

**Township of Lumberton
Land Development Board
Regular Meeting
December 17, 2009**

The regular meeting of the Lumberton Township Land Development Board was called to order by Chairman Bennett on Thursday, December 17, 2009 at 7:34p.m.

Chairman Bennett read the following statement:

In compliance with the Open Public Meetings Act, this is to announce that adequate notice of this meeting was provided in the following manner:

On January 2, 2009 advance written notice of this meeting was posted on the bulletin board in the main lobby in the Town Hall; was mailed to the Burlington County Times and the Courier Post; was filed with the Clerk of Lumberton Township and was mailed to all persons who requested and paid for such notice.

Please note that unless otherwise modified by Resolution of the Land Development Board, all meetings shall begin at 7:30 p.m. and no new matter shall be initiated after 11:00 p.m., except where the Land Development Board, by majority vote of those present, shall specifically authorize the extension of the meeting beyond 11:00 p.m.

Those testifying before the Board on any application are required to be sworn in. The Board's Engineer and Planning Consultant have taken an oath upon their agreement and their testimony on an application is under oath on a continuing basis.

Roll Call

Citizen Member	Thomas Ammerman Robert Bennett, Chairman Thomas Bintliff Sheldon Evans Beverly Marinelli (Absent) Robert Morton John Pagenkopf
Representatives of Governing Body	James Conway, Jr. (Absent) Lewis Jackson (Absent)
Alternate #1	Nancy Bleznak
Alternate #2	Craig Potter
Alternate #3	Doug Alba (Absent)
Alternate #4	Ed Borm
Solicitor Consulting Engineer & Planner	Peter Emmons, Esq., Gibbs, Gregory & Emmons Gregory J. Sullivan, P.E., P.P., (Arrived 7:40) Remington, Vernick & Arango
Board Secretary	Catherine Borstad

Minutes

Regular Meeting minutes for November 19, 2009.

Motion was made by Mr. Morton, seconded by Mr. Potter to approve the November 19, 2009 meeting minutes. The vote was affirmative with the exception of Ms. Bleznak, who abstained, and the motion carried.

Correspondence

- a. Letter dated December 1, 2009 from Mr. McAndrew, Esq., representing Francis Key, regarding Resolution #2007-25.

Resolutions

- a. 2009-23 20 Maple Avenue, LLC, (Cave Holdings) 20 Maple Avenue, Block 13, Lot 3.01. Continued to December 17, 2009 meeting.

Motion was made by Mr. Ammerman, seconded by Mr. Bintliff to approve Resolution 2009-23. The vote was affirmative with the exception of Ms. Bleznak, who abstained, and the motion carried.

- b. 2009-24 Lighthouse Tabernacle Church, 716 Main Street, Block 19.8, Lot 43. Height Variance. Approved.

Motion was made by Mr. Morton, seconded by Mr. Evans to approve Resolution 2009-249. The vote was affirmative with the exception of Ms. Bleznak, who abstained, and the motion carried.

- c. 2009-25 O'Hara, Michael, 3 Marriott Drive, Block 34, Lot 5.08. Bulk Variance for detached garage. Approved.

Motion was made by Mr. Morton, seconded by Mr. Potter to approve Resolution 2009-25. The vote was affirmative with the exception of Ms. Bleznak, who abstained, and the motion carried.

Items for Action

- a. ***Blair, Debra***
16 Fenimore Road
Block 34.01, Lot 7
In-Law Suite with Kitchen(7:41-7:44)

Ms. Debra J. Blair, sworn to provide testimony.

Ms. Blair stated that her Mother is going to move in with her and she would like to convert the garage into a living space for her.

Chairman Bennett asked if there would be a kitchen. Ms. Blair stated a kitchenette.

Chairman Bennett asked if Ms. Blair's mother drives. Ms. Blair stated yes. Chairman Bennett asked if there is room in the driveway to accommodate another vehicle. Ms. Blair stated yes. Chairman Bennett asked how many cars are currently at the residents. Ms. Blair stated two.

