

**Township of Lumberton
Land Development Board
Regular Meeting
October 20, 2011**

The regular meeting of the Lumberton Township Land Development Board was called to order by Chairman Bennett on Thursday October 20, 2011, 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 20, 2011 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

Robert Bennett, Chairman
Sheldon Evans
Beverly Marinelli, Absent
Robert Morton, Absent
John Pagenkopf, Vice- Chairman
Craig Potter, Absent

Representatives of Governing Body

Mayor James Conway, Jr.
Lewis Jackson
Nancy Bleznak
Thomas Bintliff, Absent
Ed Borm
Sean Earlen

Alternate #1
Alternate #2
Alternate #3
Alternate #4

Solicitor
Consulting Engineer & Planner

Chris Vanette, Esq.
Thomas Cundey, P.E.
Remington, Vernick & Arango
Joseph Petrongolo, L.L.A., R.L.A., P.P.
Remington, Vernick & Arango

Consulting Planner

Board Secretary

Catherine Borstad

Minutes

Meeting minutes for the September 25, 2011 Regular Meeting:

Motion was made by Mr. Pagenkopf, seconded by Mr. Evans to approve the September 15, 2011 Regular Meeting minutes. The vote was affirmative with the exception of Mr. Conway, Mr. Jackson and Mr. Earlen who abstained and the motion carried.

Correspondence

Resolutions

a. 2011-18 Effisolar Energy Corp., Stacey Haines Road, Block 37, Lot 7. Preliminary and Final Major Site Plan for Use Variance. Approved for Use Variance and Fence Variance.

Motion was made by Mr. Evans to approve Resolution 2011-18, seconded by Mr. Pagenkopf. Comments from Ms. Blenzak to amended Resolution according to the following, page 7 (d) stating to the fence line 100' plus or minus, page 7 (j) the site shall be modified to provide a wildlife corridor crossing the site approximately at the center, one side beginning at the roadway, the final location will be coordinated with the board professionals.

Motion was made by Mr. Evans to approve Resolution 2011-18 with amendments, seconded by Ms. Blenzak. The vote was affirmative with the exception of Mr. Conway, Mr. Jackson and Mr. Earlen who abstained and the motion carried.

b. 2011-19 Radwell International, Inc., 111 Mt Holly Bypass, Block 115.04, Lot 2.05. Preliminary and Final Major Site Plan for Use Variance. Continued to October 20, 2011 meeting.

Motion was made by Mr. Evans to approve Resolution 2011-19, seconded by Ms. Blenzak. The vote was affirmative with the exception of Mr. Conway, Mr. Jackson, Mr. Pagenkopf and Mr. Earlen who abstained and the motion carried.

c. 2011-20 Roman, Leeanna, 3 Hopewell Ave, Block 53.01, Lot 3. UseVariance for Keeping of Farm Animals. Continued to October 20, 2011 Meeting.

Motion was made by Mr. Evans to approved Resolution 2011-20, seconded by Ms. Blenzak. The vote was affirmative with the exception of Mr. Conway and Mr. Jackson who abstained and the motion carried.

Items for Action

- a. ***Radwell International***
111 Mt. Holly By Pass
Block 15.04, Lot(s) 2.01, 2.05
I-2 Zone

Applicant has requested this matter be continued to the November 17, 2011 meeting.

Motion was made by Mr. Evans to continue this application to the November 17, 2011 meeting, seconded by Mr. Earlen. The vote was affirmative with the exception of Mr. Pagenkopf who abstained and the motion carried.

b. Ark Road Storage
108 Ark Road
Block 36, Lot 12.01
RI Zone

Mr. McAndrew, attorney for the applicant introduced the application to the board. The application is before the board for completeness only tonight. Mr. McAndrew stated that this application was before the board prior and this application personal storage facility, basically sections 3 & 4, changing the layout and eliminate the tree service building.

In terms of completeness, there are three comments that need to be addressed. First comment is in regards to the 200' list and that will be clarified on the plan, second the use of the facility is the same, personal storage facility and flex building, third was elevation plan for the storage and flex space building, the personal storage buildings will be the same as what currently exists on the site and the flex space building will look like the office building they have for the facility.

Mr. Petrongolo stated they he would recommend to the board that the application be deemed incomplete tonight until they receive the elevation plan for the site.

