

**Township of Lumberton  
Land Development Board  
Regular Meeting  
November 20, 2008**

The regular meeting of the Lumberton Township Land Development Board was called to order by Chairman Bennett on Thursday, November 20, 2008 at 7:30 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, 2008 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 Robert Morton Bradley Regn John Pagenkopf
Representatives of Governing Body	James Conway, Jr. Beverly Marinelli
Alternate #1	Nancy Bleznak
Alternate #2	Craig Potter
Alternate #3	Doug Alba (Absent)
Alternate #4	Mike Petty (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

**Minutes**

- a. Regular Meeting Minutes for October 16, 2008

Motion was made by Mr. Regn, seconded by Mr. Morton to approve the Regular Meeting Minutes of October 16, 2008 . The vote was affirmative with the exception of Mr. Conway, who abstained, and the motion carried.

**Correspondence**

Letter from Mr. McAndrew regarding 1586 Route 38.

Mr. Emmons stated that the applicant is out of compliance with the township codes. He stated that the Board is going to want to see something soon to avoid having to issue summons. Mr. McAndrew stated that he will talk to the applicant.

**Resolutions**

- a. 2008-46 Thomas, Alberto (T/A ATW), 1609 Route 38, Block 18, Lot 1.04. Site Plan Waiver. Denied without prejudice, applicant request to withdraw the application.

Motion was made by Ms. Marinelli, seconded by Mr. Morton to approve Resolution 2008-46. The vote was affirmative with the exception of Mr. Conway who abstained, and the motion carried.

- b. 2008-47 Bank of America, 1520 Route 38, Block 15.03, Lot 7. Final minor site plan. Application deem completed. Continued to November 20, 2008 agenda.

Motion was made by Ms. Marinelli, seconded by Mr. Morton to approve Resolution 2008-47.

- c. 2008-48 Young's Landscaping, 323 Main Street, Block 37, Lot 2.01 and 2.03. Use Variance. Continued to November 20, 2008 agenda.

Motion was made by Mr. Ammerman, seconded by Ms. Marinelli to approve Resolution 2008-44. The vote was affirmative with the exception of

- d. 2008-49 Stott, Victor, 1 Cameron Lane, Block 33.04, Lot 11. Bulk Variance for Detached Garage. Approved.
- e. 2008-50 Radwell International, 111 Mt. Holly Bypass, Block 15.04, Lot 2.05. Final Major Site Plan. Approved.

Mr. Emmons stated that there is a minor change to page 1, first numbered paragraph, the third sentence would change "is" to "contained".

- f. 2008-51 Diocese of Trenton, Eayrestown Road and Landing Street. Block 20.17, Lots 26.01 & 27. Use Variance for a Cemetery. Denied.

Ms. Marinelli stated that the second page states that there were 50 residents, she stated that it should be more like 125 residents.

**Items for Action**

***Scarloff, Richard***  
***90 Creek Road***  
***Block 31, Lot 4.02***  
***Bulk Variance for Detached Garage (7:45-8:00)***

Exhibits marked.

Mr. Patrick McAndrew, Esq., present representing applicant.

Mr. Richard Scarloff, applicant, sworn to provide testimony.

Mr. McAndrew stated that this is an application for a variance for a garage to be located in part of the front yard. Mr. McAndrew stated that the vegetation and layout of the property makes this an ideal location.

Mr. McAndrew showed the Board several pictures of the property.

Mr. Scarloff stated that he has an agreement of sale on the property with a contingent based on the variance approval of the garage.

Mr. Emmons asked if this application can be deemed complete. Mr. Sullivan stated yes.

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

Mr. McAndrew asked Mr. Scarloff if he was in contract to purchase the property. Mr. Scarloff stated yes. Mr. McAndrew asked if this is Richard May's house on Creek Road which is 3.4 acres. Mr. Scarloff stated yes.

