

# **INDEPENDENCE TOWNSHIP LAND USE BOARD**

**Minutes – March 21, 2016**

The Independence Township Land Use Board met for a regular meeting on Monday, March 21, 2016 in the Municipal Building on Rt. 46 in Great Meadows, NJ. Ricardo Fernandez called the meeting to order at 7:37 p.m. and he stated that the meeting is being held in accordance to the Open Public Meetings Act by posting said notice of this meeting on the bulletin board in the Municipal Building and notifying the Municipal Clerk. Advertisement of notice was placed in the Star Gazette of Hackettstown, NJ and sent to the Express Times of Easton, PA.

## **ROLL CALL:**

Present:	Muriel Walter Ricardo Fernandez Mark Rafalko Tim Norton Glen Cougle	Carmen Feula George Ulmer Robert Best Melissa Milano James Kelsey (arriving at 7:51 p.m.)
Absent:	Geoffrey Cullen	Donald Engels
Also Present:	William Gold, Esq.	Kevin Smith, P.E.

## **MINUTES:**

The minutes from the February 8, 2016 meeting were distributed prior to the meeting.

Mrs. Walter made the motion to adopt the minutes. Motion seconded by Mr. Ulmer. Roll call vote: Ayes: Mrs. Walter, Mr. Feula, Mr. Rafalko, Mr. Ulmer, Mr. Norton, and Chairman Fernandez.  
Nays: None recorded  
Abstain: Mr. Best, Mr. Cougle, and Ms. Milano, who was not present at the February meeting and they are not eligible to vote on the Minutes.

The Executive Session Minutes from February 8, 2016 were distributed prior to the meeting. Mr. Feula made the motion to adopt the minutes. Motion seconded by Mrs. Walter. Roll call vote: Ayes: Mrs. Walter, Mr. Feula, Mr. Rafalko, Mr. Ulmer, Mr. Norton, and Chairman Fernandez.  
Nays: None recorded  
Abstain: Mr. Best, Mr. Cougle, and Ms. Milano, who was not present at the February meeting and meeting and they are not eligible to vote on the Minutes.

## **OPEN TO THE PUBLIC:**

Chairman Fernandez opened the meeting to the public, for non-agenda items. With there being no public comment, the meeting was closed to the public.

## **OLD BUSINESS:**

**#11-001 Woodmont Independence LLC (formerly Bilby Estates) Block 3, Lot 6.02**  
This matter continues to be carried.

## **NEW BUSINESS:**

**#16-002 Robert Meidling, Block 1, Lot 67.05**  
Michael Selvaggi, Esq. was present on behalf of the Applicant. Also present Robert Meidling who was sworn in. Board Attorney Gold noted that there were two notice issues, where the

Township of Hackettstown was not served and Elizabethtown Gas was mailed to the incorrect address. Attorney Selvaggi stated that they provided letters from both entities acknowledging that late notice was provided. He stated that he is comfortable proceeding this evening.

Mr. Meidling stated that the proposal is for an accessory building for A. Landolfi who collects classic cars. He stated that Mr. Landolfi presently has six cars and he plans on having nine. He stated they the building is presently being designed by an Architect and will not be used for any commercial use. He stated that the proposed building is going to be constructed in the rear of the property and will be built into the bank of the property. He stated that it will be 14 feet high and there will be electricity but no plumbing. Mr. Kelsey arrived. He stated that the building materials have not been determined as of yet. Mr. Ulmer questioned the drainage, which both Mr. Meidling and Board Engineer Smith addressed. Board Engineer Smith also addressed the setback requirements. Chairman Fernandez stated that no elevations were submitted and he questioned what the proposed structure will look like. The following was submitted and marked as an Exhibit:

#### A-1 Architectural Drawing

The Board continued to discuss and review the proposal, the location of the structure, and what the exterior finishes will be. Mr. Meidling stated that the proposal is for a residential appearing type of exterior finish.

The hearing was opened to the public. With there being no public comment, the hearing was closed to the public.

Attorney Selvaggi stated that they are trying to achieve a desirable visual impact in housing the cars in the proposed structure and the structure will appear in character with the neighborhood. He stated that they will agree to conditions.

Chairman Fernandez made the motion to grant the variance relief conditioned that the proposed accessory building will have a residential type finish, that it will comply with the Township height requirement, it will not be used for any commercial purpose, and that the vehicles stored will be owned by the property owner. Motion seconded by Mr. Feula. Discussion on the motion: No additional Board comments. Roll call vote:

Ayes: Mr. Feula, Mr. Rafalko, Mr. Ulmer, Mr. Cougle, Ms. Milano, and Chairman Fernandez.

Nays: Mr. Best, Mr. Norton, and Mrs. Walter.

Abstain: Mr. Kelsey who arrived during the testimony and is not eligible to vote.

Attorney Selvaggi clarified that tonight's hearing is for a Zoning Board of Adjustment application and the Class I and Class III Board Members are not eligible to vote on the matter. It was determined that a new vote will need to be taken. The Board discussed the role of the Zoning Board of Adjustment and the Board continued to discuss the merits of the application.

Chairman Fernandez made the motion to grant the variance relief conditioned that the proposed accessory building will have a residential type finish, that it will comply with the Township height requirements, that it will not be used for any commercial purpose, and that the vehicles stored will be owned by the property owner. Motion seconded by Mr. Rafalko. Roll call vote:

Ayes: Mr. Norton, Mrs. Walter, Mr. Rafalko, Mr. Ulmer, Ms. Milano, and Chairman Fernandez.

Nays: None recorded.

