

TOWNSHIP OF EAGLESWOOD
LAND USE BOARD MEETING
February 11, 2014

CALL TO ORDER

The Eaglewood Township Land Use Board was called to order by Chairman Paul Poklikuha at 07:00 p.m.

FLAG SALUTE

Mr. Poklikuha led the Flag Salute

ROLL CALL

Those members present upon roll call were Mr. Bartlett, Mr. Haines, Mr. Holman, Mr. Kinnevy, Mr. Nickel, Mr. Pasternak, Mr. Pine, Mrs. Rivas, Mrs. Sysol and Mr. Poklikuha. Also present were Terry Brady, Esquire, Frank Little, Engineer.

STATEMENT ~ PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT

"Provisions of the Open Public Meetings Act have been met. Notice of this meeting Resolution 2014-04, has been transmitted to the Asbury Park Press and the Times Beacon given to those having requested and paying for same, and posted on the Bulletin Board in the Municipal Building on January 14, 2014."

APPROVAL OF MINUTES

January 14, 2014 – Re-Organization Meeting

Motion made by James Pine to approve the minutes, seconded by Donald Haines. Ayes - Mr. Haines, Mr. Holman, Mr. Kinnevy, Mr. Pasternak, Mr. Pine, Mrs. Rivas, Mrs. Sysol and Mr. Poklikuha. Nays – None Absent: James Bartlett and Edward Nickel. Motion carried

RESOLUTIONS:

2014-05

RESOLUTION NO. 2014-05

**RESOLUTION OF EAGLESWOOD TOWNSHIP LAND USE BOARD
APPROVING THE APPLICATION FOR A REAR YARD SETBACK VARIANCE**

**MALCOLM & HELEN GODDARD, APPLICANTS
APPLICATION NO. 2014-01
BLOCK 4, LOT 34
448 DOCK ROAD
C-1 MARINE COMMERCIAL ZONE**

WHEREAS, the applicants, Malcolm & Helen Goddard, have applied to the Eagleswood Township Land Use Board for a rear yard setback variance to permit the replacement and expansion of an existing residential dwelling upon property known as Block 4, Lot 34 on the Tax Map of Eagleswood Township, and being located at 448 Dock Road in the C-1 Marine Commercial zone; and

WHEREAS, the Variance Plan was prepared by Andrew Schawl, PE, dated 11/5/2013; and the Survey of Premises was prepared by Hyland Design Group, dated 10/17/2012; and the Schematic Plan of the proposed house was prepared by Gary Mednick, Registered Architect, dated 4/19/2013; and

WHEREAS, the Eagleswood Township Land Use Board, after carefully considering the evidence presented by the applicant, and the report from its professional staff, hereby makes the following findings of fact:

1. The applicant has a proprietary interest in the property.
2. The applicant has requested approval in accordance with the Land Use Ordinances of the Township of Eagleswood and all record property owners located within 200 feet of the subject property were duly notified of the public hearing, and a notice summarizing the application was duly published, as required by law, in an official periodical of the Land Use Board.
3. The property is located at 448 Dock Road.
4. The applicant is requesting approval from the Zoning Ordinance of the Township of Eagleswood for the purpose of permitting a rear yard setback of 18.58 ft to the house & 12.56 ft to the deck, where a 30 ft setback is otherwise required.

5. Frank Little, P.E., of Owen, Little & Associates, the Board's

engineer, prepared a report to the Board dated December 2, 2013.

The Board hereby adopts the findings in the reports of its professionals and incorporates them in this Resolution by reference.

6. The applicant's professional planner, Carol Tutelian, and the applicant's architect, Gary Mednick, testified that the existing single family home is being demolished and replaced after being substantially damaged by Superstorm Sandy.

7. The testimony reflected that the proposed location of the house is consistent with the location of the house pre-Storm, and the rear yard setback variance is needed due to the existence of wetlands on the property and NJDEP restrictions regarding the same. The applicant's proposal is in keeping with the area and neighborhood and that the granting of the variance would not be detrimental to the public good.

The Board concurs with these representations and so finds.

WHEREAS, the Land Use Board has determined that the applicant should be granted the requested relief for the following reasons:

1. The granting of the application will not be a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan, Master Plan and/or the Zoning Ordinances and Master Plan of the Township of Eagleswood.

2. The positive criteria outweigh the negative, if any.

3. There were no objectors present at the hearing.

4. The safety and well-being of the immediate area will not be adversely affected by the granting of the relief requested.

5. By reason of exceptional narrowness, shallowness or shape of the subject property, and by reason of exceptional topographic conditions or physical features uniquely affecting the subject property, and by reason of an extraordinary and exceptional situation uniquely affecting the subject property, the strict application of the rear yard setback regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the applicant.

