

**CALL TO ORDER**

Mr. O'Leary called the meeting to order at 7:36 p.m. and stated the meeting is open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

**FLAG SALUTE**

**ROLL CALL**      **Members Present:** Hughes, Fette, Randazzo, Corcoran, Hahn, Leuthe, Taylor, Straub, O'Leary, Didyk (7:47pm).

**Members Absent:** None.

**Members Excused:** Luthman.

**Also Present:** Ursula Leo, Esq.  
Nevitt Duveneck, PE

**MINUTES:** March 18, 2010

A motion to approve the minutes of the March 18, 2010 meeting with the noted correction was made by Mrs. Straub. It was seconded by Mr. Corcoran and passed with a roll call vote. Ayes: Hughes, Fette, Corcoran, Straub, Hahn, Leuthe, O'Leary.

**COMPLETENESS / HEARINGS:**

1.) Barnside, Inc. VAR09-14 B:24 L:3.06 Deemed Incomplete 12/17/2009

The Board agreed to have the Secretary send a letter to the applicant asking what their intentions are with this application and ask for a response by April 15, 2010.

2.) D'Agostino, Kimberly MNR09-16 B:25 L:11.02 Deemed Incomplete 12/17/2010

Mr. O'Leary and Mr. Hahn stepped down for this application. Mrs. Straub chaired this portion of the meeting.

Mr. Duveneck gave an update on the recent submission by the applicant. He went over his report and recommended to the Board the application remain in an incomplete status. He said he spoke to the applicant's engineer regarding the incomplete items. He said they wanted to appear before the Board to discuss and request waivers.

Mr. Edward Maske, Esq. stated he was the attorney for the applicant. He explained the application was in the name of the Estate of Jon Roy and Ms. D'Agostino was the executrix of the estate. Mr. Corcoran disclosed he had been represented by Mr. Maske in the 1980s. He felt this was not a conflict and in no way would affect his decision on this matter. He did not step down from the Board.

Mr. Jack O'Krepky, PE of KSM Engineering located at 12 Dana Drive, Lafayette NJ and Ms. Kimberly D'Agostino of 122 Pelletown Road, Lafayette NJ were sworn in by Ms. Leo.

Mr. O'Krepky said he agreed with all of the Board Engineer's report except the requirement for a full topographical mapping of the entire property. He said it is a 30 acre piece of property and they were only working with about 1 \_ acres of it. He felt there was no reason to do a topographical of the rest of the property. He asked for a waiver from this requirement. He felt there was so much wetlands and buffer area that they will not be using the land anyway.

Mr. Duveneck felt that if the entire property is not analyzed then how will the Board know if it is a viable piece of property. The Board discussed how much viable land is needed. Mr. Hughes asked how long the proposed driveway will be to which the engineer said 520 feet. Mr. Hughes said based on that size driveway, the ordinance requires a full topographical mapping. He felt there could be a drainage problem with all of the wetlands on the property. He said the Board will need the information to make an informed decision.

Mr. Duveneck said he cannot distinguish the slopes and requested the applicant's engineer show the underlying topographical in the shaded areas on the map. The Board discussed what needs to be

shown on the map. Mr. Duveneck said the Board needs to make sure it is a buildable lot and that was the reason for asking for the required information. He felt a partial waiver could be granted so long as the constrained areas were quantified. He said the swamps and wetlands are a requirement for the meets and bounds. He said the Board may want to request a conservation easement around the lot. There was a discussion on how to describe the property in the meets and bounds. Mr. Duveneck did not agree with what Mr. O’Krepky was suggesting. Mr. Maske felt the applicant would have to spend a lot of money for a full description of the property for a minor subdivision. He noted the proposed house would not be near the wetlands. Mr. O’Krepky felt it was unreasonable to ask for a description of the entire lot. Mr. Duveneck said the proposed house will be only 80 feet from the buffer and the proposed septic will be only 10 feet from it and felt this was in close proximity to wetlands. Mr. O’Krepky felt it is not considered close. Mr. Hughes felt the map has to show the delineated wetlands and have the proper meets and bounds so the wetlands will not be built upon. He was not in favor of a waiver on this matter. Mr. Maske said the applicant will have to submit a site plan to the building inspector and he will see at that time if the house is being built in the wetlands.