Mr. Scarloff stated that the house is in the center of the property and he would like to place the garage to the left of the house which would be in the front yard at the end of the driveway. Mr. Scarloff stated that the property is well screened from Creek Road. He stated that to the right of the property is the Lama Farm. He stated that he does not want to put the garage to the right because it would be more visible from the road. Mr. Scarloff stated that there is a wooden shed located to the left of the house that is used as a tool shed. Mr. Scarloff stated that the garage is going between the shed and the house. He stated that it will be in a well screened area and out of sight. He stated that there is also a building located at the back of the property that is used as a recreation room.

Mr. Scarloff described the exhibits and aerial views showing the trees on the property.

Chairman Bennett asked if there were dates on the photographs. Mr. Scarloff stated that he printed them off of the internet the day of the meeting.

Mr. McAndrew asked what the garage would be used for. Mr. Scarloff stated for equipment and tractors to maintain the property. Mr. McAndrew asked if the proposed garage is a three car garage with a peak roof. Mr. Scarloff stated yes and that it will match the house.

Mr. McAndrew asked why Mr. Scarloff picked this location for the garage. Mr. Scarloff stated that it is the best fit on the property without removing any trees. Mr. McAndrew asked Mr. Scarloff if he anticipates any negative impact on surrounding neighbors. Mr. Scarloff stated no.

Ms. Marinelli asked Mr. Scarloff to confirm that this garage is not attaching to the house and that he does not anticipate removing any trees. Mr. Scarloff stated that was correct.

Ms. Marinelli asked if there is a basement on the property. Mr. Scarloff stated yes in the house. Ms. Marinelli asked what the shed on the property was. Mr. Scarloff stated that it is a portable shed that was placed on the property several years ago.

Mr. Emmons asked if the tool shed would be removed. Mr. Sullivan stated that it is his recommendation that the shed be removed to eliminate a variance. Mr. Sullivan suggested placing the function of the tool shed into the new garage. Mr. Scarloff stated that he would like to keep the tool shed if possible.

Mr. Sullivan asked if the height of the garage would exceed 18'. Mr. Scarloff stated no that it would be the same height as the house.

Mr. Sullivan stated that the road sits lower than the property. Mr. Sullivan stated that there are number of variances required.

Mr. Sullivan asked if there would be any trees removed. Mr. Scarloff stated no.

Mr. Sullivan stated that variances would be needed for front yard, number of accessory structures, area and set back distance.

Mr. Conway stated that looking at the photos provided, it appears that the garage could go to the right of the house and be in side yard and not have to remove any trees. He stated that three variances would go away. Mr. McAndrew stated that it would be much more visible from the road in that location.

Ms. Marinelli concurred that if it goes to the right of the house it will be visible from the road. Mr. Conway stated that to eliminate the variances the location to the right of the house would be more acceptable.

Mr. McAndrew stated that the reason for the location of the garage is to keep it esthetically pleasing.

Mr. Sullivan asked if the tool shed could be eliminated. Mr. McAndrew stated that the applicant has agreed to remove the tool shed.

Mr. Ammerman asked if the equipment kept in the proposed garage would be to maintain the home or for a business. Mr. Scarloff stated that the equipment would be strictly to maintain the home.

Mr. Bintliff asked what material would be used to connect the concrete from the driveway to the garage. Mr. Scarloff stated most likely black top.

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

*Dave Cedar - 8 Sunflower Circle.*

Mr. Cedar stated that his back yard is directly across Creek Road. He wanted to make sure that this would not be used for commercial equipment, etc. Mr. Scarloff stated that there is no intent to use the garage for any commercial business.

At this time the public portion of the meeting was closed.

Ms. Marinelli made a motion based on the fact that esthetically it will look better in this location. She stated that you will not be able to see it from the road or when approaching, not to be used as a business, height to be less than 18', removal of the tool shed, size, accessory structure in the front yard and the 40' setback, seconded by Mr. Ammerman. The vote was affirmative with the exception of Mr. Conway, who voted no and Mr. Evans, who abstained, and the motion carried.

