

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD
MAY 17, 2011**

OPEN MEETING: Chairman O'Connell called the meeting to order at 7:30 p.m.

FLAG SALUTE: Chairman O'Connell led the flag salute.

ROLL CALL:

Diana Boyce – Excused
Sue Howell – Present
Gerald Huelbig – Present
Gail Phoebus – Excused
Ellsworth Bensley – Late
CeCe Pattison – Present
Christine Kretzmer – Excused
Rick Melfi – Present
Paul Messerschmidt (Alt.1) – Excused
Ken Roberts (Alt. 2) – Present
Chairman John O'Connell – Present

PROFESSIONALS PRESENT: Richard Briigliodoro, Esq., and Joseph Golden, P.E., P.P.

OPEN PUBLIC MEETINGS ACT NOTICE: Chairman O'Connell read the following statement: This is an open public meeting of the Andover Township Land Use Board. Notice of this meeting was given in accordance with the Open Public Meetings Act, Chapter 231, Public Law 85. The rules are generally as stated on the agenda.

RULES: Chairman O'Connell read the following rules: No new cases after 9:30 p.m. or testimony after 10:00 p.m. Comments from each member of the public are limited to 5 minutes during the public portion of the meeting. Transcript requests are to be in writing with check for 100% of costs. Material for the meeting is to be filed fourteen days before the next meeting once it has been heard for completeness. Individuals or members of a partnership must be present at the meeting or be represented by an attorney. Testimony is under oath. False testimony constitutes perjury.

OLD/NEW BUSINESS: IN THE MATTER OF THE 2011 PERIODIC REEXAMINATION REPORT OF THE MASTER PLAN AND DEVELOPMENT REGULATIONS: Charles T. McGroarty, P.P., A.I.C.P., provided an overview of the Master Plan reexamination identifying the purposes of the report as follows: to identify an *area in need of rehabilitation* for the St. Paul's Abbey site; to recommend modifications to the Mount Laurel Zone; and to recommend a review to determine if the entire Mt. Laurel Zone is necessary to satisfy affordable housing requirements.

Mr. McGroarty explained that the affordable housing developer requires the designation of the St. Paul's Abbey site as an *area in need of rehabilitation* to accomplish their financing objectives. He stated that a significant number of the structures on site are in a deteriorated or

substandard condition and there is an underutilization of the property. He stated both existing conditions fulfill the statutory criteria for an *area in need of rehabilitation* designation. He stated the Township is compliant with the NJDEP Stormwater Management regulations, and the report would be amended to show that.

A typographical correction was noted. There were no other comments.

Chairman O'Connell opened the meeting to the public. There were no questions or comments. The meeting was closed to the public.

A motion to adopt the 2011 PERIODIC REEXAMINATION REPORT OF THE MASTER PLAN AND DEVELOPMENT REGULATIONS as amended was made by Bensley and seconded by Roberts. Roll Call: Howell – yes; Huelbig – yes; Melfi – yes; Pattison – yes; Bensley – yes; Roberts – yes; O'Connell – yes. The motion carried.

RESOLUTIONS: IN THE MATTER OF ALVARO FARACE d/b/a DOMINO'S PIZZA DECIDED ON MAY 3, 2011, MEMORIALIZED ON MAY 17, 2011, SITE PLAN WAIVER APPROVAL, APPLICATION NO. 11P-784-SPW: A motion to adopt was made by CeCe Pattison and seconded by Ken Roberts. Roll Call: Howell – yes; Huelbig – yes; Melfi – yes; Pattison – yes; Bensley – yes; Roberts – yes; O'Connell – yes. The motion carried.

HEARING: 11Z-782APFSPV, Cumberland Farms, Inc., Amended Preliminary and Final Site Plan, Conditional Use, "C" Variances, Site Plan Exceptions, Block 105.05 Lot 2: Guliet D. Hirsch, Esq., appeared on behalf of the Applicant. She stated the Applicant proposes an upgrade and renovation of the store taking the existing store and eliminating the retail uses adjacent to it in the same building so that the entire building will be a Cumberland Farms. Ms. Hirsch noted that the basic concept was approved by the Board in 2006. She stated the current proposal includes less impervious coverage than the existing facility, a smaller building, more landscaping, and better circulation.

Ms. Hirsch submitted Exhibit A-1, a document titled *Revised Notice of Public Hearing on May 17, 2011*. Richard Briadoro, Esq., confirmed that notice requirements were satisfied and the Board had jurisdiction to hear the matter.

