

Knowlton Township Land Use Board
Minutes
Tuesday, June 25, 2024

There was a regular meeting of the Knowlton Township Land Use Board on Tuesday, June 25, 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: Baley, Mathez, Mezzanotte, O'Neill, Smith, Drake and Taylor

Absent: Cuntala, Mazza, Starrs, Werner

Also Present: Attorney Gavan, Engineer Keenan, Planner Bejin

Approval of Minutes:

The May 28, 2024 Land Use Board minutes were distributed prior to the meeting. A motion to approve the minutes was made by Ms. O'Neill and seconded by Ms. Mezzanotte. Chairman Taylor asked for a roll call vote to approve the minutes. In a roll call vote, all were in favor.

Adoption of Resolution:

#23-005 TowerCo 2013, LLC, Block 60, Lots 9 and 9.02

Attorney Gavan noted he spoke to the board's conflict planner/engineer who felt in the conclusions part of the resolution the safety concerns might want to be "beefed up". Attorney Gavan hadn't included because the site plan was not addressed which is normally where you talk about safety. Discussion took place regarding adding impact to surrounding home values, which no expert testified to. Chairman Taylor went over other areas of the resolution that need some corrections. Attorney Gavan said the applicant's attorney reached out to him about the deadline to file a federal action for this denial. The timeline is 30 days, but Attorney Gavan feels by the time he files this should be adopted. It could have been adopted tonight with just the corrections, but the additional information the engineer wants to add is more than just changes. So, this will not be adopted tonight, but it will be on the agenda for next month.

Old Business:

Chairman Taylor noted the application for Quiet Valley Printing is being carried until next month and must be re-noticed.

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

Attorney for the applicant, Michael Selvaggi, introduced himself. Attorney Gavan confirmed with the board members that everyone had been present for all the previous hearings. Mr. Selvaggi said at the last meeting operations were discussed and he would like to provide some clarity tonight. John Gentile was sworn in and said he is the owner of JBar Pocono, meaning the majority member of the LLC.

He continued that JBar Pocono is the owner of the property here in Knowlton on Decatur Street. Mr. Selvaggi then questioned Mr. Gentile on topics that arose from the previous meeting. Regarding the angling and intensity of the lighting, Mr. Gentile said as of May 11th the breaker was shut off. If they have to, they will get a lower voltage light directed towards the ground. There is no required level of lighting needed overnight for security purposes. There is no oil water separator, but they do have a sediment trap. The trap was serviced not too long ago and there was no evidence it wasn't working properly. They would be willing to upgrade the trap to include the oil water separator. Regarding the septic system they have an application pending with the Warren County Planning Board. He is prepared to do upgrades, modifications or replacement as required. Mr. Gentile owns the service station property along with the adjacent property behind it. They share a well. If the county requires separate wells, he is prepared to do that. He would also be agreeable to merging the two lots and share the well. Regarding the perimeter fencing they would like to redo it and add slats to deter the lights. It would be chain link with plastic green slats. He is agreeable to screening of the dumpster if needed. If a disabled vehicle is towed to the yard the containment process of leaking fluids would be a duck pond containment area. This was introduced as exhibit A2/1. It is made of 40 mil liner with a foam curb. Any fluids that get collected in the pond are absorbed with diaper pads and they are disposed into a sealed container. They use a vendor then to pick up waste fluids. Any repairs done at the building will be done with the doors closed. The noisiest equipment they would be using would be a cordless impact gun. The proposed business hours would be 9:00 to 5:00 Monday through Friday with half a day Saturday. Exhibit A2/2 showing a photo of the containment "duck pond" and the material data sheet showing the fabric specs were distributed. The size and weight of the tow trucks they will be using are light and medium duty rollbacks and one heavy duty wrecker. Exhibit A2/3 was submitted showing the registrations and license plates of the vehicles. The weight of the heavy-duty wrecker with 3 axles is 35 thousand pounds. The medium duty roll-back is 11 thousand. Mr. Gentile's other property, called Schliers Towing, is located in Stroudsburg, Pennsylvania. Mr. Gentile said he is willing to not bring any disabled cars or tractor trailers to the Columbia yard. In good weather in the middle of the night they would tow to Pennsylvania. In bad weather they may need to take it to the Columbia site overnight and the next morning take it to the PA site. No vehicles will be on the lot for more than a shift (12 hours) no matter the type or size. (It was clarified the hour of the day is irrelevant). The normal operational hours will include a mechanic and office person. He believes most of the business will be road service on the highway. On site services would include tires and oil changes. No body work or painting. When asked if the 10 parking spaces shown on the plan would be sufficient, Mr. Gentile said yes, maybe too many. The site plan was spurred by the HVAC system which was put in for the front office secretary and customers to sit comfortably. When asked, Mr. Gentile said he would remove the unit if necessary. Another issue was the signage. Sheet C1 photo 2 shows the sign above the garage doors. Mr. Gentile would remove the sign if necessary. The lighting was previously discussed and is now shut off. Mr. Gentile will use a lower voltage or tip them down whatever the board would like. He would like lighting as the bar next door has patrons parking in his lot now. Mr. Selvaggi was done with questioning.

