

A REGULAR MEETING OF THE PLANNING/ZONING BOARD OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY WAS HELD ON MONDAY, MAY 16th, 2016 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Messrs. Walter, Conrads, Pearson, Morgan, Mrs. Brothman, Mrs. Smith, (vacancies)

ABSENT: Mr. Disabunjong

ALSO PRESENT: Ursula Leo, Attorney

The meeting was called to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of the meeting in the N.J. Herald and by posting copy of notice in the Borough Hall.

The Oath of Office was administered to Councilman Peter Pearson, Class III member.

A MOTION was made by Mr. Conrads, seconded by Mayor Morgan to adopt the following Resolution. Upon roll call the following vote was cast: AYES: Smith, Pearson, Walter, Morgan, Brothman, Conrads. NAYS: None. Motion carried

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss: attorney client privilege review of legal requirements.

NOW, THEREFORE, BE IT RESOLVED that the Andover Borough Planning and Zoning Board will go into closed session: 7:01 p.m.

A MOTION was made by Mr. Pearson, seconded by Mr. Conrads to resume the public portion of the meeting. Upon roll call the following vote was cast: AYES: Smith, Pearson, Morgan, Walter, Brothman, Conrads. NAYS: None. Motion carried: 7:15 p.m.

MINUTES:

A MOTION was made by Mayor Morgan, seconded by Mr. Conrads to approve the minutes of the reorganization meeting held on January 25, 2016. Upon roll call the following votes were cast: AYES: Conrads, Walter, Brothman, Mayor Morgan. NAYS: None. ABSTAIN: Smith and Pearson

AUDIENCE PARTICIPATION: Chairman Walter opened the meeting to the public and that affirmed that three minutes would be provided to each person who would like to participate.

Mr. Eddie Marzigliano owner of His and Hers store explained he was at the meeting to respond to a complaint that they received from the zoning officer. Mr. Marzigliano stated he didn't know what the issue was as he contends that everything that he is doing with his business was already approved by the board.

The Board Attorney explained that while a notice of violation was sent by the zoning officer and that this board does not have jurisdiction to hear complaints from zoning officer determinations and that Mr. Marzigliano could appeal the decision of the zoning officer.

Heather Carlson also an owner of His and Hers store stated that the resolution and meeting minutes did not completely reflect all that was said at the meeting and that half the meeting was not recorded.

Mr. Marzigliano stated that the issue was that the zoning officer was writing violations for things that were on a resolution that is not correct. He continued to explain that they were about to lose their business because of this violation.

The Board attorney stated that she did prepare the resolution and it was based upon the meeting minutes and that there is a 45 days from the adoption of the resolution to appeal it. It was then established that the business was operating for two years since that resolution was adopted.

Mr. Marziliano stated that he felt the Board did not follow the regulations and that without the extra income from the outdoor sales they would be closing.

The Mayor responded by explaining that he was present for both of the application meetings for this business and there was a lot of discussion when they took over the second part of the store. He recalled the discussion dealt with putting items on the grassy area that would come out of the store and be for sale from the store. Mayor Morgan stated that the resolution indicates that the items will be brought into the store each night. Mr. Marzigliano disagreed. Mr. Marzigliano said that the box truck is an extension of the store for overflow so what is the difference if it goes into the store or into the box truck.

The Board attorney then stated that the details of the resolution could not be heard during this meeting and that the Board has been advised that they could hear their and the publics concerns but they have no jurisdiction to make any decisions on the matter. Mr. Marzigliano said they should have been told that when they called the town. Mr. Marziliano then directed his comment to the planning board secretary by saying that they would be put on the agenda first. Mrs. Brothman, board secretary replied by explaining that he was told that the audience participation would be at the beginning of the meeting and that during a conversation with Ms. Carlson she explained that in order to get a decision from the planning board they would need to file an application to amend their resolution or appeal the zoning officers decision. Mr. Marzigliano stated that would mean they would have to pay money and go through the process again like they were a brand new store even though he felt everything was approved and the board conveniently say it was not and that's another small business going out of Andover. He then directed his comment to the Mayor, stating that the board is "running another store out of Andover because they don't like small businesses". The Mayor stated that Andover does like small business. Mr. Marzigilano stated that it doesn't show because they do nothing for them.