Chairman Bennett asked how many people are currently living in the house. Ms. Blair stated two, her son and she.

Mr. Emmons asked Ms. Blair if she is seeking approval to convert the existing garage and to add a new garage. Ms. Blair stated yes.

Ms. Blair stated that the new garage would be approximately 700-750 SF total.

Mr. Emmons asked what the square footage of the existing garage is. Ms. Blair stated that she is not sure.

Chairman Bennett asked how many rooms the converted area would have. Ms. Blair stated one bedroom, living-kitchen area and one bathroom. Chairman Bennett asked what type of utilities would be added to the kitchen. Ms. Blair stated she would be using an electric stove.

Mr. Sullivan arrived at 7:40 p.m.

Mr. Emmons informed Ms. Blair that if this application is approved, the kitchen-cooking devices would have to be removed once her mother is no longer living in the home or Ms. Blair sells the home. He stated that there will be a deed restriction on the deed. Ms. Blair stated that she is aware the restriction.

Mr. Sullivan asked Ms. Blair if the survey that was submitted with the application represents the conditions as they exist currently. Ms. Blair stated yes.

At this time Chairman Bennett opened the meeting up for public comment. There being none, this portion of the meeting was closed.

Mr. Emmons stated that this is an application for an in-law suite with a garage. He stated that the application is a use variance because two dwellings are not permitted on one residential lot. A deed restriction will be on the property that would inform potential buyers that they would not be permitted to have a second dwelling on the property. He stated that the applicant would have to remove the kitchen cooking device if she were to move out or to sell the property. Mr. Emmons stated that the State of New Jersey recognizes that families living together is beneficial to communities and this type of use is encouraged in the Land Use Law.

Motion was made by Mr. Morton, seconded by Mr. Evans. The vote was unanimous and the motion carried.

b. 20 Maple Avenue, LLC (Cave Holdings)
Block 13, Lot 3.91
I-1 Zone
Minor Site Plan and Use Variance Application (7:45-9:25)

Mr. Edward Sheehan, Esq. 511 Cooper Street, Camden, NJ, present representing applicant.

Mr. Sheehan stated that the property is 4.3 acres. He stated that the property consists of the following permitted uses; warehouse space, vehicle repair and office space.

Mr. Edward P. Brady, Professional Engineer with Taylor, Wiseman & Taylor, 124 Gaither Drive, Mt. Laurel, NJ 08054, sworn to provide testimony.

Mr. John Cave, applicant, sworn to provide testimony.

Mr. Emmons asked if the applicant is complete.

Mr. Sullivan stated that the applicant is requesting an amendment to the site plan. Mr. Sullivan stated that the application was previously approved in 2007. He stated that there is a use variance issue. Mr. Sullivan stated that the application has not drastically changed and believes that the application is adequate to hear based upon previous approval in 2006.

Mr. Emmons stated that the application is back before the Board due to problems that occurred at the site. Mr. Sullivan stated that an updated survey has not been submitted.

Mr. Sheehan stated that the variances they are requesting are existing conditions and are identical to those that were granted in 2006 and memorialized in 2007. Mr. Emmons stated that there has been a change of use. Mr. Emmons stated that the Board is going to have to be reassured that these existing conditions were not caused after the 2007 approval by the applicant without Board approval.

Mr. Sheehan stated that the existing conditions that he is referring to are the location of the building and the setbacks which preexist to the applicants' purchase of the property.

Mr. Sullivan stated that the applicant did not indicate that there has been any change to this site from the application that the Board heard in 2006. Mr. Emmons stated that is the reason the applicant is back before this Board. Mr. Sheehan stated that with regard to the physical condition to the property, Mr. Sheehan is correct with the exception of an 8' block wall be constructed along the back of the property. He stated that the green meshing behind that wall was not completed.

