# MAURICE RIVER TOWNSHIP LAND USE BOARD

**Meeting Minutes:** June 6, 2012

**Present:** B. Stowman, Chairman, C. Thompson, V. Chairman, Mayor K. Ireland, R. Chard, J. Carrara, R. Hoffman, J. Lafferty, Jr., J. Pflaumer, Alt. #1, T. Imbaratto, Alt. #2, T. Cuviello, Planner, D. Galletto, PE and M. Benson, Solicitor.

The Chairman announced that this meeting was being held in accordance with the Open Public Meetings Act of New Jersey.

The minutes of the 5-2-12 meeting were approved on a motion by Chard and seconded by Hoffman. Ireland and Lafferty abstained. All other members voted in favor of the motion.

The Secretary announced receipt of the following correspondence:

1. Copy of a letter from Rebecca J. Ashton dated 5-21-12 with regard to the Lafferty matter.
2. Copy of a letter from Albrecht & Heun dated 5-21-12 addressed to the Township Clerk requesting an additional 6-month extension on their mining license to complete the review process. The Clerk asked that the Board consider a recommendation to the Township Committee. The Secretary noted that the company recently filed their renewal application and paid the appropriate fees.

   After a brief discussion, Lafferty motioned to recommend the requested extension to the Township Committee. Carrara seconded. Unanimous.

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**WHIBCO, INC.**
**Request for Extension for Reclamation Plan Submittal**

The Secretary advised the Board that a letter from Whibco's attorney, Richard Hluchan, requested the Board's consideration of an additional 6 months to submit their reclamation plan.

Walter Sjogren, of Whibco was present and stated that the additional time was needed in order to completely work through Pinelands issues concerning their management plan. Sjogren also stated that the company would be ready for a site inspection after 7-15-12, which is the end of the first permit year.

Chard motioned to grant the additional six months needed to complete the plan. Ireland seconded. Lafferty abstained. All other members voted in favor of the motion.

**RHONDA PETERSON** **BLOCK 289.01, LOT 31**
**Front Yard Setback Variance** **123 High St., Leesburg**

This application requested a variance to reduce the front yard setback to 5.8 ft., where 40 feet is required, in order to construct a porch addition.

Tiffany Cuviello, Planner reported that she did a site inspection and provided photos of the property. She stated that the proposed porch would actually be 18 feet from the paved roadway and no closer to the street than the existing fence. She further stated that there are other properties along High Street with similar setbacks and the porch addition is compatible with the character of the neighborhood. She did not see any substantial detriment to zoning or the Master Plan because of existing development.

Rhonda Peterson was sworn in. She stated that no other changes were proposed and that there would be as little trimming of the existing vegetation as possible to construct the addition.

Benson summarized that this type of variance is classified as a bulk variance. The proposed use is completely compatible with the Village zoning.

On a motion by Lafferty, seconded by Carrara and a unanimous vote, the public hearing was opened. There was no public comment.

On a motion by Lafferty, seconded by Ireland and a unanimous vote, the public hearing was closed.

On a motion by Chard and seconded by Hoffman, the requested variance was approved for a front yard setback of 5.8 feet. Unanimous roll call vote.

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**JOHN LAFFERTY, SR.** **Block 124, Lots 9, 11 & 12**
**Minor Subdivision/Site Plan/Use Variance** **Block 236, Lots 18 & 19**
**Block 230, Lot 35**
**Block 125, Lot 11**
**Block 127, Lot 1**

Board member John Lafferty, Jr. excused himself due to conflict as a member of the applicant's immediate family and stepped down for this matter.

Terrance Bennett, Esq. represented the applicant. John Lafferty, Sr. was sworn in along with Harold E. Noon, Jr., NJ licensed surveyor and planner with GeoSurv New Jersey, LLC.

Mr. Bennett explained that while the application is not complete at this time, he requested an appearance before the Board to discuss several items that may have an effect on what is needed for a complete application. He stated that he has spoken extensively with the Board's professional staff and there were two topics that he would like the Board to consider at this meeting.

Bennett first asked the Board to acknowledge, for the record, that Jack's Auto Service is identical to the type of business that the Board found, as a result of their review of the interpretation request made in April by the applicant, to be a permitted use in the PVC-3 Zone as a Village-Oriented Commercial or Retail Use.

Solicitor Benson stated that the Board heard Mr. Lafferty's request for interpretation of the PVC-3 Zone District which described a hypothetical business use as being a car repair garage servicing local residents, providing towing services and the other remaining characteristics on the list of 15 that was presented. Benson went on to say that the Township Master Plan notes that auto repair garages are compatible with village life.

Benson further stated that the Board is now being asked to consider the actual use located on the Lafferty property and that this specific use does not require a use variance in the PVC-3 Zone.

