

Holland Township Board of Adjustment

Regular Meeting

Minutes of the April 24, 2013

The meeting was called to order by the Chairman, Ginger Crawford:

“I call to order the April 24, 2013 Meeting of the Holland Township Board of Adjustment. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Board of Adjustment Board Secretary on December 20, 2012 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 20, 2012 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes only

Flag Salute

Chairman Crawford asked all to please stand for the Pledge of Allegiance.

Identification of those at the podium for the benefit of the recording machine:

Present: Wilson “Bo” Baker, Jerry Bowers, Laura Burke, Ginger Crawford, Bill Ethem, Les Gallipeau, Peter Kanakaris William Martin, and Gail Rader Todd Bolig, Esq., Susan Berber for Lucille Grozinski, CSR , Rob Martucci, Engineer, and Maria Elena Jennette Kozak, Secretary.

Absent: N/A

Let the record show there is a quorum.

Minutes: A motion was made by Les Gallipeau and seconded by William Martin, to dispense with the reading of the minutes of the meeting on February 27, 2013 and to approve as submitted. All Present were in favor. Motion carried. (Les Gallipeau did comment about the engineer being referred to as a home town boy and secretary Kozak will clean that up. All were in favor of the clarification.

Completeness

Block 6 Lot 48.02 – Mark and Kathleen Petro – 211 Spring Mills Road – Variance. Received into the office on April 2, 2013. The 45-day completeness deadline is May 17, 2013. Board action is needed.

Wilson ”Bo” Baker has spoken with Attorney Bolig regarding a request to recuse himself from this application as he knows the applicant. All were in favor of this. Mr. Baker stepped down into the audience.

Chairman Crawford read the application information and then explained that the board would review the Completeness Review report of Board Engineer Robert Martucci of Van Cleef Engineering. This will correspond to the checklist requirements for the Board of Adjustment. The report is as follows:

April 16, 2013

Township of Holland
61 Church Road
Milford, New Jersey 08848

Attention: Maria Elena Jeannette Kozak (via e-mail PlanningBoard@hollandtownship.org)

Reference: Mark and Kathleen Petro Variance Application
Block 6 Lot 48.02
Township of Holland Hunterdon County, New Jersey

Dear Maria:

I have received and reviewed the above referenced application for the purpose of determining compliance with the Township's Board of Adjustment "Checklist for Determining Completeness of Application Criteria for Submission". In addition, I have completed a review of the application. I understand the Zoning Board of Adjustment will discuss and make a completeness determination at their meeting on April 24, 2013. Documents received consist of the following:

- A. Application documents consisting of: A1. Application form
- A2. Township's Checklist
- A3. Site Walk Authorization
- A4. W9 Request for Taxpayer Identification Number and Certification
- A5. Denial letter from Holland Township Zoning official
- A6. Certified list of property owners within 200 feet of the property. A7. Certification that taxes were paid for the property.

B. Deed of the Property prepared by Raymond Drake, Esq., Dated June 5, 1998. C. Property Survey prepared by James Hanson PLS, dated December 15, 1998.

D. Building plans-3 sheets prepared by Graber Supply LLC, dated April 11, 2013. E. Photographs of the proposed

building site.

Application Summary

The property is within the R-5 zone. A general review of the application shows that the property owner is seeking variance relief (substantial benefit) [N.J.S. 40:55D-7-b] for the construction of a building, (pole barn) that is 40feet long by 36 feet wide (1,440) square feet on a lot approximately 3.711 acres. The Township Ordinance #100-45(B) (3) states that the maximum allowable areas for an accessory use and structure on this lot is 1,000 square feet for a lot greater than three acres but not over 10 acres. I conducted a site visit of the property on April 15, 2013. I noted that the property has a single family dwelling along with other improvements (swimming pool, deck, shed, etc.). The proposed building footprint was painted on a stone area adjacent to the driveway as noted on the submitted photographs. No one was at the property at the time of my site visit.

