

BOARD OF ADJUSTMENT
CITY OF LAMBERTVILLE
REGULAR MEETING MINUTES
7:30 PM, JUSTICE CENTER, 25 SOUTH MAIN STREET
Thursday, OCTOBER 25, 2012

The meeting was called to order by the Vice Chairman, Pat Pittore, at 7:30 p.m. with a statement of compliance with the Open Public Meetings Act.

Roll Call

Mrs. Lawton called the roll as follows:

Present: Phil Mackey, Pat Pittore, Fred Eisinger, Georg Hambach, Maura Fennessy, Dave Moraski, Kate Dunn and Sara Scully.

Absent:

Also Present: Board Attorney Bill Shurts, Board Engineer Tom Cundy and Board Planner Linda Weber.

APPROVAL OF MINUTES: September 27, 2012

Maura Fennessy made a motion to approve the September 27, 2012 meeting minutes, as submitted. Pat Pittore seconded the motion. A unanimous voice vote in favor of the motion was taken by all members present. Georg Hambach and Dave Moraski were abstained from voting.

MOTION CARRIED.

APPROVAL OF RESOLUTION # 1-2012 214 South Franklin Street, Block 1057 Lot 2.01 Steep Slope Variance Robert Simpson

Motion: Pat Pittore made a motion to approve resolution 1-2012, as submitted. Maura Fennessy seconded the motion. A unanimous roll call vote in favor of the motion was taken by all members present was taken.

MOTION CARRIED.

PUBLIC HEARING 57 Bridge Street, Block 1042 Lot 28 Variance Application

Richard Mongelli, the applicant's attorney, was present at the meeting, as well as Tanya Cooper, President of the Lambertville Hall and also Michael Burns, the applicant's architect.

Mr. Shurts advised the Board members and members of the public that the new notices that were sent out were satisfactory and met all the required criteria.

Both Ms. Cooper and Mr. Burns were sworn in by Bill Shurts so that they could give testimony regarding the proposed application.

The following exhibits were made part of the application:

- A1: Application
- A2: Proof of Service – to include the Transmittal Letter, List of Property Owner's within 200 feet and the copy of the notice that was sent to the newspapers and the property owners listed.
- A3: Letter from K&L Gates, LLP regarding parking arrangements at the St. John's of Evangelist Church, 44 Bridge Street, dated October 25, 2012.
- A4: Power Point Presentation given by Michael Burns.

Richard Mongelli went on to discuss the letter from the Church, which states that they do not oppose the proposed use and conversion of 57 Bridge Street.

According to State Statute no liquor license shall be issued within 200 feet of a Church or a School, unless they have written permission from the property owner.

Linda Weber asked Mr. Mongelli if the letter specifically states that the Church does not oppose the liquor license. Mr. Mongelli stated that it does not specifically state those words.

The letter also states that the Church was approached by the owners of 57 Bridge Street regarding parking availability, although, negotiations have not been discussed at this time.

In the letter the Church states that they reserve the right at their discretion, restrict the time and number of spaces made available should the Church require such use of those spaces.

The Church is also requiring that all parking in their lot be for valet parking only.

Mr. Mongelli asked that Ms. Cooper be allowed to make her statement.

Tanya Cooper's business address is 55 Bridge Street, Lambertville NJ.

Ms. Cooper advised the Board members that she is the president of the Lambertville Foundation Hall which is proposed to be a 501 C3 Charitable Organization.

The owner Kevin Daughtery is a resident of New Hope and recently purchased the Bucks County Playhouse in New Hope, PA.

MUSIC HALL / PROFORMING ARTS

Ms. Cooper stated that they are proposing a music hall because the owners and the City are passionate about art and they want to embrace the culture of the past.

The Music Hall will be a non-profit organization. They are predicting that the restaurant and bar will help with generating a majority of the funding for the concert hall so that they do not have to rely on fundraising to help elevate costs.

Ms. Cooper stated that they are hoping to offer music or instrument lessons to all ages appropriate. She also stated that the interior of the building is very flexible, which gives them the option of conducting multiple shows of all types.

RESTAURANT & BAR

The restaurant and bar will be located on the lower level of the building as well as the expanded kitchen and storage area.

Mr. Pittore asked Ms. Cooper how many employees they will have on their staff. Ms. Cooper responded that they plan on having 20-30 employees, including sub-contractors.

Phil Mackey asked to have Ms. Cooper describe or give an example of this project. Ms. Cooper stated that it will be based on the Bucks County Playhouse and that the same model will work here.

Sara Scully asked what percentage of the space will be used for non-profit. Ms. Cooper stated that a majority of the building will be non-profit but that she was unaware of any restrictions regarding the percentage.

The restaurant and bar will be open seven days a week from 11:30 am to 2:00 am with Saturday and Sunday brunch.

EXPERT WITNESS TESTIMONY

Michael Burns, of 19 South Franklin Street is a New Jersey licensed planner and has testified several times at hearings held in Lambertville.

Mr. Burns gave a little background history on Lambertville and stated that in 1949 the Lambertville Music Circus was popular and was located in the area of Alexauken Creek Road. From 1962-1970 it was relocated to "Music Mountain".

Mr. Burns advised the Board members that this property is before the Zoning Board of Adjustment because the property at 57 Bridge Street is located in two zones, R-2 and the Central Business District (CBD). The rear portion of the building known as block 1042 Lot 28 is located in the R-2 Zone and is approximately .228 acres.

In this area of the property, they are proposing a stair case for access to Ferry Street. Also in this area they are proposing an enclosed trash area.

Mr. Burns stated that performances will be held on Friday, Saturday and Sunday and will be closed on Monday.

PARKING

Mr. Burns stated that they are proposing to use three spaces in the front of the building on Bridge Street for the loading and barrier free spots and also for the valet parking.

They are proposing depressed curbing and two barrier free ramps for entrance to the building.

The applicant presented a letter from the St. Johns Evangelist Church located directly across the street at 44 Bridge Street. In this letter it stated that the owners may be willing to negotiate the terms and conditions for the use of their property for parking.

The letter also indicated that they would be willing to allow for valet parking for seven spaces Monday through Thursday between the hours of 5:00 pm and 10:00 pm and up to fifty spaces on Friday's, Saturday's and Sunday's between the hours of 7:00 pm and 12:00 am (midnight)

It also states in the letter that St. John Evangelist Church shall maintain the right, up to 72 hours notice and at its discretion restrict the time and number of spaces made available.

Full negotiations have not been agreed upon though.

Mr. Burns stated with the use of the St. Johns parking spaces and the valet parking the applicant would be able to utilize a total of 72 spaces because they will be able to stack the cars.

The applicant also present a letter from Route 12-1 Properties LLC, owners of the Diamond Silver Building located on Arnett Avenue.

This letter indicated that they may be willing to allow the Lambertville Hall Foundation the use of up to 130 spaces for parking.

Lambertville Hall Foundation would be allowed to use the parking spaces Monday through Friday from 6:00 pm and 6:00 am and Saturday and Sunday all day.

The letter also indicates that the lot may not be used during "community parking" such as the Shad Festival or other events when the owners will be using those spaces for parking cars for a fee.

Negotiations also have not been agreed upon.

Mr. Burns stated that the applicant is proposing to use shuttles for the Diamond Silver parking lot. A series of shuttles will be running at one time. There will also be a parking attendant there at all times to direct parking.

The fee for parking may be incorporated into the tickets for the shows.

