

Knowlton Township Land Use Board
Minutes
Tuesday, April 23, 2024

There was a regular meeting of the Knowlton Township Land Use Board on Tuesday, April 23, 2024. 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 Zoned 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, Werner and Taylor.

Absent: Mazza

Also Present: Attorney Gavan, Engineer Keenan and Planner Bejin

Approval of Minutes:

The March 26, 2024 Land Use Board minutes were distributed prior to the meeting. A motion to approve the minutes was made by Mr. Smith and seconded by Ms. O'Neill. Chairman Taylor asked for a roll call vote to approve the minutes. In a roll call vote, all were in favor with Mr. Werner abstaining.

Chairman Taylor then made an announcement to the public in attendance stating that the Quiet Valley Printing and TowerCo applications have both asked to be carried to the May 28, 2024, meeting.

New Business:

#24-001 JBar Pocono, LLC, Block 17, Lots 1 & 2

Attorney for the applicant, Michael Selvaggi, introduced himself. He reminded everyone that in Oct of 2023 the board had granted a section 68 approval allowing the facility to continue to be used as a motor vehicle repair and towing shop. He included the fact that in Sept of 2023 the then zoning officer had issued a notice of violation for items that were not on the site plan and were done without getting proper approvals. They included HVAC system, lighting and signage. The intention was to first get the continued usage approval before coming in to amend the site plan. So that is what they are here for this evening. He will have a representative from JBar address some of the items engineer Keenan noted in his review. Their civil engineer, Daniel Davies, will also testify. They will conclude with Jessica Caldwell who will address planner Bloch's report comments regarding the possible need for a D3 variance.

Michael Delia was then sworn in. He has been a sales and operation manager for JBar for the past 3 years. Mr. Selvaggi then asked questions. As to the number of employees – a receptionist, mechanic and tow truck driver. The hours of operation – Monday through Friday 8:00 to 4:30 no weekends. The intention is to get a contract with the NJSP for towing on Route 80. They would be on rotation every 5 weeks because there are already 4 other towing companies used. JBar's other location is in Stroudsburg, PA which is considerable larger.

If they were called out to tow a vehicle it would most likely be taken to the Stroudsburg facility. A disabled tractor trailer would not end up at the Knowlton facility because it would not be large enough. It would instead be used for oil changes or tire repairs. They do not work on accident scene vehicles. There would be no materials or equipment stored outside. Garbage would be minimal like a house. Engineer Keenan asked to clarify that trucks would not be taken to this facility. Mr. Delia confirmed and regarding cars if they were involved in an accident would be taken to the Stroudsburg facility. If they were called for a car broken down it could be taken to the Knowlton facility. Ms. Starrs spoke regarding questions she asked at the section 68 hearing. She had asked Mr. Gentile if he would only bring cars to the Knowlton facility and have all tractor trailers sent to the PA site. He answered no, he was not willing to do that. She feels this testimony is contradictory to what the owner previously said. Mr. Delia said accidents on interstate 80 are taken to their larger facility. This allows room for insurance adjusters and the owners of the trucks and cargo. Attorney Gavan asked if his testimony is the only thing you would tow off the highway to Knowlton is cars anything larger than a residential automobile would go to Stroudsburg. Mr. Delia said if the weather was bad enough and if it came here, it would be gone the next morning. No more than 24 hours. Ms. O'Neill asked if it could be a condition that no 18 wheelers would be at this site. She also recalled the owner was emphatic about the right to bring 18 wheelers in. Mr. Selvaggi said he does not disagree with the testimony. But in light of things that have transpired since the approval he feels in order to proceed this would make sense. Mr. Werner said he agrees with making this a stipulation, but the owner also said he could get a permit to override regulations. So, would the stipulation include he cannot pursue getting a special permit to take 18 wheelers here. Mr. Selvaggi and Attorney Gavan both said that could be a condition no 18 wheelers will be towed to this site. Furthermore, Mr. Selvaggi said if the owner were to try and change his mind he would have to return here to see if that condition could be changed.