The Mayor then stated that when the sale that is being run on the weekend, it looks like a junk yard in back of the store. Mr. Marzigliano did not agree and said there are people in the room that are very satisfied with his "outdoor junk yard". The Mayor further explained that it's not what they are selling it's the refuse during the sale. Chairman Walter also agreed with the Mayor. Mr. Marzigliano continued by saying that his sidewalk sale brought in over 500 people the week he received the letter and while the zoning officer was "on his death bed".

Upon being told that the three minute time limit was over, Mr. Marzigliano stated that he will see the board in court because he felt the board was shutting them down completely and they will have to do what they have to do.

Frances Mulbrook then spoke and stated she is a shopper and her concern was that this operation was described as a junk yard and whenever the Andover Borough Fire Department has a flea market someone could say the same thing about that too. She was excited about this store and if the Board wants this town to have pride in itself and wants business and give people more reason to come here then they have to give them a reason to come here. She felt that even though the Board said they could not take action and has no recourse that they could influence whoever does the zoning.

In an effort to make clear the understanding of the matter, the Board Attorney explained that there are two resolutions and that they define the parameters of the outdoor sales and that the violations issued was due to a violation of those defined parameters.

Kim Halle spoke on behalf of the owners of His and Hers store by explaining that she knows this town because of this store and refers friends and family to this area. She said she took it offensively that it was described as a junk shop and loves coming there on Sundays. She stated that maybe it was time for a new resolution and for this town to step up and try to change how it things are done.

Kim Hawke also spoke on behalf of the owners of His and Hers store and stated that she has personally bought new items from them and has a seen a resurgence in Andover. She felt that this kind of business is responsible for that change and if the Board forces business like these to vacate then it will wind up with a ghost town with drug problems and crime. She also stated that the Board was doing a great job and knows that the Board wants success for the community and it's headed in that direction and asked that they don't stop that momentum.

Gary Bender who resides at 199 Andover Sparta Road stated he brings a lot of people to this area to the His and Hers store as well as Andover Hunt and Fish and he thinks it's a sad thing that small businesses are affected financially. He did not see any safety factors and that ultimately it's bringing business to the community. He continued to say that he feels they do a great job, clean up every week; its only one day a week and people like to go.

Roger O'Connor, 29 Gore Road, Roxbury also spoke on behalf of the His and Hers store. He stated he found it while driving through town two years ago. He looks forward to going there; he spends a lot of money there and likes supporting good people decent hardworking people. He doesn't think it's fair what is going on and there are many empty stores. He continued to state that if they are no longer here then he has no reason to come here and it's a shame that this town could be a nice place.

Sheri Arnold owner of Made in the Shade at 124 Main Street mentioned that she too has received summons in the past and suggested that the Board explain what the owners of His and Hers can do to resolve this problem. She was sure that if the Board wanted the items on tables and neat in the yard that it could be done.

The Board Attorney explained the issue at hand is that there is a Resolution that explains in detail the limitations and that she believed the owners of His and Hers are at the meeting is because they disagree with those limitations. She further explained that the Board did allow for outdoor sales.

Tom Morris, 62 Bennington Drive, East Windsor NJ explained he has been in municipal work for 33 years in various roles. He applauded the Board for the work they do, but feels that there is some confusion as what the resolution says and what the owners of His and Hers related. He explained that his daughter and her boyfriend are honorable people and are trying to do the right thing. They rented the store next door and came before the Board for that and outdoor sales once a week. He understood that there is protocol and regulations but he felt that there is a disagreement between what happened and didn't happen. He mentioned he thought the tape was to create the resolution and was told it wasn't. He then sought some clarity for the purpose of the tape which he felt there was some discrepancy. He also felt the letter from the zoning officer advising of the violation was too harsh.

Lori English, 33 Northshore Road, owner of the Scranberry Coop on Route 206 spoke about the outdoor sales at her business and asked if they don't have the same kind of resolution as she has what they can do to comply and how they can go about that kind of sale.

The Board attorney explained that they do have specific requirements for their outdoor sales and that they can discuss the matter with the zoning officer.