Abstain: Mr. Best; Mr. Feula and Mr. Cougle, who are the Class I and Class III; and and Mr. Kelsey who arrived during the testimony and is not eligible to vote.

**OTHER BUSINESS:**

**Kittatinny Valley State Park, Kenco/Wetlands Mitigation, Block 29, Lot 28**

Marcus Gray, Director of the North Jersey Resource Conservation Development Council, was present and he was sworn in. Board Attorney Gold reviewed tonight's presentation on the project being proposed. He stated that the Board can not approve or deny this proposal, but make recommendations.

Mr. Gray went on to review their funding and the proposal to convert a sod farm to a wetland property. He stated that historically the property was a wetlands and it was drained so that it could be farmed. He reviewed the benefits of the proposal that will support birding, hunting, fishing, and hiking. He reviewed the deer fencing being proposed to protect the proposed planting of trees. The Board Members reviewed and discussed the proposal. The following concerns were note: the deer fencing being proposed will force animals, that would normally graze on the subject property, to neighboring properties; the loss of farmland; and the attraction of mosquitoes. Mr. Gray addressed the mosquito issue, which was discussed with the Board.

Craig Metzger was sworn in and he stated that his firm has been retained to do the necessary work and studies in regards to the proposed project. He addressed the flooding concerns. Mr. Gray addressed the temporary fencing and the grazing of the deer. Mr. Best questioned what will be gained and he stated his concerns. Mr. Gray stated that they will be planting native trees and grasses, that will provide habitats for birds and animals. The Applicants continued to review the project, with the Board.

The meeting was opened to the public. With there being no public comment, the meeting was closed to the public.

The Board thanked Mr. Metzger and Mr. Gray for attending tonight and they continued to discuss the issues. It was suggested that funding be provided to the Warren County Mosquito Commission to assist them in the mosquito control. It was also asked if there is a "Plan" in place as this is now the second wetlands project. Board Attorney Gold reviewed the concerns raised this evening. Mr. Norton stated that the fencing and the degradation of neighboring crops, should also be included in the list of concerns. Mr. Ulmer also suggested grant funding or financial responsibility for clean up.

Mr. Feula made the motion to not recommend the proposed project and that a letter be drafted and sent out outlining the concerns as discussed this evening. Motion seconded by Mr. Ulmer.

Roll call: Ayes: Mr. Norton, Mrs. Walter, Mr. Rafalko, Mr. Cougle, Mr. Ulmer, Mr. Best, Mr. Kelsey, Mr. Feula, and Chairman Fernandez.

Nays: None recorded.

Abstain: Ms. Milano who is an Alternate this evening.

At 9:34 p.m. the Board took a brief recess. The regular meeting resumed at 9:51 p.m., with the following Board Members present: Mr. Ulmer, Mr. Norton, Mrs. Walter, Mr. Rafalko, Mr. Feula, Mr. Cougle, Ms. Milano, Mr. Best, Mr. Kelsey and Chairman Fernandez.

**Land Use Committee-Highlands/COAH Compliance Project**

Chairman Fernandez updated the Board on his conversation with Board Planner Banisch.

**Spender Family Trust, Block 1, Lot 29**

Chairman Fernandez stated that he briefly reviewed the matter during the break and he stated that he thinks that the Board should review the matter further. Board Attorney Gold stated that he will contact with the Applicant's Attorney Richard Keiling.

**Other**

Chairman Fernandez suggested that the checklists be amended to require a PDF submission.

Chairman Fernandez made the motion to recommend a PDF submission, in addition to the hard copies. Motion seconded by Mr. Cougle. Roll call vote:

Ayes: Mr. Norton, Mrs. Walter, Mr. Rafalko, Mr. Cougle, Mr. Ulmer, Mr. Best,  
Mr. Kelsey, Mr. Feula, and Chairman Fernandez.

Nays: None recorded.

Abstain: Ms. Milano who is an Alternate this evening.

**Site Plan Committee Report-None****Ordinance Discussion-None****Master Plan Subcommittee Update**

Chairman Fernandez stated that the Board has not received anything new; however, based upon what Mr. Cullen stated last month, perhaps the Board may not to address anything new.

**Litigation Update**

Board Attorney Gold stated that dismissal was denied and briefs are to be submitted within three months, with a reply to be submitted within 60 days after that. He stated that trial date should be set for the Fall.

**BILLS:****Finelli Consultants**

Re: General	287.50
Re: Meidling	402.50
Re: Top of the Hill	862.50

**William Gold**

Re: General	935.55
Re: Meidling/Landolfi	54.45
Re: Top of the Hill	206.25
Re: Pio Costa	62.45

Mr. Norton made the motion to approve the vouchers. Motion seconded by Mr. Cougle. Roll call vote: Ayes: Mr. Norton, Mrs. Walter, Mr. Rafalko, Mr. Cougle, Mr. Ulmer, Mr. Best, Mr. Kelsey, Mr. Feula, and Chairman Fernandez.  
Nays: None recorded.  
Abstain: Ms. Milano who is an Alternate this evening

**OTHER:**

Mrs. Walter questioned the correspondence regarding Duke's Landscaping, which the Board briefly reviewed with the Board Professionals.

**ADJOURNMENT**

In a motion made and seconded the Board adjourned the meeting at 10:10 p.m. Voice vote:

Ayes: Mr. Norton, Mrs. Walter, Mr. Rafalko, Mr. Cougle, Mr. Ulmer, Mr. Best,  
Mr. Kelsey, Mr. Feula, and Chairman Fernandez.

Nays: None recorded.

Abstain: Ms. Milano who is an Alternate this evening

Respectfully submitted,

Alfia Schemm  
Board Secretary  
4/18/16