

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD
JUNE 21, 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 (8:45 p.m.)
CeCe Pattison – Present
Christine Kretzmer – Present
Rick Melfi – Present
Paul Messerschmidt (Alt.1) – Present
Ken Roberts (Alt. 2) – Present
Chairman John O'Connell – Present

PROFESSIONALS PRESENT: Richard Brigliadoro, 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.

MINUTES: *Minutes of the Andover Township Land Use Board Meeting Held June 7, 2011:* A motion to approve was made by CeCe Pattison and seconded by Sue Howell. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Christine Kretzmer – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried. A correction to page one was noted.

Minutes of the Andover Township Land Use Board Meeting Held May 24, 2011: A motion to approve was made by CeCe Pattison and seconded by Ken Roberts. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Rick Melfi – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

Minutes of the Andover Township Land Use Board Meeting Held May 17, 2011: A motion to approve was made by Ken Roberts and seconded by Gerald Huelbig. Roll Call: Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Rick Melfi – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

RESOLUTIONS: TOWNSHIP OF ANDOVER LAND USE BOARD IN THE MATTER OF ALVARO FARACE d/b/a/ DOMINO'S PIZZA, *SITE PLAN WAIVER APPROVAL*, BLOCK 103 LOT 4.01: The matter was carried to the July 5th meeting.

TOWNSHIP OF ANDOVER LAND USE BOARD IN THE MATTER OF ORDINANCE NO. 2011-06, AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "ZONING" OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO AMEND ARTICLE V, "USE AND BULK REGULATIONS," SECTION 190-38, "MOUNT LAUREL ZONE" TO MODIFY CERTAIN CONTROLS AND STANDARDS GOVERNING THE DEVELOPMENT OF AFFORDABLE HOUSING: The matter was carried to the July 5th meeting.

TOWNSHIP OF ANDOVER LAND USE BOARD IN THE MATTER OF RESOLUTION #R2011-87, A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER TO DESIGNATE LOT 35 IN BLOCK 153 OTHERWISE KNOWN AS 350 ROUTE 206 IN ANDOVER TOWNSHIP AS AN "AREA IN NEED OF REHABILITATION" PURSUANT TO THE CRITERIA ESTABLISHED BY THE "REDEVELOPMENT AND HOUSING LAW"(N.J.S.A. 40A:12A-1 ET SEQ.): The matter was carried to the July 5th meeting.

HEARING:

LUB5-11-01, Megna, Chris, "C" Variance, Block 144 Lot 17[Location: 5 Irving Place, Newton, New Jersey] - Chris Megna, Applicant, and Joseph Marchese, Architect, were sworn. Joseph Golden, P.E., P.P., presented an overview of the matter. Board members reviewed the attached report prepared by Mr. Golden titled *Completeness/Substantive Report I – May 24, 2011*. Mr. Megna affirmed the information presented by Mr. Golden. Mr. Brigliadoro confirmed the side yard setback would be 12 ft. where 15 ft. is required.

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

There was no further discussion.

A motion to approve the application was made by Gerald Huelbig and seconded by Rick Melfi. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Rick Melfi – yes; Christine Kretzmer – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

10Z-780PSPV, 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 [Location: 299 Limecrest Road/County Route 669] –

Board members reviewed a request to carry forwarded by Bernd E. Hefele, Esq. A motion to grant the request was made by Diana Boyce and seconded by Gerald Huelbig. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Rick Melfi – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried. The matter was carried to July 19, 2011, without notice required. Chairman O'Connell directed Attorney Briigliodoro to request a list of witnesses and the Applicant's availability dates from Mr. Hefele. Mr. Briigliodoro noted he would also request an extension of time from the Applicant.

11Z-782APFSPV, Cumberland Farms, Inc., Amended Preliminary and Final Site Plan, Conditional Use, "C" Variances, Site Plan Exceptions, Block 105.05 Lot 2:

Lawrence C. Wohl, Esq., appeared on behalf of the Applicant. Diane Boyce recused.

Board members reviewed the attached report prepared by Joseph Golden, P.E., P.P., titled *Substantive Review II – June 16, 2011*. Mr. Wohl stated report items three, four, and five, were addressed in revised plans. Mr. McMorrow noted that the Applicant's title search did not disclose an access easement as noted on the *Existing Conditions Plan*. Chairman O'Connell inquired as to how it was noted on the plan sheet. Mr. Wohl agreed to look into the matter further.

