

**RESOLUTION
TOWNSHIP OF PEQUANNOCK
PLANNING BOARD
IN THE MATTER OF JAMES P. CUTILLO
DECIDED ON JANUARY 11, 2010
MEMORIALIZED ON FEBRUARY 22, 2010
MINOR SUBDIVISION APPROVAL**

WHEREAS, James P. Cutillo (hereinafter "Applicant" or "Cutillo") has made application to the Pequannock Township Planning Board (hereinafter "Planning Board" or "Board") for minor subdivision approval and ancillary "c" variance relief in regard to property known and designated as Tax Block 1801, Lot 5 on the Tax and Assessment Map of the Township of Pequannock, which premises are commonly known as 75 West End Avenue, Pompton Plains, New Jersey. The subject site is located in the R-22 Zone District (hereinafter "R-22 Zone"); and

WHEREAS, a public hearing was held on January 11, 2010 after the Board determined that it had jurisdiction; and

WHEREAS, the Applicant was represented by Steven C. Schepis, Esq.

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

The application before the Board is a request for minor subdivision approval for property known and designated as Tax Block 1801, Lot 5 on the Tax and Assessment Map of the Township of Pequannock and located at 75 West End Avenue, Pompton Plains, New Jersey. The subject site is also located in the R-22 Zone District.

Testifying on behalf of the Applicant was Thomas E. Donohue, P. E. (hereinafter "Donohue") a licensed professional engineer in the State of New Jersey. The property is approximately 77,255.25 square feet in lot area. The site has frontage, both on West End

Avenue and West Parkway. The property is located in the R-22 Residential Zone District. There presently exists a single family dwelling on the property that fronts on West End Avenue. The purpose of the application is to subdivide the lot in order to create a new building lot fronting exclusively on West Parkway. The remainder lot will continue to have frontage on West End Avenue and is proposed as Lot 5.01 with a lot area of 38,783.94 square feet. The newly created lot has been identified as proposed Lot 5.02 and has frontage exclusively on West Parkway. The newly created lot has a lot area of 38,471.31 square feet. Both the remainder lot and the newly created lot conform to all of the bulk or dimensional requirements set forth in the R-22 Zone.

However, the Applicant requests a variance from Ordinance Section 189.07.040H(i)(d) which requires a buffer of 50 feet from the nearest structure or fill to an existing ditch, stream or water course. The Applicant proposes a bridge for access to the proposed home on newly created Lot 5.02 from West Parkway in order to cross an existing ditch. The bridge requires fill up to the bridge abutments. As a result, the Applicant requires variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c.

Mr. Donohue testified in connection with various permits received from the New Jersey Department of Environmental Protection (hereinafter "NJDEP"). The Applicant has secured a fresh water wetland Letter of Interpretation dated August 28, 2006 from the NJDEP. A copy of the Letter of Interpretation (hereinafter "LOI") was submitted to the Board by the Applicant. On September 3, 2008 the NJDEP also issued General Permit 2 and General Permit 10A to the Applicant. By virtue of the issuance of the aforesaid permits, the NJDEP authorizes the activities involving the disturbance of 0.014 acres of

State open waters for the construction of the utility crossing and 0.011 acres of State open waters for the access road for the single family dwelling. The permit was issued on September 2008 and is valid for five (5) years from the date of issuance of the permit. In addition, the NJDEP issued a Stream Encroachment Permit on February 21, 2008 which permit remains valid through February 21, 2013. The Stream Encroachment Permit allows the Applicant to cross the drainage ditch with the construction of the proposed driveway bridge in order to allow access to the proposed single family dwelling on proposed Lot 5.02. Proposed Lot 5.02 is constrained due to the drainage ditch and the wetland swale. This results in a limited area within which to locate a single family dwelling. In regard to access to the dwelling on the newly created lot, the Applicant is limited with respect to providing access. The NJDEP approved the use of a bridge to gain access to the dwelling on the newly created lot. All utilities will be underground.

