

**Knowlton Township Land Use Board
Minutes
Tuesday, August 22, 2023**

There was a regular meeting of the Knowlton Township Land Use Board on Tuesday, August 22, 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, Mezzanotte, O'Neill, Smith, Starrs, and Taylor.

Absent: Mazza, Werner and Attorney Gavan

Also Present: Sharon Cooper – Risk Management Consultant

Approval of Minutes:

The July 25, 2023 Land Use Board minutes were distributed prior to the meeting. A motion to approve was made by Ms. Cuntala and seconded by Mr. Baley. Chairman Taylor asked for a roll call vote to approve the minutes.

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

Ms. Starrs entered the meeting at this point 7:04 PM

Chairman Taylor announced prior to the scheduled presentation that he wanted to open up discussion on old business. Application #23-002 Makarevich Block 44, Lot 9. He stated the hearing was to be postponed this evening due to illness of the board attorney. We had last minute notification and no replacement was available. He asked to poll the board members if they would like to continue the hearing on the application anyway. It was brought to the Chairman's attention the agenda for the evening was revised to state all hearings were going to be carried to the next meeting date of September 26, 2023. Discussion then took place regarding a possible special meeting and contacting our board attorney regarding any possible fees and whether the applicant would have to re-notice. Chairman Taylor said we would have to see if we could get a quorum of board members and check if the professionals were available or at least have their reviews ready. It was noted also, there was no public in attendance for this application tonight and the matter of the applicants not being able to be heard was caused by the board.

Next item on the agenda was the presentation by Sharon Cooper. Ms. Starrs said she would like a general overview on the coverage for the Land Use Board. What would be the types of litigation the board could see and the types of coverage we have. Sharon said you are covered as a public official, within the scope of your duties, by the townships policy. Volunteers are also covered within the scope of their duties. Coverage is limited liability of 5 million dollars with a municipal deductible of \$10,000. That would be for any suit brought against you except injunctive relief.

Injunctive relief is not being sued for money, but for reversal of your decision. She went over the definitions of public entity and wrongful acts. She stated our coverage is broad and most land use boards don't get into trouble unless they don't follow their ordinances. She went on to explain damages; as some people sue for damages. Ms. Starrs had questions regarding how often does Ms. Cooper see cases that are just for injunctive relief and how often do they also include compensatory damages. Ms. Cooper stated there are a few that are for injunctive relief, but in most instances if they take the time to go to an attorney they are mad and want everything they can get. Our insurance includes defense coverage for injunctive relief. Injunctive relief is when they want the decision reversed. But if they include they want money for damages, that is not injunctive relief because of the monetary request. That comes under the different clause in the policy. Ms. O'Neill asked if they sue for injunctive relief and once again their request is denied what happens? Ms. Cooper stated if we were sued for injunctive relief we wouldn't have that decision to make because it goes to court and the judge decides if we have to change our decision or not. The insurance company has the right to hire an attorney and pay for your defense. Although sometimes the insurance company will let you hire your own attorney because they are more familiar with what led to the suit. But they might not be familiar with public entity law (title 59). That's why they don't normally let you hire your own attorney. Chairman Taylor brought up the fact normally the board attorney would be named in the suit also. He reflected there were a couple of suits in his time on the board and one he believes had a monetary settlement. Ms. Cooper also noted there is a clause in our policy for public official liability that states the insurance company cannot settle unless there is consent of agreement. If you do not agree to settle for the monetary amount they are asking for, the insurance company would pay you that amount and say you take over the responsibility of hiring your own attorney, continuing the suit, and settle for whatever you can settle for. With no further questions from the board, everyone thanked Ms. Cooper for her presentation which was very informative.

Determination of Completeness:

#23-004 Quiet Valley Printing/Daniel Deroche/Deroche Truck Covers & Tarps, Inc. Block 12, Lots 7, 8 and 9

Ms. O'Neill stated this application lists 4 different names. They had said Deroche Truck Covers and Tarps was sold. But the resolution is under that name. They then said their name was Quiet Valley Printing, but the application says Deroche Truck Covers and Tarps. Other documents say Deroche Business Park or Quiet Valley Printing or Quiet Valley Business Park. Chairman Taylor then asked if we had received any information listing the ownership of the company. They were supposed to submit this as requested in the French & Parrello review. He also asked if the payment of fees was received and if they submitted the certification of taxes paid. Secretary Apgar confirmed both were paid. Chairman Taylor stated in places on the application it is listed as Deroche Truck Covers and Tarps, Inc. as the applicant. Most of the things listed on the French & Parrello report would be a waiver for completeness only if we were to consider deeming it complete. But the completeness summary lists item #8 which was not done. They have not provided traffic generation information. The other thing not provided was the driveway entrance profile.