Completeness Review

The following is my review of the above application for completeness with the checklist. I have provided comments for the Board's benefit noting deficiencies in bold.

Items H-1 to H-3 The application escrow fees have been paid. The certification from the tax collector that all taxes have been paid has been provided. A certified list of property owners has been provided

Item H-4 The financial disclosure statement is not applicable since the applicant is not a corporation or partnership.

Item H-5 The Hunterdon County Health Department Construction Permit Referral for has not been provided as part of this application. The checklist item has been checked as "non-applicable. This item is not applicable since there are no improvements proposed that will "alter or add any bedrooms to the septic system that will require an engineer to determine the capacity of the existing septic system" as noted on the County Form.

Item H-6 A denial letter from the zoning officer outlining the denial reasons has been provided as part of the application.

Item H-7 As to the requirement for a letter from the Fire Department, the applicant checked this item as not applicable since the lot fronts on a public road.

Item H-8 An "Applicant's Certification" from the property owner has not been provided and is checked as not applicable. I note this item as deficient and leave the decision as to the applicable status to the Board since it is not known by me at this time as to what is to be certified by the property owner.

Item H-9 A consent of the property owner is not applicable since the owner of the property is the applicant.

Item H-10 A sitewalk authorization has been provided as part of the application.

Items H-11 through H-14 The fees have been calculated, the escrow agreement form has been provided and three copies of the deeds has been provided, and the application form has been completed.

Item H-15 The applicant has provided photographs of the proposed building site.

Item H-16 A copy of the plot plan (survey) showing the proposed building footprint has been provided.

H-17 Overall lot dimensions are noted on the plot plan.

H-18 The tract acreage is noted on the plot plan.

H-19 A referenced meridian has been provided.

H-20 The well and septic field is shown on the plot plan. Other septic components such as the septic tank and underground piping and utility lines are not shown on the plot plan. The applicant must show these items in order to verify that the proposed building does not conflict with any of the existing septic system components.

H-21 Existing structures are shown on the plan as well as the easements. During my site visit I noted that the applicant's survey does not show the extent of site improvements on the property. The survey must be revised to show:

- The driveway to be noted as paved and provide the current dimensions of the driveway.
- The above ground pool and wooden deck that is located to the north of the existing dwelling.
- The shed that is located along the rear yard at the northwesterly side of the property.
- Trees located along the paved drive.
- Rock walls and other misc. landscape features noted in my site visit.
- Other items noted on the checklist, including utility services and drainage ditches must be shown on the survey. A grass swale was noted to the north of the proposed building area but not shown on the plan.

H-22 A written scale has been provided on the plot plan. However, a graphic scale is not on the plot plan. The survey must be revised to show a graphic scale.

H-23 through H-24 I have summarized the bulk requirements and information for R-5 Zone (setback lines and dimensions of the plot plan for the existing and proposed improvements) per attachment six of the ordinance and as presented on the submitted plot plan is summarized in the table. Comments are provided in the following table and noted below:

Requirement	Required	Existing Dwelling	Proposed Building
Lot Area Minimum (acres)	5	3.711+/-	No Change
Lot Width Minimum (feet)	325	Not Provided ⁽¹⁾	No Change
Lot Depth Minimum (feet)	350	Not Provided(!)	No Change
Height Maximum (feet)	35	Not Provided(!)	Not provided (1)
Stories Maximum	2-1/2	2	Not provided (1)
Setback from Street Line, Minimum (feet)	75	113.5	Not provided (1)
Rear Yard Minimum (feet)	75	Not Provided < ¹² >	Not Provided < ¹² >
Side Yard Minimum (feet)	75	79.6	Not provided < ¹² >

Plot plan does not show the dimensions to the proposed building with respect to the property lines and does not note the total building height in either the existing or proposed structure or number of stories on the proposed structure. Lot width and depth were not provided on the survey. Although the application notes the lot width and depth, the dimensions are not consistent with the definitions outlined in section 100-6 of the ordinance. These items must be completed.

