

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD SPECIAL MEETING  
HELD MAY 24, 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 – Present  
Sue Howell – Present  
Gerald Huelbig – Present  
Gail Phoebus – Excused  
Ellsworth Bensley –Late - arrived at 7:35 p.m.  
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 Brigliadoro, Esq., and Robert P. Guerin, 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.

**HEARING:** Cambridge Pavers, Inc./Limecrest Quarry Developers, LLC, Preliminary Site Plan, "C" Variances, and Waiver Relief, Andover Township Block 108 Lot 4.02, Block 108.01 Lot 1, and Block 107 Lot 5; Lafayette Township Block 1.01 Lot 1.01; and Sparta Township Block 34 Lot 2: Bernd E. Hefele, Esq., appeared on behalf of the Applicant. He presented that both Lafayette and Sparta Township granted jurisdictional waivers and that he would provide documentation of same.

Donna M. Erem, Esq., appeared on behalf of objector, Mr. Ron Krueger. Ms. Erem presented a list of eligible voting members, and Chairman O'Connell confirmed that Board members Kretzmer and Phoebus had recused themselves.

Ms. Erem asked who the Board's experts would be and when they would be called. She inquired about a noise study. Mr. Hefle stated that a noise study was not part of the initial submission but a study was submitted and a noise expert will present testimony after the traffic expert.

Ms. Erem asked if a report was expected from the Environmental Commission. Chairman O'Connell stated that a report was expected but he was not sure when the Environmental Commission would submit the report.

Robert M. Toedter, P.E., acknowledged that he was previously sworn at the May 3 hearing and still under oath. Ms. Erem cross-examined Mr. Toedter. He presented his qualifications and confirmed that he has been an operations consultant for Cambridge since its inception in the latter part of the 1990's. He stated Cambridge has two plants in New Jersey and he has been inside the plants. He confirmed the plants operate "24/7." He stated he has been at the plants during day and evening hours both in the evening time during the summer and when the plant's doors were kept open due to oppressive heat. He stated he has observed truck traffic at the plants, and he has been inside redi-mix and wet-cast type plants. He stated he is familiar with the plants he has worked on with Cambridge Pavers and that he does not consult with other paving companies. He noted that he does consult with other concrete product providers, aggregate, redi-mix, and cement plants.

Ms. Erem asked if the manufacturers of the equipment that is proposed for the plant requires licensing in New Jersey. Mr. Toedter stated he did not know. He confirmed that the proposed plant would be state of the art and environmentally friendly.

Ms. Erem questioned the height of equipment. Mr. Hefle stated the questions were not part of the direct testimony. He presented that Mr. Toedter was being interrogated in a different area. Attorney's Hefle and Erem presented procedural arguments regarding cross-examination to Board Attorney Brigliadoro. Mr. Brigliadoro stated cross-examination can address what was testified to on direct, and the objector can go beyond that as long as what is being asked is relevant to the issues before the Board. Mr. Brigliadoro noted that variances are required for the number of on-site parking spaces and for steep slope disturbance. He stated he was having difficulty understanding the relevance of the questions about equipment height. Ms. Erem stated there may be more than two variances and that she would move on. She stated she is interested in questioning Mr. Toedter's credibility. Mr. Hefle indicated that this application's operation's statement is different and has nothing to do with the 2009 application.

Ms. Erem stated she is entitled to question the witness with regard to prior inconsistent statements. Mr. Hefle stated there was no public hearing with regard to the 2009 application. He stated the 2009 matter was withdrawn. Ms. Erem stated the application was filed and there was public notice with the public able to review the documents. She confirmed her intent to question the witness about a matter that was filed and then withdrawn. Mr. Brigliadoro noted that the Board has the right to give appropriate weight to that. Mr. Brigliadoro suggested that Ms. Erem start with the current application and documents and ruled that she could proceed with her questioning.

Upon Ms. Erem's inquiry, Mr. Toedter confirmed that he consulted with Mr. Graham prior to the filing of the 2009 application regarding this project. He stated that he conversed with

Mr. Graham prior to filing the 2010 application. He stated that he reviewed the 2009 and 2010 site plans before they were filed. He confirmed that the 2010 project is proposed in two phases with the first production line constructed now and the second line constructed in approximately three years. He confirmed the proposed building is 94,000-95,000 sq.ft. He stated that the building size is not excessive in size to house two production lines. He confirmed that a building 160,000 sq.ft. is not excessive in size to house two production lines. He stated that the size of a plant depends on the products being made and the equipment provided. He confirmed that the zoning allows other products to be manufactured other than what is proposed. Ms. Erem asked if the equipment to be used is similar to the batching and mixing equipment that would be utilized in a wet-cast or redi-mix plant. Mr. Hefle objected stating the Applicant has testified about plant operations. He stated a redi-mix plant has nothing to do with the current proposal. He stated this could possibly be a host of things. He stated the Applicant has testified as to operations, the hours of operation, and as to what will be done there. He stated everyone else got five minutes but Ms. Erem has been questioning for a half hour. He stated this is not fair. He stated if the matter continues going down this road, he was not fine with it.