Ms. Hirsch distributed a copy of the Board's 2006 resolution, which was marked as Exhibit A-2.

Witnesses Michael Alp, Cumberland Area Sales Manager; Brian McMorrow, P.E., Senior Project Manager; and John A. Madden, Jr., P.P., were sworn.

Mr. Alp stated the desire for the upgrade was driven by consumer demand and the need to implement new programs such as frozen drinks, fountain soda, and ice coffee. He explained that additional space is needed to accommodate the programs. Mr. Alp noted that he was familiar with the current site. He stated the store currently employs three full-time employees in addition

to part-time help. He stated most Cumberland stores, including the store on the subject site, operate from 5:00 a.m. to 12:00 p.m. He stated both gas and food deliveries are received between 7:00 a.m. and 4:00 p.m., excluding weekends; and managers must be available at delivery times per company policy. He confirmed that the Customer Service Associates are trained to pump gas and work in the store. He stated the operation usually receives one gas delivery per day.

Mr. Golden noted that the prior resolution limited tractor-trailer fuel deliveries to 12:00 a.m. to 7:00 a.m. Ms. Hirsch noted that the prior proposal was for a 24-hour operation.

Mr. Alp stated gas deliveries are not a problem. Mr. Golden identified a concern about truck deliveries and their impact on the circulation pattern. Ms. Hirsch stated the Applicant would review the matter.

Brian McMarrow, P.E., Senior Project Manager, was qualified and accepted by the Board as an expert witness. He submitted Exhibit A-3, a colorized plan sheet numbered 2 of 17, titled *Existing Conditions Plan*, dated 6/8/11. He provided an overview of the site. He confirmed that the existing septic system would be replaced.

Mr. McMarrow submitted Exhibit A-4, plan sheet 3 of 17, titled *Demolition Plan*, dated 6/8/11. He identified the first 2600 sq.ft. of the building that would be demolished in addition to the site's canopy, signs, and existing pumps.

Mr. McMarrow submitted Exhibit A-5, colorized plan sheet 4 of 17, titled *Site Plan*, dated 6/8/11. He stated the floor area of the proposed store would be 3,732 sq.ft., noting the footprint would shrink but the operation would be expanded. He explained the Applicant would maintain the existing sidewalk connection to parking in the rear and would provide a painted crosswalk from the end of the existing sidewalk to the sidewalk that is proposed to circulate around the store. He stated this was designed to maintain the neighborhood convenience store characteristic of the store and provide safe pedestrian access for the neighbors who live to the north of the site.

With reference to parking, Mr. McMarrow stated the plan has 22 parking spaces adjacent to the three sides of the store with an additional three spaces proposed to the left of the dumpster. He stated all the parking requirements of the Ordinance have been met. He stated that 69.1% of the site would be impervious coverage, a reduction from the existing condition, which is nonconforming.

Mr. McMarrow stated that the Applicant would construct 12-multiproduct pumps, pump islands, and a canopy. He identified the current circulation pattern and explained that the right-hand driveway will be marked as ingress. He noted the pumps would feature extra-long hoses to allow for the flexible positioning of vehicles fueling. He discussed the drive aisles and the truck turning templates. He identified the area where the drive aisle did not meet dimensional requirements. Mr. McMarrow stated he believed the design would improve the circulation on site.

With reference to landscaping, Mr. Marrow noted that the Applicant would bolster the landscaped appearance of the property. He stated the stockade fence that currently runs along the back of the existing parking lot would be relocated to the back of the new parking lot. He stated landscaping would be placed in front of it and on the neighborhood's side of the fence, and additional landscaping would be added as a supplement to the vegetation that runs alongside of Park Lane. He noted that a masonry block wall and plantings would be added to buffer the dumpster area.

Mr. McMarrow submitted Exhibit A-6, plan sheet 17 of 17 titled *Signage Plan*, dated 6/8/11. He reviewed the sign plan with the Board and showed an artist's rendering of the proposed look of the store. He explained that the 6' x 6' sign face exceeds the ordinance requirements and it will be set back 7' from the right-of-way where a 12' setback is required. He stated two small *Enter* and *Exit* signs at the driveways have a clearance of 1.8', which requires a variance. Mr. McMarrow stated that there will be one building-mounted sign and its sign face will exceed what is permitted by the ordinance.