***Bank of America  
1520 Route 38  
Block 15.03, Lot 7  
Minor Site Plan for placement of ATM Kiosk Building in Lowe's parking lot (8:00-8:16)***

Exhibits marked (A-1, A-4)

Arthur R. Sypek, Jr., Esq., present representing the applicant.

Robert Stricker, sworn previously and still under oath.

Mr. Stricker stated that the kiosk has been relocated further to the east of the parking lot to avoid the primary circulation isle.

Mr. Stricker stated that A-4 is a colorized version on the site plan, sheet 1 of 1 showing the new location of the kiosk. Mr. Stricker stated that the new location allows for additional room at the kiosk for stacking. He stated that there is approximately 43' from the curblin. He stated that the kiosk takes up eight parking spaces, which still leaves the parking requirements of the shopping center in compliance with the standards.

Mr. Stricker stated that this is an area of the parking lot that is not interfering with the circulation of the shopping center. Mr. Stricker stated that there are no variances or waivers necessary.

Ms. Marinelli stated that this is a much better location.

Mr. Sullivan asked if the applicant was agreeable to the comments. Mr. Stricker stated yes.

Ms. Bleznak agreed that this was a better location.

Mr. Regn asked if Bank of America has an agreement with Lowe's to enforce that this area stay clear because trucks park in this location and the township is not going to be liable to force this issue. Mr. Sypek stated that there is an arrangement with Lowe's. Mr. Regn stated that this is a county road and that they would still need a letter from the County.

Mr. Stricker stated that they have contacted the County.

Mr. Stricker stated that the kiosk will be 10 1/2' high. He stated that it will be located 300' from Route 38 and 200' from the Bypass. Mr. Stricker stated that other than the 7" lettering band, there is no other signage on the site for the kiosk.

Mr. Conway asked if this is a lease from Lowes. Mr. Sypek stated yes. Mr. Conway asked Mr. Sullivan if he received a legal description. Mr. Sullivan stated not yet. Mr. Emmons stated that would be a condition of approval.

Mr. Ammerman asked about vehicles making a right out of the kiosk. Mr. Stricker stated that the issue was resolved with the new location of the kiosk.

Mr. Emmons stated that no variances are required but there are four preexisting variances.

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

Motion was made by Mr. Morton, seconded by Mr. Potter to approve the application with conditions as stated. The vote was affirmative with the exception of Mr. Pagenkopf, who abstained, and the motion carried.

***Young's Landscaping***

***323 Main Street***

***Block 37, Lot 2.01***

***RA/S***

***Use Variance with Site Plan (8:17-9:43)***

Ms. Marinelli stepped down and Ms. Bleznak took the seat.

Mr. Conway stepped down and Mr. Potter took the seat.

Exhibits marked.

Mr. Al Munaro, Esq., present representing applicant

Mr. Joseph Ehrenreich, General Manager of Young's Landscaping, sworn to provide testimony.

Dave Benedetti, Professional Planner, sworn to provide testimony/

Andrew Feranda, P.E. Schroppshire Associates, sworn to provide testimony.

Mr. Munaro stated that the Planner and Engineer have previously testified before this Board. Mr. Benedetti & Mr. Feranda stated their qualifications for the Board. The Board accepted Mr. Benedetti & Mr. Feranda as expert witnesses.

