

Franklin Township Land Use Board
Meeting Minutes
June 1, 2023

The Franklin Township (Warren County) Land Use Board met for their regular meeting on Thursday April 6, 2023. Chairman Meltzer called the meeting to order at 7:30 p.m. and declared all aspects of the Open Public Meeting Act had been met by posting a notice of this meeting on the Municipal Bulletin board and providing a copy to the municipal clerk. Advertisement of notice was posted in the Star Ledger of Newark, NJ and the Express Times of Easton, Pa. as well as the Franklin Township website.

The Flag Salute was led by Mr. Meltzer.

ROLL CALL:

Members Present: Mr. Butler, Mr. Corde, Ms. Payne, Mr. Herzer, Mr. Meltzer, Mr. Santini, Mr. Sigler, Mr. Onembo, Mr. Guth, Mr. Balogh.

Members Absent: Mr. Kubik

Also Present: Attorney Richard Schneider, Engineer Michael Finelli, Planner James Kyle

MINUTES

Motion by Mr. Guth, seconded by Mr. Herzer to approve the minutes from May 4, 2023. Roll Call: Ayes: Mr. Butler, Mr. Corde, Ms. Payne, Mr. Herzer, Mr. Meltzer, Mr. Santini, Mr. Sigler, Mr. Onembo, Mr. Guth, Mr. Balogh.

CASE 23-2; Asbury Grist Mill Restoration Project Preliminary Site Plan & Use Variance Completeness & Public Hearing

At the request of the applicant, this application was carried to July 12, 2023 without further notice. It was announced that the public hearing will be held at 7:30 p.m. on July 12, 2023 and no further notice will be provided.

Comprehensive Farmland Preservation Plan Review and Consideration of adoption as an element of the master plan

Barbara Davis, NJ Land Conservancy, was present to present the plan and provide answers to any questions the board or public may have as well as Mr. Santini and Mr. Sigler of the Agricultural Advisory Board. Mr. Schneider stated that the notice requirements have been complied with under the NJ Land Use Law. Ms. Davis gave an overview of the process and why it is being done now. The plan was fully funded by outside sources. Ms. Davis described the chapters of the plan and what was included in each chapter and provided a "fact sheet" on Franklin Township preservation program and provided the funding sources and eligibility criteria for projects. She indicated that the SADC did approve the plan and the mapping for the plan. Ms. Davis made the recommendation that the board adopt the plan as an element of the master plan at this time.

The board did not have any comments or recommendations for the plan. Discussion took place on the amount of time it takes to get farms preserved. Ms. Davis indicated that the Township needs to let the SADC know these concerns and how many farmers do not want to preserve because of the time it takes. The meeting was opened to the public for public comment at this time. There was no public comment heard and the meeting closed to the public on this matter.

A resolution was provided by Attorney Schneider for the board's consideration and indicated that due to time constraints he provided for consideration tonight and reviewed it for the board.

Motion by Mr. Meltzer, seconded by Mr. Onembo to adopt the resolution of the Land Use Board of the Township of Franklin Adopting the Farmland Plan as an element of the Master Plan of the Township of Franklin. Roll Call: Ayes: Mr. Butler, Mr. Corde, Ms. Payne, Mr. Herzer, Mr. Meltzer, Mr. Santini, Mr. Sigler, Mr. Onembo, Mr. Guth, Mr. Balogh. Nays: None. Absentions: None.