Ms. Erem stated her line of questioning is relevant, and the Board has the right to know what the plant is capable of. She stated that she believed that Mr. Toedter would confirm that the plant could easily be converted to a wet plant, and that the Board could give an approval to a plant that can be converted. Mr. Brigliadoro stated that the Board is going to rule on the application before it. He stated the Board is not going to speculate on what may or may not happen in the future. Mr. Hefle requested that the questioning narrow down to the testimony that was presented.

Ms. Erem stated she is establishing the record. She asked Mr. Toedter if 75% of the aggregate would come from Limecrest Quarry. He replied affirmatively and stated he does not know what the quarry owners have done with regard to their operations or their NJDEP permitting status.

Mr. Toedter stated that exhaust and noise emissions from operations were not part of his "green" operations description. Mr. Toedter stated he was referring to the nature of the products being used in comparison to many industrial operations. He stated it is a relatively green process and there is no waste from making the products.

With reference to the treatment of pavers, Mr. Toedter stated the pavers that are not used are trucked off-site for fill or reused. He discussed the coloring agents stating the powdered red oxide blends with dyes in it to establish the color. He confirmed that if there is a spill of the dye, it is not possible for it to spill into the groundwater. He explained that the coloring material comes in 4 x 4 bags that are attached to a rack. He stated at the bottom of the bag there is a snout that is attached to a machine. He stated the dye is released proportionately into the product mixture. He stated everything is contained within the building. He stated bags are handled inside the building, and contaminants would be contained and cleaned up.

With regard to the diesel tank on-site, Mr. Toedter stated the tank is a double-walled containment tank. He stated the additional shell is the secondary containment, which in the case of a breach of the inner chamber, allows for an outer chamber for the contents to leach into. He noted the tank has sensors. He stated that the tank is not, under any reasonable condition, subject to

leakage. He stated it is placed out of the way and its only purpose is to fuel the front-end loader. He stated he could not guarantee there would not be a leak.

Ms. Erem inquired about the 2009 application's 6/14/09 letter that stated that 90 - 105 employees were required to staff two production lines in a 160,000 sq.ft. production plant. She stated that in 2010, he stated that 40-45 employees are required for the same number of production lines in a 95,000 sq.ft. plant. Mr. Toedter explained that with the equipment that is specified with the revised application, fewer employees are required due to efficiencies and sophistication of the automation. He stated that since 2009, another vendor is being considered that has different equipment. He stated that if that equipment were used, they would require fewer employees.

Ms. Erem asked Mr. Toedter if he could provide the name and phone number of a contact if her client or member of his family is killed by truck traffic associated with the operation.

Mr. Toedter stated the Applicant does not own any trucks.

Thomas F. Graham, P.E., was sworn, qualified, and accepted by Board as an expert witness. He submitted a colored rendering titled *Proposed Conditions Exhibit*, Sheet 1 of 1 dated 1/18/11. The document was marked as Exhibit A-1. He provided an overview of the site stating it is approximately 77 acres in size and that it was formerly a sand quarry and then a sand manufacturing facility that utilized a wet process. He stated that subsequent to the ceasing of those operations, the area was leveled off and now there is an existing barren site, steep slope areas, and piles of material. He stated the property is irregularly shaped and there is a 35 ft. difference in topographic elevation across the property. He stated there is a 20 ft. grade change from the north to the south of the property. He confirmed that only development proposed is on the Andover parcel.

Mr. Graham stated the property has 2900 ft. of frontage with a 690 ft. gap where an existing mulch facility is located. He noted that the property is in the General Industrial Zone. He stated the properties to the southeast and southwest are zoned residential and the properties to the northeast and northwest are industrial properties. He stated all vehicles access through an existing driveway, which is opposite to the driveway of the existing quarry.

