

**MINUTES OF THE MONTAGUE TOWNSHIP LAND USE BOARD REGULAR MEETING HELD
AUGUST 10, 2023**

Open public meeting statement: The meeting was called to Order by the Board Chairman, Glen Plotsky, and a statement was made that the meeting was duly advertised and met all of the requirements of the Open Public Meetings Act. Those present were: George Zitone, Jody Case Kennedy, Glenn Barbagallo, Steve Guida, Mark Utter, Katherine Snyder, William Dickson, Glen Plotsky, Thomas Knutelsky, the board engineer, and William Haggerty, the board attorney.

Those absent were: James Ledonne (excused), George Hutnick (excused) and Gene Crawford (excused).

FLAG SALUTE

MINUTES

The Minutes of the July 13, 2023 Land Use Board Regular Meeting were reviewed. A Motion was made by Mr. Barbagallo and seconded by Ms. Kennedy to approve the July 13, 2023 Land Use Board Regular Meeting Minutes. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. The Motion was carried.

CARRIED APPLICATIONS

John McKinnon – LUB 23-04 – Block 8, Lot 12.01 – 156 Clove Road – “C” Variance:

Appearing before the board was the applicant, John McKinnon. Mr. McKinnon was sworn in by the board attorney.

Mr. Knutelsky reviewed his report dated June 29, 2023 as to completeness:

The board secretary and the attorney to confirm that items 1-8 of the checklist were complete. The board secretary indicated that they were. The board attorney indicated that the notice was sufficient.

The following items are found incomplete and/or lacks information for this application, or waivers have been requested: (1) Checklist item #32. Tax Map Sheet. The applicant indicates item is complete but it is not provided. He recommended a waiver be granted for this simple application. (2) Checklist Item #33. Key Map. This information has not been provided. He recommended a temporary waiver for completeness only be granted with an aerial map exhibit provided during the board hearing to identify the location of this property. Mr. McKinnon submitted to the board Exhibit “A-1” which is an aerial photograph of the site. NJ Geo—web with tax block and lot numbers of the property and surrounding the properties. (3) Checklist Item #74. Building Floor Plan, Elevation Views....A floor plan sketch was provided but elevations were not. He recommended a temporary waiver for completeness only be granted with testimony provided which identifies the proposal in detail.

A Motion was made by Ms. Kennedy and seconded by Mr. Zitone to deem the application complete with a full waiver of Checklist Item #32 and temporary waivers for Items #33 and #74. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. The Motion was carried.

Mr. McKinnon indicated he was before the board to build a 130 square foot addition to his house with a foundation to install a handicapped bathroom on the first floor. It will be a one story addition. There was an addition put onto the house years ago for the utility room which includes a water pump, water heater and electric panels. They would like to put in the hallway with access to the outside a washer, dryer, utility sink and storage shelf. The Shed encroachment shown on the map will be removed. He will construct this addition himself.

CARRIED APPLICATIONS CONT.

John McKinnon – LUB 23-04 – Block 8, Lot 12.01 – 156 Clove Road – “C” Variance cont.:

Mr. Haggerty indicated that this is an unusually -shaped property. Mr. McKinnon said it was, it has 10 points on it. The property line goes right down the middle of the garage that is there. There is a stonewall in there that divides the garage, but the property line goes through the center of it. It is agreed that one side of the garage is with Lot 12 and one side is the applicant's property. Mr. Haggerty indicated that there are encroachments on Lot 14.03, the board can note those encroachments for the record, but obviously the board cannot give him a variance to say that they are authorized to be there, but they are shown on the map. Mr. McKinnon indicated that these encroachments are going to be removed.

Mr. Haggerty indicated that there is a concrete pad around an in ground pool that was filled in. Mr. McKinnon indicated that this is one of his gardens now.

Mr. Knutelsky indicated that the location of the addition is going to be where the utility room is right now which has a stone foundation and stone walls. He questioned if there was any thought to moving that addition to another part of the home to be further way, or in terms of functionality, it had to be in the proposed location. Mr. McKinnon indicated that in terms of functionality it has to be where it is proposed. There is really no other place that he could put it. He indicated that all the plumbing and all the sanitary facilities are in this area. He further indicated that the front of the house is the front of the house, the one side of the house is the driveway, and the back of the house had a kitchen that was added on in the 1960's and there is only one side left to place this addition. No one will see this addition from the road or the house next door because they cannot build there anyway on Lot 14.03 where there is a hill and woods in that location. Mr. Knutelsky indicated to the board that he made reference to this particular item with regard to the side yard in his report. It states: Paragraph #5: "I note for the board that the relief requested will be to encroach into the minimum easterly side yard of the aforementioned lot towards undeveloped lands. Said proposed improvements will not impact any adjoining improvements currently existing. I specifically note that the land area adjacent to the proposed addition is a fully vegetated, sloped hill." He believes there will not be any view sheds from this addition to any surrounding properties.