Broadway Solar Amended Subdivision

Attorney Mark Peck was present for the applicant Broadway Energy, LLC. They are seeking amended preliminary and final subdivision approval to permit the subdivision of existing lot 10, Block 16.01 into 3 lots. Lot A 2.38 acres, Lot B 2.38 acres and the remainder Lot C will be 6.9 acres. Lots A and B will front on Route 57 for commercial use, Lot C will be developed with ground mounted solar facility. Lot 10 as it currently exists is 11.65 acres located on the South side of Route 57 in the highway commercial (HC) zone district. The property is currently vacant. The history with this application is in 2019 the board granted a use variance and site plan approval for a community solar project. In 2021 they returned for a 3.6 megawatt solar facility which also required a use variance that was denied. The reason the board denied it was they wanted to maintain some commercial frontage along Route 57. There was litigation and the board and Broadway Energy ultimately agreed on a subdivision and site plan that could accommodate both parties and was approved by the board in November 2022. That plan had 2 lots fronting on the south side of Route 57 with the remainder lot behind it with the solar. There were 2 driveways approved flanking Lot 10. That plan went to the NJDOT for approval of the access onto Route 57 and they rejected it. They only want one access point so they requested they return to the Board and they are presenting the same plan tonight that was approved except instead of having flanking driveways, one servicing each lot, there will be one driveway in the middle of the lots servicing all 3. Everything else is exactly the same. Engineer Rick Roseberry, previously sworn in and accepted by the Board was present to review the plan. Mr. Roseberry was sworn in by Mr. Schneider and was accepted as an engineer. Mr. Roseberry provided the previously submitted plan as well as an updated plan as previously described by Mr. Peck. Mr. Meltzer asked if the flag stem will still exist. Mr. Roseberry stated yes, it becomes part of the solar lot and it gives the frontage and meets all the bulk requirements. Mr. Finelli stated that the access to the solar will not be in the flag, it is down the middle serving all 3 lots. Mr. Schneider asked as a result of the one access drive essentially serving all 3 lots, will there be some access easements. Mr. Peck stated he expects to do some cross access easement to access each lot. Mr. Peck stated that could be a condition of approval. Mr.

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Onembo asked about entrance to the 2 front lots. Mr. Roseberry stated it is not uncommon for one driveway to access more than 1 lot. The solar will be constructed first. The driveway is a 30 ft access easement. The commercial lots will have to come back for site plan, they may have to modify the driveway at that time. Mr. Peck stated what is currently proposed is sufficient to service the solar lot. Mr. Schneider stated that the only site plan approval that has been granted is to the solar lot. There is no approval at all for any development on the other 2 lots other than the lots being created. Mr. Finelli stated that there is no final plat created yet. This is a major not a minor subdivision. Mr. Finelli stated they can move forward with the preliminary and final on the site plan and preliminary on the subdivision. Mr. Schneider stated or they board can grant both subject to Mr. Finelli's approval of the plant in a form acceptable. Mr. Peck stated that would be agreeable. Mr. Finelli said that he agrees that the plat will be completed in accordance with the requirements and if the board is comfortable with that he is also. Mr. Onembo asked if one of the lots are sold, they will come back to the board, the access is looked at with what the building will be, he stated for Route 57 it will be interesting to see how those properties will be accessed. Mr. Peck stated that the DOT has different ideas than what the applicant had proposed. Ms. Payne stated it was better than putting 2 or 3 driveways next to the High School. For the record Mr. Finelli stated there is 1 driveway serving 3 lots and it is in the middle of the frontage on Route 57, it was shifted about 350 ft. to the west from it's last location. There are no site restrictions from the proposed driveway opening on route 57. Mr. Schneider stated for the record not withstanding the relocation of the driveway 350 ft., none of that implicates any aspect of the site plan relative to the solar facility. There is no change at all to the existing solar site plan approved in November 2022. Mr. Meltzer asked about emergency vehicle access. It was clarified everyone will use the central drive access and no access through the flag lot. Mr. Meltzer asked if the Fire Chief was advised of the change, he is concerned because originally the area was wider. The same perimeter will be the same and approved previously. Mr. Meltzer stated as long as they can turn to where they have to go. Mr. Peck said nothing has changed from what the fire chief approved previously. The meeting was opened to the public at this time for any comments. There were no comments at this time. Mr. Peck concluded their portion of the hearing and asked that the board approve the amended application.

Motion by Mr. Sigler, seconded by Mr. Meltzer to approve the amended preliminary and final subdivision approval based on the plans submitted subject to an addition to the standard conditions, three conditions 1) cross access easement for the 3 lots in a form acceptable to the Township Engineer and Land Use Board Attorney, 2) subject to the approval of the fire official, 3) subject to the submission of a final plat in a form acceptable to Mr. Finelli. Roll Call: Ayes: Mr. Corde, Ms. Payne, Mr. Herzer, Mr. Melzer, Mr. Santini, Mr. Sigler, Mr. Onembo, Mr. Guth, Mr. Balough, Mr. Butler. Nays: None. Abstentions: None.

