

**FRANKFORD TOWNSHIP LAND USE BOARD
MAY 27, 2020 – 7:00 P.M.
MINUTES OF THE REGULAR MEETING
VIA GO TO MEETING**

Mr. Romania, the board Chairman gave instructions to the Board and the Public as to the Rules and Regulations of the Virtual Meeting.

CALL TO ORDER

The meeting was called to order by Chairman, Jay Romania, 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. Albanese, Mrs. Bell, Mr. Dolan, Mr. Romania, Mr. Pierson, Mr. Delima and Mr. Macri. Also present were Mr. Collins, the board attorney, and Mr. Pellow, the Board Engineer.

Those absent: Mr. Civitan (excused), Mr. Risdon, Mr. Wingle, Mrs. French and Mr. Kobis.

MINUTES

The Minutes of the January 8, 2020 Land Use Board Re-organization and Regular Meeting were reviewed. A Motion was made by Mr. Delima and seconded by Mr. Dolan to approve the Re-organization and Regular Meeting Minutes of the Land Use Board for January 8, 2020. All were in favor. The Motion was carried.

The Minutes of the January 22, 2020 Land Use Board Regular Meeting were reviewed. A Motion was made by Mr. Delima and seconded by Mr. Gstattenbauer to approve the Regular Meeting Minutes of the Land Use Board for January 22, 2020. All were in favor. The Motion was carried.

BOARD BUSINESS

Subcommittee

- 1) **Green Ordinance Committee:** Nothing to Report
- 2) **COAH Committee:** Nothing to Report
- 3) **Open Space Committee for Updates to LUB:** Nothing to Report
- 4) **Master Plan Committee:** Nothing to Report

Correspondence:

The correspondence was reviewed. No formal action was taken.

PUBLIC

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

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

ZONING OFFICER'S AGENDA

The Zoning Officer's report dated May, 2020 was reviewed. No formal action was taken.

EXTENSIONS

Ansbach/Ayers – LUB 09-12 – Block 42, Lots 15, 14.05, 1402 & 14.28 – Minor Subdivision & “C” Variance Extension:

A letter was received from the applicant indicating that a condition of his approval was to form a Homeowner’s Association for this subdivision, which was just completed. However, the time to file the deeds has expired and the applicant is requesting a re-approval and/or extension of the Minor Subdivision and “C” Variance in order to file the deeds and complete this application.

A Motion was made by Mr. Delima and seconded by Mr. Gstattenbauer to approve the re-approval of the Minor Subdivision and “C” Variance requested by the applicant. Roll Call:

YES: 8 Gstattenbauer, Albanese, Bell, Dolan, Romania, Pierson, Delima, Macri

NO: 0

ABSTAIN: 0

The Motion was carried.

SUSSEX COUNTY FARM & HORSE SHOW – 2020 LIST OF EVENTS

Appearing before the board was the Fair Manager, Michael Richards, to discuss the 2020 List of Events for the Fair Grounds. Mr. Richards was sworn in by the board attorney.

Mr. Richards indicated that he sent the list a few months ago when he originally planned to appear before the board. Since then, due to COVID 19, a majority of the events have been cancelled. Some of the events have been rescheduled for the end of the year. He does feel that more events will be cancelled. Mr. Richards went through his list as to what events are left as of today.

Mr. Richards indicated that since they have lost a lot of their revenue, he has noticed that a lot of fair grounds have set up drive-in movies to re-coop some of their revenues. He is looking into this and questioned the board if this is allowed. He would like to have the Fire Department help share in this event to help them out. In addition he has been contacted by a local business in Branchville and would like to have a family movie night for their employees, which they would obtain the rental of the equipment for the movies.

Mr. Collins indicated that the Sussex County Farm and Horse Show is a unique situation that it is a conditional use approval from 1994 with an Ordinance. These items set up the methods that the Sussex County Farm and Horse Show may undertake activities for the property. The Resolution and Ordinance to not explicitly list movie theaters, but the board does have some discretion to hear the annual list and determine if it fits into the scope of that 1994 Resolution. The board attorney directed that the board secretary send a copy of the 1994 Resolution and Ordinance to the board and to Mr. Richards to review. He suggested that Mr. Richards obtain their own attorney to find out whether they have authority already to do drive in theaters use and/or what approvals you might need.

