

GREEN TOWNSHIP LAND USE BOARD MINUTES

REGULAR MEETING, May 11, 2017

CALL TO ORDER: The April 13, 2017 Regular meeting of the Land Use Board was called to order by Mr. Holzhauser, at 7:01pm. He then led everyone in the PLEDGE OF ALLIANCE, followed by the recitation of the OPEN PUBLIC MEETING STATEMENT.

Oath of Office was given to Mrs. Marie Bilik by Mr. Lyn Aaroe.

ROLL CALL: Present: Mrs. Bilik, Mr. Joseph Cercone, Mr. James Chirip, Mr. Danny Conkling, Mr. Jim DeYoung, Mr. Scott Holzhauser, Mr. Michael Muller, Mr. Watson Perigo, Mr. Mike Viersma, Mr. Dennis Walker, Mr. Jeff Wilson and Mr. Rick Wilson

Members Absent: Mrs. Sharon Mullen

Motion was made to excuse the absent member by Mr. Chirip and seconded by Mr. J. Wilson.
No Discussion. All in Favor. Motion Carried.

Also present: Mr. Lyn Aaroe, Board Attorney and Mr. Daren Phil, Board Engineer and Ms. Jessica Caldwell, Board Planner.

MOTION TO APPROVE MINUTES:

Land Use Board Minutes of April 13, 2017.

A motion was made by Mr. Conkling to approve the minutes with one correction from the April 13, 2017 meeting and was seconded by Mr. R. Wilson.

No Discussion. All in Favor. Motion Carried

Land Use Site Visit of April 13, 2017.

A motion was made by Mr. Cercone to approve the minutes from the April 13, 2017 Site Visit and was seconded by Mr. Muller.
No Discussion. All in Favor. Motion Carried

RESOLUTIONS: None

OLD BUSINESS:

Application: LU#1614

Owner/Applicant: Gary and Lucy Shamy/Brian Shamy

Block 47 Lot 19 – 13 Willow Terrace, Andover, NJ 07821

Action: Continuation of Public Hearing

The Shamy Application began at 7:06pm

Mr. Alan Hantman was introduced as the applicant's lawyer. Mr. Aaroe asked the applicant, Mr. Shamy and the applicant's engineer, Mr. Golden if they still considered being under oath and they agreed.

Mr. Golden began his testimony:

- He presented Exhibit A-10, revised a color coded variance plan to help explain the changes that were made.
- Mr. Golden explained they went back to the drawing board with the architect, Mr. Schaffer and the home was shrunk down and the building was moved away from the property line in the east.
- It is now 11.2 feet away from the property line instead of 8 feet.
- The driveway turn around area is now 30 feet from the garage which is 8.2 feet from the property line.

- The grading does not have to change due to the driveway expansion.
- The home is now 19.6 feet and 21.4 feet from the property line on the western side which was reduced from approximately 24 feet from the last plan.
- The septic system is essentially a small treatment plant and this is over and above what other properties are required to do at the Lake.
- Mr. Golden believes this proposal is consistent with the master plan which does recognized undersized lots.
- The master plan says the allowable coverage is no more than 20% but if you have a lot that is less than 20,000 square feet then it recommends the coverage be reduced to no more than 15%. This house would only cover 14.6% and before the reduction in the home size it was 14.8%.
- There are no issues of flooding, it is an existing lot and taxes are paid and have been for years which means it was anticipated to be built on. This lot looks similar to most of the lots at the Lake so he believes there is not a substantial detriment to building a home here.

Mr. Aaroe requested the square footage of the home. Mr. Holzhauser responded with 2,158 square feet and then asked what it was prior to the revisions. Mrs. Bilik responded by informing the Board the house used to be 2,400 square feet.

It was then stated by Mr. Aaroe, for the record, that Mrs. Marie Bilik has, in fact, listened to all the meeting recordings of the Shamy application and is therefore eligible to vote on this application.

