

Franklin Township Land Use Board
Meeting Minutes
March 7, 2024

The Franklin Township (Warren County) Land Use Board met for their regular meeting on Thursday, March 7, 2024. Attorney Schneider 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 NJ Zone as well as the Franklin Township website.

The Flag Salute was led by Mr. Meltzer.

ROLL CALL:

Members Present: Mr. Butler, Mr. Corde, Mr. Meltzer, Mr. Onembo, Mr. Santini, Mr. Sigler, Mr. Balogh, Mr. Truskowski

Members Absent: Mr. Guth, Mr. Herzer

Also Present: Attorney Richard Schneider, Engineer Michael Finelli

MINUTES

Motion by Mr. Meltzer, seconded by Mr. Corde to approve the minutes of August 9, 2023. Roll Call: Ayes: Mr. Corde, Mr. Meltzer, Mr. Santini, Mr. Sigler, Mr. Onembo. Nays: none

Motion by Mr. Meltzer, seconded by Mr. Sigler to approve the minutes of February 1, 2024.

Roll Call: Ayes: Mr. Butler, Mr. Corde, Mr. Meltzer, Mr. Santini, Mr. Sigler, Mr. Balogh, Mr. Truskowski. Nays: none

APPLICATION 23-3; Frank Bogyos Special Occasion Events on Block 56, Lot 39

Mr. Ron Sigler and Mr. Scott Truskowski recused themselves from this application.

Attorney McDonald was present to represent the applicant.

This application is a D-1 Use Variance w/site plan approval for Special Occasion Events to be held on a preserved farm. Mr. Schneider advised the applicant and Mr. McDonald that they will need 5 affirmative votes for the application to be approved.

Mr. McDonald gave a summary of the D1-Use Variance with site plan application for special occasion events on the farm at 8 Wolverton Road in Franklin Township and he referred to Chapter 9 of public law with regards to special occasion events on preserved farmland. This is a 77.83 acre property in the RC-1 zone. Mr. Bogyos is applying for the SOE under Chapter 9 passed in 2023 into law. Under the law it allows owners of commercial farms on preserved farmland to obtain permission to hold SOE despite restrictions against non-agricultural activities imposed in the deeds of easements, Chapter 9 does not pre-empt local land use law regulations, it is restricted to less than 10 acres or 10% of the property. It states that 6

occasions with 250 guests or more, no new permanent structures are to be built. Temporary structures are permitted such as tents through April 1st through November 30th. The uniform construction and fire codes may apply. Parking under the statute is existing, permitted surrounding the existing buildings and also temporary spots.

Mr. Finelli reviewed for the board the completeness review of the application and his letter dated March 4, 2024. He advised that he recommends the board deem the application complete and proceed with the hearing.

Motion by Mr. Corde, seconded by Mr. Meltzer to deem the use variance and preliminary and final site plan applications complete. Roll Call: Ayes: Mr. Balogh, Mr. Butler, Mr. Corde, Mr. Meltzer, Mr. Onembo, Mr. Santini. Nays: none.

Mr. McDonald proceeded and indicated they reviewed all the Township ordinances that apply and he feels this application conforms. He referred to Mr. Kyles letter of March 4th in which it was pointed out to obtain a use variance the applicant is required to demonstrate both the positive and negative criteria. Starting with the positive criteria the applicant must demonstrate the public welfare is promoted. The site is particularly suited to the proposed use. The characteristics of the site make it appropriate for the use and other special reasons generally derived from the purposes of the municipal land use law which include the public health, safety morals and general welfare. Mr. Bogyos will testify to this.

Mr. Bogyos was sworn in at this time by Mr. Schneider.