Mr. Collins further indicated that in times of emergencies, it is a little bit more common to have temporary use. Which temporary and zoning do not go together. Basically what he is saying is that the applicant’s attorney may talk to the township committee and the board could discuss it tonight whether the board would be interested in recommending to the township committee to allow special use permits for special use approvals or special event approvals. They are not zoning approvals and do not last forever, they last for a

SUSSEX COUNTY FARM & HORSE SHOW – 2020 LIST OF EVENTS CONT.

restrictive period of time. In this case, a lot of the towns are approving the events during the emergency order.

Mr. Collins indicated that he would defer to the board this evening, that the board does have this discretionary authority under the Resolution. Mr. Collins indicated that indoor theaters were added to the permitted uses in the zone that the ballpark is located in provided that they are inside the ballpark.

Mr. Collins asked Mr. Richards to explain where he is intending to locate the outdoor theater, what days they plan to do this, the traffic control, etc. Mr. Richards indicated that at this time, this is a preliminary request. At the present time, he is not even sure they can afford to rent some of the equipment to make this profitable. They are proposing to put this in the upper parking lot. Therefore, if you were on Plains Road looking at the Fair Grounds, it would be the large field to the left back where the big apple circus tents were put up. The thought was that they have these FM transmitters, so there would be no speakers, therefore, there would be no noise problem. They could have the traffic come in through Plains Road and exit through Route 565. He thought the Fire Department could help them park cars and then they could profit from the event also.

Mr. Collins indicated that the board could make a recommendation to the Township Committee to allow the Drive In Theater at the Fair Grounds. In the alternative, if the board feels that this use is in the scope of the 1994 Resolution, they could allow it tonight.

A Motion was made by Mr. Pierson and seconded by Mr. Gstattenbauer to approve the 2020 List of Events for the Fair Grounds. All were in favor. The Motion was carried.

NEW APPLICATIONS

David & Paula Cammarato – LUB 20-02 – Block 35, Lots 5 & 6 – 69 Haggerty Road
Minor Subdivision & “C” Variance:

Appearing before the board was the applicant, David Cammarato and daughter-in-law, Dawn Cammarato, the applicant’s attorney, William Haggerty, and the applicant’s engineer, Ken Wentink. Mr. Wentink and Mrs. Cammarato were sworn in by the board attorney. Mr. Wentink was accepted as an expert witness.

Mr. Haggerty indicated that the applicant seeks Minor Subdivision approval to create 2 conforming vacant lots in excess of 5 acres. There is no intension at this time to develop those 2 new lots, but because they have an application before the board they deemed it appropriate to be a feature tonight. However, the primary relief sought is the division of a parcel that is now improved with a standalone single family home and a detached barn to create a 2.69 acre lot area for the barn and 2.2 acre parcel for the home. This parcel consisted of 4.49 acres purchased in 2005 and at that time it was improved by a house and garage. There was an application made before the board in 2007 to authorize some additions to the home and garage that was approved. The garage height was 19’ and the garage area 1290 square feet. An application for an extension for that approval was made in 2011 and that was granted. In 2018 the applicant’s purchased a vacant parcel consisting of 15.74 acres, Lot 6. There is a total of 20.23 acres. If they had a lot averaging, they would be allowed 2.5 acre lots, but because they have a lot that is 2.22, they need a variance for the area of that parcel. Overall they have an average lot size of 5 acres. The board may be aware that the applicant’s did some renovations to the barn without permits. They are before the board now asking for relief. They have been adequately reprimanded and they are renting an Air B&B with their child. The reason they did this was primarily was they wanted to be close to the parents who may need some care in the near future and this will afford an opportunity to do that.

NEW APPLICATIONS CONT.

David & Paula Cammarato – LUB 20-02 – Block 35, Lots 5 & 6 – 69 Haggerty Road
Minor Subdivision & “C” Variance cont.:

Each building, with the barn being converted into a single family home, would comply and have its own well, septic and driveway. There are variances, primarily side yard setback variances and his client would like to square off the back to provide a little more area within the home. That back area of the barn is not visible to any property other than the subject property.

Requested by Tom Collins, the Zoning Officer, Ann Bell, will not be voting on this application as board member, but she will be a witness for the board with regard to the zoning issues.

Mr. Pellow reviewed his report dated May 18, 2020, last revised May 21, 2020 as to completeness:

ITEM 7: Compliance with legal notice requirements. Mr. Collins indicated that the notice was sufficient subject to the receipt from the New Jersey Herald the Affidavit of Publication.

ITEM 10: Copies of all prior resolutions pertaining to the property to be submitted. Mr. Pellow indicated that this has been submitted.

ITEM 15: Copy of Sussex County Health Department application. Need septic and well application. Mr. Pellow indicated that an application has been made to the County Health Department and this can be a condition of approval.