They will also be relying on the remaining parking to be street parking.

Each shuttle will be able to accommodate up to 10 passengers. The lot will be open three hours prior to the start of the shows.

Maura Fennessy asked if the applicant had spoken to the Riverhorse Brewery or the Body Tech Fitness to see if they are willing to allow additional parking.

Mr. Burns stated that they hadn't talked to either business owner but could do so.

Mr. Shurts commented that the shuttles used for the parking at Diamond Silver will require them to travel down narrow streets. Also, when the shuttles drop off the customers in the front of the building on Bridge Street, it could cause traffic issues and create bothersome idling and exhaust issues.

Mr. Shurts also advised the applicant that a parking agreement between the Church and Diamond Silver is required before any approvals can be made. The letters of intent that have been submitted will not satisfy the Board due to parking being a major issue within the City.

Sara Scully also suggested that a parking schematic be submitted so that the Board members can review as well as the professionals.

PUBLIC COMMENT

John Woods of 48 Ferry Street stated that he supported the proposed concept.

He also made a comment that the applicant had proposed a plan to utilize the rear of the property for additional parking, however, when that was submitted to the neighbors for input the applicant decided not to follow through with that project due to the impact of quality of the life the property owners on Ferry Street.

Mr. Woods was also concerned about the location of the garbage area and the HVAC system. However he stated that if the garbage was properly disposed of each day he would have no issues with the proposed location.

Marie Toohey of 45 North Franklin Street said that she feels that the valet parking and the shuttle buses will create a lot of traffic jams on Bridge Street.

Lisa Nichols, a resident and business owner in the City, stated that she would like to see a more detailed parking plan presented to the public.

Ms. Nichols also feels that the concert hall is not particularly what our City is about. The noise, traffic and impact on the City could change the quality of life.

Ms. Nichols stated that Bridge Street is a State street, which also requires their approval for the slowing of traffic.

Linda Weber responding by saying that the State would still have to review this application for the traffic flow and also for the removal of three parking spaces for the loading zone.

Mr. Vaughan stated that even with a loading zone, there will still be an increase in traffic.

Carol Kneidinger of 70 Bridge Street stated that she has no objections to the proposed project however, she is concerned with the increased noise level that may occur during the night hours.

Ken Vaughan of 40 Ferry Street stated that he recently purchased a commercial property on Bridge Street and is concerned that even with the proper parking elements satisfied, this project could have a big impact on the City.

He stated that the increased traffic within the City, especially on Bridge Street, which is already a busy street, is a major concern of his.

Mr. Vaughan also stated that most venues within the downtown City area close or end around eleven o'clock pm.

Jan Kniskern, of 44 Ferry Street stated that she is also concerned with the noise level, increased traffic and emergency vehicle access.

However, she is very pleased to see that the Church is being restored.

Tom Eagan of 43 Ferry Street stated that he would like to see a visual proposal of the seating for the interior of the building and also a traffic study plan.

The applicant will submit additional parking plans and also a more detailed seating arrangement for the interior of the building. The public hearing will be carried to the November 29, 2012 meeting with no additional notices required.

Motion: Phil Mackey made a motion to carry the public hearing to the November 29, 2012 meeting. A unanimous voice vote was taken by all members present.
MOTION CARRIED.

PAYMENT OF BILLS

Pat Pittore made a motion to pay the bills when the funds become available. Fred Eisinger seconded the motion. A unanimous voice vote of ayes was taken in favor of the motion by all members present.
MOTION CARRIED.

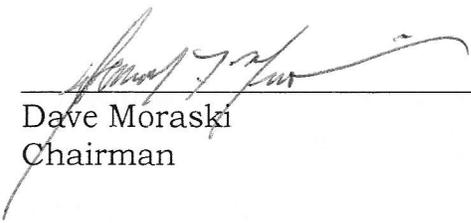
PUBLIC PARTICIPATION

None

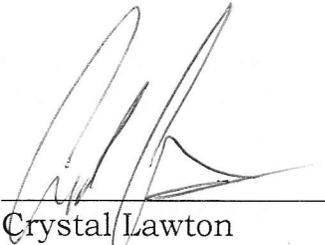
ADJOURNMENT

The meeting was adjourned at 10:22 pm.

Respectfully submitted,



Dave Moraski
Chairman



Crystal Lawton
Administrative Officer

WF

**LAMBERTVILLE BOARD OF ADJUSTMENT
RESOLUTION NO. -2012
ROBERT SIMPSON
STEEP SLOPE VARIANCE APPLICATION (Approval)
BLOCK 1057, LOT 2.01**

WHEREAS, Robert Simpson has filed an application with the Lambertville Board of Adjustment for relief regarding the property known as Block 1057, Lot 2.01 located at 214 South Franklin Street in the R-1 zone; and

WHEREAS, the applicant seeks approval after the fact for the regrading of a significant portion of his lot and the construction of various residential improvements including a single family residence and a significant driveway on the above mentioned lot which has access to South Franklin Street by means of a private drive used by the applicant along with several others; and

WHEREAS, the applicant requires variance relief from the Steep Slope Provisions of the local ordinance specifically Section 519.5 which limits the amount of disturbance in areas with 15 to 20% slopes to 30%; with areas from 20.1% to 30% to a 10% disturbance; and which does not allow any disturbance at all in areas of slopes in excess of 30%; and

WHEREAS, this application has been the subject of a public hearing before the Lambertville Board of Adjustment which began on March 29, 2012 and which was not continued until September 27, 2012 wherein the applicant was represented by Lawrence C. Wohl, Esq. and sworn testimony was given by Robert Simpson, the property owner, and by his engineer, James Ceglia, P.E.; and

WHEREAS, all jurisdictional requirements of the state statute and local ordinance have been met; and

WHEREAS, the Board of Adjustment has determined that it has jurisdiction over the subject matter of this case; and

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. The following exhibits were marked during the course of the hearing:
 - A-1 Application for Variance;
 - A-2 Affidavit of Service;
 - A-3 "As Built Survey Plan for Lot 2.01, Block 1057" prepared by Site Works dated July 26, 2010 with revisions to December 6, 2010. The exhibit consists of one sheet;
 - A-4 Marked up copy of plan attached to Robert J. Clerico's March 27, 2012 report;

- A-5 2004 Engineering Plan prepared for Jack Hannon;
- A-6 Copy of Hunterdon County Soil Conservation District Report of Compliance dated September 8, 2010 and Letter of Recertification dated September 7, 2010;
- A-7 Right of Way Easement from Hambach to Simpson dated July 2010.
- A-8 Conditions for Temporary C.O. (2) dated June 10 and June 24, 2010;
- A-9 Affidavit of Service (September 27, 2012 public hearing) with attached supporting documents;
- A-10 "Proposed Grading Plan for Lot 2.01, Block 1057" prepared by Site Works - Sheet 2 of revised drawings. This sheet is dated July 19, 2012 and revised through July 23, 2012.

2. The applicant's project and his most current proposal is shown on a set of drawings prepared by SiteWorks Consultants, Inc. The drawings consist of two sheets. Sheet 1 is entitled "As Built Survey Plan for Lot 2.01, Block 1057" dated July 26, 2010 with revisions to July 23, 2012. Sheet two of drawings was marked as Exhibit A-10 as discussed above.

3. The subject property is already partially developed. There is an existing three story dwelling located on the subject property along with a gravel drive and various other improvements as shown on the above mentioned plans. The applicant has lived in the house for sometime although no Certificate of Occupancy (C.O.) has ever been issued for the building. Various matters involving this property are now pending in Municipal Court.