Mr. Knutelsky indicated that the survey shows the existing home is 11.8' feet from the property line and the new proposed addition will be 10.5' from the property line. They are getting about 1.3' closer, which is the relief the applicant is seeking.

Mr. Knutelsky asked Mr. McKinnon to describe what the building is going to look like from the outside. Mr. McKinnon indicated that it will look like what his kitchen currently has. The kitchen currently has stone from the ground up to about 3.5' and then there will be texture 111 which will be stained in cedar and 35-year shingles like the rest of the house. Mr. Knutelsky indicated that a photograph of the existing house was submitted with the application to show the board the outside of the house.

Mr. Knutelsky indicated that the configuration of the property is not a typical lot configuration. There are existing non-conforming conditions for the lot itself including lot frontage, lot area, principal structure setbacks, and accessory structure setbacks. Mr. Haggerty indicated that since none of the existing non-confirming uses are being changed by this application, with the exception of the side yard setback, he could recommend to the board if they grant the application, they can recognize those existing non-conforming conditions. They can also note that the 2 sheds that are encroaching on the neighboring property will be removed. He

indicated that the concrete pad extends into the neighboring property, but it is a concrete pad of a pool that has been eliminated. He feels it should be noted for the record that it exists. He

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CARRIED APPLICATIONS CONT.

John McKinnon – LUB 23-04 – Block 8, Lot 12.01 – 156 Clove Road – “C” Variance cont.:

further indicated if the neighbor ever says that the applicant has to remove it, then he will have to deal with it at that time.

Mr. Knutelsky referred to paragraph #7 of his report. He indicated that since the property is so close to one of the streams along the property line, the expansion can be done through a permit by rule by DEP, so it is automatically permitted, they do not have to do anything with that.

Mr. Knutelsky indicated that since this is on a County Road, it should be subject to a County approval or letter of waiver from the County. Mr. Haggerty indicated that it is not a subdivision or site plan, and therefore, does not need County approval on just a simple “C” Variance.

This matter was opened to the public. There was no public participation. This matter was closed to the public.

A Motion was made by Mr. Barbagallo and seconded by Mrs. Snyder to approve the application for a side yard setback and recognize the non-conformities as stated in the testimony. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. The Motion was carried.

A Motion was made by Ms. Kennedy and seconded by Mrs. Snyder to waive the reading of the resolution so the applicant can apply for a building permit at his own risk before the Resolution is adopted. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. The Motion was carried.

NEW APPLICATIONS

9 New Myrtle LLC – LUB 23-03 – Block 41, Lot 18.01 – 9 New Myrtle Drive – Minor Subdivision & Variances:

Appearing before the board was the owner of the applicant, Michael Lazewski, and his attorney, David Wallace. Mr. Lazewski was sworn in by the attorney.

Mr. Knutelsky reviewed his report dated July 28, 2023 as to completeness:

Paragraph 1: By definition in the Montague code, if an application for land subdivision does not front on an approved public street, the application is to be filed in accordance with the Major Subdivision checklist. For simplicity, and if requested by the applicant, Mr. Knutelsky recommends a waiver of all Major Subdivision requirements and for the applicant to utilize the checklist related to Minor Subdivision.

Mr. Wallace agreed with Mr. Knutelsky to have the Minor Subdivision regulations apply to this application.

Mr. Haggerty indicated that Mr. Utter pointed out that the plat shows Mr. Utter as an owner within 200', but this property was sold 10 months ago. Mr. Utter was not listed on the 200' list for the notices this evening. Mr. Plotsky indicated that the plat has a date of June 6, 2023,

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NEW APPLICATIONS CONT.

9 New Myrtle LLC – LUB 23-03 – Block 41, Lot 18.01 – 9 New Myrtle Drive – Minor Subdivision & Variances cont.:

which is substantially after Mr. Utter sold the property. Mr. Haggerty wanted this to be on the record so there is no conflict having Mr. Utter participate in this hearing.

