

MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD JULY 5, 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 – Present
Ellsworth Bensley –Present
CeCe Pattison – Present
Christine Kretzmer – Excused
Rick Melfi – Excused
Paul Messerschmidt (Alt.1) – Present
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.

MINUTES: *Minutes of the Andover Township Land Use Board Meeting Held June 19, 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; Ellsworth Bensley – yes; CeCe Pattison – yes; Paul Messerschmidt – 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: A motion to adopt the memorializing resolution was made by Ellsworth Bensley and seconded by Paul Messerschmidt. Roll Call: Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Ellsworth Bensley – yes; Ken Roberts – yes; John O’Connell – yes. The motion carried.

— 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: A motion to adopt the memorializing resolution was made by Sue Howell and seconded by Ellsworth Bensley. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Ken Roberts – yes; John O’Connell – yes. The motion carried.

— 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.): A motion to adopt the memorializing resolution was made by Ellsworth Bensley and seconded by Sue Howell. Roll Call: Sue Howell – yes; Gerald Huelbig – yes; CeCe Pattison – yes; Ken Roberts – yes; John O’Connell – yes. The motion carried.

LUB-5-11-01, Megna, Chris, “C” Variance, Block 144 Lot 17[Location: 5 Irving Place, Newton, New Jersey] — The matter was carried to the July 19, 2011 meeting.

11Z-782APFSPV, Cumberland Farms, Inc., Amended Preliminary and Final Site Plan, Conditional Use, “C” Variances, Site Plan Exceptions, Block 105.05 Lot 2 — The matter was carried to the July 19, 2011 meeting.

COMPLETENESS REVIEW: A-6-11-01, McNelis, Brian, “C” Variance, Block 122 Lot 5; [Location: 4 Linda Lane, Newton, New Jersey] — Board members reviewed the attached report prepared by Joseph Golden, P.E., P.P., titled *Andover Township Completeness/Substantive Report I- June 30, 2011, Front Yard Variance, Brian & Dolores McNelis, 4 Linda Lane, Block 122, Lot 5, Application No. A-6-11-01, GME No. AND-11-152*. Mr. Golden provided an overview of the matter stating that the Applicant proposes a front-yard variance for an addition of 120 sq.ft., which will be parallel to the existing front of the dwelling. He stated the Applicant would add a covered porch with an open railing. He reviewed the waiver requests and

recommended they be granted and the matter deemed complete. Mr. Messerschmidt inquired about a monitoring well on the property. Mr. Golden stated he did not see anything that would compromise that.

A motion to grant the waivers and deem the application complete was made by Paul Messerschmidt and seconded by Ken Roberts. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Gail Phoebus – yes; CeCe Pattison – yes; Ellsworth Bensley – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O’Connell – yes. The motion carried.

The Applicant was assigned a hearing date of July 19, 2011 and advised to notice.

HEARING: There were no hearings scheduled.

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:

Andover Township Code §190-32.3. Regulations for Development within Steep Slope Areas: Mr. Golden provided an overview of suggested changes to the ordinance. Following discussion, Mr. Golden agreed to review the checklist for consistency with the proposed changes. The matter was continued to the August 2, 2011 meeting.

Property Maintenance Code: Chairman O’Connell carried a review of a draft ordinance to the August 2, 2011 meeting.

Ms. Phoebus provided an overview of the Township’s COAH status. She presented that the Committee has been meeting regularly with RPM Associates, developers that would like to build 74 affordable units on the Abbey property. Ms. Phoebus stated the costs of addressing wastewater and water requirements are very high and efforts are being made to find a solution. She noted that 55 units are needed to satisfy the Township’s round one and two obligation.

VOUCHERS: Board members reviewed the vouchers. A motion to recommend the Township’s payment of the vouchers was made by Gail Phoebus and seconded by Paul Messerschmidt. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Gail Phoebus – yes; 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 19, 2011 and August 2, 2011 meeting dates.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Ellsworth Bensley and seconded by Paul Messerschmidt. All were in favor. The motion carried. The meeting was adjourned at 9:00 p.m.

