

Holland Township Land Use Board

Minutes of the Regular Meeting

June 12, 2023

(Notice-The Chairman reserves the right to change or revise the order of the agenda as needed. Formal action may or may not be taken)

The meeting was called to order by the Land Use Administrator Kozak:

Chairman: I call to order the June 12, 2023 Regular Meeting of the Holland Township Land Use Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Land Use Administrator by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Publishing the notice in the December 8, 2022 edition of the Hunterdon County Democrat
3. And faxing to the Express-Times for informational purposes only.

Chairman Martin asked all to recite the Pledge of Allegiance

Identification of those at the podium

Present: Jerry Bowers, Dan Bush, Joe Cinquemani, , Ken Grisewood (arrived 7:05pm) , Peter Kanakaris, Michael Keady, William Martin, Mike Miller, Nickolas Moustakas, Kelley O'Such, Ryan Preston, Scott Wilhelm, John Gallina, Esq., Adam Wisniewski, Engineer and Darlene Green, Planner, Kendra Lelie, Sub Planner, Bryce Good, Sub Engineer, Lucille Grozinski, Court Reporter and Maria Elena Jennette Kozak, Land Use Administrator.

Absent: Bill Ethem

Let the record show there is a quorum.

Minutes

A motion was made by Mike Keady and seconded by Jerry Bowers to approve the minutes of May 8, 2023. All present were in favor of the motion with the exception of Kelley O'Such and Scott Wilhelm who abstained. Motion carried.

Old Business:

Block 2 Lot 1.02 – Holland Solar Farm LLC - 10 Mill Road – Preliminary & Final Site Plan Approval granted Application - Received into the office on June 12, 2020. The 45-day completeness deadline is July 27, 2020. Deemed Incomplete July 13, 2020. Additional information submitted for completeness. Alternate/Substitute Engineer and Planner required. Extended from August 10, 2020 and deemed complete September 14, 2020. Public Hearing September 14, 2020, and October 12, 2020 Approved October 12, 2020 with conditions. Attorney authorized to prepare the resolution for memorialization. November 9, 2020 resolution memorialized. The applicant has been working on satisfying conditions of the approval. **Applicant disturbed more land than approved for (removed trees and about 4 acres of disturbance). Applicant is asking the board to consider disturbance mitigation an administrative change where professionals and outside agencies can review/resolve rather than the submittal of an amended site plan to the Land Use Board-** Board Action needed.

Professionals present for the applicant: Attorney Bellin, Engineer Hill, Licensed Soil Remediation Professional (LSRP) Ferguson – The applicant did not file an amended application. This project is up and running and producing electricity. The applicant is trying to close out the project. There were conditions of approval however one of their contractors cleared trees outside of what was approved with the application approval. The applicant self-reported to the New Jersey Department of Environmental Protection (DEP) and also had a meeting with the Hunterdon County Soil Conservation District (HCSCD). A tree restoration plan was approved by the DEP which was presented to our sub engineer, Finelli Engineering. The applicant is before the Land Use Board to see if the board will permit the board professionals to approve administratively. The area in question is outside the fenced area. Sub Engineer Good has visited the location and reviewed the plan. Attorney Gallina explained that the bulk of tree removal (approx. 3 acres) was in the riparian zone which is the jurisdiction of the DEP. Member Wilhelm stated that 4 acres in total were disturbed and that is a large disturbance to just come before the board and request forgiveness which had Attorney Bellin stating that they are not asking for forgiveness as they agree that the tree removal was not intelligent and is costing a lot of money to remediate. Additional questions from Member Wilhelm included asking what was the scope of work of the site plan granted then comparing to what was disturbed while asking the question is the disturbance de-

minimis? Ian Hill from Van Cleef Engineering was sworn in by Lucille Grozinski. Engineer Hill explained that during the first week of October the sub discussed tree trimming not tree removal around perimeter. HCSCD altered Engineer Hill that 4 acres of trees were cut down and the project reported the tree removal to the DEP and then back to the HCSCD with the restoration plan. Sub Engineering office Finelli received plans showing what was approved and then the additional removal. The 3 acres was in the DEP jurisdiction and then 2 smaller areas were outside the DEP jurisdiction which is Holland's jurisdiction.

