

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, May 16, 2016 at 7:00 pm in the Municipal Building, Seabrook, N.J.

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 Daily Journal and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

**Present:**

Chairman: Ed Overdevest

Vice Chairman: Russ Vanella

Members: Ed Fleetwood, Terry O'Neill, Jack Waselik, Joseph Spoltore, Anthony Buono, Robert Comer, Laura Hayes alt 1, Michele Mooney alt 2, Kenneth Jackson alt 3

**Staff:** Engineer J Michael Fralinger, Jr. PE, CME, Planner Randy Scheule, PP, AIC,

Solicitors Theodore H. Ritter, Esq., Matthew Ritter Esq., and Secretary Vicki Vagnarelli

**Absent:** Scott Smith,

On motion of Ed Fleetwood seconded by Robert Comer minutes of May 9 approved.

**APPLICANT/DEVELOPMENT**

P4-16 Frank Bender - 1102/6 & 6.01, 353 Old Deerfield Pike Use Variance Minor S/D lot line change -lot 6 has existing dwelling and lot 6.01 is a vacant single family dwelling lot

Attorney, Howard Melnicove represented applicant. Chairman Overdevest recused himself from the hearing and sat in the audience as he lives near the property. Mr. & Mrs. Bender both were working and unable to make meeting. Attorney Howard Melnicove gave explanation regarding the application and on motion of Terry O'Neill seconded by Jack Waselik the Board Approved Completeness.

**Roll Call**

Ed Overdevest – recused

Russell Vanella – Aye

Ed Fleetwood – Aye

Terry O'Neill – Aye

Scott Smith – Absent

Jack Waselik – Aye

Joseph Spoltore, Aye

Anthony Buono, Sr. Aye

Robert Comer, Aye

Laura Hayes, Alt #1 Aye

Michele Mooney, Alt #2 no vote

Kenneth Jackson, Alt #3 no vote

Vacant Alt # 4

Attorney Melnicove listen to the 2005 tapes as professionals at that time did not create a hard copy review and Board Resolution # 37-2005 does not address the use to which the newly created lot was intended to be put. Tapes did not reference Use Variance.

Patricia Bierbrunner was present to testify she is and has been the owner of lot 6 for more than 30 years and gives consent to the lot line adjustment making her lot smaller. Patricia Bierbrunner came before the Board in 2005 creating lot 6.01 which later transferred ownership to the applicant, her son Frank Bender. Mr. Bender would like to put a single family dwelling and by adding the additional land he would be more centrally located in between Mrs. Bierbrunner house and dwelling on lot 5. Per Planner Scheule believes 2005 took care of building not on an approved lot as it was approved along with Cross Easement and additionally already created a residential lot. It did not create a new variance by creation of new lot 6.01.

He believes justification for D2 Variance which is normally sought when request is to reduce size of preexisting non conforming use. There was discussion and questions such as : is drive wide enough for emergency vehicles, Board member wants box on access road to be 12'x12' giving easy access for emergency vehicles, number of existing homes and is easement sufficient.

Attorney Melnicove's opinion varies from what Planner Scheule believes. He believes in the 2005 subdivision whether use variance was considered or not the lot was created only to be used for residential purposes given the size. Believes in 2005 they may not have recognized application was a conditional not permitted use. Solicitor Ritter informed the Board applicant needs to know whether they can or cannot build a house on the lot. Further question and discussion was taking place and Attorney Melnicove informed Board someone can make motion to grant Use Variance and avoid question as to what intent was in 2005. Solicitor Ritter recommended that to happen.

On motion of Anthony Buono seconded by Jack Waselik the public hearing was opened

No one came forth for or against applicant so on motion of Ed Fleetwood seconded by Anthony Buono the public portion was closed.

On motion of Jack Waselik seconded by Robert Comer the Use Variance was Granted.

