

KNOWLTON LAND USE BOARD
RESOLUTION OF MEMORIALIZATION

Decided: October 24, 2023
Memorialized: November 28, 2023

**IN THE MATTER OF JBar POCONO LLC
SECTION 68 CERTIFICATION APPLICATION
BLOCK 17, LOTS 1&2
APPLICATION NO. 23-003**

WHEREAS, an application has been made to this Board by the property owner, JBar Pocono LLC. The application requests a Section 68 Certification under the Municipal Land Use Law for the property known as Block 17 Lots 1 and 2, as depicted on the Tax Maps of the Knowlton Township and

WHEREAS, the Applicant who appeared with legal counsel Lavery, Selvaggi, Abromitis and Cohen, P.C., and

WHEREAS, the Board deemed the application complete, and

WHEREAS, public hearings were held on September 26, 2023, and October 24, 2023, and

WHEREAS, the Board finds its jurisdiction has been properly invoked, and

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of Knowlton Township as follows:

ACCEPTED FACTS

Michael Selvaggi, Esq, represented the applicant. Mr. Selvaggi explained that the application is for a section 68

Certificate. Such a Certificate requires the Board to determine that nonconforming use existed at the time of the passage of an ordinance that made said use non-conforming and, therefore, said use may be continued upon the lot. This instance required the Board to find that former owners never abandoned the one-time use. This lot in question is Block 17, Lots 1 and 2. It was historically used as a towing and repair facility.

This was the previous site of Hummel's Garage. The best way to explain section 68 is "the use grandfathered." If a use lawfully existed and an ordinance went into effect which prohibited the use, an owner, even a new owner, is entitled to continue with that provided the use was lawful. It's continued unabated since that time.

The applicant, who is the current owner, wants to use it as a towing business and automobile repair shop, so the applicant must show that the towing and repair use was used before any ordinance that made said use nonconforming was adopted. Further, the applicant must show that use continued to the present time and was not abandoned.

Most times, you have to prove the continued use with circumstantial evidence. The applicant is supporting its claim with both witness testimony and circumstantial evidence. The testimonial evidence is from David Hummel, who is Norman

Hummel's brother. Norman Hummel formed Hummel's Garage. The testimony stated that Hummel's Garage conducted towing and repair operations at the subject site since before 1961 and continued in that manner until Norman died in 2010.

The business was then sold to another operator, and then it was purchased by this applicant. Regarding the fenced-off area behind the building, Mr. Hummel testified that this area was also used as the impound area. Mr. Hummel testified that both cars and trucks were towed and repaired at the location. Members of the Board took judicial notice from their memories that this testimony was accurate.

The applicant principal, John Gentile, was sworn in. He stated that JBar Pocono is a towing and automotive repair business. He said he bought the current business at the subject site in 2022 from Jimmy Schlier. He also purchased all the land.

There was discussion amongst the Board regarding the continued use in the period Mr. Schlier owned the location. Many members pointed out that there seemed to be no actual activity at the site for most of Mr. Schlier's ownership.

Board Planner, Mr. Bloch, spoke regarding an item in his report on the actual dates of the ordinances involved. He said automobile service stations were permitted use up until 2022 when it was made a prohibited use. Mr. Gentile purchased

the property in March 2022, and the ordinance was adopted in May 2022.

The applicant presented two exhibits:

-Certification of Mr. Schlier

-N. J. Tax returns of Mr. Schlier's business.

Mr. Schlier was presented via telephone from Florida to testify. He was placed under oath. Mr. Schlier testified that it was never his intent to abandon the towing and repair use at the location. The tax information filed in NJ was for tows in and some tows that originated in NJ but terminated in Pennsylvania. Mr. Schlier claimed he never entirely used the property in question, possibly due to numerous health issues he dealt with during his years of ownership and operation.

Board members expressed concerns as to the truthfulness of Mr. Schlier's testimony. Members were concerned he actually used the location as an address to permit NJ operations but not truly as a business.

The majority of the Board, relying on the tax filings and the overall testimony, was satisfied that the dormant operation was never intended to be abandoned.

Discussion was then open to the public. Sharon Valentine stated she lived in Columbia on Decatur Street in 2006 and doesn't remember Mr. Hummel even doing business at that point.

She had concerns regarding the environment, hours of service, and lighting.

Conclusions

- A. The Board, having reviewed the application and hearing the testimony as to the history of the use of the property, is satisfied that Section 68 Certification is proper.
- B. The Board finds the testimony of the applicant's witnesses to be mostly credible and agrees that the applicant has met the required burden of proof for the relief requested, namely a Section 68 Certification.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of Knowlton Township that the **conditional grant** of a Section 68 Certificate is appropriate.