Exhibit P1 – Limited Disturbance Plan dated May 9 2023 with pink showing approved and blue showing the tree removal of violation area. Replanting...60 whips near the old fire pond and 136 driveway side up near stream. Member Grisewood presented questions about the size of the trees removed with the height and size of what is approved by DEP for replanting and struggled with the presentation. 196 Whips are not equal to what was removed which were mature trees. The conversation extended to the potential survival rate of the proposed 196 whips. You are not comparing the same as. More discussions took place with Attorney Bellin "stating that yes, the trees were removed as well as shrubs and overgrowth yet the applicant is being tasked with finding trees that would like in the environment to compensate for what was disturbed which had a forester and arborist working on the project. Consideration regarding the sensitivity of the riparian zone is also something that weighed in with decisions on replacement. Attorney Bellin also reminded the board that the DEP requires a bond for 5 years so there is more involved than just replanting the trees. Member O'Such had additional questions regarding the riparian zone is limited for Holland Township to respond however, there can be additional supplemental work performed in other areas that Holland can request. He further asked if the applicant has discussed with the property owners planting in additional lands owned by the property owner. Engineer Hill commented that there could be other areas with Attorney Bellin stating that they need to be careful of panels and that the project is only leased to the fenced area. Rodger Ferguson, LSRP with Penn Jersey Environmental Consulting was sworn in by Lucille Grozinski. LSRP Ferguson reminded everyone that the property is a brownfield and portions of the property are capped or there is a limit to what can be done. The limit inside the fence is that additional trees cannot be added however, he can explore outside the fence. Everyone was reminded that the board approved an extensive Landscape Plan and that the applicant agreed to filling in with extra landscape to fill in gaps once site visits were performed. Member Bowers shared that this is not the first instance of the developer disturbing the riparian zone and Holland Township not being awarded the compensation or repair to the community. The past episode had the applicant working with the DEP to approve a mitigation program that was NOT in Holland Township. Now Holland Township is presented with an approved DEP restoration plan for another "issue" and Holland Township has not had recourse. Member Bowers expressed displeasure with the state. Attorney Bellin clarified that the first episode had the contractor building an access path into the field and strayed which caused semi improved areas along the side of the property to bring in equipment. On-site mitigation outside the fenced area had the owner requesting a 1.2 million cash payment to improve the area, however Attorney Bellin state that the applicant was offended by the property owners request and they went to the DEP saying they could not afford the 1.2 million to plant trees and clean up the area so the DEP encouraged them to do the mitigation bank in Oxford. This mitigation bank enabled them to submit a check for \$500,000.00 and the issue was satisfied without consultation or input of Holland Township and with disregard to the Holland Township approval for the project. Member Bowers said the "fix" was fantastic for the applicant however Holland Township is still left with significantly disturbed land which is unacceptable! The applicants professionals stated that the Oxford Bank is something outlined in the permit and therefore was always an option. This does not sit well with Holland Township.

Member Miller circled back to sub Engineer Good and asked if the plan approved by the DEP was an equitable plan which Engineer Good responded that the response of the DEP is a typical response. The DEP evaluates the site constraints however we do not have the ability to sway them. Member Grisewood asked about reducing the solar project and Attorney Bellin stated that the project is already sold which Member Wilhelm explained that the applicant is the developer and the public utility owns the project. Attorney Belling stated that they are appearing as the developer. Engineer Hill addressed the question regarding monitoring the whips which would be 2 times per year and replacement of anything that does not live. Another question asked was if the DEP would have approved 4 acres of tree removal with sub Engineer Good stating that while he cannot answer that question and believes that they would have required a mitigation requirement. While the landowner had a say in tree replacement, the Township was not consulted and the applicant was asked if they would consider working with the Township for additional mitigation.

After additional conversations, Member Wilhelm asked for clarification. He believes that the applicant needs to submit something to the board for consideration. Everyone being present tonight and just talking is not the correct procedure for the board to make a decision. A package needs to be submitted to the Land Use Administrator. A comprehensive plan (amended site plan) should be submitted for consideration. After more conversations, the applicant will submit to the Land Use Administrator that the performance bond was submitted as required and that the applicant will be on the next agenda of July 10th to finish discussing this request for administrative direction rather than submittal of an amended site plan. Information submitted and approved by the DEP will be submitted to the Land Use Administrator for distribution to the board. The HCSCD approvals will also be submitted for distribution. Public member Pederson mentioned that he believes that there are other documents that the board should consider but the meeting was not open to the public so Mr.

Pederson was not able to further discuss the documents he wanted considered. The July 10, 2023 meeting will begin at 7pm.

New Business:

There was no New Business scheduled for this meeting at this time on the agenda.

Completeness Review:

- **Block 11 Lot 13 – 239 Rummel Road – Vukusich, Jonathan & Lynann – Variance. Received into the office May 18, 2023. The 45-day completeness deadline is July 2, 2023. Completeness review June 12, 2023 – Board Action Needed.**

Let the record show that Member Mike Keady recused himself from the meeting. He left the meeting room.

A professional review is an advisory review and submitted for the board to accept some, none or all the recommendations in the report. Land Use Administrator Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.

