

# Holland Township Land Use Board

## Minutes of the Regular Meeting

March 14, 2022

(Notice-The Chairman reserves the right to change or revise the order of the agenda as needed. Formal action may or may not be taken)

The meeting was called to order by the Land Use Chairman Mike Miller:

**Chairman:** “I call to order the March 14, 2022 Meeting of the Holland Township Land Use Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Land Use Administrator by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Publishing the notice in the December 9, 2021 edition of the Hunterdon County Democrat
3. And faxing to the Express-Times for informational purposes only.

**Chairman:** Please recite the Pledge of Allegiance

**Chairman:** Identification of those at the podium

Present: Jerry Bowers, Bill Ethem, Ken Grisewood, Dave Grossmueller, Michael Keady, William Martin, Mike Miller, Nickolas Moustakas, Kelley O’Such, Ryan Preston, John Gallina, Esq., Adam Wisneiwski, Engineer, Darlene Green, Planner, Lucille Grozinski, Court Reporter (via Zoom) and Maria Elena Jennette Kozak, Secretary.

Absent: Dan Bush, Joe Cinquemani, Scott Wilhelm,

Let the record show there is a quorum.

### Minutes

The approval of the minutes of the February 14, 2022 meeting was tabled.

### Old Business:

Home Occupation Subcommittee - Ken Grisewood, Bill Martin and Jerry Bowers – the first meeting will be Zoom. There are many items to consider with this topic.

### New Business:

There was no new business scheduled at this time on the agenda.

### Completeness Review:

There was no completeness review scheduled at this time on the agenda.

### Resolution

Kelley O’Such-Block 1 Lot 3 - 0 Dennis Rd-Variance-Lot lacking street frontage – Received into our office on December 2, 2021. The 45-day completeness deadline is: January 16, 2022. Board of Adjustment deemed complete December 15, 2021. Applicant granted extension for public Hearing. Public Hearing February 14 2022. Approved with conditions. Attorney Gallina prepared a Resolution for consideration and memorialization. Land Use Board Action required.

## HOLLAND TOWNSHIP LAND USE BOARD RESOLUTION

**WHEREAS**, the Applicant, Kelley O’Such ( the “Applicant”) has applied to the Holland Land Use Board for variance approval in order to construct a home on a lot not abutting a street, along with related bulk variance approval; and

**WHEREAS** the property is located at Block 1 Lot 3; and

**WHEREAS**, the Applicant has paid the proper filing fees, and filed the appropriate application forms; and

**WHEREAS**, the application was deemed complete and was considered by the Land Use Board at its meeting of February 14, 2022; and

**WHEREAS**, the following Exhibits were marked and identified and permitted into evidence during the application:

- A-1 – Affidavit of Service;
- A-2 - List of owners and utilities within 200 feet;
- A-3 - Certified Mailing Slips;
- A-4 - Notice of Hearing;
- A-5 - Affidavit of newspaper publication;
- A-6 - Letter from Darlene Green, Board Planner, dated February 1, 2022.
- A-7 - Letter from Paul Sterbenz, PE & Adam Wisniewski, PE dated , February 10, 2022.
- A-8 - E mail memorandum from Tom Welsh, Holland Township Fire Chief, dated February 14, 2022;
- A-9- Lot Development and Variance Plan by Wayne Ingram, PE dated 11/20/21 (6 Pages)

**WHEREAS**, the application and information contained therein, as well as the Exhibits

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and testimony introduced at the public hearing are incorporated into this Resolution as though set forth at length and attached hereto; and

**WHEREAS**, the Applicant appeared and gave testimony. Testimony was also given by Chris Nusser, PE; PP.

**WHEREAS**, the Land Use Board, after considering the application, supporting document and testimony, has made the following finding of fact and conclusions:

1. All information shown on the filed application is adopted by reference as though the complete application were set forth at length herein.
2. The property concerning the application is located at Block 1 Lot 2. The Lot does not have any frontage on a public road. The nearest public road is Dennis Road. There is access from the Lot to Dennis Road through an easement on adjacent Lot 43.
3. The Applicant seeks variance relief under N.J.S.A. 40:55D-36, in order to obtain a building permit for a lot not fronting on a public road, together with related bulk variance relief.
4. According to the Application and testimony, the Applicant is the Contract purchaser of the property. The current owner is Susan Philkill. According to the Applicant, Ms. Philkill had made a previous application for relief to obtain a building permit that was granted by the Board of Adjustment circa 2004. However, the home was never built. Mr. O'Such seeks the necessary relief in order to build a single family home on the lot.
5. Testimony at the hearing was given by Chris Nusser, PE, PP. Engineer Nusser

testified that the property is 7.2 acres.<sup>1</sup> Access to the property is from Dennis Road along a flag stem easement located on neighboring Lot 43. Engineer Nusser referred to the Variance and Lot

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Development Plan (Exhibit A-9), and noted that there is also a JCP&L easement across the property, and also an existing power line tower on the property. The access easement is 30 feet wide and also contains an emergency pull off area. The proposed driveway will be 10 feet wide. It is also noted that a title search of the property was submitted as part of the application. The search notes that there is a recorded Deed of Easement dated August 10, 2004, granting access across Lot 43 to Dennis Road.