With reference to Sussex County Planning Board (hereinafter the *County*) approval, Mr. Graham presented that said approval has been obtained and that the County has required the dedication of additional right-of-way along Limecrest Road. He confirmed that the County approved the entrance in terms of safety and traffic. Mr. Graham stated the location was chosen because it is directly opposite an existing entryway where trucks are turning in and out. He stated people expect trucks to be in that location. He noted that the entrance has adequate sight distance in both directions. Mr. Graham further reviewed internal circulation. He stated noted that there will be different types of trucks and showed their internal routes. He explained that employee parking spaces are located so employees do not have to traverse the lots. He stated there are lanes allowing for a circuitous route within the site.

Mr. Graham presented that the Applicant proposes to construct three buildings: a 94,800 sq.ft. manufacturing facility, a 5000 sq.ft. office/shop building, and a 1900 sq.ft. building for the shipping office. He stated asphalt pavement and pavers are proposed instead of blacktop. Mr. Graham noted that 33.6% of the site would be impervious.

With reference to parking, Mr. Graham stated a 66-space parking facility is proposed. He stated that when the two shifts overlap, there would be plenty of parking for the employees plus an additional 50% safety factor. He explained this is a variance condition where the ordinance requires 206 spaces based on the size of the building. He stated this user does not have as many employees. He stated that if required, another bay of parking could be shown. He noted that the Applicant needs a large storage area for the many different products that are produced. He stated he could swap storage space for parking space and not increase impervious coverage.

Mr. Graham stated a septic system is proposed for the site based on 45 employees. Mr. Graham stated the Applicant is proposing a well. Mr. Hefle stated the Applicant is working on the water issue and will supply the Board with evidence. Mr. Graham stated one well is proposed for the entire operation.

With reference to fire protection, Mr. Graham stated the Applicant met with the Andover Township Fire Official and has relocated a tank and agreed to use a 12,000-gallon storage tank. A Board member stated that the requests were made by the Andover Fire Department and the County Fire Official is aware of the requests. Mr. Hefle stated the Applicant would comply with additional building-specific requirements on the architectural plans at building permit.

With reference to the Storm Water Management Plan, Mr. Graham explained that the project would utilize two detention basins and a series of inlets and pipes. He stated the project would have a positive impact on groundwater recharge. He stated the plan has been approved by the County and is currently under review by NJDEP for both a General Permit - for the partial filling of an isolated wetland and a Flood Hazard Permit. Mr. Graham explained that the buffers are already disturbed. He stated gravel goes right up to the wetland limits in many areas. He stated all proposed storm water discharges are located outside of the floodplain. Mr. Graham stated that because the floodplain needs to be delineated and approved by the NJDEP, the Applicant has made an application. He stated he sees no problem with the outstanding permits. He stated there is no buffering of the wetlands today because they were previously disturbed. He stated once the project is done, the areas closest to the wetlands would be better. He stated that water presently runs off site and gravel and stone dust currently washes off to the wetlands. He confirmed that the wetlands would have better protection and buffering post development.

With reference to the soils analysis, Mr. Graham discussed the Storm Water Management Plan and stated that the system is conservatively designed and it will have a great impact on the reduction of run-off. Mr. Guerin stated he was satisfied with the Storm Water Management Plan, that it was more conservative than what is required, and it is a benefit to the municipality.

With reference to the diesel fuel tank, Mr. Graham noted that the Applicant is providing a curb that if there were a spill, it would be contained in the area immediately adjacent to the tank.

With reference to lighting, Mr. Graham stated the Applicant proposes 57 pole-mounted lights and 22 building mounted lights designed in accordance with the ordinance. He stated the light poles are at or just below the maximum permitted height. Mr. Graham stated that at all points at the property line there is no spillover.

With reference to the variance request involving steep slopes, Mr. Graham submitted Exhibit A-2, titled *Slope Analysis Exhibit* dated 1/18/11. He explained that he took two plan sheets and combined them to be able to show the entire site on one sheet. Referencing the exhibit, Mr. Graham identified the slopes on the site and the limits of existing disturbance. He stated that most of the proposed disturbance is within previously disturbed slopes and is in the area of raw material storage, which he stated is a pile of material left from other operations. He noted the proposal would help the site by collecting run-off and disposing it in a manner that is permitted by the state. Mr. Graham further discussed the proposed disturbance. He stated the slopes that are to be disturbed are not the slopes that are intended to be protected by the ordinance.

With reference to signage, Mr. Graham stated the Applicant is proposing a conforming sign at the entrance to the facility.