Our Board Engineers submitted the report as follows:

June 9, 2023

Land Use Board

Township of Holland

61 Church Road

Milford, NJ08848

Completeness Report #1

Variance Application

Jonathan and Lynann Vukusich

Lot 13, Block 11 – 239 Rummel Road

Colliers Engineering & Design Project No. HLP-0039

Dear Board Members:

Pursuant to your request, we have reviewed for completeness plans, applications and other documents filed by the Applicant Jonathan and Lynann Vukusich in support of a Variance Application for Lot 13 in Block 11 situated at 239 Rummel Road including:

1. Correspondence from Maria Elana Jennette Kozak, Land Use Administrator, to the applicant confirming submission of items in support of the Variance Application, dated May 22, 2023;
2. Correspondence from Maria Elana Jennette Kozak, Land Use Administrator, to Kim Vella confirming receipt of an OPRA request for the subject property, dated May 1, 2023;
3. Completed W-9 Form, undated;
4. Completed Hunterdon County Health Department Construction Permit Referral Form, dated May 1, 2023;
5. List of property owners within 200-feet of the subject property, dated May 4, 2023;
6. Completed Checklist for Determining Completeness of Application under Chapter 101 Highlands Land Use Ordinance, undated.
7. Completed Planning Board & Board of Adjustment Application Form, undated;
8. Completed Replenishment of Escrow Accounts Agreement, dated May 1, 2023;
9. Correspondence from Maria Elena Jennette Kozak to the Holland Township Finance Office confirming receipt of escrow replenishment, dated May 22, 2023;
10. Municipal Tax Certification, dated April 28, 2023;
11. Plan entitled "Boundary and Topographic Survey" consisting of one (1) sheet prepared by Wayne Ingram, PLS, of Engineering and Land Planning, dated December 19, 2022;
12. Architectural Plan entitled "Vukusich Residence – 239 Rummel Road, Milford, New Jersey", consisting of five (5) sheets, as prepared by Eric Trepkau, AIA, NCARB, of Eric Trepkau Architect, dated January 1, 2023, unrevised;

Application Summary

The property in question is situated on Rummel Road approximately 0.1 miles west of its intersection with Little York - Mount Pleasant Road (County Road 631). Lot 13 contains 1.43-Acres. The parcel is situated in the Township’s R-5 (Residential 5-Acre) District where single-family residential homes and agricultural uses are permitted with minimum lot areas of 5-Acres or greater.

Lot 13 is currently developed with a one-story single family residential dwelling, driveway and shed. The residence currently takes access to Rummel Road by way of a bituminous driveway.

The proposal for the property is to construct an attached garage to the one-story single-family dwelling. The proposed garage will measure 594 SF in size and be located on the westerly side of the dwelling approximately 40 feet from the side yard boundary line. There will also be an approximate 730-square foot expansion in the asphalt driveway in order to provide vehicular access to the proposed garage.

Per Land Use Ordinance Section 100 Attachment 6, a 75-foot side yard is required in the R-5 District while the garage is proposed at a side-yard setback of 23.3-feet. There are also a number of pre-existing non-conforming conditions on the lot, including a lot area of 1.43 acres where 5 acres are required, and a lot width of 150-feet where 325-feet are required. The aforementioned conditions necessitate the need for an application for variance relief.

We have the following comments on administrative issues:

A. Completeness

The applicant has submitted the Highlands Land Use Ordinance Checklist T along with the Highlands Land Use Ordinance Planning Board & Board of Adjustment Application along with the Standard Planning Board and Board of Adjustment Application. However, based upon correspondence this office has received from the Township’s Highlands Council Liaison Allison Bittner, we understand that the currently proposed improvements to an existing single-family home in the Highlands Planning Area are not regulated by the Highlands Land Use Ordinance, and would not require application to the Highlands Council by the applicant.

We reviewed the Application Package as submitted against Holland Township Land Use Checklist H for Board of Adjustment Applications:

- 1. We note the following deficiencies in the submitted application per the above referenced Checklist H:
 - a. Item H-13 – Deeds for the subject property.
 - b. Item H-15 – Photographs of the area on the site where improvements will be located.

Unless waived by the Board, the above referenced items must be addressed by the Applicant in order for the application to be deemed complete.

Conclusion

Should the applicant address the above referenced deficiencies prior to the hearing, or the Board waive the above items for completeness purposes only, we recommend that the application be deemed complete by the Board at this time.

If any Board Members have questions or comments on this report, please do not hesitate to call us.

Adam Wisniewski will be at the June 12, 2023 Board meeting to review this report with you.

Sincerely,

Colliers Engineering & Design, Inc.
(DBA Maser Consulting)



Paul M. Sterbenz, PE, PP
Planning Board Engineer



Adam T. Wisniewski, PE
Project Manager

Cc: Maria Elena Kozak, Board Secretary (via email planningboard@hollandtownship.org)
Darlene A. Green, PP, AICP, Board Planner (via email darlene.green@colliersengineering.com)
John Gallina, Esq. Board Attorney (via email jpgesq@embarqmail.com)

In summary, Engineer Wisniewski was presented and stated that the applicant wants to put up a garage which has setback issues as well as existing non conformities with lot size and lot width which all require a variance. Everyone reviewed the additional materials submitted. The Applicant's attorney was present. A motion was made by Scott Wilhelm and seconded by Dan Bush to deem this application complete and schedule the public hearing for the next Land Use Board meeting of July 10th. At a roll call vote, all present were in favor of the motion. Motion carried

- **Block 24 Lot 13 & 13.02 – Milford-Warren Glen Rd – Huntington Knolls LLC – Major Subdivision with variances-Received into our office May 22,2023 – The 45-day completeness deadline is July 7, 2023. Completeness review June 12, 2023. Board Action Needed**

Let the record show that the following members had to recuse (or were not present for the meeting), Mike Keady, Ken Grisewood, Kelley O'Such and Scott Wilhelm. Those present who recused left the meeting room.