Chairman Taylor opened to the board's professionals for questions. Engineer Keenan asked if they had plans submitted to the Warren County Health Dept for the septic. Mr. Selvaggi said the County Planning Board which could trigger a referral to the board of health. They need to figure out what will happen here first, and they have an extension from the county for more time. Mr. Keenan also clarified the hours of operation on the towing being 24/7. Although no one will be there 24/7 they will be on-call. And the rotation is every 5 weeks. Planner Bejin asked about the tow trucks being there only on rotation or all the time. They will be there all the time. Questions from the board members: Mr. Baley asked about the quantity of tires they would be storing there – 3 to 4 sets. Both old and new will be stored inside. He also asked about the AC not including the shop help. Mr. Gentile said they will use fans. Mr. Smith asked about previous testimony regarding an inlet that was cleaned. Which is in their parking lot. He also asked about ADA signage. Ms. Mezzanotte asked to clarify the number of employees, a manager was mentioned last time. Mr. Gentile said their managers are floating they open up and are not full time. She also questioned the weekend hours; none were specified last time. It was stated the half day Saturday would be for the on-call towing contract. The service work would not be open. Mr. Mathez asked about the tow trucks being there all the time. 2 trucks, heavy duty and medium parked in the rear of the building. Discussion took place on the possibility of the rotation weeks changing.

Chairman Taylor opened the meeting to the public for questions for this witness. Brian Tipton, Attorney for Dennis Chamberlain, submitted exhibit 02-1 NJSP Application and Minimal Requirements for Vehicular Towing. He questioned if Mr. Gentile had seen the document before – yes. Mr. Tipton made point of the document revision date. He then requested Mr. Gentile to read certain sections of the document including response time, storage facility proximity, criminal case vehicle storage, general wrecker requirements, heavy duty service wreckers and additional equipment. He also asked where the location of the handicapped parking would be - in the impound area. Anna Van Wetering said the lights have been turned off. They were very bright and shined in her window. She also asked about cameras and fencing. Dennis Melillo asked if Mr. Gentile was the primary owner of the LLC and if he was affiliated with any other outfit in PA or offshore. He also wanted to know if the NJ State Police had reached out to Mr. Gentile for more coverage in this area. Mr. Gentile confirmed yes, a lieutenant from the Hope barracks. There were no other questions from the public.