Mr. Graham marked the following exhibits: Exhibit A-3, titled *Steep Slope Variance Photographic Reference Plan* dated 7/24/09, Sheet 1 of 4; Exhibit A-4, *Steep Slope Variance Photographic Reference Plan* dated 7/24/09, Sheet 2 of 4, containing photographs 1-9; Exhibit A-5, *Steep Slope Variance Photographic Reference Plan* dated 7/24/09, Sheet 3 of 4, containing photographs 10 -18; and Exhibit A-6, *Steep Slope Variance Photographic Reference Plan* dated 7/24/09, Sheet 4 of 4, containing photographs 19-25. Mr. Toedter confirmed he took Exhibit A-3 – Exhibit A-6 photos and they represent conditions on the site two years ago. He stated the photos still accurately represent what the site looks like today. Mr. Graham reviewed each photo. Mr. Hefle stated the intent is to show the existing disturbance, slopes, and the man-made hills comprised of limestone and debris.

Mr. Graham reviewed the attached report dated 3/7/11 prepared by Board consultant Robert P. Guerin, P.E., P.P. Mr. Graham confirmed the following: the phasing plan will not interfere with truck traffic circulation and that documentation will be provided to Mr. Guerin; additional information concerning the roof drain systems will be provided to Mr. Guerin; the palletized product will be stored up to 14' high in areas, and a retaining wall will aide in creating a flat area for the storage area.

With reference to visual impact, referencing plan Sheet 13 of 24 titled *Landscape Layout Plan B*, Mr. Graham stated landscaping, a berm, and privacy fence would provide a visual obstruction. Mr. Guerin suggested paver-stone walls to achieve a more natural look instead of the proposed white vinyl fence. Mr. Hefle stated the Applicant is willing to discuss alternatives. Mr. Graham stated that plantings around the office building could be added.

The Board recessed from 9:10 p.m. to 9:30 p.m.

Chairman O'Connell opened to the Board for questions for the witnesses. Ms. Boyce asked if pavers do not come out correctly, what happens. Mr. Toedter confirmed that pavers get recycled off-site. Ms. Howell asked if there are any virginal steep slopes that will be disturbed on the property. Mr. Graham stated all slopes being disturbed are within the area previously disturbed. Another Board member inquired about the plan for the slopes. Mr. Graham stated the Applicant intends to create a flat area using cut and fill to meet required grade.

Chairman O'Connell asked if rain gardens would be used on site. Mr. Graham stated detention areas would be seeded, and some areas of the site cannot be entered per state requirements. Mr. Graham stated that rain gardens are not the right mechanism for this site. Chairman O'Connell asked about maintenance of the basins in the event of abandonment. Mr. Hefle agreed with a maintenance easement to the municipality.

Mr. Melfi inquired about the disturbed slopes exhibit. Mr. Graham explained the grading plan. Mr. Melfi inquired about the raw material storage area directly behind the mulch operation asking what would be seen from the road. Mr. Graham stated one would see the back of the proposed wall and the landscaping intended to screen the wall.

Mr. Melfi inquired about truck traffic testimony. Mr. Toedter noted that of the 55-60 trucks delivering raw materials, 75% would be coming directly across the street from the Limecrest Quarry. Mr. Hefle confirmed that the County approved the application conditionally and that traffic testimony would be presented. Mr. Briigliodoro confirmed that the County has jurisdiction of the county road. Mr. Hefle agreed to submit the county report.

Chairman O'Connell opened the meeting to the public.

Mr. Louis Coppolil was sworn. He stated he fished on the land as a child and the lower part of property was backfilled. He asked if permits were taken to fill it legally. He asked if it was known when the land was backfilled. He asked about silos that are to be approximately 100'. He asked if 100' trees would be planted in front of them. Mr. Graham stated some screening would buffer, not obliterate the view. Mr. Hefle stated testimony and a balloon test showing the heights of the silos would be brought to the Board. He asked the Board to consider the level of the land. He stated you could see the color of the asphalt on the ground at the Lyndhurst plant.

Ms. Christine Gallagher was sworn. She stated that she approached the County one year ago, as there is an issue on Limecrest Road with regard to the 40 mph speed limit. She stated the County deferred to the town. She asked the Board to go back to the County with regard to what has been discussed and approved. She stated she is concerned that the County has approved this.

Mr. Stan Christodlous was sworn. He stated that the County approval does not preclude the Land Use Board from denying the application on traffic issues. Citing case law, Mr. Briigliodoro explained that the Andover Township Land Use Board has no authority to deny a site plan based on anticipated traffic noting that the Sussex County Planning Board has jurisdiction on the matter. Mr. Christodlous stated he disagreed and asked why the Board would hear about traffic. Mr. Hefle stated the traffic study is required by the ordinance. He stated an evening would be spent on traffic because the Applicant wants the Board and public to see that what ends up out

there will be a safe condition. Mr. Christodlous commented on truck traffic trips. He asked about the steep slope ordinance. Mr. Hefele stated planning testimony regarding the variance would be presented by the planner.