Mr. McMorrow confirmed the Applicant would utilize propane.

With reference to report item six, Mr. McMorrow requested that consideration be given.

Mr. Golden explained curbing types and stated he would not recommend extruded curb.

Mr. McMorrow confirmed the Applicant would utilize conventional curbing.

Philip I. Brilliant, CHMM, LSRP, was qualified and accepted by the Board as an expert in environmental sciences. Mr. Brilliant confirmed that he reviewed a June 6, 2011 memorandum concerning spill management prepared by Jessica L. Pfeifer, which was distributed to Board members. He explained Cumberland Farm's spill response procedures. Mr. Brilliant stated spills are required to be reported to the NJDEP within fifteen minutes. Mr. Melfi confirmed that the Fire Department has materials such as Speedy Dry, booms, and absorbent pads on hand to address spills. Mr. Melfi suggested that the contact numbers on Cumberland's emergency contact sheet and calling sheet be amended to use 911 as the contact number for Andover Fire and Police Departments in the event of an emergency.

Mr. Golden expressed concern about spill containment in the event of a large spill. Mr. Brilliant explained delivery procedures. He stated systems are designed to avoid large spills. He also noted boom systems are in place onsite.

With reference to gas attendant training, Mr. Alp stated every employee knows the emergency spill procedure and records are kept of their training. He explained the training. Mr. Brilliant noted there is an environmental tote on every site. He stated the dealers are trained annually to prepare for minor to worst-case scenarios. Mr. Brilliant stated he was not aware of employee training drills. Mr. Melfi stated the Fire Department responded to one spill at the property in twenty-one years that he knows of.

With reference to report item fourteen, Mr. McMorrow stated that the species recommended are drought tolerant and would not require additional watering once established. Mr. Wohl stated that Cumberland Farms wants the operation to look nice and would respond to requests by the Township engineer if there were any problems with the landscaping.

With reference to lighting, Mr. Golden expressed concern about the canopy's lighting. Referencing Exhibit A-8, Mr. McMorrow discussed lighting of the canopy. He stated it is bright under the canopy. Mr. Golden inquired about recessed lighting. Engineers McMorrow and Golden discussed the lighting plan.

The Board recessed at 8:20 p.m. The meeting resumed at 8:35 p.m.

Mr. Wohl stated the Applicant agreed to 0 foot-candles at the property line and agreed to submit the light-timing plan to the Board engineer.

With reference to report items 17 and 18, the Applicant agreed to coordinate with the Board engineer and the fire official.

With reference to report item 19, Mr. Golden stated that he reviewed the geotechnical report and concurs that a Phase II report is not required.

With reference to report item 20, Mr. McMorrow stated the light fixtures detailed on the plan would be removed.

With reference to report item 21, Mr. Wohl stated the Applicant would provide the details.

With reference to report item 22, the Applicant agreed to provide the sidewalk to the westerly property line. Mr. Melfi stated Mr. Carafello is amenable to linking his property to the sidewalk network.

With reference to the landscape island by the door, Mr. McMorrow stated deciduous shrubs that will grow to 36" are proposed. He stated the taller shrubs should deter people from parking there.

With referenced to report item 24, the Applicant agreed to provide the detail.

With reference to report item 25, the Applicant agreed to provide a maintenance plan.

With regard to the fuel delivery schedule, Mr. Golden presented a concern about traffic conflicts during fuel delivery. Mr. Wohl agreed to limit delivery times to the off-peak hours of 10 a.m. – 2:00 p.m. He also agreed to take steps, such as the utilization of cones, to insure proper traffic flow.

Mr. Wohl agreed to provide the *Stormwater Maintenance Plan* subject to Mr. Golden's approval. Mr. Golden noted there would also be an agreement for a schedule of maintenance for the storm sector, the cost of which is borne by the Applicant. The Applicant agreed.

Mr. Wohl agreed that there would be no diesel fueling services.

Mr. Golden presented a concern about the side setback and the overhang. He noted it would be prudent to allow additional room via the variance. He suggested a 6.5 ft. side set back. The Applicant agreed.

Following discussion, Mr. Briadoro suggested fuel delivery and landscape care to be tied into the *Certificate of Occupancy*.

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

Mr. Bensley joined the meeting at 8:45 p.m.