ITEM 29: Obtain each block and lot numbered in conformity with the municipal tax map as determined by the Municipal Tax Assessor and obtain street address from the 911 Coordinators. Copy of Sussex County Planning Board application. This is still needed and could be a condition of approval.

ITEM 43: Location of existing railroad, bridges, culvert, drainage pipe, water and sewer, utility poles. Mr. Pellow indicated he needs drainage structures. This can be a condition of approval.

ITEM 71: Written confirmation from Tax Assessor that proposed lot numbers are acceptable. Mr. Haggerty indicated that this will be submitted once it is received from the Tax Assessor which can be a condition of approval.

ITEM 75: Building floor plan, elevation views and first floor elevation with overall building height for the barn/garage. Mr. Pellow indicated that these have been submitted.

A Motion was made by Mr. Dolan and seconded by Mrs. Albanese to deem the application complete with the waivers for completeness only for the items not yet submitted. All were in favor. The Motion was carried.

Mr. Pellow continued reviewing this report:

Paragraph 2: The following variances are required: a) proposed Lot 5 – 5 acres required and 2.22 acres proposed; b) proposed Lot 5.01 – 5 acres required and 2.69 acres proposed; c) proposed Lot 5 – Lot Depth required – 300 feet required and 276.34 feet is proposed; d) proposed 5.01 – Lot Depth Required – 300 feet and 167.19 feet is proposed; e) proposed Lot 5 – Side Yard Setback – 60 feet required and 30 feet proposed on the east side; f) proposed Lot 5.01 – Side Yard Setback – 60 feet required and 25.5 feet proposed on the west side; g) proposed Lot 5 – Front Yard Setback – 75 feet required and 44.4 feet

NEW APPLICATIONS CONT.

David & Paula Cammarato – LUB 20-02 – Block 35, Lots 5 & 6 – 69 Haggerty Road
Minor Subdivision & “C” Variance cont.:

exists; and h) Does the barn comply with the area for a dwelling which the son and daughter-in law wish to convert to a residence? Who is living there now? The drive is gated off, Mr. Pellow indicated he was unable to go on the site.

Mr. Haggerty indicated that a lot of the variances are pre-existing. The primary variance would be the side yard setback and lot depth. He indicated that they would comply with the lot averaging ordinance, but for the fact that they do not comply with the side yard setback requirement. Mr. Collins questioned Mr. Haggerty that in his opening he indicated that they have conforming lots. Mr. Haggerty indicated that the 2 new proposed lots conform, but the 2 existing lots do not, however, Frankford has a lot average ordinance that allows 2.5 acre lot, which they are shy on one lot which is 2.22. Also there is a requirement on the lot average with side yard setbacks which they cannot achieve. If you consider that we have over 20 acres, the end result would be 4 lots, and they do have an overall averaging in excess of 5 acres. The variances that they are requesting a pre-existing conditions. The front yard setbacks, the buildings have been there for years. His client originally purchased the lot in 2005 and the buildings where there a long period before that.

Mr. Pellow indicated that they cannot use the 5 acre zoning on a portion of the lot and 2.5 acre zoning (lot averaging) on the other 2 lots.

Paragraph 3: There will be a common drive for Lots 6 and 6.01, block 35, which needs approval from the County Engineer’s Office. The common drive to be 20 feet wide up to a point where it branches off into the first lot. A Township driveway permit will also be required due to the common drive at time of building permit application. Mr. Wentink met with the County on site but has not submitted permit applications.

Paragraph 4: I know there were issues with the County relative to the drive into Lot 5.01, and I don’t know if that was ever resolved. Mr. Wentink to discuss this with the land Use Board.

Paragraph 5: If the existing barn/garage is to be used as a residence, we need floor plans showing the present barn/garage layout and the proposed layout for a residence. Mr. Pellow indicated that this was submitted before the meeting.

Paragraph 6: The location of the proposed well and septic system for Lot 5.01 to be shown and permits will be needed. This is a Sussex County Health Department Issue to be explained by Mr. Wentink.

Paragraph 8: The proposed Lots 6 and 6.01, Block 35 meet area an dimensional requirements for the AR Zone.

Paragraph 9: County Planning Board approval is needed.

Paragraph 10: NJDEP permit is needed to approve the wetlands and wetlands buffer. Mr. Pellow indicated an application to NJDEP is in progress.

Paragraph 11: Many pages of the application have not been signed. Mr. Haggerty indicated that they will be signed.

Paragraph 12: I understand that there have been issues with this property and the zoning Department of the Township. Hopefully, these can be resolved at the Land Use Board Meeting.