This Huntington Knolls application replaces the Huntington Knolls application submitted in 2022 which was for a 3 lot subdivision which this is for a 2 lot subdivision.

A professional review is an advisory review and submitted for the board to accept some. none or all the recommendations in the report. Land Use Administrator Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file. Our Board Engineers submitted the report as follows:

June 9, 2023
Land Use Board
Township of Holland
61 Church Road
Milford, NJ08848

Completeness Review #2
Preliminary and Final Major Subdivision Application
Huntington Knolls Development Project
Lot 13, Block 24
Colliers Engineering & Design Project No. HLP-002

Dear Board Members:

Pursuant to your request, we have reviewed for completeness plans, applications and other documents filed by the Applicant Huntington Knolls Development Project in support of Preliminary and Final Major Subdivision Application for Lot in Block 24 including:

13. Correspondence from Maria Elana Jennette Kozak, Land Use Administrator, to the applicant confirming submission of items in support of the Preliminary and Final Major Subdivision Application, dated May 23, 2023;
14. Correspondence from Vincent Jovino to Peter D. Chandler, P.E. of Suburban Consulting Engineers, Inc., regarding the changes in Lot numbering for the subject property;
15. Correspondence from Maria Elena Jennette Kozak to the Holland Township Finance Office confirming receipt of escrow replenishment, dated May 23, 2023;
16. Correspondence from Peter D. Chandler, P.E., to Maria Elena Jennette Kozak summarizing submission items in support of Preliminary and Final Major Subdivision Application, dated May 22, 2023;
17. Correspondence from Peter D. Chandler, P.E., to the Hunterdon County Planning Board summarizing submission items in support of Preliminary and Final Major Subdivision Application with a Completed Hunterdon County Planning Board Development Review Application, dated May 22, 2023;
18. Legal descriptions prepared by Joseph D. Phil, PLS, of Suburban Consulting Engineers, Inc.;
19. Completed W-9 Form, undated;
20. Applicant Waiver Rider for the subject property;
21. List of property owners within 200-feet of the subject property, dated March 15, 2022;

22. Correspondence from New Jersey Department of Environmental Protection issuing permits for the construction of a booster pump station and water main, dated September 19, 2019;
23. Checklist for Determining Completeness of Application for Final Major Subdivision;
24. Checklist for Determining Completeness of Application for Preliminary Major Subdivision;
25. Completed ownership disclosure form;
26. Completed Planning Board & Board of Adjustment Application Form, undated;
27. Completed Checklist for Determining Completeness of Application under Chapter 101 Highlands Land Use Ordinance, undated.
28. Completed Replenishment of Escrow Accounts Agreement, dated May 1, 2023;
29. Site Plan entitled "Huntington Knolls Development Project – Lot 13, Block 24 – Township of Holland – County of Hunterdon, State of New Jersey" consisting of one (1) sheet prepared by Joseph D. Phil, PLS, of Suburban Consulting Engineers, Inc., dated March 24, 2023, unrevised;

Application Summary

The property in question is situated on Milford Warren Glen Road (County Road 519) approximately 1.1 miles west of its intersection with Spring Mills Road (County Road 614). Lot 13 contains 53.711-Acres. The parcel is situated in the Township's PCD/ PSV Zone (Planned Commercial Development/ Planned Senior Village) District where single-family residential homes and planned commercial development uses are permitted.

Lot 13 is currently partially developed with a two-story single family residential dwelling, driveway and shed. The residence is currently takes access to Milford Warren Glen Road by way of a shared bituminous driveway with the adjacent lot 13.01.

The applicant is proposing to subdivide Lot 13 into two (2) lots. Lot 13 shall include the existing single-family dwelling and consist of 25.485-Acres. The proposal for Lot 13.02 is to construct 107 townhomes and two (2) COAH buildings with associated site improvements on a proposed lot containing 28.226-Acres, which were the subject of previous land development applications before the Township Planning Board.

Per Land Use Ordinance Section 100-91.5 and the submitted plan, a minimum street frontage of 300 feet is required where a 50-foot frontage is proposed for Lot 13.02. Additionally, per Ordinance Section 100-91.13.B.2. the maximum building coverage shall be 6.5% where 11.72% is proposed. This necessitates the need for an application for variance relief.