Minutes respectfully submitted by:

Anne-Marie Wilhelm
Land Use Administrator

**RESOLUTION
TOWNSHIP OF ANDOVER
LAND USE BOARD
IN THE MATTER OF ALVARO FARACE
d/b/a DOMINO'S PIZZA
MEMORIALIZED ON JUNE 21, 2011
CORRECTIVE RESOLUTION FOR
SITE PLAN WAIVER APPROVAL
APPLICATION NO. 11P-784-SPW**

WHEREAS, Alvaro Farace, d/b/a Domino's Pizza (hereinafter "Applicant") has applied to the Andover Township Land Use Board (hereinafter "Land Use Board") seeking site plan waiver approval;

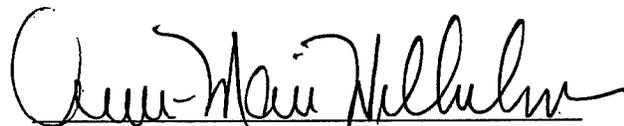
WHEREAS, a memorializing resolution was approved by the Township of Andover Land Use Board on May 17, 2011; and

WHEREAS, it was discovered that there was a typographical error with respect to the Tax Lot and Block designations for the subject property;

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The resolution memorialized on May 17, 2011 is hereby amended to reflect the correct Lot and Block designation for the subject property as being Block 103, Lot 4.01 on the Tax and Assessment Map of the Township of Andover.
2. All terms and conditions of the Board's May 17, 2011 resolution in this matter shall remain in full force and effect except as modified by this resolution.

The undersigned secretary certified the within resolution was memorialized on June 21, 2011.



Ann Marie Wilhelm, Andover Township
Land Use Administrator/Board Secretary



John O'Connell, Chairman

In favor: Howell, Huebner, Pattison, Bensley, Roberts, O'Connell

Against: 0

Abstained: 0

Board Members Eligible to Vote: 6

X:\WP-DATA\COR\MATTERS\AND-022E Domino's Pizza Corrected Resolution 6-13-11 rb.doc

**TOWNSHIP OF ANDOVER
LAND USE BOARD
IN THE MATTER OF
REVIEW OF ORDINANCE NO. 2011-06**

WHEREAS, the Township Committee of the Township of Andover conducted a regular meeting which was held on May 23, 2011 at which time it introduced and passed at first reading 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**; and

WHEREAS, Ordinance No. 2011-06 was referred to the Andover Township Land Use Board pursuant to N.J.S.A. 40:55D-26a; and

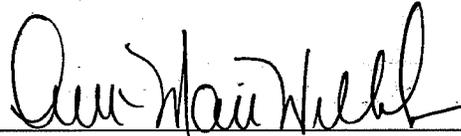
WHEREAS, the Land Use Board has heard testimony and comments from its own consultants.

NOW, THEREFORE, does the Andover Township Land Use Board make the following findings of fact and conclusions of law with regard to Ordinance No. 2011-06. The Andover Township Land Use Board adopted a 2011 Periodic Reexamination Report of the Master Plan and Development Regulations. The action of the Land Use Board was taken on May 17, 2011 and memorialized in a resolution adopted by the Land use Board on June 7, 2011. The 2011 Periodic Reexamination Report of the Master Plan and Development Regulations was prepared by Charles D. McGroarty, P.P., AICP of Banisch Associates, inc. dated May 17, 2011 pursuant to N.J.S.A.

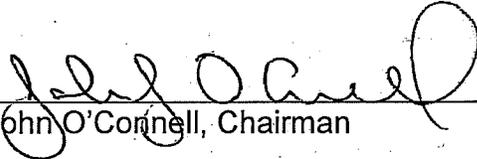
40:55D-89. The 2011 Periodic Reexamination focused upon the specific recommendation to designate a 21 acre tract as an "area in need of rehabilitation" in accordance with the criteria set forth in the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.) in order to facilitate the transformation of the site from its former use as a monestary/retreat house to a new affordable housing community. The Reexamination Report also recommended certain modifications to the Township's Mount Laurel Zone District in order to update the standards therein for the purpose of effectuating the objective of the Zone District, namely to create affordable housing. The Land Use Board reviewed Ordinance No. 2011-06 at its meeting on June 7, 2011 and after having reviewed said Ordinance, determined that the Ordinance is consistent with the Master Plan and the 2011 Periodic Re-examination Report dated May 17, 2011, based upon the reasons set forth in said 2011 Periodic Re-examination report of the Master Plan and Development Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Andover on this 21st day of June, 2011 that Ordinance 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** has been determined to be consistent with the Andover Township Master Plan and 2011 Periodic Re-examination Report of the Master Plan and Development Regulations under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a.