The next witness was the engineer, Daniel Davies, who was still under oath. He answered questions from Mr. Selvaggi regarding the type/model of the oil-water separator that would be installed. Mr. Davies said the existing inlet has a flow guard insertion which is actually a sediment trap. This was serviced in November of last year and is working properly. Regarding the oil-water separator, to upgrade an existing structure similar to this inlet they could remove the bottom and create a sump. Then on the outlet pipe put a steel hood creating a trap (or snout per Mr. Gentile). This would retrofit what is already out there. Regarding the ADA parking spaces and access to the building. The proposed ADA space is in the rear of the property, and they could put a swing gate in the fence. Front access has no curbing, and the 3 bay garage doors are in the front. The survey they provided does not have topography, so they do have to supplement the survey with topography to show ADA compliance. Regarding the lighting, Mr. Davies feels they could use a softer glowing light. They are willing to meet with the board engineer to walk the property and come up with an acceptable lighting plan that meets the requirements for security. He added that their business hours don't extend into nighttime hours so the lights should go off around 6:00 PM, unless there is a

service call. Regarding the current septic system, it is a solid tank cesspool in the floor near the center bay. They anticipate the health department will require them to put in a septic system. They understand that would be a condition of the approval.

Questions from the board members included Mr. Smith regarding the ADA man door on the gate area and the oil separator which would have a solid bottom. Chairman Taylor asked about the outflow of the current sediment trap. Mr. Davies said it goes into the stormwater system on the corner of Columbia and Decatur Streets. He continued to answer a previous question on which structure was in a state of disrepair and confirmed it is this one. He feels being this is a state or county structure it would be their responsibility to maintain. Mr. Smith stated this structure is in JBar's right-of-way and frontage and so it is their job to fix it.

Chairman Taylor then opened the meeting to the public for questions from this witness. Pam Rusweiler spoke regarding the 4-way stop, the fact the property is residential and commercial and then asked about recent excavating that had been done. Mr. Gentile confirmed the residential house has its own septic system and had recently been pumped out and a clean-out pipe installed. Mr. Gentile spoke about the placement of the trucks on site. Three will fit inside the garage, two bigger trucks will be outside. He was questioned about where they would be when they have vehicles there for servicing. He stated at times possibly all 5 would need to be outside during operational hours.

The next witness, Jessica Caldwell, was sworn in. She is a licensed professional planner in the state of NJ. Mr. Selvaggi noted the applicant requires use variance relief because the improvements create an extension of the pre-existing non-conforming use. He asked Ms. Caldwell what the standard is and has it been met here. She stated that in many cases any change to a non-conforming use can trigger this review by the board. And they are also here for the site plan application as well as the HVAC, sign and lighting. She spoke regarding a case that said in the event that an applicant is trying to improve the conformity, improve visually, and reduce negative impact that serves the general welfare which is purpose A. She believes that the applicant is trying to minimize any potential negative impact. This includes fence improvements, minimizing light impact, environmental protections, doing repairs with the doors closed, minimizing hours of operation, the number of people and size of the trucks as much as possible. She believes there are other positive criteria: purpose G allowing this area to be reactivated and purpose H providing a service to the area. Regarding negative criteria she believes the applicant is working to minimize negative impacts on the neighborhood. The expansion is not increasing the intent of the use but trying clean it up and make it better. The pre-existing non-conforming use predates the master plan and therefore she does not believe the re-opening of the site has a substantial negative impact.

There were no questions from the professionals, board members or public for this witness. Chairman Taylor then opening the meeting for general comments on the application from the public. Brian Tipton believes this is an intensification and expansion of the previous auto repair and towing facility from back in the day because of the new requirements of the State Police from 2017. He also believes the testimony has been inconsistent. Specifically, regarding the number of trucks. He also believes the site is too small and not adequate for the State Police. He continued if the board were to approve this, he would ask to have significant limitations on the property to make it consistent with the use it was. Dennis Melillo stated he is against this application and does not feel it's good for the neighborhood. Pam Rusweiler stated her concern with the number of tow trucks traversing her road. She said she moved in 17 years ago and there was no business

in that building and there hasn't been. She believes there hasn't been a garage or towing facility there for 20 years. She noted the existing problems with 18 wheelers and dump trucks, and this would add to that problem. With no other questions, the public portion was closed.