We have the following comments on administrative issues:

B. Completeness

Preliminary Major Subdivision

1. Based upon a review of the submission package, the following deficiencies are noted:
 - a. Checklist Item B-7 – Certification from the Holland Township Tax Collector that all taxes for the subject property have been paid to date.
 - b. Checklist Item B-16 – Copies of existing protective covenants or deed restrictions, and a summary outline of proposed covenants or deed restrictions.

The above deficiencies must be addressed by the Applicant for the application to be deemed complete.

2. The Applicant is requesting waivers on the following items:
 - a. Checklist Item B-10 – Receipt indicating the delivery of a complete copy of the subdivision documents to the Hunterdon County Health Department.
 - b. Checklist Item B-11 – Receipt indicating delivery of a completed application for Soil Erosion and Sediment Control Plan Certification to the Hunterdon County Soil Conservation District.
 - c. Checklist Item B-12 – Fresh Water Wetlands Letter of Interpretation issued by the New Jersey Department of Environmental Protection.
 - d. Checklist Item B-19 – Stormwater management calculations and a Stormwater Management Plan in accordance with Article XXIV of the Holland Township Code.
 - e. Checklist Item B-20 – A Cut and Fill balance calculation certified by the design engineer.
 - f. Checklist Item B-22 – Twenty-one (21) copies of an Environmental Impact Assessment.
 - g. Checklist Item B-25 – Soil testing results certified by a Professional Engineer.
 - h. Checklist Item B-46 – Plans shall indicate the location of existing buildings, structures, wooded areas, lot lines, streets, easements, driveways, above and below power and utility lines, gas lines, petroleum lines and other transmission lines, and railroads within the portion to be subdivided and within two hundred (200) feet thereof.
 - i. Checklist Item B-47 – The plans shall indicate existing streams, bridges, culverts, drainage ditches, and natural watercourses in the tract and within four hundred (400) feet thereof.
 - j. Checklist Item B-55 – The plans shall indicate the Soil Classification in accordance with the Hunterdon County Soil Survey.

- k. Checklist Item B-56 – The plans shall indicate the location and results of passing, failing and abandoned soil permeability testing and soil logs.
- l. Checklist Item B-57 – The plans shall indicate the location of all existing sewage disposal systems and wells.
- m. Checklist Item B-58 – The plans shall indicate topography within two hundred (200) feet of the entire tract.
- n. Checklist Item B-59 – The plans shall indicate the location of existing buildings, structures, wooded areas, lot lines, streets, easements, driveways, above and below ground power and utility lines, and railroads within the tract and within two hundred (200) feet thereof.
- o. Checklist Item B-60 – The plans shall include engineering plans and profiles for all proposed streets, water mains, sanitary sewer, storm drains, and drainage swales.
- p. Checklist Item B-61 – The plans shall indicate the locations, sizes, elevations, grades, and capacities of existing sanitary sewer, storm drain, and drainage ditch or stream to which any proposed facility is to be connected.
- q. Checklist Item B-62 – The plans shall delineate an area for primary and secondary wastewater disposal field.
- r. Checklist Item B-63 – The plans shall include Storm Water Management Plan in accordance with Article XXIV of the Holland Township Land Use Code.
- s. Checklist Item B-65 – The plans shall include landscape, street tree planting, and buffer planting plan.

Testimony must be provided in support of the above waiver requests.

Final Major Subdivision

- 3. Based upon a review of the submission package, the following deficiencies are noted:
 - a. Checklist Item C-7 - Certification from the Holland Township Tax Collector that all taxes for the subject property have been paid to date.
 - b. Checklist Item C-17 – Submit an affidavit signed and sworn to by the applicant that the Final Plat is drawn and presented exactly the same as the preliminary plat approved by the approving authority.
 - c. Checklist Item C-19 – Submit copies of any existing protective covenants or deed restrictions, and a summary outline of proposed covenants or deed restrictions including applicable open space restrictions and provisions restricting further subdivision applying to land being subdivided.

The above deficiency must be addressed by the Applicant for the application to be deemed complete.

- 4. The Applicant is requesting waivers on the following items:
 - a. Checklist Item C-9 – Submit an engineer’s estimate of all proposed site improvements identifies on the preliminary plan, whether completed or remaining to be completed.
 - b. Checklist Item C-10 – If the required subdivision improvements have not been completed, submit a performance guarantee and a Developers Agreement in a form approved by the Municipal Attorney.
 - c. Checklist Item C-11 – If the required subdivision improvements have been completed and approved by the Municipal Engineer, submit a maintenance guarantee in a form approved by the Municipal Attorney.
 - d. Checklist Item C-12 – Letters from utility companies, in accordance with section 100-165 of the Holland Township Land Use Code.
 - e. Checklist Item C-14 – Submit a letter from the Holland Township Engineer stating that all conditions of Preliminary approval have been met.
 - f. Checklist Item C-15 – Submit three (3) copies of any an all existing and/ or proposed homeowners association documentation, where applicable.
 - g. Checklist Item C-42 – The plans shall indicate a streets and roads with correct names or route numbers.
 - h. Checklist Item C-44 – The plans shall indicate existing streams, drainage ditches, and natural watercourses in the tract and within one hundred (100) feet thereof.
 - i. Checklist Item C-52 – As built plans and profiles of all proposed streets, storm sewers, sanitary sewers and water mains as approved by the Township Engineer (if any).