4. The lot in question has a lengthy history before the City Planning Board. In 1989, the former owner, George Hambach, obtained approval for a minor subdivision which created this lot. For reasons which are not part of the record, that minor subdivision was never perfected and the approval lapsed.

5. During 1994, Mr. Hambach again obtained minor subdivision approval for this lot which does not directly front on a public street. The Board's resolution also noted that the lot required relief from the City's Steep Slope Ordinance which had been adopted since the time of the original approval in 1989. The applicant did not request specific relief from the Steep Slope Ordinance because he did not have a development plan for the new lot. At that time, it was his intention only to create the lot and to sell it some later date to a buyer who would develop the site.

6. The Board agreed to create the lot and to hold all issues regarding any development in the steep slope area in abeyance until there was an actual proposal to build a dwelling unit on the subject property. That condition was made part of this Board's Resolution No. 9-94 which

approved the creation of this lot.

7. By the year 2004, the subject property had changed hands several times and was owned by Jack and Jennifer Hannon. After purchasing the lot, the Hannons prepared plans for a single family dwelling and began constructing the residence on the subject property.

8. During the course of the construction, the municipal engineer's office noted that the prior Planning Board resolution required the applicant to demonstrate that the subject property could be developed in accordance with the Steep Slope Ordinance. A stop work order was issued and the matter came before the Planning Board.

9. In 2004, Mr. Hannon sought relief from the specific requirements of the Steep Slope Ordinance in order to accommodate the house that he wanted to build on the premises.

10. Ultimately, the Board granted relief to Mr. and Mrs. Hannon as is more specifically set forth in this Board's Resolution No. 2-2004. The specific terms and conditions of that resolution are incorporated herein by reference.

11. After the public hearing process was completed, James Ceglia, P.E., who was also the Hannon's engineer, prepared a plan that complied with the terms and conditions of Resolution No. 2-2004. This plan was reviewed and approved by the then City Engineer, Robert J. Clerico, P.E., at that point.

12. On June 17, 2004, Mr. Clerico sent a letter to Allen Rowles who was the construction code official for the City of Lambertville at that time. Mr. Clerico's letter outlined in detail what Hannon had to do in order to obtain a C.O. for the improvements which had been approved.

13. Prior to completion of the residence on the property, the Hannons encountered financial difficulties. They abandoned the project and ultimately the subject property was foreclosed.

14. Sometime after the property was foreclosed, the current applicant, Robert Simpson, purchased it from the bank. At some point thereafter, Mr. Simpson completed the construction of the residence and created other lot improvements. Thereafter, on May 6, 2010, Mr. Simpson contacted Mr. Clerico as part of the process for obtaining a C.O. from the City.

15. Mr. Clerico then provided the present construction official with a copy of his June 17, 2004 letter to Allen Rowles which stated what Mr. Simpson must do in order to obtain the required final C.O.

16. Several months later, on September 15, 2010, Mr. Simpson submitted an "as built" plan showing the disturbance on the site. After reviewing the "as built", Mr. Clerico advised Mr. Simpson that he had not followed the original plan approved in 2004 for Jack Hannon and that he had created significant additional land disturbance which required additional relief from the Steep Slope Ordinance provisions beyond the relief which had previously been granted to Mr. and Mrs. Hannon under Resolution No. 2-2004.

17. Mr. Clerico advised the applicant that he would have to have his surveyor document the slope categories, calculate the extent of existing disturbance, then calculate the extent of the additional relief needed to approve what has already been done and finally make the appropriate application for relief to the appropriate Board. Sometime later, Mr. Simpson submitted this application. Under the City's Steep Slope Ordinance, the applicant now needs variance relief for the work which has already been done.

18. The "As Built Survey Plan" (Exhibits A-3 and A-9) contains the applicant's steep slope analysis. The amount of disturbance is very significant. Under the ordinance, a maximum 30% disturbance is allowed in the areas where the slopes range from 15.1% to 20%. The current plan shows that the applicant disturbed 91.4% of these steep slope areas.

19. The ordinance allows 10% total disturbance of areas which have slopes ranging from 20.1% to 30%. The map indicates that the applicant disturbed 96.7% of these areas.

20. The ordinance does not allow any disturbance in areas which have slopes greater than 30%. Although it involves a relatively small area (539 square feet), the applicant has disturbed 74.6% (402 square feet) of this area.

21. The most significant differences between the approved Hannon plan and the improvements which were actually constructed are the driveway and the sewer line.

22. Under the approved Hannon plan, the driveway was to lead from the private drive directly up to the house in a straight line. The reason for that design was to minimize the amount of disturbance. The applicant constructed a driveway which curves in the manner shown on the "as built" survey. Mr. Simpson testified that his excavator felt that the steepness of the driveway area made it necessary to construct the driveway in the manner which he built it. Mr. Simpson testified that the alternative would have been a very steep driveway which would have presented a significant traffic hazard whenever the driveway was wet or frozen due to rain or winter precipitation.

23. The approved Hannon plan also provided that the sanitary sewer line which had to

be extended from South Franklin Street to the subject property was to follow along the edge of the private drive and then extend straight into the subject property. Instead, Mr. Simpson obtained an easement to construct the sanitary sewer line across the front of the neighboring Hambach property and then into his site. The purpose of the earlier requirement for the sewer was to minimize the amount of disturbance in the steep slope areas.

24. Since the sewer and driveway have already been installed, any revision to the plan which requires a new alignment for either in accordance with the Hannon plan will also result in significantly more disturbance to an area which was previously disturbed and has now become stabilized to some degree. It should also be noted that a significant portion of the sewer line is located off site. Mr. Simpson testified that his excavator had recommended that the sewer line be constructed in this manner.

25. Ken Rogers, the current City Construction Official, was in attendance at the March 29, 2012 hearing. He stated that he did an inspection of the first six feet of the sewer line extending from the house. He noted that everything beyond that point was under the jurisdiction of the sewer authority and was part of its review.

26. Mr. Ceglia also testified that the manhole cover in the private drive leading to South Franklin Street was not installed in the location or at the depth which was approved as part of the Hannon plan. The manhole is 2.6' higher and 45' further to the north than was shown in the earlier plan. He further testified that he was hired in March of 2010 because Mr. Simpson could not connect his partially completed sewer line to the manhole. Mr. Simpson indicated that Mr. Ceglia advised him that the lateral was not in the location that had been approved for Hannon.

27. Mr. Simpson testified that, when he bought the house it had been framed with Tyvek around it and it had stood open for four years. He added to the house and changed the garage area into a bedroom.

28. Mr. Ceglia testified that the driveway would have had at least a 15% slope if it had been a straight driveway. It still has a significant slope but there is a flatter area at the top. Mr. Ceglia noted that the site is presently stabilized.

29. Mr. Clerico stated that the applicant should minimize the disturbance and the likelihood of further erosion by minimizing the impervious coverage and by paving the driveway. The paved driveway was part of the original approved plan prepared by Mr. Ceglia for the Hannon and is required by ordinance. Mr. Clerico stated that the reason for the requirement is that a

driveway which is as steep as this one must be paved to keep it from eroding in the future.

30. During the hearing, there was significant discussion of various items in Mr. Clerico's March 27, 2012 written report. With respect to item #5 in that report, Mr. Ceglia testified that he would provide the necessary drainage calculations and that it might be necessary to increase the volume of the detention facility.