Mr. Golden continued with his testimony:

- The sight distances are not an issue at this time. In one direction there is full sight distance and in the other it is slightly under but that is due to the intersection. The speed limit through this area is 25mph.
- Mr. Golden understands he still needs to finalize some details with the engineer and obtain other permits for this proposed home.
- Environmental approvals were already acquired but have expired so the applicant will need to apply for those again

Mr. Holzhauser asked our Board Planner and Engineer what their thoughts were on this application and if they had received all the required information.

- Ms. Caldwell said her main concern was that the proposed house was consistent with the character of the neighborhood and that the variances requested were appropriate. She believes there are no issues.
- She also stated she thought there may have been some confusion with the density table for the zone. It does not apply to single family residential homes.
- Mr. Phil indicated there are some details to work out but overall the applicant has done everything that was asked. He believes they won't have any trouble obtaining the permits needed since they were already approved and have just expired. He is satisfied with the changes. Mr. Aaroe clarified the details can be listed as conditions of approval if an approval is given and Mr. Phil agreed.

Mr. Aaroe asked about the buy/sell letter. The letter has been sent to the adjoining property owners, Mr. and Mrs. Eggleston, and no response was received. The Shamy's are not interested in selling this property they would just like to build their home. Mr. Hantman suggested the Board move forward since there was no response from the neighbors in writing. After the appraisal discrepancy from the last meeting nothing else has been discussed. The Shamy's have been paying taxes for 14 years in anticipation of building a home one day. No one has ever filed a tax appeal to say the lot was not buildable to reduce the assessment.

Mr. Conkling asked about the discussion between Mr. and Mrs. Shamy and the adjoining neighbor about the possible purchase of the property. Mr. Shamy obtained Mr. Hantman to get legal advice on how to proceed after the last meeting because Mr. and Mrs. Shamy were upset at the idea they may lose their chance to build after all the money they have invested. Mr. Eggleston had not made any attempt to contact the Shamy;s after the last meeting.

Mr. Aaroe stated the value of the property should be at least the tax assessment on a buildable lot with consideration for the investments put into obtaining the approvals.

Mr. Holzauer opened the public comment portion of the application.

Mr. Eggleston was put under oath by Mr. Aaroe. It was determined that he owns the property but does not reside there.

Mr. Eggleston began by addressing the 11.2 foot space between the proposed house and his property. He believes it is too close and the proposed house is too large and too tall for the lot especially since it is so close to the property line. He believes it will devalue his property.

Mr. Eggleston spoke about the appraisal he obtained for \$35,000 and wanted to establish assessment value vs. market value with another property found in the Lake Tranquility area. This lot, at 8 Forest Road, is assessed for \$11,500 and sold for about \$20,000 which is a 74% increase. If someone were to apply the same 74% to the assessed value in the appraisal he obtained then it would bring the market value to \$34,600. He believes that this \$35,000 is a fair price to pay for the property and he is willing to pay that for it without any contingencies. Mr. Eggleston said he understands that if he were to purchase this lot it would be merged with his and would no longer be available to be subdivided.

After a brief discussion about the validity of the appraisal from Mr. Eggleston and the lack of intent of selling the lot from Mr. Shamy it was determined that both parties have the right to bring in their appraisers to come before the Board.

Mr. Hantman explained the law suit between the Egglestons and the Shamys in regards to the shared well. It was decided the Egglestons keep the shared well and pay the Shamys a portion of the cost of a well on their property when they decided to build. Mr. Hantman's argument: Why did the Egglestons agree to pay a portion of the cost for a well to be placed on Shamy's property if they did not want them to build a home there? It should have been contested at that time and it was not.

Mr. Gary Shamy, applicant, was put under oath by Mr. Aaroe.

Mr. Holzauer, as a Board member, an appraiser and a tax assessor by trade, stated he believed \$35,000 for a buildable lake front property is too low.

Mr. Aaroe stated a property owner has a right to make good use of their property and get fair market value as if the lot is buildable. The cost of getting variances is significant and those all have to be factored into the price of the lot.

A motion was made by Mr. Chirip to close public comment for the Shamy Application, 13 Willow Terrace. It was seconded by Mr. Viersma. No discussion. All in Favor. Motion Carried.