Mr. Emmons stated his concerns that the Board needs an existing conditions survey. He stated that since there have been improvements to the property, there is no way for this Board to tell what has been approved and what has been done and not been done.

Mr. Sheehan stated that he would go over each one of the approvals and point out what has been done and not done. Chairman Bennett asked why they are not shown on the current drawing. Mr. Emmons asked Mr. Sullivan if he needs an existing conditions survey. Mr. Sullivan stated that the only existing conditions survey that he has is from the 2006 application. Mr. Emmons asked if the proposed plan show what is existing. Mr. Sheehan stated yes and also what they wish to have added.

Chairman Bennett stated that it is hard to determine what is existing and what is proposed.

Mr. Emmons asked Mr. Sullivan if it is feasible to go ahead without an existing conditions survey and a physical evaluation of the site. Mr. Sullivan stated that he feels the Board can go forward with the testimony.

Mr. Sheehan stated that there are two of the recommended approval improvements that were made. He stated that he would point them out. He stated that the other changes that were approved in 2006 never went forward.

Mr. Sullivan asked if the plans show the things that have been done or proposed to be done. Mr. Sheehan stated the double lined wall and the blocked wall in the back.

Mr. Emmons stated that one problem is that the improvements that were made were never inspected by the Township for conformance or safety. He stated that those improvements may need to be inspected first, and added to an existing conditions plan.

Mr. Sheehan stated that the improvements concur, but have not been inspected that is why they were shown as proposed.

Mr. Pagenkopf stated the Board should move ahead and any improvements that have been put in place are at risk.

Mr. Emmons stated that considering some of the improvements have been made, one of the conditions of approval would be that an immediate escrow payment be in place for inspections. Ms. Borstad stated that a deposit has been made. Mr. Sheehan stated that they have posted a \$13,000 escrow fee.

Mr. Sullivan stated that the applicant will have to point out what has been done and what is proposed.

Mr. Sheehan read resolution 85 that was approved October, 11, 2006.

Mr. Sheehan stated that what has transpired since that approval. He stated that the applicant had intended to take the interior of the building, divide it up and rent it out to multiple tenants. He stated that the applicant also intended to have a landscape business and create landscape bins throughout the yard for selling of landscaping materials with proposed concrete paver storage areas. He stated that the vehicle maintenance that had been pre-existing is continuing. He stated that the dumpster storage is a continuing aspect of this business. He stated that the truck parking is on-going and same as pre-existing. He stated that warehousing of industrial lifts, which was not part of the previously identified use, was brought onto the property, which are primarily stored in the outdoor equipment storage area, those are maintained and repaired at this location, shipped to work sites and returned.

Mr. Sheehan stated that in December of 2008 the township raised a question as to the appropriateness of the industrial list being on the property where it had not been previously part of the application or presentation to this Board. He stated that he exchanged a number of letters with the Board Solicitor discussing whether this use can be ongoing without reappearance before the Board. He stated that as a result of this, the Township filed a Municipal Court action. He stated that the matter has been postponed pending a file of the application. He stated that the applicant felt it appropriate to come before this Board and is seeking an amendment to the site plan. Mr. Sheehan stated that the amendment is specifically identifying that one of the uses on the property would be the industrial lift use. He stated that the site will continue with the truck parking, heavy equipment on the property, office space and the storage of the heavy equipment that is in the process of being repaired.

Mr. Sheehan stated that the bulk variances and waivers that the current application requests are the continued existing front yard setback, continued side yard setback, waiver of any concrete curbing, the same less than 20% separation of parking from the building, 32' sign with 5' setback from the street, not requiring any paving of the parking lot, no landscaping or shade trees within the parking lot, the reduction of site lighting, reduction number of street trees from 5 to 4, and the stacking of an 8' high block wall with a green fabric in the back. He stated that the stacking wall has been completed but not the green fabric. He stated that a lot coverage difference is a 3% difference than what was approved in 2006.