Testimony must be provided in support of the above waiver requests.

Conclusion

Should the applicant address the deficiencies listed in A.1. and A.3. above, and the Board approve the requested waivers the application could be deemed complete at this time.

If any Board Members have questions or comments on this report, please do not hesitate to call us.

Adam Wisniewski will be at the June 12, 2023 Board meeting to review this report with you.

Sincerely,

Colliers Engineering & Design, Inc.
(DBA Maser Consulting)



Paul M. Sterbenz, PE, PP
Planning Board Engineer



Adam T. Wisniewski, PE
Project Manager

Cc: Maria Elena Kozak, Board Secretary (via email planningboard@hollandtownship.org)

Darlene A. Green, PP, AICP, Board Planner (via email darlene.green@colliersengineering.com)

John Gallina, Esq. Board Attorney (via email jpgesq@embarqmail.com)

Applicants professionals: Attorney Howard Apgar and Engineer Peter Chandler along with property representatives Patti and Vincent Jiovino Jr.

A few items were outstanding with proof being submitted that the taxes are current. The deeds were also provided. A signed affidavit for the plats needs to be done and Engineer Wisniewski spoke with Engineer Chandler. The request is that the affidavit be waived for completeness then submitted for the hearing. Engineer Wisniewski mentioned that the many of the waivers are carried from Engineer Roseberry's April 5 2022 review of the prior application. They need to be addressed but can be waived for completeness. Attorney Apgar stated that this is basically a one lot subdivision with remaining lands for a project that has been before the board for many years. Basically they are moving the residential house from the project. Member Moustakas asked for more details about the waivers. Engineer Peter Chandler of Suburban Consulting was sworn in by Lucille Grozinski. He is a licensed engineer in New Jersey and has testified before this board. He is accepted as an expert witness. He reminded everyone that this is a one lot major subdivision. The approved plan was also subdivided in the past with a similar carving of a residential home from the project. Lot 13 is a flag lot with frontage on Route 519. Currently the property includes a farmette in the south corner and the bar is on Lot 3. The applicant wants to carve the farmette from the project which would leave the remaining lands to satisfy the prior approved project for condos/townhouses and an affordable housing component. Phase 3 and Phase 4 would be the remaining lot of the approved plan. There would also be an open space and recreation area with that project. Discussion took place regarding the amount of land for the farmette and for the project as well as discussion of the road servicing the existing home of Lot 13.01 as well as the farmette and the project. No new access will be determined for Phase 3 and 4. There are really no changes being presented. There were conversations regarding the process that included bonding requirements, developers agreements, construction requirements. A motion was made by Dan Bush and seconded by Jerry Bowers to deem this application complete, grant the variances discussed this evening and to schedule the public hearing for July 10, 2024 with a meeting start time of 7pm. At a roll call vote, all present were in favor of the motion.

Resolution

There were no resolutions scheduled for this meeting at this time on the agenda.

Public Hearings

- **Block 26 Lot 27 – 105 Riegelsville Rd – Davina Lapczynski – Variance. Received into our office June 22, 2022 – The 45-day completeness deadline is July 11, 2022. Deemed Complete July 11, 2022. Public Hearing scheduled for August 8, 2022. Applicant granted an extension to the September 12, 2022 meeting (email 071822), then to October 10, 2022 (email 082622), then to November 14, 2022. (email 092122), then to December 12, 202 (email 102822), then to January 9, 2023 (email 120622) then to February 13, 2023 (email 010323) then to March 13, 2023 (email**

020723), to April 10, 2023 (email 030623), to May 8, 2023 (email 040523) to June 12, 2023 (email 050323) and to July 10, 2023 (email 052223) . Board Action needed July 10, 2023

- **Block 20 Lot 12 – 231 Riegelsville Rd – Chris & Sherri Karcher – Variance. Received into our office April 11, 2023 – The 45-day completeness deadline is May 26, 2023. Board deemed complete May 8, 2023. Public Hearing scheduled for June 12, 2023. Additional pictures required. Board Action Needed.**

A motion was made by Dan Bush and seconded by Mike Miller to open the public hearing. All present were in favor of the motion

Attorney Gallina stated that the board had jurisdiction to hear the application. The affidavit was presented as well as the certificates, proof of publication and property taxes are current.

Engineer Wisniewski discussed the application. The applicant wants to construct a 560 Sq Ft car port to house his Recreational Vehicle. The location is on the farm property but there is a setback issue for the location. He stated that he did not do a technical review but deferred to Planner Green.