Bennett stated that the Board found that a business as described would not need a variance. In response to questions posed by his attorney, Lafferty stated that he primarily serves local residents and that most of his neighbors come to him for help with their cars. He stated that he believes that there may be no other repair garage in the Township; his property is located on a County Road and is surrounded by houses and woods; he has been fixing cars for forty (40) years; he maintains the bus fleet for the local school; he works on Township vehicles; his services are heavily relied upon by local residents; his target market is to local people; he has a billboard advertisement but no listing in the yellow pages; he does not advertise outside of the County; he provides towing services for breakdowns and accidents, clearing the roadways for traffic; he provides pick-up, drop off and loaner vehicles to his customers when needed; he stated that his prices are much lower than other repair garages and he provides payment plans for those who can't pay; and, he stated that he has been a resident of the Township for sixty (60) years and all of his employees live in the Township.

Bennett's second point was an issue raised in Pinelands correspondence dated 3-6-12 regarding five permits issued by the Township for zoning and construction permits on Block 236, Lot 18 between 1987 and 2000. He stated that the Pinelands Commission wants the 5 permits taken into

account before this matter goes back to Pinelands for their final review of the entire application. Bennett further stated that Lafferty came to the Township and was given permits. The work was done and Certificates of Occupancy have been issued. He further stated that Mr. Lafferty has been relying on those permits, so when the Township makes a resolution in connection with this matter, he would like it to include an acknowledgement and acceptance that these permits exist. He stated that it may not be legal to do anything other than that.

Mr. Benson stated that in his conversation with Branwyn Ellis of the Pinelands Commission, she stated that the issue of the five permits is one for the Board to consider. Pinelands didn't believe that they would be able to request site plan for all of the permits. Benson stated that he expected that Pinelands wants the Board to be aware of what is on the site. Benson suggested that an as-built representation of the existing conditions be submitted to show how the permits correspond with the construction and that the construction does not go beyond the scope of what the permits where issued for.

Dan Galletto, of Dixon Associates, stated that the engineer's office has expressed some concern in their review of the site plan and have requested additional information so that they can evaluate what is existing and what is proposed.

Benson stated that the concerns of the professional staff relate to the site plan in chief and it would be appropriate to have a complete application before going forward on the discussion of the permits.

Stowman stated that since the site plan application is not complete, the only issue before the Board is the use. He asked for a motion to open the public hearing on the use matter.

On a motion by Chard, seconded by Ireland and a unanimous vote, the public hearing was opened.

Rebecca Jane Ashton of Dorchester was sworn in.

Benson announced that all comments should relate to the topic before the Board at this time, which was the use.

Ashton referenced a letter from Gordon Gross to Lafferty dated 7-12-95 which stated that a use variance was needed for the junk yard on Block 54, Lot 2 as it was not a permitted use and was an expansion of a non-conforming use. The letter listed the steps to take in order to use the property as a junk yard. Those steps included foreclosure of his tax lien on the parcel. She noted that the date of Lafferty's deed was not until 2003 (124/9) and no further letters went out from Gross until 2008, after she began questioning again why no permits had been issued.

Mrs.Ashton stated that what Lafferty does is honorable and when this started, her family never wanted it to go this far, but Lafferty's situation continues and her son is out of business.

Ashton continued that there were never any permits issued for Block 236, Lot 18 & 19. She has all of the documents. Pinelands letters dated 1991 state that the application was never completed.

Benson reminded Mrs. Ashton that the matter of the permits will be addressed when the site plan comes before the Board.

Ashton also asked why Block 230, Lot 35 was included for septic dilution when it is .6 of a mile from the property and right next to their church.

Ashton went on to say that Lafferty does not own Block 125 and 127 which are included in this application.

Stowman asked Mrs. Ashton if she had any comments to make about the use. She then stated that there is no doubt that Lafferty does honorable things, but when you're honorable, you follow the regulations.

Bill Nichols was sworn in. He stated that he owned Block 127, Lot 1 and it is listed on the public notice that Lafferty owns it.

The Secretary confirmed that Block 127, Lot 1 was listed on Mr. Lafferty's Certificate of Filing.

Bennett explained that Lafferty did enter into an agreement of sale pending the outcome of the need for this additional off site acreage to meet Pinelands septic dilution standards.

Cuviello and Benson both agreed that the subject involving the off premise lots was not before the Board at this time. However, Cuviello suggested that as we go forward, the applicant should submit additional information regarding the lots included to meet the septic dilution requirements and verify the ownership of those lots.

Norman Franckle of Port Elizabeth was sworn in. He stated that he believed that Lafferty meets the requirements of the Village and should not need a use variance. He lives in this village and agrees that the attributes listed apply to the Lafferty business.

Jerry Gribble of Cumberland, was sworn in. He stated that he has known Lafferty since 1977 and he has been a great attribute to the Township. He questioned the five permits mentioned and stated that the Township should have a record of them.