Mr. Munaro stated that this application has been going on since 2004. He stated that the applicant purchased the property in 2004 with the intent to use the property as the headquarters for their landscaping business which included other uses which were closely related to the business but not quit agricultural in nature. He stated that shortly after the applicant obtained possession of the property there was an issue with the zoning permit and the certificate of occupancy which resulted in some litigation. The result of the litigation was that the current use of the property at that time was a permitted use. The applicant was using the property as a nursery and offices at that time. He stated that the applicant wanted to do other things with the property so they put together a use variance application and appeared before this Board in 2004. He stated that the applicant was hoping to use the property as a nursery with offices, snow removal business, and an irrigation business and to have an on-site mechanic. He stated that the applicant was denied a use variance in 2004. Mr. Munaro stated that after reviewing the transcript and resolution, most of the non agricultural uses seem to be the main issue with the Board. He stated that the applicant has since moved the bulk of the uses to their other site located in Maple Shade Township. He stated that the applicant has sold the irrigation use. He stated that they do still do the snow removal business and an on -site mechanic but they have moved them to the Maple Shade site. Mr. Munaro stated that they are back before this Board for either a use variance or to determine that no variance is necessary for what they do at the property today which is grow their nursery stock and use the offices to plan what they are going to grow and to dispatch all their operations. Mr. Munaro stated that an application was submitted in 2007 and appeared for a completeness hearing, but there were

issues because the application was very similar to what was previously submitted. .

Mr. Ehrenreich showed the Board pictures of the Maple Shade site and all the uses that are kept there. He stated that when they moved the snow plow operation over to the Maple Shade site it reduced the number of employees from 70 to 50 during the peak season and 26-30 during the bulk of the season at the farm facility in Lumberton.

Mr. Munaro handed out a list comparing the old numbers of employees and vehicles at the site on the 2004 application and with the new application.

Mr. Ehrenreich stated that the number of employee vehicles on site at the farm diminished from approximately 12 to 6-10. He stated that the company vehicles diminished from 38 to 27. He stated that deliveries decreased in activity from one per day to one per week. He stated that nursery stock deliveries went from one per week to one every third week. He stated that the number of bulk storage bins proposed went from 5 to 2. He stated that the hours of operation start later in the morning. He stated that the supervisory staff arrives at 6:15 a.m. and leave at 6:30 p.m. Mr. Ehrenreich stated that the workers start to arrive between 6:30-7:00 a.m. and leave by 5:30 p.m. Mr. Ehrenreich stated that they try to work a four day work week as often as possible. He stated that they now have 8 trucks. He stated that the utility body type trucks stayed the same, Tahoe type vehicles stayed the same, small dump trucks stayed the same, and the vans decreased by one. He stated that the dump trucks are the small municipal size dump trucks.

Mr. Munaro confirmed with Mr. Ehrenreich that all aspects of the snow removal and the on-site mechanic have been moved to the Maple Shade site. Mr. Ehrenreich stated that is correct. Mr. Ehrenreich stated that the managerial staff associated with those uses is located in the offices in Maple Shade.

Mr. Ehrenreich showed the Board a view of the Lumberton site. He showed pictures showing the view from the neighbor's back yard and from CR 541. Mr. Munaro handed out a list of plants that are grown at the facility in Lumberton. Mr. Ehrenreich showed photos of the buildings on site and the parking lot. He stated that the agricultural aspect of the nursery stock is regulated by the Department of Agriculture. He stated that they are a certified nursery with the State of New Jersey whereas a landscaped contractor is a certified plant dealer.

Mr. Munaro submitted the nursery certificate as an exhibit. He handed out to the Board a list of plants that are harvested at the Lumberton site.

Mr. Ehrenreich stated that the supervisory staff comes in first, then meet with the crews and plan what they need for the installation that day and then they leave the facility. He stated that at the same time other crews continue to prune the plants, cut the 56 acres and do maintenance on the irrigation and items such as that. Mr. Munaro asked what they use the on-site office for. Mr. Ehrenreich stated that they use the office for sales staff and management. He stated that the supervisors use them to dispatch the crews.

Mr. Ammerman asked how wide the road coming into the site is. Mr. Ehrenreich stated that the easement is approximately 30' and the paved surface is approximately 15' wide.

