

**Knowlton Township Planning & Land Use Board
Minutes
Tuesday, May 23, 2023**

There was a final meeting of the Knowlton Township Planning Board and reorganization meeting of the newly formed Land Use Board on Tuesday, May 23, 2023. Attorney Gavin led the Boards in the flag salute at 7:00 p.m. He announced that adequate notice of the meeting has been provided in accordance with the "Open Public Meetings Act" by publishing notice of all regularly scheduled meetings in the NJ Herald and Express Times-NJ Zone Edition, as well as providing said schedule in the Municipal Clerk's Office and the Township Website. A moment of silence was held for our Military Personnel serving in harm's way.

Swearing in of the new Land Use Board Members:

Attorney Gavin led the new Land Use Board members in reciting the Oath of Office. Each member then signed an oath statement and they were then notarized by Attorney Gavin.

Roll call:

Present: Cuntala, Drake, Baley, Mathez, Mazza, Mezzanotte, O'Neill, Smith, Starrs, Werner and Taylor.

Absent: Planning Board Members: Prosser and Tironi

Also Present: Attorney Gavin, Attorney Thomas and Engineer Keenan
Planning Board Members: Bromm, Costantino and Glynn

Election of Chairperson:

Attorney Gavin asked for a nomination for Chairperson. A motion was made by Mr. Baley to nominate Clayton Taylor as Chairperson and the motion was seconded. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

Election of Vice Chairperson:

The meeting was then handed over to Chairman Taylor who asked for a nomination for Vice Chairperson. A motion was made by Ms. O'Neill to appoint Ms. Starrs as Vice Chair. Motion was seconded by Mr. Baley. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

Appointment of Board Attorney:

As the Planning Board and Board of Adjustment each have different attorneys, there is a need to decide on the appointment of the new Land Use Attorney. Attorney Gavin and Attorney Thomas were asked to exit the room for discussion by the board. Attorney Thomas distributed resumes for new board members who were not familiar with him. Chairman Taylor made a motion to appoint Attorney Gavin as attorney for the Land Use Board. Motion was seconded by Mr. Drake. Ms. Starrs asked to discuss the decision as she has worked with both attorneys. Chairman Taylor stated he has also worked with both attorneys. But he believes Mr. Gavin is more familiar with the Planning Board and has expertise in land use law. He does not run the meetings, but leaves it up to the chairperson. There was

discussion on the way the Board of Adjustment meetings were run and also the length of time Mr. Thomas has been an attorney for Knowlton. Chairman Taylor then asked for a vote on the motion if there was no further discussion. Roll call vote: Cuntala-yes, Drake-yes, Baley-no, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-no, Taylor-yes.

Appointment of Board Engineer and Planner:

The resolution for appointment of board professionals was distributed prior to the meeting. Board Engineer as French & Parrello and Board Planner as Daniel Bloch. Chairman Taylor asked for motion on the resolution to appoint the board professionals. Motion was made by Mr. Smith and seconded by Mr. Baley. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

At this point both attorneys were asked back into the meeting room and Chairman Taylor announced that Mr. Gavin was appointed Attorney for the Knowlton Township Land Use Board. Mr. Thomas was thanked for all his years of service to the town.

Appointment of Board Secretary:

Chairman Taylor asked for a motion to appoint Doreen Apgar as Board Secretary. Motion was made by Ms. Starrs and seconded by Ms. O'Neill. Roll call vote: Ms. Cuntala-yes, Mr. Drake-yes, Mr. Baley-yes, Mr. Mathez-yes, Mr. Mazza-yes, Ms. Mezzanotte-yes, Ms. O'Neill-yes, Mr. Smith-yes, Ms. Starrs-yes, Mr. Werner-yes, Mr. Taylor-yes.

Designation of Meeting Dates:

The list of meeting dates was distributed prior to the meeting. Meetings will be held the fourth Tuesday of each month at 7:00 pm rather than 7:30 pm. There was discussion on the December meeting date of December 26th, the day after Christmas and board members being away. It was the consensus of the board to change the December meeting date to the week prior, making it December 19th. A motion to approve the meeting dates with the December correction was made by Mr. Baley and seconded by Mr. Werner. In a voice vote all were in favor.

