

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD
SEPTEMBER 4, 2012**

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 – Excused
Suzanne Howell – Present
Gerald Huelbig – Present
Gail Phoebus – Present
Ellsworth Bensley Jr. – Present
CeCe Pattison – Present
Christine Kretzmer – Present
Rick Melfi – Present
Paul Messerschmidt (Alt.1) – Late @7:35 p.m.
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: A motion to approve the *Minutes of the Andover Township Land Use Board Meeting Held August 21, 2012* was made by Ellsworth Bensley, Jr., and seconded by Suzanne Howell. There was no discussion. Roll Call: Suzanne Howell – yes; Ellsworth Bensley, Jr., – yes; CeCe Pattison – yes; Ken Roberts – yes; Chairman O'Connell – yes. The motion carried.

RESOLUTIONS: There were no resolutions scheduled for review.

COMPLETENESS REVIEWS: A-8-12-1, Dina's LLC, Casa Bellissima, Amended Preliminary & Final Site Plan, "C" Variance, Block 106 Lot 19: Gail Phoebus recused.

Jason Dunn, P.P., L.L.A., appeared with Bennett Wasserstrum., Esq., on behalf of the Applicant. Joseph Golden, P.E., P.P., reviewed his report titled *Completeness I* dated August 10, 2012. Mr. Dunn presented that the Applicant agreed to provide the items requested in Mr. Golden's report. A motion to deem the application was made by Ellsworth Bensley, Jr., and seconded by CeCe Pattison. Roll Call: Ellsworth Bensley, Jr., – yes; Suzanne Howell – yes; Gerald Huelbig – yes; Christine Kretzmer – yes; Rick Melfi – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; Chairman O'Connell – yes. The motion carried.

A motion to schedule a hearing of the matter on October 2, 2012 was made by Ellsworth Bensley, Jr., and seconded by Paul Messerschmidt. All were in favor. The motion carried.

HEARING: A-7-12-1, Campbell, Michael. Preliminary and Final Site Plan, "C" Variance, Block 104 Lot 1.02. Suzanne Howell recused. Francis J. McGovern, Esq., appeared on behalf of the Applicant. Jason Dunn, P.P., L.L.A., and Owen D. Dykstra, P.E., were sworn and accepted as expert witnesses. Michael Campbell, contract purchaser, was sworn. He presented that his intention is to open a Dale's Market, a family business that currently has two locations and has been in business for forty years. He stated that in addition to grocery and nursery items, he intends to prepare food on site. With reference to the on-site residence, Mr. McGovern confirmed that current owners will have life rights to the house, and the house will be the property of Mr. Campbell. Mr. Campbell confirmed that the house is to stay as is. He stated he would like to use the three greenhouses to sell plants retail that he buys wholesale.

Jason Dunn, P.P., L.L.A., stated the application has been presented to the County and some changes have been made in response to County requests. Referencing Exhibit A-1, sheet 2 of 7, titled *Existing Conditions and Boundary Survey*, Mr. Dunn presented the site layout. He stated the site is 5.5 acres and has historically been used as a retail nursery. Mr. Dunn identified the parking area, an existing dwelling, a garage, a milk house, a springhouse, a shed, and greenhouses, which he noted, feature existing pads. Mr. Dunn stated there is a cultivated field in the back, and the Applicant would like to keep that area working with a product, i.e., hay or some other product. Mr. Dunn also identified an outdoor garden display area totaling 18,000 sq.ft.

Further, Mr. Dunn identified wetland areas and a stream. He stated a NJDEP *Permit by Rule* is required for activity in the 300' riparian buffer. Mr. Dunn noted that a *Permit by Rule* application entails noticing the NJDEP that activity will take place in a previously disturbed area. He also identified a 150' wetlands buffer where the proposed dumpster is located. He noted footings, which would trigger a permit, are not proposed. Mr. Dykstra explained the dumpster enclosure would be three-sided and not have a gate. It was noted the enclosure would be located behind the building.