Ed Kazar, 19 Woodfield Road, Andover, owner of Andover Hunt & Fish stated he also has received letters and that he wanted to know if Bill could call him and meet with him to talk about his outdoor displays. He was having difficulty getting in touch with the Zoning Officer. He wants to work with Bill to fix the issues so he could be successful. He also felt a call or stop by would be better than the letters of violation.

Marybeth Scheerer, 19 Penn Avenue stated she supports Ed and his business. She is an art teacher and buys good American made tools that she could not afford anywhere else. She sees other people stopping by and feels they are a good part of the community and she doesn't consider it junk.

Rocky Rich, 99 Goodale Road, Andover Township he stated he has an interest in a business in Andover Borough which is a T-shirt shop and that he feels that the mood is that small business is against the town. He then directed his attention to the Mayor asking about a liaison to the businesses or an Economic Development Committee who could provide a kinder, gentler approach and not letters of violations. He then asked if a letter had ever been sent out to a business who decorated their business for the holidays nicely or is it only an adversarial relationship. He asked that there could be some cooperation and not the letters of violation which makes it seem like "us against them".

Kim Hawke, who spoke earlier, asked if it would be appropriate for someone on the board could raise the question to revisit this resolution without someone from the public to have to pay money to revisit this matter.

Chairmen Walter asked if there was anyone else who wished to speak to which there was no response. He then called for a motion to close the audience participation.
A MOTION was made by Mr. Conrads, seconded by Mr. Pearson to close the audience participation portion of the meeting. AYES: All in favor. NAYS: None. Motion carried.

CORRESPONDENCE: None.

ENGINEER REPORT:

C. Stoner presented his report for Crossed Keys Inn, 136 Main Street, block 11 lot 2 re: report of reviewed revisions of site plan submitted by Robert L. Campbell & Assoc. Inc. Mr. Stoner confirmed that new plans have been submitted and are satisfactory.

FORMAL APPLICATION HEARINGS:

TYPE: Preliminary & Final Site Plan – “C” Variance
APPLICANT: Marksmen Enterprises, Inc.
PROJECT NAME: Marksmen Enterprises, Inc. – Sales and Operations
LOCATION: 34 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE: Block 5 Lot 6 Zone: C-3
EXISTING USE: Retail fence and shed sales
PROPOSED USE: Site Remediation & Septic Business Office with sales & associated truck / equipment parking & material storage

Mr. F. William LaVigne attorney for the applicant approached the Board on behalf of the applicant, Mr. Mark Nixon and with him was Mr. Alan Campbell the Engineer for the project. The applicant, owner of Marksmen Enterprises, LLC and Mr. Campbell were sworn and testified. The applicant address of record is 24 Sally Harden Rd., Wantage, NJ. Prior to beginning his testimony Mr. Campbell affirmed his licenses are current.

Mr. Campbell began the review of the site plan which will be done in three phases on the three acres in the Borough. Exhibit A-1 was presented which showing the pretreatment of septic services and some display area. The site currently has an entrance and exit and existing building. They will reconfigure the parking and use the building for the sales and services of septic services, septic components and custom components and remediation. The display area is more for orientation so the consumer can visualize the usage as they are for unique circumstances.

The rest of the site is basically status quo as far as equipment storage and vehicle parking. The building that is there now is Phase One and is status quo. There was no proposal for any display in front of the fence and only landscaping and the site is being cleaned up at present. It was also explained that all the fencing will be repaired or replaced. In Phase Two, includes the outdoor display and landscaping with upgrade to lighting. A 30x60 foot building will be installed and is shown on A-1 and will begin when Marksmen has the financial ability and opportunity to complete that phase. After they have perfected the building, at that time they would propose to color match the building, in the beige and browns so there is matching colors. This would be a storage building of inventory and maybe a forklift. In Phase Three, includes a 40x60 foot building for larger equipment.

The Engineer confirmed that the submission has met his review requirements and that he did not believe a Use Variance was required at this time. He also confirmed the existing building will only have some basic clean up and improvements. The freestanding sign while a basic plan was submitted could be considered at this time.

The Engineer directed his attention to the wetland buffer. The Phase 1 and Phase 2 portions are outside of the 150 foot buffer and no wetland permit is involved. The Phase 3 building is within the buffer and will need a Fresh Water Wetland Transition area permit.

