



# ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board  
Municipal Building  
134 Newton Sparta Road  
MINUTES  
May 17, 2022  
7:30 p.m.

**CALL TO ORDER:**

Mr. Messerschmidt called the meeting to order at 7:30pm.

**PLEDGE OF ALLEGIANCE:**

Mr. Messerschmidt led the room in a flag salute.

**OPEN PUBLIC MEETINGS ACT NOTICE:**

Mr. Messerschmidt read the following into the record:

This is an open public meeting of the Andover Township Land Use Board to be conducted in-person only at the Municipal Building, 134 Newton Sparta Road, Andover, NJ 07860. Notice of this meeting was given in accordance with the Open Public Meetings Act, Chapter 231, Public Law 85. The rules are generally as stated on the agenda. No new testimony will be taken after 10:30pm. Adequate notice of this meeting has been provided, with an electronic copy posted on the Andover Township website at [www.andovertwp.org](http://www.andovertwp.org).

**ROLL CALL:**

Eric Karr - Excused  
Eric Olsen – Present  
John Carafello – Excused  
Suzanne Howell – Present  
John O’Connell – Present  
CeCe Pattison – Excused  
Richard Skewes – Absent  
Joseph Ordile – Present  
Joseph Tolerico – Present  
Paul Messerschmidt – Present

**Also Present:**

Thomas Molica, Esq.  
Cory Stoner, PE  
Matthew Morris, PP  
Stephanie Pizzulo, Secretary

**ADMINISTRATIVE ITEMS:**

**Approval of Minutes:** April 5, 2022

A motion to approve the minutes of the April 5, 2022 meeting as presented was made by Mr. Tolerico and seconded by Mr. O'Connell. Roll Call: Suzanne Howell – yes, John O'Connell – yes, Joseph Tolerico, Paul Messerschmidt – yes. Motion carried.

**RESOLUTIONS:** None.

**COMPLETENESS REVIEWS:** None.

**HEARINGS:**

1.) BHT Properties Group    B:151   L:21    A21-2

*An application for Preliminary and Final Major Site Plan approval and variances to permit the applicant to demolish all existing structures, regrade the lot and utilize the property for storage of construction vehicles and construction equipment and materials. In addition, the applicant will install a pedestrian walkway, commercial office building and provide all necessary subsurface and surface stormwater facilities and provide other site features. The runway will be maintained and used for access and storage.*

Mr. Thomas said he was present on behalf of the applicant. Mr. Molica said the professionals from Equity Environmental, who the Board retained to examine potential environmental issues with regard to the BHT application, would present their report dated April 12, 2022. He said Ms. Durkin, attorney for the objector group and Mr. Thomas agreed the record could benefit from Equity Environmental starting tonight's proceeding.

Mr. Kevin Williams, PP, of Equity Environmental was sworn in by Mr. Molica.  
Mr. Faron Moser, Environmental Scientist, of Equity Environmental was sworn in by Mr. Molica.  
Mr. James Heineman, PP, of Equity Environmental was sworn in by Mr. Molica.

Mr. Williams gave his qualifications to the Board. He said he participated in the April 12, 2022 report.

The Board entered the Equity Environmental report dated April 12, 2022 as exhibit B-1.

Mr. Heineman gave his qualifications to the Board.

Mr. Molica suggested the Board, counsel for the applicant and counsel for the objector group examine the witnesses about their qualifications.

The Board had no questions.

Mr. Thomas asked Mr. Williams if he was an engineer or an environmental scientist, to which he said he was not. Mr. Thomas asked Mr. Heineman if he was an engineer or an environmental scientist to which he said he was not. Mr. Thomas asked both men about their educational background to which they gave their educational background.

Ms. Durkin asked Mr. Williams if he prepared the report, to which he said yes. She asked him how long he was with equity Environmental to which he said six years. Ms. Durkin asked Mr. Heineman if he was employed by Equity Environmental to which he said yes. She asked him if he assisted in the preparation of the report to which he said yes.

A motion to accept Mr. Williams and Mr. Heineman as experts in the field of professional Land Use Planning was made by Ms. Howell and seconded by Mr. Olsen. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, John O’Connell – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Paul Messerschmidt – yes. Motion passed.

Mr. Moser gave his qualifications to the Board. He said he participated in the April 12, 2022 report.

The Board had no questions of Mr. Moser’s qualifications.

Mr. Thomas questions Mr. Moser about his education. Mr. Thomas asked Mr. Moser if he was an engineer to which he said no. Mr. Thomas asked Mr. Moser how he participated in the April 12, 2022 report. Mr. Moser said he reviewed all of the documents provided and reviewed the environmental assessment report and gave his feedback on his findings. Mr. Moser said he spent about 16 to 20 hours on the report.

Ms. Durkin did not have any questions on Mr. Moser’s qualifications.