6. Engineer Nusser further testified that the driveway will have a collection trench for stormwater, and is accessible for fire and emergency vehicles. Granting a building permit for this lot will not have any impact on any existing roads.

7. The correspondence from Board Planner Green of February 1, 2022 (Exhibit A-6) was referenced. It was noted that bulk variance relief would also be needed from the requirements of Ordinance 100-111, which permits lots for single family homes without street frontage so long as the lot has at least 500 feet of frontage on a driveway. In this application, the lot has only 30 feet of frontage on the easement, so bulk variance relief is required.

8. In testifying as a Professional Planner, Mr. Nusser testified that that with regard to the bulk variance, due to the existing location of the lot, there is a hardship in complying with the requirements of the ordinance. Also, granting variance relief will further the objectives of the MLUL, in particular N.J.S.A. 40:55D-2 (i) and (j), in that it would create a desirable visual environment with a new home and to promote conservation of natural resources by using the property for residential purposes. Mr. Nusser also produced an email communication from Fire Chief Tom Welsh (Exhibit A-8), which stated that Chief Welsh had reviewed the plans and met with the Applicant, and the plans were approved. Engineer Nusser also mentioned that the

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driveway would have a fabric wrapping for the stormwater trench to accommodate a heavy wheelbase to avoid gravel being loosened, and that the driveway as designed can accommodate a fire truck.

9. There was further discussion regarding the review letter prepared by the Board Engineer (Exhibit A-7). It was noted that because the project involves an increase in impervious cover greater than 2,000 square feet, the property is considered a “Minor Stormwater

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<sup>1</sup> As the Applicant. Board member Kelley O'Such recused himself from the Board.

Development”, subject to the provisions of Township Ordinance 100-185.1. Currently the plans note a proposed 0.992 acres of disturbance and 0.249 acres of impervious coverage. If the “as built” conditions exceed these amount, the plans will need to be redesigned to meet the Township’s “Major Development” stormwater management regulations in order to obtain a certificate of occupancy. It was mentioned that of the new impervious cover of 10,850 square feet, 8,000 square feet is due to the driveway surface. The driveway will have a gravel surface and Engineer Nusser noted that there is an infiltration trench filled with crushed stone that runs the length of the driveway, and will be paved at the end. He also indicated that the Applicant would comply with the conditions and revisions as noted in the Board Engineer’s letter of February 10, 2022. Mr. O’Such also testified that he met with the neighbors and is willing to address any drainage issues they would have. It was further noted that the Lot is located in the Highlands Preservation area, and a Highlands Exemption letter would be obtained from the DEP.

10. The letter from Board Planner Green (Exhibit A-6) was also reviewed . In particular the Comment contained on pages 4 and 5 were noted, regarding required plan revisions and revisions to the Zoning Requirements table on the plans. It was also noted that the

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proposed home would be a one story home with a walk out basement, and the architectural plans would also be corrected. The Applicant also agree to comply with the conditions set forth in Board Planner Green’s letter of February 1, 2022 (Exhibit A-6).

11. Under the provisions of N.J.S.A. 40:55D-35, no permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to the proposed building or structure. However, N.J.S.A. 30:55D-36 provides that where enforcement of Section 40:55D-35 would entail practical difficulty or unnecessary hardship or where the circumstances of the case do not require the building or structure to be related to a street, the Board, may on application or appeal vary the allocation of section 40:55D-35 and direct issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future layout shown on the official map or on a general circulation plan element of the municipal master plan.

12. Based on the application, Exhibits and testimony the Board is satisfied that variance relief is appropriate pursuant to N.J.S.A. 40:55D-36. The only means of access from the Lot to the public road is through the deeded right of way. The Applicant wishes to build a single family

residence on the lot, and has submitted a variance and lot development plan for the property and it appears from the application, testimony and correspondence that the Lot will be accessible to firefighting police and emergency equipment. The Applicant has also agreed to address all conditions set forth in the correspondence from the Board Planner and Board Engineer in order to obtain a building permit.

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13. With regard to the request for bulk variance relief, Ordinance Section 100-111, permits lots for single family homes without frontage on a street provided the lot has frontage on a driftway of at least 500 feet. In this case, the lot only has 30 feet of frontage on the easement. Therefore, bulk variance relief is required.