There was some discussion as the amount of vehicles and employees. The applicant testified that he will have 8-10 employees with 9 employee parking. One tractor trailer and 2-3 trucks all behind the fence area and not in the storage or display area. It was also mentioned that a total of 5 sheds are being removed during the phases to include the larger buildings and that there would be no fuel storage on the property and that after Phase 3 they would like to do their own oil changes.

The meeting was opened to the public. Mr. Richard Mooney, 5 Ridge Road spoke of his concern with the entrance to the location. He felt a tractor trailer and tandems could not make a left turn without creating a

hazard for oncoming traffic. It was proposed that perhaps a sign notifying traffic of the entrance could be installed. As this is a State road, there is a protocol for obtaining and installing signage. Mr. Campbell will provide documentation that they have pursued the installation of a sign.

Mr. Charlie Garland, Chairman for the Forest Lakes Water Co. asked why was there not an environmental impact statement done. It was reiterated that they did ask for a waiver of the EIS and that Marksmen is in the remediation business and will be doing a significant cleanup which will improve the current area significantly. Furthermore, the proposed use is not significantly different than the current use.

The meeting was then closed to the public.

A MOTION was made by Mayor Morgan, seconded by Mrs. Smith to approve a Resolution for preliminary and final site plan approval with variance relief for the fence and signage. Upon roll call the following votes were cast: AYES: Conrads, Pearson, Smith, Walter, Morgan, Brothman. NAYS: None. Motion carried.

WHEREAS, Marksmen Enterprises, LLC has made application to the Andover Borough Planning/Zoning Board for preliminary and final site plan approval with variance relief for property known as Block 5, Lot 6, as shown on the Tax Map of the Borough of Andover, located on 34 Main Street, in the C-3 Commercial and Limited Industrial Zone; and,

WHEREAS, pursuant to N.J.S.A. 40:55D-25, the Borough of Andover has by ordinance established the Andover Borough Planning/Zoning Board which has dual powers of planning and zoning; and,

WHEREAS, a public hearing was conducted on May 16, 2016, after the Board determined it had jurisdiction; and,

WHEREAS, the applicant was represented by F. William LaVigne, Esq.;

NOW, THEREFORE, the Planning/Zoning Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

Professional Engineer Allen J. Campbell and Mark Nixon appeared representing the applicant, Marksmen Enterprises, LLC. Mr. Campbell gave an overview of the property and Mr. Nixon provided some details as to the operations to be conducted. The site plan was explained to the Board and it was indicated that the current fencing company site will be reconfigured and will be utilized for septic and remediation sales and service. Parking will be upgraded and there will be no increase in impervious surface or disturbed area. The existing debris on the site will be removed and no display will be placed in front of the existing fencing on the property. The applicant's existing property on Limecrest Road will remain as the administrative center, and this new property will serve for sales and services for Marksmen Enterprises, LLC. There are existing variances on the property including for lot area, front yard setback, and the free standing sign in the front yard area. There was testimony presented that the parking is sufficient and meets the requirement of one space for every 200 square feet of retail.

The testimony presented indicated it is estimated that there will be eight to ten employees and three to four small trucks, four to five dump trucks and one tractor trailer on the property at one time. Sales are made to customers and will actually result in a decrease of consumer traffic from the prior fencing company use. There are seven parking spaces up front and nine employee parking spaces in the rear of the property. Similar equipment will be utilized onsite and the type of trucks will be similar to the previous use of the property.

The applicant proposes three phases of development:

1. The first phase will utilize the existing driveway, office and storage area for a sales facility and display area for its business; with a new sign, restriping of the customer parking area, construction of a board-on-board fence around the display area, landscaping and removal of numerous sheds from the rear storage area.
2. Phase 2 proposes the construction of a 30' x 60' storage building in the display area.
3. Phase 3 proposes the construction of a 40' x 60' storage building in the rear storage area of the site.

Therefore, the applicant requests preliminary and final site plan approval and variance relief related to the fencing and steel building, along with associated waivers. A variance is required from §134-54 of the Borough Code because corrugated steel structures are prohibited and that is what is proposed in this case. Further, §134-64.3.b. of the Borough Code permits front yard fences to be only 50% solid.