Mr. Randazzo asked if the wetlands points on the lot have been surveyed to which Mr. O’Krepky said yes. Mr. Randazzo asked if the points shown on the map were reliable to which Mr. O’Krepky said yes. Mr. Duveneck said this question should be asked of the surveyor who was not present. Mr. Duveneck felt the Board was only getting to look at one side of the wetlands and they would need the meets and bounds to solve this problem and protect the constrained land.

Mr. Duveneck discussed the request for a partial waiver from checklist item #42. Mr. Maske made a formal request on this item. Mr. Maske asked the Board to carry the application to the May 27, 2010 meeting date with no further notice.

Mrs. Straub opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

Mr. Maske asked the Board for confirmation on the matter of checklist item # 42 in the form of a motion.

A motion to grant a waiver of checklist item # 42 and a partial waiver of checklist item #39 where the applicant can either submit a revised map with meets and bounds for the area between the wetlands and the buffer and the remainder of the property to the south of the wetland transition zone and be prepared with a conservation zone or submit a revised map with the meets and bounds for the entire property was made by Mr. Corcoran. It was seconded by Mr. Fette and passed with a roll call vote. Ayes: Hughes, Fette, Randazzo, Corcoran, Leuthe, Taylor, Straub.

Mr. Maske said they should be able to comply with the remaining items on the Board Engineer’s report. The matter was carried to the May 27, 2010 meeting date without further notice.

Mr. O’Leary and Mr. Hahn returned to the Board.

3.) Lafayette Asphalt ASP10-1, AFSP10-2 B:1.02 L:1

Ms. Megan Ward, Esq., of Kelly & Ward said she was the attorney for the applicant. She said the property is located in the EI zone and they were before the Board in 2009 and received approval for preliminary and final site plan. She explained they were returning only to request approval to change the equipment. She went through the Board Engineers report.

Mr. Duveneck recommended that so long as the Board agreed to the requested waivers noted, the application could be deemed complete and the Board could move forward with the hearing.

Mr. Jason Dunn, PE of Dykstra Associates, Mr. Anthony Lentini, president and sole shareholder of Lafayette Asphalt, Inc., Ms. Catherine Choate, representative of the equipment manufacturer and Mr. Douwe Dykstra of Dykstra Associates were sworn in by Ms. Leo. They gave their qualifications which were accepted by the Board.

Mr. Jason Dunn, PE presented a two page plan showing the entire tract of land with a date of 3/4/10 which was marked and entered as exhibit A-1. He noted the applicant has approval for an asphalt plant however they wanted to change the equipment and configuration of the site that was approved. They are requesting this amendment because the owner wants to use “Super Pave” which would require the proposed equipment. Mr. Dunn explained the 23 acre lot to the Board. He explained the

truck circulation which will have the same direction of flow as what was approved however it is now moved further back off Limecrest Road. He explained the reconfiguration of the storage bins. He said they were approved for a 25,000 gallon liquid storage tank and now they are proposing two vertical tanks and a diesel fuel tank to be used as backup power if there should be a disruption in the natural gas. The storage tanks are less than 35 feet in height. He said all have spill containment with bollards around them. He said the methodology for the containment is the same as what was approved however it would be in a different location and size to accommodate the new tanks. Mr. O'Leary asked if the containment system would contain a diesel spill to which Mr. Dunn said yes.

Mr. Dunn explained the two proposed silos which would store the completely mixed and heated product. He said they hold 200 tons and will be 70 feet in height and are totally enclosed. He said the proposed system is a better system than the one they had received approval for. He said the owner can make a batch of asphalt and store it in the silo. This will create a better flow of truck traffic. He said the maximum height will be about 75 feet with the conveyor system. He explained that part of the height of the silo is due to the equipment being raised off the ground so trucks can drive under it. He said the two silos will be side by side.

Mr. Randazzo asked if the new equipment will mean more production. Mr. Dunn explained the purpose of the new equipment is to be able to pre-make the asphalt and store it so it will not interrupt the truck flow. He said they are not proposing any new changes to the office.

Ms. Ward said they are not requesting any changes to the conditions of the original resolution.