This approval is subject to the following terms and conditions:

1. The Applicant is required to reimburse the municipality for all costs and fees incurred by it in the disposition of this application, including, but not limited to, the expenses attributable to the review of this application by the Board's professional consultants, as well as the preparation of this Resolution.
2. All taxes and fees shall be paid on the property in question as a condition of this application, and no permit shall be issued before such fees and taxes are paid in full.
3. The applicant will file a copy of this resolution in the Land Records at the Warren County Clerk's Office. And present proof of said filing to the Board Secretary.
4. A site plan application will be filed within 90 days.

Adopted this 28th day of November 2023 by a majority of the members of the Board present at such meeting who voted for the action taken on October 24, 2023

Knowlton Land Use Board

By:



Doreen Apgar, Secretary

MEMBERS VOTING IN FAVOR OF THE ACTION TAKEN:

Mathez-yes, Mezzanotte-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

OPPOSED: Drake-no, O'Neill-no

ABSTAIN: Baley-abstain

MEMBERS RECUSING THEMSELVES: None

KNOWLTON TOWNSHIP LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Approved: 9/26/2023

Memorialized: 11/28/2023

IN THE MATTER OF TRIPLEBROOK
RV & CAMPING RESORT LLC
MAJOR SITE PLAN &
C VARIANCE APPLICATION
LOT 3, BLOCK 65
APPLICATION NO. 23-0001

WHEREAS Triplebrook RV & Camping Resort LLC (hereinafter the "Applicant") applied for Bulk Variance and Major Site plan approval with the Township of Knowlton Land Use Board (hereinafter the "Board") in January 2023 and

WHEREAS the application was deemed complete and repeatedly carried at the applicant's request and

WHEREAS public hearings with notice were held on September 26, 2023, at which time the Board rendered its decision on the application in accordance with the requirements of Municipal Land Use Law and

WHEREAS, it has been determined that the Applicant has complied with all of the rules, regulations, and requirements of the Board and that all of the required provisions of compliance have been filed with the Board and

WHEREAS, the Board has received as part of the hearing process the following testimony and documentary evidence

submitted by the Applicant and its consultants, the Board staff, and members of the public:

1. Completed Application for Knowlton Township Land Development signed by Ira Alexander, dated October 18, 2022,
2. Consent of Owner, signed by Ira Alexander, dated October 18, 2022,
3. Checklist F - Minor Site Plan - Dated December 2, 2022
4. Correspondence Letter from Gary S. Goodman, Attorney at Law, dated December 27, 2022
5. Boundary Survey of Property Lot 3, Block 65, prepared by Dominick J. Venditto III, dated May 18, 2009.
6. Sketch of the Proposed Building location
7. Picture of a Building
8. Triple Brook Camping Resort Map

The Board also had the benefit of a report from its engineer, Stefanie Williams, dated January 24, 2023.

The Applicant owns the property known as Lot 3 in Block 65 on the Tax Map of the Township of Knowlton. The street address for the Applicant is 58 Honey Run Road. The Applicant seeks a preliminary and final major site plan together with a "c" variances and design waivers.

There were ongoing discussions between Board members, the Applicant, and members of the public.

The Board also incorporated the testimony and reports of its Engineer, Ms. Stefanie Williams, and her report from French & Parrello dated January 24, 2023.

The meeting was opened to the public, and the members of the public testified regarding their concerns regarding the site.

In addition to the testimonial evidence, the Applicant

submitted the following documentary evidence:

Exhibit A:

A-1: Artist's Map of sight with hand drawing Pole Barn
Gary Goodman, Esq, represented the applicant.

Ira Alexander was then sworn in. Mr. Alexander has owned the campground for 15 years. Mr. Alexander gave an overview of the campground. Mr. Alexander stated there are currently ten permanent structures on the campground. The need for the pole barn proposed here is for equipment storage, including mowers, backhoes, and tractors used on the property regularly. They have been stored outside.

The applicant proposed building a 3,200-square-foot pole barn for its storage needs. This is considered a major site plan. The applicant proposed locating the barn 80 feet from the road instead of 200 feet, which is the requirement in the ordinance, thus requiring a C Variance.

The applicant proffered that the new structure would be sheltered from the general public's view due to the existing vegetation and topography at and around the proposed location. The topography slopes down, and a set of trees block the site from view. The applicant believes setting the proposed pole barn by the set of trees at the lower part of the property would shield it from sight.

Mr. Alexander then showed a map with the proposed location

of the proposed pole barn. It is to be located behind a hedge row on Honey Run Rd that extends 15 to 20 feet into the air. There is a depression in the land, and the topography rises as you go towards the road. If the proposed pole barn were to be placed 200 feet off the road, it would sit in the middle of the field. It would be visible to all the campers and visible to anyone coming down Honey Run Rd.

