

GREEN TOWNSHIP LAND USE BOARD MINUTES

Regular Meeting, May 8, 2025

Green Township Municipal Building

CALL TO ORDER: The May 8, 2025 regular meeting of the Land Use Board was called to order by the Land Use Board Chairman, Mr. Scott Holzhauer at 7:02pm. He then led everyone in the PLEDGE OF ALLIGIANCE.

Recitation of the OPEN PUBLIC MEETING STATEMENT by Mr. Scott Holzhauer.

ROLL CALL: Present: Mr. Robert Cahill, Mr. Joseph Cercone, Mr. Jim DeYoung, Ms. Kate Douglass, Mrs. Jenny Kobilinski, Mrs. Sharon Mullen, Mr. Timothy Smith, Mr. Rick Wilson and Mr. Scott Holzhauer

Also present: Mr. David Brady, Board Attorney, Mr. Cory Stoner, Board Engineer, Ms. Jessica Caldwell, Board Planner and Ms. Kim Mantz, Board Secretary

Members Absent: Mr. Sam Diaz, Mr. Jason Miller and Mrs. Margaret Phillips

A motion was made by Mr. Wilson to excuse the absent members and seconded by Ms. Douglass.

All Ayes. No Discussion. No Abstentions. Motion Carried.

MOTION TO APPROVE MINUTES:

Land Use Board Minutes of April 10, 2025

A motion was made to accept the minutes with a minor correction by Ms. Douglass and seconded by Mr. Cercone.

All Ayes. No Discussion. Abstention: Mr. DeYoung. Motion Carried.

RESOLUTIONS:

Application: LU#2504

Owner/Applicant: Louis Tommaso

Block 19 Lot 7 – 53 Creek Road, Andover, NJ 08721

Action: Memorialize approval

A motion was made by Mr. Cercone to memorialize the approval of Application LU#2504 and it was seconded by Ms. Douglass.

Roll Call Vote: Mr. Joseph Cercone, Mr. Jim DeYoung, Ms. Kate Douglass, Mrs. Kobilinski, Mr. Holzhauer

All Ayes. No Discussion. No Abstentions. Motion Carried.

Mr. DeYoung recused himself and left the meeting.

OLD BUISNESS:

Application: LU#2309

Owner/Applicant: SAKS Properties, LLC

Block 35 Lot 8 – 57 Decker Pond Road, Andover, NJ 08721

Action: Continuation of Public Hearing

Eligible to Vote: all members present and alternates as needed.

This application began at 7:07pm

Mr. Mark Gimigliano, Engineer for the Applicant, began by talking about the changes to the lighting plan which had been revised and submitted to the Board. The lighting plan now reflects 12 decorative poles with acorn style fixtures which will direct the light downward. These will be located throughout the driveway and parking lot. This will provide more even illumination around the site. There will be recessed lights under the canopy. A lighting analysis was done to show maximum foot candles on the site. The illumination levels are between .5 and 5 foot candles within the pedestrian and vehicle areas and then outside of the development area it drops off. There is no illumination around the perimeter of the property except the light that crosses over the common boundary with the liquor store site due to the common driveway.

The other revisions submitted were the architectural plans to reflect the new lighting plan. There will be lights at the exits doors which will be small downward facing fixtures with a hidden light source. The wall mounted signs proposed to go above the storefronts have been changed from internally illuminated to decorative wood signs with an external light on top of the canopy shining back on the sign. The cupola will be lit up at night, but the light will be turned off at a specific time.

Mr. Holzhauer opened the meeting up to the public for questions to the Applicant's Engineer.

Mrs. Kim Hart briefly commented on the lighting but it is difficult to tell on the recording exactly what she said.

Mr. Holzhauer closed the public portion of the meeting for the Engineer.

Mr. Stoner said he liked the new lighting plan that showed each lamp and that there would still need to be a waiver because the light touches at the common property line and shared driveway. Mr. Gleitz said he reviewed everything and found the new plan response to the comments and requests.

Mr. Samarth Shah, Applicant, was sworn in by Mr. Brady.

Mr. Jason Rittie asked Mr. Shah questions about when the property was obtained and what interested him in this specific property. Mr. Shah said one of the first things that drew him to this area was the small-town charm.

When Mr. Shah purchased the property, it came with a 900 sq foot structure, an attached 100-foot cooler, and two illuminated signs, one on the building and one by the road. Inside was a designated register, shelving, walk in cooler, small office space and bathroom. It was a liquor store when Mr. Shah purchased the property and he continued to obtain the necessary liquor license from the state and town to operate the same way as the previous owners.