While there was additionally some question as to the use, given that professional and business office buildings and complexes are permitted, the applicant provided sufficient testimony that the use, as a whole, including the outdoor portion, is ancillary and ties into the previous permitted use and the current use for base operations and product sales facility for a site remediation and septic service business.

A report from the Board Engineer, Cory L. Stoner, Harold E. Pellow & Associates, Inc., dated May 13, 2016, was considered by the Board in its deliberations.

The meeting was then opened to the public, at which time Dick Mooney spoke concerning the entrance of the property from Route 206, and appropriate signage for such. The applicant indicated a willingness to apply to the State for a sign on State property, but could not guarantee whether such would be permitted. Charlie Garland, Chairman of the Forest Lakes Water Company, also spoke, concerned if there was an oil spill on the property. The Board discussed possible options and the applicant agreed that all oil changes would occur indoors and there would be no fuel storage or used oil storage on the property.

The applicant requested and was granted waivers from Borough Site Plan and Conditional Use Checklist ##38, 44, 50 and 54. Architectural information regarding the structure, survey information regarding the surrounding property, natural features surrounding the property, and the environmental impact statement requirement were waived. It was noted that the applicant did submit a report prepared by Cramer Ecological Services, LLC, dated April 20, 2016, regarding the wetlands investigation on the property. The Board, therefore, found all waivers to be appropriate and granted them.

NOW, THEREFORE, the Planning/Zoning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The Municipal Land Use Law states that preliminary major site plan approval shall be granted based upon the submission of a "site plan and other such information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." After careful review of the requirements under the site plan ordinance, the engineering plans, testimony and all other submissions, the Board finds that the detailed drawings, specifications and other evidence conform to the standards established by ordinance for preliminary site plan approval to be granted.

The Municipal Land Use Law states that final major site plan approval is an official action of this Board taken on a preliminary approved major site plan "after all conditions, engineering plans and other requirements have been completed or fulfilled and that the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees". The Board finds that the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval as well as the conditions of preliminary approval.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the (c)(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific

piece of property, a purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance. Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The applicant's variances are related to fencing and the use of a steel building. The Board finds that a steel building is consistent with and appropriate in the neighborhood. Further, the fencing, although arguably higher than permitted and completely solid instead of a maximum of 50% solid, is more desirable in order to screen the equipment sales from the adjoining road.

Therefore, the applicant is granted preliminary and final site plan approval as well as variance relief for the fence and steel building, as proposed.

A motion was made by Board Member Morgan, seconded by Board Member Smith, to grant preliminary and final site plan approval with variance relief.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board, that the application of Marksmen Enterprises, LLC, for Block 5, Lot 6, as shown on the Tax Map of the Borough of Andover, requesting land use relief, is determined, as follows:

- A. preliminary and final site plan approval is granted, pursuant to N.J.S.A. 40:55D-46 and 50; and
- B. variance relief is granted, pursuant to N.J.S.A. 40:55D-70(c).

IT IS FURTHER RESOLVED that the above approvals are granted subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.
2. This approval is granted strictly in accordance with the plat prepared by Robert L. Campbell Associates, dated April 2016, consisting of four sheets, as may be amended by this approval.
3. This variance expires commensurate with the expiration of protection from changes in zoning attendant to site plan approval or June 20, 2018, unless a building permit has been obtained or as otherwise permitted by law.

4. The applicant is bound to comply with the representations made to the Board by the applicant and applicant's professionals.
5. There shall be no outdoor display or sales on the property in front of the landscaping and existing fence as shown on the plans submitted with the application, prepared by Robert L. Campbell Associates, dated April 2016.
6. All operational parking, including employee parking, shall be in the fenced-in area, and there shall be no equipment obstructing parking or ingress and egress to the site. The only exception is that one employee from the company may be permitted to park in front, in the customer parking area.
7. Concrete blocks shall be placed to surround the septic system to the satisfaction of the Construction Official or Borough Engineer.
8. The applicant shall construct a board-on-board, six foot high fence, in the front of the property and the existing stockade fence surrounding the rear of the property shall be maintained and/or replaced with similar fence.
9. Traffic control shall be required to be provided by the applicant whenever any large truck or equipment exits the site.
10. The applicant shall request approval to place a sign in the State right-of-way, with documentation to the Board, in order to provide additional signage to identify the access along Route 206.
11. There shall be no outdoor oil changes performed on the property.
12. No fuel storage shall occur on the property and no oil tanks or used oil shall be stored on the property.
13. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of any request by the Board's Secretary.
14. Compliance with the New Jersey Department of Environmental Protection, as required.
15. Any condition without a specific time limit shall be complied with within six months of the date of this resolution's memorialization.
16. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Andover, County of Sussex, State of New Jersey, or any other jurisdiction.