Ms. Bleznak asked who owns the road going into the property. Mr. Ehrenreich stated that it is a common easement between them and the Scelba's. Ms. Bleznak asked who the easement is deeded to. Mr. Munaro stated that he believes it is deeded to the Scelba's but there is a common agreement for maintenance. Ms. Bleznak asked if the property is farm accessed based on horticultural use. Mr. Ehrenreich stated yes.

Mr. Benedetti gave testimony on the negative and positive criteria of the property. Mr. Benedetti stated that the applicant seeks to use this property as a nursery in an agricultural use. He stated that most of the site is used for harvesting the horticultural stock. He stated that this property is being used for agricultural uses which are consistent with the current Master Plan and Zoning Ordinances.

Mr. Pagenkopf stated that when Mr. Benedetti mentioned negative criteria he mentioned the landscaping business. He stated that the use variance would be for the landscape business. He wanted to make sure that Mr. Benedetti was clear in his testimony that the landscape business is consistent with the Master Plan in addition to the agricultural uses mentioned under positive criteria. Mr. Benedetti concurred.

Mr. Benedetti stated that in keeping agricultural uses, you would still need employees to harvest the crops, etc.

Mr. Pagenkopf stated that he is pleasantly surprised to see the reduction in employees and vehicles.

Chairman Bennett asked if the applicant would agree as a condition of approval to limit themselves to the number of employees, vehicles and deliveries that are laid out in exhibit A-2.

Ms. Bleznak stated that this is an agricultural use and there are no regulations on how many people can work on a farm.

Mr. Sullivan stated that if it is a use variance issue the Board may be able to propose an issue.

Ms. Bleznak stated that differentiating between who does the putting in the ground and who does the digging out of the ground and who drives the truck is too difficult to determine. She stated that it is a farm and is farm assessed and it is based on horticultural production. She stated that they have every right to have as many employees as they choose and as many vehicles as they need to run that operation. She stated that they can dig out every tree off of that farm and their people can drive that truck and another person can take it out of the truck and deliver it to the person that it was sold to. Ms. Bleznak stated that it is very hard to differentiate it, they are all the same people.

Chairman Bennett asked what the purpose of the exhibit A-2 was. Mr. Munaro stated that it was to differentiate between the prior application and this one. He stated that it is a farm with a commercial aspect to it.

Chairman Bennett stated that before they go any further the Board needs to determine if a Use Variance is required. Mr. Emmons stated that he would submit that a Use Variance is required based on the landscape business, which is not permitted in the zone. He stated that if a landscape business is permitted in the zone, that it is the Board's position to make sure it does not get out of hand. He stated that the applicant has already removed several things to reassure this Board that it will not get out of hand.

Mr. Munaro stated that it is an agricultural use, but there can be limits to the commercial aspect of the use.

Chairman Bennett asked if the applicant would agree to limit themselves to the number of trucks and employees which were delineated in Exhibit A-2. Mr. Emmons asked if this exhibit shows the employee and equipment needs for the near future. Mr. Ehrenreich stated that as they continue to plant more employees may be needed. Mr. Emmons asked if the number of employees is sufficient for the land that they have now. Mr. Ehrenreich stated that they still have more land to farm. Chairman Bennett stated that the concern of the Board is that

if the Board grants the variance and then the applicant decides to expand the use. Chairman Bennett stated that conditions could be set that the applicant come back before the Board with another application if they expand the use. Mr. Emmons stated that the applicant can always come back if they expand the land and require more workers. Chairman Bennett stated that the concern is that if the applicant intends to expand the use beyond what is described in Exhibit A-2. Ms. Bleznak asked if the Board is going to regulate the uses. She stated that she cannot imagine telling any farmer in this town that they are going to be held to the number of employees. Chairman Bennett stated that the applicant has already told the Board by exhibit what their needs would be in terms of total employees for agricultural and commercial. Mr. Munaro stated that the exhibit was to show the Board the difference between the 2004 application and today in terms of needs. He stated that the exhibit did not anticipate the future needs. Mr. Ehrenreich stated that they cannot anticipate how many employees they will need at this time.

