

# INDEPENDENCE TOWNSHIP LAND USE BOARD

Minutes – August 15, 2016

The Independence Township Land Use Board met for a regular meeting on Monday, August 15, 2016 in the Municipal Building on Rt. 46 in Great Meadows, NJ. Chairman Fernandez called the meeting to order at 7:35 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	Carmen Feula
	George Ulmer	Tim Norton
	Melissa Milano	Ricardo Fernandez
	Geoffrey Cullen	
Absent:	Robert Best	Mark Rafalko
	Glen Cogle	Donald Engels
	James Kelsey	
Also Present:	William Gold, Esq.	Mike Finelli, PE

## MINUTES:

The minutes from the July 18, 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, and Mr. Ulmer  
Nays: None recorded

Abstain: Mr. Norton, Mr. Cullen, Ms. Milano, and Chairman Fernandez, who were not present at the July meeting and they are not eligible to vote on the minutes.

The executive session minutes from the July 18, 2016 meeting were distributed.

Mr. Feula made the motion to adopt the minutes. Motion seconded by Ms. Walter. Roll call vote: Ayes: Mrs. Walter, Mr. Feula, and Mr. Ulmer  
Nays: None recorded

Abstain: Mr. Norton, Mr. Cullen, Ms. Milano, and Chairman Fernandez, who were not present at the July 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.

## MEMORIALIZING RESOLUTION:

### **#16-003 Robert Burd, Block 30, Lot 1**

The Board reviewed and discussed that Mr. Feula, Mrs. Walter, and Mr. Ulmer are the Board Members eligible to adopt the Resolution and one of them will sign the Resolution. Board Attorney Gold then went on to review the Resolution.

Mr. Ulmer made the motion to adopt the Resolution. Motion seconded by Mrs. Walter. Roll call vote:

Ayes: Mrs. Walter, Mr. Feula, and Mr. Ulmer

Nays: None recorded

Abstain: Mr. Norton, Mr. Cullen, Ms. Milano, and Chairman Fernandez, who were not present at the July meeting and are not eligible to vote on the Resolution.

**OLD BUSINESS:**

**#11-001 Woodmont Independence LLC (formerly Bilby Estates) Block 3, Lot 6.02**

The Board discussed the status of the matter. It was agreed that this matter would remain on the agenda until the next meeting, so that the status can be researched.

**NEW BUSINESS:**

**#16-004 Jonathan Beyer, Block 22, Lot 44**

Jonathan Beyer was sworn in and he reviewed that he wishes to have a BBQ stand on Saturdays, at the Hope Bank parking lot, until the end of October. He stated that he is working with the Health Department to get his approvals; however, there would be no bathroom facilities. Chairman Fernandez stated that the proposal is to be located on Route 46 and commented on the public safety review of traffic circulation in and out of the site and the lack of delineated parking. Board Attorney Gold commented on the temporary basis of the proposal and he stated that he could draft a Resolution outlining the Board's position if it were to grant a waiver of site plan. The Board continued to discuss the circulation and Chairman Fernandez stated that he is concerned about the Township liability. Engineer Finelli stated that the Board did receive a plan; however, it is lacking detail/information/dimension. He then reviewed Board Engineer Smith's August 12th report, which was discussed. He recommended that any approval be for 2016 and the Board revisit the matter if Mr. Beyer, wishes to proceed in 2017, as there are certain things, traffic cones, that may need to be implemented to cue traffic, etc. The Board was polled and Ms. Milano did not think that traffic would be an issue; however, she suggested that he not permit trailers. Mrs. Walter stated she felt that he should be allowed to try it out. Mr. Norton questioned the benefit to the Township and he stated his concern over the waiver of a site plan as the Board has requested it from others. Mr. Ulmer stated that there are existing farm stands and he thinks that he should be allowed to try the venture on a trial basis. Mr. Feula stated that he thinks that the Township should let him try. Mr. Cullen stated he feels that there should be cones or striping and the matter should be revisited if Mr. Beyer were to be get very busy. Chairman Fernandez addressed the public safety issues review and the lack of traffic control and the review of the proposal. Board Attorney Gold stated that perhaps the Board could defer site plan to see if there is even a problem. Chairman Fernandez asked if Mr. Beyer had looked into temporary alternate permitting. The Board continued to discuss the proposal, liability, insurance, vendor/peddlers permits and the Township Ordinance.

