

**Township of Lumberton
Land Development Board
Regular Meeting
February 19, 2009**

The regular meeting of the Lumberton Township Land Development Board was called to order by Chairman Bennett on Thursday, February 19, 2009 at 7:12 p.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 Robert Morton John Pagenkopf	(Absent)
Representatives of Governing Body	James Conway, Jr. Lewis Jackson	
Alternate #1 Alternate #2 Alternate #3 Alternate #4	Nancy Bleznak Craig Potter Doug Alba Ed Borm	(Absent)
Solicitor Consulting Engineer & Planner	Peter Emmons, Esq., Gibbs, Gregory & Emmons Gregory J. Sullivan, P.E., P.P., Remington, Vernick & Arango	
Board Secretary	Catherine Borstad	

Ms. Bleznak and Mr. Alba both took the Oath of Office.

Minutes

A. Regular Minutes for January 15, 2009 meeting

Motion was made by Mr. Bintliff, seconded by Mr. Conway to approve the meeting minutes of January 15, 2009. The vote was affirmative with the exception of Ms. Bleznak, who abstained, and the motion carried.

Correspondence

Resolutions

- a. 2009-04 Adopting report of findings and recommendations for the 2008 Annual Report to the Lumberton Township Committee.

Motion was made by Ms. Marinelli, seconded by Mr. Conway to approve Resolution 2009-04. The vote was affirmative with the exception of Mr. Jackson and Ms. Bleznak, who abstained, and the motion carried.

- b. 2009-05 Executive Session

Motion was made by Mr. Morton, seconded by Ms. Marinelli to approve Resolution 2009-05. The vote was affirmative with the exception of Ms. Bleznak, who abstained, and the motion carried.

Items for Action

- a. **Culver, Charles & Lynn**
10 Hopewell Avenue
Block 53, Lot 9
Bulk Variance for an addition to existing detached garage. (Work already completed without permits) (7:40-7:50)

Exhibits marked.

Mr. Charles Culver, sworn to provide testimony.

Mr. Culver stated that 4-5 years ago with all township approvals and permits he installed a pole barn. He stated that this last fall he added an additional 200 SF tool room using the same technique and look as the pole barn. He stated that he was told he was in violation because he didn't receive approval for the additional 200 SF.

Mr. Emmons informed Mr. Culver that a variance is necessary for the size of the detached garage. Mr. Emmons stated that the total SF is 1104, where the Ordinance only allows for 900 SF.

Chairman Bennett asked what the addition is being used for. Mr. Culver stated that he is retired and restores old cars. He stated that he built the addition to store tools. He stated that he ran out of space. Mr. Culver stated that he also has an office in the additional area.

Mr. Emmons asked what kind of office he has. Mr. Culver stated that it is a desk surrounded by tools, etc.

Mr. Emmons asked if a business is run out of the garage. Mr. Culver stated no.

Chairman Bennett asked if cars are kept on the premises. Mr. Culver stated yes. Chairman Bennett asked if the cars are kept in the garage. Mr. Culver stated yes.

Ms. Marinelli asked Mr. Culver if he restores antique cars and sells them. Mr. Culver stated yes. He stated that he is building his own car. Mr. Culver stated that down the road he would like to look for another space outside of his home.

Ms. Marinelli asked how many cars does Mr. Culver have and how many does the garage store. Mr. Culver stated that he owns five cars. He stated that at present there are three in the garage, one at a paint shop and one is at a garage down at another property located at the shore. He stated that this garage will hold four vehicles.

Ms. Marinelli asked if he shows the cars. Mr. Culver stated yes. Ms. Marinelli asked Mr. Culver if he belongs to a club. Mr. Culver stated that he participates in a number of shows. Ms. Marinelli asked if he participates in a touring antique car club that tours across the country. Mr. Culver stated that he has recently joined one but has not participated yet.

Ms. Marinelli asked what year's Mr. Culver restores. Mr. Culver stated 50 & 60s.