31. With respect to item #6, Mr. Rogers testified that the underground stormwater chambers had been constructed off the front corners of the building. He did not know the volume of the chambers. The Board Engineer stated that this information was necessary to properly evaluate the applicant's stormwater management plan. The applicant will provide a cut sheet for these structures and specifically advise as to their volume.

32. #7 of the report dealt with the restoration of the common driveway in front of this lot which serves the subject property and several other properties in the immediate area. It provides access from the individual driveways on those lots to South Franklin Street. The testimony of the applicant and several neighbors established that this area is a private lane rather than a public road and that the maintenance costs for this private lane are shared by the various property owners. Mr. Clerico stated that stabilization of this road is needed.

33. As part of item #8 of his report, Mr. Clerico noted that the piping installed by the applicant across his frontage terminated at an existing 24 inch cross-drain located beyond the Simpson lot frontage near the intersection of the private drive with South Franklin Street. He also noted that there appeared to be other storm drain pipes at that location which had not been depicted in the applicant's plan along with an open hole at the inlet which was relatively deep. This situation has combined with the surface water runoff to create hazardous conditions. He noted that the applicant would have to find away to correct this condition with a specific plan to discharge water out onto the City street subject to approval by the City Public Works. The applicant's engineer agreed that this condition would be corrected and that a plan for same would be included in the revised drawings.

34. Item #9, the final item in the Engineer's March 27, 2012 report dealt with the stormwater basin located on the subject property. At that time, it contained standing water and embankments which exceeded the 3 to 1 slope which was approved as part of the original design. The Board Engineer will require the applicant to provide specific "as built" grades of the basin along with a plan depicting a regrading of the embankments to meet maximum slope criteria. Regrading

of the basin will be undertaken in conjunction with the updated stormwater management assessment which had previously been referenced in the Engineer's report. The applicant's engineer agreed to address these items also.

35. Mr. Ceglia noted that the "as built" plan of the basin might have been somewhat inaccurate. He felt that the standing water condition existed because the outlet pipe was too high. These items will be addressed as part of the revised plan.

36. Mr. Ceglia further testified that, under the previously approved plan, the manhole was supposed to be constructed in a different location. The drainage line had to be tied to this manhole. He felt that, if it had been located as shown on the initial plan, it would have eliminated the possibility of a gravity feed and would have required a pump to function. He testified that the applicant took a more direct route. He further testified that the cross-drain is an obstacle for the gravity feed to reach the manhole. He concluded that following the earlier Hannon plan at this point would require significant additional disturbance to an area which had now become stabilized and that all utilities were installed. The matter was continued to give the applicant an opportunity to prepare a revised plan.

37. Following a number of adjournments, the matter was continued at a public hearing held on September 27, 2012.

38. Prior to the continued hearing, the applicant had revised its plans and submitted the revised "as built" survey plan mentioned above and the proposed lot grading plan which was marked as Exhibit A-9. Prior to the hearing, these drawings had been reviewed by the Board Engineer.

39. After completing his review, Mr. Clerico prepared a written report dated September 26, 2012. This report was used extensively by the applicant and by the Board during the second public hearing on the matter.

40. In this report, Mr. Clerico reprinted the comments from his earlier March 27, 2012 report along with the applicant's response to those comments. Item #1 of the report details the variance relief which has been requested by this applicant from the Steep Slope Ordinance provisions. The plan which was approved for the Hannon's required comparatively little relief. Under that earlier plan, the applicant did not have to ask for relief from any of the provisions related to slopes ranging from 15.1% to 20% and from 20.1% to 30%. While there was some disturbance in those areas, it fell within the allowable limits established by the ordinance. The only actual relief

granted to the Hannons was to allow a 38.6% disturbance of the slope areas over 30%.

41. With the revised plan, the applicant requests three times more than the allowable disturbance in the 15.1 to 20% slopes category; ten times the allowable disturbance in the 20.1% to 30% slopes category; and nearly double the prior relief in the 30+% slopes category area.

42. The amount of disturbance in the steep slope area on this site goes far beyond anything which is allowed pursuant to ordinance. The Board is confronted with a situation where the house has been built and the improvements, including utilities, are installed. Additionally, a dangerous situation exists with respect to the common drive used by the applicant and several of his neighbors. Additionally, winter was less than three months away by the time the hearing process was concluded.

43. All of these exigent circumstances were taken into consideration by the Board. In order to take favorable action upon the request, the Board has to be satisfied that the revised plan submitted by the applicant, once implemented, will function properly and that it will not cause any detriment to neighboring property owners. The applicant presented testimony at the public hearings why the sewer connection and the driveway which were installed were significantly different than the ones approved for the Hannons. The marked up drawing prepared by Mr. Clerico and attached to his March 27, 2012 report provides a graphic illustration of the amount of disturbance which was permitted as part of the Hannon approval and the amount of land which has actually been disturbed by this applicant.

44. The applicant's response to item #2 of the Clerico report has been to reduce some of the excess impervious coverage by removing portions of the existing parking area in front of the dwelling and narrowing the width of the existing driveway. The applicant argued that he could not agree to the Engineer's comment #3 because the additional area was needed to park cars. Ultimately, the Board determined not to require the applicant to include the recommendation made in the Engineer's comment #3.

45. Item #4 of Mr. Clerico's report notes that the driveway in its current state has not been paved or properly graded and a curb has not been constructed. The applicant's revised drawings proposed to pave the driveway, construct a curb along a portion of its northerly edge and regrade the driveway in order to drain toward the proposed curb.

46. Mr. Clerico recommended that, if the applicant's proposal is accepted, the plan be further modified to reflect the following:

- i. Extend proposed curb 80 feet to the east terminating at the northeast corner of the parking area;
- ii. Limit the proposed bituminous pavement to the 10 foot wide driveway alignment which contains the steeper slopes;
- iii. Maintain the upper parking area as a gravel surface and denote grading that would direct runoff in a northwest direction toward proposed curb.

47. There was a discussion of whether or not the driveway should be paved but the Board agreed with the recommendation of its Engineer that paving is essential for the long term viability of the project due to the steep slopes upon which the driveway is located. The items discussed above will be conditions of any approval granted by this Board.

48. Since the applicant will not be modifying the driveway layout to reflect the original approval, there will be significant additional impervious coverage associated with the project. The applicant's engineer will provide stormwater managements calculations in compliance with the provisions of Ordinance No. 2004-12. The applicant will be required to submit any further information necessary to satisfy the Board Engineer that any added runoff caused by the increased impervious cover can be accommodated as part of the applicant's overall plan without causing further damage.

49. As previously noted, Item #6 of the Engineer's report deals with the underground stormwater chambers which were constructed off the front corners of the dwelling. The applicant has now identified the manufacturer for the installed stormwater chamber but did not provide information as to their capacity. Since the installed unit is a different unit than the original plan called for, the details for the installed unit must be incorporated into the plan.

50. Items #7 and #8 of the Engineer's report deal with the most immediate problem associated with this application which has been caused at least in part by the work done by the applicant on the site; the erosion of the common drive used by the applicant and several of his neighbors. It will be the applicant's responsibility to restore the damaged areas along the common driveway frontage to the condition that existed prior to construction on this property.