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Andover Township Land Use Board at a public hearing held on June 21, 2011.



Ann Marie Wilhelm, Andover Township
Land Use Administrator/Board Secretary



John O'Connell, Chairman

In favor: Howell, Huelbig, Pattison, Bensley, Roberts, O'Connell

Against: 0

Abstained: 0

Board Members Eligible to Vote: 6

**TOWNSHIP OF ANDOVER
LAND USE BOARD
IN THE MATTER OF
TOWNSHIP COMMITTEE RESOLUTION #R-2011-87**

WHEREAS, the Township Committee of the Township of Andover passed and adopted by a majority of the full membership of the Andover Township Committee at its meeting on May 23, 2011 Resolution #R-2011-87, **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.);**

WHEREAS, under the Local Redevelopment and Housing Law pursuant to N.J.S.A. 40A:12A-1, the governing body is required to submit a Resolution to the municipal Planning Board for its review of a delineated area determined to be in need of rehabilitation by the governing body; and

WHEREAS, the Andover Township Land Use Board did adopt the most recent Master Plan and Re-examination Report on May 17, 2011, which report is entitled 2011 "Periodic Re-examination Report of the Master Plan and Development Regulations", dated May 17, 2011; and

WHEREAS, the aforementioned report does recommend that the property known as Lot 35 in Block 153, otherwise known as 350 Route 206, which comprises approximately 21 acres in the Township of Andover should be designated as "an area in need of rehabilitation" in accordance with the criteria set forth in the Local

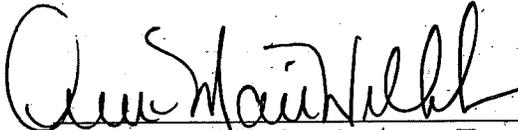
Redevelopment and Housing Law of the State of New Jersey (N.J.S.A. 40A:12A-1 et seq.) and due to “a significant portion of structures therein are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties”; and

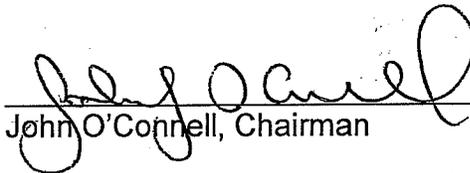
WHEREAS, Resolution #R-2011-87 has been transmitted to the Andover Township Land Use Board for review and comment, if any, in accordance with the requirements of N.J.S.A. 40A:12A-14.

NOW, THEREFORE, does the Andover Township Land Use Board make the following findings of fact and conclusions of law with regard to Resolution #R-2011-87. The Andover Township Land Use Board adopted the most recent Master Plan Re-examination Report on May 17, 2011, which report is entitled “2011 Periodic Reexamination Report of the Master Plan and Development Regulations” and memorialized in a resolution adopted by the Land Use Board on June 7, 2011. The aforementioned report recommends that property known as Lot 35 in Block 153 and commonly known as 350 Route 206 which comprises approximately 21 acres in the Township of Andover should be designated as an “area in need of rehabilitation” in accordance with the Local Redevelopment and Housing Law under (N.J.S.A. 40A:12A-1 et seq.). The Board has reviewed Resolution #R-2011-87 and finds that “a significant portion of structures therein are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties...” And, as such, the Board recommends that the Resolution be adopted as drafted by the governing body of the Township of Andover. The Land Use Board has acted in accordance with N.J.S.A. 40A:12A-14.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Andover on this 21st day of June, 2011 that the Land Use Board recommends that the Township Committee of the Township of Andover adopt and implement Resolution #R2011-87 as drafted without any additional modifications.