Benson responded that he has seen the five permits mentioned and they do appear to be permits. When Gribble asked if they were legal, Benson replied that that would be a question to be dealt with.

Patricia Gross of Leesburg was sworn in. She stated that this is not about whether Jack has a legal business. It's about revenge. She asked if this is what is going to happen to every business in the Township if Mrs. Ashton gets mad at them. Whatever happens here could be a big precedent. She stated that she is familiar with the whole subject.

Stowman and Benson redirected Mrs. Gross to comment on the use. Gross stated that the characteristics to be a permitted use all exist and does not have a problem with the use. She also stated that she appreciates how the Board is handling the matter and hopes that they will do the right thing.

Eugene Jost of Cumberland was sworn in. He stated that he met Mr. Lafferty in 1952 on his way to Fortescue. He needed a tire and Lafferty's father brought it to him. Since then he has been taking his vehicles to him for repairs. He stated that it was hard to believe that the Board would consider a personal vendetta that is costing the taxpayers money. He stated that he does not think he needs a use variance as he is doing what he always did and he agreed with all of the characteristics of the business described.

Eldean Polhamus of Port Elizabeth was sworn in. She stated that she agreed with the 15 points of the business and stated that she felt bad that the Board had to go through this. She further stated that Lafferty is an asset to the community. She stated that she prays that the Township will look at all of the facts. She asked why this was coming up now. She stated that this is a business that needs to be in the Township.

Linda Reeves of Port Elizabeth was sworn in. She spoke in favor of the Lafferty business. She stated that she came to Port Elizabeth 50 years ago and watched Mr. Lafferty grow through the years. He and his wife are well respected members of the community. He has been an active member of the fire company for many years. He has been instrumental in raising funds for the library and for people in need. She stated that the business is important to her as she has no other place in town to get repairs done. She stated that she was in favor of Lafferty having whatever he needed to continue his business.

Diane Northam, formerly Ashton, stated that this matter is not about Jack Lafferty as Mrs. Gross implied. She stated that she has known Mr.Lafferty her whole life. She referred to Mrs. Gross's comment about why her brother did not show up at these meetings. She stated that he's trying to make his way and if you're a small business owner, it's a struggle every day to make it. She further stated that she respected Jack and what he does. She went on to say that her mother was told that this is about Pinelands and about what the subject actually is. She stated that her family has been berated for so long and her brother was just a business owner trying to make his way. She emphasized that what applies to one should apply to everyone.

Richard Polhamus of 11 Broadway, Port Elizabeth was sworn in. He stated that he has known Lafferty and his business for many years. His business was established before the township had laws. He stated that he thought he was grandfathered in. He has proven he has permits. Why should he have to go through this? He is not building anything new or expanding. He stated that he felt that he does not need a use variance and should be able to conduct his business as it is.

Bennett, in summary, asked his client if he runs a junk yard. Lafferty responded that it is vehicle storage facility and not a junk yard.

Bennett stated that Lafferty actually runs an impound yard as a small part of his business. He provides services to the County Prosecutor and the State Police. There are times when a wrecked car is impounded and held for sometimes a few months while the criminal aspects are sorted out, but the operation is not a junk yard.

Bennett went on to say that the five permits that were said not to exist, he was holding copies of in his hand. He further stated that no one came forward to say that Lafferty's business did not meet the 15 attributes of the business description determined to be a permitted use in the zone.

Imbaratto asked for clarification that the issue before the Board was not the permits or anything other than the use question.

Benson confirmed that the use is the only matter before the Board at this time.

On a motion by Carrara and seconded by Chard it was determined that the auto repair business operated by Jack Lafferty fits the description of a permitted use in the PVC-3 Zone and does not require a use variance. Unanimous roll call vote.

The chief site plan application remains incomplete. The application that has been submitted is held at the administrative level.

Bennett asked for an announcement to be made that the public hearing on this application be continued to the 8-1-12.

Benson stated that it would be better to re-notice the public and err on the side of caution.

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Tiffany Cuviello, Planner announced that we should have a Master Plan/ Ordinance worksession to review the material provided last month and some supplemental information to be provided for the next meeting. The worksession will be held after regular business at the meeting on 7-5-12 if time permits. If not, we will plan a special worksession meeting at that time.

Cuviello and Ireland spoke of the Planning Assistance Grant awarded to the Township. Meetings have been set up for 6-26-12 and 6-27-12 with the Planning Assistance Group and the community. The first meeting is to solicit input from the community, Land Use Board and Economic Development Board. The second meeting will be for the group to present their findings and recommendations.

Ireland also informed the Board of a meeting to be held at the Township Hall on 6-12-12 with the Nature Conservancy. The Maurice River and Commercial Township Environmental Committees will attend to discuss culverts, road flooding, sea level rise and shoreline issues.

There being no further business, Ireland motioned to adjourn. Carrara seconded. Unanimous.

Respectfully submitted,

Barbara D. Sutton, Secretary