Ms. Bleznak stated that it is impossible to determine how many people the applicant will need. Mr. Sullivan stated that the harvesting business is not driven by the farm it is driven by the landscaping. Ms. Bleznak stated that the applicant can sell all of that to the farm. Mr. Sullivan stated that the issue is the ability to take this vegetation and track it to offsite locations. He stated that "to install" is the issue. He stated that the limitations would not be to harvest, it would be for the installation.

Mr. Ammerman stated that if the applicant was just farming there would not be a concern. He stated that the concern is the landscaping.

Ms. Bleznak asked if they want to limit how many people they can have to install. Mr. Sullivan stated that they are asking the applicant how many employees he needs. Ms. Bleznak asked if the Board is limiting them from getting out of hand. Mr. Sullivan stated that is correct.

Mr. Ehrenreich stated that his employees carpool and with farm labor in general the drivers license is not a necessity but an option. Chairman Bennett asked the applicant what would be reasonable in terms of number of employees, truck, vans, etc. He asked if the Board went with the number in Exhibit A-2, would that be reasonable. Chairman Bennett asked if the bins were used for the agricultural use of the business or the landscaping. Mr. Ehrenreich stated that the bins are for mulch, which goes around the plants on the farm. Mr. Emmons asked if mulch or stone would be going out of the facility. Mr. Ehrenreich stated that whatever goes out with the plants, but if they need more it will come out of the Maple Shade facility. Chairman Bennett asked if the bins are for onsite use. Mr. Ehrenreich stated that they are used to install the plants. Mr. Ehrenreich stated that if the maintenance crews need mulch material it would come from the Maple Shade facility.

Andrew Feranda, Schroppshire Associates

Mr. Feranda stated that since the 2004 application the snow plow business has been removed and irrigation business has been removed. He stated that this is operating as a nursery facility, not a retail facility where customers are coming in and out of the facility generating traffic. He stated that customers make an appointment to come and see the trees. He stated that most of the work is done off site. Mr. Feranda stated that the workers come to the site. He stated that there are 27 work vehicles on site, 6-10 employee vehicles (office workers and employees that stay on site). He stated that the trucks are used to pick up the workers offsite and then they go to where they have to plant the material. Mr. Feranda stated that the trip generation number for 15 employees they would expect in the range of 37 trips in a peak period, which would be a Saturday. He stated that during the growth season, in the summer during the week there may be 27 trips and during the peak period (highest hour of traffic in and out of the site) on a Saturday would be approximately 37 or less. Mr. Feranda stated that the numbers he used are from the Institute of Transportation Engineers.

Mr. Feranda stated that with 27 work vehicles and 10 employees, he stated that they would anticipate that half of those vehicles would be used for going off and half would be used for going on during any given peak period. He stated that he would anticipate approximately 20 vehicles in and 20 vehicles out during any peak hour.

Mr. Sullivan asked if the property is farm land preserved. Mr. Ehrenreich stated that no. He stated that the surrounding properties are farm land preserved and would like to eventually plant there as well.

Mr. Regn asked if there will be a maintenance agreement for the easement between the Scelba's and Young's. Mr. Ehrenreich stated that there already is one.

Chairman Bennett asked if the revenues from the landscaping business are necessary to support the agricultural. Mr. Ehrenreich stated yes. He stated that the compensation for the installation helps to support the farm.

Mr. Emmons asked if there is any staging for the landscaping business. Mr. Ehrenreich stated that if there is a job strictly with mulching or stone, it would come out of Maple Shade. He stated if it involves planting it would start from this site.

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

*Kathy Hoffman - 321 Main Street*

Ms. Hoffman stated that earlier this year there was an assortment of trees placed at the end of the driveway with a sign that stated "Trees" with a phone number. She asked if this was an attempt to bring the public onto the property to purchase trees. Mr. Ehrenreich stated that the public is not invited to come onto the site, but it was to encourage the public to call and make appointments or to call on phone and make the purchase.