With reference to drainage, Mr. McMarrow stated the site is almost flat. He explained there are existing catch basins that run along the left side of the site and connect to the storm sewer system at Park Lane and Long View. He stated it is the Applicant's intent to eliminate "bird bath" areas by the application of good grading. Mr. McMarrow noted that an adjustment would need to be made to the proposed grading plan, as the new survey done does not assume points as the old survey did.

With reference to septic and water, Mr. McMarrow stated a new septic system would be installed. He stated the original design's permit was extended by the County Health Department this year. Mr. McMarrow stated there is well water on the property.

With reference to fuel storage, Mr. McMarrow stated three double-walled storage tanks are proposed consistent with the prior resolution. He confirmed there would be no diesel fuel stored or sold on site. He stated emergency management procedures are in place and part of the general operating procedures. He submitted Exhibit A-7, a card titled *Cumberland Farms Emergency Response Plan*. Mr. McMarrow suggested that store representatives meet with the Township's emergency management personnel to review protocol.

Mr. Golden noted a design waiver was required for the illumination at the property line. Mr. McMarrow reviewed the lighting plan and identified areas where the lighting exceeds 1.0 along the right property adjacent to the Chase Bank site.

Board members reviewed the attached report titled *Substantive Review — April 11, 2011* prepared by Joseph Golden, P.E., P.P., CME. Mr. McMarrow agreed to add the requested information and review curbing as well as the utility pole guy wire location. With regard to the gas line, Mr. McMarrow stated Cumberland Farms has no need or desire to change from propane to gas.

With regard to the drainage, Mr. Golden stated positive drainage of .5% could be created.

Mr. McMarrow agreed to review the matter and stated he may consider using trench drains.

Mr. Golden presented a concern regarding emergency management procedures in the event of a major spill. Mr. McMarrow agreed to provide company policy regarding same. With regard to an irrigation plan for the landscaping, Mr. McMarrow stated it would not be needed with the plantings selected. With regard to the timing of lighting, Mr. Golden asked for additional information. Mr. McMarrow confirmed that the building sign and sides of the canopy itself would not be illuminated.

Mr. Golden discussed the style of the canopy. Board members confirmed they were comfortable with the style of the canopy.

With reference to the County's disapproval, Mr. McMarrow discussed the County's suggestion for pedestrian connectivity between the site and adjoining property. He noted that other owners would be required and the Applicant was willing to install a sidewalk. Mr. Golden confirmed that the County's road widening project would not affect the applicant. Mr. Golden reviewed fuel delivery times and stated he would not recommend a waiver of a requirement for night deliveries. A Board member suggested limiting deliveries to between 9:00 p.m. and 12 a.m. and the use of cones. Mr. Golden requested an 11 x 17 plan detailing delivery procedures. The Applicant also agreed to provide striping for the egress lanes denoting right and left turns. Mr. Golden suggested the Board continue the review with an opportunity to review the changes discussed. He also requested a copy of the geotechnical report.

Chairman O'Connell suggested the installation of dragon teeth, a planter, and a *No Parking* sign to encourage customers to follow the intended circulation pattern.

The Board recessed at 9:10 p.m. The meeting resumed at 9:30 p.m.

John A. Madden, Jr., P.P., was qualified and accepted by the Board as an expert. He provided an overview of the application. He identified the variances. He stated the application advances the objectives of the Master Plan such as the reduction of impervious coverage and the improvement of the sign, architecture, and the screening. He suggested that Cumberland Farms is a community service similar to a modern day general store. He stated the project would improve the physical and visual appearance of a developed area.

Addressing the variance requests, Mr. Madden stated that the use is permitted in the zone. He stated the use continues to be appropriate for the site and would not negatively impact the surrounding property. He stated the impact to zoning is not substantial. He stated the uses benefit each other as they are all retail uses that facilitate pedestrian uses.

With reference to the side yard encroachment, he stated there are no entrances or windows on the side of the neighboring building. He stated he sees no detriment to the adjacent property. With reference the parking coverage, Mr. Madden explained that the coverage was employed in the interest of safety and maneuverability. He noted the coverage is a factor of the Applicant's

desire to meet the parking requirements. With reference to the signage variances, Mr. Madden noted the signs are in keeping with the upgrade of the site.

Upon inquiry regarding hours of operation, Ms. Hirsch stated she would get information about store operating hours from the Cumberland office.

Chairman O'Connell opened the meeting to the public. There were no participants. The meeting was closed to the public.