Chairman Taylor then opened the meeting to the public for questions for this witness. Rich Ziegler had questions on the towing schedule. Mr. Selvaggi confirmed towing will be 24-7 during that 5-week rotation. Repairs are Monday thru Friday. Anna VanWettering regarding light trespass and if they had cameras- no. Dennis Melillo asked whether the NJSP reached out to them for more coverage- no. What type of tow trucks will be used -small roll back style except for the on-call week, then a large tow truck would be needed to be on site. Mr. Delia did not have information on the weights of the trucks. Brian Tipton regarding the hours of operation. Rich Ziegler regarding the storage location of vehicles. Pam Rusweiler stated there has never been a towing business at this location prior. She also spoke about the weight limit on the road and the limited towing schedule.

Board member Mr. Werner spoke regarding the size of truck needed to tow tractor trailers, that it would be parked on the property and its weight would exceed the weight limit of the road. Ms. Starrs asked what having a "presence" in NJ actually means. Mr. Delia confirmed the NJSP requires that they must have a truck physically present in New Jersey. Mr. Smith asked about response time and where would the driver be located. Mr. Delia said they intend to hire a local person to get the truck and go out to the accidents. Engineer Keenan had concerns with the lighting. Mr. Selvaggi noted they can make adjustments; as there might not be a need for a lot of lighting. There were no further questions for this witness.

Daniel Davies of Davies Engineering was sworn in and gave his credentials as a licensed engineer. He noted after the section 68 approval a site plan needed to be prepared addressing certain items. They include lighting, HVAC, signage and parking. He stated they did a light meter test. They also opened the inlet at the back of the property that had a silt sediment collection device and replaced it. The property has non-conformities including the lot size, lot width, lot coverage, and front yard setbacks. They are proposing 10 parking spaces in the rear of the building, 9 regular and one handicapped. There are 3 lights in the front located over 3 bay doors and they direct down. They previously were facing out towards Decatur but have been adjusted to down facing. The light meter readings find at the property line they have a one-foot candle. There are 2 lights in the back facing into the parking area in a downward direction and at an angle. Some spillage does go over the northern property line. They are prepared to adjust the lighting as necessary. The site plan does not involve any disturbance – soil movement or excavation. Regarding the EIS requested by the board – these are normally prepared to talk about wetlands and streams. This property is a pre-disturbed property, 100% of the property is disturbed. They are only painting the asphalt, putting up a sign and adjusting lights. The EIS did follow the requirements within the town's ordinance. It included a review of the existing conditions and what they are proposing to do. There are no steep slopes, no environmental concerns and no historical significance to the property. They do understand there may be some air and noise concerns. They have a well and septic on site. There is no formal stormwater management system on the property. There is an inlet that is connected to the county system. Regarding access to the property, a rollback truck could access off Columbia St. this would involve some maneuvering and would have to be demonstrated to the board engineer. Engineer Keenan then questioned combining the 2 lots – which the applicant will do. Trash collection was discussed, there will be no hazardous waste. Flatbed unloading of vehicles will be done in the rear fenced in area. Any repair work inside the structure would be for passenger vehicles only. Ms. Starrs spoke regarding the EIS that was submitted. She feels this is based on existing conditions from 15 years ago. Air quality and noise were not considered. She would like them to provide information on those items as the board is being asked to base a decision without any idea of the volume or intensity of the operation. Attorney Gavan added that the previous owners did not operate at the scale it will be operated at now. Chairman Taylor noted the air impact tools of today are much different. They should check the noise levels at the property lines. Ms. O'Neill spoke regarding the zoning violation notice that was issued back in September of 2023 for the lighting, signage and HVAC. For 7 months the lighting that shines into the neighboring home was not addressed. It was confirmed that light is still on at night. Ms. Mezzanotte spoke regarding the previous use being auto repair and towing. That didn't specify tractor trailer towing. Discussion then took place regarding conditions of approval. Attorney Gavan stated we couldn't give permission for something that is not allowed. If they violate the weight limit on the road and were issued a summons, they will have to deal with the NJSP. Mr. Smith asked if they would be doing auto body work. Mr. Delia said no. Attorney Gavan asked for a rundown of what services they would be offering. Mr. Delia said oil changes, brakes, tires. Attorney Gavan confirmed a full-fledged auto repair shop. So, then they would have hazardous materials. Mr. Selvaggi confirmed that is correct.