14. Under NJSA 40:55D-70(c)(1), where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or by reason of an extraordinary and exceptional situation affecting a specific piece of property or the structures lawfully existing thereon, when strict application of the zoning regulations would result in peculiar and exceptional difficulties or exceptional and undue hardship, variance relief from the zoning regulations may be granted. It must also be shown that the granting of the variance would not be substantially detrimental to the public good or to the zone plan and zoning ordinance. Additionally, under NJSA 40:55D-70(c)(2), where in a variance application relating to a specific piece of property, where the purposes of the Municipal Land Use Law would be advanced, and the benefits of the deviation would substantially outweigh any detriment, and where the variance can be granted without substantial detriment to the public good or to the zone plan and zoning ordinance, variance relief may be granted.

15. In this application the Board finds that variance relief is appropriate under NJSA 40:55D-70(c)(1) and NJSA 40:55D-70(c)(2). Due to the location and configuration of the Lot, the Applicant would be unable to comply with the required frontage as noted in the Ordinance. The only access to the nearest public road is through the existing easement. The Applicant

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desires to construct a single family residence, which will improve the property and maintain the residential character of the neighborhood. The grant of variance relief will further the objectives

of the Municipal Land Use Law, under N.J.S.A. 40:55D-2(i) and (j). The grant of variance relief full not create any nuisance elements, and will not be substantially detrimental to the public good or to the zone plan or zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOLLAND TOWNSHIP**

**LAND USE BOARD**, on this fourteenth day of February, 2022, that the Applicant is granted

The following approval :

1. Variance relief pursuant to N.J.S.S. 40:55D-36, in order to construct a single family home on a lot that does not abut a public street.
2. Bulk variance relief pursuant to N.J.S.A.40:55D-70c(1) and (2), the Applicant is hereby granted bulk variance relief from the requirements of Ordinance Section 100-111, regarding the required lot frontage on a driftway in order to receive a building permit.

**IT IS FURTHER RESOLVED THAT THE APPROVAL SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant shall obtain all other necessary approvals from any outside agencies having jurisdiction, as applicable and necessary, including but not limited to a Highlands exemption letter.
2. The Applicant will pay all necessary fees and escrows payable in connection with the application. The Applicant shall be under a continuing duty to maintain a positive escrow account balance until all conditions have been satisfied and all charges paid.
3. All conditions and plan changes/revisions as noted in the correspondence from the Board Planner and Board Engineer (Exhibit A-6 and A-7) will be completed and approved prior to issuance of a building permit/certificate of occupancy as applicable, including but not limited to compliance with the applicable Stormwater Management Ordinance requirements.
4. This approval shall be subject to all applicable Federal, State, County and Township statutes, ordinances and regulations regarding the proposed development.

**Land Use Board Roll Call Vote**

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Mike Miller						
David Grossmueller						

Bill Ethem						
William Martin						
Jerry Bowers						
Dan Bush						
Nickolas Moustakas (Alt.)						
Ryan Preston (Alt.)						
Joe Cinquemani (Alt)						
Kelley O'Such (Alt)						

Motion carried.

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The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on March , 2022

ATTEST:

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**Maria Elena Jennette Kozak, Secretary**  
**Holland Township Land Use Board**

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**Michael Miller, Chairperson**  
**Holland Township Land Use Board**

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After some discussion, a slight correction needs to be made on page 7 on the 4<sup>th</sup> line. The word should be will Not create. Everyone was in favor of the correction. A motion was made by Bill Martin and seconded by Jerry Bowers to memorialize the resolution prepared by John Gallina with the one word correction. At a roll call vote, all present were in favor of the motion with the exception of Dave Grossmueller who abstained. Let the record show that Kelley O'Such was recused. Motion carried.

**Public Hearings**

There were no public hearings scheduled at this time on the agenda.

**Sub-Committee Status and Updates:**

Holland Township Highlands Council Subcommittee –update – Mike Keady did not have an update at this time.

**Public Comment**

There were no public comments offered at this time as there was no one present in the public.

**Executive Session**

A motion was made by Jerry Bowers and seconded by Bill Ethem to go into executive session to discuss ongoing litigation. Motion carried.

A motion was made to return to the scheduled meeting by Mike Keady and seconded by Bill Martin. All present were in favor of the motion. Motion carried.

**Housekeeping:**

Land Use Administrator Kozak discussed the need to revise Code 100-45 to include Electric Vehicle charging stations. LUA Kozak mentioned someone asked for a zoning permit and the person had no problem with moving forward with the installation but a revision to the code is required. No action was taken.

**Adjournment**

Mike Keady made a motion to adjourn. Motion approved. The meeting ended at 7:35 p.m.

Respectfully submitted,  
*Maria Elena Jennette Kozak*  
 Maria Elena Jennette Kozak  
 Land Use Administrator