Mr. Guth and Mr. Herzer were dismissed at this time.

Case 23-2; OK Auto, 4WD & Tire Inc Preliminary & Final Site Plan & Use Variance
Attorney Stephen Gruenberg was representing the applicant. The property is located on Block 39, Lot 3. It is 3.41 acres and located in the C-1 village/commercial zoning district. Presently on

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the property is a commercial building use and a single-family residential building. This board had previously granted use variance approval to allow the 2 principal uses on the same lot. They are proposing an expansion to the retail sales surface and storage facility they are asking for relief either pursuant to a D-1 or a D-2 variance as appropriate. In addition, they have C variance relief, 1) impervious coverage, 2) rear yard setback and 3) storage of outside displays. Mr. Osdyke, Thomas Pugsley, Ryan Wilty and Christopher Nusser will be testifying.

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Mr. James Osdyke was sworn in by Mr. Schneider. Mr. Osdyke stated their business is automotive relative and they specialize in 4WD vehicles. They have been doing this for 44 years and started in Franklin in 1988. Their current business is automotive repair, retail store and warehouse. They rent two other warehouses offsite now. Their business has also turned into a web business and that has really grown and is requiring the expansion of the business. The expansion being proposed is approximately 10,071 sq. ft. That will have related parking, drainage, lighting, landscaping, etc. They currently have 34 employees now at all facilities, by consolidating they will maintain that many employees. The hours of operation are 8:30 to 6 M-F and 8:30 to 1 on Saturday. The purpose of the expansion will mainly be warehousing to keep everything under one roof in one area. Mr. Osdyke stated they have been here so long they like the community, they live in the area and want to continue living and having their business here. Mr. Gruenberg stated that the initial construction proposes an addition that would be about 8,518 sq ft. then there is a proposed second expansion. Mr. Osdyke stated that they will probably do all of it at one time. There is a huge tree that they thought they might want to preserve but since they have found out that it is at the end of its life span and is an invasive tree so they will have it removed and do the full expansion. The proposed 57 parking spaces will be required for employees and vehicles they work on, i.e. left on site, and the walk-in retail business. No new signage is being proposed. Mr. Finelli, comment 6C, suggested that a parking island be installed in place of a parking spot. Mr. Osdyke would not like to have to do this because it has worked this way for 35 years and for plowing purposes this would not be conducive. He explained how the plowing takes place in the lot. The display areas and storage of other material on site was discussed. Mr. Osdyke explained the areas for the board. They sell small truck campers, they like to show them to customers, they would like to have them between the 2 buildings under the covered structure. They would also like to display vehicles that they build that they take to shows also and show people what they can do. Used tires are picked up by companies that come weekly. They would store used tires on the east side of the property and get picked up weekly. They also store snowplows for sale on the east side of the property, this has been going on for years. Mr. Osdyke showed on the site plan how the truck traffic now works. Trucks now have to come into the parking area and back under the canopy and to the loading area. It's a little cumbersome. Only one at a time can come in and it can get congested. They have about 20 trucks now on a weekly basis. They are large tractor trailers, there are also some small box trucks that come in. After the expansion the truck traffic should not double, about 8 trucks (tractor trailers) and 8 smaller trucks a day. They will have a separate entrance than the general public. Electric vehicle charging stations were discussed. There are a couple onsite now. Mr. Kyle indicated that the MLUL amendment allows for these stations without use variance or site plan approval if they are in a commercial zone. Building and electric permits are required.

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Discussion on the current residence took place. Mr. Osdyke stated that his son lives there now and they understand that when this is built that may or may not continue. If they decide to change the residence to a commercial building they would like to have that ability. Mr. Osdyke said the house is sentimental and they do not want to tear it down. They may in the future use it for office area, vendor meeting rooms. This application is maintaining it as a residence now.

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Mr. Finelli asked Mr. Osdyke about the plan and what they are proposing now. Mr. Osdyke stated that they would like to do the whole project at the same time now since they found out that the tree is going to need to be removed.

There were no further questions from the board at this time.