Mr. Shah purchased the property furnished with some alcohol and non-alcoholic beverages. He continued to operate as a liquor store but added extra convenience items such as lottery, tobacco, an ATM machine, additional non-alcoholic beverages, chips, snacks and ice.

Mr. Holzhauer opened and closed the public portion of the meeting for the Applicant.

Mr. Gleitz asked Mr. Shah when he purchased the property if he was looking to expand. Mr. Shah said it was an idea and briefly looked into whether it could be done. He wanted to see how the current business was going to do before he decided to expand. Mr. Gleitz stated that the original plan was to move the liquor store to the new building and then repurpose the existing building but after the kerfuffle and discussion and it was decided to leave the liquor store in place and downsize the proposed building. Mr. Shah said his intent for the new tenants would be to conform with what is allowed in the zone based on the permitted uses list. Mr. Gleitz asked when Mr. Shah first approached his professionals

about expanding. He said he purchased the property in May of 2022 and reached out to Mr. Gimigliano at the end of 2022.

Mr. Stoner asked what Mr. Shah's timeline would be as to him finding the tenants first and then constructing the building or constructing the building and then finding tenants. Mr. Shah explained he is not in contract with anyone right now, but he is working with a broker to find potential tenants so he is looking as the construction starts.

Mr. Wilson asked if Mr. Shah would need to come back to the Board for each tenant he finds. Mr. Brady said no, if it is a permitted use he will go to zoning. It only comes back to the Board if it is not a permitted use.

Ms. Donna Holmqvist, the Applicant's Planner, still under oath, began with addressing the convenience store vs. liquor store issue. She stated the Township approved this and she feels that the determination should remain as it was when the liquor store was first opened.

Ms. Holmqvist explained the reason why she feels this is not a Razberry's Case. First, the property in question had a residential use on it and it was in a commercial zone, so it was a non-conforming use. The Applicant proposed to subdivide and put that non-conforming residential use on a non-conforming lot. She feels, in this situation, there are two conforming uses on two conforming lots which comply with all the area and bulk standards in the zone. The combined driveway will help limit the in's and out's on the main throughfare, which is a safer situation. The parking and all the setbacks are in compliance and the Applicant has made substantial changes to accommodate the neighbors including increasing the buffers on three sides of the property. Ms. Holmqvist stated that the Razberry's Case focuses on the Applicant's plan and its impact on the quality, character and intensity of the use and then looking at the overall impact on the neighborhood and the zoning plan. She also looked into the 2025 Master Plan which increases the NC acreage in that area which blends residential and commercial. Ms. Holmqvist does not feel this is a Razberry's Case.

Ms. Holmqvist explained there are C2 variances needed for the signage. The ordinance requires the signs face the street but because of the L shape building, two of the signs will not face the street. Also, permission must be granted for the liquor store name to be on the new monument sign on the adjoining property.

Ms. Holmqvist listed the waiver requested:

1. Minimum set back of parking because it is within 5 feet of the lot line due to the shared driveway.
2. Septic system in the rear buffer but there have been prior discussions on how to properly landscape that area to accommodate the adjoining neighbor.
3. Lighting that overlaps the common property line.
4. Because of the steep topography of the site no sidewalks will be installed.

She went on to talk about how this application is consistent with the Master Plan.

Mr. Brady stated a liquor store is not a permitted use in the zone and therefore is considered a prohibited use and if that is the case this is a Razberry's situation. It was presented to the Board back in 2017 as a convenience store/liquor store. Mr. Shah testified to adding even more convenience items so the Board will need to decide if this can remain a convenience store which is a permitted use or if it is considered solely a liquor store which is not a permitted use. If the Board decides it is not, then there will need to be testimony as to why it should be allowed.

Mr. Brady stated the issue of Razberry's pertains to the liquor store being a strip shopping center as per the ordinance.

Mr. Brady believes this could be a D1 variance because if the principal use of the structure is considered a liquor store it is prohibited. The building has been there for decades and he feels it's pre-existing non-conforming and therefore thinks Razberry's applies even though the information provided by Mr. Rittie and Ms. Holmqvist are valid arguments. Mr. Brady does not think it negates the Razberry's Case in which it says "a use variance is required to continue a non-conforming use when the size of the property containing the use is reduced by a subdivision.