The Environmental Commission issued a report dated December 9, 2009. Mr. Donohue reviewed the Environmental Commission's comments with the Board. Mr. Donohue disagreed with the assessment of the Environmental Commission that the wetlands swale does not force the drainage to the adjacent drainage ditch. Donohue stated that the wetlands swale does in fact drain into the ditch. The top of the swale is at 190 and the bottom of the swale is at 188 and, therefore, the swale does run into the drainage ditch. Secondly, as to the request for the granting of a Conservation Easement for an area of land between the ditch and the swale, Donohue indicated that the site is constrained, including, but not limited to, the wetlands drainage ditch and the wetlands swale and that there is a limited area within which to locate the single family house on proposed Lot 5.02. In addition, due to the fact that the Applicant has received General

Permit 2, General Permit 10A and a Stream Encroachment Permit, there is no need to place a Conservation Easement on the area of the land between the drainage ditch and the wetlands swale because these areas are already regulated by the NJDEP and effectively limit disturbance in this area. The Environmental Commission also requests that the bridge provide for free passage along the wetlands drainage ditch. Mr. Donohue indicated that the NJDEP approvals provide requirements which would require that the passage along the wetlands drainage ditch be kept clear. In addition, Donohue indicated that upon construction of the bridge there will be clearance because the bridge is proposed at 194 and the elevation is 193. Therefore, the bridge will be 1 foot higher than the required elevation. Also, with respect to wetland plantings, Donohue indicated that the plantings would be indigenous to the area. That is also part of the NJDEP approval process. However, Donohue agreed to submit new proposed wetland plantings to the Board engineer and to the Environmental Commission for review.

The Board and the Applicant engaged in a discussion with respect to the various review reports from the Board engineer Michael Simone, Jr., P.E. dated December 3, 2009, December 21, 2009 and January 8, 2010. The Applicant stipulated that the Applicant would comply with the review reports of the Board engineer. The Applicant stipulated that he will provide the bridge design and abutment details to the Township of Pequannock Building Department and to the Board engineer for review and approval. In addition, the Applicant's engineer agreed that it will perform soil borings relative to each infiltrated area and provide the results to the Board engineer for review and approval. The Applicant also stipulated that the pump/force main selection would be reviewed with the Board engineer and will be subject to the Board engineer's approval. The Applicant

agreed to the restoration of the disturbed public right-of-way as required by the Board engineer and the Applicant agreed that it would provide revised plans to reflect all changes which shall be submitted to the Board engineer and shall be subject to his review and approval.

This matter was opened up to members of the public and the Board was addressed by Nancy Towner, 3 Redmond Road. Ms. Towner was concerned about constraints on the land and that the property is very wet in its present condition. She also inquired as to the identity of the owner of the proposed new lot. It was explained that the Applicant, Mr. Cutillo, is a contract purchaser for the proposed new lot to be created and that the current owners of the property would continue to own the remainder lot.

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

The application before the Board is a request for minor subdivision approval and ancillary "c" variance relief for real property known and designated as Tax Block 1801, Lot 5 on the Tax and Assessment Map of the Township of Pequannock and located at 75 West End Avenue, Pompton Plains, New Jersey. The subject site is located in the R-22 Zone.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c 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, the 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 requests a variance from ordinance Section 189.07.040H(i)(d) which requires a buffer of 50 feet from the nearest structure or fill to an existing ditch, stream or water course. The Applicant proposes a bridge for access to the proposed home on newly created Lot 5.02 from West Parkway in order to cross an existing ditch. The bridge requires fill up to the bridge abutments.

The Board determines that it is appropriate to grant ancillary "c" variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c1 or hardship due to exceptional topographic conditions or physical features uniquely affecting this specific piece of property due to the existence of the wetlands drainage ditch and the wetlands swale which severely constrains the property and limits the proposed area of disturbance and building envelope where an appropriate single family dwelling can be located. In addition, the Applicant has received various approvals from the NJDEP in connection with the construction of a driveway bridge over the wetlands drainage ditch. Thus, the Board is satisfied that based upon the issuance of NJDEP permits and conditions of approval, that it is appropriate to grant the relief requested by the Applicant. The Board further concludes that the granting of ancillary "c" variance relief may be granted under the C2 criteria because it will not be substantially detrimental to the public good and further the approval will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. The Board also concludes that the benefits of the approval would outweigh any conceivable negative detriment. The Board makes these findings because proposed Lot 5.02 meets or exceeds all of the bulk requirements in the R-22 Zone and that the NJDEP permits and the conditions contained therein will prevent any negative impact or impairment of the use and enjoyment of adjacent properties. Under these circumstances, it is appropriate for the Board to grant ancillary "c" variance relief in regard to the Applicant providing fill up to the bridge abutments on the newly created proposed Lot 5.02.