A motion to carry the matter to the meeting of June 21, 2011 was made by Mr. Bensley and seconded by Ms. Howell. Roll Call: Howell – yes; Huelbig – yes; Melfi – yes; Pattison – yes; Bensley – yes; Roberts – yes; O'Connell – yes. The motion carried.

PUBLIC PORTION: The meeting was opened to the public. There were no participants. The meeting was closed to the public.

VOUCHERS: There were no vouchers for review.

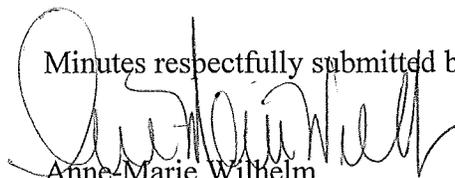
UPCOMING MEETING: Chairman O'Connell announced the May 24, 2011 special meeting.

OLD BUSINESS/NEW BUSINESS: Mr. Golden agreed to review Ordinance §190-32.3. Steep Slopes and to review the definition of man-made slopes and how they are addressed in the Ordinance.

Board members discussed procedural issues.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Bensley and seconded by Pattison. All were in favor. The motion carried. The meeting was adjourned at 10:30 p.m.

Minutes respectfully submitted by:



Anne-Marie Wilhelm
Land Use Administrator

Municipal/Civil Engineering
Land Surveying
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Septic System Design
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Andover Township

Substantive Review I – April 11, 2011

Preliminary & Final Site Plan
Newton-Sparta Road
Block 105.05, Lot 2
Application No. 11Z-782APFSPV

Cumberland Farms

GME No. AND-11-148

We are in receipt of the following information in support of the above referenced application:

- “Amended Preliminary/Final Site Plan...” for Cumberland Farms prepared by Bohler Engineering dated January 6, 2011 with no revisions, consisting of seventeen (17) sheets.
- Pyro-Chem, Inc. “The Attendant II” Gasoline Suppression System prepared by Bohler Engineering dated January 6, 2011 with no revisions, consisting of one (1) sheet.
- “Environmental Impact Statement for Cumberland Farms...” prepared by Bohler Engineering dated April 2005 with no revisions.
- “Drainage Summary for Cumberland Farms...” prepared by Bohler Engineering dated May 2005 with no revisions.
- “Boundary and Topographic Survey” prepared by Control Point Associates dated 3-16-11, with no revisions consisting of one (1) sheet.
- Traffic Impact Analysis prepared by McDonough & Rea Associates, Inc, dated June 8, 2005
- Completed Site Plan application with associated documents and checklists.

The subject parcel encompasses 1.03 acres located on the north side of Newton-Sparta Road approximately 250 feet west of Limecrest Road. The parcel is bounded on the north side by a residential zone; a bank is located to the east, with commercial businesses located to the west and across Newton-Sparta Road to the South.

The applicant intends to raise a portion of the existing building, and the existing gasoline pumps and canopy. The applicant proposes a Cumberland Farms convenience store with twelve (12) fueling points where eight (8) currently exist. There will be no dispensing of diesel fuel.

The applicant received preliminary and final approval decided December 19, 2005, memorialized January 17, 2006. Those approvals have since expired. The proposed building was approved solely for use as a Cumberland Farms convenience store and gasoline station.

Gasoline Stations are a conditional use in the Community Business (CB) zone according to §190-52 of the Andover Township Land Use Ordinance. The following conditions apply:

- A. Minimum Lot Size: 30,000 sq. ft, 45,000 sq. ft provided. *Conforms*
- B. Minimum Frontage: 150', 150.03' feet provided. *Conforms*
- C. Bulk Requirements:
 1. Rear Yard Setback: 50', N/A, property contains double frontage. *Conforms*

2. Side Yard Setback: 20', 9.80' existing, 9.64' proposed (6.88 to overhang). *Does not conform*. It appears a "d3" variance is required for relief from the requirements of a conditional use.
 3. Maximum Building height: 35'. *Conforms*.
- D. Front Yard: Pumps shall be at least 40' from ROW, 40.83' proposed. *Conforms*
- E. Meet requirements of §190-54, Storage of oil or petroleum products. Provide Testimony addressing the required conditions.

Variations or design waivers are required for side setback, impervious coverage, parking surface coverage, aisle width, and lighting illumination at the property line.

This site plan review is based on the original approval and is intended to review proposed information consistent with current standards and requirements.