Mr. Sheehan stated that since 2006, the economy had not allowed certain businesses to be found and brought into the location, but the lift business was. He stated that the township has called them back before the Board since they are considering the lift business as a change in use.

Mr. Sheehan called for their first witness, Mr. Edward J. Brady.

Mr. Emmons asked if Mr. Brady was the expert who testified on this application previously. Mr. Brady stated no.

Chairman Bennett stated that the Board accepts Mr. Brady as an expert witness.

Mr. Brady stated to the Board the changes to the site. He stated that the landscape storage bins that were going to be used for the mulch and different landscape business materials, have been eliminated and replaced with areas for trucks to park.

Mr. Brady stated that there is no additional parking proposed. He stated that the pavers have been taken off the plan and parking spaces are shown in those locations.

Mr. Brady stated that they are removing all asphalt in the area toward the front, except the concrete pad, which will be used for handicap parking space, and replacing the area with stone. He stated that the elimination of the storage bins and elimination of the pallets for the pavers, the circulation has been adjusted to allow for turning radii. He stated that the turning radii will be shown on the revised plan and submitted to the Board Engineer.

Mr. Brady stated that the 4' wide landscape bed in the front of the building shown on the previous plan has been removed and replaced with stone. He stated that the number of parking has stayed the same. He stated that the trees are the same as the previous plan.

Mr. Brady stated that the dumpster storage area has stayed the same as the previous plan. The 8' wall along the back has stayed the same as the previous application. He stated that the site drainage and site lighting have stayed the same. He stated that the sign location has stayed the same with a concrete pad and curb placed along the front. He stated that the existing fence along the front of the site will be removed and the landscaping trees will be added. He stated that the trash storage is the same as previously approved.

Mr. Brady stated that the variances and waivers required for this site include the variance for 32 SF sign which is the same as previously approved. He stated that due to the asphalt being removed the lot coverage has been decreased. The coverage is the same but the impervious coverage has been decreased. Mr. Brady stated that the existing building is within the building setback is the same as previously requested. Mr. Brady stated that the waiver of curbing is the same as previously approved. The location of the gate is the same as previously approved. He stated that the gate itself is less than 50'.

Mr. Cave stated that the property is currently fenced. He stated that they are installing a gate up in the front of the building, with part of it being a swing gate. He stated that there will be a partial with part canal-level. Mr. Sullivan asked if the plans can be changed to state exactly what they want to do. Mr. Cave stated that he is speaking with a fence company and will have a plan from them that he can give to his engineer to place on the plan with correct dimensions, etc.

Mr. Sullivan stated that a 50' canal-lever gate needs to swing open another 50'.

Mr. Sheehan stated that they are agreeable to a condition that would require them to show a plan of a working gate acceptable to the Board Engineer.

Mr. Brady stated that the street lighting and landscape buffer are the same as previously approved. He stated that the 8' block wall with green screen is the same as previously approved.

Mr. Brady stated that the variances are the same as previously approved.

Mr. Brady stated that the landscaped area in the front of the building has been removed

and the entire area will be stoned. He stated that they will be leaving the concrete pad.

Mr. Pagenkopf requested that the shrubbery in the front of the property continue across the frontage. Mr. Cave was agreeable. Mr. Pagenkopf suggested the shrubbery on the left side could be duplicated on the right side of the frontage.

Mr. Sullivan stated that there was a sidewalk shown on the previous plan but not on the current. Mr. Brady stated that the entire area will be stoned. Mr. Cave stated that the sidewalk was a sidewalk to nowhere. He stated that he asked to take it out since it did not serve any purpose.

Mr. Brady stated that the DGA ramp is a concrete pad that was formerly a loading dock. He stated that there is approximately 2 ½' drop in elevation between the concrete and where the spaces are. He stated that the vehicles that would be accessing the ramp are rubber tire vehicles. Mr. Sullivan asked if the ramp could be constructed with a more permanent material. Mr. Cave stated that it is not just for rubber tire vehicles, but for excavators and bulldozer that would go up to that area. He stated that if it is made of concrete, some of the equipment may tear it up. Mr. Brady stated that the site is not accessible to the public. He stated that the site will be maintained by the operator.