A discussion ensued between Mr. Brady, Mr. Rittie and Mr. Gleitz regarding the Razberry's Case. It was suggested to deal with these issues in parts, first determine if it is a liquor store or it will remain a permitted use as per the 2017 resolution. If it remains the same, then the subdivision would not trigger a Razberry's analysis.

After another discussion between Board Members, a motion was made to find that the current use as described in the testimony is consistent with what was found to be a permitted use in 2017 by Jenny Kobilinski and was seconded by Ms. Douglass.

Roll Call Vote:

Ayes: Mr. Cahill, Ms. Douglass, Mrs. Kobilinski, Mrs. Mullen, Mr. Wilson Mr. Holzhauer

Nays: Mr. Cercone

No Discussion. No Abstentions. Motion Carried 6-1.

There was a discussion between Mr. Rittie, Mr. Gleitz and Mr. Brady regarding the strip shopping center definition and whether the liquor store is a pre-existing non-conforming principal building. Mr. Gleitz feels that because of the oversized lot the negative impacts of this non-conforming use are absorbed differently than if the lot was smaller. When the lot becomes half the size, those impacts are forced into a smaller area.

Mr. Rittie feels that if you go by the definition of strip shopping center then almost every building in town becomes a non-conforming use, that there is a difference between use and structure and that since the use is permitted there should not be any issue.

Mr. Brady feels that 55:D-70 d(1) which states granting a variance allows departure from regulations to permit a use or principal structure in a district restricted against such use or principal structure confirms the structure is not permitted because, by definition, it is a strip shopping center which is prohibited in the township. If the Applicant were to subdivide under Razberry's then there would need to be a D2 analysis.

Mr. Gleitz explained what is needed for a D2 variance. The meaning behind the ordinance and why this hasn't been addressed isn't important. The positive and negative criterias have to be addressed. The positive criteria includes some of the discussion regarding the benefits of the proposed building and its uses while the negative criteria burden is lessened because it has been part of the neighborhood for so many years.

A brief recess was taken.

Ms. Holmqvist explained the zoning table that breaks down the area and bulk standards and the liquor store lot is substantially below the building and impervious coverage. For example, 25% building coverage is allowed and the liquor store is about 1.5%. The impervious coverage for the liquor store lot is 24.8% where 75% is the maximum allowed. She also said that they exceed the required setbacks. If you look strictly at the definition of a strip shopping center this

building meets that definition because of how it is worded but this subdivision would not intensify the use upon the subdivided lot.

Mr. Brady asked if the subdivision would make the activity on the site more constrained or impact the neighbors more exaggerated and Ms. Holmqvist said no.

Mr. Gleitz asked Ms. Holmqvist if she felt that keeping the liquor store on the subdivided lot would maintain the needs of the citizens, she said yes. He asked if she felt that repurposing the structure to help prevent urban sprawl and conserve land would apply to this building and she said yes. He then asked about the possible redevelopment of the site that was presented as an exhibit and if the small building to the large building would affect her testimony, she said no. His next question was if the shared driveway would hurt or help the new concept and she said it would help.

Mr. Gleitz asked if there have been provisions made to remove the negative impacts to the surrounding neighbors. Ms. Holmqvist said there was a substantial reduction in the square footage. He also asked if she anticipated an increase in negative impacts and she said no. There are no negative impacts on the subdivision because the shared driveway will make it look like one property. Mr. Gleitz asked if the additional landscaping and removal of impervious coverage on the liquor store lot will reduce the impact on the neighbors and Ms. Holmqvist said yes. In his final question, Mr. Gleitz asked that aside from the one definition, if this proposal would have any negative impacts on the current and former Master Plans. Ms. Holmqvist said no because the Master Plan even recommends an adding 12.5 acres in the NC Zone.

The meeting was opened to the public.

Ms. Kim Hart read a statement. She began with referring to newspaper articles that described the rural character and abundant farmland of Green Township along with the tranquil environment and sense of community. She said that in 2013 Green Township was ranked as the 10th best town for young families, noting the lack of a downtown area which is a unique feature. She is very concerned that if there was an approval for this application, that it would lead to additional applications for retail shops in this area. She is concerned about the traffic in that area, citing the Town would need a stoplight because there are a lot of accidents near there which could then lead to the need for a police department. She is also concerned about noise of increased traffic, the expected customer base and if the shops are ever left vacant. She stated approval should not be given without traffic and noise studies completed.