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The meeting was opened to the public for questions. Mrs. Lumis, asked about the # of parking spaces, current and how many proposed.

Mr. Pugsley was sworn in by Mr. Schneider. His qualifications were provided to the board and he was accepted as an expert in the field of engineering.

Mr. Pugsley reviewed the existing conditions of the site as indicated on the boundary topographic survey prepared by Blue Marsh Assoc. dated 8/6/21, previously submitted to the board. There are 2 principal uses on the property. A 2-story single family home with a detached garage located on the western portion of the property and there is an approximately 16,000 sq. ft. building which is the OK 4WD business portion on the eastern side. The OK 4WD has 7 service bays located on the east side of the structure, both are permitted uses, however in the ordinance you are only allowed to have one principal use per lot and there are 2. As a result of that they are requesting a use variance. This use variance relief was previously granted by the board to allow the 2 principal uses. Mr. Kyle said that since this is no longer in the RC district, it is C1, the ordinance does allow more than one principal building in non-residential districts but one cannot be residential so that is the variance issue. Because it was a D variance before and they are expanding the use on the site is what requires the board to reapprove it. Mr. Schneider stated that in his opinion it is the expansion of the commercial use which invokes the need for the use variance. Mr. Gruenberg did not disagree with the analysis, he just wanted to bring up that it is a similar variance relief that was already granted and that these uses have been compatible with each other since they have been this way for 35 years. Mr. Pugsley continued by stating that the existing development has some deviations with the bulk requirements. The existing residential structure is located within the front yard setback, approximately 41.9 ft, a 50 ft setback is required. There is an encroachment in the rear yard setback from the canopy associated with the OK 4WD structure that is approximately 39.67 ft, a 100 ft. setback is required. The rest of the bulk requirements are satisfied by the existing development. There are 35 parking spaces on the property, 33 are associated with the commercial use and 2 are associated with the residential use. The parking spaces are 9x18, where 10x20 is required, so there is an existing non-conformity. Curbing is provided with the customer area, but along the outer perimeter of the parking and drive areas associated with

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the loading does not have curbing. Access to the property is off of Route 57 by 2 access points. The western access point is a driveway to the single-family structure. The eastern driveway is the access to the existing OK 4WD facility. On the property there is 2-way circulation going through the parking areas. Mr. Pugsley indicated how this would work. The topography on the property grades away from Rt. 57 in a south westerly direction. Mr. Pugsley reviewed the drainage and runoff on the property and how it flows. The site currently uses an existing well and septic system. One well is shared between the two structures and each structure has its' own septic system. The other utilities are all by public service providers. Lighting is provided on property with a combination of ariel and wall mounted LED lights. Mr. Onembo asked about their sign that is an electronic digital sign. He said he feels it is a distraction when it runs all night. He said the intermittent rolling and flashing at night is troubling adjacent to the highway. Mr. Osdyke said he didn't know and would do something to change it.

Mr. Pugsley stated that from a landscaping perspective there is a significant amount of mature trees on the property and around the perimeter. On the southern property line there is a significant amount of trees that provide a nice buffer, unfortunately, these trees are just off the property on the County property. The rest of the site of the pervious areas is predominately grass. There are 3 dumpsters on the property located south of the existing building that will remain.

The original septic system was over designed and the Warren County Health Department has determined that the existing system is sufficient for the expansion.

Mr. Pugsley discussed the proposed plan. A-1 dated 5/22/23 was marked and identified as a colored version of the site plan sheet 4 of 14 of the plans previously submitted to the board. This plan focuses on the portion of the property being improved. They are proposing a building addition that is approximately 11,624 sq. ft. in size. The purpose of the building is to store additional parts and inventory that is needed for the existing OK 4WD that currently operates on site. The proposed building is immediately west of the existing building and it has approximately a 25 ft. wide covered area that separates the 2 structures. The addition, as they proposed, is in 2 phases. The initial that would be 10,071 sq ft. with an additional future expansion of 1,553 sq. ft. As of now, Mr. Osdyke is now proposing to do it all at the same time. As previously discussed, it was proposed that way because of a tree, but that has changed now. The existing residential structure and the detached garage remains unchanged. There are no improvements proposed, the only potential modification would be a deck on the south side of the existing structure that comes close to the proposed future expansion area, and once the construction starts they may have to modify the deck to do the construction. Part of the application is they have an expansion of an existing permitted use, and with the residential structure, that is why they are requesting the use variance. Similar to the existing conditions there are some deviations from the bulk schedule C-1 zone. The same front yard set back of 41.9 ft. is required for the existing residential structure, and a rear yard setback of 39.62 ft. at the corner of the canopy associated with the proposed building addition. The canopy was aligned with the back of the canopy on the existing building so basically the back roof line will be continued across the proposed addition. As a result, the dimension from the rear property

