

**Knowlton Township Land Use Board  
Minutes  
Tuesday, July 25, 2023**

There was a regular meeting of the Knowlton Township Land Use Board on Tuesday, July 25, 2023. Clayton Taylor led the Board 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.

**Roll call:**

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

**Absent:**

**Also Present:** Attorney Gavan, Planner Austin Bejin and Engineer Stefanie Williams

**Approval of Minutes:**

The June 27, 2023 Land Use Board minutes were distributed prior to the meeting. A motion to approve was made by Ms. O'Neill and seconded by Ms. Cuntala. Ms. O'Neill questioned the adoption of the AT Truck Stop resolution stating there was ongoing discussion of changes and therefore did not think the resolution was finalized. Chairman Taylor and Attorney Gavan clarified the resolution was voted on and adopted with the notation of "with modifications." The changes were of an editorial nature. Chairman Taylor announced there is a motion and a second with there being no further discussion he asked for a roll call vote to approve the minutes.

Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-Abstain, Werner-yes, Taylor-yes.

**Adoption of Resolution:**

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

Attorney Gavan went over some of the corrections he made to the resolution. A motion to approve the resolution was made by Mr. Mathez and seconded by Mr. Drake. Comment from Mr. Mathez regarding referencing the map. Attorney Gavan stated it is noted along with everything that was submitted with the application. Comment from Ms. Mezzanotte regarding adding the planner's firm's name. Chairman Taylor asked with those modifications for a roll call vote. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-Abstain, Werner-Abstain, Taylor-yes.

**Determination of Completeness:**

**#23-003 JBar Pocono, LLC, Block 17, Lot 1**

Chairman Taylor announced this is an application for certification of continuous non-conforming use. Attorney Gavan added this is a legal question. Chairman Taylor then asked if the applicant was required to notice the properties within 200 feet because we have a possibility of a board member living within 200 feet of that area. Attorney Gavan

stated the applicant does not have to notice, but any board member that is that close should step down to avoid any problems. It was agreed Mr. Drake will then be required to step down from the board during any testimony but not for the determination of completeness. Austin Bejin was introduced as our planner and went through the planning review letter. He stated this review was going to lay out what the applicant would need to do to prove their certificate of continuing non-conformity. There was enough documentation that the board will have enough background on it. Austin stated he does feel this application can be deemed complete based on the information provided and the review letter outlines what the applicant will need to do at public hearing. Ms. Starrs questioned the applicant's asking for a waiver for checklist item #7. The 18 copies of color photographs showing the existing conditions that are the subject of the application. She feels that one of the items that will be up for discussion is whether this has been in continuous use and so those pictures would be beneficial to help or not help document that. Mr. Bejin agreed but said that with all the legal documents they provided there was enough background for completeness purposes. It would be helpful for them to provide them at the hearing. Attorney Gavan recommended it could be deemed complete "subject to" and they could be asked for at the hearing. Just because you vote something complete and don't address an item you always have the power to ask for it. This application is going to come down to their ability to prove though the chain of events that it has been used as they say it has before there were zoning ordinances. Discussion took place on if being abandoned is a grey area. Chairman Taylor stated it can depend on why it was abandoned. Examples were given by Attorney Gavan. Chairman Taylor then said it was recommended by our planner that we deem this application complete. With there being no other questions or comments from the board, Chairman Taylor asked for a motion which was made by Mr. Mathez for completeness only. Motion was seconded by Ms. Mezzanotte. Roll call vote: Cuntala-yes, Drake-abstain, Baley-yes, Mathez-yes, Mazza-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

**New Business:**

**#ZB23-001 Julius and Anne Harajda, Block 60, Lot 8**

Chairman Taylor announced that the reviews from the planner and engineer along with the minutes listed the block and lot incorrectly. They are reversed. The property is actually block 60 lot 8 not block 8 lot 60. Attorney Gavan then stated the public notice is also wrong along with the sample notice to surrounding property owners. The applicant will have to re-notice the application as it can't be heard because the notice is incorrect.