Chris Karcher was sworn in by Lucille Grozinski.

A professional review is an advisory review and submitted for the board to accept some, none or all the recommendations in the report. Land Use Administrator Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.

Our Board Planner submitted the report as follows:

May 31, 2023

231 Riegelsville Road

Block 20, Lot 12

Review Letter #1 Project No. HLZ-0009

Dear Board Members,

Chris Karcher, the Applicant, seeks variance relief to permit a 15-foot by 40-foot and 14.5-foot-tall carport on the subject property. According to the documentation submitted, the carport will be used to store a recreational vehicle. Furthermore, the carport has already been partially constructed. The Application requires “C” variances, which are detailed in Section B.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Untitled Plans, including one hand-drawn sheet, unknown author, no date, consisting of 4 sheets.
2. Survey entitled “Location Survey”, prepared by Patrick H. Fatton, PLS of Patrick H. Fatton Land Surveying, LLC, dated March 28, 2023, consisting of 1 sheet.
3. Planning Board & Board of Adjustment Application Form, dated April 10, 2023.
4. Checklist, Board of Adjustment for Determining Completeness of Application, Section H, no date.
5. Planning Board & Board of Adjustment Application Form, Highlands Land Use, no date.
6. Checklist for Determining Completeness of Application Submitted Under Chapter 101 Highlands Land Use Ordinance, no date.
7. Untitled document, unknown author, no date, consisting of 1 page.
8. Letter entitled “RE: Denial Letter and Zoning Violation”, prepared by Maria Elena Jennette Kozak, Township Land Use Administrator, dated January 17, 2023, consisting of 3 pages.
9. Copy of Deed, dated December 23, 2014.
10. Photos, dated May 17, 2023, consisting of 3 pages.

The subject property is a 14.138-acre lot located on the north side of Riegelsville-Milford Road (County Route 687) in the R-5 Residential District. The property is in the Highlands Planning Area and is surrounded by residential and agricultural uses. See the image below for the general location of the site.¹

The bulk requirements of the R-5 District can be found in Section 100-46, the standards are as follows:

Minimum Lot Area 5 acres
Minimum Lot Width – 325 feet
Minimum Lot Depth – 350 feet
Minimum Setback from Street – 75 feet
Minimum Rear Yard Setback – 75 feet
Minimum Side Yard Setback – 75 feet

Maximum Height – 35 feet / 2.5 stories

The Application requires the following variances:

- Section 100-10A. – Variance for accessory building location. The Ordinance prohibits accessory buildings in required front yards. The subject property is in the R-5 Residential District, which requires a 75-foot front yard setback from the street line.

The Survey illustrates the carport 39.52 feet from the Riegelsville-Milford Road right-of-way line.

- Section 100-45A – Variance for number and use of garage. The Ordinance allows one private garage for the storage/housing of automobiles, trucks, or similar motor vehicles, for the use of the residents of the lot on which it is located, and their guests and lessees.

The Survey for Lot 12 illustrates a garage and a carport on the site. Google Streetview verifies the carport is being used to store automobiles. Therefore, the site already exceeds the permitted number of garages. Furthermore, the Untitled Document indicates the RV carport is on the lot adjacent to the property where the Applicant resides, which is Block 20, Lot 18. Therefore, the RV carport is not proposed to be used by the residents on the lot which it is located, which is Block 20, Lot 12.

oofs

“C” Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

tThe Application does not require any waivers/exceptions.

Based on our review of the above-referenced materials, we offer the following comments:

General

1. The Applicant’s professionals must provide testimony to support the grant of the “C” variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. The Untitled Document, which appears to be a letter from the Applicant, requests a variance from Section 100-15 for the location of the proposed carport. This appears to be in response to the Denial Letter and Zoning Violation issued by Township’s Land Use Administrator, dated January 17, 2023. However, our review of the Application found the Application complies with this section of the Ordinance. Section 100-15 states:

*For purposes of this Part 1, "major recreational equipment" is defined as boats and boat trailers, pickup campers or coaches (designed to be mounted on motor vehicles), motorized dwellings, tent trailers and the like. No major recreational equipment shall be parked or stored on any lot in a residential district, except on a lot being used as a camp, **unless** it is in a carport **or** enclosed building **or** behind the nearest portion of a building to a street... (emphasis added).*

The Applicant proposes to park their camper in the carport, which complies with Section 100-15 of the Ordinance.

3. The Untitled Document states, “Where it is now, we have an existing row of 50 pine trees as privacy so the building can’t be seen from the road. And I just planted additional trees to block the view of the whole building.” The Applicant should provide photographs of the existing buffering so the Board can visualize how the carport will be screened from public view. For reference, we have provided a Google Streetview of the site taken in April of 2023. The RV carport can easily be seen from the public street.
4. The Land Use Administrator’s letter states, “The location of the open side will not face Block 20, Lot 18 (your lot).” The Survey does not illustrate a proposed driveway to access the open (west) side of the carport. The Applicant shall provide testimony on how the camper will be driven (or towed) to the carport for storage.

