

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD  
JULY 19, 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 Jr. –Present  
CeCe Pattison – Present  
Christine Kretzmer – Excused  
Rick Melfi – Present  
Paul Messerschmidt (Alt.1) – Present  
Ken Roberts (Alt. 2) – Present  
Chairman John O'Connell – Present

**PROFESSIONALS PRESENT:** Richard Briigliodoro, 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.

**MINUTES:** *Minutes of the Andover Township Land Use Board Meeting Held July 5, 2011:* A motion to approve with corrections was made by CeCe Pattison and seconded by Ken Roberts. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Ellsworth Bensley Jr. – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

**RESOLUTIONS:**

**LUB-5-11-01, Megna, Chris, "C" Variance, Block 144 Lot 17:** A motion to adopt the memorializing resolution was made by CeCe Pattison and seconded by Paul Messerschmidt.

There was no discussion. 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.

**11Z-782APFSPV, Cumberland Farms, Inc., Amended Preliminary and Final Site Plan, Conditional Use, “C” Variances, Site Plan Exceptions, Block 105.05 Lot 2:** A motion to adopt the memorializing resolution was made by Sue Howell and seconded by Ken Roberts. There was no discussion. Roll Call: 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.

**HEARING: A-6-11-01, McNelis, Brian, “C” Variance, Block 122 Lot 5:** A review of the Applicant's notice disclosed that service was deficient. Having no jurisdiction to hear the matter, a motion to carry the matter and assign a hearing date of August 2, 2011 with notice required was made by Diana Boyce and seconded by Ellsworth Bensley Jr. Roll Call: Diana Boyce – yes; Ellsworth Bensley Jr. – 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.

**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:** Bernd E. Hefe, Esq., appeared on behalf of the Applicant. Richard Briigliodoro, Esq., entered Exhibit O-2, a letter dated July 19, 2011 from Donna M. Erem, Esq., representative of objector Krueger, into the record. He distributed copies of Exhibit O-2 to the Board. He stated he received the letter via email at approximately 3:30 p.m. Mr. Hefe confirmed that he also received the letter late in the day.

Mr. Hefe stated Cambridge Pavers is no longer the contract purchaser and will be removed from the application. He stated the approval requested remains the same and a letter will be forwarded to the Board. Mr. Hefe stated the Applicant believes this is the right use for the property, still intends to put a manufacturing facility there, and would like to process the matter to its conclusion.

John McDonough, L.A., P.P., AICP, was sworn, qualified, and accepted as an expert witness. He stated he walked the property and reviewed the existing and proposed conditions. He stated the Applicant complies with all of the conditions of the GI Zone except for two bulk variances - off-street parking and steep slope disturbance.

With reference to the off-street parking variance, Mr. McDonough stated 63 stalls are proposed and 202 are required. With reference to the steep slope disturbance variance, he stated steep slopes in each category of the steep slope ordinance are being disturbed. He noted the man-made disturbance is existing and is a result of the historic quarry use.

Mr. McDonough distributed copies of a two-sheet set of photos titled *Planning Exhibits* to the Board, a set of which was marked as Exhibit A-7. Mr. McDonough stated the first photo was downloaded from Google to show the property and surrounding area, and the second sheet contained photographs of the site taken by himself on 7/18/11. He provided an overview of the property's location and the surrounding uses. He noted that the Limecrest Quarry is a dominant use and significant land feature in the area.

Referencing Exhibit A-1, Mr. McDonough stated the proposed parking is adequate to meet the demand of 40 employees. He stated the gross floor area is the figure that is triggering the 202 parking space requirement. He stated much of building is to be used for storage and need not be used for the parking calculation. He stated the variance is justified under the "C-1" criteria because the requirement presents a hardship and practical difficulty to the Applicant. He stated the parking standard of 1 per 500 is not applicable or necessary for this operation. He noted that much of the area of the proposed building is devoted to storage. He stated the "C-2" criteria also applies and stated the Pullen case encourages Board's to look at the application as a whole. He stated the application is generally beneficial to the area, provides a ratable, and encourages the Master Plan goal of economic development. He stated the proposal would put an unproductive and fallow piece of property back into functional use. He noted the site possesses ample land and surplus impervious coverage to accommodate additional parking in the event a future user needed it. He stated it is an economic zone and the application as a whole provides a community benefit.