**Roll Call**

Ed Overdevest – recused	Russell Vanella – Aye
Ed Fleetwood – no vote	Terry O'Neill – no vote
Scott Smith – Absent	Jack Waselik – Aye
Joseph Spoltore, Aye	Anthony Buono, Sr. Aye
Robert Comer, Aye	
Laura Hayes, Alt #1 Aye	Michele Mooney, Alt #2 Aye
Kenneth Jackson, Alt #3 no vote	Vacant Alt # 4

On motion of Jack Waselik seconded by Joseph Spoltore the Minor Subdivision with D2 Variance was Granted

**Roll Call**

Ed Overdevest – recused	Russell Vanella – Aye
Ed Fleetwood – no vote	Terry O'Neill – no vote
Scott Smith – Absent	Jack Waselik – Aye
Joseph Spoltore, Aye	Anthony Buono, Sr. Aye
Robert Comer, Aye	
Laura Hayes, Alt #1 Aye	Michele Mooney, Alt #2 Aye
Kenneth Jackson, Alt #3 Aye	Vacant Alt # 4

P2-16 Luciano Chiarelli - 2102/4.03 166 Woodruff Road Use Variance (has variance plan) to permit parking of dump truck type vehicles on property located in Ag zone to be used for business not associated with ag operations upon parcel & Waiver of Site Plan (Tabled 3/21 meeting)

Attorney Howard Melnicove represented Chiarelli along with Luciano and John Chiarelli

Exhibits entered into evidence during completeness discussions are as follows:

App 1 5/16/16 – Resolution 16-1988

App 2 5/16/16 – photo #1 imagery date 6/21/2015 aerial view

App 3 5/16/16 – photo #2 showing South part of same area–has no date aerial view

Rather than a formal site plan the applicant has a variance plan and Chairman Overdevest questioned this.

Engineer Fralinger believes this is sufficient with what applicant proposes and Planner Scheule agrees.

After further discussion on motion of Robert Comer seconded by Anthony Buono application was found to be complete

**Roll Call**

Ed Overdevest – Aye

Ed Fleetwood – no vote

Scott Smith – Absent

Joseph Spoltore, Aye

Robert Comer, Aye

Laura Hayes, Alt #1 Aye

Kenneth Jackson, Alt #3 Aye

Russell Vanella – Aye

Terry O’Neill – no vote

Jack Waselik – Aye

Anthony Buono, Sr. Aye

Michele Mooney, Alt #2 Aye

Vacant Alt # 4

The Board, Applicant and Attorney Melnicove discussed technical portions of application with regard to Use Variance. App 4 5/16/16 –Chiarelli Application Comparison **was Not entered into Evidence** used only for purpose to refresh John Chiarelli’s memory.

John Chiarelli was first witness Attorney Melnicove questioned him regarding App#2, pole barn purpose/activities, where trucks park, if drivers leave cars, stone area, shared use facility, size, configuration, engines, of semi trailers, dump trucks, length, weight, sound, speeds, light in back of garage, hydraulic, farm equipment, sale to Luciano 3 yrs ago, minor truck repairs, 1988 6 truck approval, Next witness was applicant Luciano Chiarelli and further questioning along with above questioning was related to Chiarelli Paving activities, hours of operation, time various drivers leave and return, changes made to site after purchase, Woodstown office, App3 5/16/16 describe what is on property, vehicles turning left or right, how long office trailer has been there, where trucks go for major repair, light repair as tires, lights, oil change, sometimes brakes work in shop, why certain equipment was on property, crushed stone, top soil on property,

Solicitor Theodore Ritter introduced 16 exhibits and questioned Luciano Chiarelli regarding them:

- BD 1 5/16/16 – photo dated 10/09/2015 – barn bldg, trailer (that’s now been removed),
- BD 2 5/16/16 – photo dated 10/09/2015 –wheeled vehicle, office with steps, C & H dumpster
- BD 3 5/16/16 – photo dated 10/09/2015 – four private vehicles belong to drivers
- BD 4 5/16/16 - photo dated 10/09/2015 – same truck as in BD 1
- BD 5 5/16/16 – photo dated 10/09/2015 – type of power box GEHL with Chiarelli Paving sign on it
- BD 6 5/16/16 – photo dated 10/09/2015 – dump truck Chiarelli Paving
- BD 7 5/16/16 – photo dated 10/09/2015 – Peterbilt dump truck
- BD 8 5/16/16 – photo dated 10/09/2015 – semi trailer w steps
- BD 9 5/16/16 – photo dated 10/09/2015 – Ford pickup truck w hand tools in back and broken concrete
- BD 10 5/16/16 – letter from Housing and Zoning Code Officer, Edward P. Fleetwood, Jr. dated Oct. 9 2015
- BD 11 5/16/16 - letter from Housing and Zoning Code Officer, Edward P. Fleetwood, Jr. dated Oct. 23, 2015
- BD 12 5/16/16 - letter from Housing and Zoning Code Officer, Edward P. Fleetwood, Jr. dated Nov. 25, 2015
- BD 13 5/16/16 - letter from Housing and Zoning Code Officer, Edward P. Fleetwood, Jr. dated Dec. 16, 2015
- BD 14 5/16/16 – change in court date notice (2 complaints)
- BD 15 5/16/16 - photo dated 04/01/2016 five of six trucks moved to back
- BD 16 5/16/16 - photo dated 04/01/2016 three trucks, storage shed, office trailer
- BD 17 5/16/16 - photo dated 04/01/2016 side of barn bldg, three parked trucks, C & H dumpster

Mr. Luciano Chiarelli was questioned regarding each of the photos, objects in photos and the letters, etc. Witness Donna Hamb 166 Woodruff Road has lived at residence for 26 months testified in support of the applicant, testified hears sometimes in morning but they creep through driveway with lights off, hears between 3 :00-5:30, level of noise does not bother her.

On motion of Robert Comer seconded by Russell Vanella the public portion was open. Solicitor Ritter brought forward UDT Housing and Zoning Code Officer, Edward P. Fleetwood, Jr. to give testimony regarding photos and letters.

Mr. Kenneth Cymbalisky came before the Board to testify. He entered into evidence six exhibits as follows;  
KC 1 5/16/16 – two photos (top/bottom) top photo shows horses in and out of building, bottom photo Mr. C. is South of Chiarelli Paving property, home right rear of picture, dump truck, small shed, house in rear  
KC 2 5/16/16 - two photos (top/bottom) top photo shows closeness to neighbors home, bottom photo view of road, homes on left and Hopewell and Centerton Nursery Ag businesses on right,  
KC 3 5/16/16 - two photos (top/bottom) top photo shows building with 1 vehicle in and 1 partially out, several other trucks, bottom shows hard packed large parking area and Mr. Cymbalisky home and property in distance.  
KC 4 5/16/16 - zone map  
KC 5 5/16/16 – public notice  
KC 6 5/16/16 - two photos (top/bottom) top photo shows horses, in back can see Chiarelli building and trucks that were in KC 3 top photo, bottom shows another entrance to Hopewell Nursery

Mr. Cymbalisky comments were as follows: moved to the Township in 2009 and loved neighborhood, was able to have horses and watch Springbrook farm the farmland. (Springbrook leases from Mr. Cymbalisky and Mr. Chiarelli). He relays to the Board now five years later he is ashamed of where he lives, has backyard of eight trucks, always maneuvering, extremely noisy and un-farm like, nearly every day maintaining their fleet, maintenance building has three power transformers or booster on power line, sometimes sparks fly out from welding repair on truck for over an hour, changing tires sound like machine gun, awaken as early as 3am to diesel trucks being warmed up & can hear quarter mile away, presented to Mr. Spoltore several months ago page showing 10 neighbors signed agreeing Chiarelli Paving is construction business and belong where zone is commercial not residential,

Due to time restraints public hearing will continue June 13.

Being no further business on motion of Robert Comer seconded by Waslik meeting closed at 10:03pm

Respectfully Submitted

Vicki Vagnarelli