(2) Property Survey shows setback lines that do not comply with the revised bulk requirements. The survey must be revised to conform to the latest setback requirements for this zone.

H-25 through H-26 The applicant has provided a floor plan for the proposed structure. The floor plan notes a proposed ceiling height of twelve feet. The floor plan must be revised to show height of the proposed building in accordance with the definition noted in the Land Use Ordinance Section 100-6 under "Height of Buildings".

H-27 The applicant has indicated that a "Consistency Determination" from the Highlands Council is not applicable. Upon review of the property utilizing the attached "Highlands Council Interactive Map" the subject property is located in the Highlands Planning Area and that a "Consistency Determination" is required under subpart 2 of the checklist. The applicant must comply with the requirement as noted in the checklist.

Based upon the above items H-8; H-20; H-21; H-22; H-23; H-24 through H-27, we recommend that the application be deemed incomplete at this time for the deficiencies noted unless otherwise waived by the Board.

Technical Review

Based on my limited technical review of the application, I offer the following comments for the Board's consideration.

A. Outside agency approvals:

1. In accordance with the attached Highlands Reference Map of the property, a Riparian Zone extends on the subject property from the adjacent stream. The applicant must obtain all applications or determination for disturbance in the Riparian Zone from the New Jersey Department of Environmental Protection prior to any disturbance associated with the proposed structure.
2. Limits of overall disturbance are not shown on the plot plan. The applicant must testify as to the total disturbance for the proposed building. Any disturbance exceeding 5,000 square feet, a certification is required from the Hunterdon County Soil Conservation District.
3. A "consistency determination" is required from the Highlands Council for this property.
4. The building construction is subject to the appropriate building subcode and other construction permits.
5. Stormwater management has not been provided on the plot plan. It should be noted that if the disturbance is equal to or greater than 1 acre and the proposed activity results in an increase of impervious area of ¼ acre, a stormwater plan and calculations are required as per the Township Ordinance and State Stormwater Rules.
6. A review of the floor plan shows no electrical or plumbing items to be installed as part of the building. Should the owner plan on installing plumbing that will tie into the septic system, a permit is required from the Hunterdon County Health Department.

B. Other Items

1. No grading of the building has been shown or noted on either the floor plans or the plot plan. The grading and overall disturbance of the proposed work must be provided as part of the application.
2. When additional information is submitted, I will supplement these technical comments as needed.

I have included a copy of the Highlands Interactive Map noting the lot and riparian zone. If you have any questions or require additional information, please feel free to contact me.

Robert Martucci, P.E.
Board of Adjustment Engineer
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Enclosure

Cc Board Members (via email)
Betsy McKenzie PP, ACIP, Planner (ecmcke@embarqmail.com)
Todd Bolig, Esq. (tlbolig@boliglaw.com)
Mark and Kathleen Petro (mpetro5@yahoo.com and regular mail)

The professionals and the board members discussed the following:

Checklist item H5. The applicant marked this as not applicable. Mr. Martucci was not familiar with the request and Attorney Bolig discussed this checklist request and how the applicant needs to sign the paperwork stating that they are the owners of the land and not leasing the land. This needs to be notarized.

Checklist items H20 – H24 – pertain to the survey submitted. Per Mr. Martucci there needs to be more information provided: existing structures, wells and septic, set backs, etc. When Mr. Martucci did a site walk he noticed that updates to the property have been done and this triggers the need for a new survey. Dimensions need to be shown. In summary, an updated survey all to scale needs to be provided to the board.

Checklist items H25 and H26 – the overall height was not submitted on the architectural plans. Is it one story? What are the dimensions?

Checklist item H27 – pertains to the Highlands Council however Mr. Martucci expressed that no action is needed from the Highlands Council. He made an error in bringing attention to this item as the

property is a residential use and the proposed application is also for residential use and not a commercial use. So this is not applicable and no discussion needs to be made.