Mr. Emmons asked if trees at the end of the driveway for sale would not take place. Ms. Bleznak stated that the applicant is allowed by law to sell.

Mr. Ehrenreich stated that if it is inappropriate to put the trees out there with a sign they will not do it.

Mr. Sullivan questioned about the sign. Mr. Pagenkopf stated that the applicant is here for the use variance.

Mr. Benedetti stated that the applicant has 26' of frontage to Main Street. He stated that the Scelba's have access to that driveway from their property.

Ms. Hoffman stated that her question wasn't so much about whether the applicant can or cannot have a sign, but was if it is the applicant's intention to open the farm up to the public to come in to purchase landscaping materials, which would bring more traffic onto the driveway at peak times. She asked if it was for people calling to get information about the trees or is there an eventual interest in bringing the public in and opening it up to a come in and buy trees off of the property type business.

Mr. Ehrenreich stated that they do need to sell the trees, but there is no intent to open up a garden type center. He stated that they do need to sell the trees.

Mr. Munaro stated that in selling the trees how big of a business would that be. Mr. Ehrenreich stated that currently and in the near future, it would be a very low occurrence. He stated that economy wise as things mature, he was not sure if they would be able to deliver and install all of them.

*Jim Scelba - 325 Main Street*

Mr. Scelba stated that when they sold the property, the township made them divide the driveway down the middle.

Mr. Scelba stated that as far as the impact of the property, he stated that they have a riding arena which is 40'-50' from the driveway. He stated that they have horse shows in the summer on Wednesdays and Sundays. He stated that the drivers of Young's are very cautious and stop if they see anyone. He stated that he does not see 27 vehicles all day. He stated that there are no traffic problems. He stated that he has a five year old grandson that lives with them and he takes him to ride his motorcycle down the driveway. He stated that it is not a hazardous situation. Mr. Scelba stated that the view is fantastic, and that he can see are trees in his backyard. Mr. Scelba stated that it is disturbing to him that the Board is trying to limit this applicant to make money.

Mr. Munaro asked how many people attend the horse shows. Ms. Scelba stated approximately 30-35 horses. Mr. Scelba stated that his daughter is in and out of the farm with her horse trailer and truck repeatedly and not once have they had anyone have to back up.

Mr. Munaro asked Mr. Scelba about the classes on the farm. Mr. Scelba stated that they had riding lessons with close to 50 horses on the property. He stated that they had riding lessons with as many as 100 per week. He stated that after school kids were in and out every half hour to an hour. He stated that the Young's Landscaping use is less than what they had.

Mr. Pagenkopf asked Mr. Scelba if the land that Young's now owns is existing preserved farm land. Mr. Scelba stated that was incorrect. Mr. Scelba stated that they tried to preserve the land, but there was too much wetlands. He stated that it is farm land assessed but not preserved.

*Ms. Scelba - 325 Main Street*

Ms. Scelba asked the Board what would keep her from buying trees from Mr. Young and selling them out in front of her farm. Mr. Emmons stated that the Board didn't say they didn't want him selling trees they are just trying to figure out what he was doing on the property.

*Len Hoffman - 321 Main Street*

Mr. Hoffman stated that anything that has to do with growing trees should be fine. He stated that if they try and do something other than growing trees, like snow plowing, etc., the Board should stop them then.

At this time Chairman Bennett closed the public portion of the meeting.

Mr. Munaro stated that the property is clearly a farm and nursery. He stated that they bring what they grow off site and are permitted to do that. He stated that they use the offices to plan their business. He stated that there is a grey area between the farm and landscape business. He stated that is why he started off where he wasn't sure if a use variance was needed.