Mr. Pagenkopf asked how they would maintain the ramp. Mr. Cave stated that when he created the ramp, they used the block material on the side to contain the movement. Mr. Pagenkopf asked that the plan be modified to show the block wall containing the ramp.

Mr. Brady stated that the double lines are a foundation wall that was a concrete wall that was there from the previous user. He stated that the wall still exists. Mr. Sullivan asked what is it. Mr. Brady stated that it is a concrete wall. Mr. Cave stated that when he bought the property there was another pad on site with footings. He stated that he has cleaned up the area, busted up the concrete and most of the footings, which was approximately 2/3rds of the building. He stated that the pile of concrete that was out back of the site was from this area. Mr. Cave stated that he obtained a one-time crushing permit for this concrete. Mr. Cave stated that he poured a concrete wall on the footings that were existing. He stated that there is no use for the wall. He stated that he would like to park equipment on either side of the wall. Mr. Cave stated that the wall has no value, but he is not looking to take the expense to take it down. Mr. Sheehan stated that the prior plan shows this wall as the back wall for the landscape bins. Mr. Cave stated the footings were approximately 2 ½'.

Mr. Sullivan stated that the wall must be shown on a plan.

Mr. Emmons asked if the bins have been removed. Mr. Cave stated that the bins were never put in. He stated that he will take it off the plan if the Board desires. Mr. Emmons stated that the footings were approximately 2 ½' and then the applicant poured concrete to total a 6' high wall. Mr. Emmons stated that applicant had approval to put bins in. He stated that the applicant has asked the Board to allow this 6' wall without approval. Mr. Cave stated that he would remove if the Board desires. Mr. Cave stated that the wall drops off toward the back. He stated that if the Board does not want it, he will take it out. Mr. Sullivan stated that the wall was not previously approved.

Mr. Emmons stated that this is the reason why the Board needs to see an existing survey plan. Chairman Bennett asked Mr. Sullivan if it would be beneficial if he takes a look out at the site. Mr. Sullivan stated yes.

At 9:00 p.m. Chairman Bennett stated that the Board will be taking a five minute break.

Mr. Sheehan stated that the site plan showed a difference between the side walls and the rear wall for the bins. He stated that the detail clearly shows that all three walls are the same

interlocking block. He stated that what has been submitted does not show what has been approved. He stated that as a condition of approval the applicant has agreed that upon inspection by the Board Engineer, if his decision that it be knocked down, it will be removed, or if he determines it shall remain, it will remain.

Mr. Emmons stated that without an existing conditions survey, many issues are coming up.

Mr. Emmons referred back to the Resolution of 2006. He stated that on page 5, it clearly states that the applicant has been asked on numerous occasions to clarify the nature of the uses. He stated that a clear issue of what was going on at the site was not provided.

Mr. Emmons suggested that the Board Engineer get out to the site for an inspection, and the applicant submit an existing conditions survey before the Board continues with the application.

Mr. Emmons requested that the applicant consent to a January extension until a survey can be completed. Mr. Sheehan stated that they will consent to an extension, but would like to continue with the testimony.

Mr. Cave stated that the only difference between the original plan and the one that is in front of the Board now is the wall that was poured over existing footings. He stated that with regards to the wall in the back, he knows he did it wrong. He stated that he bought the blocks from the landscaping company on Route 38. He stated that rather than piling the blocks in a pile, they built the wall. He stated that the wall was recommended by this Board to try and help cut the noise down in the back and to act as a buffer for the neighboring properties. He stated that he had the approval to build this wall. Mr. Cave stated that he had the approval to build the wall that is poured concrete.