More discussion took place. Les Gallipeau stated that he thought this application was originally complete but upon discussion there are outstanding issues that need to be addressed and the applicant is present and is now being made aware of the issues at hand. The applicant was reminded that a survey needs to be updated showing improvements to the property as well as the setbacks. A schematic of the building needs to be provided indicating the dimensions including the ultimate height (above ground level to the cupola).

The applicants were present and Mark Petro was asked to stand next to the microphone if he wanted to make comments. Mr. Petro stated that he was able to figure out the height but the board stated that it needs to be on the plans and that they are not required to do the calculations nor are the boards professionals. The applicant bears the responsibility to state what the applicant is seeking to do and to report the facts to the board. Mr. Petro also stated that the township has all the improvements on file as permits were filed. The applicant was reminded that he is before the board of adjustment seeking a variance for something that is exceeding what is allowed by the ordinances in town. The pool, the shed, the trees, the paved driveway, the sidewalks, the septic, all need to be identified as you must also look at impervious coverage. All things impact the request for the variance. The applicant was told that by doing this now this is actually helping the applicant from having to keep coming back. There was some additional discussion about the swale on the property. As another reminder, the board discussed the need for everything to be shown including the setback dimensions off property lines and the floor to area ratio. Twenty years ago a simple drawing was all that was needed, however in today's times the board has no other choice but to request a properly illustrated survey. The applicant was made aware that the board's professionals are available for discussions with the applicants professionals.

Some technical details were discussed regarding the scheduling of next steps that must be addressed before the next deadline. The applicant was told that the deadline for submittal for the next scheduled meeting is May 8th. This means they would need to provide Secretary Kozak with all the information by May 8th to be able to be on the next agenda for completeness. The board also agreed that if the information provided was deemed complete a Public Hearing could be held. The applicant is aware that they can notice for a public hearing on May 29th. There was some clarification about the need to notice each property owner even if it is the same property owner. The applicant was told that the board will need the certifications for the board to have jurisdiction for a public hearing.

A motion was made by Les Gallipeau and seconded by Gail Rader to deem this application incomplete. At a roll call vote, all present were in favor. Motion carried.

Mr. Martucci will review all information provided. If all is acceptable to the board at the scheduled meeting then the board will deem the application complete and then a public hearing will take place.

At this time, the applicant left the meeting and Mr. Baker returned to the dais.

Attorney Bolig requested that Secretary Kozak contact Planner McKenzie to check her availability to attend the next scheduled meeting. The memo prepared by Ms. McKenzie and submitted to the board is as follows:

MEMORANDUM

TO: Holland Township Zoning Board of Adjustment

FROM: Elizabeth C. McKenzie, AICP, PP

DATE: April 24, 2013

SUBJECT: Mark and Kathleen Petro, "c" Variance for Oversized Accessory Building on Lot 48.02, Block 6, 211 Spring Mills-Little York Road, R-5 Zone

The purpose of this memo is to offer substantive comments on the application of Mr. and Mrs. Petro for a "c" variance to permit the construction of an oversized accessory storage structure on Lot 48.02, Block 6.

The subject property is a 3.711 acre lot fronting on Spring Mills-Little York Road. It is developed with a frame two-story single-family dwelling that shares a common driveway for "vehicular and pedestrian access" with Lot 48.01. The applicant proposes to erect a 1,440 square foot pole barn (36 by 40 feet) along the rear edge of the driveway, apparently for the storage of tractors. The entire storage structure will be located within the building envelope and will conform in all respects with the requirements of the Ordinance except for its size.

The Holland Township Land Use Ordinance limits accessory structures on residential lots to the following:

A. One private garage intended to be used, and used, to store or house 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.