51. The applicant has agreed to restore the area and says he has a plan which is generally satisfactory to the neighborhood. Several of the neighbors were in attendance at the meeting and generally agreed that this was the case. The Board Engineer noted that the plan must be revised to reflect the typical section of the common driveway depicting the proposed driveway shoulder modifications. Further, the piping along the applicant's frontage must be properly installed at the

existing 24 inch cross-drain which is located beyond the applicant's frontage near the intersection of South Franklin Street.

52. The applicant has attempted to address these problems in the revised plan and notes that a new inlet will be installed over with the open end of the existing common driveway cross-drain. The Board Engineer noted that this plan is acceptable subject to verification that the installation will fit into the final design conditions along the common drive.

53. The Board Engineer notes that the existing storm drain line is to be removed and reset to provide proper cover over the pipe. The plan must include a profile of the pipe depicting its location and depth in relation to the shoulder modifications.

54. The final item discussed in the Engineer's report (item #9) deals with the onsite stormwater basin and the modifications to same which will be necessary. The applicant's engineer stated that no further tree removal will be necessary to do the regrading and that measures will be taken to protect all existing trees during the regrading process. The applicant will be required to comply with items #9a and #9b in the Engineer's September 26, 2012 report.

55. The Board of Adjustment has been asked to grant relief to this applicant pursuant to *N.J.S.A. 40:55D-70(c)(1)*. That portion of the statute sets out the criteria for a hardship variance. The Board finds that no relief can be granted to this applicant pursuant to this portion of the statute because it has already been demonstrated that it would have been possible to construct a single family residence which would have caused much less disturbance on the subject property. That was demonstrated in the approved plan done for Hannon. The applicant on his own initiative chose to build something other than the plan which had been approved. Accordingly, no relief can be granted under that portion of the statute.

56. Similarly, the applicant has requested variance relief pursuant to *N.J.S.A. 40:55D-70(c)(2)*. If the Board is to grant this relief, it must be pursuant to this section of the statute. Given all of the circumstances of this case and the concern about the immediate need to protect the neighboring properties, the Board finds at least one specific purpose of the Municipal Land Use Law (M.L.U.L.) will be advanced by deviating from the standards set forth in the local ordinance.

57. The purpose of the M.L.U.L. which will be advanced is the general provision to secure safety from fire, flood, panic and other natural and manmade disasters. While the applicant has at least partly created the conditions which could have an adverse impact upon neighboring properties, if the revised plan is properly designed and built out, it can accommodate the

improvements on the site without causing any further detriment to neighboring properties. For that reason, the Board will favorably consider the applicant's request.

58. The Board likewise finds that the benefits to the general public of the deviations from ordinance standards will outweigh any negative impact by resulting in the removal of a dangerous condition which presently exists along the joint driveway.

59. The Board finds that the relief which is being granted if properly implemented will cause no substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan and the zoning ordinance.

60. It seems clear that the lengthy delays between the initial approval of this lot and the recent building activity has played a substantial role in the situation which exists today. When the lot was created, it was a common practice not to require an applicant who was not developing the site to demonstrate how the lot could be developed. In this case, a subsequent property owner did provide a plan which demonstrated that the property could be developed with only minimal relief granted.

61. Unfortunately, between the start of construction and the present time, approximately 8 years have elapsed. Many of the individuals who were involved in the review and approval of the Hannon plan no longer hold the same positions within the municipality.

62. The current situation underlines the need for continuity in communication among the various entities who approve applications and those who implement those approvals.

63. The Board will grant the variance relief requested as outlined in the steep slope analysis set forth on Exhibits A-3 and Sheet 1 of the revised plans. These approvals will be subject to all of the conditions (except item #3) set forth in the Board Engineer's September 26, 2012 report and the discussions which took place at the public hearings.

64. There are ongoing matters involving this applicant and this property which are presently in Court awaiting disposition. The determinations made herein are not related to those proceedings and a different standard of proof has been used to make these findings. This Board wishes to clarify that it is not attempting to influence these proceedings which would be beyond its statutory purview.

NOW, THEREFORE BE IT RESOLVED by the Lambertville Board of Adjustment, County of Hunterdon, State of New Jersey, that the variance application of Robert Simpson for the relief detailed above and in the steep slope analysis shown on the "as built" survey plan marked as

Exhibit A-3 and resubmitted as part of the applicant's revised plan is hereby approved for the reasons set forth above, subject to the following conditions:

1. The Board had determined that the applicant could begin work on the private drive serving the subject property and several neighboring dwellings by providing access from those lots to South Franklin Street prior to the adoption of this resolution. The applicant may begin such work following the approval by the Board's Engineer of the applicant's revised plan for the improvements to be done to the private drive. Copies of this approved plan will be provided to the Board Engineer, Dan Whittaker (as representative of neighboring property owner) and the Board of Adjustment.

2. Prior to the issuance of construction permits for any of the improvements yet to be constructed or modified, the following shall occur:

a. The applicant shall submit a revised overall plan which will be reviewed and approved by the Board Engineer. All of the items discussed in the body of this resolution and at the public hearing will be incorporated into that revised plan.

b. The City Department of Public Works will review the applicant's revised stormwater management report as it applies to any waters being discharged into the public right of way of South Franklin Street.

3. Prior to the start of construction of any improvements on the site, copies of the fully approved plans shall be provided to the Board Engineer, the Construction Official, the City Department of Public Works, and the Board of Adjustment.

4. All work to be done will be in accordance with the approved plans. No deviations from the approved plans will be permitted without the written approval of the Board Engineer.

5. Neither the Board nor its employees will perform any services in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant will have a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid.

DAVID MORASKI, CHAIRMAN

ATTEST:

CRYSTAL LAWTON, SECRETARY

ROLL CALL VOTE

THOSE IN FAVOR: _____

THOSE OPPOSED: _____

Date Memorialized: _____

WF

MEMORANDUM

To: Lambertville Zoning Board of Adjustment
From: Linda B. Weber, PP/AICP, Board Planner
Re: Lambertville Hall (former Baptist Church)
57 Bridge Street and 52 Ferry Street
Block 1042, Lots 11 and 28
Date: October 20, 2012

This office has reviewed the above-cited use variance and site plan application and offers the following comments for the Board's consideration:

1.0 Materials Reviewed

We reviewed the following materials for the preparation of this report:

- Site plan and architectural drawings prepared by Michael Burns Architects, last revised on September 6, 2012, consisting of 19 sheets.
- Topographical Survey and Grading Plan prepared by SiteWorks, last revised on September 13, 2012, consisting of 2 sheets
- Review letter prepared by Board Engineer, Tom Cundey, dated October 17, 2012

2.0 Overview and Variances

2.1 This is an application for a use variance and site plan to permit the conversion of the former Baptist Church on Bridge Street into a theater/concert hall, restaurant and bar. The use variance is required because the proposed commercial and entertainment uses are not permitted in the R-2 residential zone, of which the rear property is situated. The building itself is situated in the Central Business District (CBD).

The application proposes converting the building's ground floor (previously the church meeting hall) to a restaurant with *approximately* 140 seats and a bar with *approximately* 28 seats. The sanctuary is to be converted to a "theater" with a new altered stage, an elevator and *approximately* 339 seats. The mezzanine will include *approximately* 136 seats, also for the theater, for a total of 475 theater seats. The basement will be used for storage, restrooms and a kitchen.