The Board also accepts the representations of the Applicant and the Applicant's engineer that the Applicant will submit revised plans which shall address all of the various Board engineer review comments including but not limited to the submission of bridge

design and abutment details to the building department and to the Board engineer for review and approval. Furthermore, the Board also accepts the representation of the Applicant and Applicant's engineer that the Applicant will submit the results of soil boring tests to the Board engineer for his review and approval. The Applicant will also submit the details of a pump/force main selection to the Board engineer for his review and approval. The Board also acknowledges a stipulation by the Applicant as to the restoration of disturbed public right-of-way and the submission of revised plans to reflect all changes which shall be subject to the review and approval of the Board engineer. The Board acknowledges the stipulation on the part of the Applicant to maintain the wetlands swale in order to keep it free of debris and obstructions and to maintain it on a regular basis. The Board also accepts the Applicant's stipulation to record this Resolution with the Deed creating proposed Lot 5.02 in order to ensure that the terms and conditions of the granting of this approval will remain in the chain of title. In view of all the foregoing, and upon consideration of the plans, testimony and application, the Board determines that the proposed minor subdivision approval has met the minimum requirements of the Municipal Land Law, Case Law and Township Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested. The Board further finds that the granting of this application will not adversely impact or impair the use and enjoyment of adjacent properties.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of James P. Cutillo for property known and designated as Tax Block 1801, Lot 5 on the Tax and Assessment Map of the Township of

Pequannock, located at 75 West End Avenue, Pompton Plains, New Jersey requesting minor subdivision approval and ancillary "c" variance relief is determined as follows:

1. Minor subdivision approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47 as well as the Land Development Ordinances of the Township of Pequannock.
2. Ancillary "c" variance relief is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) and (2) as well as from Section 149.07.040H(i)(d) which requires a buffer of 50 feet from the nearest structure or fill to an existing ditch, stream or water course.
3. The subdivision of this parcel shall be implemented in accordance with plans prepared by Donohue Engineering dated October 15, 2009, revised December 9, 2009 which plans consists of two (2) sheets and any further revisions thereto as directed by the Planning Board or the Board Engineer.
4. The Applicant represents that of all its representations and stipulations made by it or on its behalf to the Township of Pequannock Planning Board are true and accurate and acknowledges that the Planning Board specifically relied upon the said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.
5. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on January 11, 2010.
6. The Deed recorded memorializing the minor subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and the Board attorney. The Applicant shall record the Deed within 190 days of the memorializing Resolution being adopted. Failure to do so shall render the approval null and void.
7. The granting of this application is subject to and conditioned upon the Applicant complying with all terms and conditions as set forth in the Board Engineer's review reports dated December 3, 2009, December 21, 2009 and January 8, 2010.
8. The granting of this application is subject to and conditioned upon the Applicant providing bridge design and abutment details to the Pequannock Township Building Department and to the Board Engineer, Michael Simone, Jr., P.E. for review and approval.

9. The granting of this application is subject to and conditioned upon the Applicant providing soil borings to the Board Engineer which shall be subject to his review and approval.
10. The granting of this application is subject to and conditioned upon the pump/force main selection being submitted to the Board Engineer which shall be subject to his review and approval.
11. The granting of this application is subject to and conditioned upon the restoration of the disturbed public right-of-way which shall be subject to the review and approval of the Board Engineer.
12. The granting of this application is subject to and conditioned upon the Applicant submitting revised plans reflecting all changes which shall be subject to the review and approval of the Board engineer.
13. The granting of this application is subject to and conditioned upon the Applicant providing a landscape plan demonstrating all wetlands plantings which must be indigenous to the local area and which shall be submitted to the Board Engineer and Environmental Commission for review.
14. The granting of this application is subject to and conditioned upon the Applicant performing periodic and routine maintenance of the wetland swale in order to keep the wetland swale free of debris and obstructions and maintaining free passage.
15. The granting of this application is subject to and conditioned upon the Applicant recording a copy of the within Resolution with the Deed creating proposed Lot 5.02 which shall be recorded in the office of the Morris County Clerk.
16. The granting of this application is subject to and conditioned upon the Township of Pequannock Tax Assessor assigning appropriate lot numbers in connection with this approval.
17. The granting of this application is subject to and conditioned upon Morris County Soil Conservation district approval, if required.
18. The granting of this application is subject to and conditioned upon Morris County Planning Board approval, if required.
19. The granting of this application is subject to and conditioned upon New Jersey Department of Environmental Protection approval (NJDEP), if required.

20. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
21. Certificate that taxes are paid current to date of approval.
22. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other agency have jurisdiction hereunder.

The undersigned secretary certifies the within Resolution was adopted by this Board on January 11, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 22, 2010.



Roger Imfeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote:

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**RESOLUTION
TOWNSHIP OF PEQUANNOCK PLANNING BOARD
IN THE MATTER OF SO BIG CHILD DEVELOPMENT CENTER
DECIDED ON JANUARY 11, 2010
MEMORIALIZED ON FEBRUARY 22, 2010
MINOR SITE PLAN APPROVAL**

WHEREAS, So Big Child Development Center (hereinafter "So Big" or "Applicant") has made Application to the Pequannock Township Planning Board hereinafter ("Planning Board") seeking minor site plan approval for property known as Block 902, Lot 18, as shown on the Tax Map of the Township of Pequannock (hereinafter "Township"), which premises are located at 620 Route 23, Pompton Plains, New Jersey 07444 and located in the C-3 Regional Commercial Zone District (Hereinafter "C-3 Zone"); and

WHEREAS, a public hearing was held on January 11, 2010 after the Planning Board determined it had jurisdiction, and

WHEREAS, the Applicant was represented by Cary Nurik, Esq.

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

The Application before the Board is a request for minor site plan approval for property known as Block 902, Lot 19, as shown on the Tax Map of the Township of Pequannock and located at 620 Route 23, Pompton Plains, New Jersey which premises are located in the C-3 Zone.

The Applicant proposes internal modifications to an existing commercial structure in order to operate a daycare facility at this location. The existing commercial structure consists of approximately 26,730 square feet and the Applicant seeks to occupy approximately 4,000 square feet at this location for the day care center.

Testifying on behalf of the Applicant was Johanna Kimberlin (hereinafter "Kimberlin") who is a principal in So Big Child Development Center entity. She testified that So Big has entered into a lease with Cornerstone Chapel of the CMA of Wayne for occupancy of approximately 4,000 square feet of space at this location. The lease is contingent upon obtaining all required governmental approvals in regard to this matter. She further testified that she currently operates a facility in Riverdale and that her lease will expire during 2010. As a result, the Applicant seeks to relocate to this site.

Kimberlin further testified that at one time a smaller daycare center was in operation at this location. However, currently there is no daycare center being operated here. It appears that there is no other for profit commercial venture operating within this facility. She also testified that the playground area will be utilized in connection with the daycare center. The existing playground area is approximately 888 square feet in size and is surrounded by a chain link fence. Kimberlin also testified with respect to other governmental approvals. She indicated that permitting or licensing is required from the New Jersey Department of Human Services, the New Jersey Department of Health and the New Jersey Department of Environmental Protection. Kimberlin stated that she is seeking approval to be licensed for eighty-eight (88) children at this site. Currently, she is licensed for a maximum of fifty-eight (58) children in Riverdale, New Jersey. The plans reveal that for eighty-eight (88) children, a staff of fourteen (14) is required. Thus, the total number of people on site between children and staff would be 102 people. The hours of operation for the daycare facility will be from 6:30 a.m. to 6:30 p.m. Monday through Friday.

Also testifying on behalf of the Applicant was James Cutillo (hereinafter "Cutillo") a licensed professional architect in the State of New Jersey. Cutillo testified that for the most part, the area to be occupied by the daycare center is confined and is secured. However, there are bathroom facilities both within the leased area and outside of the leased area which can be accessed as well. The bathroom facilities outside the leased area are in close proximity to the leased area and these bathroom facilities are in common with other tenants at this site. Cutillo also testified in connection with the proposed tenant layout as set forth on plans prepared by him dated November 17, 2009 and last revised November 24, 2009 and consisting of two (2) sheets. The Applicant is also proposing a drop off area adjacent to two (2) handicapped accessible parking spaces in the rear of the building.

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

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

The Application before the Board is a request for minor site plan approval for property known as Block 902, Lot 18, as shown on the Tax Map of the Township of Pequannock and located at 620 Route 23, Pompton Plains, New Jersey 07444 which premises are located in the C-3 Zone District.