Mr. Bogyos stated that the site is suited for this use because it is beautiful valley and he has had personal weddings and birthday parties on the site and everyone is always amazed at how beautiful it is and is part of the preservation program and open space taxes are approved to have preserved farms. Franklin Township has a lot of preserved farms and he is trying to keep his property and Franklin Township a beautiful community. He is retired and he is trying to get a little residual income to help keep his farm and barn looking nice. Mr. Bogyos stated that a lot of conservation work has been done over the years and he feels it is just a beautiful site. Mr. McDonald asked about particular characteristics of his farm that would make it special for these events. Mr. Bogyos said it is off the road, it is not a public safety issue, it has the river through it. There is not risk of any public health or safety. Events will be catered by a health department approved vendor. Everything being used will be licensed for public health and safety. He stated that he is just renting the "shell" venue. Mr. Schneider asked if the intention for Mr. Bogyos personally to lease the property out to "Mr. & Mrs. Smith" to have a wedding or is the expectation that you would be leasing it to a third party wedding coordinator who would assume the responsibility for the event. Mr. Bogyos stated there might be a husband and wife that want to have their own wedding and they will provide the services who will need to have the necessary licenses to do so. Mr. Onembo asked is Mr. Bogyos is "running the show". Mr. Bogyos stated that he is only renting out the venue. Mr. Onembo asked if the Township will be in the position to rely on each particular person who rents it to ensure that the conditions of the board are met. Mr. Bogyos said he would be doing that, Mr. Onembo said Mr. Bogyos'

relationship with the renter will be one thing but his relationship with the Township will be another. Mr. Onembo said he would rather deal with Mr. Bogyos than “Mrs. Smith” who will be getting the vendors and health department certification. Mr. Bogyos said his insurance agent will have a policy from him and a separate policy from the renter whose policy has to have all the vendors participating will have the proper insurance. Mr. Onembo stated he will be going directly to Mr. Bogyos not the person renting the venue. Mr. Bogyos said his contract will have all this information in it. Mr. Bogyos stated he will be coordinating and monitoring the events and he will be notifying Mr. Onembo and the Farmland Preservation Department about what will be taking place. Mr. Schneider said it is the applicant’s responsibility to comply with the Land Use Board conditions of approval.

Using Mr. Kyle’s letter as a “checklist”, Mr. McDonald stated that the obligation for the applicant under the negative criteria there is two prongs. The first one is to show the variance can be granted without substantial detriment to the public good. Mr. Bogyos stated there is not negative impact to the surrounding properties. A letter of support was provided by the neighbor who shares the driveway. Mr. Corde asked if guests would be encouraged to enter the property from Wolverton. Mr. Bogyos said yes. He reviewed the area of entrance on the plan. He said it is passable and he maintains it. The road is in good shape. A brief discussion of the access road took place amongst the board and the applicant. Exhibit A-1 was marked and entered. Mr. McDonald continued under the first prong by asking if it changes the character or causes irreputable harm to the neighbors. Mr. Bogyos said no he feels it is all positive because it gives him extra resources to maintain his barn and have it repainted costs \$20,000 a year. He is keeping it beautiful and he does not see any safety issues. He invited the board to visit the site. Mr. Finelli agreed that the property is very nicely maintained. Mr. Bogyos stated over the years his wife and him have cleaned up along Wolverton Road. Mr. McDonald addressed the second prong of Mr. Kyles’ outline. Demonstrate a variance can be granted without substantial impairment to the intent and purpose of the zone and the master plan. Mr. Bogyos stated the rules are in place from the farmland preservation. It is a preserved farm, the development rights have been sold. He stated there is not any negative impact and it will stay within the confines of Franklin Township being an agricultural community, they are not paving parking lots, installing lights, towers, not blinking neon signs. He said it will be nice and quiet. It promotes the intent and purpose of the zoning and the aesthetics of the Township and Open Space concepts. Mr. Bogyos said the Warren County Department of Land Preservation liked his site and they said it is compatible with the intent of an SOE and their board approved it unanimously and provided a letter to that extent. He was referring to Resolution 23-08 from the Warren County Agricultural Development Board. Mr. Meltzer said the Ag Board resolution allowed for 6 events and he is now requesting 4. Mr. McDonald stated that they ask you to estimate when you apply so he figured up to 6 as an estimate. Mr. Meltzer stated that they need to know for this application how many events. Mr. McDonald stated from his perspective he would not want Mr. Bogyos to be restricted to 6. Mr. Kyle stated that the regulations are n the law and for the purpose of the use variance the board wants to hear not an estimate but how many because all this is consideration for negative criteria and gave examples of what could happen so the board needs the specific information in order to gauge the impact on adjacent properties, traffic, noise, etc. Mr. Corde asked if the tent goes up and stays up or does

