

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, May 14, 2012 at 7:03 P.M. in the Municipal Building, Seabrook, N.J.

Vice Chairman, Ed Overdevest called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The News of Cumberland County and filed with the Township Clerk in compliance with said Act.

Present:

Vice Chairman: Ed Overdevest,

Members: Edward Fleetwood, Ernest Holt, Terry O'Neill, Pauline Smith, Scott Smith Russ Vanella, Jack Waselik alt # 1, Louis J. Bramante, Jr. Alt # 2, Anthony Buono, Sr. Alt # 3, Robert Comer, Alt # 4

Staff: Engineer Robert C. DuBois, P.E.,

Planner Randy Scheule, PP, AIC, Solicitor Theodore H. Ritter, Esq., Matthew Ritter, Esq., and Secretary Vicki Vagnarelli.

Township Solicitor Theodore Baker, Esq.

Absent: Chairman Bruno Basile, Gene Stoms,

On motion of Edward Fleetwood, seconded by Anthony Buono, Minutes of April 16, 2012 approved.

On motion of Russ Vanella, seconded by Jack Waselik the following Resolution was adopted & memorialized

**UPPER DEERFIELD TOWNSHIP
PLANNING BOARD
RESOLUTION NO. 4-2012**

WHEREAS, Janice Lupton and Lupton Enterprises, LLC, have brought before the Planning Board a request for interpretation respecting the property located at Block 2401, Lot 41, and 41.01 and known as 210 Landis Avenue; and

WHEREAS, the applicant was represented by Rocco J. Tedesco, Esquire, of Vineland;
and

WHEREAS, the matter came before the Board for a public hearing on April 16, 2012;
and

NOW, THEREFORE, the Board does find as facts the following:

1. The testimony and records of the history of the property indicate that:
 - (a) The property is located in the R-2 Residential Zone;
 - (b) The Upper Deerfield Township Committee, on the application of Louis Totoro, by Resolution dated December 12, 1972, allowed the construction of a mixed-use structure containing two professional offices on the first floor, and a residential use on the second floor;
 - (c) That a second residential use was added in the basement and that that additional residential unit was approved by resolution of the Zoning Board dated May 14, 1990;
 - (d) An application for a variance to use the first floor as a jewelry store was denied by the Zoning Board in 2005;
 - (e) Other uses of the business/office space at the property have included a financial consultant, several real estate brokers, an insurance agency, a hearing aid dispensing business, and a rent-a-center clerical office; and
 - (f) Site Plan Approval for the mixed use site was granted in 1990;
2. Applicant Lupton Enterprises, LLC is a computer consulting service business, which primarily provides network administrative services to customers off-site during which Lupton employees install computers, and file servers, and configure the hardware and software into operating networks at the client's location; and
3. Sales of software and hardware incidental to the principal consulting service business takes place primarily for the off-site clients and in connection with the installation of the software and the configuring of networks at the client's locations; and
4. Incidental hardware repairs are conducted at the place of business, and these repairs are predominately those of hardware taken back from a client's location and worked on in the facility; and
5. Occasional services to the general public are offered, but those sales and

services are a small fraction of the overall Lupton business with average activity levels of not more than two on site service customers a day; and

6. The property measures 201-foot frontage on Landis Avenue, with a depth of 363-feet, yielding approximately 1.7 acres total; and

7. The Site Plan for the property approved in 1990 indicates that there are sixteen (16) parking spaces available; and

8. Lupton Enterprises, LLC, employs four persons, including the company's principals; and

9. No site improvements are proposed, and no structural modifications are anticipated with respect to the structure; and

10. Applicant's counsel argued that the computer consulting business which Lupton Enterprises, LLC proposes to operate from the property would be substantially similar to, and perhaps even less intensive than the prior real estate, and insurance office uses for which the use variance was originally granted in 1972, and those of various other operations which have occupied the property during the intervening forty years; and

11. The Board received and reviewed the following materials:

A. Minutes of a Special Meeting of the Township Committee of Upper Deerfield conducted December 12, 1972.

B. Resolution approving use variance for Louis C. Totoro.

C. Upper Deerfield Zoning Board Resolution 15-1990, granting site plan approval to Edward and Vicky Geletka.

D. July 25, 2005, Resolution denying a use variance to Helen Pramov for the operation of a jewelry store.

E. An excerpt from the tax map.

F. Excerpts from a Contract of Sale between Seller, Frank Catalana and purchaser Janice Lupton which is contingent on municipal approval.