NOW THEREFORE BE IT RESOLVED, by the Eagleswood Township Land Use Board that the Land Use Board hereby grants and approves the variance as requested, subject, however, to the following conditions being satisfied prior to the signing of the plan or issuance of a Zoning Permit:

1. Submission of an affidavit signed by the Eagleswood Township Tax

Collector certifying payment of outstanding real estate taxes.

2. No building permit will be issued until the Land Use Board Secretary has confirmed that all professional fees have been paid in full. In the event a building permit is issued and there are outstanding Land Use Board professional fees, a stop work order will be filed against the applicant/contractor(s) and remain in effect until the fees have been paid.

3. In the event there is an *existing* violation, the applicant shall have thirty (30) days from the date the Notice of Decision is published to correct the violation. Failure to correct the existing violation within the time proscribed will result in the issuance of a summons.

4. Within fourteen days of receipt of the approved resolution, the applicant must submit for publication a Notice of Decision to an approved newspaper of the Township of Eagleswood. Once the Notice is published, the applicant must submit the Affidavit of Publication issued by the newspaper, along with all other resolution items, to the Board office.

5. Approval of the following agencies and any other municipal, county, state, and/or federal agency having jurisdiction over said application, if not already obtained, and if required:

- a. Ocean County Planning Board;
- b. Eagleswood Township Municipal Water and Sewer Department;
- c. Ocean County Soil Conservation District;
- d. NJ Department of Environmental Protection;
- e. NJ Department of Transportation.

6. Applicant must assemble all executed conditions in a COMPLETE package and submit them along with the reproducible original to the Board office so the map can be signed and the Zoning Permit can be issued prior to an application for Building Permit being filed.

7. The applicant must obtain signed certifications from the Township Code Enforcement Officer certifying that the applicant has complied with all conditions of this Resolution of Approval.

8. Signing of the plan and issuance of a Zoning Permit will not take place until compliance with all conditions has been certified.

9. This approval will expire one year after the date of approval if a building permit is required or, if a building permit is not required, a certificate of occupancy, if required, has not been obtained.

10. It is incumbent upon the applicant/owner to prominently display the address number on the premises so that it is clearly identifiable and visible

from the street.

BE IT FURTHER RESOLVED, the applicant's request for rear yard setback variance approval, as set forth more fully in the preamble of this Resolution, be and hereby is approved.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the applicant, the Building Department, the Zoning Department and the Township Clerk by the Land Use Board secretary.

BE IT FURTHER RESOLVED that the Eagleswood Township Land Use Board shall cause notification of this Resolution to be published in an official newspaper of the Eagleswood Township within ten (10) days of the adoption of this resolution.

Land Use Board	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Mr. Bartlett (Alternate)					x		
Mr. Haines			x				
Mr. Holman		x	x				
Mr. Kinnevy			x				
Mr. Nickel					x		
Mr. Pasternak	x		x				
Mr. Pine			x				
Mrs. Rivas			x				
Mrs. Sysol			x				
Mr. Poklikuha			x				
VOTE:			8		2		

NEW BUSINESS

Application 2014-003 - Eagles Nest Airport, Block 34 Lot's 1,2,3,3.01 Block 36 Lot's 13,13.01,16-22, Application for Amended Site Plan - The applicant seeks approval to relocate 400 feet of runway, westerly towards the Garden State Parkway with the elimination of a corresponding 400 feet on the easterly side.

Chairman Poklikuha stated that the following two applications are within a 200 feet radius of his property so as law states he will be stepping down and handing the meeting over to Vice-Chairman Holman.

James Bartlett advised that the two applications on for new business are within a 200 feet radius of his property so as law states he will be stepping down.

After Board Discussion with the Applicant and the Applicant Attorney it was agreed that this application would be re-scheduled for the March 11, 2014 meeting due to an error in the Notice of such application.

Land Use Board	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Mr. Bartlett (Alternate)							x
Mr. Haines		x	x				
Mr. Holman			x				
Mr. Kinnevy			x				
Mr. Nickel			x				
Mr. Pasternak			x				
Mr. Pine			x				
Mrs. Rivas	x		x				
Mrs. Sysol			x				
Mr. Poklikuha							x
VOTE:			8		2		

Application 2014-002- Skydive East Coast- Block 34 Lot 1;3.01 Block 36 Lots 12:13:13.01
Application for Appeal of Administrative Officer- Interpretations- Amendment to Site Plan- The applicant seeks jurisdictional interpretation, as well as subject matter interpretation in regards to skydive operations at an approved airport. No development is proposed. No new construction is proposed. No changes to previously approved and/or previously existing site improvements are proposed. Applicant proposes continued operation of tandem sky-dive operations.

