

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD
AUGUST 2, 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. – Excused
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 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 19, 2011:* A motion to approve was made by Sue Howell and seconded by Paul Messerschmidt. A spelling correction on Page 5 was noted. Roll Call: Diana Boyce – 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.

RESOLUTIONS: There were no resolutions scheduled.

COMPLETENESS REVIEW: A-7-11-01, Thompson, Robert B. "C" Variance, Block 122 Lot 5: Board members reviewed the attached report dated July 26, 2011 prepared by Joseph Golden, P.E., P.P. Mr. Golden recommended that the application be deemed complete. He also suggested Board members conduct a site inspection. A motion to deem the application complete was made by Sue Howell and seconded by Rick Melfi. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Christine Kretzmer – yes; Rick Melfi – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

The matter was assigned a hearing date of September 6, 2011. A motion to carry the matter to September 6, 2011 with notice required was made by Diana Boyce and seconded by Ken Roberts. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Christine Kretzmer – 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: Mr. McNelis was sworn. Board members reviewed the attached report dated June 30, 2011 prepared by Joseph Golden, P.E., P.P. Mr. Golden provided an overview of the matter. He stated the benefits of the application outweigh the detriments. Mr. McNellis confirmed Mr. Golden's presentation and clarified that the monitoring well is located along side the driveway close to the garage. He stated the application would have no impact on the well.

Chairman O'Connell opened the meeting to the public. No members of the public addressed the Board on the matter. The meeting was closed to the public.

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

The Board waived the reading of the resolution and advised the Applicant he could proceed at his own risk.

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. Hefle, Esq., appeared on behalf of the Applicant. Rejina Sharma, Ecologist, was sworn, qualified, and accepted as an expert witness. She provided an overview of the existing site conditions stating the site is barren, unused, and not in good environmental condition. She confirmed that she prepared the application's *Environmental Impact Statement*. She presented an overview of said report as well as the status of the parcel's New Jersey Department of Environmental Protection (herein after "NJDEP") permitting. She reviewed the threatened and

endangered species study and stated the proposed development would not adversely impact threatened or endangered species. She stated the proposed development is an appropriate utilization of the site that would improve the ecological resources and net an improvement to the existing condition. Upon inquiry, Ms. Sharma confirmed that no red flags were raised during federal permitting reviews. She stated the project is currently under review at the NJDEP, and permit issuance is expected to take place in November 2011.

Mr. Huelbig inquired if the property was viewed during heavy rains and would heavy rains affect the area's run-off. Ms. Sharma stated the site was quasi-impervious. She stated bioretention basins would serve as infiltration areas and ultimately, there would be outflow to the Paulinskill. She stated the net result would not be a significant overflow.

Robert P. Guerin, P.E., P.P., asked what the Flood Hazard Area Permit was for. Ms. Sharma explained the permitting process and elements of the EIS study. She identified the riparian buffer and discussed the FEMA Flood Study noting that NJDEP requirements are more stringent than federal requirements. Mr. Guerin clarified that the Flood Hazard Area Permit application was made to address proposed encroachment into the 300' riparian buffer. Upon inquiry, Ms. Sharma discussed the Approximate Method, which she stated was employed in the preparation of the Flood Hazard Area Permit submission.

An inquiry was made regarding potential environmental impacts caused by a potential operator. Mr. Hefele stated the EIS is specific to the application and the use to a degree. He stated Ms. Sharma could not testify on EIS attachments she did not prepare.

Andover Environmental Commission members Eric Olsen and Eric Derby were sworn. Mr. Olsen provided an overview of the existing site and the comments made in the Andover Environmental Commission (hereinafter, the Commission) report. He stated the report's comments were an effort to "green" the development and make sure that there is no degradation of the wetland buffer. He stated the Township is working toward getting a sustainability certification from the state. He presented an overview of the sustainability certification process. Mr. Olsen suggested the use of pervious pavement, which he stated, might improve storm water management. He discussed LEED certification as well as the Dark Sky Initiative. He stated the Commission wanted to model for sustainability. Mr. Olsen stated it would be appreciated if the suggestions were implemented. Mr. Olsen stated the Commission would prefer low lighting and adherence to recycling where applicable. He stated it would be appreciated if a strong attempt were made to limit noise pollution. He also stated the Commission also recommends the use of native and non-invasive vegetation.