Mr. Emmons asked how many doors the garage attached to the house has. Mr. Culver stated that it has two.

Mr. Emmons asked how many doors are on the pole barn. Mr. Culver stated one big one.

Ms. Marinelli asked if there were utilities to the barn. Mr. Culver stated that he has some heaters both gas and electric. He stated that he has water running to the barn, but was not allowed to run water inside the building.

Ms. Marinelli stated that the property is well buffered.

Mr. Culver stated that there is a shed also on the property that is 8x12 that is used to store pool furniture. He stated that it is located 25' behind the pole barn.

Exhibits marked (photos)

Chairman Bennett asked when the photographs were taken. Mr. Culver stated 2-3 weeks ago.

Mr. Culver stated that he personally visited each surrounding neighbor. He stated that no one objected.

Mr. Emmons stated that this is an application for a bulk variance for an existing detached garage. He stated that the actual variance requested is for a total of 1200 SF where 900 SF is permitted. He stated that 1104 SF is for the detached garage and 96 SF for the shed. He stated that the applicant has testified the need for the variance to store his tools and for an expanding car collection. The applicant has testified that he has a total of five cars currently.

Motion was made by Mr. Conway, seconded by Mr. Morton to approve the bulk variance. The vote was unanimous and the motion carried.

b. Lumberton Substation (PSE&G)
396 Main Street
Block 40, Lot 2
Major Site Plan with Variances (7:52-9:25)

Exhibits marked.

Mr. Conway and Mr. Jackson stepped down. Mr. Alba and Ms. Bleznak took their seats.

Exhibits marked.

Ms. (Attorney), Esq., Present representing applicant.

Mr. Sullivan stated that the application is complete.

Motion was made by Mr. Ammerman, seconded by Mr. Morton to deem the application complete. The vote was unanimous and the motion carried.

Mr. Kenneth Tanis, Engineer with PSE&G, sworn to provide testimony. Mr. Tanis gave the Board his credentials as a professional engineer. The Board accepts Mr. Tanis as an expert witness.

Mr. Tanis stated that in addition to the present facility they will be installing a second 230,000-69,000 volt transformer and associated 230 kb and 69 kb circuit breakers and equipment that goes with this. He stated that these facilities are required to maintain reliable service in the Township of Lumberton and surrounding areas.

Ms. (attorney) asked Mr. Tanis to explain how the need for these facilities was determined. Mr. Tanis stated that it was determined by the load demand by the present areas this facility services. Mr. Tanis stated that without these upgrades there could be a deficiency as early as the year 2012. Mr. Tanis stated that the second transformer is needed so that proper maintenance can be done to the existing transformer as well as providing additional capacity.

Mr. Tanis stated that when they have to do work on the present transformer, they have to rely on service through Atlantic Electric to supply electric to the substation. Mr. Tanis stated that the second transformer would allow them to not have to rely on the Atlantic Electric line which is located twenty miles away.

Mr. Emmons stated that the conditional use variance requires that the facility provide direct service to Lumberton Township. Mr. Tanis stated that it will supply Lumberton Township.

Mr. Ronald Tkach, Professional Engineer, Employed by PSE&G for 32 years. Sworn to provide expert testimony. Mr. Tkach gave the Board his credentials. The Board accepts Mr. Tkach as an expert witness.

Exhibit A-1 marked.

Mr. Tkach stated that the entire site is 7.4 acres. He stated that sound walls will be installed to the north and south of the transformers. Mr. Tkach stated that a use variance is needed. He stated that three of the four sound walls proposed do not meet the 50' setback. He stated that there will be no increase in noise, fumes, etc.

Mr. Tkach stated that there will not be any increase in traffic. Mr. Tkach stated that there will be no negative impact to the Lumberton Land Use Regulations or to the Master Plan.

Ms. (Attorney) asked Mr. Tkach if the operations at the facility will increase noise, fumes, etc. Mr. Tkach stated no.

Ms. (Attorney) asked Mr. Tkach if the operation proposed would contribute to any increase in fire or general public health safety and welfare. Mr. Tkach stated no.