Mr. Conkling stated for the record there is to be no jackhammering or blasting and that is to be made a condition of approval.

A motion was made by Mr. Walker to approve the Driveway Variance for Shamy at 13 Willow Terrace. It was seconded by Mr. Conkling. Roll call vote: Mr. Bilik, Mr. Conkling, Mr. Muller, Mr. Viersma, and Mr. Holzauer.

No discussion. All in Favor. Abstentions: Mr. Cercone, Mr. Chirip, Mr. Perigo, Mr. DeYoung, Mr. Walker, Mr. J. Wilson and Mr. R. Wilson. Motion Carried.

Ms. Caldwell suggested doing all the bulk variances in one vote.

They are:

1. Minimum lot area is 16,329 sq. feet/.375 acres where 1.5 acres are required.

2. Width at the setback line is 96.4 feet where 190 feet is required.
3. Front yard setback is 52.9 feet where 60 feet is required.
4. Side yard setback is 11.2 feet and 19.6 feet where 25 feet is required.

A motion was made by Mrs. Bilik to approve the Bulk Variances for Shamy at 13 Willow Terrace. It was seconded by Mr. Viersma. Roll call vote: Mr. Bilik, Mr. Conkling, Mr. Muller, Mr. Viersma, and Mr. Holzhauser.

No discussion. All in Favor. Abstentions: Mr. Cercone, Mr. Chirip, Mr. Perigo, Mr. DeYoung, Mr. Walker, Mr. J. Wilson and Mr. R. Wilson. Motion Carried.

The Shamy application ended at 7:46pm

Mr. Holzhauser explained there was no further new business on the agenda and that the Board would not entertain any comment on anything that has not been brought before the Board. He then opened the Public Comment portion of the meeting. After a brief silence, Mr. Aaroe thanked the 40+ members of the audience for respecting the process and explained that we welcome their attendance but we simply cannot get into any application without the applicant present.

Mr. Neil Kenny of Hibler Road asked how many of the Board members make the decisions on the applications. Mr. Aaroe explained there are 9 Board members and there needs to be 5 affirmative votes on a Use Variance. A majority is required to have a quorum. It was explained there are 9 members and 4 alternates on the Land Use Board.

Mr. Steve Squiers of Fieldview Road asked what the next steps on an upcoming application and how will the residents be a part of that. Mr. Aaroe explained that all property owners within 200 feet of any property coming before the Board will receive a certified letter in the mail with information explaining the date and time the application will be heard before the Board. All applicants also have to publish this information in the "paper of record". It must be published a minimum of 10 days before the public hearing is scheduled. It is presumed that all the land owners within 200 feet have a special interest and which is why they are notified specifically.

The agenda for the next Land Use Meeting will be posted on the website. It is scheduled for June 8th.

Mr. Tom Staub of Woodfield Road asked why there was a site visit done already. Mr. Aaroe explained that we are not going to discuss this issue but it can be asked at the public hearing when the applicant is present.

A resident (name inaudible) from Pequest Road asked to clarify the 200 feet was from the property line and not from the dwelling. Mr. Aaroe said yes, it is from the property line. Mr. Conkling stated that was on any application anywhere in the state of NJ. It was also clarified that if this notice is not done properly then the applicant would not be heard at the next meeting.

Mrs. Ann Marie Vena from Green Farms Road asked if we could tell her how many meeting this may take. Mr. Holzhauser explained there is no way to determine how many meetings it would take. There are some rules that are followed like no new applicants after 9pm and no new testimony after 10pm. There is an awful lot of ground that needs to be covered on the use that is being proposed but he doesn't not anticipate it will be completed in one night.

Mr. Austin Neary of Green Farms Road asked if the residents hired their own attorney would they be able to bring them before the Board and would there need to be a list of people represented. Mr. Aaroe explained the Board would not need a list of residents

that are being represented but that the Board would ask the attorney to identify who his clients are. Those residents do waive their right to ask questions on an application because the lawyer will be doing that for them. Mr. Neary asked about bringing their own planner as well and Mr. Aaroe said absolutely.