Designation of Official Newspapers:

The resolution listing the official newspapers of the town as the New Jersey Herald and the New Jersey zoned edition of the Express Times was distributed prior to the meeting. A motion to approve the resolution was made by Ms. Mezzanotte and seconded by Mr. Mazza. In a voice vote all were in favor.

Approval of Minutes:

The April 25, 2023 Planning Board minutes were distributed prior to the meeting. It was noted by Chairman Taylor that only the former Planning Board members can vote.

A motion was made by Ms. Cuntala to adopt the minutes. Motion seconded by Mr. Mathez. Roll call vote: Bromm-yes, Costantino-abstain, Cuntala-yes, Drake-yes, Glynn-yes, Mathez-yes, Mazza -yes, Prosser-Absent, Smith – yes, Tironi-Absent, Taylor – yes.

Adoption of Resolution:

#22-005 Thunderstone Inc, Block 48, Lot 1

Attorney Gavan stated he believes there were 2 things the board wanted added to the resolution, one being lighting and the other parking. He thought the calculations were correct based on one story usage of the building. After discussion, Attorney Gavin stated it would then be appropriate to add language that the plan is approved with lighting as presented on the building and in the overhang and for 7 parking spaces. (Mr. Smith added with a waiver for 3, if they agree with that calculation.)

There was discussion on the usage of the upstairs portion of the building, lighting, and number of trucks. Ms. O'Neill stated there is an ordinance regarding un-hitched trailers. Attorney Gavin stated the applicant's already got approval and we cannot re-hear the application. We have to approve it the way it is written and if there is a mistake, we have to rectify that and advise them they have to correct that issue. In further clarification, Attorney Gavin stated this application was approved by the old Planning Board. New Land Use members have the right to vote if they have listened to the testimony, but cannot give input. That portion is over and cannot be discussed without the applicant being present. Attorney Gavin stated that although resolutions have 3 parts; facts, performance statement of the law and conditions, the whole resolution is binding. Mr. Bromm questioned if we do not like the action we took in the resolution can we not approve it. Attorney Gavin advised the resolution was already voted on and approved, the memorialization is "administrative" only. The board cannot ask applicants to come back and have the application re-heard. If their planner comes back the board could ask if there was a variance not in the report. Then the board would have the right to ask them to come back. Attorney Gavin will speak to the township planner on the matter. If the applicants got an approval the board was not allowed to give them, that is fixable. The ordinance regarding un-hitched trailers will be looked into. Attorney Gavin stated the resolution could be carried again. Chairman Taylor asked for a motion to carry the resolution. Motion made by Mr. Smith and seconded by Mr. Mazza. Roll call vote: Bromm-yes, Costantino-abstain, Cuntala-yes, Drake-abstain, Glynn-yes, Mathez-yes, Mazza-yes, Smith-yes, Taylor-yes.

Determination of Completeness:

#23-002 Makarevich, Block 44, Lot 9

Engineer Keenan went over his completeness review. It is a 2-lot subdivision on a large piece of farmland. Mostly the application is complete there are just a couple of key items that need to be updated. Checklist item #33 addressing that there are no disturbances occurring on the remainder of the large farm lot. Checklist #34 again proposing a 2-lot subdivision but no disturbance on the remaining lot. Checklist #20 and #25 requiring that the bulk standards be updated to exclude the right-of-way area. This is a variance request and in reviewing this we want to be sure we know what lots we are granting a variance to. Chairman Taylor asked Mr. Keenan if these items are done would he recommend this application be deemed complete for the completeness hearing. Mr. Keenan said yes. Chairman Taylor then asked the board if the applicant addresses the items the engineer is recommending would we deem it complete with those waivers for completeness only. Attorney Gavin stated it would be a conditional completeness. Board