G. The site plan prepared for Edward and Vicki Geletka by Albert A. Fralinger, Jr. PA, bearing a revision date of May 9, 1990.

H. Upper Deerfield Township Planning Board internal memoranda and correspondence from 1990 respecting the site plan filed by Edward and Vicky Geletka.

I. Copy of Zoning Board of Adjustment Resolution #13-1987 regarding a warehouse storage use application which was denied for this same property.

J. Zoning Board of Adjustment Minutes from February 22, 1988, when the Board discussed with property owner Edward Geletka a request to erect a 40' x 30' metal pole barn for storage of antique cars and lawn equipment.

K. Deerfield Township Planning Board Minutes from June, 11, 1990, when the Planning Board granted site plan approval for Edward and Vicky Geletka.

L. A Board of Adjustment of Upper Deerfield Township Resolution from November 27, 1972, by which the Board of Adjustment recommended the granting of a use variance to Louis C. Totoro for the property.

M. A time line covering 1972, through 2005, prepared by Board Secretary, Vicki Vagnarelli.

12. The Board also received and considered the reports of Randall Scheule, PP/AICP, dated March 29, 2012, and April 12, 2012.

13. At the public hearing convened on April 16, 2012, applicant first called witness, Ron Lupton. Mr. Lupton's testimony indicated:

A. 85% of the business's work is conducted off-site.

B. 15% of the business's work is conducted for customers who come in "off the street". These mostly involve servicing computer equipment and, in particular, computer virus elimination.

C. The four employees of the business are: one bookkeeper, one technician on-site, and two computer technicians, including Mr. Lupton, who perform their work at the customer's places of business.

D. The applicant intends to clean-up the building cosmetically, if the acquisition proceeds.

E. Applicant has no plans on expanding the building, nor his business model.

F. Applicant's wife, Janice, will own the real estate, either individually, or through a separate entity.

G. Lupton enterprises, LLC, trading as K-2 Computing, has operated since 1996, and is currently located in the Hopewell Shopping Center.

H. K-2 Computing has not sold any computers in the last three years.

I. The hours of operation of the business would be 9:00 a.m. to 5:00 p.m., Monday through Thursday, and 9:00 a.m. to 3:00 p.m. on Friday. There are no Saturday operations.

K. Applicant testified regarding the layout of the ground floor of the building.

L. The business would receive one delivery a day from UPS, and one delivery a day from Federal Express.

14. Applicant next called current building owner Frank Catalana who has owned the building since May, 1990. Mr. Catalana personally occupied the building for approximately six years in the early to mid 1990's.

15. Mr. Catalana testified as to the identity of the prior occupants of the business

office space at the building.

16. Mr. Catalana testified that when Paula Austin had her State Farm Insurance Office in the building, she regularly received visits from fifteen (15) to twenty (20) customers per day.

17. The Board next heard from Board Planner, Randall Scheule, who referenced his report of April 12, 2012, and who recommended that the application be deemed complete on the request for interpretation. The Planner also discussed the parking, the lighting on the building, and the need for a trash storage area.

18. The Board deemed the application complete.

19. Opponents to the application next testified. The first objector was Chris Samuels who lives on the property next door immediately to the East. Mr. Samuels feared that the K-2 Computer operations may expand into sales of other retail products.

20. Jeremy Warburton of 217 Landis Avenue has lived across the street from the building for eight (8) years. He testified as to the activity levels in the subject building during the time he has lived across the street. He expressed concerns regarding the traffic, delivery vehicles, the intensity of walk in customers, and the public policy incorporated in the development ordinance discouraging the continuance of non-conforming buildings and uses. He opposes the application.