Mr. Fette felt the conveyor system looked to be more than five feet higher than the silo. Mr. Dunn presented a drawing of the elevation of the Astec silo which was entitled "24" Drag Assembly" which was entered and marked as exhibit A-2. He explained the drawing to the Board.

Mr. Fette asked why the applicant wanted to change the product being produced. Mr. Anthony Lentini explained the State contracts require "super pave" and that is now becoming an industry standard. He said they get more wear out of "super pave". Mr. Duveneck asked why they did not consider using this product the when they were previously before the Board. Mr. Lentini said they can use other products for driveways however the State is requiring the "super pave".

Ms. Catherine Choate explained the equipment to the Board. She said the equipment that makes the different mixes is the same. She explained the benefits of the proposed equipment to the Board. Some such benefits are a double barrel drum, lower fumes emitted, more efficient burner, uses less fuel to run it and if they make the warm mix there will be no fumes. She said the silos keep the product from degrading. She discussed how the silo works and is sealed off when in storage mode. No steam will come off in storage mode. She said this is the most technically advanced equipment available.

Mr. O'Leary asked why they need the diesel fuel. Ms. Choate said it will be used to keep the plant running if there is an interruption in the natural gas service. She said it can keep it running for up to three days. She said the diesel is also a backup for other equipment on the property. Mr. O'Leary felt there could be up to three diesel fuel deliveries per week. Mr. Corcoran felt there would be more production of product and more truck trips with the new equipment. Ms. Choate said they will not be able to produce any more mix than they could before they would only be able to hold more liquid than before thus resulting in less truck trips. She said the storage capacity has nothing to do with output or plant production.

Mr. O'Leary asked if the safety requirements would be any different with the proposed equipment to which Ms. Choate said no. She said the containment will be able to handle 110% of the largest tanks and rainfall. It will also be able to handle a diesel spill.

Mr. Hughes asked about the sound level produced by the equipment. Ms. Choate said she was not an expert in this matter however she will provide the information to the Board. She said it would be lower than what was already approved. Mr. Hughes requested a condition of approval ensuring the sound level at the property line would not disturb the neighbors. He requested sound levels for the burner and conveyor system at full operation. Mr. Duveneck explained the D.E.P. has a State noise level for property lines. He said the concrete plant is closer to the residential zone than the asphalt plant will be. Ms. Choate said one way to handle noise is with a berm and the property already has a good one in place.

Mr. Hughes requested a copy of the annual State required testing of the burner be provided to the Town. He also requested the spill containment design be submitted to the Board for their review. Ms. Ward explained that they under a time constraint to get the project under way and built and asked if they could submit it to the Board Engineer for his review and comments. The Board agreed to this.

Mr. Hughes asked why there is no variance for the height of the silo. Ms. Ward explained the exception she felt applied to this project. She noted the accessory use of the asphalt plant as it relates to the quarry. She read through definitions from the zoning ordinance. She presented case law that she felt backed her position. Ms. Leo noted the applicant would need a "c" variance and said the applicant did notice for a variance so the notice is still valid. The Board agreed the applicant would need a total of three variances, one for height, one for the rear yard setback, and one for the side yard setback.

Mr. Dunn explained that where the silo would be placed it would be seen however it would not be a prominent feature.

Mr. Fette asked about the lighting on the property. Mr. Dunn said they were adding more lights however they were not adding intensity in the lighting. He explained the lighting plan on sheet 3 of the plans that were part of the application. He said they are proposing six lights on the plant and three lights on the office.

Ms. Didyk felt the color of the silo was too bright. She did not like the bright yellow color. Ms. Choate said the picture Ms. Didyk was looking at did not depict the true color. The actual color would be a lighter color tan however they can paint it any color. Mr. Lentini had no problem changing the color of the silo. Ms. Didyk suggested a dark green or grey. Ms. Didyk asked about the company logo that was pictured on the silo. Ms. Choate said it can be any logo or nothing at all. Mr. Lentini said no signage on the silo was acceptable to him however he requested a leaf symbolizing the plant was an eco-friendly plant to which the Board agreed.