2.2. The Board Engineer, Tom Cundey, included a comprehensive list of both existing and new variances for the existing building and proposed use. The new variances are for the theater/music hall in the R-2 residential zone, of which the rear of the property is located. A theater is permitted

in the CBD as a commercial recreational use, but it is unclear whether a 475 seat concert hall is permitted. We defer to the zoning officer for his opinion and have copied Mr. Barczyk on this report. Other variances include a parking variance for off-street parking greater than 600 feet from the structure, per Section 406.7D. Also, the applicant has proposed that the use be grandfathered for 97 parking spaces. Should the Board not accept the 97 grandfathered spaces, an additional parking variance will be required.

3.0 Comments and Recommendations

3.1 *Availability of off-street parking spaces.* The availability of parking for both the 140 seat restaurant and 475 seat theater/music hall is one of the key issues with this application. The site plan indicates remote parking will be available at St. John's Church and Diamond Silver. Since parking is so critical to this application, we recommend that the applicant provide a letter of intent from the two property owners at the beginning of the hearing. The letters should clearly state the number of parking spaces that will be leased and the typical day and time they will be available. We suggest that any testimony on parking be deferred until these letters are provided.

3.2 *Shuttle parking.* The applicant is proposing approximately 110 parking spaces to be reserved in the Diamond Silver parking lot for shuttle (or other transport) service to the Lambertville Hall. Testimony should be provided on the mechanics of the shuttle service. For example, if each of the 110 vehicles includes 2 persons, how many buses will it take to transport 220 persons? Will there be multiple buses? How long will people need to wait for a bus, and where will they congregate? We note that the lot is surrounded by residences. Finally, the applicant's testimony should explain how the patrons will be directed to the remote parking lots, rather than park in available on-street parking spaces throughout downtown. It would be helpful to hear case studies of how such an arrangement has worked successfully.

3.3 *Ferry Street access.* A stairway is proposed in the rear of the lot for access to Ferry Street. Testimony should be provided on the purpose of this access. While an emergency access may be warranted, we would not want to see this become a secondary public access to the facility.

3.4 *Reduction of on-street parking.* The applicant should testify as to the number of parking spaces that will be lost or restricted due to handicap space(s) and a loading zone.

3.5 *Proposed use of theater.* The site plan drawing refers to the main hall as a theater, though the marquis graphic clearly suggests a concert hall. The applicant should provide testimony on the proposed uses, the number of events on a weekly and monthly basis, the hours of operation, the expected noise level both inside and outside of the building, and other considerations regarding the proposed uses.

3.6 *Number of seats.* The applicant should testify at the hearing the exact number, or upper threshold, of proposed seating for the restaurant, bar and theater. An approximate number, as shown on the site plan, is not acceptable due to parking calculations and other site plan considerations.

3.7 *Signage.* The applicant is proposing a marquee that appears to be signage for just the theater. The two attached former church signs will be also be used. The applicant should calculate the total area of all attached signs in accordance with the City's sign ordinance to determine if they meet code. Additionally three signs are proposed at the curb line. We assume these are for the handicapped and loading zone. To minimize the clutter of signage,

we suggest the "penalty" sign be attached to the same pole as the handicap sign.

3.8 *Lighting*. The proposed lighting consists of both attached (building) lighting and ground-based spotlights. At the hearing, the applicant should provide the location of the attached lighting on the north elevation plan. If lighting is proposed on the south elevation, the details should also be provided. Sheet 3 indicates two proposed spotlights on the sidewalk. We are concerned about both the glare and the obstruction of the walking area on the sidewalk. Details should be provided at the hearing.

I will be in attendance at the October 25th meeting to hear the applicant's testimony and may have additional comments at that time. Should you have any questions regarding this report, please contact me at your convenience.

cc: William Shurts, Esq., Board Attorney
Michael Burns Architects
Richard Monegelli, Esq
Lambertville Hall
Crystal Lawton, Board Secretary
John Barczyk, Zoning Officer

Route 12-1 Properties LLC

A-5
10/26/12
WAS

Vincenzo De Sapio

Salvatore A. De Sapio

Anthony De Sapio, Jr.

April 12, 2012

Bridge Street Foundation
Sherri Daugherty
Lambertville, NJ

RE: Shared Parking Arrangement

Dear Sherri:

Thank you for expressing interest in utilizing our parking lot for your events. Our firm is willing to negotiate a lease agreement with Lambertville Hall for parking spaces, Monday – Friday from 6:30pm – 6:00am and all day Saturday and Sunday. We currently have 130 Spaces in our parking lot. Due to a deed restriction we would need to reserve 14 spaces for the adjoining property owners. We also have tenants that occasionally have late hours and would need to reserve 5-6 spaces for them. The balance of our spaces (+/- 110) would be available to you. The only exception would be days of community parking, such as the Shad Festival or other events when our firm would be parking cars for a fee for the event.

We can negotiate the specific financial arrangements under a formal lease agreement. I look forward to meeting with you to discuss this further. If you should have any questions regarding the above please do not hesitate in contacting me.

Sincerely



Anthony De Sapio, Jr.

280 Ridge Road, Frenchtown, NJ 08825
Phone (908) 996-3888 Fax (908) 996-3610

R:\Diamond Silver\Parking Lot lease to Lambertville Mune 20120412.doc

A-3

K&L Gates Inc.
200, 201 and 202 West 10th Street
Dan Renshaw Center, 6th Floor
Newark, NJ 07102-5289
T 973.848.4000 www.klgates.com

October 25, 2012

Matthew J. Schiller
D 973.848.4057
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matthew.schiller@klgates.com

VIA E-MAIL

Richard Mongelli, Esq.
441 Main Street #2
Metuchen, NJ 08840-4804

Re: **St. John the Evangelist Church (44 Bridge Street, Lambertville, NJ)
Parking License Agreement with Bridge Street Foundation (57 Bridge Street,
Lambertville, NJ)**

Dear Mr. Mongelli:

This firm represents the Diocese of Metuchen (the "Diocese") and St. John the Evangelist Church, located at 44 Bridge Street, Lambertville, New Jersey ("St. John"). St. John has been approached by the Bridge Street Foundation (the "Foundation") concerning its proposed conversion of the former First Baptist Church, located across the street at 57 Bridge Street, Lambertville into a community theater and restaurant venue. Please be advised that St. John does not oppose the proposed use and conversion of the First Baptist Church Property by the Foundation.

Further, the Foundation has approached St. John requesting that certain parking be made available to its patrons on St. John's property. To date, the parties have had initial conversations with respect to the availability of parking onsite. Any negotiation and execution of a mutually acceptable Parking License Agreement shall require the review and approval of the Diocese and shall be subject to the availability of parking onsite. At this time, St. John may be willing to make up to seven (7) parking spaces available for use by the Foundation on Mondays through Thursdays between the hours of 5:00 p.m. through 10:00 p.m., and up to fifty (50) parking spaces on Fridays, Saturdays and Sundays between 7:00 p.m. to midnight.

While all terms of the Parking License Agreement have yet to be negotiated, St. John will insist that parking by Foundation patrons will be exclusively by valet and that the Foundation shall secure and maintain all necessary permits and approvals. St. John shall retain the right, upon 72 hours notice, in its sole and absolute discretion, to restrict the time and number of parking spaces made available to the Foundation, should St. John require use

Richard Mongelli, Esq.
October 25, 2012
Page 2

of such spaces for any occurrence, event, or meeting on its property. Moreover, either party shall have the right to terminate the Parking Lot Agreement upon the provision of thirty (30) days written notice. Further, the Foundation will be required to provide adequate proofs of insurance with respect to its use of the parking area and name St. John, the Diocese, and the Bishop of the Diocese as additional insured parties.