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Andover Township Land Use Board at a public hearing held on June 21, 2011.


Ann Marie Wilhelm, Andover Township
Land Use Administrator/Board Secretary


John O'Connell, Chairman

In favor: Boyce, Howell, Huelbig, Pattison, Roberts, O'Connell

Against: 0

Abstained: 0

Board Members Eligible to Vote:

Municipal/Civil Engineering
Lapid 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 – June 30, 2011

Front Yard Variance

Brian & Dolores McNelis

4 Linda Lane

Block 122, Lot 5

Application No. A-6-11-01

GME No. AND-11-152

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

- "Variance Map prepared for Brian E. McNelis & Dolores A. McNelis, H/W..." prepared by Michael A. Catalano dated June 13, 2011 consisting of one (1) sheet.
- First Floor Plan, Front and Right Side Elevation for renovations to McNelis Residence prepared by Gregory J. Tomczko Architect, PC dated June 13, 2011 consisting of two (2) sheets with no revisions.
- Completed variance application, checklist and statement clarifying why the variance should be granted.

The applicant proposes a ±120 square foot (SF) addition to an existing three-bedroom single-family dwelling. The addition appears to modify/expand the living room and master bath while adding an entrance foyer. As part of the building addition, the applicant proposes a 36 SF covered front porch with an access ramp. No additional bedrooms are proposed.

The parcel is located in the R-1.0 Single Family Residential district. Substandard lots, likely established before the current zoning regulations were put in place, characterize the immediate neighborhood. All of the lots within 200 feet appear to contain lot areas less than the required 1-acre. The southwestern adjoining lot appears to meet the required front setback while the northeastern adjoining lot contains a non-conforming front and side setback.

The current front setback is approximately 45 feet (where 50 feet is required). The 120 SF addition will not increase the pre-existing non-conformance, as it is an extension to the existing face of structure. The 26 SF porch however, will increase the existing non-conformance from 45 feet to 39 feet (where 50 feet is required). As such, the applicant requires a c(1) variance for relief from the front setback requirements.

The applicant states that the proposed addition may be accomplished without increasing the existing non-conformance. However, the applicant also states their intention to make the dwelling handicap accessible by widening the entrance door and adding a concrete ramp in lieu of front steps. The front entrance will be protected from the elements by means of an open covered porch. The resultant covered porch dictates the need for the variance.

The Land Use Board has the authority to grant relief from the strict enforcement of the zoning ordinance when it determines certain conditions uniquely affect a specific parcel where the strict application of a regulation will cause exceptional or undo hardship upon the owner. In

this particular application, the dwelling exists on an undersized lot that is consistent with the site conditions throughout the neighborhood. In fact several lots in the neighborhood encroach on the front setback either with the main structure or a front porch.

The subject lot is one of the largest lots in the immediate neighborhood thereby maintaining adequate light and open space. The same is maintained by proposing an open entrance porch with a wood post rail. The addition of the handicap accessible front entrance advances the public health, safety, morals and general welfare of the use. There is no clear negative impact on the neighborhood, as the resultant dwelling will remain consistent with the surrounding conditions.

In my opinion, the requested deviation from the zoning ordinance is consistent with the intent and purpose of the ordinance, and the benefits of the deviation substantially outweigh any perceived detriment.

Comments Regarding Completeness

1. The Board secretary should comment on the administrative completeness of the application including the items identified in Checklist #1.
2. Existing and proposed contours within 200'. *Contours are shown for the subject parcel, but are not shown 200' off tract. Our office has no engineering objection to granting this waiver based on the nature of the application.*
3. Provide a Freshwater Wetlands Letter of Interpretation. *There are clearly no wetlands proximate to the proposed disturbance. Our office has no engineering objection to granting this waiver based on the nature of the application.*
4. Provide a CD 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 front yard variance, our site visit, and the nature of the proposed variance, our office recommends the application be deemed **complete**.

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 Brigliadoro, Esq. (via email),
Michael Catalano, PLS (via email)
Jim Cutler, Construction Official (via email)