

**FRANKFORD TOWNSHIP LAND USE BOARD**  
**MAY 23, 2018 – 7:00 P.M.**  
**MINUTES OF THE REGULAR MEETING**

**CALL TO ORDER:**

The meeting was called to order by Board 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, Mrs. Tufaro, Mr. Risdon, Mr. Dolan, Mr. Pierson, and Mr. Kobis. Also present were Mr. Collins, the board attorney, and Mr. Pellow, the Board Engineer.

Those absent: Dr. Castimore, Mrs. Albanese, Mr. Hahn Mrs. French (excused), Mr. Romania (excused), Mr. Wingle and Mr. Delima (excused).

**MINUTES**

The Minutes of the April 25, 2018 Land Use Board Regular Meeting were reviewed. A Motion was made by Mr. Pierson and seconded by Mr. Kobis to approve the Regular Meeting Minutes of the Land Use Board for April 25, 2018. All were in favor, except Mr. Gstattenbauer, who abstained. The Motion was carried.

**BOARD BUSINESS**

**Subcommittees:**

**Green Ordinance Committee:** Nothing to Report

**COAH Committee:** Nothing to Report

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

**Master Plan Committee: 5 Acre Zoning.** It was decided that the subcommittee for the Master Plan meet to discuss this matter before bringing it to the board. A Motion was made by Mr. Risdon and seconded by Mr. Dolan to have the subcommittee review this prior to the board. All were in favor. The Motion was carried.

**Ordinance 30-606 – Basic On-Site Pavement and Curbing Requirements:**

The board received a letter from The Greater Lake Watershed Conservation Foundation requesting the board review the driveway ordinance and allow other options that are more environmentally friendly. After review of a report by the board engineer, it was agreed by the board to keep the current Ordinance. If anyone around the lake area wanted to use a different system they would have to come to the Land Use Board for a variance. It was noted by our engineer, that these systems are very expensive and also the soils in this area are not sufficient for these systems.

**Accessory Building & Structure Ordinance:**

The Zoning Officer had requested that the board look at the Accessory Structure Ordinance because in one part of the Ordinance it states that no accessory structures are allowed in the front yard and another part of the ordinance it seems a little less clear. Mr. Collins drafted an Ordinance to clear these 2 paragraphs up.

**BOARD BUSINESS CONT.**

**Accessory Building & Structure Ordinance cont.:**

Paragraph 1 of the Section 30-1015a1 shall read as follows:

“1. No accessory building shall be located closer to a right-of-way line than the principal building. An accessory structure located on a corner lot shall also be set back from the side street to comply with the setback line applying to the principal structure for that side street. Gazebos may be located closer to a right-of-way line than the principal structure on the same lot, provided that the gazebo is not disproportionate to the size of the lot or principal structure located on the lot, and provided that a front yard setback equal to the prescribed side yard setback for the corresponding zone is maintained for the gazebo. “

Paragraph 8 of the Section 30-1015a8 shall read as follows:

“8 Location. An accessory building may be constructed only in side or rear yards.”

A Motion was made by Mr. Dolan and seconded by Mrs. Tufaro to approve this Ordinance Amendment and to forward same to the Township Committee for review and adoption. Roll Call:

YES: 6 Gstattenbauer, Tufaro, Risdon, Dolan, Pierson, Kobis

NO: 0

ABSTAIN: 0

The Motion was carried.

**Correspondence:**

The Correspondence was reviewed. No formal action was taken.

**PUBLIC:**

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

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

**ZONING OFFICER'S AGENDA**

It was noted that this will be carried to the next regular meeting of the Land Use Board.

**RESOLUTIONS**

**Richard Johnston – LUB 18-07 – Block 87, Lot 8 – 68 East Shore Culver Road – “C” & “D” Variances:**

The Resolution was reviewed. A Motion was made by Mr. Pierson and seconded by Mr. Kobis to approve the Resolution for Richard Johnston for a “C” & “D” Variance. Roll Call:

YES: 3 Tufaro, Pierson, Kobis

NO: 0

ABSTAIN: 0

The Motion was carried.

**CARRIED APPLICATIONS**

**Rainbows of Learning – LUB 18-08 – Block 11, Lot 13.08 – 118 US Highway Route 206 – Amended Pre. & Final Site Plan:**

Appearing before the board was the applicant’s Attorney, William Haggerty, George Lista, a Volunteer on the Board of Directors, and Jason Dunn, the Planner for the applicant. Mr. Lista and Mr. Dunn were sworn in by the board attorney. Mr. Dunn gave his qualifications to the board and was accepted as an expert witness.

Mr. Pellow reviewed his report dated April 17, 2018, last revised May 16, 2018 as to completeness:

Paragraph 6, ITEM 3: Certification of taxes, liens, assessments paid. I believe they don’t pay taxes. The applicant is tax exempt.