The Attorney for the Applicant John J. Novak of Toms River introduced himself for the record.

The Attorney for the Land Use Board Terry Brady stated that application 2014-002 was noticed correctly so it would be correct for the board to give consideration to hear the above. Mr. Brady stated that the Attorney for Application 2014-002 would express their views and then we would open up to the public and proceed from there.

At this time Vice- Chairman Holman asked that the Land Use Board Engineer Frank Little to discuss his letter of his findings. Mr. Little gave a brief explanation of his findings.

At this time Mr. Novak began his presentation. Mr. Novak stated that he feels that the board does not have jurisdiction on this application. Mr. Novak has requested that the interpretation/appeal of the application be heard together.

Attorney Novak states that the main issue for this applicant is Noise. Attorney Novak addressed the board regarding noise of the airplanes.

Mr. Novak requested that Exhibit A-1 be introduced to the board- A-1 represents a rendering of the Run-Way.

Mr. Pine asked Mr. Novak who enforces all of these mandates? Mr. Novak stated that the FAA enforces the requirements that are mandated on planes. The FAA regulates and

inspects that everything is operating by their approvals. Mr. Novak stated that the Land Use Board does not have the authority to regulate planes taking off and landing. Mr. Novak addressed the board stating that Land Use Board regulates Land since no development or disturbance of land is taking place this board has no jurisdiction over this application.

Mr. Novak requested Exhibit A-2 be presented to the board. A-2 is a copy of Certificate of License from the State of New Jersey issued to Skydive East Coast, LLC, West Creek NJ of Eagles Nest Airport.

This license is needed in order for East Coast Skydiving to be in business. This license is applied for and can only be obtained after a public comment period. Only after the public comment period has concluded will the license be issued.

Mr. Novak gave the board some facts with regards to regulations that must be followed for skydiving. Mr. Novak stated again that this application is all because of noise complaints.

Mr. Novak stated that he was in receipt of the letter from Mr. Karl Sillitoe, Zoning/Code enforcement Officer. For the record Mr. Novak stated that the letter references a school, and at no time was his client running a school. Mr. Novak's client East Coast Skydiving is not, and has no intention of doing so; if this would change they would come before the board.

Mr. Novak asked Mrs. Rivas if she was on the phone. He was concerned she was texting and he didn't want to interrupt her.

Mr. Novak addressed the board and spent a great deal of time speaking about the noise of the plans.

Mr. Kinnevy from the board asked Mr. Novak some questions regarding what was required before you dive and how long it would it take? Mr. Kinnevy asked how jumpers are instructed; what kind of training or instruction are they given. Mr. Novak stated that there is brief instruction and if there is no wait he would say 5 minutes. This is strictly a Tandem Skydiving operation.

Mr. Peter Weidhorn was sworn in. Mr. Weidhorn testified that there are several other Skydiving operations in the area.

John Todorov manager and owner of East coast Skydiving was sworn in.

Mr. Todorov stated he has been doing this for 20 years, over 14,000 jumps. Mr. Todorov gave an overview on how you become a certified skydiver. Mr. Todorov stated they begin their Skydiving operation around April and end around November. However, they still are required to fly their planes during the off time.

The board had questions for Mr. Todorov. He addressed the board regarding the packing of chutes, the number of jumps they perform on a given weekend and he stated that he does jump but he is mostly on the ground during operations.

Mr. Novak asked that Exhibit A-3 be entered Memorandum of Understanding- Warren Grove Bombing Range.

Mr. Novak and Mr. Todorov gave an overview to the board how they call out on the radio to indicate their positions. The employees are trained for basic first aid and they have all the safety numbers available in the event someone is injured. Mr. Todorov stated that Safety comes first. Mr. Todorov stated the jumps are beginning early in the morning around 8am till sunset, this is on the weekends. On the weekdays it's around 10a.m. till sunset.

Mr. Novak stated that Towns and County are noticed when the license is up for renewal. Mrs. Rivas indicated that she did not recall ever seeing such request. Mr. Novak at this time asked to have Exhibit A-4 and Exhibit A-5 and Exhibit A-6 and Exhibit A-7 to the board. Mr. Weidhorn stated that these letters were hand delivered and were stamped in.

Mr. Brady had a brief discussion regarding Exhibits A-4, A-5, A-6 and A-7.

Dave Pankove was sworn for testimony.