Mr. Smith spoke regarding the EIS section on groundwater contamination and possible disabled vehicles leaking fluids. Ms. Starrs said this is why she had requested the EIS. This area of town has groundwater contamination, which is new information within the past 10 years and should be considered. Discussion took place regarding collection of leaking fluids from the disabled vehicles. Mr. Delia said they would have approved containers to catch any fluids. Mr. Werner said they need to have a mitigation plan for hazardous waste that could leak out of the vehicles and run into the groundwater. Not just sitting at rest but as they are coming in and out of the lot. Mr. Smith then asked about the septic. Mr. Davies said it is inside the building and is a cesspool. As part of the application, they will have to go to the county and it will be looked into. Mr. Mathez asked about an oil separator system which Mr. Davies said presently there is none. The applicant would consider installing to alleviate any concern for groundwater contamination. Chairman Taylor asked about rainwater flow direction on the lot. Topography information would be needed.

The meeting was then opened to the public. Sharon Valentine asked about how many cars and the length of time they would be there. Robert Hunt asked about the size container they will use for used oil collection. They use a sealed plastic tote or skid and take them to the Stroudsburg site. Debbie Hendershot asked if they were to get the NJSP contract and then at some point lose it, what happens with their company. Attorney Gavan asked them to confirm if they don't get the contract would they continue this site as an auto repair site and towing for local people. Mr. Delia said yes. Ms. Starrs then asked if it was a conflict of interest for this company to have a contract with the NJSP, when they are the ones who we rely on to enforce the weight limits on the road. Vince Gaeta spoke regarding the allowance of trucks over the weight limit for local deliveries. Dennis Melillo spoke saying all of Columbia is a historical site and they are working on that designation. Bob Zyler asked about the lack of a soil test. Mr. Smith asked about the size of the sign and if it conforms to our ordinance. Mr. Davies said 3 feet by 20 feet. He also asked about ADA compliance for the entrance door and signage. Resident Mark Ringenary asked if the cesspool was tested to see if other fluids were drained into it. Mr. Davies said it is not an open drain in the floor, it is covered. Chairman Taylor asked if they had a T1 permit for this property because cesspools are no longer permitted. Mr. Davies is not aware one is associated with this property. The county will have to look into this. There were no other questions from the board or public. Mr. Selvaggi asked for a 5-minute break to discuss if they wish to continue tonight with their next witness. After which he stated based on the questions from the board and the public they wish to adjourn for tonight. They asked to carry to the next meeting date of May 28th and will have their planner speak then. No further notice will be required.

Lighting Ordinance

Mr. Smith stated he and Mr. Mathez met with the zoning officer who stated he didn't know how he could enforce what they want to do. He doesn't believe they discussed whether the current ordinance is enforceable. Paying for afterhours enforcement and who will do it was discussed. Mr. Mathez said they have been thinking about making minor tweaks to the existing ordinance. Attorney Gavan spoke regarding the problem with any lighting ordinance is it requires the need for the appropriate meter and someone trained to use it. Mr. Mathez spoke about possibly making light a nuisance like noise. Mr. Werner believes a lighting nuisance would be really hard to define. Attorney Gavan said nuisance is a criminal charge and you would have to prove it beyond a reasonable doubt.