The Applicant proposes to make internal improvements and renovations to the existing commercial building in order to occupy the premises for use as a daycare center for eight-eight (88) children at this site. The Board understands that the Applicant currently operates a daycare center in Riverdale and that the Applicant's lease is due to expire

during 2010. As a result, the Applicant seeks to relocate to the within premises. Furthermore, the Board understands that the Applicant's facility in Riverdale is licensed for fifty-eight (58) children and the Applicant is seeking approval to be licensed for eighty-eight (88) children at this location.

The Board notes that the site is located in the C-3 Zone. Under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-66.6 childcare centers for which, upon completion, a license is required from the Department of Human Services shall be a permitted use in all nonresidential districts of a municipality. Accordingly, the proposed use is a permitted use pursuant to the Municipal Land Use Law. Furthermore, the Board finds that parking is adequate for the proposed use. There are 120 parking spaces on site with a breakdown of thirty-five (35) parking spaces in the front of the site including three (3) handicapped accessible spaces and eighty-five (85) parking spaces in the rear of the site inclusive of two (2) handicapped parking spaces as well as a drop off area. Furthermore, pursuant to the Municipal Land Use Law under N.J.S.A. 40:55D-66.6, the floor area occupied in any building or structure as a childcare center shall be excluded in calculating:

- 1) a parking requirement otherwise applicable to that number of units or amount of floor space as appropriate, under state or local laws or regulations adopted thereunder;
- 2) the permitted density allowable for that building or structure under any applicable municipal zoning ordinance.

As such, the Board concludes that there is adequate onsite parking to accommodate the proposed use of the premises as a daycare center for eighty-eight 88 children with fourteen (14) staff members.

The Board also notes that there are no variances required in connection with this application and that the Applicant conforms to the zoning ordinances of the Township of Pequannock.

The Applicant did not present, nor did the Board consider an application for signage for the proposed daycare center. If in the future, the Applicant requires signage, the Applicant will be required to apply to the building department and conform to the sign ordinances of the Township of Pequannock, or to seek waiver relief from the Township of Pequannock Planning Board. As a result, no sign approvals were granted by the Planning Board as part of this application.

Upon consideration of the plans, testimony and application, the Board determines that the Applicant has submitted sufficient information so as to enable the Board to render an informed decision in regard to this application. The Board also finds that approval of this application will not adversely impact contiguous property owners. Based on the foregoing, the Board concludes that the Applicant has met the minimum requirements of the Municipal Land Use Law, case law and Township ordinances to a sufficient degree so as to enable the Board to grant the relief being requested consisting of minor site plan approval.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of So Big Development Center, for property designated as Block 902, Lot 18, as shown on the Tax Map of the Township of Pequannock, which premises are located at 602 Route 23, Pompton Plains, New Jersey 07444 and located in the C-3 Zone District, requesting minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 is determined as follows:

1) Minor site plan approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46.1.

IT IS FURTHER RESOLVED that the above land use relief is 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 as prepared by James P. Cutillo Associates dated December 15, 2009, consisting of two (2) sheets and any subsequent revisions as required by the Planning Board.
2. The granting of this application is subject to all of the representations and stipulations being made by or on behalf of the Applicant to the Township of Pequannock Planning Board being true and accurate. The Planning Board specifically relied upon said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.
3. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the hearing on January 11, 2010.
4. The granting of this Application is subject to and conditioned upon the Applicant obtaining all appropriate permits, approvals or licenses by the Department of Human Services for the operation of a daycare center at this location for a maximum of eighty-eight (88) children.
5. The granting of this Application is subject to and conditioned upon the Applicant's obtaining all permits, approval or licenses by the State of New Jersey Department of Health in order to permit the operation of a daycare facility at this location for a maximum of eighty-eight (88) children.
6. The granting of this Application is subject to and conditioned upon the Applicant obtaining all permits, approvals or licenses from the New Jersey Department of Environmental Protection in order to operate a daycare facility at this site for a maximum of eighty-eight (88) children.
7. The granting of this Application is subject to and conditioned upon Morris County Planning Board approval, if required.

8. The granting of this Application is subject to and conditioned upon the Applicant complying with the Pequannock Township Office of Fire and Safety recommendations in regard to the proposed occupancy of the premises.
9. Certificate that taxes are paid current to date of 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 said request by the Board Secretary.
11. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other agency having jurisdiction.
12. Prior to the issuance of any Construction Permit, the Applicant shall file with the Board and Construction Official an Affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply to the Planning Board a copy of any approvals received.

The undersigned secretary certifies the within Resolution was adopted by this Township of Pequannock Planning Board on January 11, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 22, 2010.