A motion to approve the application subject to the items discussed was made by Rick Melfi and seconded by Gerald Huelbig. Roll Call: Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Rick Melfi – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

PUBLIC PORTION: The meeting was opened to the public. No members of the public addressed the Board. The meeting was closed to the public.

OLD/NEW BUSINESS: Mr. Melfi requested continuation in the matter of property maintenance code development. Chairman O'Connell agreed to obtain information. Further discussion was carried to the July 5th meeting. Mr. Golden stated he was prepared to discuss suggested changes to the slope ordinance, and he requested Board member input via call or email prior to the July 5th meeting.

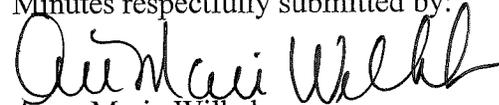
VOUCHERS: Board members reviewed the vouchers. Ms. Boyce questioned a billing in the Testa matter. A motion to approve and recommend payment of the bills to the Township Committee was made by Rick Melfi and seconded by Paul Messerschmidt. Roll Call: Diana Boyce – no; Sue Howell – yes; Gerald Huelbig – yes; Rick Melfi – yes; Christine Kretzmer –

abstain; CeCe Pattison – yes; Ellsworth Bensley – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

UPCOMING MEETING: Chairman O'Connell announced the July 5, 2011 meeting.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Paul Messerschmidt and seconded by Sue Howell. All were in favor. The motion carried. The meeting was adjourned at 9:10 p.m.

Minutes respectfully submitted by:



Anne-Marie Wilhelm

Land Use Administrator

Municipal/Civil Engineering
Land Surveying
Site Plan Development
Septic System Design
Environmental Services

Golden & Moran Engineering
Office: (973) 300-0888
Fax: (973) 300-0881
21 Main Street
Newton, NJ 07860

Andover Township

Completeness/Substantive Report I – May 24, 2011

Side Yard Variance
5 Irving Place
Block 144, Lot 17
Application No. Unknown

Chris Megna

GME No. AND-11-150

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

- Variance Exhibit created by Joseph M Marchese Architect, dated 4/28/11, last revised 5/3/11 consisting of three (3) sheets.
- Completed variance application, no checklists or other administrative documents.

The applicant proposes a ±360 square foot addition to an existing three-bedroom ±818 square foot single-family dwelling. The addition appears to be for an expanded kitchen and dining area. No additional bedrooms are proposed.

The parcel is located in the R-0.5 Single Family Residential district. The bulk of the addition is proposed within the required setbacks. An elevated covered side entrance is proposed to allow access to the addition via a proposed “Mud” room. The existing side setback is 17.5’, whereas the proposed covered entrance would reduce the side setback to ±12.5’ where 15’ is required. Our office recommends side variance relief be evaluated for a side setback of 12.0’ to allow room for construction.

The applicant requires a c(1) variance by reason of exceptional narrowness of the existing lot. The lot is substandard in that the existing lot width is 75’ where 120’ is required. The architect proposes an addition that maintains the line of the existing dwelling. The side variance can be avoided by recessing the addition; however recessing the addition would block existing windows and compromise the character of the dwelling.

Although the side entry encroaches ±2.5’ into the side setback, adequate light and open space is maintained by keeping the entrance open with a wood post rail. The architect’s plan maintains visual consistency with the neighborhood while enhancing the aesthetic character of the dwelling.

Based on the narrowness of the existing lot and the location of the lawfully existing dwelling, the strict application of the ordinance would make it difficult to maintain a side entrance that meets code. The total encroachment, including the steps, is approximately 30 square feet. In my opinion, the requested relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and ordinance.

Comments Regarding Completeness

1. The Board secretary should comment on the administrative completeness of the application including the items identified in Checklist #1.
2. The list of property owners within 200' is not shown on the plans. *Our office has no engineering objection to granting this waiver based on the nature of the application.*
3. A key map is not provided. *Our office has no engineering objection to granting this waiver based on the nature of the application.*
4. Location of structures within 200'. *Our office has no engineering objection to granting this waiver based on the nature of the application.*
5. Location of the following existing items are not shown; Utilities, railroad tracks, bridges, culverts, driveways, sidewalks, existing and proposed contours, soil classification, slope identification, survey monumentation, deed restrictions, NJDEP Letter of Interpretation, percolation testing, Natural features, description of surrounding area, and a CD containing copies of the plans in CAD format. *Our office has no engineering objection to granting this waiver based on the nature of the application.*

Based on our review of the proposed application for a side yard variance, our site visit, and the minor nature of the proposed variance, our office recommends the application be deemed **complete**.