Mr. Messerschmidt asked if Mr. Moser did any research that went into the report to which Mr. Moser said yes.

A motion to accept Mr. Moser as an expert in the field of environmental science was made by Mr. Tolerico and seconded by Mr. O’Connell. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, John O’Connell – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Paul Messerschmidt – yes. Motion passed.

Mr. Williams said Equity Environmental is a hybrid engineering and planning firm that specializes in environmental ecological wetland related concerns including D.E.P. permits. He explained they do stream restorations, environmental remediation as it relates to hazardous materials. He said his firm has integrated expertise in engineering and planning.

Mr. Williams said they were asked to review the submitted materials as it relates to ecological resource concerns, as part of the site plan for BHT Properties on Stickles Pond Road. He said they were not asked to conduct independent, in field verification. He said that was the responsibility of the applicant. He said Equity Environmental's job was to assess the quality and the sufficiency of the materials submitted. He said there were changes made to the application to address some of the environmental concerns. He said it is the D.E.P.'s responsibility to assess the veracity, quality and to provide concurrence on the materials and delineation and setbacks according to wetlands and anything that require discretionary permitting authority from the State of Environmental Protection. He said the documents they did review were the site plan, the environmental impact statement, the freshwater wetlands report, the general report and transition waiver, flood hazard verification report and the stormwater management report. He said the documents are deficient of an operating business plan that describes the intensity and the nature of use of the site, the volume of the traffic and the classification of the vehicles going into the site. He said he did understand there was a traffic report however; it does not properly describe onsite activities, those that may generate natural resources impacts. He suggested a solid construction impact mitigation plan should be prepared and should be a preamble to the operating plan or environmental impact statement. Mr. Williams felt without those documents you cannot properly ascertain what the operation will be and how many trucks would be generated. He said heavy-duty vehicles emit air quality concerns and can impact adjacent residences and the existing environment in terms of ecology. He said without having the numerical quantification of the number of heavy-duty vehicles entering and exiting the site over a certain period of time, the increase in decibels cannot be assessed and said there were no materials supplied to that end.

Mr. Williams said the State of New Jersey does not have requirements codified into law for the EIS. He said the EIS supplied provides a very limited review of existing conditions. He said it does not properly identify source documents. He explained what the EIS should incorporate. He noted some of the deficiencies such as a site investigation and a phase one environmental assessment. He felt the detail traffic conditions is deficient in the document and there should be a more proper summary given in terms of stormwater management and flood hazard verification about the topography on the site. He said the site has a very active surface water hydrological system that feeds and connects multiple water bodies. He said the ability to properly assess the impact of the project and the mitigation efforts that have been done are to the degree there should be a general summary of the topographical conditions as they impact the nature of groundwater.

He said there is very little assessment from existing ambient air quality conditions that are present and felt air quality monitoring can be done very simply. He felt the noise issue was glossed over in the EIS. He said the site is located in the Skylands Landscape Region and is an area of exceptional acceptance with the presence of endangered species and felt there should have been an ecological statement. He said the EIS had a general statement that the site was

wooded. He said it should have a statement of how the project would affect the site and how they would mitigate those affects. He said there was no statement on vegetation impacts. He said based on the Natural Heritage Report that was provided from the State D.E.P. there are multiple rare and endangered plant species potentially present onsite and there is no discussion on that in any of the reports provided. He felt all of the categories in the EIS were deficient. He said the section relating to historic resources indicated there were no historic resources present when in fact there is a National Historic Registered listed site; St. Paul's Abbey Monastery, directly adjacent to the site. He said there a few sentences on construction impact and felt it needed more detail. He said all of this could be cured by doing the work. He said they are not questioning the veracity of the wetlands delineation however; it lacks a letter of interpretation and suggested the applicant provide it. He explained the classification process to the Board. He said they have not seen the agreement on the classification of the wetlands. He said the applicant had put a 150-foot buffer around every wetland and it is a good way to protect things. He discussed the vernal ponds with the Board. He said there is a laundry list of rare plants and animal species and federal endangered species. He said there were no materials documenting the seasonal habitats and whether they are migratory. He said it is the job of the applicant to determine if they are present as it is a State and Federal law.

Mr. Moser said the plan did show the 300-foot setback off the Peaquest River, which is a category 1 stream for the riparian zone. He said he did a site walk and noticed the flagging of the wetlands and made sure the site plan was current. He said they did not have knowledge of the drainage into the category 1 stream and felt the project could have an effect on the stream if equipment is stored there. He did not have information if repair work would be done on the site. He said the possible endangered species onsite are the bald eagle, barn owl and the long eared owl, the Kennedy Emerald; a dragonfly, bobcats and the Indiana bat, long tail salamander, marble salamander, bog turtles and wood turtles. He said he visited the site in spring and the reports had been conducted in November when plant species are dying off. Mr. Moser said spring is when the plants and amphibians are present and felt the reports needed more detail on the threatened and endangered species in the area. He also suggested the applicant do a habitat assessment, water quality and hydrology analysis. He said the applicant had looked at some of the soils and they have some of the general mapping of the soils however: it was not field verified. Mr. Moser explained the N.J.D.E.P. permitting process. Mr. Williams suggested the applicant get an L.O.I. There was a discussion on the need for an L.O.I. for the project.