Mr. Dunn discussed sheet 3 titled *Proposed Layout Plan* and marked it as Exhibit A-2. He identified a variance for the number of parking stalls stating 50 are proposed and 70 are required. He explained that environmental constraints, the existing buildings, and the location of the right-of-ways prompted the variance request.

Joseph Golden, P.E., P.P., questioned the circulation pattern and drainage. Exhibit A-3, titled *Sussex County Soil Erosion and Sediment Control Plan* was submitted. Mr. Dunn noted the Applicant does not propose any modification to the existing drainage patterns.

Owen D. Dykstra, P.E., explained the drainage stating the water flows around the building and toward the back. He stated that to install curbing would require a lowering of the parking lot. Mr. Dunn presented that the proposed parking space size, curbs, and location of parking areas at least 10 feet away from the right-of-way are proposals that require design waivers. He explained the waivers are requested to maintain the current drainage pattern and facilitate truck access. Paving was discussed, and Mr. McGovern requested a design waiver. Mr. Dykstra explained that the ordinance standard would require a removal of what is there. He stated the existing base is excellent. Richard Briigliadoro, Esq., recommended granting the waivers in view of the unique circumstance.

Exhibit A-4, titled *Lighting and Landscape Plan*, was reviewed. Addressing the landscape plan, Mr. Dunn stated the Applicant is limited by right-of-way and site triangles. He stated these are areas where low growth is appropriate. It was noted the Board did not have jurisdiction in the right-of-way. He stated the existing septic has been approved by the health department, and the Applicant proposes to change the surface of the septic system area from gravel cover to grass as a way to prevent people from driving over the system.

With reference to lighting, Mr. Golden presented that the 25' high light pole is not consistent with the neighborhood scheme. Mr. Dunn stated LED lighting is proposed and the height of the pole allows greater throw of the light. Mr. Dykstra stated the lighting plan meets the requirements of the ordinance and is a green design.

Mr. Golden asked about landscape bonding requirements. Mr. Dykstra presented that it may not make sense to require a landscaping bond as there is not a significant amount of landscaping proposed. With reference to the performance bond, Mr. Golden suggested waiving the performance guarantee as well.

Mr. McGovern confirmed that there is an existing condition of overlap in the right-of-way and a variance may be required. Richard Briigliadoro, Esq., recommended the granting of said variance. Mr. Dunn explained that the County has requested a temporary easement to allow the DeAngelo's and Mr. Campbell to access the dwelling that is located in the right-of-way.

With reference to the variance requested to enable the proposed reduction of parking stalls, Mr. Dunn stated the Applicant's experience at two other locations indicates that 25 stalls are adequate for the business. He noted that there are two locations on site where, in the event of a full lot, patrons could make a k-turn and exit. Mr. Golden asked about the possible use of bollards at the entrance to the market. Mr. Campbell agreed.

Mr. Dunn noted any perceived negatives due to lighting and/or noise would be outweighed by the positives. Mr. Campbell stated the hours of operation would be 6:00 a.m. – 9:00 p.m., Monday – Sunday. He stated deliveries take place during business hours with the exception of bread deliveries.

The Applicant confirmed that on-site food preparation is intended. Chairman O'Connell confirmed that grease traps would be required. It was noted that the Department of Health would have jurisdiction in the area.

Chairman O'Connell opened the meeting to the public. Mr. Brian Zilinski was sworn. He asked about two adjacent fields that have been cut. Chairman O'Connell stated they would not be parking lots. Mr. Dunn identified the area of the dumpster on the plan for Mr. Zilinski.

Mr. Zilinski asked if the lighting would be on a timing system. Mr. Campbell stated that the lights would be on timers. Mr. Campbell stated the lights would be on at opening and for approximately an hour after closing.