member comments included Mr. Smith regarding the survey map from 1998 indicating 2 lots being annexed together and whether there is a letter from the owner of Lot 10 stating they are not interested in that lot. He also stated a letter might be needed from Farmland Preservation for the change in use and had concerns regarding grading. Mr. Mathez asked if we would require a deed of easement from the SADC which might explain the issue with the 2 lots. Chairman Taylor asked engineer Keenan if he had looked into the history of the farmland preservation. Mr. Keenan had not. Chairman Taylor stated we have not received the report from the board's planner, but will have one before the hearing. He continued that items numbers 33, 34 and 36 should be for completeness only. These are waivers for completeness only because we do not have testimony yet from the applicants. At the hearing, we will have testimony as to why these items should be waived. Regarding item number 20 and 25 Attorney Gavin recommends these have a condition and be corrected before the hearing. There were no further comments from the board. Chairman Taylor asked for a motion to deem the application complete with waivers. He then went through the list of waivers. Motion made by Mr. Baley and seconded by Mr. Werner. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

Old Business:**#22-004 Diamond Communications, LLC, Block 43.01, Lot 2**

Prior to testimony from the applicant, Attorney Gavin asked who from the new land use board had listened to and/or read the transcripts. And of the people who are still on the land use board from the old board who attended all the hearings. There were nine people eligible. The applicant's attorney, Christopher Quinn, then introduced himself and stated he is here on behalf of 3 applicant's: Diamond Communications, LLC, Verizon Wireless and Dish Wireless, LLC. This is a request for a reconsideration and is a legal issue only. They will not be giving new evidence. He stated there was a fully conforming conditional use application that complied with all the requirements of the ordinance. All the professionals confirmed that, there were 3 hearings and testimony. At the end of the application, it was a three – three vote which defeated the application. He stated per case law courts have said if you have a fully conforming conditional permitted use, that meets all the requirements of the ordinance, then it is permitted and the board is compelled to approve the application. Courts and case law encourage the courts to work out issues prior to the adoption of the resolution. He continued the law allows the boards to reconsider their vote prior to the adoption of the resolution if the request is made within 45 days of the vote. Which they did. He went on to explain when a motion of reconsideration is appropriate. New law includes for good cause to reopen a hearing to serve the ends of essential justice and policy law. Attorney Quinn then went over again background on the application. He stated that Knowlton's ordinance permits the use to go in this location and the project meets all the requirements. He stated they are here tonight to ask the board to reconsider their vote. Attorney Gavin stated this type of secondary review has been permitted to give people the opportunity for them to consider the ramifications after the review. To deny this application will result in litigation that would be costly to everyone involved. He continued that they have met their requirements under the law. Mr. Mazza spoke why he had voted no originally. Firstly, that a decommissioning plan was asked for and secondly data supplied by the professionals was concentrated on one site. Mr. Baley asked if the ordinance takes into consideration the neighbors effected.

Ms. O'Neill asked about analysis on other viable locations, which Attorney Gavin stated they had done. Attorney Gavin went on to explain that our land use law says they are allowed to put this here if they meet these conditions. It is a permitted use. He went on to explain to the board members they can vote what they want, but if this is denied and goes to superior court we would lose. The town's ordinance says this is permissible under conditions which they have met. If this new board would like to add more conditions, they could make recommendations in their annual report to the council that they wish cell towers were more restrictive and more conditions could be added. The boards job is to interpret and act in accordance with the ordinance. There were no further questions from the board. Chairman Taylor said he would like to make the motion to approve the application on reconsideration, he feels all the conditions have been met. Motion was seconded by Mr. Drake. Roll call vote: Cuntala-yes, Drake-yes, Baley-no, Mathez-yes, Mazza-no, Mezzanotte-yes, O'Neill-yes, Smith-yes, Taylor-yes.

New Business:

#23-001 Triplebrook RV & Camping Resort, LLC, Block 65, Lot 3

Chairman Taylor noted this applicant has asked to carry the application until the next meeting date of June 27, 2023

Other Business:

Lighting Ordinance

Mr. Smith stated he and Mr. Mathez were going to meet with Mr. Bromm, but that had not happened yet. Due to the change in members on the new Land Use Board, Chairman Taylor asked if someone from the new board would like to volunteer to work on the lighting ordinance. Ms. O'Neill agreed to be part of the discussions on lighting. Chairman Taylor then spoke of losing the dark skies and light intrusion coming in from other areas. He said the issue of glare and other light intrusion on neighbors is something important that we can do something about.