Mr. Stoner said the applicant may not need an L.O.I. if they have an active permit application for a delineation which would need to be approved by the D.E.P. Mr. Stoner asked about the Natural Heritage and the endanger species. Mr. Williams explained the State has its own resource mapping and once it identifies endangered species or sensitive habitats that the project has the potential for taking, the applicant must go for a U.S. Fish and Wildlife Service consultation. He felt the site warrants an investigation. Mr. Stoner asked Mr. Moser if he felt

there could be some impact to one of the habitats. Mr. Moser said the southern area where the vernal pool habitat is located could be impacted. He explained figure 4 on page 21 of his report. There was a discussion on this area. Mr. Moser said there are no setbacks or delineations for a vernal pool because it is just a resource. Mr. Williams said there is D.E.P. guidance for vernal pools and suggested the entire site be evaluated. He said the vernal pools are for breeding and transitional activities. He said it may not prohibit the applicant from working in that area; it may just prohibit when they are allowed to work in that area.

Mr. Nusser said Fish and Wildlife was engaged in a review with the D.E.P and the response was a finding of “no potential to affect with conditions”. He said as soon as he gets the actual findings from the D.E.P. he would provide them to the Board.

Ms. Howell said the E.I.S. was dated February 2020 however; the application is dated 2021 and asked if the Board should have a new E.I.S. to which Mr. Williams said yes. Ms. Howell said the Flood Hazard Verification Report is dated January 2020 and felt it should be updated. She noted the freshwater wetland report is stale and felt the reports were for the previous application and not what is before the Board. Mr. Williams felt the documents should be updated and referenced by plans.

Mr. Ordile asked about the Natural Data Base report and said BHT had a report generated but he did not see it in the list of documents reviewed. Mr. Williams said the Natural Heritage Report is contained within the Freshwater Wetlands Report. He explained how they did their analysis.

Mr. Ordile referred to exhibit B-1, page 2 and asked what the reference to ordinary wetlands referred to. Mr. Moser explained the term and how it deals with wetland buffers.

Mr. Ordile asked about the term “as a right”. Mr. Williams explained the uses and zones that create an “as a right”. Mr. Molica said the Board has determined the application requires a use variance. Mr. Thomas disagreed and said the Board has not made that decision.

Mr. Ordile asked about the Soil Erosion and Sediment Control Plan and asked if the Board needs this information to consider their decision. Mr. Stoner explained it is a condition of any approval by the Board.

Mr. Thomas asked Mr. Williams if the data in his report was computer generated. Mr. Williams said the applicant’s consultant’s information was based on State data. He said they reviewed the applicant’s submitted material. Mr. Thomas questioned Mr. Williams about the potential information on those State websites. Mr. Thomas referenced a letter from the N.J. Forest Service Office of Lands Management dated October 10, 2019 to which Mr. Williams said he had not seen that letter. Mr. Thomas said the letter said there are no rare plant species on the site.

Mr. Williams said the material from the applicant's consultant did identify rare plant species on site. There was a discussion on when the letter was submitted. There was a discussion on what had been submitted to Equity Environmental for their review. Mr. Thomas asked Mr. Moser if he was onsite. Mr. Moser said he did a brief walk through to confirm the wetlands and flagging were there. He said they were there but did not do any sampling or steps required by the D.E.P. Mr. Thomas asked how long he was onsite to which Mr. Moser said from 1.5 to 2 hours. Mr. Thomas asked if the wetlands had the required 150-foot buffer. Mr. Moser said he did not measure anything. Mr. Williams said all of the wetlands are treated as exceptional. Mr. Williams felt the delineation should be done in March, April or May during the rainy season. Mr. Williams said he has no problem if the D.E.P. approves their delineation and staking of the wetlands. Mr. Thomas said that information would be provided to the Board when he receives it.

Mr. Williams asked Mr. Thomas to direct all questions to him. Mr. Messerschmidt said Mr. Moser has testified already and Mr. Thomas should be allowed to question him.

Mr. Thomas asked if the D.E.P. reviews all of the information and issues the permits to which Mr. Moser said yes. Mr. Thomas asked if the special protection for water resource is the 300-foot buffer. Mr. Moser said it is in the regulation and refers to major developments. Mr. Thomas said the applicant has done the more conservative approach to which Mr. Moser agreed. Mr. Thomas asked if Mr. Moser had seen any filling of wetlands to which he said no. There was a discussion on when the D.E.P. considers a development to have a substantial impact on wetlands. Mr. Williams said the wetlands are subject to D.E.P. determination however; he is lacking D.E.P. permit information.