TYPE: Waiver of Site Plan
APPLICANT: Fernando Malheiro
BUSINESS NAME: Green Connection LLC
LOCATION: 5 Lenape Road, Andover, NJ 07821
BLOCK/LOT/ZONE: Block 24 Lot 47 Qual: 5 Zone: C1
EXISTING USE: Empty PROPOSED USE: Storage

Mr. Fernando Malheiro, owner of Green Connection, LLC appeared before the Board with his attorney Mr. David Dumbroff of Dolan & Dolan. Mr. Malheiro was sworn and testified that he resides at 4 Green Tree Drive, Andover and that he would like to occupy a location at 5 Lenape Road at the Gristmill Building. He described his business as only online and that he would have no retail traffic at all. He will be utilizing the location only for storage and packing materials to ship to customers. He will also not have an office at that location. His product consists of adapters and cables only and there is only himself and his partner in the LLC. He also did not need any signage nor did he request any hours of operation. The meeting was opened to the public and closed with no comment.

A MOTION was made by Mr. Conrads, seconded by Mrs. Smith to approve a Resolution for Waiver of Site Plan for Green Connections LLC. Upon roll call the following votes were cast: AYES: Conrads, Pearson, Smith, Walter, Morgan and Brothman. NAYS: None. Motion carried.

WHEREAS, Green Connection, LLC has made application to the Andover Borough Planning/Zoning Board for site plan waiver for property known as Block 24, Lot 47, as shown on the Tax Map of the Borough of Andover, located at 5 Lenape Road, and situated in the C-1 Zone and,

WHEREAS, pursuant to N.J.S.A. 40:55D-25, the Borough of Andover has by ordinance established the Andover Planning/Zoning Board which has dual powers of planning and zoning; and,

WHEREAS, a public hearing was conducted on May 16, 2016, after the Board determined it had jurisdiction; and,

WHEREAS, the applicant was represented by David Dumbroff, Esq.;

NOW, THEREFORE, the Planning/Zoning Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

Fernando Malheiro appeared on behalf of the Green Connection, LLC, for which he is a member, in support of this application. Mr. Malheiro explained that he is seeking to utilize this portion of the building for storage of cables and adapters. His company sells cables and adapters for computers, microphones, and other electronic equipment. Only cables and adapters will be stored onsite. The intended use is in the same general character as primary intended and permitted uses within the C-1 district and within the neighborhood. The Board therefore finds the use is permitted and a waiver of site plan appropriate.

Mr. Malheiro explained that he is present at the site only 10 to 20 minutes and not every day, in order to obtain the goods as ordered. No chemicals are stored onsite and no sales will occur on the property. There will be two employees, Mr. Malheiro and his partner in Green Connection, LLC. No interior renovations are proposed and there will be no signage, as this area will be utilized only as a storage facility.

There were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning/Zoning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The Municipal Land Use Law states that a Board may grant exceptions from requirements of approval for site plans where such exceptions are reasonable and within the general purpose and intent of the provisions for site plan review, pursuant to N.J.S.A. 40:55D-51. This Board is satisfied that the applicant is entitled to a waiver from certain requirements of site plan approval because the condition of the property is satisfactory and meets local ordinance requirements.

A motion was made by Board Member Conrads, seconded by Board Member Smith, to grant the requested site plan waiver.