With reference to the slope disturbance variance, Mr. McDonough stated steep slopes are scattered across the property that serve no real functional or environmental benefit. He stated they meet the hardship criteria. Referencing Exhibit A-2, Mr. McDonough identified the steep slopes and the limits of disturbance. He explained that the slopes that are being disturbed are the man-made slopes that are remnants from a prior use and that they could be described as anomalies. He stated they represent a practical difficulty to any future development and present an unavoidable variance and the C-1 hardship criteria can be satisfied. He referred the Board to sheet two of Exhibit A-7. He stated the property is relatively flat and suitable for redevelopment of the nature proposed. He stated he sees no detriment to the surrounding properties and the variances can be granted without detriment to the public good. Addressing the balancing test, he stated there is clear weight on the positive side and very little on the negative side. He stated the slopes are not the type of slopes the ordinance was intending to preserve. He stated he believed that the application is consistent with good planning.

Chairman O'Connell requested additional information on the slope disturbance. Mr. Hefeled agreed to provide same. Mr. Guerin reviewed the slope disturbance utilizing plan sheet 15 and stated about six acres would be disturbed.

Chairman O'Connell opened the meeting to the public. Mr. Stan Christodlous was sworn. He asked about the change of applicants. Richard Briigliodoro, Esq., explained that it is not a change of applicants as Cambridge was a co-applicant. Mr. Hefeled stated the owner of the property would preserve all the testimony and proceed with the application.

Mr. Christodlous asked how the next company would build exactly the same plan. Mr. Hefeled stated the next applicant could appear before the Board if an amendment is needed.

Mr. Christodlous asked if a planner's report was requested by the Board and asked who made the decision regarding the planner. Mr. Briigliodoro explained Board procedure and noted Mr. Guerin is a planner and the Board felt comfortable with him. Mr. Christodlous stated Board members were not aware of the decision. Mr. Briigliodoro stated the issue was addressed during the public hearing.

Mr. Christodlous asked about traffic, noise, and impact to the aquifer. He stated that surrounding property owners might take issue with the planner's statement that there is no detriment to surrounding property owners. Mr. Christodlous stated he was informed that traffic testimony would be presented. He asked how the public would be informed as to what testimony would be presented at meetings. Mr. Hefeled explained that he forwarded a letter advising the Board of the testimony to be presented after the last meeting. Mr. Briigliodoro noted that letters submitted to the Board become part of the file that can be reviewed by the public.

Mr. Lou Coppolino was sworn. He stated Cambridge has problems in Lyndhurst. Mr. Hefeled noted the Applicant has presented planning testimony. Mr. Coppolino asked if anyone on the Board has seen the Cambridge operation. He stated the property has been back-filled and he does not believe it is sound ground to build on. He stated he did not believe things would not get into the ground.

Mr. Jeffrey Wolk was sworn. He stated he is concerned about the steep slopes. He stated the slopes serve as buffers. He stated he would like to know what they would be replaced with. He stated he would rather not see blacktop area. He asked about a prior matter. He asked the Board to get an outside planner to look at the entire project. He asked what impact the project would have on surrounding property values. He stated there are many issues that need to be reviewed. He asked if there would be noise pollution. He stated there is a disconnect and if the public is told an expert would be present at a meeting, they should be able to rely upon that. He stated the members of the public should not have to come and look at the file. He presented that meetings have been cancelled at the last minute. He suggested that a cancellation policy be put into effect.

Ms. Marlene Coppolino stated she called Town Hall numerous times and could not get through to speak with a person. She asked about the status of Cambridge as a contract purchaser.

Mr. Hefeled stated they are no long under contract to buy the property. She asked why the Applicant is continuing the application. Mr. Hefeled stated the Applicant wishes to pursue the approval and believes this is the proper use of the property. She stated that she disagreed there would be no detriment to the surrounding area.