line to the canopy is very similar to what it was for the existing building and they are requesting the rear yard setback variance. There is a new bulk variance for the maximum lot coverage. Under the initial phase they have a 63.2% impervious lot coverage on the property. In the full build with the future expansion included it would be 64.2% which is slightly over the 60% permitted in this zone. The rest of the improvements comply with the bulk table schedule. They are proposing 57 parking spaces. 55 are associated with the commercial use and 2 associated with the residential use. Of the 55 parking spaces, 4 of them are EV spaces located near the northeast corner of the existing OK 4WD building. The proposed parking spaces are 10x18 in size. The ordinance requires 10x20. They have maintained an 18 ft. length of the parking stall, it is a very common size in the industry, and by increasing it to 20ft you only add more impervious surface coverage on the property and they don't feel it is warranted. There is overhang available over the curb. The 19 parking spaces along the southern property line are encroaching into the 10ft. buffer that is required because the adjacent property is in the residential zone. This is County park land and they encroach into that buffer by .4 ft. The reason that occurs is because on the back of the existing OK 4WD building where the loading ramp is there is a concrete wall that is part of the loading ramp, they want to maintain access along the back of the existing structure and want to provide a 12 ft. lane there so lining up with the end of that wall and offsetting 12 ft. that ends up pushing those parking spaces .4 ft. into the 10 ft. buffer. They feel that maintaining a 12 ft. access behind the existing building, the safety and functionality of that outweighs the encroachment of .4 ft. into that buffer that is just going to the County parkland. Access to the property is maintaining the existing driveways off of Route 57, as part of the proposed improvements this makes the use of the driveways significantly better. The eastern most driveway will just be for customer use. This is where all they park and access to the service area. The western driveway would be for the existing residence and then the rest for deliveries and potential employee parking . It provides a safer environment because the delivery vehicles will not be going through the customer area. The proposed improvements are not encroaching out onto Route 57. As a result of the increased square footage there is not a significant increase in traffic generated by the proposed improvements and as a result DOT permitting is not required for this application. Mr. Pugsley showed the circulation of the site. The site is designed to accommodate tractor trailer deliver vehicles. They provided a 53 ft wide loading area, the ordinance only requires 14 ft. They have 4 loading bays. It has been designed to allow the WB62 delivery vehicle to enter into the property and be able to back into any one of the loading bays. If you have multiple delivery vehicles sitting at one of the doors the other vehicles can get in without impacting any other stationary trucks. It can accommodate anything from a box truck to a WB62 vehicle. A trash enclosure has been provided at the end of the row of 19 parking spaces and has room for 2 dumpsters. There is a 3rd dumpster that remains behind the existing structure near the existing building. The grading for the proposed improvements has been designed to maintain the existing drainage patterns that exist. The customer parking area is all curbed according to the ordinance. The drainage in the loading and rear parking area is designed to be overland flow in the southwesterly direction to match the existing drainage patterns under current conditions. The loading docks are not recessed, it is all positive drain via overland flow, and is directed towards the above ground basin located along the western property line. The basin in the customer area is an inlet that collects all the stormwater from the front parking field and is

