present time, the ground comes up to the basement window. They will dig around approximately a 3’ horseshoe area for the window. There is a lid that goes on top of this area so no one will fall into this window area. This will provide an emergency exist along with the exterior door that is already existing. This will be the only exterior change to the house. They do not need a setback variance, because they are already at 158’ setback. This will not affect any traffic coming in and out of the house. This will not affect anything with the school system. This is will not have any impact to the neighborhood. For her, it will have a major impact and will drastically help her children’s life while watching this caregiving and going through this process.

**NEW APPLICATIONS CONT.**

**Dana and Kenneth French – LUB 17-04 – 232 Mattison Reservoir Avenue – Block 42, Lot 6.02 – “D” Variance cont.:**

Mr. Pellow reviewed his report dated March 9, 2017, last revised March 20, 2017 (PM) as to completeness:

Item 7: Compliance with legal notice requirements. Mr. Collins indicated that the notice was sufficient.

Item 15: Copy of Sussex County health Department application. Need approval from the health department that the septic system is satisfactory for the additional bedroom. This has been submitted for a five-bedroom house; four exist and one is proposed.

Item 16: Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet. Need a plan on one sheet that depicts Item 17, 18 19, 23, 24, 25, 26, 28, 30, 32, 42 and 56. These have all been addressed with the new map.

Item 75: Building floor plan, elevation views and first floor elevation with overall building height. The floor plan does not list a scale and exactly what is being proposed in the basement. What does “egress window” mean? These have been submitted and the applicant to detail to the board what will be constructed in this basement. Mr. Pellow indicated that Mrs. French explained this earlier in the meeting.

The board deemed the application complete.

Mr. Pellow continued reviewing his report:

Paragraph 1: The applicant is seeking a “D” Variance to allow a mother/daughter apartment in their residence on Mattison Reservoir Avenue, as they are not permitted in the “AR” Zone.

Paragraph 3: “D” Variances are difficult to obtain, and I review an application based on the ordinance and what is needed. It is up to the Board to vote on completeness and waivers, but I am always concerned about setting precedent in the future.

Paragraph 4: I believe the variance, if approved, would be removed once the mother/daughter apartment is vacant-based on past applications. Mrs. French indicated that she would prefer not to remove this area once the apartment becomes vacant. She is willing to deed the apartment to family members. She indicated that her family has been in this community since the 1800’s. There are 3 generations going forward that unfortunately do not have jobs with pensions or retirements. Therefore, she would like to try and be able to take care them and their family. At the present time, she is taking care of her grandmother, but her parents are in their 80’s. She is opposed to the nursing home side, only because what she has seen and dealt with. Also, the financial side of things for nursing homes. What they have looked at start at \$11,000 a month. Mr. Collins indicated that the board could consider something along the lines of it may be used as a mother/daughter or father/son space. The applicant is asking to use this space in conjunction with their single family residence. They are not asking for a leasable apartment. They are asking for use and occupancy of members of the residence above. Mr. Collins indicated that it could be deed restricted to this scenario.

Paragraph 6: The applicant must submit proof for a use variance as follows: a) Positive Criteria: Special Reasons – the applicant must show that special reasons exist for the granting of the variance. This is generally referred to as the positive criteria. There are three ways generally in which the applicant can potentially demonstrate that the special reasons are met. These are either by establishing that the use is (1) “inherently

**NEW APPLICATIONS CONT.**

**Dana and Kenneth French – LUB 17-04 – 232 Mattison Reservoir Avenue – Block 42, Lot 6.02 – “D” Variance cont.:**

beneficial”, (2) by demonstrating a hardship, or (3) by showing that the general welfare is enhanced because the site is particularly suited for the proposed use. b) Negative Criteria: There is two-prong test to satisfy the negative criteria necessary for the granting of a use variance. The burden of proof is on the Applicant to demonstrate that both of these tests are met. This involves demonstrating that there will be no substantial detriment to the public good, and that there will be no substantial impairment of the zoning plan. Again, the burden of proof lies with the applicant to demonstrate that there will be no substantial impacts.

Mrs. French indicated that she felt she covered this by indicating that there is no impact on the neighborhood or school system. Mr. Collins indicated that the applicant is basically saying that the basement already exists and is particularly suitable to be improved for her grandmother to live there because it all one level and provides privacy for her grandmother and her family. The entrance into this area is only one step as opposed to 15 steps to get to the current living area. The area will be handicapped accessible.

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

Appearing before the board was Peter Knipe. Mr. Knipe was sworn in by the board attorney. Mr. Knipe indicated that he fully supported this type of request.

There being no further public participation, a Motion was made by Mr. Dolan and seconded by Mrs. Albanese to close this matter to the public. All were in favor. The Motion was carried.

A Motion was made by Mrs. Albanese and seconded by Mr. Pierson to approve the application for a “D” Variance with the condition of a deed restriction as discussed this evening and to waive the reading of the Resolution so the applicant can pull a building permit at their own risk. Roll Call:

YES: 7 Gstattenbauer, Albanese, Tufaro, Dolan, Pierson, Kobis, Delima

NO: 0

ABSTAIN: 0

The Motion was carried.

Mrs. French returned to the meeting.