Mr. Feula asked if Mr. Beyer can be granted permission under the Peddlers License Ordinance; subject to him closing a half an hour before dusk and requiring the Police Department and Fire Marshall to review the proposal. The Board continued to discuss the matter and the best way to handle the matter.

Chairman Fernandez stated that upon reviewing all of the testimony provided this evening and the Township Ordinance, that a site plan is not required, and that the Applicant should apply/obtain a Peddlers License with the Township Clerk. Motion seconded by Mr. Feula. Discussion on the motion: Board Attorney Gold suggested that the Applicant withdraw the application, so that a Resolution does not need to be written. The matter was discussed as to whether Mr. Beyer can comply with the Peddler License and whether the Applicant should withdraw his application. After a discussion, Mr. Beyer agreed to not withdraw his application. Roll call vote:

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

Nayes: None recorded

Abstain: None recorded

**OTHER BUSINESS:**

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

Board Planner Banisch was unable to attend tonight's meeting as there was a death in his family.

**MEMORIALIZING RESOLUTION:**

**#16-003 Robert Burd, Block 30, Lot 1**

Mr. Gold asked that the Board authorize an Alternate Board Member to sign the Burd Resolution. Mr. Feula made the motion to authorize Mr. Ulmer to sign the Resolution. Motion seconded by Mrs. Walter. Roll call vote:

Ayes: Mrs. Walter, Mr. Feula, and Mr. Ulmer

Nays: None recorded

Abstain: Mr. Norton, Mr. Cullen, Ms. Milano, and Chairman Fernandez, who were not present at the July meeting.

**OTHER:**

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

The Board discussed the status of the matter and possibly hearing this issue at the Board's October meeting. Mr. Feula updated the Board on the conference call that he was involved in and the resubmission/modifications being proposed. (Mr. Norton received a telephone call and left at 9:27 p.m.) Board Attorney Gold stated that he will confirm the DEP's attendance at the October meeting.

**EXECUTIVE SESSION:**

Mr. Feula made the motion to go into Executive Session to discuss pending litigation. Motion seconded by Mr. Ulmer. Voice Vote:

Ayes: Mrs. Walter, Mr. Feula, Mr. Cullen, Ms. Milano, Mr. Ulmer, and Chairman Fernandez.

Nays: None recorded

Abstain: None recorded

**WHEREAS**, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting in certain circumstances; and

**WHEREAS**, this public body is of the opinion that such circumstances presently exist;

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of Independence, Warren County, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter-specified subject matter.
2. The general nature of the subject matter to be discussed is as follows: Pending Litigation.
3. It is anticipated at this time that the above stated subject matter will be made public at the conclusion of each individual specified subject matter.
4. This Resolution shall take effect immediately.

Date adopted: August 15, 2016

Mr. Feula made the motion to come out of Executive Session. Motion seconded by Mr. Cullen. Roll call vote:

Ayes: Mrs. Walter, Mr. Feula, Mr. Cullen, Ms. Milano, Mr. Ulmer, and Chairman Fernandez.

Nays: None recorded

Abstain: None recorded

**BILLS:**

**Finelli Consultants**

Re: General	86.25
Re: Burd	690.00

**Banish Associates**

Re: Burd	560.00
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**William Gold**

Re: Burd	660.00
Re: General/Litigation	1674.75
Re: Spender Family Trust	62.45

Mr. Ulmer made the motion to approve the vouchers. Motion seconded by Mrs. Walters. Roll call vote in favor:

- Ayes: Mrs. Walter, Mr. Feula, Mr. Engels, Mr. Ulmer, Mr. Cogle, and Mr. Kelsey.
- Nays: None recorded
- Abstain: None recorded

**ADJOURNMENT**

In a motion made and seconded the Board adjourned the meeting. Voice vote:

- Ayes: Mrs. Walter, Mr. Feula, Mr. Engels, Mr. Ulmer, Mr. Cogle, and Mr. Kelsey.
- Nays: None recorded
- Abstain: None recorded

Respectfully submitted,

Alfia Schemm  
Board Secretary  
10/13/16