

February 2, 2010

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, February 2, 2010 by the Secretary, T. Linda Paolucci.

Present: Members Suzanne Howell
 Gerald Huelbig
 Rick Melfi, Class I
 Christine Kretzmer
 CeCePattison
 Ellsworth Bensley
 John O'Connell
 Paul Messerschmidt, Alt. No. 1

Secretary T. Linda Paolucci

Absent: Gail Phoebus
 Diana Boyce

Professional Present: Attorney Richard Brigliadoro, Esq.
 Joseph Golden, P.E.

FLAG SALUTE - RULES - OPEN PUBLIC MEETINGS ACT

OPEN TO THE PUBLIC – The Chairman opened the meeting to the public and read the rules of the act.

OATH OF OFFICE – Christine Kretzmer was sworn in by Richard Brigliadoro, Esq. and took the Oath of Allegiance and Office.

PG&S LLC – Block 154, Lot 48, Minor Subdivision & Use Variance, Hearing For Completeness – The chairman asked Joe Golden, P.E., Land Use Board Engineer, to give the Board an overview on the application. Golden stated that this project involves an existing 4.7 acre parcel, the applicant would like to break it into two lots, one new lot and a remainder. The new lot would be a residential lot and the remainder will be a multiple use lot. He continued, the parcel is bisected and has a zone line going it through it, therefore, the front piece would be the business district/special office and the rear section would be the residential section. The residential portion, he continued, as proposed meets all the bulk requirements and set backs, the front piece, remainder, the applicant has chosen to do the potential subdivision line along the zone line to keep the two uses separate, so therefore, the front piece would actually be somewhat undersized. There is an existing home on the parcel and the commercial building may be currently vacant and a garage which there may be the storage of some materials in. Golden continued that he has gone through the completeness checklist and generally speaking there are a number of waivers being requested, which are very simple, such as electronic documents detailing set back lines, Letter of Interpretation, which the applicant has applied for and is yet to receive, site distance and jurisdiction determination for the highway access, lot numbers, soil erosion plan and joint maintenance agreements for the driveway access. Golden stated that all of these items can reasonably be done as a condition and/or part of the approval process and

recommends that the application be deemed complete as the Board has enough information to evaluate the application and make a decision.

As there were no comments from the Board, the chairman asked the applicant if he had any comments. Bob Tessier, Planning Director of Dykstra Associates, 11 Lawrence Road, addressed the Board and stated that he just had a question with regard to when the application would be heard.

The chairman asked for a motion to find the application complete granting the waivers as requested for completeness only. Golden read the completeness checklist items that are being waived from his report of December, 2009, *Item Nos. 11, 21, 23, 36, 38, 39 & 43*. Brigliadoro stated that these waivers are strictly for completeness only and Golden agreed. Motion made by Huelbig, second by Pattison. In favor: Howell, Huelbig, Kretzmer, Pattison, Bensley, Messerschmidt, O'Connell. Opposed: None. Motion carried.

Applicant was advised that they could be on the agenda for the meeting of March 2nd, 2010.

ST. PAUL'S ABBEY, Block 151, Lot 22, Site Plan Waiver – The Chairman requested that the Township Engineer, Joe Golden, present an overview of the application to the Board. Golden stated that the applicant is proposing a 2,220 sq. foot building addition to the existing monastery. The requirements for a site plan waiver is that there is no effect on the relationship of buildings, landscaping, buffering, lighting in considerations of site plan approval, he stated. The applicant sent a request to attorney Thomas Germinario, Esq., evaluating whether or not he concurred with a site plan waiver in this regard and Germinario did support and recommend a site plan waiver from a legal prospective. Golden stated that he reviewed the plans and the only concern he had at the time was whether or not the parking would support the additional space that they were providing and Architect, Alan Spector, A.I.A. did provide an parking analysis which verified that there is adequate parking for the proposed expansion. Beyond that, the addition would have very minor impact, it is a 400 acre site and there will be any real appreciable increase in drainage or drainage patterns, it will not be visible from the road, also not visible to neighboring properties, etc. Golden recommends that the Board grant the request for a Site Plan Waiver.

The chairman asked for a motion to grant the site plan waiver. Motion was made by Howell, second by Huelbig. In favor: Howell, Huelbig, Melfi, Kretzmer, Pattison, Bensley, Messerschmidt, O'Connell. Opposed: None. Motion carried.

7: 42 p.m. Rick Melfi recused himself from this portion of the meeting.