Paragraph 6, ITEM 8: Corporation of partnership form. This was submitted by Attorney Haggerty.

Paragraph 6, ITEM 15: Copy of Sussex County Health Department application. Need report from the health department that the existing septic system is satisfactory for the intended use. Mr. Haggerty submitted to the board a copy of the letter dated May 15, 2018 from the Board of Health indicating that the Board of Health has no objection to the issuance of any variances or building permits regarding this project as it is currently proposed. This was later marked as Exhibit “A-2”.

Paragraph 6, ITEM 33: Tax map sheet number. This has been added to the revised plan on Sheet 1 of 3.

Paragraph 6, ITEM 48: Existing and proposed contours of five foot (5’) intervals for slopes fifteen percent (15%) or greater; two foot (2’) intervals for lesser slopes. Spot grades have been shown around the addition on Sheet 3 of 3.

Mr. Collins indicated that the notice was sufficient.

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

**CARRIED APPLICATIONS CONT.**

**Rainbows of Learning – LUB 18-08 – Block 11, Lot 13.08 – 118 US Highway Route 206 – Amended Pre. & Final Site Plan cont.:**

Mr. Haggerty indicated that this was an application for an Amended Preliminary and Final Site Plan approval to annex a multi-purpose room to the existing school. The addition will be 2,576 square feet. The existing storage building will be relocated. There will be no increase in the number of students. The site is level; therefore, they do not have drainage problems that they are dealing with.

Mr. Dunn presented to the board Exhibit “A-1” which is a copy of the Amended Preliminary and Final Site Plan dated March 28, 2018, last revised May 9, 2018. The revisions included adding existing landscape trees and scrubs in the area of the work and also adding replacement scrubs, adding a light near the exit door of the new addition, adding some spot grades and tying the storm drains into the detention basin.

Mr. Dunn indicated that the applicant advised him that there is a need to have a recreation area for the students during inclement weather in order to keep up with the competitive market of day care. The number of students or faculty will not be increased because of this addition. The initial approval from this board allowed a maximum of 15 staff members and 110 students, which they will not exceed.

Mr. Pellow’s report refers to the impact on the septic system because of this addition. The applicant received a letter from the County of Sussex, Department of Health and Human Services dated May 15, 2018 which was marked as Exhibit “A-2”. The letter states that “the proposed addition does not include any increase in the existing flow. The addition as proposed does not encroach on the existing sewage disposal system by being located any closer to that existing sewage disposal system than is the existing structure. Based on that information and evaluation, this department has no objection to the issuance of any variances or building permits regarding this project as it is currently proposed.”

Mr. Dunn indicated that the addition will be located on the Northwest of the existing building. Between the existing building and the existing detention pond, there are wetlands behind the building and they renewed the LOI so that the wetlands and buffer show on this map. They will not be encroaching on any of those environmental features. Mr. Dunn referred to Sheet 2 of the Variance map which shows the existing addition which is 46’ x 56’. It also shows a relocated trash enclosure with fencing. There will be an exit door to the north of the addition that would connect to an existing pathway to the parking lot.

Mr. Dunn referred to a small shed that currently exists in the vicinity of where the proposed addition will be built. This will be relocated to the other side of the building. It is still in the rear of the building so it will not be seen from the road. It is a small storage shed which they store some play equipment and bikes. They are not proposing to add any parking, although the design standards require 4 spaces for this use. They would like to keep the existing 40 spaces. They have asked the board for a waiver on this design standard because due to the fact that they are not increasing the population of the school, they do not feel there is a need for new parking.

Mr. Dunn indicated that there is existing lighting on the building that was previously approved which will stay the same. They are adding one wall mounted light by the door of the addition. Architecturally the new building will match the existing building. There are some HVAC units that will have to be relocated and added. They will be behind the new addition.

**CARRIED APPLICATIONS CONT.**

**Rainbows of Learning – LUB 18-08 – Block 11, Lot 13.08 – 118 US Highway Route 206 – Amended Pre. & Final Site Plan cont.:**

Mr. Haggerty indicated that there are no variances with this application and this is a permitted use in the zone.

Mr. Pellow continued reviewing his report:

ITEM 58: The applicant agreed to provide an as-built plan.

ITEM 59: Letter certifying conformance to preliminary plat by applicant's engineer. The applicant agrees to this.

Paragraph 7: A soil erosion permit may be needed. An application was submitted to them. The certification for the soil erosion and sediment control has been submitted.

Paragraph 8: County Planning Board approval is needed. An application was submitted to the County Planning Board. The County states that this application is exempt from their review.

Paragraph 9: The original building was located in the C-2 Zone in 2003.