Mr. Anthony Massaro refused to be sworn. He stated he would not give testimony. He asked if there would be any time a truck has to back-up on site. Mr. Graham stated trucks do not have to back-up. Mr. Graham reviewed the site circulation pattern. Mr. Massaro asked how the trucks would transfer materials and began to talk about the reason he was asking the questions. Mr. Brigliadoro attempted to interrupt Mr. Massaro. He informed Mr. Massaro that if he were going to give an explanation, he would have to be sworn. Mr. Massaro continued commenting. Mr. Brigliadoro told Mr. Massaro he was being discourteous and asked him to sit down. Mr. Massaro spoke to the public. Chairman O'Connell told Mr. Massaro he was out of order. Mr. Massaro stated he had a right to be discourteous and sat down.

Mr. John Reed was sworn. He asked Mr. Toedter if he took photographs of the condition of the property two years ago. Mr. Toedter confirmed that the property is the same today in the area of development. Mr. Reed asked if he was aware that significant topsoil or fill material has been dumped on the property since the photographs were taken to the point that the topography has changed. He stated there are hundreds of piles of dirt where the photographs show a flat area. Mr. Toedter stated he knows of fill that has been brought in since he took the photographs. Mr. Reed identified an area he described as being immediately to the north of the Biscati property as the area where materials had been dumped. He asked Mr. Toedter about the fill and what would be done with it. Mr. Toedter stated if it were useable, they would use it. Mr. Reed asked about palletized materials. Mr. Hefele stated they would be removed.

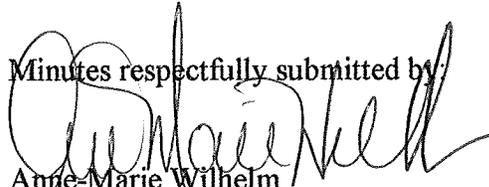
Mr. Rob Lorman was sworn. He asked if the application was only for Andover and what was the source of power. Mr. Graham stated electric power would be brought in from existing lines. Mr. Lorman stated he was concerned about water and asked if there is additional pumping and pumping stopped, who would be responsible. Chairman O'Connell stated that pumping is in Sparta. Mr. Lorman asked if there is a contractual obligation between companies. Mr. Hefele stated the quarry is regulated by the NJDEP. Mr. Lorman asked about construction noise and when it would start. Mr. Hefele stated that is unknown. Mr. Lorman asked about the duration of construction. Mr. Toedter stated it would take nine months for Phase 1. Mr. Lorman expressed a concern about noise. Mr. Hefele stated that a noise study would be presented. Mr. Lorman expressed concern about the adequacy of the water tank. Mr. Hefele confirmed that the Fire Department set the size of the water storage tank. Mr. Lorman asked about impact to Limecrest Road. Chairman O'Connell stated the County had jurisdiction. Mr. Lorman inquired about architectural renderings. Mr. Hefele stated they would be provided.

Mr. Dan Freed was sworn. He asked about truck traffic crossing the road to Limecrest. He asked about lighting. Mr. Graham explained that shoebox fixtures aimed downward would be utilized, and the building's lights would not be aimed at the road.

Ms. Erem asked for pdf exhibits stating she could not see some of the photographs Mr. Graham was pointing at. Mr. Hefele agreed to provide an exhibit disc. She asked about wetland filling and buffer encroachment. She asked about illegal filling. She asked if Mr. Mulvihill would testify. Mr. Hefele stated Mr. Mulvihill would not have any knowledge. Mr. Hefele stated that is an enforcement issue. Mr. Hefele stated the quarry operations have been going on for almost 100 years and that the Applicant does not know when the piles were created. He stated the property is what it is. She asked about the recent piles added. She asked that she could cross-examine next meeting.

Scheduling of the next meeting was discussed. The next meeting date was set for June 14, 2011. A motion to carry was made by Mr. Bensley and seconded by Mr. Melfi. Roll Call: Ms. Boyce – yes; Ms. Howell – yes; Mr. Huelbig – yes, Mr. Melfi – yes, Ms. Pattison – yes, Mr. Bensley – yes; Mr. Roberts – yes; Chairman O’Connell – yes. The motion carried.

The meeting was adjourned at 10:40 p.m.

Minutes respectfully submitted by  
  
Anne-Marie Wilhelm  
Land Use Administrator