Mr. Mathez said we are trying to stop light being used as a weapon. He thinks that is the main goal. Mr. Werner asked if we have what we need to do that with the ordinance we have now. Chairman Taylor stated we also don't want a lighting ordinance to be used as a weapon. Attorney Gavan added the zoning officer can send out 10-day warning letter. It could be as simple as an adjustment. The whole review of the lighting ordinance started about 2 years ago at the request of the previous zoning officer. He didn't feel the current ordinance was enforceable. Mr. Werner feels the current ordinance is more restrictive than the proposed one. Maybe that is why Mr. Snyder felt it wasn't enforceable. Attorney Gavan feels we shouldn't be afraid to go to court and lose the case. If that were to happen the zoning officer could come back and explicitly tell us what the judge said as to why we lost. And then we tweak the ordinance. Discussion took place regarding existing lighting being "grandfathered in". Attorney Gavan said if there is a complaint made, "grandfathered in" is not an issue anymore. Mr. Werner thinks light trespass is the way to go with this. Engineer Keenan spoke regarding the existing commercial lighting ordinance section notes an average maintained foot candle. He believes rather than a specific number, it needs to be a range. A ratio between a minimum and maximum.

Knowlton Township Residential Full Build Out Analysis

Chairman Taylor asked where the subcommittee was with this. Mr. Mathez said they will be meeting with Planner, Dan Bloch on May 10th.

Short Term Rentals

Attorney Gavan had supplied some model ordinances from other towns in this area. He did not want to model ordinances from city or shore towns. It was noted these are general ordinances, not zoning ordinances. Also discussed, campgrounds being an exception. Ms. O'Neill believes that in smaller residential areas this would still be a problem with different renters coming in all year long. Ms. Starrs liked the Upper Township ordinance as it spoke to unacceptable behavior. Discussion then took place regarding permits and fees. Making stipulations on owner occupied only. Attorney Gavan brought up what some shore towns call an "animal house" ordinance which could involve posting escrows to pay for issues that may occur. Ms. Starrs believes that Air B&Bs would help support the type of industries Knowlton wants in town, like agrotourism, campgrounds and vineyards. She is also okay with non-owner occupied if we could regulate the behavior. Mr. Werner asked about the idea of the town issuing a limited number of permits. Something like liquor licensing. Attorney Gavan agreed and thought that a limit of 25 to 30 would be a big percentage of the homes in town and wouldn't be contested. This way you would also know who they are. They would be advised of the ordinance, and that they are responsible or they could lose the permit. They could be required to put up a large dollar bond and if they do not, their permit would be pulled. This would be best as an annual permit on a set date. Mr. Werner spoke regarding permit fees being part of the cost of running a business. Attorney Gavan believes the cost needs to be balanced. Mr. Mathez feels more comfortable with owner occupied rentals this way it would require self-enforcement. Mr. Werner thought possibly having a hybrid of 2 classes of rentals. Giving a certain number of permits out and for those that do not have a permit they could rent under owner occupied only. There could be a limit on them also.

After further discussion, Chairman Taylor asked if the board would like to make a specific or just a general recommendation to the township committee. This isn't really a land use issue, but Attorney Gavan believes it is close enough. The length of time for a rental was discussed. Chairman Taylor then asked if the board wanted to take the time to craft the ordinance for the committee or just make a recommendation to look at our thoughts on this. Ms. Cuntala thought to get it through the committee giving them an ordinance would be best. Ms. Starrs thought the ordinance from Upper Township would make a good template to go by. Attorney Gavan will find a model "animal house" ordinance. The discussion continued with thoughts on fees for owner occupied, short-term rentals being residential use and completely different than Bed and Breakfast establishments. There are statements in the Upper Township ordinance covering aspects of health concerns and following basic property maintenance to ensure safety of the occupants. Attorney Gavan agreed that should be included in case there is a problem.

Bills:

Chairman Taylor asked if everyone looked over the bills. There was a motion to approve the bills by Ms. O'Neill. Motion was seconded by Mr. Werner. In a roll call vote all were in favor.

Adjournment:

A motion to adjourn was made by Mr. Mathez and seconded by Ms. Mezzanotte. In a voice vote all were in favor. The meeting was adjourned at 9:38 P.M.

Respectfully Submitted:



Doreen Apgar,
Board Secretary