Mr. Thomas asked about the Nation Heritage Priority site as mentioned in the Equity Environmental report. Mr. Williams said the applicant's site is adjacent to a Nation Heritage Priority Site, which indicates the applicant's site could be sensitive. He explained the mapping systems and said this site should be considered with the same amount of deference. He said it is subject to some 16 different endangered species. Mr. Thomas asked if Mr. Williams had been privy to the testimony on the trucks that had been provided. Mr. Williams said he has reviewed past testimony as it changed the application and, both Mr. Moser and Mr. Heinemann were present during the testimony, and they have reviewed the traffic report. There was a discussion on the truck traffic. There was a discussion on an operating plan. Mr. Williams said an E.I.S. should have some testing done in regards to the noise from the trucks. Mr. Thomas went over what the applicant had already stipulated to in testimony. Mr. Williams was not satisfied that those stipulations were acceptable in lieu of an operating plan. He said it is up to the Board to determine what is necessary; not him.

Mr. Messerschmidt said it was 10:30pm and the Board would not take any further testimony.

Mr. Williams asked that Mr. Stoner and Mr. Morris provide that documents that were not supplied to them.

Mr. Messerschmidt asked Mr. Thomas to grant an extension of time of decision through June 30, 2022 to which he did.

Mr. Messerschmidt advised everyone that the hearing would be carried to May 31<sup>st</sup> at 7:30pm to be held at the Municipal Building. Mr. Molica said the applicant would not be publishing a new notice of the hearing date however; the Township would publish a notice for the special meeting date.

**ORDINANCES:** None.

**OLD BUSINESS:**

Mr. Ordile asked about the definitions and what the Board needs to do to move forward with it. There was a discussion on moving the process along.

**NEW BUSINESS:** None.

Mr. Ordile advised the Board that Andover Day was approaching and there will be a Township table and he said they are looking for volunteers to staff the table. He asked if there were materials from the Board to put on the table. There was a short discussion on Andover Day.

**LIAISON REPORTS:**

***Township Committee*** – Eric Karr

Mr. Karr was not present to give a report.

***Environmental Commission*** –Eric Olsen

Mr. Olsen said they were finishing the Open Space Plan.

***Sustainable Andover*** – Eric Olsen

Mr. Olsen said they cancelled the April meeting so he had nothing to report.

***Economic Development Committee*** – John Carafello

Mr. Carafello was not present to give a report.

***Zoning Map/ Zone Changes Subcommittee*** – Paul Messerschmidt

Mr. Messerschmidt said some of the definitions were completed and the rest need to be completed so it can be sent to the Township Committee for consideration.

***Master Plan Subcommittee*** – Joseph Ordile

Mr. Ordile gave a brief history of the progress they have done so far. He said they are considering H2M as the firm to prepare the Master Plan. He said the subcommittee needs to meet with H2M one more time before recommending them to the Board for consideration.



**VOUCHERS:**

<b>Company</b>	<b>Purpose</b>	<b>Amount</b>	<b>Paid By</b>
Weiner Law	Legal	\$480.00	Legal Budget
Weiner Law	McDonald, Robert	\$96.00	Applicant's Escrow
Weiner Law	Always Comfy	\$80.00	Applicant's Escrow
J. Caldwell & Associates	Redevelopment Plan	\$455.00	Redevelopment Budget

A motion to approve the bills was made by Ms. Howell and seconded by Mr. O'Connell. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, John O'Connell – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Pail Messerschmidt – yes. Motion passed.

**CORRESPONDENCE:**

- 1.) From: Ms. Elizabeth Durkin, Esq.  
Re: Current List of Objectors

**PUBLIC PORTION:**

If a member of the public has a question or comment, please raise your hand and wait to be recognized by the Chairperson to speak. When called, please come to the microphone, state your full name and address and spell your last name for the record. Please refrain from asking questions or making comments about any pending application before the Board as the applicant may not be present for cross examination. The Chairperson has the right to limit the amount of time a person from the public has to ask questions and make comments so all members of the public may have a chance to speak.

Mr. Messerschmidt opened the meeting to the public. With no public present, the meeting was closed to the public.

**UPCOMING MEETINGS:** May 31, 2022, June 14, 2022 (if approved by the Board)

A motion to add a special meeting on June 14, 2022 was made by Mr. O'Connell and seconded by Ms. Howell. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, John O'Connell – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Pail Messerschmidt – yes. Motion passed.

**ADJOURNMENT:**

With no further business to come before the Board, a motion to adjourn was made by Mr. O'Connell. It was seconded by Ms. Howell and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo  
Land Use Administrator