A Motion was made by Mr. Barbagallo and seconded by Mr. Guida to apply the Minor Subdivision regulations to this application and waive the Major Subdivision requirements. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. The Motion was carried.

Mr. Knutelsky continued with his completeness review:

Paragraph 2: The board secretary and the attorney to confirm that items 1-8 of the checklist were complete. The board secretary indicated that they were. The board attorney indicated that the notice was sufficient.

Paragraph 3: The following items are found to be incomplete and/or waivers have been requested by the applicant or are required for this application:

CHECKLIST ITEM #13: Copy of the Soil Erosion/Sediment Control Application. The applicant has requested a waiver of this checklist item indicating that the SESC permit and plan will be provided at the time of Site Plan submission. Because a development is not proposed as part of this subdivision, Mr. Knutelsky recommended a waiver of this checklist item be granted knowing that it will be a condition of any future developer of the site.

CHECKLIST ITEM #15: Copy of Sussex County Health Department Application. This checklist item is incomplete. If requested by the applicant, Mr. Knutelsky would recommend a temporary waiver for completeness only for this item be granted with testimony regarding the status of the septic system design provided at the board hearing. Mr. Knutelsky indicated that he did receive information today from Howard Bach, the engineer of record for the test holes on the site. He did provide Mr. Knutelsky and Mr. Haggerty certified letters stating that the septic system can be built on the property and if applied for, it would be readily available for approval. He further stated to supplement his temporary waiver request to the board and indicate that this waiver be granted and this can be discussed during testimony. Mr. Wallace indicated he has the original letter and agreed with this temporary waiver.

CHECKLIST ITEM #52: Existing/Proposed Driveway Locations with Sight Distance Profiles. The applicant has requested a waiver of this checklist item. Because development is not proposed as part of this subdivision and because site distance does not appear to be an issue, Mr. Knutelsky recommend a waiver of this checklist item be granted.

CHECKLIST ITEM #70: Written confirmation from Tax Assessor that Proposed Lot Numbers are acceptable. Mr. Knutelsky indicated that an e-mail was received in the last few days from the Tax Assessor assigning lot numbers. For completeness purposes, Mr. Knutelsky would recommend a temporary waiver for completeness only with the testimony provided as to lot numbering.

CHECKLIST ITEM #72: Four (4) Soil Logs and Four (4) Permeability Tests per proposed lot. The applicant has requested a waiver of this checklist item. Mr. Knutelsky recommended a temporary waiver for completeness only with the letter from the design engineer read into the record. He further noted that there were test pits that were dug by the engineer on site.

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NEW APPLICATIONS CONT.

9 New Myrtle LLC – LUB 23-03 – Block 41, Lot 18.01 – 9 New Myrtle Drive – Minor Subdivision & Variances cont.:

Mr. Knutelsky stated in summary, he is looking for full waivers of checklist items #13 and #52 and temporary waivers for checklist items #15, #70 and #72 for completeness only.

Mr. Plotsky questioned Mr. Knutelsky with regard to the site distance profiles which is one of the full waivers, is it really that the board is waiving the requirement that they document the distance, not so much that they are going to have adequate distance. Mr. Knutelsky indicated that the waiver of it would be for the documenting of it before this board, not that they are not going to provide it as part of the driveway permit application that comes later with site plan. For the board's knowledge, just based on his site inspection, the minimum site distances can be met along the frontage of the property.

A Motion was made by Mr. Barbagallo and seconded by Ms. Kennedy to deem the application complete with the Waivers and Temporary Waivers listed above by the board engineer. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. The Motion was carried.

Mr. Wallace indicated that he updated this application based upon comments from Mr. Haggerty in the Spring and the reassessment in the matter based upon Mr. Knutelsky's review of the original survey submitted. There was some concern that the lots were actually in the roadway which would minimize the amount of acreage available. They revised the site plan and the application because it was determined by Mr. Greenway that, in fact, the roadway had been miss located historically and, in fact, the lots were not located in the roadway. This is shown on the revised map submitted to the board.

Mr. Wallace indicated that they are proposing two one (1) acre lots. To the rear of the property is Montague Township School. The school cannot be seen from the property and they are quite a bit of distance from any other structures in the area. The key map on the survey shows a rather large property to the rear of the development indicating the school property. There are no improvements in the vicinity of this lot. The lot would not have the lot depth as required by the code. If you look at the key map, it is a similar lot depth to the majority of the lots fronting on New Myrtle Drive. Mr. Lazewski agreed to all these statements by Mr. Wallace.