Thank you for your time and attention to this matter. As indicated above, only informal discussions have occurred with the Foundation to date and St. John has yet to agree to any specific Parking License Agreement. This letter should not be construed in any way to bind St. John to entering into any such agreement. Should you require any additional information, please do not hesitate to contact me.

Very truly yours,



Matthew J. Schiller

WF

LAW OFFICES
FELTER, CAIN & SHURTS

J. KNOX FELTER (1933-1976)
ROGER M. CAIN (1965-2002)
WILLIAM A. SHURTS

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(908) 534-7619
FAX NO. (908) 534-7625

E-mail: fcslegal@netcarrier.com

October 23, 2012

VIA EMAIL ONLY

David Moraski, Chairman
Lambertville Zoning Board of Adjustment
215 Swan Street
Lambertville, New Jersey 08530

Re: Lambertville Music Hall Application
Block 1042, Lots 11 and 28, City of Lambertville

Dear Mr. Moraski:

As you know, the public hearing for the above named matter is scheduled for our regular meeting on Thursday, October 25, 2012.

The Restaurant/Bar

Part of the Music Hall application involves a request for a restaurant/bar.

N.J.S.A. 33:1-76 provides that "no license shall be issued for the sale of alcoholic beverages within 200' of any church, public school house or private school house not conducted for pecuniary profit..." Additionally, our local zoning ordinance Section 406.3C permits taverns and bars as a conditional use in the CBD zone where the subject property is located. One of the specific conditions of that conditional use, Section 406.10A, provides that a bar shall not be located within 500' of a public or private school. Both the statute and the ordinance, in my opinion, have relevance to this application because of the subject property's proximity to St. John's R.C. Church and the Jesus School.

While the statute applies to all municipalities, the Board of Adjustment has no power to enforce it. Nonetheless, the Board must be aware of it. If the prohibition set forth in the preceding paragraph was absolute, there would be no way to approve this particular aspect of the project. The statute goes on to provide, however, "the protection of this section may be waived at the (time of the) issuance of the license and at each renewal thereafter by the duly authorized governing body on authority of such school or church, such waiver to be effective until the date of the next renewal of the license." Although that directive applies to the final action that is taken prior to the approval of a liquor license by the governing body, I cannot recommend that the Board make any determination

on the approval of a facility with a liquor license until the applicant demonstrates that it has obtained the consent of the church and school. Otherwise, the Board will be reviewing and perhaps approving a use not permitted by the statute absent the consent of the church and the school.

The ordinance provision is different, however. It is purely a municipal standard. Because it is part of the zoning ordinance, it is clear that the governing body, by enacting the ordinance in this manner, intended to give the Board of Adjustment the power to grant a variance therefrom in a proper situation. The applicant initially has the burden of satisfying the conditional use standards, both specific (Section 4-6.10) and general (Section 517).

Conditional Use Variance

In this case, the applicant will be attempting to obtain a variance from Section 406.10A. "When the applicant fails to meet one or more of the conditions set forth in the ordinance, the application must be to the Zoning Board of Adjustment in accordance with the provisions of N.J.S. 40:55D-70d(3). Ordinarily, a zoning board in d(1) variances has the authority to impose reasonable conditions in the public interest. On the basis of the holding in *Coventry Square v. Westwood Zoning Board of Adjustment*, 138 N.J. 285 (1994) however, the essential finding which must be made by the Board in an application pursuant to N.J.S. 40:55D-70d(3) is that the site proposed for the conditional use continues to be an appropriate site for the conditional use notwithstanding the deviations from one or more standards imposed by the ordinance. The focus, therefore, is upon the specific conditions of the ordinance which cannot be complied with." New Jersey Zoning and Land Use Administration, 2012 Edition, Section 17-7, page 478.

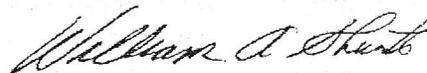
Additionally, as in every case involving a variance, the Board must also determine whether or not the relief can be granted without any causing any substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and the zoning ordinance.

This is an unusual situation because of the impact of both a state statute and a municipal ordinance upon the same application. I am hopeful that the applicant will have more information regarding its dealings with the church and the school prior to the initial hearing date.

I will be present at the meeting on Thursday, October 25, 2012 and will attempt to answer any questions which you or other Board Members may have regarding this aspect of the application.

Very truly yours,

FELTER, CAIN & SHURTS



William A. Shurts

WAS:jam

cc: Crystal Lawton, BOA Secretary (via email only)
Thomas Cundey, P.E. (via email only)
Linda B. Weber, P.P. (via email only)
Richard Mongelli, Esq. (via email only)

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(201) 624-2136 (fax)

October 17, 2012

City of Lambertville
Zoning Board of Adjustment
Dave Moraski, Chairman
18 York Street
Lambertville, NJ 08530-2093

Attention: Crystal Lawton, Secretary

Re: Use Variance and Preliminary/Final Site Plan
Lambertville Hall Foundation, Inc.
57 Bridge Street & 52 Ferry Street
Block 1042, Lots 11 & 28
Our file #10-17-Z-008

Dear Board Members:

We have reviewed a Use Variance and Preliminary/Final Site Plan submission, received September 17, 2012, consisting of the following:

Sheet	Title	Date	Latest Revised Date
1 of 19	Proposed Site Plan, Existing Zoning Data, Existing Parking Data	04-05-12	09-06-12
2 of 19	Existing Conditions, Photographs	04-05-12	09-06-12
3 of 19	Proposed Site Plan, Proposed Zoning Data, Proposed Parking Data, List of Property Owners	04-05-12	09-06-12
4 of 19	Light Fixture Details, Marquee Details	04-05-12	09-06-12
5 of 19	Details	04-05-12	09-06-12
6 of 19	Existing Basement Floor Plan, Existing Ground Floor Plan	04-05-12	09-06-12
7 of 19	Existing Second Floor Plan, Existing Mezzanine Floor Plan	04-05-12	09-06-12
8 of 19	Existing Roof Plan	04-05-12	09-06-12
9 of 19	Existing North Elevation, Existing South Elevation	04-05-12	09-06-12
10 of 19	Existing East Elevation	04-05-12	09-06-12

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Sheet	Title	Date	Latest Revised Date
11 of 19	Existing East Elevation	04-05-12	09-06-12
12 of 19	Proposed Basement Floor Plan, Proposed Ground Floor Plan	04-05-12	09-06-12
13 of 19	Proposed Second Floor Plan, Proposed Mezzanine Floor Plan	04-05-12	09-06-12
14 of 19	Proposed Roof Plan	04-05-12	09-06-12
15 of 19	Proposed North Elevation, Proposed South Elevation	04-05-12	09-06-12
16 of 19	Proposed East Elevation	04-05-12	09-06-12
17 of 19	Proposed East Elevation	04-05-12	09-06-12
18 of 19	Proposed Renderings	04-05-12	09-06-12
19 of 19	Proposed Renderings	04-05-12	09-06-12
1 of 2	Topographic Survey	05-02-12	09-13-12
2 of 2	Grading Plan	05-02-12	09-13-12

Sheets 1 of 19 through 19 of 19 were prepared, signed, and sealed by Michael Burns, R.A., Michael Burns Architects at the Franklin Street Hotel, 19 North Franklin Street, Lambertville, New Jersey 08530, (609) 397-5508.