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directed around the already existing residential structure and discharged into the basin along the western property line and this basin has been designed in accordance with the DEP stormwater standards. All of the water is being accounted for per the DEP standards, meeting pre vs. post conditions and since this is a major stormwater development they had to do reduction of the water leaving the site. The site will be better from a stormwater standpoint. The existing well and septic fields will be maintained. The other public utilities will be utilized based off the existing structure. The septic system for the existing business was oversized originally and it has been determined that the new addition can be accommodated. The calculations were provided to the Warren County Health Department and they have provided an approval letter. The proposed building from a stormwater runoff perspective, will have internal roof drains that will discharge directly into the inlet in the parking area north of the proposed building. Lighting for the proposed improvements is focused on the proposed improvement area using similar to existing. A combination of arial lights and wall lights throughout the area to satisfy the requirements of the ordinance. All the fixtures are flat lens LED fixtures that point straight down to minimize glare. A significant amount of landscaping is provided on the property maintaining as many of the existing trees as they can. 9 new trees and 148 new shrubs and grass and groundcover throughout. They agree to work with Mr. Kyle's office to provide any additional landscaping and buffering to meet his satisfaction. Mr. Kyle state it would be pre-construction. The comment he made in his memo, the landscape compliance chart, makes reference to buffer trees that were meant to meet that requirement but are not shown on the landscape plan. Particularly in the southwest corner, the pavilion in Bread Lock Park is near that area, so Mr. Kyle thinks it is important to get some screening around that side. Mr. Kyle said the intent is to meet the standards. Mr. Pugsley indicated there is a 10ft. buffer required between a commercial use and a residential zone. The 10ft buffer is encroached down to 9.6ft. They are not proposing a heavy buffer as required as there is substantial existing mature vegetative buffer along that southern property line. Some discussion have taken place with the property owner and the county. They appear to be satisfied with the buffer there by they are still in negotiations with the and they will work out that landscaping if additional is required they will address it at that time. Another row may complicate and put the existing vegetation health at risk. They are requesting relief from that. He also stated that they have no new signage proposed with this application. Mr. Finelli's report dated May 26, 2023 was addressed. Mr. Pugsley stated he has spoken with Mr. Finelli and they have gone through items listed on page 5. Mr. Pugsley stated they will work with his office and they feel all concerns can be satisfied. Mr. Schneider asked about comment 6C regarding the landscaping island in lieu of the 1 parking space. Mr. Pugsley stated they would prefer to maintain the existing parking space. Mr. Finelli recognized that the comment to convert the 1 parking space to a landscaped island is not an ordinance requirement it is more of a functional issue and they thought it might be an improvement, but, he agreed he is okay if the board is okay keeping it the way it is. Mr. Pugsley stated that the only thing he wanted to clarify with the stormwater is 18A and 23A that references needing a flood hazard permit. They have done a determination that they are more than 300 ft. from the tributary to the bridge and stream and the DEP approval is not required. Mr. Finelli concurred with that. Mr. Pugsley agreed they will comply with the items in Mr. Finelli's report with the exception of 6C, 18A and 23A. The board had no comments. The meeting was opened to the public. A question was