Mr. Evans asked what the difference between what is there now and what is proposed. Mr. Tkach stated that the difference will be an additional transformer. He stated that it is necessary for additional back-up. Mr. Tkach stated that they will not have to rely on a facility that is currently 20 miles away.

Mr. Evans asked if the transformer would have to be shut down; the proposed one would be able to handle the load. Mr. Tanis stated yes.

Mr. Sullivan asked how many transformers are currently on site. Mr. Tanis stated that there is one 230-69 kb transformer, and two 230-13 kb transformers.

Chairman Bennett asked about landscaping. Mr. Tkach stated that there is existing landscaping and the property will continue to look as it exists now.

Benjamin Mueller, OsterGaard Acoustical Associates, Mr. Mueller stated that he has been employed with OsterGaard for six and half years, sworn to provide testimony.

Mr. Mueller stated his credentials. The Board accepts Mr. Mueller.

Mr. Mueller went over the state regulations. He stated that the state regulations state that no commercial facility shall contribute more than 65 DPA (decimals).

Ms. (Attorney) asked Mr. Mueller when the facilities and acoustical sound walls are installed as proposed will the decibel levels decrease over current levels. Mr. Mueller stated yes that is correct.

Exhibit A-2 marked.

Mr. Emmons asked for clarification that the proposed changes will lower the sound but exceed state limits. Mr. Mueller stated that the current sound conditions now exceed NJ State limits. Mr. Mueller stated that the proposed changes will only exceed in specific areas 1-2 decibels.

Ms. Marinelli asked if the current condition exceeds the state regulations and with the proposed changes it will only exceed in certain areas. Mr. Mueller stated that is correct.

Ms. Marinelli asked regarding the sound decibel's if the proposed changes will be less than the current conditions. Mr. Mueller stated yes.

Chairman Bennett asked who has jurisdiction over monitoring the decibel levels. Mr. Mueller stated New Jersey Department of Environmental Protection.

Mr. Sullivan stated that he still has some concerns regarding the testimony not meeting state statutes. Mr. Sullivan stated that the State standard is 50 DBA at the property line. Mr. Emmons asked if there was something that can be done to meet the standards. Mr. Mueller stated that the sound walls could be pulled away from the transformers and made larger. Mr. Emmons asked if this would interfere with the landscaping. Mr. Mueller stated that the goal is to keep the barrier inside the fence area.

Mr. Tkach stated that many different models were discussed before they developed this one. He stated that if there was some model the Board would like them to discuss specific they could, but they only have the one model to discuss tonight.

Ms. Marinelli stated that they have determined that they are making the decibels better over all than what is existing.

Mr. Emmons stated that he is not sure the Board can approve something that exceeds the State regulations. Mr. Sullivan stated that the applicant is asking for a variance from those standards.

Ms.(Attorney) stated that they are willing as a condition of approval, to test the barriers once constructed to confirm that it complies with the State standards. She stated that if they are not in compliance they will construct the barriers to comply.

Mr. Charles Tkachaka, Project Manager employed with PSE&G, sworn to provide testimony.

Mr. Tkachaka stated that there is currently a 7' fence with barb wire at top. He stated that the facility is secure at all times. He stated that during construction there will be restricted access for PSE&G personnel and contractors. He stated that there is a full time safety monitor that is on site that over sees the construction activities. Mr. Tkachaka stated that there is no indication of security problems at this site.

Mr. Tkachaka stated that construction will begin in September of 2009 and go until the end of the year. He stated that all construction should be completed by June of 2010.

Ms. (Attorney) asked Mr. Tkachaka if the proposed improvements once completed will increase the number of employees that report to the site. Mr. Tkachaka stated that the number will not increase. He stated that currently there is only one employee that reports to the site daily. He stated that engineers and other employees will go to the site from time to time.

Mr. William Brackmann, P.E., Verns McDonald, Project Manager, sworn to provide testimony.