Mr. John Reed was sworn. He asked why the Applicant is continuing with the application. He asked if there were other hopefuls that are trying to operate. Mr. Hefeled stated the owner wants to pursue the development approvals for the property.

Mr. Dan Freed was sworn. He asked if 240 trucks driving up Limecrest is a detriment.

Mr. McDonough stated he was not a traffic expert and would have to rely on the traffic expert.

Mr. Briigliodoro noted that the planner's testimony concerned parking and steep slopes variances.

Ms. Irene Christodlous was sworn. She commented on meeting cancellations. She stated the planner made comments on matters other than the variances. She asked if a 24-hour operation is not detrimental. Mr. McDonough stated there is no restriction on hours of operation under the ordinance. He stated that looking at the area and the zone plan, he did not feel the operation would be detrimental. She stated she has opposition to it.

Mr. Victor Capo was sworn. He stated he was troubled that he heard remarks that referred to a withdrawn application. He stated the remark about the traffic study and a two-year plus tenure was part of a withdrawn application. He asked if the Board would be discussing prior testimony or if the slate was clean when the new application was made. Mr. Hefele stated he commented on the two-year process relative to the expiration of the Cambridge contract. He clarified that the testimony to be reviewed is on the current matter. Mr. Kaplan suggested that the traffic remarks be stricken. Mr. Guerin noted that the comments on traffic were made based on the traffic report submitted with the current application. Mr. Brigliadoro noted that the Board was to hear from the traffic expert.

Mr. Wolk asked why the Board is considering a variance for parking based on the number of employees when the operant is unknown. Mr. Hefele stated if something else is needed, the matter can be returned to the Board.

The meeting was closed to the public.

Mr. Hefele stated he would have an environmental expert on August 2 and maybe the traffic expert. He stated he anticipated having the Board's noise expert on August 16.

A motion to carry the matter to the August 2, 2011 meeting was made by Ellsworth Bensley Jr. Jr. and seconded by Ken Roberts. Roll Call: Diana Boyce – yes; Ellsworth Bensley Jr. Jr. – yes; 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:** Ms. Boyce asked about the minutes from the Environmental Commission. Chairman O'Connell stated he would look into the matter for the August 2, 2011 meeting. Ms. Boyce also asked if the Township could verify that private employees of an establishment had received training in emergency procedures. Board members discussed liability. Board members asked questions about application of a pending property maintenance code.

**VOUCHERS:** Board members reviewed the vouchers, and corrections to the billing report were noted. A motion to recommend the Township's payment of the vouchers listed below was made by Ellsworth Bensley Jr. Jr. and seconded by Paul Messerschmidt. Roll Call: Diana Boyce –

yes; Ellsworth Bensley Jr. Jr. – 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.

**ANDOVER TOWNSHIP  
LAND USE BOARD  
7/19/11 VOUCHER REVIEW**

7/1/2011	144490	Richard Briigliodoro, Esq.	10Z-780PSPV	Cambridge Pavers	\$727.36
7/1/2011	144494	Richard Briigliodoro, Esq.	A-5-11-01	Megna, Chris	\$375.00
7/1/2011	144493	Richard Briigliodoro, Esq.	11P-784-SPW 11Z-	Farace, A.	\$375.00
7/1/2011	144491	Richard Briigliodoro, Esq.	782APFSPV	Cumberland Farms, Inc.	\$1,380.00
7/1/2011	144492	Richard Briigliodoro, Esq.	SSX-L-1002-09	Litigation-SSX-L-1002-09	\$287.60
7/1/2011	144488	Richard Briigliodoro, Esq.	AOE	Mtg. Attendance	\$601.00
7/1/2011	144489	Richard Briigliodoro, Esq.	AOE	Master Plan Re-exam	\$375.00
7/14/2011	1930	Joseph Golden, P.E., P.P.	11Z82APFSPV	Cumberland Farms, Inc.	\$270.00

**UPCOMING MEETING:** Chairman O’Connell announced the August 2, 2011 and August 16, 2011 meeting dates.

**ADJOURNMENT:** Having no further business, a motion to adjourn was made by Diana Boyce Ellsworth Bensley Jr. 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