asked by Roy Lumas if the impervious coverage calculations were verified by the Township. He was advised that the survey is certified and accepted. A small discussion took place on the coverage and how it was calculated. Ms. Lumas asked about the residence that may not be a residence. She asked why there are 2 parking spaces. She was advised that this proposal is to continue it as a residence. Mr. Schneider stated if they ever change the residence they would have to come before the board. Mr. Osdyke stated he does not plan on renting it out. She asked if the sign could be dimmed down. Mr. Osdyke stated he did not realize it was so bright and they will adjust so it is not illuminated after 11 p.m. Mr. Finelli asked about the big tree Mr. Osdyke mentioned. Mr. Osdyke stated that the tree is being removed due to its' condition and it is an invasive species. Mr. Finelli stated that tree is a substantial component of the landscaping plan as an existing feature. Mr. Finelli asked if the plan will be modified. Mr. Pugsley said it was shown gone in the 2nd phase plan. They would like to have the right to build that corner and use it. Mr. Finelli said to look at it and make any adjustments. Mr. Kyle suggested some additional evergreens along the curb to screen the loading area should suffice. Mr. Ryan Welty was sworn in by Mr. Schneider. He was accepted by the board as an architect. Exhibit A-2 was viewed. He said the same character of the existing building will be maintained. The facade will match the existing building. Ms. Payne asked about the landscaping. Mr. Welty indicated it was just conceptual not actual. Mr. Onembo asked when construction would start. The applicant indicated they do not know. The meeting was opened to the public. There were no questions. Mr. Meltzer asked if the warehouse building will be 6 ft. higher than the existing building. Mr. Welty said they are pushing it to the 35ft limit in order to store more. Mr. Nusser was sworn in by Mr. Schneider. He was accepted by the board as an engineer/planner. Mr. Nusser provided an outline of what the relief is. He stated they are primarily before the board for a D-1 use relief from section 50-56e.2 for having 2 principal uses on the lot. One being residential. They are also seeking bulk relief for minimum rear yard setback of 39.62 ft. for the canopy of the proposed building and 55.26 ft. will be to the building, ultimately it is the 39.62 ft. where 100 ft is required. Relief from the maximum lot coverage to permit 64.2% coverage where 60% is permitted. Relief from section 90-54e3 that permits storage and display of merchandise on the exterior of the building, relief from 90-56e1a providing a 9.6 ft buffer to the rear line where 10 ft. is required, relief from 90-56e1c for the location of the trash enclosure in the parking area with the buffer being at 9.6 ft, relief from section 90-56e1d for not providing plantings in the buffer area. Plantings will be provided as appropriate as testified to. From Mr. Kyle's letter that relief from screening in the loading area is not required, that will be provided to Mr. Kyle's satisfaction. Relief from 90-64.2j2 for screening of the trash enclosure in the rear is very similar to the screening and plantings in the buffer area. From Mr. Finelli's letter, section 90-58a for not providing curbing within all parking areas and 90-64.2b5 for not providing the required number of street trees. Mr. Kyle stated anything in 64 would be a waiver and not a variance. Anything in 54 and 56 is a variance. Mr. Nusser stated principally they are here for use variance relief for having 2 principal uses on the property with one being residential. The uses individually are permitted in the zone. In many respects it can be viewed as a C2 variance as the expansion of a non-conforming use, but ultimately this is a D1 variance. As testified earlier this relief was granted in 1994, at that time commercial use was not permitted in the zone, at the current time this proposal is more compliant with the zoning than when the relief was previously granted. Looking at the standards for a D1 use variance you

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start by looking at the suitable use for the sight. In this case the fact that the 2 uses are on the property and have been on the property and has been found to be suitable for the multiple uses previously by this board makes it particularly suitable. The sight operates well with both uses and without issue. The house is being used by the applicant's son who works for the business. This is a benefit for the business providing someone on sight 24/7. Any impacts are internal to the site between the house and the business. The purposes of the zoning analysis are to advance this part of the application, the first one is purpose A, improving the public safety is satisfied by separating the truck traffic out of the customer parking lot and driving in front of the retail area and moving it into a discreet location away from that part of the business. He thinks it advances purpose G by providing sufficient space and locations for a variety of land uses, it allows the applicant to remain in this location. In his opinion it promotes purpose I providing a desirable visual environment. The landscaping of the sight will be upgraded to provide additional screening. The signage will be adjusted to provide lower impact to the road and the neighbors. He feels it will clean up the way the sight is operated. Some storage trailers on sight will move into the building. The negative criteria and impacts of intended purpose to the zoning plan. The purpose of this zone was to pull in the commercial uses with the existing villages and maintain the streetscape. This is slightly outside of New Village but it seemed fit to expand the zone to this area to include this property and this recognized the commercial use on the property and to permit it to continue as a permitted use where it had existed by variance previously. To the intent of that zone, by maintaining the house, they are maintaining a portion of the streetscape that matches the view along the highway. It is a better method of screening. It provides visual interest along the street. Impact to the zoning ordinance, the purposes of the zoning ordinance are consistent with the purpose of the zoning in the MLUL and as noted they are advancing several of them. The uses are principally permitted and multiple principal uses are permitted on a property it is the residential component that creates the variance. To the enhanced quality of proof it is not required in the context of a D2 variance but the D1 variance it is. They need to reconcile the use in the zone and in this case allowing multiple principal uses that includes the residential use. Substantial impacts to the public are not seen, this is a well-designed sight that provides for the business, increased safety for the sight and the public. Mr. Nusser does not see any negative impacts. Mr. Gruenberg said essentially what this application is because they are intensifying the use. They are actually making the sight better by the stormwater management system and with respect to traffic and safety by relocating the driveway. The bulk relief review was discussed. It is a C-2 situation and advances purpose I promoting a desirable visual environment. The reason for the relief is because they are matching to the existing rear of the building. The parking lot will remain consistent and works with the existing development. The increase in impervious surface, in his opinion, they have extra impervious in order to accommodate the truck traffic from the main entrance and is improving the safety of the sight and overall circulation. The storage and display of merchandise on the exterior, these activities have been occurring for years, the display is limited to discreet areas of the sight and there are things that cannot be kept indoors. Everything is maintained and in good condition. The buffer area contains two pieces. Providing the 10ft buffer and locating the trash enclosure in the parking area in that buffer area. They are proposing 9'6". To maintain a 12ft. separation and drive aisle from the edge of the canopy to the edge of the parking. This allows for emergency