ALMA LANE, Block 156, Lots 1 & 2, Preliminary Major Subdivision -

Daniel O'Mullan, Esq. of O'Mullan & Brady, 57 Whippany Road, Whippany, NJ stated that he is the attorney representing the applicant. He stated that he presented testimony previously on June 10, 2009 and at that point they had arrived at certain agreements with the Board and had substantially revised the application. The application is for a preliminary major subdivision on Block 156, Lots 1, 2 and 2.02 for preliminary and final site plan approval for Lot 2.02, Block 156, which is the essentially the COAH improvements. He continued, there is a "d-1" variance on Lot 2.02, which lot is as part of the major subdivision being enlarged from 1.2 to 2.2 acres to provide for the COAH unit that is being put on there, which will be four rental units being proposed for low and moderate income. He continued that there are also variances from *Section 190-32.2* which involves steep slope disturbance variance in various parts of the lot, but primarily on the COAH lot, which is Lot 2.02. He continued that they had previously asked for parking space waiver, front area parking space areas, belgium block along the roadway, etc. and as a result of the last meeting, the maps have been revised and believes that all of those but some

Belgium block waivers on the COAH lot remain. He requested that the applicant's engineer, Mr. Careaga, present briefly to the Board the application as it has been revised before going to the use variance hearing, as without the major subdivision, there would be no use variance.

Brigliadoro, Esq. stated for the record that Jeffrey Careaga, Engineer and Mr. Byrne, Planner, have been previously sworn, are still under oath, and, therefore, do not need to be sworn in again.

Jeffrey Careaga of Careaga Engineering, Budd Lake, NJ, stated that the existing three lots is proposed to be broken up into nine separate lots, two existing dwellings will remain and Lot 2.02 will be enlarged to make it more conforming for the proposed COAH units. Various modifications have been made to the plans in accordance with the Board's Engineer's concerns and various agencies, in particular the stormwater design instead of previously designed swales they are now proposing more conventional pipes and detention infiltration basins. The site plan for the COAH unit has been modified with regard to the comments by the professionals.

Careaga asked the Board Engineer if he wished to go over the items in his report. Golden stated that there are some areas that would require testimony. Golden stated that he has some concerns with the temporary access road as it goes around the entrance way (*Item 2c. of his report*) what is the timeline that that section of the road will be active. The concern is that on that bit of the slope there the radial for the reverse curves to go back off the existing road and are a little tight, Golden stated. Careaga answered that they have no problem to change those radiuses. O'Mullan asked Golden whether or not approval from Green Township would still be necessary as to the temporary road. Golden stated that he would still like to receive a letter stating that the emergency groups in Green Township would not have a problem with the passing of the road. Briigliadoro, Esq. asked if this should come from Green Township's engineer and Golden replied "Yes".

O'Connell asked what will be the duration for the changing of the road. Careaga replied "depending on the contractor they chose, we are probably looking at a couple of months."

There was further discussion as to traffic control plan, well testing (which will be channeled through the township hydrologist). Golden continued that they will need a letter from the owner of Lot 2.03 allowing the site triangle easement to cross the road and O'Mullan stated that there will be no problem getting that as Mr. Mroz is the owner of Lot 2.03 who is also one of the applicant's. Golden stated that the letter will be needed prior to the finalization of the preliminary approval.

Golden stated that the applicant will need to provide a soil erosion plan for the receiving site as part of the county regulations. Golden asked the applicant if he agrees to modify the landscaping and lighting plan as necessary and the applicant answered yes. There was discussion regarding the soil testing, seepage pits and septic. The applicant's engineer discussed the various detention and infiltration basins on the property for the Board. The Board members asked questions as to separation of the septic from the infiltration basin, the topography of the septic systems.

Careaga reviewed with the Board *Grade Plan Utility Sheet No. 9, which is part of the plan given to the Board, Page 8* with regard to septic, drainage easements and locations. Careaga stated that with the Stormwater Management Plan they are reducing the amount of water coming off the site and any concerns with the actual size of the piping and the effect on downstream properties it should be elevated to some degree to what it is right now when done with construction. Golden stated that he had instructed Careaga to analyze each individual point to meet the proper reduction.

Golden stated that with regard to the Environmental Impact Statement there needs to be verification with regard to rock outcrops whether or not they need to be taken out for the septic systems. Golden and Careaga went over the water quality management standards and the current regulations and proposed future regulations. Careaga stated that the applicant currently meets

the regulations of the water quality management. Golden stated that the applicant will be required to go to the County for the septic permits and the applicant will have to be sure that they meet with the current rules at the time.