With reference to the Andover Township Environmental Commission report, Mr. Hefele stated the Applicant would forward it to the relevant professionals and meet with the Commission to address the comments. He noted that the Applicant did not believe the recommendation of pervious pavement would work onsite. He stated Mr. Graham would address this issue. He stated the Applicant could use indigenous species, would review the LEED certification requirements, and would consider the Dark Sky Initiative suggestions. He stated the Applicant would comply with the Township's noise ordinance. Ms. Pattison asked if solar panels could be incorporated on the Applicant's property.

Chairman O'Connell opened the meeting to the public. Mr. Louis Coppolino was sworn. He asked if the Township received permits to fill the property. He asked why the Board would reward a company for doing things illegally. He asked if permits were received for back-fill on the property at present. He stated there are aerial photographs at the county and state that could verify his statements.

Mr. Stan Christodlous was sworn. He asked how the Board would keep track of figures, as the owner, who is not necessarily the occupant, is the party presenting the case. Mr. Hefele stated detailed plans would be submitted to the construction department. Mr. Briigliadoro explained resolution composition noting that a resolution may include specific conditions as determined by the Board.

A question was raised regarding the limestone study and potential impacts to the aquifer. Mr. Hefele noted that onsite production would not impact the aquifer. A procedural objection was raised by a member of the public. The party stated that the witness needed to give testimony, not the attorney. Mr. Hefele responded that the questions should be limited to the testimony of the witness, and that Ms. Sharma could not answer. Ms. Sharma confirmed she could not answer the question.

Mr. Guerin addressed a question regarding the presence of sinkholes on the site stating that the Phase II investigation may identify areas subject to sinkhole conditions.

Mr. John Reed was sworn. He asked for a clarification as to what environmental site elements were not in good condition. Ms. Sharma stated that quarrying does not look good, wetlands were exposed to the use, and that the riparian buffer needs to be vegetated. Mr. Reed asked what would be done to mitigate flooding in the area. Ms. Sharma explained that measures to address same were submitted to the NJDEP. Mr. Guerin stated that the total discharge off the property will be less than it was prior to the development. Mr. Reed also inquired about the presence of endangered species. Ms. Sharma stated species were not found.

Mr. Jeffery Wolk was sworn. He asked about the processes used to conduct the study, if a 100-year flood storm assessment was applied, or if Ms. Sharma had ever utilized said method. Ms. Sharma stated the Approximate Method had to be used. She stated that if the 100-year flood storm assessment were applied, the impact would not change. She stated the most conservative method was used to determine the flood hazard area. Mr. Wolk asked if anyone from Cambridge had testified. Mr. Hefele stated Robert Toedter testified and continues to be an outside consultant for the Applicant. Mr. Hefele confirmed that Cambridge Pavers is no longer an Applicant.

Mr. Wolk stated he would want to know who the user of the property is.

Chairman O'Connell called a recess at 9:10 p.m. The meeting was called to order at 9:30 p.m.

Joseph Staigar, P.E., P.P., was sworn, qualified, and accepted as an expert witness in traffic engineering. Mr. Hefele presented that the Planning Board could not deny an application for traffic impacts off-site. Mr. Briigliadoro agreed and noted that Limecrest Road is a County Road.

He stated the County has jurisdiction. Mr. Hefele confirmed that the Applicant had received County approval.

Mr. Staigar presented an overview of the traffic report. He discussed the number and direction of truck trips, level of service at the driveways, and sight distance. Referencing Exhibit A-1, he explained the circulation pattern. He provided information on the scope and methods of the traffic study and confirmed that traffic counts were updated in October 2010. He stated traffic counts were taken using a conservative approach, and generation projections were based on the number of employees and deliveries.

Board members inquired about figures in the study. Mr. Staigar stated the vast majority of the traffic would utilize Rt. 15 with very limited traffic being oriented toward the south. Mr. O'Connell asked if the Applicant would limit outbound trucks carrying product to the left toward Rt. 15. Mr. Hefele stated the Applicant would probably agree to that and would confirm same at the next meeting.