Motion was made by Mr. Conway to deem the application incomplete, seconded by Ms. Bleznak. The vote was affirmative and the motion carried.

b. Roman, Leanna
3 Hopewell Road
Block 53.01 Lot 3
RA/S Zone

Mr. Piazza, attorney for applicant requested a continuance to the November 17, 2011 meeting due to the board only having 6 voting members at tonight's meeting and five affirmative votes are required for a Use Variance. Mr. Piazza stated that although they are prepared to move on this application they would prefer to wait and have more members eligible to vote.

Motion was made by Mr. Pagenkopf to continue this application to the November 17, 2011 meeting, seconded by Mr. Evans. The vote was affirmative and the motion carried.

c. Ferry, John
Main Street
Block 2, Lot(s) 1,2,3,4,5.01,7,8,9 & 10
B1 Zone

Mr. Kriegel, attorney for the applicant stated that the application before the board was to take 9 non-conforming lots and consolidate them into 3 conforming lots. Mr. Kriegel referred to the board Engineer letter dated October 12, 2011, 2 (A) which refers to the applicants proposed use is not in conformance with the permitted accessory use for the Redevelopment zone. Mr. Kriegel stated that the use is a preexisting use non-conforming use and is grandfathered in. Mr. Petrongolo stated that there are a few accessory uses on these lots that are not in conformance, one is the existing house, two is an inground pool and the third is a garage which is on two different lots.

Mr. Petrongolo stated that there is case law that addresses these types of applications, that if you change the lot size in any fashion a use variance for the pre-existing use would be required. Mr. Kriegel stated that because the use is grandfathered that a use variance would be

not be required and that is their position in this matter. Mr. Petrongolo again stated that a "D" variance would be required for this application.

Chairman Bennett asked Mr. Vanette if he agreed with Mr. Petrongolo that case law indicates that a Use Variance would be required if you change the lot size either by increasing or decreasing the lot size. Mr. Vanette stated that a "D" Variance would be required.

Mr. Kriegel again stated that it is his position that they would not require a "D" variance for the house alone. Mr. Conway stated that he would agree if they were not changing the lot size. Mr. Kriegel stated that they are changing the lot from a non-conforming lot to a conforming lot. Mr. Petrongolo asked what their intent was in regards to the existing pool on the other lot, Mr. Kriegel stated that the pool is not in use and that they would concede to whatever the board would like. Mr. Kriegel stated that there is no intent to develop this parcel. Mr. Conway asked what is the intent of the subdivision, Mr. Kriegel stated that the intent is to sell proposed lot 3 to Mr. Ferry for investment purposes. Mr. Kriegel stated that there are no plans to develop these lots. Chairman Bennett asked what value would the lot have, Mr. Kriegel stated that was for Mr. Ferry to decide and that when he is ready to develop this parcel he would have to come before the board.

Mr. Conway asked why they just did not come before the board for the variance, Mr. Kriegel stated that the additional cost involved and his position is that they did not require a variance. Mr. Petrongolo and Mr. Vanette strongly disagree and they feel a "D" Variance is required for the Use.

Chairman Bennett asked if the garage and pool were demoed would that change the opinion of the professionals, Mr. Vanette stated that they would still need a variance for the dimensions of the lot.

Mr. Petrongolo asked what the applicant proposes to do with the existing garage that appears to be on two separate lots and the setback requirement for this accessory structure is 10 ft and Mr. Kriegel stated that they are going to be demolishing a portion of the garage and that it would then be roughly setback 5' where 10' is required. Mr. Conway asked if they knew that a variance was required for the setback for the garage why did they not notice, Mr. Kriegel stated they are changing the lot line. Mr. Kriegel suggested that it could be addressed in the future when these lots would be developed or move the lot line to make the garage in conformance.

After a lengthy debate it was recommended by the Townships professionals that a variance is required for the Use variance and that the plan that was submitted requires a variance for the Use along with the required for the setback on the existing garage and demo of the inground pool.

Due to lack of notice the board does not have jurisdiction in this matter.

Motion was made by Ms. Bleznak that the application requires variances and that due to lack of notice the board does not have jurisdiction in this matter, seconded by Mr. Earlen. The vote was affirmative and the motion carried.

Old Business

Comments from Professionals

Comments from the Board

1. Bill List

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

Adjournment

At 8:21 p.m. a motion was made to adjourn. The vote was unanimous and the motion carried.

Respectfully submitted,

Catherine A. Borstad
Land Development Board Secretary