Mr. Wallace submitted to the board Exhibit "A-1" which is an aerial photograph of the house on the property on Lot 18.01 which was taken in the fall. Mr. Lazewski indicated that this is the existing cabin that was upgraded on the lot. He further stated that the original cabin was run down and had a lot of debris on it and was not useable for his family. The septic was not adequate and was updated by Howard Bach. This is when they decided to start the other side of this project. Mr. Bach suggested to do some more test holes with the opportunity to build a bigger single family home on the next piece. He further stated that the proposed lot is an empty flat surface. They removed all the debris from the lot. There was approximately 30 yards of garbage that the previous owner had left. There was an outhouse and chicken coop that are shown on the plan, but they have been removed. He indicated that his neighbors are happy about the cleanup.

Mr. Haggerty indicated that the only variance they are looking for are minimum lot depth. Otherwise the lots comply with the ordinance. Mr. Haggerty further stated that Mr. Wallace will supply this evening a letter from the Montague Township Fire Department that verifies the property will be accessible for emergency vehicles. Mr. Wallace submitted to the board

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NEW APPLICATIONS CONT.

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Exhibit “A-2” which is an undated letter from the Montague Township Fire Department indicating the property is accessible for emergency vehicles.

Mr. Wallace also submitted the letter from Howard Bach, previously referred to in testimony by Mr. Knutelsky, as Exhibit “A-3”, which letter is dated July 31, 2023. This letter confirms that the soil testing had been conducted and the property is suitable for installation of a septic system.

Mr. Wallace indicated that regarding the access for emergency services, evidently there has been a history regarding the dedication of this road or intended to be dedicated, however, the township does maintain the street.

Mr. Knutelsky indicated that typically with regard to a case like this with a 40’ wide right of way, they would be requesting a right of way dedication be made. But because of the nature of the property on both sides of this particular lot and the established right of way of 40’, he is recommending that the right of way dedication not be required as part of this subdivision application because of the conformity along both sides of the road.

Mr. Knutelsky questioned the applicant with regard to the accessory structures that exist on the property, are they garages or storage for the typical residential use on the site. Mr. Lazewski indicated that there were two structures that were removed as shown on the map, the chicken coop and the outhouse. There is a shed that has lawn mowers, snow blower and typical residential storage. Mr. Knutelsky asked what type of usage is he proposing on this property. Mr. Lazewski indicated residential use for himself, his wife and son.

Mr. Knutelsky questioned how the utilities will be brought into the site. Mr. Lazewski indicated that there is overhead power for JCP&L. They also staked out for another pole to be put on the other side of the roadway if they are approved the opportunity to do this. The septic and well will be provided through engineering and health department approval.

Mr. Knutelsky indicated that since they waived the Major Subdivision approval of this application, a plat does not need to be filed. This matter would require deeds to be filed with deed descriptions to be approved by himself and Mr. Haggerty. These deeds will be filed in the County Clerk’s Office. Mr. Wallace agreed. He further stated that he has submitted draft deeds that will need to be updated based on the Tax Assessor’s suggestion that he would prefer lot numbers 18.02 and 18.03 and removing the existing 18.01 lot.

This matter was opened to the public.

Appearing before the board was John Egan. Mr. Egan was sworn in by the board attorney. Mr. Egan indicated that he was in favor of this application.

There being no further public participation, this matter was closed to the public.

A Motion was made by Ms. Kennedy and seconded by Mrs. Snyder to approve the Two (2) Lot Minor Subdivision, Planning Variance and Lot depth Variance as requested by the applicant. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. All were in favor. The Motion was carried.

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VOUCHERS

The vouchers were reviewed. A Motion was made by Mrs. Snyder and seconded by Mr. Barbagallo to approve the vouchers on the bills list attached hereto and made a part hereof. Roll Call: Mr. Zitone, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mr. Utter, yes; Mrs. Snyder, yes; Mr. Dickson, yes; and Mr. Plotsky, yes. All were in favor. The Motion was carried.

CORRESPONDENCE

The correspondence was reviewed. No formal action was taken.

PUBLIC PARTICIPATION:

The meeting was opened to the public. There being no public participation, this meeting was closed to the public.

AJOURN

Having no further business, a Motion was made by Mrs. Snyder and seconded by Mr. Guida to adjourn the meeting. All were in favor. The Meeting was adjourned.

Minutes prepared by:

SHARON M. YAROSZ
Land Use Administrator