Roger Imfeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote:

**RESOLUTION
TOWNSHIP OF PEQUANNOCK PLANNING BOARD
IN THE MATTER OF AMERICAN TESTING LABORATORY, LLC
DECIDED ON JANUARY 11, 2010
MEMORIALIZED ON FEBRUARY 22, 2010
APPLICATION FOR SIGN APPROVAL**

WHEREAS, American Testing Laboratory, LLC (“hereinafter “American” or “Applicant”) has made application to the Pequannock Township Planning Board, (hereinafter “Planning Board”), for property known and designated as Tax Block 4601, Lot 12, on the Tax Map of the Township of Pequannock, (hereinafter “Township”), which premises are located at 11 Industrial Road, Pequannock, New Jersey and located in the I-Industrial District (“hereinafter “I” Zone”); and

WHEREAS, the Applicant has applied to the Pequannock Township Planning Board for approval pursuant to the Code of the Township of Pequannock Chapter 153 Signs which authorizes the Planning Board to review and approve all sign applications within the Township; and

WHEREAS, a public hearing was held on January 11, 2010 after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was not represented by legal counsel.

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

The within application is for premises known and designated as Tax Block 4601, Lot 12 on the Tax and Assessment Map of the Township of Pequannock, which premises are commonly known as 11 Industrial Road, Pequannock, New Jersey. The subject site is located in the I-Industrial District.

The following documents were submitted in connection with this application for development:

1. Completed Sign Application, signed by Daniel Narbone dated December 22, 2009.
2. Copy of site plan prepared by John Evans, P.E., RA, LS, dated January 1, 1978 with revisions through November 11, 1978.
3. Sign detail prepared by Sign "A" Rama.

The Applicant seeks approval for a freestanding sign associated with an existing industrial building.

The subject site is located in the I-Industrial District of the Township. The proposed freestanding sign is permitted in the I-Industrial District. Pursuant to Section 153.06(C)(3) of the sign ordinance of the Township of Pequannock, the maximum sign area for a freestanding sign is a total of 40 square feet. The Applicant proposes a freestanding sign with an area of 24 square feet and a height of 6 feet. This complies with the requirement of the ordinance. In addition, the Applicant proposes to locate the freestanding sign 15 feet from the property line. This complies with the requirement of the ordinance that prohibits permanent signs of being installed within 10 feet of the property line. Furthermore, the Applicant indicates that the freestanding sign will not be illuminated. This also complies with the ordinance requirements. Therefore, the Applicant is proposing a fully conforming freestanding sign with the text "American Testing Laboratory" as well as the number 11 indicating the street address on Industrial Road also being located on the sign. The signage will consist of ¾ inch PVC single sided on a post with a black

background and white text as indicated on the sign plan provided by Sign "A" Rama and submitted in connection with the application.

The meeting was opened up to the public and there were no members of the public present expressing any interest in the within application.

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

American Testing Laboratory, LLC is the Applicant for premises known and designated as Tax Block 4601, Lot 12 on the Tax and Assessment Map of the Township of Pequannock, which premises are commonly known as 11 Industrial Road, Pequannock, New Jersey. The subject site is located in the I-Industrial District.

The Applicant seeks approval to locate a freestanding sign to be associated with the existing industrial building. The freestanding sign will have a total sign area of 24 square feet and a height of 6 feet. The freestanding sign meets the requirements of Section 153.06(C)(3) of the sign ordinance of the Township of Pequannock. Furthermore, the location of the proposed freestanding sign at 15 feet from the property line likewise conforms to the ordinance requirements. The application indicates that the freestanding sign will not be illuminated. Accordingly, the proposed freestanding sign complies with the sign ordinance of the Township of Pequannock in all respects for a sign in the industrial district.

Upon consideration of the plans, testimony and application, the Board determined that the Applicant has submitted sufficient information so as to enable the Board to render an informed decision with regard to the request for sign approval. The Board further determines that the freestanding sign proposed by the Applicant is in

full compliance with the terms and conditions of the sign ordinance of the Township of Pequannock for a sign in the Industrial District. Therefore, the Board concludes that there are no waivers required from the sign ordinance. As a further result, the Board determines that it is appropriate to grant the application for signage as proposed in the sign plan prepared by Sign "A" Rama and submitted in connection with this application. The Board therefore concludes that it is appropriate to grant sign approval in regard to this application.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of American Testing Laboratory, LLC for premises commonly known and designated as Tax Block 4601, Lot 12 on the Tax and Assessment Map of the Township of Pequannock and located at 11 Industrial Road, Pequannock, New Jersey in the I-Industrial District requesting sign approval is determined as follows:

1. Approval is granted to enable the Applicant to install a freestanding sign with a total sign area of 24 square feet at a height of 6 feet with the text "American Testing Laboratory" and the number 11 indicating the address of 11 Industrial Road on the sign. The signage will contain black background with white text.
2. The Applicant shall comply with all appropriate terms and conditions of the Township of Pequannock Code Chapter 153 signs except as may have been modified at the time of the hearing and set forth herein.
3. The granting of the application is subject to and conditioned upon the Applicant installing signs consistent with the sign detail prepared by Sign

"A" Rama and submitted as part of the application package and approved by the Planning Board.

4. The Applicant represents that all of its representations and stipulations made by it or on its behalf to the Township of Pequannock Planning Board are true and accurate, and acknowledges that the Planning Board specifically relied upon the said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.
5. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the hearing on January 11, 2010.
6. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other jurisdiction.

The undersigned secretary certifies the within Resolution was adopted by this Planning Board on January 11, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 22, 2010.



Roger Imfeld, Board Secretary

In favor:
Against:

Abstained:
Board Members Eligible to Vote:

X:\WP-DATA\CORMATTERS\PEQ-305E American Testing Lab Resolution 01-15-10 rb

**RESOLUTION
TOWNSHIP OF PEQUANNOCK
PLANNING BOARD
IN THE MATTER OF DOUG MARCHESIN
DECIDED ON JANUARY 11, 2010
MEMORIALIZED ON FEBRUARY 22, 2010
APPLICATION FOR MINOR SITE PLAN AND SIGN APPROVAL**

WHEREAS, Doug Marchesin ("hereinafter "Marchesin" or "Applicant") has filed an application with the Pequannock Township Planning Board, (hereinafter "Planning Board"), seeking minor site plan approval and sign approval for property known and designated as Tax Block 802, Lot 6, on the Tax Map of the Township of Pequannock, (hereinafter "Township"), which premises are located at 717 Route 23, Pompton Plains, New Jersey and located in the C-2 Highway Commercial District, (hereinafter "C-2 Zone"); and

WHEREAS, the Applicant has applied to the Pequannock Township Planning Board for minor site plan approval as well as approval pursuant to the Code of the Township of Pequannock Chapter 153 Signs which authorizes the Planning Board to review and approve all sign applications within the Township; and

WHEREAS, a public hearing was held on January 11, 2010 after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was not represented by counsel.

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

The application before the Board is a request for minor site plan approval and sign approval for property known and designated as Tax Block 802, Lot 6 on the Tax and Assessment Map of the Township of Pequannock, which premises are commonly known

as 717 Route 23, Pompton Plains, New Jersey. The subject site is located in the C-2 Zone district.

The following documents were submitted in connection with this application for minor site plan and sign approval:

1. Completed Pequannock Site Plan Application signed by Doug Marchesin, not dated.
2. Completed Sign Application signed by Doug Marchesin, dated December 28, 2009.
3. Façade Improvement Plan, prepared Louis S. Salamone, RA, dated December 16, 2009.
4. Sign details, consisting of five (5) sheets, prepared by Neon Design, dated December 28, 2009.

The Board also considered the following reports and or memoranda in regard to this application:

1. Memorandum dated January 11, 2010 from Jill A. Hartmann, P.P., AICP, Planner to the Pequannock Township Planning Board.

This is a minor site plan and sign application in order to improve the front façade of the existing strip shopping center and to provide a new coordinated sign plan for the shopping center. The subject site is located in the C-2 Zone. The existing strip shopping center is a permitted use in the C-2 District.

The existing one story, strip shopping center is an older commercial retail strip center. The existing building has not recently undergone any major site improvements or

renovations. The current application proposes to renovate and update the existing structure with a new façade, lighting and attached signs. The front façade height will be increased to the height of the buildings roof. There will be no increase in the height of the building which is 23 feet. The C-2 District permits a height of 2 stories and 30 feet. The existing and proposed renovation will meet the ordinance height requirements. The proposed renovation will not impact any of the site setbacks, coverage or parking requirements.