Ms. Hart was sworn in retroactively and Ms. Wilson was sworn in by Mr. Brady.

Ms. Susan Wilson spoke briefly that she would like to see natural materials used in this proposed building to help it blend into the surroundings.

A motion was made by Ms. Douglass to close the public portion of the meeting and was seconded by Mrs. Kobilinski. The public comment was closed.

Mr. Brady explained what approvals were needed:

1. the site plan
2. the Razberry variance
3. the C variance for the signs
4. waivers granted

A motion was made by Ms. Douglass to approve the D2 variance under the Razberry analysis and it was seconded by Mr. Cahill.

Roll call vote: Mr. Cahill, Mr. Cercone, Ms. Douglass, Mrs. Kobilinski, Mrs. Mullen, Mr. Wilson Mr. Holzhauer
All Ayes. No Discussion. No abstentions. Motion Carried.

The 2 variances are for the wall signs and the combined front monument sign. The waivers are for foot candles at the property line, drive aisle 5-foot set back from the property line, no sidewalks to connect the sites and the landscape buffer for the septic system. The landscape buffer is a partial waiver because there was discussion about inspecting the landscaping during construction and supplementing if necessary. There are a number of easements that will be addressed on this property as well.

Mr. Rittie went through the conditions of approval:

1. Deliveries will be between 8am and 8pm for the new building.
2. The Applicant will put in approximately 6-8 evergreen trees on the northeasterly side of the property for the adjacent neighbor.
3. The lights will be turned off one hour after the close of business or 11pm.
4. After the close of business, the lights will go down to 2 or 3 security lights, the professionals will work together to determine which lights will remain on throughout the night.
5. It will be determined by Mr. Stoner if there are additional plantings needed after construction.
6. There will be a 6-foot natural colored fence on the north and west side of the septic field along with arborvitae trees to the east.
7. A portion of the driveway will be removed on the remaining lot to reduce the amount of impervious coverage and enhance the landscaping buffer on the eastern side.
8. Parking calculations for any change in tenants will be submitted to review and confirm compliance with the parking requirements.
9. For any change in tenants, the Applicant will need to submit septic calculations to review and confirm compliance.
10. The ornamental lighting in the cupola would be turned off at night.

It was clarified that each time there is a new tenant, including the initial tenants, the Applicant will need to submit parking calculations with the zoning permit to the Zoning Office and the septic calculations to the Sussex County Health Department.

Mr. Brady listed the additional conditions including:

Outside agency approvals

Stormwater management manual recording with County

Easements for common driveway, septic, site triangle, etc.

Retaining walls need to have engineering drawings and calculations with construction permits for the walls

Mr. Gleitz raised the question of garbage pick up outside of the 8am-8pm delivery hours. Mr. Rittie said it would be a private hauler and they would try for no earlier than 7am.

The lights would be 3000 Kelvin.

The basement is storage and mechanicals only.

There are two electric vehicle charging stations, one installed and one make ready.

A motion was made by Ms. Douglass to approve the subdivision and site plan with the waivers, variances and conditions and was seconded by Mr. Cahill.

Mr. Wilson asked if it was appropriate to have a noise and traffic study done for this application. Mr. Rittie said the Environmental Impact Statement was submitted and Mr. Gimigliano testified to the traffic impacts. Mr Gleitz said it is not typical to do those studies on permitted uses because the assumption is that the uses picked are appropriate for the zone. Mr. Stoner explained that the County still approves access on the County roadway and that there was traffic testimony given.

Roll call vote: Mr. Cahill, Mr. Cercone, Ms. Douglass, Mrs. Kobilinski, Mrs. Mullen, Mr. Wilson Mr. Holzhauer
All Ayes. No abstentions. Motion Carried.

This application ended at 8:48pm.

Mr. Holzhauer thanked Mr. Gleitz for subbing in as Conflict Planner on this application.

Mr. Holzhauer stated there is no public in the audience.

Mr. Holzhauer gave a brief description of the public hearing and adoption for the Affordable Housing and Fair Share Plan scheduled for the June 12th meeting.

A motion was made by Mr. Cahill to adjourn the meeting and it was seconded by Mr. Wilson. This meeting was adjourned at 8:51pm.

Ally Ayes. No Discussion. No Abstentions. Motion Carried.

Respectfully Submitted:

Kimberlee Mantz

Kimberlee Mantz, Land Use Board Secretary

Date approved: June 12, 2025