Mr. Brackmann gave the Board his credentials. The Board accepts Mr. Brackmann as an expert witness.

Mr. Brackmann described the sound wall.

Mr. Morton asked what material the sound wall is made of. Mr. Brackmann stated that it some sort of fiberglass type material.

Mr. Sullivan asked about COAH obligations. Ms.(Attorney) stated that it is her understanding that the applicant is exempt because they are a public utility. Mr. Emmons stated that the resolution will state that they will meet the COAH requirement if they are required.

At this time Chairman Bennett opened the meeting up for public comment.

Mr. Ed Schultz

Mr. Schultz asked if both transformers will be operating at the same time. Mr. Tkach stated yes. Mr. Schultz asked if there will be a change in the EMF's . Mr. Tkach stated that the transformer is enclosed and should contain any EMFs. Mr. Shultz asked if the sound barrier will be 20' high. Mr. Tkach stated yes.

Exhibit A-4 marked (aerial plan)

At this time public portion of the meeting is closed.

Mr. Emmons stated that this is an application for major site plan with variances. He stated that there will be a D-3 variance. Mr. Emmons stated that the applicant has testified to the positive and negative criteria. He stated that the applicant has testified that the positive criteria of the facility update is that it would be necessary to provide adequate service to the Township and surrounding areas. He stated that the update will directly serve the Township of Lumberton. Mr. Emmons stated that the applicant has testified that they will not disturb the existing landscaping, will not increase traffic or parking, and there will be no negative impact or detriment to the code or Master Plan. He stated that the applicant has testified that the application will support the goals and elements of the Master Plan. Mr. Emmons stated that the applicant has testified that there will be no increase in fumes, dust and no increase in danger of fire. He stated that the applicant has testified that public health, safety & welfare will not be affected. Mr. Emmons stated that a condition of approval will be that the applicant has agreed to test the sound walls at the property line and if they do not meet state standards the applicant has agreed to redesign and construct to make them comply. Mr. Emmons stated that the applicant further testifies that the sound levels will actually decrease when the sound walls are installed even though there is some question about the actual level pursuant to the modeling. Mr. Emmons stated that the applicant has testified that there will be no increase in employees. He stated that if a COAH obligation is required the applicant has agreed to comply.

Motion was made by Mr. Morton, seconded by Ms. Marinelli to approve the major site plan with conditions as stated. The vote was unanimous and the motion carried.

Mr. Conway and Mr. Jackson return to the Board.

Old Business

- a. 20 Maple Ave, LLC., (Cave Holdings)

Mr. Emmons will send a letter to the attorney. He stated that this is on the agenda to keep the Board aware of the status of the application.

Public Comment

There were none.

Comments from Professionals

Mr. Sullivan stated that he met with AA Pharmaceutical regarding the sidewalk along the Bypass and property maintenance.

Ms. Borstad stated that the Construction Office will take care of it.

Mr. Emmons suggested making sure there is final plan showing the easement on the property.

Mr. Emmons stated that he revised the code for the waterways to discuss next month.

Mr. Conway asked what the status is with the Master Plan. Mr. Sullivan stated that he received a draft and there are no comments.

Mr. Conway asked if they were going to amend the road that goes into Walmart to take it off the Master Plan. Mr. Emmons stated that it is something that the Board can consider doing.

Comments from the Board

A. Bill List

Motion was made by Ms. Marinelli, seconded by Mr. Morton to approve the bill list. The vote was unanimous and the motion carried.

Executive Session

At 9:40 p.m. a motion was made by Mr. Bintliff, seconded by Ms. Marinelli to move the meeting into Executive Session.

At 9:50 p.m. a motion was made by Mr. Conway, seconded by Ms. Marinelli to move the meeting out of Executive Session.

Adjournment

Motion was made by Mr. Conway, seconded by Ms. Marinelli to adjourn at 9:53 p.m. The vote was unanimous and the motion carried.

Respectfully Submitted,

Caryn L. Cutts
Land Development Board Secretary