Chairman Taylor stated they have a fairly incomplete site plan. There are many questions. He asked the professionals if they are comfortable with the plans or should there be additional submissions made based on the discussions. Mr. Keenan is not concerned about the oil water separator. It would be good to know if the ADA access works, and the lighting he feels would need to be looked at on site, not on a site plan. There was discussion on acting on the D variance first and separating it from the expansion of a pre-existing non-conforming use site plan or handle it all as one. Consensus was there were a lot of concessions given including the fencing. They should tell the board what they are going to do and the board reacts to that. Chairman Taylor asked if the county boards require a new septic system is there an area on the property where it could be installed. Mr. Davies said yes there is adequate space. Attorney Gavan spoke regarding the conflicting number of trucks and would like a final number. With so many questions remaining Attorney Gavan recommended a five-minute break for everyone.

Upon returning Mr. Selvaggi had Mr. Gentile speak to the number of vehicles needed to fulfill the minimum requirements if he is successful in getting the state police contract. Mr. Gentile said 6 vehicles. Three light duties, one medium duty and two heavy duty wreckers. The light duties during off hours will be stored inside and during working hours they would be outside if there is a customer. The medium duty and two heavy duties will be parked out back inside the fence. There was still confusion on the "additional equipment" possibly needed on site according to the "state police requirements for vehicular towing" submitted this evening. Chairman Taylor said we will need additional information on the parking design and the state police requirements. This could be a substantial expansion and they will need to submit additional site plan work. Attorney Gavan noted this application will be carried without further notice to the July 23rd meeting.

New Business:

#24-002 Kenneth Jahn, Block 63, Lot 1.05

Attorney for the applicant, Michael Selvaggi, introduced himself. He stated the application is seeking variance relief to allow for the construction of a barn. Kenneth Jahn was sworn in. Mr. Selvaggi stated the application was deemed complete and they followed up with requested aerial photos. Mr. Jahn stated they want to build a pole barn to store a pickup truck and yard equipment. The truck is 23 years old and a secondary vehicle. He picked this location because the existing shed (which will be removed) is there and because of the proximity to the driveway. It would be easier access then moving back further in the yard. The barn will be stick built with a 4' pad inside. There will be no water or electric in it.

Questions from the board included Mr. Baley who asked what the wall height would be. Nineteen feet to the peak. The current shed is between 12 & 14 feet. Mr. Smith asked what the purpose of the gravel area behind the existing shed is. Mr. Jahn said it was there when they purchased the home, and he does not use it. Mr. Smith also asked if our professionals had looked at the drainage easement deeds to determine if Mr. Jahn needs to provide access to the easements. Mr. Keenan said he had not reviewed that easement.

Mr. Smith noted if we knew what the purpose of the gravel area was and if it was considered impervious that could be added to your calculation and eliminate the variance.

The next witness, Bryce Good, was sworn in and gave his credentials as a licensed professional engineer in the state of New Jersey. Mr. Good prepared the plan that was submitted with the application. The existing shed is 9.2 feet from the property line. An existing non-conforming condition. The applicant would like to move the proposed barn closer to his home and further away from the property line to make it as compliant as possible. So, it would be 16.25 feet from the property line. They need a variance because of that set-back. They want to make the pre-existing non-conforming better. In looking at locations the pole barn could be placed that would not need a variance, both locations would be in the rear yard. Further away from the driveway and house. He feels this location is the best place to be. The area in front of the proposed pole barn is not part of the asphalt driveway. They don't want to create more impervious than they have to because the second variance they are asking for is for impervious coverage. So, the plan is to leave that as grass. There will be gravel around the edges of the pole barn. Regarding Mr. Keenan's question of is there a way to reduce the impervious throughout the site to make up the difference of the added area. In order to meet the 15%, they would have to remove 438 square feet of impervious area. He does not feel the gravel area behind the shed is impervious because it's not driven on or used for anything. If the board felt it necessary, it could be removed. But that will not get them to the 438 square feet. So, they will still need the waiver. Moving the location to the rear yard would create a more strenuous impervious coverage issue. The requested aerial exhibit shows the distances to the neighbors within a 200-foot radius. The closest house is the neighbor to the southwest. The house is approximately 49 feet from the property line and to the proposed pole barn it would be over 66 feet. The existing shed is about 58 feet from that house. There is a wooded area between that house and the shed. Regarding the question on the drainage easement in the back of the property, there is nothing in the deed that states you access it from the front of the property. But there is room between the property line and proposed barn if necessary to access it from the front of the property with a 16.25-foot space.