No other members of the public addressed the Board. The meeting was closed to the public. Ms. Kretzmer requested that no burning bushes be utilized in the landscaping plan. The Applicant agreed.

A motion to approve the application subject to the conditions noted below was made by Ellsworth Bensley, Jr., and seconded by Gail Phoebus. Roll Call: Ellsworth Bensley, Jr., – yes; Gerald Huelbig – yes; Christine Kretzmer – yes; Rick Melfi – yes; CeCe Pattison – yes; Gail Phoebus – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried. The conditions noted are: the Applicant shall not plant burning bushes; the engineers will work together in the matter of the slope and channel drains; deliveries with the exception of bread, shall take place within the hours of operation; lighting will be placed on timers with lighting commencing at 5:30 a.m. and ending at 10 p.m.; no maintenance or performance bonds, installation of bollards at the entrance, and the standard conditions.

Gail Phoebus and Christine Kretzmer were excused from the meeting. The Board recessed at 9:00 p.m. The meeting was called to order at 9:15 p.m.

A-8-12-2, Bridgeway Rehabilitation Services, Inc., Amended Preliminary & Final Site Plan, "D" Variance, "C" Variance, Block 128 Lot 4.02. Board members reviewed the submission for completeness. A motion to deem the application complete was made by Ellsworth Bensley, Jr., and seconded by Ken Roberts. Roll Call: Ellsworth Bensley, Jr., – yes; Suzanne Howell – yes; Gerald Huelbig – yes; Rick Melfi – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O'Connell – yes. The motion carried.

Michael S. Selvaggi, Esq., appeared on behalf of the Applicant. He explained that the plan was not built as proposed, and the application is an effort to make things right. He explained that the project came in over budget. He noted the Applicant is a tenant and has a five-year lease.

Frank M. Warr, AIA, P.P., C. I. D., was sworn and accepted by the Board as an expert. He submitted Exhibit A-1, a colored rendering of the building with an insert presenting the existing condition. He noted the building is compliant with the DCA.

Owen D. Dykstra, P.E., was sworn and accepted as expert witnesses. He confirmed the well on-site would be regulated by statute.

Joseph Golden, P.E., P.P., provided an overview of his substantive report dated August 23, 2012. He stated he has no issues with the application.

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 Gerald Huelbig and seconded by Paul Messerschmidt. Roll Call: Ellsworth Bensley, Jr., – yes; Suzanne Howell – yes; Gerald Huelbig – yes; Rick Melfi – yes; CeCe Pattison – yes; Paul Messerschmidt – yes; Ken Roberts – yes; John O’Connell – yes. The motion carried.

UPCOMING MEETINGS: Chairman O’Connell confirmed the upcoming meeting dates of September 18, 2012 and October 2, 2012.

PUBLIC PORTION: Chairman O’Connell acknowledged that no members of the public were present.

VOUCHERS: There were no vouchers scheduled for review.

OLD/NEW BUSINESS: Chairman O’Connell discussed attendance and reviewed the *Open Public Meetings Act*. He discussed the township budget and the Land Use Board line item. He presented that the ongoing ordinance work would probably not move forward. Mr. Melfi stated that the Township Committee is looking to move forward with the site plan waiver and lot line adjustment ordinances. Mr. Briigliadoro reviewed fees and escrow.

Board members reviewed checklist revisions proposed by Joseph Golden, P.E., P.P. Mr. Golden agreed to forward the revised checklists to Manager Thompson. Mr. Briigliadoro agreed to forward his August 9, 2011 letter to Ms. Thompson.

Chairman O’Connell asked about professional appointments in 2013. Board members expressed their satisfaction with the current professionals. Chairman O’Connell stated the budget would be scheduled for discussion at the next meeting.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Ellsworth Bensley, Jr. All were in favor. The meeting adjourned at 10:10 p.m.

Minutes respectfully submitted by:

/s/ Anne-Marie Wilhelm

Anne-Marie Wilhelm
Land Use Administrator