Paragraph 10: A preconstruction meeting is needed. The applicant agreed.

Paragraph 11: A final as-built will be needed. The applicant agreed.

Paragraph 12: The materials for the building will be the same that exists.

Paragraph 13: The detention basin needs maintenance to control brush and weed growth and should be done yearly or semi-yearly. A note has been added to Sheet 1 of 3 and this note should be a condition in the resolution.

Paragraph 14: One hundred ten (110) students and 15 staff were approved with the original building, and I assume it will be the same. The applicant confirmed in earlier testimony that this will remain the same.

Paragraph 15: Fifty (50) parking spaces are required, and 40 spaces exist. Need a waiver. The applicant's engineer explained this earlier as to why they are requesting a waiver.

Paragraph 16: The dumpster to be relocated. Need Construction details. The dumpster will be constructed in front of the addition with concrete block walls and black vinyl chain link gates and slates.

Paragraph 17: Impervious coverage will be increased. Show how this will affect the existing basin. Calculations have been submitted, and the basin size is satisfactory.

Paragraph 18: Need landscaping details. Planting details are now shown on Sheet 2 of 3.

Mr. Risdon was concerned about the location of the dumpster. Mr. Dunn indicated that they were not happy with the location of the dumpster. They did try to move it to different locations, but no matter where they located it, it was in an awkward spot.

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

**CARRIED APPLICATIONS CONT.**

**Rainbows of Learning – LUB 18-08 – Block 11, Lot 13.08 – 118 US Highway Route 206 – Amended Pre. & Final Site Plan cont.:**

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

A Motion was made by Mr. Dolan and seconded by Mr. Risdon to approve the Amended Preliminary and Final Site Plan with a waiver for the parking to allow the existing 40 spaces where 50 are required subject to the conditions in Mr. Pellow's report and the applicant will submit a Final As Built when the project is complete and the applicant will maintain the detention basin at least twice a year to control brush and weed growth. Roll Call:

YES: 6 Gstattenbauer, Tufaro, Risdon, Dolan, Pierson, Kobis

NO: 0

ABSTAIN: 0

The Motion was carried.

**John Wingle (Wingle Supply) – LUB 18-01 – Block 1, Lot 2 – 755 Route 565 – Preliminary Site Plan & “D” Variance:**

Appearing before the Board was the applicant's Attorney, William Haggerty, requesting that this matter to be carried without further notice to June 27, 2018 Land Use Board meeting at 7:00 p.m. The board agreed to carry this matter without further notice to the June 27, 2018 Land Use board meeting at 7:00 p.m.

**BOARD BUSINESS CONT.**

**Sussex County Fair Grounds Event:**

Mr. Risdon brought to the board's attention that the Garlic Run which normally goes from Rockaway Mall to NYC., now it is going from Rockaway Mall to the Sussex County Fair Grounds. He indicated that all the events at the Fair Grounds are to be noticed to this board and this event was not on their list at the time they appeared before the board. Apparently this just happened recently. He does not have a problem with it; he just wanted to make the board was aware of it. The event is scheduled for June 20<sup>th</sup>. Apparently the reason for the change is that they were getting charged a lot of money to go across the bridge to get into NYC.

It was noted that the Fair Grounds should be giving the board a monthly updated list of the events.

**NEW APPLICATIONS**

**Christopher Keller – LUB 18-09 – Block 101, Lot 2 – 151 East Shore Culver Road – “C” & “D” Variance:**

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

Appearing before the board was the applicant's attorney, William Haggerty, the applicant, Christopher Keller, and his engineer, James Glasson. Mr. Keller and Mr. Glasson were sworn in by the board attorney. Mr. Glasson gave his qualifications to the board and was accepted as an expert witness.

**NEW APPLICATIONS CONT.**

**Christopher Keller – LUB 18-09 – Block 101, Lot 2 – 151 East Shore Culver Road – “C” & “D” Variance cont.:**

Mr. Haggerty indicated that this is a property which is improved with a single family home and 3 accessory buildings. The application is to remove one of the accessory buildings and construct a larger accessory building which would be a garage used for his personal use, storage of boats and cars. It is a long lot and the structure is behind the house and it will not be visible to any surrounding property.

Mr. Pellow reviewed his report dated April 26, 2018:

Paragraph 3: The variances needed are as follows:

- a. Floor Area Ratio: .075 allowed or 3,037.5 sq. ft.; and 4,459.0 sq. ft. exists or 0.10; and 6,424.0 sq. ft. is proposed or 0.159.
- b. Maximum Size of all accessory structures combined: 1,260 sq. ft. allowed; and 147 sq. ft. exists; and 2,112 sq. ft. is proposed.
- c. Maximum Accessory Structure Size: 900 sq. ft. allowed, and 2,000 sq. ft. is proposed for Structure No. 3
- d. Maximum Accessory Structure Height: 15 ft. allowed, and 19.15 ft. is proposed for Structure No. 3.