Mr. Pankove advised the board of all his qualifications. Mr. Pankove stated there is specific protocol that must be followed when Skydiving is in operation. Mr. Pankove gave a brief overview on how he broadcasts his intentions over the radio. He advised the board on the flight pattern that the pilots are following. Lastly Mr. Pankove advised the board on how the plains descend. The entire time the jumpers are in the air he is on the radio, ultimately he is the eyes in the sky.

Mr. Kinnevy questioned Mr. Novak about the application. He stated that this is not a Noise Ordinance issue, all though all the information that was heard tonight was interesting, the issue is whether or not Skydiving is a permitted use at the airport. Mr. Novak stated he is asking for an interpretation / Appeal and if they are voted against the first two items they will than ask for an amended site plan.

The Board called for a fifteen minute recess at this time.

Mr. Novak has requested that this meeting be open to the public.

At this time Mr. Brady asked Mr. Sillitoe to come before the Board to give his explanation and findings.

Mr. Karl Sillitoe was sworn in for testimony.

Mr. Sillitoe stated he is the Code Enforcement / Zoning Officer for Eagleswood Township. Mr. Sillitoe stated a brief explanation on to why an investigation was done and why a Notice of Violation was written. Mr. Sillitoe stated he feels that this is an expansion of Use and continues to stand behind this decision.

Exhibit B-1 - Notice of Violation was entered into for the Board.

Mr. Brady asked Mr. Sillitoe whether the expansion of use is something that would be a permitted use in this zone. Mr. Sillitoe stated he feels this is an accessory use of the Airport his interpretation is that you are expanding a permitted use.

Mr. Novak questioned Mr. Sillitoe on who he received complaints from; Mr. Novak asked how he received those complaints. Mr. Sillitoe advised they were anonymous and they were filed on Township Complaint forms. Mr. Novak asked Mr. Sillitoe to explain his investigation. Mr. Sillitoe gave a brief statement on how he handled his investigation. Mr. Novak provided Mr. Sillitoe with different scenarios on expansion of use and asked Mr. Sillitoe to give his opinion if any of these were expansion of use. Mr. Sillitoe stated that if there is a grey area he feels that this is up to the Land Use Board. Mr. Novak had dialogue with Mr. Sillitoe regarding his Violation. Mr. Sillitoe reaffirmed that he felt he conducted a thorough investigation before issuing his violation.

Motion to open to the Public was made by James Pine, Seconded by Michael Pasternak.

Mrs. Phyllis Klick-Tanglewood Drive:

Mrs. Klick stated her concerns for allowing Skydiving to operate at the Airport. She feels that this operation is causing a disturbance in the area. Mrs. Klick questions the safety of the Residents who live here.

Mr. Novak asked Mrs. Klick to explain some of her comments.

Mr. Patrick Filardi- Tanglewood Drive

Mr. Filardi stated his concerns are for safety of the residents. The Skies have been come very busy.

Rev. James Occhipinti- Forge Road

Rev. Occhipinti stated he does not oppose the airport, he is happy to have the airport here; his Son-In-Law is a pilot and uses the airport. His concern is that that when the Skydiving is in operation they are flying directly over his house, he can hear them talking while they are in the air, and he feels they are flying to close to the Residents homes.

Roger LaPlant- Rodeo Drive

Mr. LaPlant is happy to see the Airport getting cleaned up; he stated the Airport was here before people purchased their homes. He doesn't feel that there is anything wrong with what is being done at the Airport, he feels that if it is a noise issue, you get used to

hearing it.

Susan Ricciardi-Rosa Swamp Road

She feels that we need to have more control over the Airport.

Michele Paccione- Laurel Hill Lane

Mrs. Paccione feels that noise is not the only issue with the Airport. There is concern with safety and lead concerns. Mrs. Paccione feels that the air traffic has increased.

Mr. Novak asked Mrs. Paccione numerous questions regarding her statements of the Airport and the Skydiving Operations.

Vice Chairman Holman advised Mr. Novak that due to the time he needed to make one last question.

Mr. Novak respectfully requested to continue to ask Mrs. Paccione questions at the next meeting. Mr. Novak stated that he would be unavailable for the March 11th meeting but would like to have this meeting continued to the April 8, 2014 meeting.

Vice Chairman Holman would like to have continuation of this hearing with no additional notice will be required at this time for the Meeting on April 8, 2014. Mrs. Rivas made the motion, seconded by James Pine, all in favor.

CORRESPONDENCE

None

BOARD DISCUSSION

ADJOURNMENT

Debra A. Rivas made a motion to adjourn, Second by James Pine. All Ayes. Motion carried. The meeting was adjourned at 11:08 P.M.

Respectfully submitted,

Lisa H. Hand
Eagleswood Township Land Use Board