21. The next witness to testify was Gasper Sparacio of 219 Landis Avenue, who also opposed the application and who testified regarding promises made to him and other neighbors by the original developer of the site, Louis Totoro, who promised to erect a colonial style residential structure, but who ended up building a box-like commercial structure.

22. The next witness to testify was Bruce Peterson who is a neighbor of K-2 Computers at its present location on Shiloh Pike in Hopewell Township. Mr. Peterson is a customer of

K-2 Computers, and testified that there is almost no foot traffic at the present location, and virtually no retail sales occur there.

23. The next member of the public to testify was Tom Connolly who is concerned with glare and asked that any relief being granted to applicant be conditioned on full cut offs being added to all exterior lighting.

24. The next witness to testify was Mary A. Dean, a licensed Real Estate Broker with twenty-six years experience. At the beginning of her career, she was associated with the realtor operating from this location. She is also a customer of K-2 Computers. She testified that this is a commercial building, and a separate vacant lot goes with it. Six photos of the building were introduced as exhibits, by applicant's counsel during the testimony of Mrs. Dean.

25. Mrs. Dean further testified that applicant has had this property listed with her for rent or sale for a long time, but due to the lagging area economy it has been difficult to find a purchaser or tenant.

26. Upper Deerfield resident Nancy Ridgeway testified that she would welcome applicant to Upper Deerfield.

27. At the conclusion of the testimony, the Board discussed the application. The Board discussed and applicant's counsel indicated applicant's consent to potential conditions of an approval for the issuance of a zoning permit to K-2 Computers to occupy the business offices at 210 Landis Avenue. Those conditions would include no over-the-counter retail sales of electronic devices, installation of full cutoffs for exterior lighting, striping the parking lot, and erecting a suitable trash storage area.

28. The Planning Board has carefully considered the evidence and finds that the K-2 Computing operation proposed for 210 Landis Avenue conform to and fall within the scope of

permission granted for the uses originally permitted by the use variance granted in 1972. The Board finds that good cause exists for the granting of the request for interpretation allowing the issuance of a zoning permit.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Upper Deerfield that Janice Lupton and Lupton Enterprises, LLC are hereby granted a zoning permit for the transfer of business operations to 210 Landis Avenue, in the R-2 Zone, subject to the following conditions.

1. That applicant will not maintain display merchandise for sale, nor engage in over-the-counter retail sales of electronic devices or computer software. This restriction shall not, however, prevent applicant from selling computers, computer devices, or accessories, as an incidental aspect of applicant providing computer consulting services to its customers. Furthermore, applicant is entitled to construct and sell specialty designed computer units for its computer consulting clients.

2. That full cutoffs be installed on existing exterior lights to prevent spillover of light onto adjacent residential properties.

3. That the parking lot be re-striped.

4. That applicant construct a suitable trash and recyclable storage area with screening that meets the reasonable satisfaction of the Upper Deerfield Township Planning Board engineer and planner.

5. All signage meet the Upper Deerfield Township sign ordinance.

BE IT FURTHER RESOLVED that a certified copy of this resolution be furnished to applicant, and notice of this action be advertised as required by law.

BY: _____
Bruno Basile, Chairman

Attest: _____
Vicki Vagnarelli, Secretary

Memorialized: May 14, 2012

Roll Call

Bruno Basile – Absent	Ed Overdevest – Aye
Russell Vanella – Aye	Ed Fleetwood – no vote
Pauline Smith – no vote	Ernest Holt – Abstain
Terry O’Neill – no vote	Scott Smith –absent
Gene Stoms – Absent	
Jack Waselik, Alt #1 – Aye	Louis J. Bramante, Jr., Alt #2 – Aye
Anthony Buono, Sr., Alt #3 Aye	Robert Comer, Alt #4 - no vote

APPLICANT/DEVELOPMENT

Community Health Care, Inc. d/b/a Complete care Health Network, (inside Shoprite) Sign Variance C-2
Mr. Theodore Baker heard application as Mr. Theodore and Matthew Ritter had to recuse themselves. Louis Bramante Board member recused himself from hearing application.