The architect provided the proposed layout on a survey prepared for Harry W. Wills dated October 26, 1979. Our office recommends an as built drawing prepared by a licensed land surveyor be submitted to the construction code official to ensure compliance with any relief the Board may consider.

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

Respectfully Submitted,

Joseph Golden

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

CC: Anne-Marie Wilhelm, Board Secretary (via email),
Richard Briigliadoro, Esq. (via email),
Joseph Marchese, Architect (via email)
Jim Cutler, Construction Official (via email)

Municipal/Civil Engineering
Land Surveying
Site Plan Development
Septic System Design
Environmental Services

Golden & Moran Engineering
Office: (973) 300-0888
Fax: (973) 300-0881
21 Main Street
Newton, NJ 07860

Andover Township

Substantive Review II – June 16, 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, last revised June 6, 2011, consisting of seventeen (17) sheets.
- “Drainage Summary for Cumberland Farms...” prepared by Bohler Engineering dated May 2005, last revised June 2011.
- Spill Management letter prepared by Jessica Pfeifer dated 6/06/2011.
- Delivery schedule letter prepared by Cathy Currie dated May 27, 2011

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.

A “d3” variance is required for relief from the requirements of a conditional use. Specifically, relief is required for side yard setback where 20’ is required, 9.80’ existing, 9.64’ proposed (6.88 to overhang).

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. *Satisfactorily Addressed*
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. *The revised plan shows a JCP&L easement, but does not address any access easements. Provide testimony regarding same.*

3. Show dimensions of existing structures within 200' to include their distance to the property line. ***Satisfactorily Addressed***
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. ***Satisfactorily Addressed***
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. ***Satisfactorily Addressed***
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. ***The applicant proposes both extruded concrete curb and conventional concrete curb. Our office recommends eliminating the extruded 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) ***Satisfactorily Addressed***
8. The paving detail shall be modified to conform to §155:A1 as referenced in §155-14. ***Satisfactorily Addressed***
9. Trash Enclosure detail to include cultured stone veneer of the same material used for the main building. ***Satisfactorily Addressed***
10. The site plan shows a handicap ramp located at the same location as the existing utility pole guy wire. Resolve. ***Satisfactorily Addressed***
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. ***Satisfactorily Addressed***
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. ***Information provided, additional testimony is required.***
13. Provide testimony regarding the multiple sign variances identified in the plan set. ***Satisfactorily Addressed***

14. Provide testimony regarding the changes to the landscape plan. Irrigation plan required. *This item is addressed by removing the requirement for irrigation. Additional testimony is required.*
15. Provide testimony regarding lighting, timed lighting and methods to reduce overall sight lighting during the overnight shift. *Additional testimony is required.*
16. Provide testimony regarding the proposed canopy. Consider canopy that is consistent with the colonial style of the proposed building. *Satisfactorily Addressed*
17. Applicant to confirm there will be no diesel fuel dispensed on site. *Satisfactorily Addressed*
18. Provide a Fire Protection Plan including required details. The Board Engineer and appropriate fire official should approve the plan. *Plan to be reviewed and approved by the appropriate fire official.*

Additional Comments

19. Applicant to provide copy of original geotechnical report. Any favorable resolution should require conformance to any recommendations contained therein.
20. There appear to be existing light fixtures toward the rear of the site. These fixtures are not identified on the demolition plan. They also are not considered in the lighting plan.
21. Provide "No Parking" pavement markings and striping along the curb spanning the southwestern driveway area.
22. Provide walkway to adjacent westerly property.
23. Provide testimony regarding landscape islands.
24. Mountable concrete curb detail is not legible.
25. Provide stormwater maintenance plan. Amend deed accordingly.
26. Any developers agreement should consider:
 - a. Landscape care in perpetuity
 - b. Fuel delivery schedule
 - c. Agreement to prohibit dispensing diesel fuel
 - d. Spill materials for AFD, if requested
 - e. Spill management and restoration considerations.
 - f. Stormwater management maintenance agreement
 - g. Appropriate access easements

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 *Satisfactorily Addressed*
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. *An Engineer's Opinion of Probable Cost is required*
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 Briigliodoro, Esq. (via email)
Guliet D. Hirsch, Esq. (via email)
Brian McMorrow, PE (via email)