General Comments

1. Key Map; add right-of-way width to adjoining streets.
2. Note existing and proposed easements, temporary or permanent, cross access, etc. on the Existing Conditions Plan. Include deed book and page on the existing conditions map.
3. Show dimensions of existing structures within 200' to include their distance to the property line.
4. Show existing gas main. Applicant to consider connecting to the natural gas main that crosses the intersection of Newton-Sparta Road and Limecrest Road.
5. The applicant provided a current survey, however the datum of the survey appears different than the datum on the grading plan. The grading and benchmark for the current survey must be consistent with the proposed plan. Furthermore, sheet 2 of 17 shows existing grades where none are shown on the Campbell survey identified in the reference.
6. Applicant to clarify the location and type of proposed curb. The plans state B.B. Curb to remain in certain areas while the rest of the site proposes concrete curb.
7. A design waiver is required for aisle width. The eastern aisle is proposed at 21.72' while 25' is required. §131-37.J.(2)
8. The paving detail shall be modified to conform to §155:A1 as referenced in §155-14.
9. Trash Enclosure detail to include cultured stone veneer of the same material used for the main building.

10. The site plan shows a handicap ramp located at the same location as the existing utility pole guy wire. Resolve.
11. The proposed grading does not meet a minimum slope of 0.5% in the area near the pumps and entrance way. Resolve. Provide flow arrows from spot grades to ensure adequate slope. As a general comment, the grading plan appears difficult to construct properly.
12. Provide detailed testimony regarding spill containment, including methodology to prevent "major" spills from entering the Township drainage system. Applicant to provide an emergency spill plan for the operator; and notify the Township if notifying NJDEP.
13. Provide testimony regarding the multiple sign variances identified in the plan set.
14. Provide testimony regarding the changes to the landscape plan. Irrigation plan required.
15. Provide testimony regarding lighting, timed lighting and methods to reduce overall sight lighting during the overnight shift.
16. Provide testimony regarding the proposed canopy. Consider canopy that is consistent with the colonial style of the proposed building.
17. Applicant to confirm there will be no diesel fuel dispensed on site.
18. Provide a Fire Protection Plan including required details. The Board Engineer and appropriate fire official should approve the plan.

Conditions Of Final Approval

1. Applicant to obtain all permits as required, including:
 - a. Andover Soil Erosion
 - b. Sussex County Planning Board
 - c. Sussex County Board of Health Permit
2. Prior to construction, including site work activity, a pre-construction meeting shall be required to include the municipal representatives, the applicant; it's engineers and contractors. The pre-construction meeting shall not be held until a copy of the Engineer's Opinion of Probable Cost has been submitted to the municipality for Computation of engineering inspection fees and for a determination of performance bonds for bondable items in accordance with NJSA 40:55D-53 and said fees and bonds have been submitted and approved by the Planning Board attorney. The surety shall cite the date of approving resolution, date of approved plans and name of Engineer. The

Municipal Engineer shall be notified at least 48 hours before commencement of construction.

3. Cut sheets shall be provided to the Municipal Engineer's office directly and to the on-site inspector during construction.
4. Failure to install soil erosion measures shall result in a stop-work order that may be lifted only by the Construction Official. Continued maintenance of the soil erosion and sedimentation control measures shall be required during construction and failure to maintain said plan shall result in a work stoppage until the condition is corrected and the damage resulting therefrom is repaired.
5. Posting of the following, in accordance with the current Township Ordinances, are required prior to the preconstruction meeting:
 - a. Performance bond
 - b. Inspection escrow
6. Payment of any fees due to the Township, along with all ongoing review fees of the Board prior to the signing of the preliminary plans by the Chairman and Secretary.
7. Hard copy as-built plans and a CD containing the as-built plans in AutoCAD format and all associated reports shall be supplied to the Land Use Board Engineer prior to the issuance of a Certificate of Occupancy. The as-built plan shall contain a certification from the applicants engineer that all State, local and federal permits have been acquired.
8. Final Site Plan Approval is required prior to issuance of a Certificate of Occupancy.
9. The landscape planting is subject to a two-year landscaper's guarantee that shall insure the replacement of any diseased or dead landscaping material within two years of the date of planting.

Please feel free to contact us if you have any questions or require additional information.

Respectfully Submitted,

Joseph Golden

Joseph R. Golden, PE, PP, CME
Land Use Board Engineer

CC: Andover Township Land Use Board (via email)
Jackie Huelbig, Assistant Clerk (via email)
Richard Briadoro, Esq. (via email)
Guliet D. Hirsch, Esq. (via email)
Brian McMorrow, PE (via email)