Mr. Keenan asked about the area in front of the proposed barn that is currently grass. Will they remove the grass and put in gravel? Mr. Good said that isn't necessarily the plan, but if in construction that area gets rutted or tore up, they would most likely place loose gravel there. The surface inside the pole barn will be gravel. Mr. Keenan said it would help to know. Mr. Good said they can say its gravel; new loose gravel is not impervious. Chairman Taylor asked about removing a portion of macadam that appears on the plan to come right up to the shed. Mr. Good said that is approximately 150 square feet of asphalt, but it does not get them below the variance requirements. Chairman Taylor then asked if there was any evidence that the previous owner who placed the current shed within 9.2 feet of the property line got zoning or construction permits. Mr. Good stated they have no documentation on what the previous owner had or had not done. Mr. Jahn had gone to the zoning officer for permission to put the pole barn in. The zoning officer stated it would be denied and they would need to go to the Land Use Board for variances. Mr. Jahn stated the zoning officer had no permits in his file for the shed. A correction was noted to the height of the pole barn - it indicates 15 feet on the site plan. But it is not clear if that is to the side of the building or to the peak. Mr. Smith said in his opinion that gravel area might be an infiltration area for the roof drains (from the house) and it should be investigated. Mr. Good stated the existing shed does not have any roof gutters or drains and the proposed pole barn does not have any proposed either. The

gravel area is irregularly shaped and has no cleanouts. There is no evidence that it is an infiltration area. He defers to Mr. Jahn if the house downspouts are underground. Mr. Jahn said they are daylight to the ground. So, there is no underground piping. He feels that gravel is just extra after they put it down for the shed. Mr. Keenan noted pictures included in the application showing wood stacked on the gravel. There is no buffering proposed. Chairman Taylor noted the testimony said there is mature forest off to the side which doesn't provide a lot of buffering. He feels some thought should be given to adding some evergreens. Mr. Smith noted that would eliminate the access he talked about. He also questioned the term "barn" he feels that would indicate agricultural use associated with it. If it is a barn, they don't have the 5 acres needed to comply. He feels they should just call it a garage which is permitted. Attorney Gavan asked if the applicants had any objection to calling it a 2-car garage. Mr. Smith feels someone could question the application approving a "barn" or a subsequent owner could say a "barn" was approved. Attorney Gavan recommended "2 car garage with pole barn construction". Mr. Selvaggi said he brought up the deed book page for the drainage easement from 1996 it merely says subject to a 15-foot-wide drainage easement. It does not elaborate what it is for or the access. Mr. Smith questioned if the dimensions to the neighboring house shown on the aerial exhibit were field measured. Mr. Good answered no.