No plumbing, potable water, or sanitary sewer will be servicing the proposed pole barn. The proposed pole barn will be a steel pole barn 40x80, with metal skin and roof.

The applicant stated the location would be approximately 85 feet from the shoulder of the road and about 60 feet from the hedge row. The applicant indicated that the building would be 16 feet tall. The applicant further noted that the preference for doors and lighting would be towards the ball field side, which is the opposite side of Honey Run Rd.

The Board professionals were asked about whether dry wells would be beneficial. The Board engineer felt that dry wells would not be an unreasonable condition of any approval.

Matan Alexander, PE, was sworn in and stated he is a licensed engineer in New Jersey. The applicant's engineer noted that the new structure will only disturb about 3,200 square feet, totaling 0.1% of the total property.

The applicant's engineer continued there are no wetlands

impacted in that area due to topography. Regarding Knowlton's code and bulk requirements, no other variances are needed.

The applicant's engineer addressed the orientation of the building the long side will be parallel to Honey Run Rd (it's been rotated 90 degrees from the original drawing). There will be an access driveway from within the campground at the backside of the building. There will be no parking area. The driveway will be gravel.

George James, a member of the public, spoke regarding this being the most feasible spot for the building. He previously owned the property; the site backs up to a hay field with no wetlands. If it were put back further, it would be visible.

WHEREAS, the Board, in reviewing the foregoing testimony and documentary evidence, makes the following findings of fact and conclusions:

The Applicant is seeking a C variance for the front yard setback of an accessory structure, namely a pole barn and approval of a major site plan.

The Board reviewed the Applicant's testimony, the comments by the members of the public, and comments made by Members of the Board. The Board finds that the testimony of the applicant for the c variance and the major site plan is credible in most aspects of the plan. The Board does find that some Purposes of

Zoning are established in that there has been an aesthetic improvement to the site with more indoor storage.

However, the Board does find concerns about some aspects of the plan and, as a result, incorporates conditions that have been proposed by Board Members as well as the Applicant and the Consultants for the Board, which will mitigate any of the negative criteria concerning this application.

NOW, THEREFORE, BE IT RESOLVED that the Land Use Board of the Township of Knowlton approves the C variance for front yard setback and location of the proposed pole barn as more practically described in the September 26, 2023 hearing and the major site plan.

This approval is subject to the following terms and conditions:

1. This approval is subject to paying all appropriate fees and taxes.
2. The applicant will ensure all roof gutters connect to dry wells of a type and design acceptable to the Board engineer.
3. The applicant will provide a "Built sketch" of the building in the correct location and orientation.
4. The applicant will label the door location, driveway location, material type, and light location and detail.

5. The applicant will deposit a sufficient escrow to cover the post-approval site inspections required for the Board Engineer to inspect and ensure compliance with this approval.
6. The applicant will have a copy of this Resolution to be filed in the land records at the County Clerk's office.

The undersigned certifies that the preceding is a true copy of the action taken by the Land Use Board of the Township of Knowlton at its regular September 26, 2023, meeting.



Doreen Apgar, Board Secretary

Vote to approve: Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

**KNOWLTON LAND USE BOARD
RESOLUTION OF MEMORIALIZATION**

**Decided: 09/26/2023
Memorialized: 11/28/2023**

**IN THE MATTER OF MAKAREVICH
MINOR SUBDIVISION & C VARIANCE
APPLICATION
BLOCK 44, LOT 9
APPLICATION NO. 23-002**

WHEREAS, an application has been made to this Board by the property owner Gene Makarevich. This application requests the MINOR SUBDIVISION creation of one new lot at the property known as Block 44 Lot 9, as depicted on the Tax Maps of the Knowlton Township, and

WHEREAS, the Applicant, who appeared without legal counsel and

WHEREAS, the Board deemed the application complete, and

WHEREAS, public hearings were held at the Board's regularly scheduled meetings in July and September 2023, and

WHEREAS, the Board is satisfied that the applicant has complied with all the requirements for adequate jurisdiction of this Board to act.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Knowlton Township as follows:

ACCEPTED FACTS

The subject site, Lot 9 in Block 44, is a 169.89-acre parcel located along Knowlton Road and Polkville Road. The property is situated in the FP Farmland Preservation Zone District. The subject site is currently preserved farmland. The property was preserved through the County EP program on July 7, 1995. As part of the preservation, there is an exception to permit this subdivision.

The Applicant is proposing a subdivision creating two new residential parcels, Lot A and Lot B, which will consist of 0.99 acres and 1.01 acres, respectively. Additional improvements will eventually include driveways, septic, and landscaping improvements when the new proposed lots are built. The remaining land will remain preserved and comprised of 167.88 acres. The Applicant is requesting variance relief for lot width and lot area.