and larger vehicles to get around the building in its entirety. The landscaping already existing in that area and planting may be problematic to the existing landscaping. Appropriate places to put landscaping will be agreed to with the Township and they will do what is necessary and meet the intent and purpose of the ordinance. The curbing is geared towards parking and stormwater management. All the water sheet flows into the basin. 5 street trees are proposed, 8 are required. It will be difficult to add additional trees and maintain sight distance so relief is requested. Ms. Payne asked about the home driveway. She asked if they have to go to the County or the State to change it to a more commercial use driveway. Mr. Gruenberg said no the proof was provided by the Traffic expert and there is no permit required. She asked if there were concerns about a truck making a left turn out of that driveway with traffic coming in a westbound direction. Mr. Pugsley stated that it is a very clear straight shot from both directions and he said that a vehicle making a left could make a good decision when pulling out and the vehicles approaching should have clear visibility of a truck. Mr. Onembo asked about signage on the driveway directing trucks into the new driveway. It was stated by Mr. Osdyke that they could do that and that the driveway has its own address so they could use that address. It was agreed that advisory signage is probably warranted to separate the traffic. The applicant agreed. Mr. Sigler asked if it was mostly the same drivers coming or different. Mr. Osdyke said they change frequently.

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There were no further questions or comments from the board. The meeting was opened to the public at this time. There were no questions heard. Mr. Schneider asked about the variance to permit outdoor storage. He asked if there were limitations. Mr. Kyle stated they explained it will occur on the north side of the warehouse building in between the existing building and the warehouse building in the covered area and there is also storage of snowplows that are existing on the eastern side of the building. There are camper type vehicles under the canopy and some other display vehicles in the front of the property and on the north side. The resolution should reflect that storage is only going to occur in the areas described. Mr. Gruenberg stated it is going to be a great thing for Franklin Township as it has been in the past and it will only be better.

In summary,

- D1 variance to permit two principal uses, one is residential.
- Rear yard set back variance for 39.62' where 100' is required.
- Maximum lot coverage is proposed 64.2% where 60 % is permitted.
- Variance for outdoor storage and display of merchandise
- Variance for width of the buffer at the rear. Proposed is 9.6' where 10' is required.
- Variance related to improvements in the 10' buffer which is a trash enclosure and rear line of parking spaces
- Variance for the buffering that requires an evergreen screen or a deciduous screen with a mix of shrubs and trees. A portion of the area will get additional buffering.
- Waiver for the curbing

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Motion by Mr. Meltzer, seconded by Ms. Payne to grant all requested variance relief as well as the preliminary and final sight plan approval subject to compliance with the review reports except as stipulated and testified to during the hearing. Roll Call: Ayes: Mr. Santini, Mr. Sigler, Mr. Onembo, Mr. Balough, Mr. Butler, Mr. Corde, Ms. Payne, Mr. Meltzer. Nays: None

PUBLIC COMMENT:

None heard.

BILL PAYMENT:

Motion to pay the bills was made by Mr. Meltzer, seconded by Ms. Payne to pay the bills submitted. Motion carried by All In Favor.

ADJOURNMENT

Motion by Mr. Onembo, seconded by Ms. Payne to adjourn the meeting was carried by all in favor.

Respectfully submitted,

Kelley Smith
Land Use Board Secretary

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