Golden stated that the applicant is going for a Letter of Interpretation for the entire site and, therefore, previous concerns will be looked into. Golden also said that the applicant will need to supply a letter with regard to endangered species from the Natural Heritage Passage. Applicant's attorney agreed to get it.

Golden requested that Careaga give a summary of the presentation. Careaga pointed to *Sheet No. 22 of Plan* which shows the overall subdivision. Lot No. 2 there is an existing house which will be maintained, which will be a conforming lot. Lot N. 2.02 was added to the subdivision as a COAH obligation and the actual lot is smaller right now, but they have taken some of Lot No. 2 to add it to Lot 2.02 so that they have a conforming lot. The access drive to the existing house comes out onto Huntsville Road and does not have very good site distance. In order to get a conforming subdivision road and site distance they are doing some improvements on Huntsville Road in order to meet all the site criteria and to have a safe entrance into the area he stated. All of the soil logs were performed for all the different septs, driveway locations have been tested already and are confident that they can get all of the septs and infiltration basins to work. On *Sheet No. 9 of the plans* shows the entrance to the site. The original versions indicated a separate entrance coming onto the COAH lot but have not redesigned that so that the driveway comes off of Alma Lane to the actual COAH site. He continued that the existing dwelling is to remain and driveway instead of coming down to Huntsville Road will now have shorter driveway onto Alma Lane and it does meet all the setback requirements. He stated that they are proposing typical colonial type homes, typically 3500 sq. ft for a typical house size to be in keeping with the neighborhood type of dwellings. Careaga stated that all of the sites have proposed wells and do meet the setback requirements for all wells, septic, drainage structures and are not asking for any waivers as part of the layout of this site. He continued that they do meet all of the township criteria for the subdivision for the variances that are noted earlier which is a use variance for the actual COAH development and a variance for steep slope disturbance. They are not proposing any houses or any other improvements within the steep slopes for the main subdivision it is really just for the actual construction of the road as it comes up through the steep area of the property. He continued that they are building a cul-de-sac on the back half of the property which is 852 ft. long to the center of the cul-de-sac (*which is shown on Sheet No. 8*). Careaga further discussed driveways, wooded areas and tree buffering for the houses.

Golden requested that Careaga discuss fire protection. Careaga stated that at the beginning of the road, just past the COAH driveway there is a proposed 30,000 gallon underground water storage tank, which meets all the requirements of approval for fire protection.

There was further discussion with regard to adequate separation of wells, driveways, layout of COAH lots, cul-de-sac being made larger for school buses for adequate turning, postal requirements for the affordable housing units, drainage and water flow, all relative to the subdivision.

Golden pointed out that the applicant is proposing two low income and two moderate affordable housing units which is consistent with the township's requirement under the current COAH regulations and the applicant is providing this in lieu of any other contributions. Golden suggested that Careaga review the COAH housing site plan with the Board.

The Board members took an eight minute break and all the members came back into attendance at 8:48 p.m.

Discussion resumed and the Chairman had a question with regard to the fire suppression or the cistern and asked how it works. Careaga explained the way the system is designed right now is that the cistern gets filled up at the time of construction and if the fire department ever

uses it, essentially it has to get filled up again. Golden stated that he would like to see this as a sealed system in the town as there are concerns with sediment control.

Careaga went over the elements of the site plan for the COAH housing site and stated that some of the major revisions are the layout of the units as the buildings now are facing sideways which will then have better traffic movements and buffering; the driveway layouts; proposing newer septic systems that will have a drip system which will minimize the amount of clearing of trees.

Michael Byrne, P.P. who was previously was sworn in, was sworn in again and qualified as a licensed planner in the State of New Jersey. O'Mullan referred to Stern's report of December 13, 2009 and asked that Byrne summarize what was in Stern's report.

Byrne went over some of the concerns in Stern's report and stated that some of the things that have been revised are: access onto the property and having good site distance; eliminating the need for a sprinkler system as it would be too costly and reconfiguring the buildings to a townhouse type of building with each unit being individual dwelling units separated from their adjacent neighbor with a fire protection wall and, therefore, does not require sprinkling; utilizing the lower level as "daylight basement arrangement" where two and three bedroom units will have one bedroom designed on the main level and the rest on the lower level; and all units are handicapped accessible. O'Mullan asked Byrne if in his opinion as a planner, whether or not this plan conforms to the township's Zone Plan and Coah obligations, as well as the township's master plan, and Byrne stated "yes".