Mr. Collins indicated that the notice was sufficient.

The board deemed the application complete.

Mr. Keller indicated that the new accessory structure will be used as a shop and storage for his personal vehicle. He further stated that he does have tools to work on his cars as a hobby and maintain his wife and his personal vehicles. There is no commercial use for this garage. They do not propose a separate residence on the property. There will be no plumbing in the accessory structure. There will be heat in the structure. He is proposing impervious pavers to the garage. He would like to use the garage mostly in the wintertime. He indicated that the back portion of the property is a wooded lot and he cannot see his neighbor's house on the north side. On the south side of the property he can see his neighbor's garage, but not his house.

Mr. Glasson indicated that the property has a driveway which comes up from East Shore Culver. There is a knoll area when you enter the driveway and then it drops down again. There is a wetland that exists behind the subject property on Block 10, Lot 101 which was delineated by Wade Wander. Mr. Wander flagged the lot and they gave it a 150' buffer to be safe from this location. The proposed height of the accessory structure is 19.1', where the ordinance allows 15'. The siding on this structure will match the color of the house. The additional height is because the applicant would like to install a car lift in the building which is 12' tall.

Mr. Haggerty indicated that one of the variances requested is FAR. He did provide with the application packet a chart of the FAR of the surrounding properties which are all over the place in this area from 5.6% to 31.75%. Mr. Pellow's report stated Paragraph 11: FAR's for Adjoining Homes: a. Block 101, Lot 1: 5.6%; Block 101, Lot 3: 13.7% ; c. this application: 15.9%.

Mr. Haggerty indicated that the reason for the size of this accessory structure is to move all his equipment, boats and cars into a structure to preserve them and maintain them and to get them off his property.

**NEW APPLICATIONS CONT.**

**Christopher Keller – LUB 18-09 – Block 101, Lot 2 – 151 East Shore Culver Road – “C” & “D” Variance cont.:**

Mr. Glasson submitted to the board Exhibit “A-1” which is a colored rendering of the existing Variance map dated February 1, 2018. It was noted that no driveway to the accessory structure will be built. It will remain as grass. Mr. Glasson indicated that the closest house is 150’ away from the wooded area.

Mr. Dolan questioned as to the type of the building. Mr. Glasson indicated that it is a pole barn and will be completely open on the inside. The color of the siding will match the existing house. Mr. Pellow indicated that he asked for the floor plans of the building. Mr. Haggerty indicated that it will just be an open building, meaning there are no dividing walls inside the building. A drawing of the outside of the building was submitted to the board as Exhibit “A-2”.

Mr. Dolan referred to Note 6 on the Variance map which reference is made to a prior approved but uncompleted septic system upgrade which “will be installed soon”. He feels this installation and the final approval needs to be completed as a condition of land use board approval. Mr. Glasson indicated that the permit for the septic was due to expire on May 17<sup>th</sup>. He has reapplied with no changes. The applicant is just waiting for this approval so he can do all the work this fall when it is not so muddy. Mr. Haggerty indicated that the septic does not have anything to do with this building. Mr. Glasson indicated that the septic is not failing, but it is 30+ years old and the applicant would like to catch it before it fails. Mr. Collins questioned the applicant if it was acceptable to make a condition of approval that no c/o be issued on the garage until the septic system was completed. The applicant indicated that he had no problem with this condition.

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

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

A Motion was made by Mr. Pierson and seconded by Mr. Kobis to approve the “C” & “D” Variance for the applicant, Christopher Keller with the conditions discussed this evening that there will be no c/o issued for the garage until the septic system alteration is completed in accordance with the septic permit and the color of the garage will match the existing house. Roll Call:

YES:           5       Gstattenbauer, Tufaro, Dolan, Pierson, Kobis

NO:            0

ABSTAIN:    0

The Motion was carried.

**Frankford Township Land Use Board**  
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**BOARD BUSINESS CONT.**

**Invoices:**

A Motion was made by Mr. Dolan and seconded by Mr. Pierson to approve the May, 2018 Invoices on the Bill list attached hereto and made a part hereof. Roll Call:

YES:           5       Gstattenbauer, Tufaro, Dolan, Pierson, Kobis

NO:            0

ABSTAIN:    0

The Motion was carried.

**ADJOURN:**

A Motion was made by Mrs. Tufaro and seconded by Mr. Dolan, to adjourn the meeting. All were in favor. The Motion was carried.

Respectfully submitted,

SHARON M. YAROSZ  
Land Use Administrator