**#23-002 Makarevich, Block 44, Lot 9**

Joseph Modzelewski from Finelli Consulting Engineers was sworn in and stated he is a licensed engineer in the state of New Jersey. He was accepted by the board as an expert. He stated the application is for a minor subdivision for 2 sub-standard lots on a large farm preserved tract. Block 44 Lot 9. The parent tract consists of approximately 170 acres. In creating 2 lots of approximately an acre each in the southeastern corner of the tract. The tract was preserved quite a long time ago with these exception areas existing since it was preserved. Soil testing was done to support septic on each lot. There are a number of bulk variances required which the planner can speak to. He then proceeded to go through the board's planner report comments. Comment #1 – the location was chosen at the time of the preservation including the size. Comment #2 – the board engineer confirmed this has been satisfied they have provided a K-turn turnaround.

Board members stated K-turn standards are in our ordinance. Mr. Modzelewski stated whatever the ordinance requires, they will provide. Comment #3 – the driveway profile and access were designed to the Warren County standards including the “dip”. Comment #4 - the two exception areas are locked into by the farmland preservation. They are not really permitted to make those exception areas any larger to accommodate a larger size lot. Comment #5- what they really are is 173 feet for lot A and 174 feet for lot B. Attorney Gavan asked about the large difference. Mr. Modzelewski said the planner will explain that, but it’s part of the definition of lot width. He thinks what happened when the planning got drafted, they went right with the right-of-way line. Comment #6 – they did revise the plan; it does have a 35-foot common driveway easement. Mr. Smith noted the easement is too small, it doesn’t incorporate the driveway. Mr. Modzelewski stated then the easement would have to be lengthened. Comment #7 – will certainly be done; it hasn’t been prepared yet prior to approval. Comment #8 – the buffer hasn’t been shown, but a note has been put on the plan. Note 15 says a 20-foot buffer along all lines to the agricultural use. In any revised plans, they will physically show that buffer. Subsection A: they will comply with whatever the board mandates for buffering within that 20-foot buffering. Attorney Gavan noted there is no Comment #9 in the report. Comment #10 - the planner will speak to this. Comment #11 – this is a county road and so the county has jurisdiction over access to driveway access points. Warren County mandates and requires, where possible, common driveway access. It is part of their standards. Comment #12 – they will certainly do. Comment #13- they have not made applications to the county yet. As an outside agency he hopes the board will see their way to approve this. Any of these approvals would be a condition of that. Mr. Smith asked about soil conservation being included. Mr. Modzelewski stated soil conservation would be required when the lots are actually developed. The plans submitted are conceptual. Mr. Smith stated the plans don’t say conceptual anywhere, they are labeled as proposed. Mr. Modzelewski said these lots are probably going to be sold and whoever buys the lots may not put the house exactly in that spot. This is just shown in a rectangle as a conceptual development other than the common driveway. Attorney Gavan stated most times you don’t put a proposed dwelling on the map, you just put the building envelope and they build inside the envelope. If this is approved, new plans will need to be submitted. Engineer Stefanie Williams spoke to the board to clarify this application is a minor subdivision. This isn’t a site plan, so we are approving the lots. We are not necessarily approving this driveway; we aren’t approving the proof building. Attorney Gavan stated he understood the comment. By saying “proposed” months from now someone could look at the map and think that was what was approved. So, it really shouldn’t be listed as “proposed” it could say possible location or something different. Mr. Modzelewski said they can certainly make those changes. Comment #14- agreed to and will be done. Comment #15- there are no slopes in either of those categories within 200 feet of the lots or on the lots and note #9 was added to that effect. Comment #16 (was not gone over) Comment #17- there can be no further development on the remaining parcel because it is in preservation. They are limited to just these 2 exception areas. Comment #18- that would be up to the board, he does not know what the ordinances require. If the board wishes, they could put conditions on it. However, the lots are developed as residences, some ordinances have conditions on using dry wells for roof water run-off to address storm water management. Engineer Williams stated if lot A develops an impervious area just a smidge under a ¼ acre, they are not subjected to the stormwater regulations. But if lot B is developed over ¼ acre, that lot would be responsible for doing stormwater management.