NEW APPLICATIONS CONT.

David & Paula Cammarato – LUB 20-02 – Block 35, Lots 5 & 6 – 69 Haggerty Road
Minor Subdivision & “C” Variance cont.:

Paragraph 13: Will the existing well and septic be used for the existing dwelling. Mr. Wentink indicated that the existing well and septic will serve the existing dwelling.

Mr. Wentink indicated that they have made application for the septic permit, which the proposed well is shown on that map, for the proposed barn/garage. This application is in limbo because at the present time, it would be 2 septic and 2 wells on the same lot. Until this subdivision approval is approved, then this permit application can move forward. He also had to make application to NJ DEP for an LOI for the transition area before they designed a septic for the garage/barn, which they have approved a 50' transition area behind the existing dwelling. He indicated that Mr. Wander has been doing the wetlands and he assures him that the rest of the property will be a 50' transition area and that is why it will show a 50' transitions area for both Lots 5 and 6. Mr. Wentink indicated that they have an LOI for the septic area, but are waiting for the LOI for the rest of the property. The LOI that they received for the septic area for the barn lot was approved on December 5, 2019 as shown on sheet 4 of the subdivision map under notes.

Mr. Wentink indicated with regard to the driveway applications with the County, he thought it would be better to hold off on that discussion with the County, until they found out the outcome of this proposal before the board this evening.

Mr. Romania questioned Mr. Wentink if there was any reason why they did not take more acreage from Lot 6 to 5 to make it 5 acres. Mr. Pellow indicated that if they take more off of Lot 6, they may not have the 20,000 square feet of buildable area on Lot 6 if they take off more land. Mr. Wentink agreed with Mr. Pellow. A lengthy discussion was held with regard to dividing up the lots to make the lot sizes conforming to the ordinance. Mr. Pellow was concerned with the 20,000 square feet on Lot 6 because why would you create a lot that you cannot build on. Mr. Gstattenbauer indicated that he has a problem with the application because the applicant was approved for a garage and built an entire home instead of a garage. He is opposed to creating a substandard lot. Mr. Haggerty indicated that there is a lot averaging ordinance that allows 2.5 acre zoning and the barn lot would have 2.69 acres and the house is 2.2 acres. The overall density would be less per 5 acres should the property be developed, which there is no plan for that at this time. They are trying to correct past mistakes.

Mr. Haggerty questioned Mr. Wentink if they increased the acreage around the single family home, what would it do for the yard area. Mr. Wentink indicated it would not make a difference in the yard because there is the major stream.

Appearing before the board was the applicant's daughter in law, Dawn Cammarato. Mrs. Cammarato indicated that she is familiar with the property. When she was in turning at Selective Insurance, her in-laws let her stay with them for a couple of months in 2010. She indicated that there was some work done on the barn without permits and there is a stop work order on the building. She indicated that since that stop work order came about in July of 2017, they have done everything possible to conform to the township's request. They just wanted to make things right, they were in a bit of a bind prior to that. She indicated that they hired the professionals they needed to make this right and they were told that the best option was to subdivide as long as they meet the subdivision requirements. They contacted the neighbors around them and purchased land. The Township allowed them to live in the barn while they were taking care of this situation. This changed a few months back and they were asked to vacate the premises, which they did. They have complied with all the township requests. She indicated that her daughter is active in the township sports, she is on the board for a local charity, and they have

NEW APPLICATIONS CONT.

David & Paula Cammarato – LUB 20-02 – Block 35, Lots 5 & 6 – 69 Haggerty Road
Minor Subdivision & “C” Variance cont.:

engrained themselves in the local community and they would really like to make this right.

Mr. Haggerty questioned Mrs. Cammarato as to why they want to live at this location. She indicated that her in-laws mainly. When all this started her father-in-law had a heart attack. They are able to help them being close and they are able to help them with their daughter. They enjoy the property next door by hiking every day with their daughter. She intends to pass down this property to their daughter in 30 years.

Mr. Haggerty questioned Mrs. Cammarato as to how many bedrooms there are in the barn. She indicated that there are 2 bedrooms. They would like to square off the rear of the building to put a dining area. Right now all they have is a breakfast bar. The addition would not be visible to any other property except the house property of the in-laws. She indicated she does realize that they will have to obtain construction permits for all the work that has been done on the barn.

Mr. Haggerty questioned Mrs. Cammarato as to where they are living now. She indicated that they were living with her parents, but when COVID 19 happened, they had to distance themselves from her father who has cancer and they are renting an air B&B.