With respect to signage, the Applicant proposes building attached signs for Modular Homes at 48 square feet, the Bicycle Source at 52.50 square feet, Fireside Furniture at 53 square feet, LaPlacas Fitness Store at 49.6 square feet and Marchesin Shoes at 49.5 square feet. All of the proposed signs meet the sign ordinance requirement for permitted square footage based upon the façade area for each tenant.

Section 153.06(B)(2)(b) permits one (1) freestanding sign for each commercial property and one (1) attached sign for each use. The site presently has one freestanding sign. Each commercial use will have one (1) attached sign, thereby complying with the sign ordinance requirement.

The meeting was opened to the public and there were no members of the public present expressing any interest in the within application.

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

The application before the Board is a request for minor site plan approval and sign approval in regard to property commonly known and designated as Block 802, Lot 6 on the Tax and Assessment Map of the Township of Pequannock, which premises are commonly

known as 717 Route 23, Pompton Plains, New Jersey. The subject site is located in the C-2 Zone. The Applicant proposes to renovate and update the existing store façade inclusive of lighting and attached signs. The front façade height will be increased to the height of the existing roof. There will be no increase in the height of the building which is 23 feet. The proposed renovation will not impact any of the site setbacks, coverage or parking requirement. The site presently has one (1) freestanding sign. Each commercial use will have one (1) attached sign, thereby complying with Section 153.06(B)(2)(b) of the sign ordinance of the Township of Pequannock. Furthermore, the proposed renovation will not impact any of the site setbacks, coverage or parking requirements.

With respect to building attached signage, the Applicant proposes façade attached signs for Modular Homes at 48 square feet, the Bicycle Source at 52.50 square feet, Fireside Furniture at 53 square feet, LaPlacas Fitness Store at 49.6 square feet and the Marchesin Shoe Store at 49.5 square feet. The permitted sign area of each building attached façade sign for each tenant is based upon the square footage of the store façade for each tenant. As a result, all proposed signs meet the sign ordinance requirements for permitted sign area footage. Furthermore, the top of the five (5) attached signs are not located above the horizontal edge of the vertical wall and are not installed higher than 24 feet which is the maximum height allowed by ordinance. The proposed signs will be internally illuminated. As a result, all signs comply with Section 153.06(B)(2)(e) of the Township of Pequannock Sign Ordinance.

Upon consideration of the plans, testimony and application, the Board determined that the Applicant has submitted sufficient information so as to enable the Board to render an informed decision. The Board also determines that the Applicant has met the minimum

requirements of the Municipal Land Use Law, Case Law and Township Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested inclusive of minor site plan approval and sign approval.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of Doug Marchesin for premises commonly known and designated as Tax Block 802, Lot 6 on the Tax and Assessment Map of the Township of Pequannock and located at 717 Route 23, Pompton Plains, Pequannock, New Jersey in the C-2 Zone District requesting minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 and sign approval pursuant to Chapter 153 of the sign ordinance of the Township of Pequannock, is determined as follows:

1. Minor site plan approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46.1
2. Sign approval is granted pursuant to Chapter 153 signs of the Land Development Ordinance of the Township of Pequannock.

IT IS FURTHER RESOLVED, that the above land use relief is 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 as prepared by Louis S. Salamone, RA dated December 16, 2009 as well as the sign details consisting of five (5) sheets prepared by Neon Design, dated December 28, 2009.
2. The granting of this application is subject to and conditioned upon all of the representations and stipulations being made by or on

behalf of the Applicant to the Township of Pequannock Planning Board being true and accurate. The Planning Board specifically relied upon said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.

3. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on January 11, 2010.
4. The granting of this approval is subject to and conditioned upon the Applicant complying with all terms and conditions contained in a report of Jill A. Hartmann, P.P., AICP dated January 11, 2010, which report was provided to the Pequannock Township Planning Board.
5. The granting of this application is subject to and conditioned upon the Applicant complying with all appropriate terms and conditions of the Township of Pequannock Code Chapter 153 signs.
6. The granting of this approval is subject to and conditioned upon Morris County Planning Board approval, if required.
7. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
8. Certificate that taxes are paid current to date of approval.

9. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other jurisdiction.
10. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an Affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply to the Planning Board a copy of any approvals received.

The undersigned secretary certifies the within Resolution was adopted by this Planning Board on January 11, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 22, 2010.



Roger Imfeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote:

X:\WP-DATA\CORMATTERS\PEQ-307E Marchesin Minor Site Plan & Sign Approval Reso 01-20-10 rb