NOW, THEREFORE, BE IT RESOLVED by the Andover Borough Planning/Zoning Board, that the application of Green Connection, LLC, for Block 24, Lot 47, as shown on the Tax Map of the Borough of Andover, requesting site plan waiver, is granted, pursuant to N.J.S.A. 40:55D-51, subject to the following terms and conditions:

1. The applicant is bound to comply with the representations made to the Board by the applicant.
2. The applicant shall comply with any and all relevant building and health code requirements.
3. No chemicals or hazardous materials shall be stored onsite.
4. No sales shall occur onsite.
5. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of any request by the Board's Secretary.
6. Certificate that taxes are paid to date of approval.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Andover, County of Sussex, State of New Jersey, or any other jurisdiction.

TYPE: Waiver of Site Plan
APPLICANT: Jill Hendershot
BUSINESS NAME: Unavailable at time of application
LOCATION: 124 Main Street, Andover, NJ 07821
BLOCK/LOT/ZONE: Block 11 Lot 8.01 Zone: C1
EXISTING USE: Antique & Consignment Empty PROPOSED USE: Same

Ms. Jill Hendershot was sworn and testified that she resides at 924 Maple Ave and will be opening up an Antique / Consignment location called Jilly's Country Store. Ms. Hendershot explained that she will have 2 employees and would be open 7 days from 10 a.m. to 8 p.m. Ms. Hendershot testified she will be operating an antique, gift and consignment store and would not be making any exterior changes and that she would only be utilizing the freestanding sign. She requested to place items for display outside. She asked for 15 items on the porch and 15 items on the lawn; all of which will be brought back in at the end of the business day. She explained that parking is shared with the other businesses on the property and that there are a total of about 25 spots. She mentioned she would be playing music outdoors to attract

business and that she would be courteous of the local residential homes that are nearby. She will have some prepackage candies and water.

Ms. Hendershot also mentioned the potential for a hot dog cart at this location. She has plans to perhaps open a sandwich shop in the same location in the future, but would like approval for the hot dog cart at this meeting. She was informed by the Attorney that this operation would require a formal application.

Ms. Hendershot then approached the Board for consideration of an outdoor bazaar with tables and tents. After some consideration it was determined that the concept would need site plan approval.

The meeting was opened to the public. Mr. Edward Kazar, 19 Woodfield Road, Andover, owner of Andover Hunt & Fish asked what his business would need to have a cart at his location. It was explained he would need to file a formal application. The meeting was closed to the public with no further comment.

A MOTION was made by Mrs. Smith, seconded by Mr. Conrads to approve a Resolution for Waiver of Site Plan as requested. The motion was amended to allow for 22 items outside on the lawn and 22 items on the porch. All of which will still be brought in at the end of the business day with the approval of Mrs. Smith and Mr. Conrads agreeing to that amendment. Upon roll call the following votes were cast: AYES: Smith, Pearson, Morgan, Walter, Brothman, Conrads. NAYS: None. Motion carried.

WHEREAS, Jill Hendershot has made application to the Andover Borough Planning/Zoning Board for site plan waiver for property known as Block 11, Lot 8.01, as shown on the Tax Map of the Borough of Andover, located at 124 Main Street, and situated in the C-1 Zone and,

WHEREAS, pursuant to N.J.S.A. 40:55D-25, the Borough of Andover has by ordinance established the Andover Planning/Zoning Board which has dual powers of planning and zoning; and,

WHEREAS, a public hearing was conducted on May 16, 2016, after the Board determined it had jurisdiction; and,

WHEREAS, the applicant appeared without an attorney;

NOW, THEREFORE, the Planning/Zoning Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

Jill Hendershot appeared in support of her proposal to open an antique/consignment store that will sell giftware, antiques and country gifts. The store was previously utilized for an antique/consignment store, and no interior or exterior renovations are proposed at this time. Ms. Hendershot testified that she will have up to five employees and will operate at maximum from 10:00 a.m. to 8:00 p.m., seven days a week. Ms. Hendershot requested outdoor storage in the form of items displayed on the existing porch and lawn on the property, with all items to be brought into the building each night. No items will be displayed on the sidewalk or necessary access ways. The Board granted a maximum of 22 items on the porch and 22 items on the lawn for outdoor display for a total of 44 items.

A question was asked about noise, as noise from the property under the previous owners reached the residences located in close proximity to this property. The shared parking around the property is to remain as is, with 25 spaces available. Ms. Hendershot

testified the parking is sufficient for her needs. The existing signage will be utilized, which includes a free standing sign and a sign on the building.