Mr. Duveneck noted since the "super pave" is for roadways there would be night work being conducted. He asked what the nighttime hours would be. Mr. Lentini said from 7:00 p.m. to 3:00 a.m. He said they do not foresee a lot of night work. He would only be getting jobs in Sussex County since he cannot compete with the larger operations in Morris County. There was a brief discussion on the hours of operation. Ms. Ward said they hours will not change from what was already approved by the Board.

Mr. O'Leary opened the meeting to the Public. With nobody coming forward, the meeting was closed to the public.

Ms. Ward said they had no objection to the report written by the Board engineer.

Mr. Dunn felt the request for a height variance will have no negative impact because of the view shed and proximity to the quarry. He felt the new equipment will require less disturbance, will offer a better traffic flow and will be more energy efficient. Part of these improvements come from the height of the silo. He said the structure is not blocking the view of any historical or monumental elements. He said they do need relief from the setbacks however they are interior property lines and are all within the quarry. He said the Board already granted a variance for these the last time the applicant was before the Board.

Mr. Corcoran asked about the diameter of the silo. He felt if it were wider the height could be reduced. Mr. Dunn explained it was engineered at such a slope to ensure compression on the product inside. Ms. Choate said if the cone was wider the silo would only be slightly shorter because the slope still needs to be the same. She said they do offer two different sizes. Mr. Duveneck did a quick calculation and said the silo would only be reduced by eight feet.

A motion to approve the amended preliminary and final site plan with three variances, one for the rear yard setback of 157 feet, one for a side yard setback of 152 feet and one for a maximum height of 75 feet where 15 is permitted and with the conditions of supplying a revised certified spill control plan to the Board Engineer and the Township Building Department, the conditions of the original resolution, supply a copy of the sound level report to the Board, the color of the silo as requested by the Board, and the signage as identified by the Board and the Board Engineer's report of 3/24/10 was

made by Mr. Hughes. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, Fette, Randazzo, Corcoran, Didyk, Straub, Hahn, Leuthe, O'Leary.

**AUDIENCE:**

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

**OLD BUSINESS:**

1.) Sign Ordinance

Mr. O'Leary went through the latest version of the working draft of the proposed sign ordinance changes. He noted a definition of silo needs to be added. A definition of window sign also needs to be added to the ordinance. The permit fee of \$25.00 for temporary signs needs to be added to the fee schedule. A definition of LED, political signs and agricultural silos needs to be added to the ordinance.

Mr. O'Leary asked Board Members to look at the proposed "purpose" language. Ms. Leo will add it to the final draft. Ms. Leo will have a final draft prepared for the Board to review before next month's meeting.

**NEW BUSINESS:**

Ms. Leo went over her memo regarding doctrine of merger. She said once the Board approves a subdivision, it cannot be automatically merged by the doctrine of merger.

Ms. Leo said she is sending out letters to the delinquent escrow account holders.

Mrs. Straub gave an update on the Master Plan subcommittee and will report back to the Board once they have received proposals from the Planners.

Mr. Duveneck reported the Senate and House have passed the "Time of Decision" rule however it is not signed by the Governor as of yet. The rule will make effective the ordinance at the time of the filing of the application. He said if signed, it will affect the D'Agostino application.

Mr. Duveneck reported that 94 Associates never filed their final plat for signatures and they never posted bonds so the subdivision was never perfected. He said he spoke to Ken Dykstra, engineer for the project and he said it was a financial decision. They are aware they may lose their approvals.

**RESOLUTIONS:** None.

**ZONING REPORT:** None.

**BILLS:** Revised List #3

Mr. Leuthe reported the changes made to the attorney's bills and recommended the bills be paid with those changes.

A motion to pay the bills with the noted changes was made by Mr. Leuthe. It was seconded by Mr. Hahn and passed with a roll call vote. Ayes: Hughes, Fette, Randazzo, Corcoran, Didyk, Straub, Hahn, Leuthe, O'Leary.

**EXECUTIVE SESSION:** None.

**CORRESPONDENCE:**

1.) From: NJ PO

Re: State Planning Conference – Affordable Housing

2.) Zoning Practice – Urban Agriculture

**ADJOURNMENT:**

A motion to adjourn at 10:50 p.m. was made by Mr. Hahn. It was seconded by Mr. Randazzo and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo  
Land Use Board Secretary