So, there could be a problem down the road if there is no stormwater implemented. When asked who would check that, Ms. Williams stated it would be the DCA. Mr. Modzelewski added sometimes it is soil conservation that checks. Mr. Werner had questions on the comment #4 and #5 testimony and wanted to know if there is a way to restrict the size of the potential/proposed buildings. Attorney Gavan said you could limit the size of bedrooms and really you don't have to approve 2 lots. Ms. Starrs had a question on comment #11 regarding the county requires a shared driveway. Mr. Modzelewski replied they heavily encourage it and promote it. If we were to go before the county and say we are going to create 2 separate driveways, they would most likely come back and say make it one. He stated it's in their design standards. Ms. Starrs then asked what the use of the proposed structures would be. Mr. Modzelewski stated they would be typical single-family dwellings. If the lots were created anyone could purchase them. Mr. Smith asked how they came up with the disturbance area. At this point John Sims was sworn in. He is a licensed surveyor. He stated he did not prepare the numbers. The numbers were based on merely a footprint of the improvements. He said he could represent that the disturbance area will comply with whatever is required by the town's code. Discussion then took place about K turns being shown accurately. Mr. Mathez questioned exception areas and asked for the applicant to supply the deed of easement from the county office of land preservation. Ms. Williams asked if the board has any requests on the buffering. Mr. Bejin added the ordinance doesn't have a specific requirement. It just says planting material or fencing may be required as determined by the approving board. Chairman Taylor stated normally a double row of staggered evergreens are used. This could be included in the plan revisions. Attorney Gavan added it could be made a condition that any sub-division construction must come back to the board for review. The buffering may change depending on what type of house is proposed. Mr. Smith noted the plans call for the driveway to be 10 feet wide, our ordinance says 12 feet.

Mr. Werner then asked attorney Gavan about his comment of "with the 2 lots together, we are barely making the minimum requirement". Attorney Gavan stated 60 thousand is our requirement. Chairman Taylor noted when this was preserved farmland the minimum lot size was 1 acre. In subsequent years it has changed to 60 thousand square feet. Mr. Smith spoke regarding Lot B was designated to be given to the cemetery. He asked if this is now a buildable lot based on the farmland preservation people. It was decided the board must see the deed. There was discussion on whether to continue with testimony prior to the board receiving the deed. Gene Makarevich was then sworn in. He stated he is the owner of the property and will pursue getting the deed and find out exactly what it says. He stated he knew it was not ever given to the cemetery. He had asked the cemetery if they had any interest in the lot and Leon Hendershot, who is the deacon, said he didn't have any interest. Attorney Gavan again stated to get the deed and a copy of the title insurance when it was bought. That could clarify some items before we proceed any further. Mr. Makarevich said he would like to address everything we possibly can right now and proceed with the other experts. Attorney Gavan asked Mr. Makarevich what his intention was for the lots. Mr. Makarevich stated he has one modular home already purchased and he would like to put it for part-time farm help. His intention is not to sell the lots. He would like to have a couple of rentals, both lots if possible, for part-time farm help.