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design

Darlene A. Green, PP, AICP
Board Planner

cc: Maria Elena Kozak, Planning Board Secretary (via email planningboard@hollandtownship.org) Paul Sterbenz, Board Engineer (via email paul.sterbenz@collierseng.com) John Gallina, Board Attorney (via email jpgesq@embarqmail.com) Patrick H. Fattou, Applicant's Surveyor (via email fattou@comcast.net)

Discussion included the request for additional screening for the project which Mr. Karcher stated that he had plans to add more screening. Discussion regarding the opening for the entrance which would be from the farm side of the property as it makes sense with how to use the carport. Member Bush stated that he was ok with the project as presented. Member Grisewood asked about the spacing of trees which are approximately 6' apart in planting. Mr. Karcher explained that he resides in the home next to the farm but that the farm is part of the family and is generational. Questions evolved regarding the need to shelter a RV which Attorney Gallina explained the ordinance. Mr. Karcher further explained that the location is the less invasive to the farm and will not require a lot of excavating either. If you move the location up then you are invading on the buildable soils. Member Grisewood stated that since the building is less than 2000 sq ft that the Stormwater ordinance is not triggered. This is a 560 sq ft structure to house a RV. Conditions can include outside agency approval, escrow being current, dimensions shown on plans, approvals of additional screening. Another question came up about living next door and that the intention is not to sell the properties as it is generational. The witness ad no additional testimony. The board had not more questions. The public hearing was opened to the public. There were no statements from the public so the public portion of the public hearing was closed with a motion made by Dan Bush and seconded by Mike Miller with all being in favor. A motion was then made by Dan Bush and seconded by Mike Miller to approve the application as submitted with conditions outlined during the public hearing and to authorize Attorney Gallina to prepare a resolution for consideration and memorializing. At a roll call vote, All present voted in favor of the motion with the exception of Scott Wilhelm who said no based on NJSA 40:55D-70(C)

40:55D-70 Powers.

57.Powers. The board of adjustment shall have the power to:

c. (1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of property the purposes of this act or the purposes of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in subsection d. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use, in conjunction with which the planning board has power to review a request for a variance pursuant to subsection a. of section 47 of this act; and

Motion carried.

Sub-Committee Status and Updates:

Home Occupation - Ken Grisewood had nothing new to discuss.

Holland Township Highlands Council Subcommittee –update – Engineer Wisniewski reminded the board that the Highlands Council offers training for the board professionals including the Land Use Administrator that would help homeowners who appear before the Land Use Board in making the Highlands determination to help streamline for the board. Does Holland Township want to consider this training? Discussion took place about a potential revision to the existing ordinance and with that being said, Mayor Bush stated that his opinion has not changed and he still thinks having applicants go to the Highlands Council for a determination is in the best interest of Holland Township. Mayor Bush further stated that it is easy enough for an applicant to obtain a letter as needed from the Highlands Council.

Public Comment

Dight Pederson – On the Holland Township Environmental Commission and the EC representative to the MWA. Dwight Pederson has attended many meetings regarding the Holland Solar project and he was very encouraged on how the applicant stated they would handle the increased buffering. Dwight Pederson knew about issues in the riparian zone and discussed the hardship letter. The applicant applied for the permit and the justification was onsite mitigation. He stated that he watched this project and was able to obtain the mitigation plan from the applicants engineer, Van Clef Engineering. The onsite mitigation became DEP approved offsite mitigation. He further explained that he wrote to the DEP questioning the offsite mitigation as well as questioning the additional disturbance by removing trees from the site with 3 acres with in the flood zone and 1 acre on another part of the property that is not governed by the DEP. He requests the Land Use Board to be accountable as he is of the opinion that the DEP did not protect Holland Township. Other groups are questioning the process as well. LUB member Grisewood asked if the MWA was asked by the DEP to weigh in on the mitigation and Dwight Pederson responded with a NO. Dwight Pederson also asked if the current Stormwater regulations would apply to the ongoing project known as Huntington Knolls with Engineer Wisniewski mentioning that as long as Huntington Knolls is current with their approvals meaning they have not expired then they are protected and everything stands as when the project was approved. Engineer Wisniewski reminded the board that Colliers had recused themselves from the Holland Solar project however, having been involved with the prior solar application the board needs to remember that the Highlands Council had made some requests to the applicant requesting that the applicant pull panels out of the riparian zone. LUB member Wilhelm reminded the board that discussion of the solar project should be halted as there is nothing before the board at this time.

Executive Session

There was no Executive Session scheduled at this time.

Housekeeping:

Nothing new to report at this time.

Adjournment

Dan Bush made a motion to adjourn. Motion approved. The meeting ended at 8:50 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak
Land Use Administrator