The slopes map that they did provide does not meet the checklist standard. Mr. Baley noted they are stating the traffic generated is going to be minimal so they are looking for a waiver on that. He also stated when the application was before the Board of Adjustment, the applicant did not use Deroche Truck Covers and Tarps as a name. They presented themselves as Quiet Valley Printing. There was then discussion on the ownership and selling of the tarp business. Chairman Taylor noted we still don't know who the owner of the business is. We want to identify the important items to decide whether we are going to deem this complete or not. Ms. O'Neill brought up the fact that on some of the submitted paperwork they are calling it a warehouse. Mr. Baley stated the Board of Adjustment had asked for that word to be removed. Chairman Taylor stated those are all things for the hearing, they need to pick out items from French & Parrello's list that are important enough that we would deem this incomplete. From the last page showing the completeness summary, we do not have item #8, no information on traffic generation, the slopes map does not meet the checklist standard, there is no sight profile for the driveway entrance, there is no preliminary architectural plan, the site lighting design was submitted but without detail on the fixtures. Mr. Mathez brought up item #9 on the preliminary review. He believes this site is within the sewer service area and thinks the applicant should know about that before this is deemed complete. Chairman Taylor agreed that needs to be talked about. He continued with the completeness review stating there was nothing submitted regarding fire protection and lastly there was no mention of wetlands on the plat. Mr. Smith then spoke regarding items which would deem the application incomplete from the preliminary checklist. They were checked off as complies but he couldn't find the information. Item #7 there was no environmental impact statement, item #48 supplied (but not to everyone) items #55 and #56 signage and paint striping at the stop sign, #65 and #66 loading areas are not shown to depict how trucks will fit in there, #72 no elevations on the corner of the buildings, #73 property corner elevations, #74 the lighting plan doesn't have the fixtures, #77 there was a question on grading around the corners, #53 profiles around all the returns should be reviewed and required before construction (per F&P report) this would show where the water goes. Chairman Taylor then went back to discuss the sewer service area. He said he has a map of the area from 2004 which shows it's in the area. But he said possibly 10 years ago DEP was trying to amend our sewer service area. He doesn't know if anything came of it or anything changed – but one thing that happened on the map is they added the rest area because that has its own sewer plant. They also entered the campgrounds because they have a T1 permit due to the amount of gallonage – over 2,000 gallons a day even though it's a septic. But, he stated they need to be noticed and our engineering firm needs to be noticed. They are apparently in the sewer service area and cannot do a septic, they need to connect and show plans to connect to the sewer treatment plant. Mr. Mathez added that should be done earlier rather than later. Chairman Taylor noted this is another item to deem them incomplete. Although the attorney had said we could deem it conditionally complete with waivers, Chairman Taylor believes with all these items he would be in favor of deeming it incomplete. We just need to document the reasons. He then asked Mr. Smith if the items he just went over he wanted included in the completeness summary as reasons for this being deemed incomplete. Mr. Smith did. They then went over again items from checklist D and the item numbers to be included.

Mr. Smith said if we assume the environmental report and the stormwater report (which are on the list as being presented) exist we don't need that. The list then was #55, 56, 65, 66, 72,73, 77. Checklist E was good. Item #9 was brought up again and noted it was in the French & Parrello report. It should be added to the reasons for deeming it incomplete, because it appears to be in the sewer service area and was not addressed. Their engineer should be made aware of this. #10 on French & Parrello's review regarding a traffic study is normally waived for completeness but there was nothing provided and they had asked for a waiver. A question arose from Ms. Mezzanotte regarding, as per the resolution, the applicant was to combine lots 7, 8 and 9. Is that applicable now? No one was sure if this has or hasn't happened and would be for discussion at the hearing. Chairman Taylor asked for a motion. Ms. O'Neill made the motion to deem the application incomplete based on the items that were discussed. Motion was seconded by Mr. Baley. Roll call vote: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Taylor-yes.