Engineer Williams brought up information regarding full-time help. Farmland preservation allows a farm land to have an additional house on the lot. So, you could have 2 houses on a lot. Mr. Makarevich stated he cannot afford full-time help and this would require their income to come directly from the farm. Antwan Hajjar was then sworn in. He stated he is a professional engineer, surveyor, and licensed professional planner in the state of New Jersey. He then stated the property in question is known as 10 Knowlton Road. Also known as Block 44 Lot 9. The property is farmland preserved. The exception of the farm is 2.01 acres. The right-of-way has to be dedicated to the county. Lot A excluding the right-of-way is 43,537 square feet and Lot B excluding the right-of-way is 43,797 feet. He stated according to the zoning table the minimum lot size required is 60,000. Lot A is a little short of one acre and Lot B is a little over one acre. Lot A has a width of 173 feet and Lot B has a width of 174 feet. The minimum required is 200. The variances they are seeking are for proposed Lot A and Lot B size and widths. Mr. Hajjar spoke regarding the Master Plan Re-Examination from 2020 which notes lot averaging. If lot averaging was applied to this application technically they would conform with the zoning. Engineer Williams spoke about deed restrictions usually being placed on this type of criteria and discussion took place regarding the farmland preservation already protecting other development. Chairman Taylor spoke regarding the possibility of the state reversing a parcels farmland preservation if they decided it was needed. Mr. Hajjar stated the farm is preserved, they are limited to the exception area and the proposal is to sub-divide this area into 2 lots. He continued the land is available, there is no encroachment onto wetlands or streams so for those reasons he believes purpose 2E will be advanced. He believes 2 dwellings will be more affordable for help on the farm instead of creating one big lot with a large house, which doesn't fit in the character of that neighborhood. So, he feels that will advance the purpose to G. Sufficient space and appropriate location for residential and agricultural uses in order to meet the needs of all Jersey citizens. Ms. Starrs asked if the housing is for workers or families. Mr. Makarevich stated that was a possibility, but right now the people he has in mind are older with no children. His intention is for someone retired or semi-retired to help on the farm. Attorney Gavan said keep in mind the applicant was willing to put a deed restriction on these 2 lots that the people residing in them have to work on the farm. It was then discussed that the rentals would be long term, year-round for part-time farm help and not for transient farm workers. Ms. Mezzanotte asked why it is important that his help is "part-time". Mr. Makarevich stated he cannot afford full-time help. If he could, he could build on the existing preserved farm for a full-time worker/tenant. Mr. Hajjar then continued to say this will advance purpose to M which includes land development and usage. He then supplied copies of our tax map sheet 10 which included red, blue and green dots showing non-conforming lots. He stated this shows their proposal is compatible with the area. Mr. Hajjar continued he believes the variances can be granted without any substantial detriment to the public good and will not substantially impair the purpose of the zoning plan. There were no further questions from the board. Chairman Taylor questioned the township planner, Mr. Bejin, about these lots being sub-standard from our current ordinance change to 60,000 square feet. Which was done due to the size of houses being put in and the size of the septic needed. If the lots were deed restricted to a smaller size house – say a 3-bedroom home, which would require a smaller septic system, would that work on a lot of 43,000 square feet?

Mr. Bejin said definitely, there is only one disposal bed needed for a 3-bedroom house. A fourth bedroom would require another disposal bed. He believes limiting it to 3 bedrooms is good.

The question arose if perk tests were done. The applicant's planner said they were done and shown on the plans. The engineer concurred that both soil logs and permeability tests were done. Both lots have had successful perk tests. Attorney Gavan for the record confirmed that Mr. Makarevich has no problem with the deed restriction as to the number of bedrooms in each of the houses. Mr. Makarevich stated that is correct, 3 bedrooms max. It was discussed that when this was preserved the minimum lot size was 1 acre. There was no further testimony or questions. Attorney Gavan recommended the applicant bring back a map that shows what the ordinance says with regard to the K-turn and the firetruck capability so the engineer can see it's viable and works. Mr. Smith noted some of the grading may interfere with the septic and driveway. Mr. Modzelewski spoke of suppling a rough conceptual sketch to show it's possible. Engineer Williams then asked the board if they wanted to see any stormwater associated information. She said proposed lot A would be a tight fight for the regulations of stormwater and the current location of the proposed septic disposal bed. There is a buffer of trees along that area. The board should consider the fact that they may be disturbed. Attorney Gavan added he feels there should be a condition that when they are ready to build, before they can pull a permit, they come back with a grading plan. Chairman Taylor asked if there was any public comment, hearing none, public comment was closed. Attorney Gavan stated it would be appropriate to carry the application without further notice until the next meeting August 22, 2023.