it go up and down. Mr. Bogyos confirmed that any tent, restrooms or lighting are per event. Mr. Onembo is inclined to approve a maximum of 4 events. He stated that 4 weddings during the time of year whether it be spring or fall is efficient and he asked if this thing is commercially taxed at some point. Mr. Bogyos does not want to limit himself to only 4. Mr. Onembo reaffirmed that he thinks 4 is fair and he had discussed this with Mr. Bogyos. Mr. McDonald stated from his perspective representing Mr. Bogyos, to limit the variance that runs with the land, so what ever is decided now will carry forward and it's pretty limiting when the statute states 26 he doesn't see whether it be 4 or 10 it would make a difference as far as effecting the neighborhood. Mr. Bogyos does not want to be locked into 4. Mr. Santini stated that when you preserve a farm you preserve it for farmland, not weddings. He said if it wasn't already all preserved he wouldn't have a problem but these are new laws to deal with and new to the Township. Mr. Kyle stated that the SADC law was designed to provide flexibility to farmers to hold special events on farmland. Some people might need a supplement like that and some may not. They set forth in those regulations that you could have up to 26 events on a preserved farm and there are very strict limits, 10% of the total area or no more than 10 acres. Mr. Kyle said there is clearly an intent of the SADC to allow this to happen on preserved farms so the question for the board is what number of events, if approved, are you comfortable with. Mr. Santini said he was comfortable with 4. Mr. Schneider stated the other thing that needs to be addressed is the number of people. Mr. Meltzer stated the way he read the document the stormwater management is restricting it to 40 cars without a plan. Mr. Finelli stated he calculated 48, Mr. Kyle stated 40 based on a typical parking space size on an aisle. Mr. Finelli said he thought it is different than a typical parking lot and you only have to accommodate the room of a vehicle and explained his calculations. Mr. Kyle stated the issue is that when Mr. Bogyos has an event he has to have the parking lot delineated so it does not exceed ¼ acre in size to be exempt from stormwater management regulations and has nothing to do with the approval pursuant to farmland preservation. A brief discussion amongst the board and Mr. Bogyos took place regarding the parking stipulations. Mr. Schneider stated you have to figure out based on the estimated number of cars that you can fit into the ¼ acre without stormwater management, what is an appropriate number of people that the event can accommodate. It was discussed that some people will travel in by bus or van also. Mr. Kyle stated in the SADC regulations you use existing parking on the site or supplement with parking on grass if needed. The oddity is when the DEP changed the stormwater management rules recently the now use the term motor vehicle surface and that is any surface a car drives on not just paved surfaces. Exhibit A-2 was presented and reviewed. Mr. Bogyos showed the board where the building are and where parking would take place and how cars would enter on the gravel access road. Mr. Bogyos stated that he is using less than 2 acres. Mr. Onembo asked how parking is calculated if buses or vans are used and how does this relate to the number of people calculation. Mr. Schneider asked if they plan on using the barn for any of these events. Mr. Bogyos stated yes because people like barn weddings. Mr. Kyle pointed out in his report that the applicant will need to confirm that SOE's will only be held in tents and not within any existing structures because use of the barn for any portion of the SOE may trigger building and fire code requirements as it would be considered assembly space and subject to different standards. Mr. Finelli said he would need to get permits. Mr. Onembo stated that there is a whole other issue on using the barn. Mr. Schneider said it is not as much a land use issue but it is a Building Code