The Board had the benefit of the following:

1. Completed Application for Knowlton Township Land Development signed by Eugene Makarevich, dated May 12, 2023,
2. Consent of Owner, signed by Eugene Makarevich, dated May 12, 2023,
3. Checklist A - Minor Subdivision
4. Certification of Taxes Paid from Knowlton Township
5. Certified List of Property Owners
6. Minor Subdivision Plan, prepared by Finelli Consulting Engineers, dated May 11, 2023, revised June 23, 2023, consisting of 3 sheets.
7. July 24, 2023, review letter from the Board engineer Stefanie Williams with French & Parrello Associates
8. July 24, 2023, review letter of Daniel Bloch, the Board

professional planner with Colliers Engineering and Design.

The Applicant is seeking to subdivide out two lots from the larger parcel to improve with single-family residences eventually. The applicant indicated it is his intention with at least one of the lots to have a part-time farm worker and his family reside in the home. This worker will assist the applicant on the applicant's farm. The applicant indicated that if he had to for financial reasons he might sell the lots, but at this time, that was not his intention.

Bryce Good, the applicant's witness from Finelli Consulting Engineers, was sworn in and qualified as a Professional Engineer. He testified about the particulars of the submitted plans and the modifications made due to the Board's professional reports and comments.

The key points to the plan as modified are a shortening of the driveways to be less than 200 feet long and notes on the plans referencing the requested buffering.

The Board was also presented with letters from the cemetery association indicating they were not interested in the parcel. A copy of the deed of easement was also submitted and reviewed.

The Board engineer, Mr. Keenan, reviewed the plans and

subsequent modifications. He stated that one of the critical items is stormwater management and how it would be handled on the property. Mr Keenan said this probably would not be considered a major stormwater project, so it would not need to meet all those requirements as long as the applicant stayed under an acre and a quarter of impervious coverage. Based on the updated submission, the applicant indicated they are under that threshold.

The Board's Professional Planner, Dan Bloch, stated the size of the parcels are less than the required lot width and lot area, so the applicant needs two variances for both lots.

A 20-foot buffer along the back and the sides, as required under the local ordinance, is provided. The applicant provides a 35-foot-wide driveway easement, thus not requiring a waiver.

The applicant will be required to appear before the Board when they are building a house. To ensure no stormwater or drainage issues actually exist.

The application requires relief for lot width for lot A and lot B, lot area for lot A and lot B.

The hearing was opened to the Public no comment.

CONCLUSIONS

- A. The Board, having reviewed the application and hearing the testimony on what is proposed at the property in question and the proposed owner's

intended use, finds it appropriate for the zoning district.

- B. The Board finds the testimony of the applicant's witnesses to be credible and agrees that the applicant has met the required burden of proof for the relief requested, namely a subdivision creating one unimproved lot.
- C. The Board concludes that the proposed plan is consistent with the zone in question, as depicted in the materials presented.
- D. The Board finds it is appropriate to approve the subdivision creating two new residential lots requiring lot size and lot width variances for each new lot.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of Knowlton Township that the grant of a minor subdivision and variance for lot width and lot size for each new lot is appropriate and, **therefore, is conditionally GRANTED.**

This approval is subject to the following terms and conditions:

1. This approval is subject to the approval of the Warren County Planning Board and any other governmental agency properly exercising jurisdiction and powers concerning it, together with the performance of any terms and conditions of such approval if such approvals are necessary.

2. The Applicant is required to reimburse the municipality for all costs and fees incurred by it in the disposition of this application, including, but not limited to, the expenses attributable to the review of this application by the Board's professional consultants, as well as the preparation of this Resolution.

3. All taxes and fees shall be paid on the property in question as a condition of this application, and no permit shall

be issued before such fees and taxes are paid in full.

4. Before lot development, the applicant must return to the Board with a drainage plot plan and specific development location.

5. That the applicant provides escrow as needed to ensure Board professionals are paid for all inspections done during the completion of the relief granted herein.


6. The applicant is to provide deeds for review and acceptance by the Board professionals for the two new lots and the remainder of the lot.

7. The applicant must file this resolution in the County's land records.

Adopted this 28th day of November 2023 by a majority of the members of the Board present at such meeting who voted for the action taken on September 26, 2023.

Knowlton Land Use Board

By:



Doreen Apgar, Secretary

MEMBERS VOTING IN FAVOR OF THE ACTION TAKEN:

Cuntala-yes, Drake-yes, Baley-yes, Mathez-yes, Mezzanotte-yes, O'Neill-yes, Smith-yes, Starrs-yes, Werner-yes, Taylor-yes.

OPPOSED: None

ABSTAIN: None

MEMBERS RECUSING THEMSELVES: None