**Other Business:**

**Lighting Ordinance**

Mr. Smith stated there were additional comments that came in recently. Mr. Werner had supplied comments. Part of the goal is to make it fit into the master plan. One of the recommendations of the master plan was to consider the lighting ordinance. Attorney Gavan said anytime you pass a master plan you are supposed to create ordinances that match. Chairman Taylor added the purpose of the ordinance is to make them conform to our master plan. Discussion then took place regarding the last time our ordinances were codified on eCode.

**Public Comment:**

Chairman Taylor opened the meeting to public comment, there was no public comment.

**Board member comment:**

Ms. Starrs spoke regarding being on the Planning Board approximately a year ago and heard an issue for Stoltzfus Structures which was approved but they were mandated to do things, including planting trees. Since they have done nothing, how is this handled? Attorney Gavan said you must send your code enforcement officer to cite them and advise their site plan is null and void. Their approval becomes null and void unless they meet the conditions. He continued that time lines need to be included in the resolutions. If the conditions can't be met they need to come before us and tell us why. Engineer Williams asked if we have inspection fees. You could take say 15% of the engineers estimate and hold that in an escrow account and don't release it until those conditions are

done. Attorney Gavan stated this is a different type of escrow. You create an ordinance that allows us to put in the resolution that a percent has to be put on deposit for this approval. Then you can tell your zoning officer or engineer or planner to go out there, then charge the escrow. Ms. O'Neill asked what happens now when we put all these conditions on a specific business saying you can't do your last piece until all these conditions are met and approved by our professionals. Who is coordinating the meetings and approvals and the payment of their time. The township? Attorney Gavan said most conditions go to the escrow. If the engineer goes out to inspect, that's part of the escrow. They have to keep the escrow up. If not, the board secretary would advise them or they are called in before us. Chairman Taylor said at one time there was a checklist of whose responsibility different items were, a particular professional or secretary who had to sign off on it. Attorney Gavan said in certain towns the board engineer sends a letter to the board stating a review was done some time ago and these items still aren't done. Then a copy of that letter is sent to the applicant and if things don't get addressed you can bring them in or send your zoning officer out to cite them for not meeting the terms and conditions. Ms. Starrs spoke regarding some towns are structured to have full-time zoning officers that go out and look for problems. We don't have that, we are only complaint triggered. So, the only way something gets enforced is if somebody complains about it. She feels this inspection escrow would be a great idea so you wouldn't need a complaint to trigger an inspection. Attorney Gavan agreed and said the way to do it would be to create an ordinance where there is an escrow taken upon approval and that escrow is for inspection and compliance. If not, the other way would be to bring them back in a year and see where they are at and if it's done or not. Chairman Taylor asked Attorney Gavan if he knew of other towns that have such an ordinance, Mr. Gavan will check. Engineer Williams stated she does know of towns that have these ordinances. Attorney Gavan stated many other towns charge the applicant and require them to file the resolution with the county clerk in the land records. This way any buyer down the road would know about any conditions as they would show up in the title search. Ms. Mezzanotte asked if that would just become a standard condition that the board would agree on. Attorney Gavan stated on the ones it would apply to; if it has anything that could affect the future owner. Some others would be irrelevant. He will draft something up.

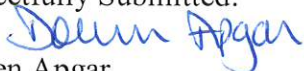
**Bills:**

With nothing further from the board or professionals, Chairman Taylor asked if there was a motion to approve the 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-yes, Starrs-yes, Werner-yes, and Taylor-Yes

**Adjournment:**

A motion was made by Mr. Mathez and seconded by Ms. Mezzanotte, all were in favor. The meeting was adjourned at 9:15 p.m.

Respectfully Submitted:

  
Doreen Apgar,  
Board Secretary