Mr. Emmons stated he would submit to the Board that a use variance is required. That

the applicant has placed on record the negative and positive criteria to meet the request for the use variance and that any motion be conditioned on prohibiting non agricultural uses, which the applicant has agreed to. He stated that the Board will allow any uses that are ancillary to the nursery business, such as the limited landscape business.

Mr. Munaro stated that they would be fine with the condition stating no non agricultural uses, as long as it did not include the installation of the nursery stock.

Mr. Emmons stated that limiting employees and items sold on site would be impossible to enforce.

Mr. Pagenkopf stated he would like to state that no non agricultural uses, such as snow plow, irrigation and maintenance, but they are permitting the sale of concrete pavers as part of the application.

Mr. Evans asked if the concrete pavers come out of this site. Mr. Ehrenreich stated that they are delivered to the sites.

Motion was made by Mr. Evans, seconded by Mr. Pagenkopf, to approve the application with conditions as stated. The vote was unanimous and the motion carried.

Mr. Conway returned to the Board.

Ms. Marinelli returned to the Board.

### **Old Business**

There were no changes.

### **Ordinance**

#### a. 130-36 Home Occupations

Ms. Marinelli asked if Federal Express trucks were included on the first page, Section E. Mr. Emmons stated that is correct.

Mr. Regn had questions regarding section M referring to no clients. He asked what about music lessons or tutoring. Chairman Bennett stated that they need to limit who is coming to the home. Mr. Sullivan suggested make it a condition of the variance. Mr. Conway suggested limiting it to one or two clients per day.

Chairman Bennett stated that section F will help determine on an individual basis on whether to grant or deny a use variance. Mr. Emmons stated that F may be arbitrary.

Ms. Marinelli stated that she feels Section M should be left in there. Mr. Conway stated that he feels it should state one or two clients per day.

Mr. Morton stated that two clients per day between the hours of 9 a.m. and 6 p.m. Mr. Potter agreed.

Mr. Emmons stated that all home occupations are conditional uses and still require Board approval.

Mr. Potter stated that by saying no, the Board will be spending hours upon hours with people who are asking to have a home occupation.

Ms. Marinelli suggested putting in if numerous visitors impairs the area. Chairman Bennett stated that it could read that the residential character of the neighborhood and building should not be changed due to frequency of visits to the home of the type of business proposed. Mr. Emmons stated that is vague. Mr. Emmons suggested leaving Section M in. He stated that it can be adjusted when the applicants come in for a conditional use.

Mr. Conway stated that he feels it should be a number in the Ordinance. He feels that they are restricting people too much and are going to drive people away.

Mr. Ammerman stated that this is protecting the home owners so that they do not have to deal with numerous clients showing up in their neighborhoods. Mr. Conway stated that it would be limited to one or two per day. Mr. Ammerman stated that there is a difference between kids coming into the neighborhood and clients. Mr. Conway asked how you would know if it is clients or someone just visiting the home. Mr. Ammerman stated that it is not a living use of that space it would become public display of that use.

Chairman Bennett suggested passing up to the Committee with their comments.

Mr. Sullivan stated that the governing body ultimately makes the decision.

Mr. Morton suggested that Section M stays in but the last sentence in Section N be removed.

Mr. Emmons asked Mr. Sullivan to take a look at last sentence in Section F. Mr. Sullivan stated that he deleted the for value of adjacent properties because it is tough to prove. Mr. Emmons stated that it should be left in as a guide.

Motion was made by Mr. Conway, seconded by Mr. Evans to recommend the Home Occupation Ordinance with proposed revisions to the Township Committee. The vote was unanimous and the motion carried.

**Public Comment**

There were none.

**Comments from Professionals**

There were none.

**Comments from the Board**

a. Bill List - October & November

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

**Adjournment**

Motion was made by Mr. Conway, seconded by Mr. Morton to adjourn at 10:15. The vote was unanimous and the motion carried.

Respectfully Submitted,

Caryn L. Cutts, Recording Secretary  
Land Development Board