Mr. Cave apologized that he did not realize until now that the picture of the bins shows blocks in the back. He stated that was never going to be. Mr. Cave stated that he lies about a lot of things and makes things happen fast, and doesn't always do things by the book, but he likes to move forward to get things done. Mr. Cave stated that he did not do the landscape business because there is no money in that type of business today. He stated that he never went forward with doing any of the improvements because he felt that he never changed the use of the place from when he received his original Certificate of Occupancy to repair trucks and equipment in the building.

Mr. Cave stated that the first problem he encountered was when he put up the block wall. He stated that when he bought the blocks he did not want to just have them piled up on the property. He stated that he feels he was within the guidelines from what he was originally approved for. He stated that when he brought in the area work platforms, that was the next problem. He stated it is equipment. He stated that his office is at the airport in Medford.

Mr. Cave stated that he thought he was here to try and resolve the issues with the equipment. He stated that the only changes that he has done from the original application was the wall, which he extended the height of the footing that was on the property previously. He stated that he apologies for the mistake.

Chairman Bennett stated that Mr. Sullivan will go out to the site and make an inspection.

Mr. Sullivan stated that there appears to be new parking spaces. He asked how the parking spaces are proposed. Mr. Sheehan stated that they are all designated for truck parking. Mr. Sheehan stated that some of it will be lifts, some will be excavators, and some would be for large trucks. Mr. Sullivan stated that some spaces are 12x25 and 12x40. Mr. Sullivan requested

that these spaces be separated out on the plan.

Mr. Sullivan stated his concern that trucks will not block the fire lane. Mr. Brady stated that they are proposing to paint on the stone. Mr. Sullivan stated that would not be feasible. Mr. Pagenkopf suggested concrete barriers or some type of industrial solution to keep the trucks from parking in the area. Mr. Sullivan stated that the plan needs Fire Marshall approval.

Mr. Emmons asked if there is parking requirements listed on the plans. Mr. Sullivan stated no. Mr. Emmons stated that code required parking needs to be depicted on the plan.

Mr. Emmons stated that there is certain intensity to this site. Mr. Cave stated that he realizes that things need to be depicted on the plan, but does not want to be held against if something is parked in a different area from where it is on the plan. He stated that he needs as much parking spaces as possible on his property. Mr. Cave stated that will allow him to have the trucks park, room for extra trailers, the equipment that moves the containers, the trucks that are used for snow plowing, the equipment for chipping or grinding, and spaces to park equipment that needs to be serviced. Mr. Emmons stated that the applicant needs to address how many trucks, what is going to be parked there at all times, and how many people are going to be in and out of the site, etc.

Mr. Sullivan stated that they need to indicate how many spaces are for each use. Mr. Cave stated that he had 100 lifts at one time. He stated that he thought he was in compliance with the parking spaces.

Mr. Emmons stated that the applicant has certain permitted uses that have certain intensities. He stated that it is when the applicant goes beyond.

Mr. Emmons asked if the applicant would consent to an adjournment. Mr. Sheehan stated yes, as long as it is can be announced that they do not have to re-notice. Mr. Emmons stated that the next meeting is scheduled for January 21st.

Mr. Emmons stated that the court date is set for January 4, 2010. He stated that they will adjourn the court date. Mr. Emmons stated that there will not be any further adjournments.

Mr. Emmons stated that a motion to adjourn with no further notice required.

Motion was made by Mr. Evans, seconded by Mr. Potter to adjourn the application until the January 21, 2010 meeting.

Old Business

There was none.

Public Comment

There was none.

Comments from Professionals

There was none.

Comments from the Board

A. Bill List

Motion was made by Mr. Pagenkopf, seconded by Mr. Evans to approve the bill list. The vote was unanimous and the motion carried.

Adjournment

Motion was made by Mr. Morton, seconded by Mr. Evans to adjourn at 9:35 p.m. The vote was unanimous and the motion carried.

Respectfully Submitted,

Caryn L. Cutts
Land Development Board Recording Secretary