Mr. Michael Gruccio represented applicant along with Community Health Care Robert Moran, V. President of Facilities/Corporate Compliance. Mr. Gruccio discussed application with Board with Mr. Moran answering questions relating to Community Healthcare and the importance of visible signage.
On motion of Ernest Holt, seconded by Jack Waselik, Completeness was Granted.

Roll Call

Bruno Basile – Absent	Ed Overdevest – Aye
Russell Vanella – Aye	Ed Fleetwood – no vote
Pauline Smith – Aye	Ernest Holt – Aye
Terry O’Neill – Aye	Scott Smith – Absent
Gene Stoms – Absent	
Jack Waselik, Alt #1 – Aye	Louis J. Bramante, Jr., Alt #2 – Recused
Anthony Buono, Sr., Alt #3 Aye	Robert Comer, Alt #4 - no vote

After further discussion regarding sign size, square footage, percentage continued on motion of Anthony Buono, seconded by Jack Waselik the public hearing portion was opened.

Mr. Connelly: sign should be on roadway, drivers take eyes off road to see sign back off road, consider this a safety hazard

Nancy Ridgway: familiar with service recommends allowing sign on front of store

Being no other persons came forward for or against applicant on motion of Pauline Smith, seconded by Jack Waselik the public portion was closed

On motion of Jack Waselik, seconded by Pauline Smith the Board approved the application for C-2 Sign Variance.

Bruno Basile – Absent

Russell Vanella – Aye

Pauline Smith – Aye

Terry O’Neill – Aye

Gene Stoms – Absent

Jack Waselik, Alt #1 – Aye

Anthony Buono, Sr., Alt #3 Aye

Ed Overdevest – Aye

Ed Fleetwood – no vote

Ernest Holt – Aye

Scott Smith – Absent

Louis J. Bramante, Jr., Alt #2 – Recused

Robert Comer, Alt #4 - no vote

Sherrri Dare Perella – Letter request Extension of Minor S/D lot line relocation 2002/1 & 1.02 res. 20-2011 memorialized 11/21/11. Mrs. Perella did not attend meeting; was to send a letter stating she will not be requesting the extension and will let the Minor S/D expire as she is now going through an attorney who will draw an easement agreement between the neighbor and herself. The letter has not been received at this time.

PROFESSIONALS/COMMITTEE/COMMISSION

Lou Joyce, Planner Consultant – Presented for discussion Revisions to Ordinance for Redevelopment Area Ordinance amending Chapter 405-57 of the Code of the Township of Upper Deerfield (conditional use for large scale retail) and Ordinance Amending Chapter A40 of the Code of the Township of Upper Deerfield with Respect to the Redevelopment Plan of the Township of Upper Deerfield, Section VI(A)(2) with Regard to Smart Growth Planning. Once Township Committee introduces the Ordinances the Planning Board will then review for consistency to the Master Plan.

Randall Scheule, Planning Board Planner

Sign Ordinance – gave the Board section A-J for review and further discussion at May 21 meeting.

Revisions of Planning Board Application – Planner Randall Scheule and Secretary Vicki Vagnarelli have been reviewing application form/packet to better serve Upper Deerfield Township.

Ed Overdevest – Zone/Open Space Vacant land study Subcommittee Chairman - meeting after Planning Board meeting and will have informal information at May 21 meeting.

PUBLIC COMMENT

Mr. Connelly requested clarification on earlier sign discussion

BOARD MEMBER ADDITIONAL INFORMATION/CORRESPONDENCE

Letter CC Dept. of Planning & Development dated 4/25/12 – to inform Jeffrey & Deborah Garton have enrolled property Block 603 Lots 8 & 9 into permanent farmland preservation

Being no further business on motion of Ed Fleetwood, seconded by Ernest Holt the meeting was adjourned at 8:41pm.

Respectfully Submitted

Vicki Vagnarelli