Mr. Haggerty questioned Mrs. Cammarato if the township has inspected the barn after they left the premises. She indicated that all the electric and plumbing has been removed, together with the appliances. They have 100% removed all the furniture.

Mr. Romania indicated that he does not have a problem with Lot 5.01, but with Lot 5, if you are going to subdivide, why not make it 5 acres. Mrs. Cammarato indicated that her engineer told them to put the lot lines where the natural line appears. They have no intension of building on the lot next to their in-laws lot, however, they do not have an objection to making the lot conforming. Mr. Haggerty indicated that both Mr. Wentink and Mrs. Cammarato indicated the natural lot line is where they decided to divide the lot because of the stream. The area does not allow any functional enhancement to Lot 5 except the area. Mr. Wentink indicated that the intent was to subdivide Lot 6 so they will be 2 buildable lots when they were done. Mr. Romania indicated, however, they are asking the board to approve undersized lots to do this. Mr. Collins indicated that Lot 6 and 6.01 can be merged into 1 lot and deed restrict the lot indicating that it will not be further subdivided, which would leave them with 3 lots. Mrs. Cammarato indicated that they would be in agreeance with this proposal. Mr. Dolan agreed with this proposal, but was concerned with all the conditions of the other agencies that are needed after this approval. Mr. Gstattenbauer indicated he would like to see a plan that Lot 5 and Lot 6 is conforming. Mr. Delima agreed to this proposal.

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

Appearing before the board was Don Meola. Mr. Meola was sworn in by the board attorney. He was concerned about the lot sizes.

Appearing before the board was April Bortone. Ms. Bortone was sworn in by the board attorney. She feels that the board is setting a precedence by approving this.

Appearing before the board was Charles Krause. Mr. Krause was sworn in by the board attorney. Mr. Krause indicated that he is in favor of the project.

NEW APPLICATIONS CONT.

David & Paula Cammarato – LUB 20-02 – Block 35, Lots 5 & 6 – 69 Haggerty Road
Minor Subdivision & “C” Variance cont.:

Appearing before the board was Jennifer Vandergroff. Ms. Vandergroff was sworn in by the board attorney. She objected to the application. She indicated that the cover sheet indicated 68 Haggerty Road and application indicates 69 & 53 Haggerty Road. The dissemination of information was not accessible for everyone. She believes that a hard copy should have been given out to the surrounding owners. She was also concerned about the addresses on the Affidavits on the applications signed by the Cammaratos. She was concerned that the checklist was not complete. She was concerned about the septic and well. She was concerned about the driveways.

Mr. Haggerty indicated that the subject lot is 4+ acres improved with a house and a barn. The primary focus of the application is to subdivide the land and convert the barn into a single family home with its own well and septic. The remaining house would stay the same. During the course of the hearing they have agreed to eliminate one of the vacant lots and make the barn lot conforming and deed restrict the balance of the vacant lot. By removing one of the vacant lots, it removes the county issue with the driveway. They would further deed restrict the rest of the lot not to be further subdivided.

Ms. Vandergroff was concerned about the taxes to be paid on a house instead of a barn and COAH that should be paid by the applicant. It was noted that all of these fees will be paid and the tax assessor will re-evaluate the taxes.

Appearing before the board was April Bortone. She still feels this is setting a precedent.

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

Mr. Pellow indicated that the 2.5 acre zoning that Mr. Haggerty referred to this evening is not what is before the board this evening. This is the cluster zoning.

A Motion was made by Mr. Delima and seconded by Mrs. Albanese to approve the Minor Subdivision and “C” Variances subject to the temporary waivers discussed in Mr. Pellow’s report and the conditions offered by the applicant to only have 3 total lots and to add additional acreage to the house lot to make it 5 acres and reduce Lot 6 to eliminate 6.01 and have only one additional vacant lot to conform and also shall be subject to a deed restriction offered by the applicant and enforceable by the Township of Frankford as a third party beneficiary restricting that lot from any further subdivision for the purpose of creating any additional building lots which will be recorded with the deeds of Minor Subdivision to be approved by the Board Attorney and Engineer. The applicant shall obtain all other governmental approvals including DEP, Sussex County Planning Board and driveways if needed, and the County of Sussex Health Department for the Sewer Disposal System. Both the house lot and barn lot shall have 2 conforming septic systems and wells. Roll Call:

YES: 4 Albanese, Romania, Delima, Macri

NO: 3 Gstattenbauer, Dolan, Pierson

ABSTAIN: 0

The Motion was carried.