Chairman Taylor opened the meeting to the public for any general comments. Regina Vitkosky showed the board where on the aerial map her property is located. It would be #35. She has concerns regarding the proximity to her home. She believes the barn will be as big as her home and all she will see looking out her window. She also confirmed the gravel area was for storage of wood by the previous owners. She is not opposed to the barn being put in, just the location. She also raised concerns over additional water run-off from the pole barn roof. That area doesn't get sun and lays damp. Mr. Selvaggi confirmed with Ms. Vitkosky it is not the view, but the proximity that concerns her. He asked if they move it 6 feet within the setback and put it at 30 feet. Attorney Gavan noted then they wouldn't need a variance, it would be in the building envelope. Then all that would be needed is the waiver for the impervious coverage. Ms. Vitkosky said it would still be blocking her in. Attorney Gavan noted that the board could not stop them putting it there, because it's permitted. There was then discussion on making the barn smaller 24x24 instead of 24x28. This would make it significantly shorter and look more like the old shed. This would also reduce the impervious, especially if there will be any gutters to be put on it because of the water concern. Mr. Smith noted there is no topography to show how the ground lays. Mr. Good said there are no gutters proposed. The builder does not recommend gutters. Mr. Selvaggi said if they have to, they will install gutters. Mr. Selvaggi in speaking with the applicants announced they want to preserve neighborly relationships. They are willing to move the barn further back into the property inside that 30-foot side yard setback and maybe a little bit into the rear yard setback. Assuming they can fit it in the building envelope. But they will need to maintain the coverage variance because they will need more gravel to get back there. So, conceptually would the board consider this. Engineer Keenan confirmed a gravel driveway is not considered impervious; the ordinance names paved driveway specifically. The applicant agreed to remove the existing gravel area and the existing shed. Attorney Gavan noted if they make it conforming it's a non-issue for the board and unless there is a major objection to the 16%, he feels it would be appropriate to amend their plan and resubmit it to us. The view from Ms. Vitkosky's house will be a broader view, but further away and behind her house. Mr. Selvaggi said they are willing to make this move but wanted to be sure Ms. Vitkosky understands what the implications are.

Attorney Gavan asked the board if they are okay with the 16% vs. 15% on the impervious coverage especially if they pull out the gravel area. There were no objections. They will return next month with revised plans and at the request of Mr. Smith the proposed building will be called a private garage. Attorney Gavan noted July 23rd at 7:00 PM with no further notice. Mr. Selvaggi asked the board to allow this application to be heard before his other application next month.

New Business:

#ZB21-002 Belvidere NJ Congregation of Jehovah's Witnesses, Block 68, Lot 10.01

They have requested an extension of their approval. Attorney Gavan said it would be appropriate generally to grant a one-year extension. There had been county delays and financial hardships. He also noted that although this was a zoning board application the entire land use board can act on this. Ms. O'Neill made the motion to approve the extension. Motion seconded by Ms. Mezzanotte. In a voice vote all were in favor.

Chairman Taylor opened the meeting to general public comments. There was no public.

Other Business

Chairman Taylor asked if there was anything new on the lighting, full build out analysis or the rental draft ordinance. Attorney Gavan said regarding the rental ordinance he was going to get a penalty scheme, but the sample towns he was going to use all had their own police departments. So, their penalties are tied into what it cost for the police work. Chairman Taylor asked about the full build out analysis. Mr. Mathez said they should be done soon. Regarding the lighting ordinance Mr. Mathez had asked Mr. Werner to review the existing ordinance. There was discussion on correspondence with the zoning officer. Chairman Taylor recalled the zoning officer used to come to the board of adjustment meetings occasionally. Attorney Gavan said they could bring up to the township committee to add to his job description submitting quarterly reports. This would be facilitated by the board members who are on the township committee. This would also help with the annual report if there were things in the ordinances that need to be tweaked.

General Comments:

Ms. O'Neill went over the scenario of businesses that came before the board, had applications approved with numerous conditions and the conditions have not been completed. She recalled going before the township committee years ago with a problem involving a business and the township attorney wrote a letter telling them to cease and desist or they would get a \$1,000 per day fine. That stopped the issue. She wonders if they could suggest this to the committee to implement this for these businesses. Attorney Gavan feels in her instance there was a nuisance noise ordinance involved. He suggests the businesses she is aware of should be brought to the board or the zoning officers' attention and a letter be drafted telling them their approval is null and void. Then this would go to the zoning officer to cite them and take them to court. They should not have received a C.O. if they didn't comply with the conditions. Attorney Gavan said email the addresses to him and he will follow up with the zoning officer.

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. Baley. In a roll call vote all were in favor.

Adjournment:

A motion to adjourn was made by Ms. Mezzanotte and seconded by Mr. Baley. In a voice vote all were in favor. The meeting was adjourned at 10:10 P.M.

Respectfully Submitted:



Doreen Apgar,
Board Secretary