Chairman Taylor requested the board secretary send a list of the items discussed to Attorney Gavan and let him know the decision. He will need to prepare a resolution deeming the application incomplete and that will also then need to be sent to the applicant.

Chairman Taylor then made an announcement to the public that applications
#23-002 Makarevich, Block 44, Lot 9
#23-001 Triplebrook RV & Camping Resort, LLC, Block 65, Lot 3
#23-003 JBar Pocono, LLC, Block 17, Lot 1
Are being carried to the September meeting without further notice.

Public Comment:

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

Lighting Ordinance:

Discussion took place between Mr. Smith and Mr. Mathez about combining the board's new ordinance with the existing ordinance. Mr. Mathez said it might make more sense to use our existing ordinance and add two or three things rather than do the whole thing over again. Chairman Taylor asked if the lighting committee would like the opinion of the board as to which way they think you should go? He feels our current lighting ordinance is really sparse with not a lot to it. Discussion took place regarding the current ordinance being inadequate according to the zoning officer. It needs to be able to be enforced. Chairman Taylor noted lighting is a difficult thing to enforce and its mostly neighbor complaint generated. Regarding approved applications, if they put something in that was not approved, that is a violation. That doesn't need a lighting ordinance, it's a violation of their site plan. That would be something the zoning officer would handle. So, with commercial properties it's not as important to have the ordinance because they have to go for site plans and whatever gets approved, they are allowed to have. Whether it's in the ordinance or not, if a board approves a fixture and it wasn't permitted in the ordinance – it's still approved. If they put in something that wasn't approved, it doesn't matter what's in the ordinance they would be in violation of the approval.

Ms. Starrs said she feels the ordinance is important because it provides a guideline. Mr. Mathez stated he would take what Mr. Smith sends (which includes the previous comments received) and he will see if he can make amendments to the existing ordinance that are consistent with the document they are working on. Mr. Smith noted it also needs language to conform our ordinance to the master plan. It was then decided to resend the most current lighting document to everyone on the board for additional comments.

Land Use Rules:

Chairman Taylor noted the Land Use Board's rules were never adopted after the merging of the Zoning and Planning boards. The rules were gone over and changes were to be made regarding the start time of the meetings, no testimony will be taken after 10:00 P.M., the board agreed to keep the moment of silence for our Military, and the board secretary's hours needed to be added. The timeline for submission of applications and plans was discussed. It was agreed to check our land development ordinance for the exact wording as there was a discrepancy between the time allotted on the rules and the time listed on the actual application. It was discussed that the Secretary needs to advise all applicants of the proper time frame for submissions and revised plans in order for our professionals to have time to review. Chairman Taylor asked for a motion to either adopt or deny the rules of the Land Use Board. Motion to adopt was made by Mr. Baley and seconded by Mr. Smith. All were in favor.

Board Member Comment:

There was other discussion regarding time limits and non-compliance of conditions placed on approvals. This is something the board puts in place. Landscaping is one of the most common things that has to be done within a certain amount of time. If they have not met a condition of their approval, they have to come back to the board. Mr. Mathez asked what happens if an application was deemed complete and they never come back. Chairman Taylor said we would have to take action and deny the application without prejudice. So, they could come back at some time. The application is not being denied based on its merits, it's because it wasn't seen through. Chairman Taylor went over preliminary and final site plans. The applicant wouldn't get final approval until everything is done. The conditions have to be met to get final approval and final approval is needed before they can get the C.O. If someone is in violation of their final approval that becomes a zoning violation.

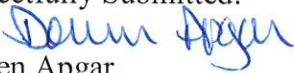
Bills:

Chairman Taylor asked if everyone looked at the bills. There was a motion to approve the bills by Mr. Smith. Motion was seconded. Roll call vote: Cuntala-yes, Drake-Yes, Baley-Yes, Mathez-Yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, and Taylor-Yes

Adjournment:

A motion to adjourn was made by Mr. Smith and seconded by Mr. Baley, all were in favor. The meeting was adjourned at 8:44 P.M.

Respectfully Submitted:


Doreen Apgar,
Board Secretary