Sheet 1 of 2 was prepared, signed, and sealed by John M. Dura, P.L.S., Site Works Consultants, Inc., 6 Village Row, Logan Square, New Hope, Pennsylvania 18938, (215) 862-9701.

Sheet 2 of 2 was prepared, signed, and sealed by James Ceglia, P.E., Site Works Consultants, Inc.

I. GENERAL INFORMATION

Applicant/Owner: Lambertville Hall Foundation, Inc.
 55 Bridge Street
 Lambertville, NJ 08530
 (248) 739-2352

Proposal: The applicant is proposing a change of use from a church to a restaurant, bar, and performing arts space. Site work such as retaining walls, parking, and handicap accessibility is proposed.

Zoning: CBD and R-2

II. SUBMISSION INFORMATION

A completeness hearing was held on May 31, 2012. Ten (10) items were given as incomplete. Most of the incomplete items had to do with the excavation of six (6) to eight (8) feet of soil at the rear of the building, its affect on the existing retaining wall, and the construction of nine (9) parking spaces in that area. This is no longer proposed in the revised plans, so all of the incomplete items shown in our May 22, 2012 review letter no longer apply except for the one item shown below and this item can be handled via additional testimony during the hearing. Therefore, the Board may deem the plans complete contingent upon testimony from the applicant on the item below:

<u>Item</u>	<u>Description</u>
35.b.	<u>Location, capacity and dimensions of existing and proposed off-street parking. <i>Comment:</i> Testimony should be given on the agreements obtained from the Catholic Church for seventy-two (72) parking spaces and Diamond Silver office parking for one hundred ten (110) parking spaces.</u>

III. ZONING REQUIREMENTS

Use: The applicant's proposed use is not in conformance with the permitted principal uses of the CBD and R-2 zones. The applicant has the burden of demonstrating 'Special Reasons' for granting the use variance as well as offering an 'enhanced quality of proof' which states that the variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance (Positive Criteria). The applicant should also demonstrate that the requested relief can be granted without detriment to the public good and will not impair the intent and purpose of the zone plan and zoning ordinance (Negative Criteria). We defer to the Planner on specifics on the use variance.

IV. PERFORMANCE STANDARDS

A. Parking

1. Section 406.7D of the Ordinance states that in the Central Business District required off-street parking may be supplied off-tract provided the following criteria are met:

- a. The off-tract parking shall not provide required parking for any other use.
 - b. An adequate guaranty that establishes a right to the use of the off-tract parking shall be provided.
 - c. The off-tract parking is located within six hundred (600) feet of a non-residential use.
2. Only off-tract parking is being offered, no on-site parking is being provided at the site. Seventy-two (72) parking spaces are being provided off-site at the Catholic Church across the street from the site. However, the majority of the parking is being allotted to the Diamond Silver office parking with one hundred ten (110) spaces. This lot is about 3,600 feet or 0.68 miles from the site.
3. A total of two hundred nineteen (219) spaces are required for the site. Off-site parking in the areas described above account for one hundred eighty-two (182) of the spaces, but only seventy-two (72) spaces fall within the prescribed six hundred (600) foot radius of the site. A variance is required.
4. Per sheet 3 of the plans in the parking proposal table, ninety-seven (97) existing grandfathered parking spaces are taken as credits. The applicant must explain this concept.

B. Site

1. The existing "back yard" lawn area of the site, previously proposed as a small nine (9) car parking area, is now proposed to remain a lawn area with stairs up to the lawn area from Ferry Street. Testimony should be given on this stairway. Is it a second access for general public to the building or an emergency exit?
2. No walkway from the Ferry Street stairway to the two (2) rear building stairways is shown on the plans. We would recommend this as a safety feature.
3. The method of emptying the large capacity rolling trash can that is up against the rear of the building should be addressed. Ferry Avenue is only accessible by the stairwell and accessway around the building is limited.

4. The front of the site shows a handicap parking space and a ADA ramp. The size and exact location must be shown so that the handicap space can be properly stripped and the ADA ramp constructed.
5. Route 179 is a State Highway. New Jersey Department of Transportation approval will be needed for the construction in their right-of-way, such as the ADA ramp at the handicap parking space.
6. The size of the drop off zone and loading area must be shown.
7. The proposed slope of the new handicap access ramps at the front of the building must be shown on the site plan (sheet 3).
8. The application seeks a variance for a marquee that projects over the right-of-way line. The marquee is proposed over the main entrance stairway that is already encroaching into the right-of-way. Therefore, we would endorse the granting of this variance. The sign should be no lower than nine (9) feet high, similar to the ordinance requirements for projecting signs in Section 515.3H.
9. The plans must make provisions for a grease trap for the kitchen area and install separate water meters for the restaurant and kitchen as per the April 10, 2012 letter from the Lambertville M.U.A.

V. SUMMARY OF VARIANCES AND WAIVERS

Variances:	Section 404.2 -	Use
	Section 404.5 -	Minimum lot size R-2 zone (pre-existing, non-conforming)
	Section 404.5 -	Minimum frontage R-2 zone (pre-existing, non-conforming)
	Section 404.5 -	Minimum front yard R-2 zone (pre-existing, non-conforming)
	Section 404.5 -	Minimum side yard R-2 zone (pre-existing, non-conforming)
	Section 404.5 -	Maximum building height (pre-existing, non-conforming)
	Section 404.5 -	Maximum building coverage (pre-existing, non-conforming)
	Section 404.5 -	Maximum lot coverage (pre-existing, non-conforming)

	Section 406.4 -	Maximum building height (pre-existing, non-conforming)
	Section 406.4 -	Minimum side to side distance for building with side windows (pre-existing, non-conforming)
	Section 406.7D -	Off-street parking
	Section 515.2D -	Marquee
Waivers:	Section 516.5 -	Submission information

VI. APPROVAL PROCESS

If the Zoning Board should grant final approval to this project, the following is applicable:

1. The applicant's engineer must make appropriate revisions to the site plan pursuant to the Zoning Board action.
2. Ten (10) copies of the final site plan should be submitted to our office for review, approval and signature.
3. The applicant is notified that an inspection escrow and performance bond is required for this application and an estimate for all on/off site improvements (excluding structures) must be reviewed and approved by the City Engineer. The inspection escrow must be posted prior to the issuance of any building permits.
4. The applicant must contact the Zoning Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
5. No work is to start until a preconstruction conference is held. The preconstruction conference shall be scheduled with the City Engineer's office a minimum of three working days prior to the start of work.

VII. OUTSIDE AGENCY APPROVALS

This plan may be subject to the review and approval of the following outside agencies, if not already received. Evidence of these approvals must be submitted to the City Zoning Department and this office prior to the final signature of plans:

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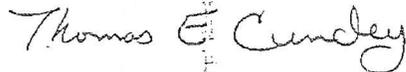
1. Hunterdon County Planning Board.
2. Lambertville Municipal Utilities Authority.
3. New Jersey Department of Transportation.
4. Any others as may be necessary.

When plans are resubmitted, they are to be accompanied with a point by point response to all underlined items.

If you have any questions regarding this matter, please do not hesitate to call.

Sincerely yours,

REMINGTON, VERNICK & ARANGO ENGINEERS, INC.



Thomas E. Cundey, P.E., C.M.E.

TEC/mcb

cc: Lambertville Hall Foundation, Inc.
Michael Burns, R.A.
John Durá, P.L.S.
James Cégliá, P.E.
Richard Mongelli, Esq.
William Shurts, Esq.
Ken Rodgers, Construction Code Official
County Planning Board