Ms. Hendershot additionally indicated that she eventually wants to operate a small café on the main floor of the building, but is not pursuing that at this time. A use of a hot dog cart was requested. The Board Engineer advised that site plan and variance approvals would be required for the hot dog stand and additional applications would have to be made. The Board reviewed its Code provisions, and found that such a request could not be granted with a site plan waiver application. Only pre-packaged food may be sold with Board of Health approval. Ms. Hendershot further requested to have weekend vendor expos twice a month, for outdoor sales and consignments, to which the Board expressed their disapproval.

It was explained and discussed during the course of the application that the number of items permitted on the lawn and porch included all items and that it must consist only of items for sale. Therefore, by way of example, a table and four chairs would constitute five items and all must be for sale in order to be displayed outdoors. Further, any tables upon which goods are displayed must also be for sale and counts as one of the items for sale.

The meeting was opened to the public at which time Ed Kazar appeared with a question regarding site plan approval, in general. There were no other members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning/Zoning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The Municipal Land Use Law states that a Board may grant exceptions from requirements of approval for site plans where such exceptions are reasonable and within the general purpose and intent of the provisions for site plan review, pursuant to N.J.S.A. 40:55D-51. This Board is satisfied that the applicant is entitled to a waiver from certain requirements of site plan approval because the condition of the property is satisfactory and meets local ordinance requirements.

A motion was made by Board Member Smith, seconded by Board Member Conrads, to grant the requested site plan waiver.

NOW, THEREFORE, BE IT RESOLVED by the Andover Borough Planning/Zoning Board, that the application of Jill Hendershot, for Block 11, Lot 8.01, as shown on the Tax Map of the Borough of Andover, requesting site plan waiver, is granted, pursuant to N.J.S.A. 40:55D-51, subject to the following terms and conditions:

1. The applicant is bound to comply with the representations made to the Board by the applicant.
2. The applicant shall comply with any and all relevant building and health code requirements.

3. Food sales shall be limited to pre-packaged food and beverages, with necessary Board of Health approval required.

4. The applicant shall be limited to the use of existing signs and any additional signage will require variance relief from this Board.

5. All outdoor items displayed must be for sale and must be brought indoors every night. No overnight outdoor storage is permitted.

6. The outdoor sales area is limited to the existing porch and lawn on the property. The applicant is limited to 22 items stored on the porch and 22 items stored on the lawn for a maximum number of items at any time to constitute 44 items total.

7. The applicant shall comply with the sign ordinances of the Borough of Andover and other requirements as to outside storage and parking.

8. Any music emanating from the property shall not be audible to any residences within the Borough.

9. No hot dog stand or food sales, other than pre-packaged items, are permitted on the site, absent site plan approval.

10. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of any request by the Board's Secretary.

11. Certificate that taxes are paid to date of approval.

12. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Andover, County of Sussex, State of New Jersey, or any other jurisdiction.

OLD BUSINESS: The Board was presented the update for the Schedule of Dimensional Regulations Per 134-12.

A MOTION was made by Mr. Conrads, seconded by Mr. Pearson to approve the Schedule and Dimensional Regulations as presented and forward to the Governing Body for adoption to the Andover Borough Code. Upon roll call the following votes were cast: **AYES:** Conrads, Smith, Pearson, Walter, Morgan, Brothman. **NAYS:** None. Motion carried.

NEW BUSINESS: None.

AUDIENCE PARTICIPATION: None.

RESOLUTIONS: None.

A MOTION was made by Mr. Conrads, seconded by Mr. Walter to adjourn the meeting. **AYES:** All in favor. **NAYS:** None. Motion carried.


Beth Brothman
Board Secretary

MINUTES OF THE EXECUTIVE SESSION OF THE PLANNING / ZONING
BOARD OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE
OF NEW JERSEY FOR MAY 16th, 2016 (7:01 p.m. – 7:15 p.m.)

The Board reviewed the legal requirements and regulations of the Open Public Meetings Act. There was also an overview of ethics and conflicts in relation to application hearings as well as appropriate circumstances for recusal.

Beth Brothman, RMC
Borough Clerk