Chairman O'Connell asked about the study's methodology and differences in reported a.m. and p.m. counts. Mr. Staigar stated the figures were obtained from actual counts taken on two separate days. He stated he has seen this pattern before, and it is not uncharacteristic for intersections to have the differences shown in the report. Mr. Messerschmidt questioned the determination of peak times stating there may be more than one peak time and more of an impact than what is shown. Mr. Staigar discussed the methodology utilized to determine peak hours. During a discussion of peak hours and potential traffic impacts on early morning commuters, Mr. Guerin stated that to avoid conflicts, some ordinances prohibit truck traffic prior to 7:00 a.m.

Mr. Staigar reviewed the capacity analysis with the Board. Upon inquiry, he stated that it is difficult to assess what is coming out of the property at present. He noted that the quarry is a seasonal operation. Mr. Guerin stated the traffic report was very conservative.

Chairman O'Connell opened the meeting to the public. Mr. Louis Coppolino asked about noise. He stated that the quarry's trucks did not operate on Sunday or overnight.

Mr. Christodlous asked why Mr. Staigar testified in opposition to a different quarry matter and why objections in said matter did not apply in this case. Mr. Staigar gave an overview of a different case and differences between that matter and the subject application. Mr. Christodlous asked Mr. Melfi a question. He was advised by Board attorney Briigliodoro that questions are to be directed to the witness. Mr. Christodlous stated that based on the data, the present application would add 40% more traffic to Limecrest Road. He also stated the Applicant should have a police officer to enforce the right-turn-only requirement. Mr. Hefele stated the Applicant would not agree to the provision of a police officer.

Mr. Wolk asked what traffic impact would occur during the construction of the project. Mr. Staigar stated he believed those impacts are subjective and would be temporary. He stated he did not know how many trucks would be entering or exiting the site on a daily basis. Mr. Staigar explained his traffic analysis was a peak-hour analysis. He stated there would be

25 trucks at most onsite if they all arrived at the same time and that he did not know if they all would be running. Mr. Wolk asked about operations. He asked what would occur should Limecrest not be a provider of the materials. Mr. Staigar acknowledged that the product might be obtained elsewhere. He stated this scenario would not affect the driveways. Mr. Wolk asked if there are sidewalks. Mr. Staigar stated he did not see a safety issue for people or bikers walking on Limecrest Road.

Mr. John Reed asked how the traffic counts were performed. Mr. Staigar discussed the report's methodology. He confirmed that left turn lanes or traffic signals are not warranted. He also confirmed that calculations were performed assuming two lines operating. Mr. Hefele provided an overview of the traffic circulation pattern.

Mr. Anthony Massaro stated his name and refused to be sworn. He stated the Chair was being discriminatory. He stated he would address the matter.

Mr. Victor Capo was sworn. Mr. Capo asked what the total number of trucks running would be at maximum production. Mr. Staigar stated he did not know. He asked about fueling and the pallets. Mr. Hefele confirmed that the trucking operation would be private, and fueling would take place off-site.

No other members of the public addressed the Board. Chairman O'Connell closed the meeting to the public.

A motion to carry the meeting to the 8/16/11 meeting was made by Sue Howell and seconded by Ken Roberts. 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.

PUBLIC PORTION: The meeting was opened to the public. Mr. Christodlous asked if Board members could be questioned during the meeting. Mr. Brigliadoro stated that the questions should be directed to the witness. Chairman O'Connell stated it was up to the Board member.

Mr. Wolk asked about a specific case. Board Attorney Richard Brigliadoro stated that the question was improper during this portion of the meeting.

No other 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/Steep Slope Checklist: The matter was carried to the 8/16/11 meeting.

Property Maintenance Code: The matter was carried to the 8/16/11 meeting.