issue. The land use board is only approving the use of the barn but Mr. Bogyos will be required to obtain any and all permits from the Construction Code Official if the barn is being used. Mr. McDonald stated there is an exception whether it is 15 calendar days for the assembly. Mr. Schneider said if the Code Official can be convinced that no permits are required, that is not a land use board issue. Mr. Kyle stated that he has experience with this type of issue and gave an example when that situation had to start looking at the building code and the architect was looking at the egress doors and other issues that the fire code bears, when you get to a certain number of occupants in a building, and it becomes an assembly space, there is a threshold you cross where the building has to be sprinklered and it is a load occupancy issue. Mr. Bogyos said he can fit 150 comfortably in the barn. Mr. Kyle said that the Code Official will be the one to determine that not the Land Use Board. He is just making Mr. Bogyos aware of this issue. Mr. Bogyos stated that the Code Official has not looked into the barn for this. The Franklin Township Fire Chief also needs to look at the site. Discussion took place about the use of the barn during these events. It would be advantageous for the board to have more information on what the Code Official and Fire Official would approve in order to try to set the number limit of people for an event. Mr. Bogyos stated his barn does have farm equipment in it but could easily be converted to be used for an event and it is important to have the barn included as part of any of the approvals the board might grant for the SOE's. Mr. Finelli recommended they go to the code official and the fire chief and find out what requirements they will have relative to an assembly use of the barn. Mr. Schneider asked how many people maximum does Mr. Bogyos contemplate being at each SOE and is seeking approval for. Mr. Bogyos stated no more than 180. Mr. Finelli asked how the event is advertised. Mr. Bogyos stated that they have held family events there with about 150 people and it was comfortable in the barn. Mr. Schneider stated that if there was an approval there would be a condition of no more than 180 people at any one SOE. Mr. Corde stated there is one thing to have your family in the barn at an event then a commercial type event. Mr. Finelli asked does that 180 include the "staff". Mr. Bogyos said there is only 7-8 people as staff during an event. Mr. Schneider asked is the maximum number of people authorized in the barn the same number you would authorize for an event, the answer would be no. Mr. Schneider said the maximum number of people you would authorize is a function of how many people you can accommodate in the barn, how many you can reasonably accommodate in the tent and how much the site can accommodate in parking. Those are the attributes that will determine what conditions you will impose on the maximum number of people. Discussion amongst the board took place. For example if you have 40 cars with 4 people per car that's 160 people. The limit is 249 per the SOE. You can have 6 events of the 26 over 250 people. Mr. Schneider stated there were special regulations if it's a multiday event. Mr. Bogyos indicated that 180 would work. Mr. Onembo stated that the barn for this use should have an architect certify that it meets the codes to handle "x" number of people. Mr. Kyle stated that if you set up tables and chairs in the barn it changes the occupancy rating. There is circulation, fire code and a building code issue. An architect can help with figuring out the occupancy analysis. Mr. Finelli stated the fire chief has to come to the site and look at the circulation of the trucks and where there is access to water. A fire official with the building department will look for smoke detectors, extinguishers, etc. It was recommended an architect be retained to do the analysis and do a certification, then have the Construction Officials, Fire Officials and Fire Chief do inspections. Mr. Schneider stated that the Board was

not clear that the barn was intended to be used for this purpose, they were under the impression that the use would be limited to the temporary tents. Mr. Schneider explained to the applicant that what he needs to do about the barn is not a Land Use Board determination it is a Code determination. If the Board would approve the application, hypothetically, the Board would approve the application based on the plan approving generally "x" # of events per year, for all uses permitted under the SOE, not to exceed "x" # of people and designate type of lighting, height of lighting fixtures, parking areas not to exceed ¼ acre, etc. It appears the number of events will be set between 4-6 events per year. The special occasion event is determined as any activity which is eligible to receive right to farm benefits pursuant to the right to farm act. A recreational use permitted as part of the deed of easement, or a wedding held for spouse, child, grandparent, owner/operator or employee of the commercial farm are excluded from the SOE. Board members were invited to visit the site. The application will be carried without re-notice. The meeting was opened to the public for any comments or questions at this time. Laura Warnoski, 177 Bloomsbury Road, her property is to the back of Mr. Bogyos' property. She stated there is a secondary access also. She said this is a lot better than a warehouse. She supports this application. There were no other comments heard at this time. Mr. McDonald stated that in the spirit of the law is to benefit the farmer as a supplement to the income of a farmer and he thinks the State is trying to help put more money in the farmers' pocket and that is another reason why he thinks a restriction of a low number is not the best and he doesn't see any hardships to neighbors and there is a lot of good that will come out of it. Mr. Schneider stated that this application is being carried to May 2nd at 7:30 without further notice and the applicant grants an extension of time through that date.

Mr. Sigler and Mr. Truskowski re-joined the meeting at this time.

BILL PAYMENT:

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

Motion by Mr. Corde, seconded by Mr. Sigler and carried by all in favor to adjourn the meeting.

Respectfully submitted,

Kelley Smith
Land Use Board Secretary