Public Comment:

The hearing was opened to the public. A gentleman spoke regarding the lighting issue and said he notices more 24-hour porch and garage lights. He thinks this is something we should be focusing on. Chairman Taylor noted that motion sensor lighting is being worked on for the ordinance.

Board member comment:

Mr. Baley asked how to go about getting our township committee to alter the cell tower ordinance. Chairman Taylor said we would make a recommendation to them. This does not have to wait until the end of the year's annual report. Chairman Taylor confirmed we are talking about one of the conditions being minimal impact to existing houses. It was then discussed about undeveloped land usage and it's impacts. Attorney Gavin added the town cannot interfere with a person's right to contract. Ms. Starrs questioned the board if there was interest in having the town's insurance agent come in to discuss what our coverage is and what the limits of the policy are. Attorney Gavin recommended a memo to the insurance agent would be more appropriate. Chairman Taylor asked the board if there were any more comments. Mr. Smith requested the new land use roster be distributed to the board. Discussion then took place on the need of bettering the township and signage. Chairman Taylor brought up the 2020 Master Plan Reexamination Report and the need for the new board members to have copies of it and existing members

should review it. They can look over the recommendations and note their importance, issues can then be brought to the township committee. It was noted the lighting ordinance came from this report. This report is on the township website. Attorney Gavin spoke regarding the new board being created from members of the old Planning and Zoning boards this allows them to see the different prospective, and this gives you a feel for the issues that face everybody. Attorney Gavin reminded members that at one point regarding solar farms; instead of bonds we wanted cash. When the board talks about cell towers that might be something they want to consider doing. Ms. Starrs asked if the board is in agreement, can that recommendation be sent out now. Chairman Taylor and Attorney Gavin noted there is a possibility of at least 2 more cell tower applications being submitted. Board consensus was this process should be started right away. Attorney Gavin said a resolution should be adopted (which he will write) that says, at a minimum, conditional uses should include a cash deposit to be held in an escrow account for demolition at a 150 percent of the current price estimated by our engineer. Decommissioning could take place 20 to 30 years from now and what would the cost be then. Wording was then discussed on the other issue of “visual impact” and the board was asked to think about it and come up with ideas on the language. Mr. Werner spoke on the number of people working from home (including himself) and the need for cellular and broadband services especially for younger people coming to the community and continuing its growth. Spotty cell service is not usable to the business person. Chairman Taylor reminded the board the state and federal government has said that this is necessary thing. We can’t really restrict it that much, but you can put conditions on it. Ms. Mezzanotte asked whether we can legally have a condition regarding “visual impact” on existing homeowners. Attorney Gavin said the term “visual impact” is too subjective in the courts. This is the hard part on how we would write that condition. Board consensus was to check with the planner and they also agreed to get a report from the insurance agent.

Public Comment:

Mr. Glynn spoke on the Thunderstone application saying years ago they came before the board and got approval for an apartment upstairs. It was clarified this new resolution will void out the old approval. One of their conditions states they weren’t using it. Furthermore, that possibly was from a previous business.

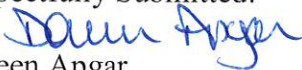
Bills:

Ms. O’Neill made the motion to approve the vouchers. Motion seconded by Mr. Baley. Roll call vote: Cuntala-yes, Drake-Yes, Baley-Yes, Mathez-Yes, Mazza-yes, Mezzanotte-yes, O’Neill-yes, Smith-Abstain, Starrs-yes, Werner-yes, and Taylor-Yes

Adjournment:

A motion was made by Ms. Starrs and seconded, all were in favor. The meeting was adjourned at 8:40 p.m.

Respectfully Submitted:


Doreen Apgar,
Board Secretary