B. Storage structures customarily associated with the maintenance of a residential lot, provided the storage structure does not exceed the following

maximum gross floor area: (1) For a lot having a lot area of two acres or less, a maximum gross floor area of 300 square feet; (2) For a lot having a lot area of greater than two acres but not three acres, a maximum gross floor area of 400 square feet; (3) For a lot having a lot area greater than three acres, but not over 10 acres, a maximum gross floor area of 1,000 square feet; and (4) For a lot having a lot area greater than 10 acres, the storage structure shall not have a gross floor area larger than 50% of the footprint of the principal structure.

On the face of it, this application requires merely a "c" variance for the size of the proposed storage structure, which will exceed 1,000 square feet. There may be another issue, however. ***The Ordinance is clear that the purpose of the storage structure should be connected to the maintenance of the residential lot. The applicant will have to address how and why such a large structure is needed to house tractors and other maintenance equipment needed for just this residential lot. If the purpose of the structure is to house equipment that is used in conjunction with an off-site business or farming operation, the applicant will then need to seek a use or "d" variance in addition to the "c" variance.*** Information on what will be housed in the storage structure and whether all of the equipment and vehicles stored there will be used in connection with the residential use of the subject property will be critical to the Board's determination as to what kind(s) of variance(s) are required. If a "d" variance is needed, the notice will have to include that request along with the fact that the applicant seeks a "c" variance for the size of the structure.

No information is given as to the overall height of the structure or as to the total proposed coverage on the lot. The building appears that it will be well within the 35 foot limit, but the applicant should provide this information, in addition to the anticipated lot coverage and the other setback and dimensional information suggested in Mr. Martucci's letter.

The applicant will have to present proofs on the variance or variances needed. This is not a hardship type of situation (as might be the case if the lot in question were closer to 10 acres in size with a viable farming operation on it). To obtain a non-hardship "c" variance, the applicant must be able to demonstrate to the Board's satisfaction that granting the variance will promote the purposes of the MLUL and that the benefits of granting the variance in this case will substantially outweigh any potential detriment. In addition, the Board must be satisfied, based on the testimony presented by the applicant, that there will be no substantial detriment to the public good and no substantial impairment of the intent and purpose of the zone plan and zoning ordinance of the Township.

If a variance pursuant to N.J.S.A. 40:55 D-70d-1 is required to be sought based on how the storage structure will be used, the applicant will be obligated to prove that there are special reasons to support the granting of the variance in this particular case and to demonstrate that granting the variance will not be substantially detrimental to the public good and will not substantially impair the intent and purpose of Holland Township's zone plan and zoning ordinance.

Critical to the Board's consideration of the application will be the question of what the building will be used for (and, if a "d" variance is required, why the building is proposed to be located on a residential lot instead of on a more appropriate agricultural or commercial site). In any case, the applicant must address why the building is proposed to be so much larger than the 1,000 square feet permitted, and why a smaller, conforming building could not be erected to achieve the necessary storage.

Moreover, the applicant should address why the building is proposed to be located where it is shown on the survey. Even if the Board is convinced as to the necessity for the oversized building (with or without a use variance) and the benefits to the general public to be derived from it, the Board may, nevertheless, wish to ask the applicant to consider alternative locations on the lot that might offer better opportunities for screening the building from the street and from adjoining properties.

The issue of alternative locations will be subject to the findings of the Highlands Council in the consistency determination, which Mr. Martucci has indicated will be required for this application, given the fact that much of the property is constrained by the 300 foot riparian zone required from a Highlands waterway, even though the subject property is an existing developed single-family residential lot and would otherwise be exempt from the requirement for a Highlands consistency review.

Secretary Kozak was also asked to provide information to the board members regarding the barn that was erected on the property adjacent to this application and to provide the board with copies of the permit on file.

Public Hearing

There was not a Public Hearing scheduled.

Resolution

There were no resolutions to be discussed.

Old Business

There was no Old Business to be discussed.

New Business:

There was no New Business to be discussed.

Public Comment

There were no members of the public present.

Les Gallipeau made a motion to adjourn. Motion carried.

Meeting ended at 8:05 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak

Secretary