Jim Hohman of Pequest Road asked if there was a legal entity, a 501(c)4, that was created and obtained representation would that exclude all members of that legal entity to have any say in the application. Mr. Aaroe responded with he wasn't sure he understood the question. Mr. Hohman asked procedurally, what types of legal entities are allowed are to obtain an attorney or is it only individuals that can. Mr. Aaroe explained that any type of partnership, LLC or corporation must have legal representation.

Ms. Class of Fawn Hollow Drive asked Ms. Caldwell what her position was on the Board. Ms. Caldwell identified herself as the Board Planner.

Mr. Larry Kaphan of Scenic Drive asked if the June 8th meeting will be at Town Hall or held at the School. Mr. Holzhauer explained it was possible it would be at the school but there were some logistics as far as the recording equipment that needed to be worked out. Land Use meetings must be recorded by law. Mr. Conkling announced that if it is going to be at the school the town will post it on the sign on Route 517. It will only say Land Use Meeting 7pm at the School, it will not state any more information than the time, date and location.

A motion was made to close the public portion of the meeting by Mr. Conkling and was seconded by Mr. J. Wilson. All Ayes. No discussion. Motion Carried.

Mr. Holzhauer spoke about the following:

- He asked if anyone else anticipated not attending the next meeting. He explained the requirements are that anyone missing a meeting will need to listen to the recording of the meeting missed in order to be able to vote. You will be required to sign stating you have listened to the recording.
- He thanked the Fire Department for being here to check the room capacity.
- He explained that from here on out everything will go through him to help keep order and keep things clear.
- After a brief discussion as to the alternate's role, Mr. Aaroe explained that the alternates can participate in all Board activities like asking questions and making comments but they will not be allowed to vote unless a Board member is absent then in that case they will step into that seat.

Mr. Rick Wilson asked what the requirements are for a D1 Use Variance. Ms. Caldwell stated it can be discussed during the meeting.

Mr. Aaroe explained is it very possible that Board Members will be engaged by residents to discuss an application on the agenda or one that is anticipated to be on an agenda. It is very important the Board member does not have conversation with anyone about any application since the applicant would not be present. As soon as it is recognized that the conversation is turning to a particular application the Board member needs to stop the conversation and request the resident come to the Board meeting so it can be discussed in public on the record.

Mr. Conkling requested Mr. Aaroe explain why Mr. Chirip and himself needed to step down from this application. The reason is so that members are down to 7 so that there is no statistical advantage. The applicant needs to get 5 affirmative votes out of 7 instead of 5 out of 9.

Mr. Phil asked about the new checklist and if it is being used. Kim explained it was and that the applicant began using the old one before the new one was given to the public. He feels all applicants should be using this new checklist and asked that any upcoming applicants be sent a new one and required to use it.

Mr. Holzhauser explained the Board will be doing a very comprehensive and thorough examination of any application that comes before the Board to make sure all i's are dotted and t's are crossed. Through the public hearing the Board will allow the public to ask questions and then hear testimony to help answer those questions. Mr. Phil explained a bifurcated application and that certain parts will be put aside until a second part could be presented if, and only if, the first part is approved.

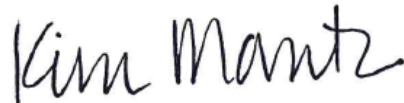
Mr. Conkling asked about the TRC next week for the proposed liquor store. It will go before the TRC and then if necessary go to the Board. Mrs. Bilik is able to fill in if someone cannot make it.

NEW BUSINESS: None

- **CHAIRMAN'S REPORT** - None
- **ATTORNEY'S REPORT** - None
- **CORRESPONDENCE** - None
- **SECRETARY'S REPORT** – None

A Motion was made by Mr. Chirip to adjourn the meeting at 8:16pm and seconded by Mr. Conkling.
All Ayes. No Discussion. Motion Carried.

Respectfully Submitted:



Kim Mantz, Land Use Board Secretary

Date Approved: June 8, 2017