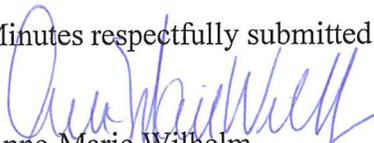
VOUCHERS: A motion to recommend the Township's payment of the vouchers listed below was made by Paul Messerschmidt and seconded by Ken Roberts. Roll Call: Diana Boyce – yes; Sue Howell – yes; Gerald Huelbig – yes; Rick Melfi – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

7/7/11	1924	Joseph Golden, P.E., P.P.	AOE	Slopes Ordinance, Mtg.	\$180.00
7/7/11	1923	Joseph Golden, P.E., P.P.	A-6-11-01	McNellis, B.	\$540.00
7/21/11	1933	Joseph Golden, P.E., P.P.	PG & S		\$300.00

UPCOMING MEETING: Chairman O'Connell announced the August 16, 2011 and September 6, 2011 meeting.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Paul Messerschmidt. All were in favor. The meeting was adjourned at 11:10 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 – July 26, 2011

6' fence in Front Yard
94 Newton-Sparta Road
Block 121, Lot 1
Application No. A-7-11-01

Robert Thompson

GME No. AND-11-154

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

- “Map of Survey, 94 Newton Sparta Road...” prepared by Templin Engineering Associates dated 9-25-2009, last revised 6-15-2011 consisting of one (1) sheet
- Memorandum of applicability from Nancy Holleran, Inspector for the County of Sussex.
- Statement regarding requested waivers and justification for granting relief from the zoning ordinance.
- Completed application and checklists

The applicant proposes the installation of a (6') foot poly vinyl chloride (PVC) fence located in a front yard. The parcel is a corner lot; therefore by definition, contains two (2) front yards, one fronting on Newton-Sparta Road with the other fronting on Linda Lane. Article XII Fences, §190-97C(2) allows fences up to a height of six (6') feet “...anywhere behind the back building line to the side and rear property lines.”

The fence is proposed within the front yard, requiring a c(2) variance where the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

In this particular application the property is located on a corner lot where one street is a quiet residential street while the other is a busy County road. While the formal property address is Newton-Sparta Road, the dwelling is situate so the primary frontage appears to front Linda Lane. The fence is proposed as an extension of the front face of the dwelling into the second front yard, thence to the rear/side property line in a conforming layout.

The Board must consider the intent and purpose of the Township fence ordinance. Fences are allowed in the front yard as long as they do not exceed four (4') feet in height. Front yard fences with a height above four (4') feet may compromise the visual environment of the neighborhood by creating the appearance of a “compound” where existing front yards portray open spaces that are bright and airy.

The applicant makes the following representations in support of the variance request:

- Represents the fence is located where it will not compromise existing sight distances. The County provided a memorandum stating they have no jurisdictional authority regarding this application.
- Represents the fence provides a safe environment for children and pets. Limiting the fence to the strict location allowed by ordinance would reduce the enclosed area thereby inhibiting the reasonable use of the back yard area.
- Represents the rear yard is in open view to pedestrian and vehicular traffic on Newton-Sparta Road. Represents the fence will provide needed privacy and block some of the noise generated by the heavy traffic.
- Represents landscaping will be provided to enhance the visual appearance from Newton-Sparta Road. No landscaping is shown.
- Represents the fence will be maintained and landscaped to ensure there is no appreciable negative visual impacts.
- States the benefits of variance relief and that "There would be no great detriment to the public good..."

Comments Regarding Completeness

1. The Board secretary should comment on the administrative completeness of the application including the submission of the certified list of property owners within 200'.
2. A Key Map is not provided. *Our office has no engineering objection to granting this waiver based on the nature of the application.*
3. Approval block is not provided on the survey. *The survey represents the actual location of the partially constructed fence. Any favorable motion should consider the fence location depicted on the survey. Our office has no engineering objection to granting this waiver as long as the resolution referencing the current survey creates an acceptable record for the construction office.*
4. Zone Data Box and building envelopes not provided. *Board to discuss the implication of existing non-conformities.*
5. Existing and proposed contours, structures, and/or utilities within 200'. *Applicant provided a survey of the subject parcel with no information regarding the surrounding properties or structures. While our office has no engineering objection to granting this waiver based on the nature of the application, we recommend the members of the Board visually inspect the property to substantiate applicant's representations.*
6. Applicant requests a waiver from providing alternatives analysis. *Our office has no engineering objection to granting this waiver based on site limitations.*
7. Provide a CD of the plan 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 Board consider deeming the application complete after evaluating the items identified herein.

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 Briigliodoro, Esq. (via email),
Jim Cutler, Construction Official (via email)
Applicant (via regular mail)

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