There was further discussion with regard to parking, slope disturbance, fire lane, storage area, applicant to provide funding for the creation of a homeowners association, vegetation, drainage patterns, etc.

O'Connell asked if the concerns and suggestions in Chief Coleman's memo were addressed. Carrega stated that they are fine with the "no outlet sign" and any landscaping that is in the site easement will be modified relative to the site distance.

The Chairman opened up to the public for comments. Carla Kostelnik, 50 Greendale Road, had questions for the applicant that had to do with landscaping buffer and drainage.

With no one further from the public coming forward the public comment portion was closed.

O'Mullan stated that the applicant has modified the plans in accordance with the comments by the Board's professionals and feels that the applicant is ready to receive preliminary and final site plan approval for the COAH lot for the granting of the d-1 variance and for the granting of the slope variances and for the minor waivers.

Brigliadoro stated that if the Board were to first take a motion on the preliminary major subdivision on Lots 1, 2 and 2.02 and then a separate motion on the preliminary and final site plan for the COAH lot would that be acceptable he asked O'Mullan. O'Mullan had agreed.

Golden commented that there are a number of conditions that will be part of the resolution and passed this along to the Board for their consideration before approval is granted. There was discussion and questions from the Board members as to the requirements of approval and the Board decided to move forward with making a motion.

A motion was made to approve the preliminary major subdivision for Block 156, Lots 1, 2 & 2.02 including variance relief for steep slope disturbance by Huelbig, second by Pattison. In favor: Howell, Huelbig, Kretzmer, Pattison, Bensley, Messerschmidt, O'Connell. Opposed: None. Motion carried.

A motion was made to approve preliminary and final site plan for the COAH lot for Block 156, Lot 2.02 which also includes the d-1- use variance, variance relief for steep slope disturbance and a waiver for the belgium block by Howell, second by Huelbig. In favor: Howell, Huelbig, Kretzmer, Pattison, Bensley, Messerschmidt, O'Connell. Opposed: None. Motion carried.

10:00 p.m. – Rick Melfi returned to his place for the continuation of the meeting.

MINUTES – January 19, 2010. Motion was made by Pattison to approve the minutes, second by Howell. In favor: Howell, Huelbig, Melfi, Pattison, Bensley, Messerschmidt, O'Connell. Opposed: None. Motion carried.

OPEN TO THE PUBLIC – Carla Kostelnik of Greendell stated that she is Chairman of Open Space Committee and stated that she is in possession of three maps and suggested that the Board petition the budget committee to consider finding a way to display the maps within the meeting room.

EXECUTIVE SESSION - Motion was made at 10:35 p.m. to go into Executive Session pursuant to the Open Public Meetings Act NJSA 10:4-12 with regard to Testa vs. Andover Township Land Use Board, Docket No. SSX-L 1002-09 by Howell, second by Pattison. In favor: Howell, Huelbig, Melfi, Kretzmer, Pattison, Bensley, Messerschmidt, O'Connell.

Motion was made to come out of executive session by Pattison second by Kretzmer to come out of Executive Session at 10:50 a.m. All in favor. Motion carried.

Brigliadoro explained the Board went into executive session in regard to pending litigation Testa vs. Andover Township Land Use Board. The purpose of going into executive session was to discuss the Complaint In Lieu of Prerogative Writs filed against the Board and the assignment of counsel. He continued it is anticipated at this time that the above matter will be made public upon completion of the litigation, including appeals, and this resolution takes effect immediately. Therefore, the Board will need a motion to refer the Complaint to the insurance carrier in order to confirm insurance coverage and in the event there is no coverage, then Thomas Germinario, Esq., who is the Board's Conflict Counsel, will be assigned the matter to defend the Board.

Motion was made by Howell, second by Huelbig. In favor: Howell, Huelbig, Melfi, Kretzmer, Pattison, Bensley, Messerschmidt, O'Connell. Opposed: None. Motion carried.

VOUCHERS - See Schedule A. A motion was made by Huelbig, seconded by Howell, to approve the vouchers submitted. All in favor: Aye. Opposed: None. Motion carried.

OLD/NEW BUSINESS – O'Connell stated that he will defer the discussion this evening with regard to the creation of a review committee because of the length of this evening's meeting.

O'Connell also advised Board members that the Board packets for future meetings will be picked up in the original pick up area at the municipal building.

MATERIAL RECEIVED, GENERAL INFORMATION - See Schedule A.

ADJOURNMENT – Time 10:55 p.m. A motion was made by Kretzmer, seconded by Howell, to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

John O'Connell, Chairman

T. Linda Paolucci, Secretary