



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
August 16, 2022
7:30 p.m.

CALL TO ORDER:

Ms. Howell called the meeting to order at 7:30pm.

PLEDGE OF ALLEGIANCE:

Ms. Howell led everyone in a flag salute.

OPEN PUBLIC MEETINGS ACT NOTICE:

Ms. Howell 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, located at 134 Newton Sparta Rd., 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.

ROLL CALL:

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

Also Present:

Thomas Molica, Esq.
Cory Stoner, PE
Matthew Morris, PP

Stephanie Pizzulo, Secretary

ADMINISTRATIVE ITEMS:

Approval of Minutes: June 21, 2022

A motion to approve the minutes of the June 21, 2022 meeting with the noted corrections was made by Mr. Olsen and seconded by Mr. Ordile. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – 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.

Mr. Ordile asked Mr. Thomas if he wanted to address any of the outstanding items from the last meeting.

Mr. Thomas said the main question was about the stipulations, which had been submitted to the Board and the objector’s attorney. He said there were some suggested modifications to the plans, which would be handled as the ongoing process. He said there might be others and it would be more efficient to handle them all at one time.

Mr. Ordile said he did receive the list of stipulations however some were missing from the last meeting. Mr. Thomas said he is checking with his client on those items. Mr. Molica said he was still reviewing the list of stipulations. He suggested the list of stipulations be marked as an exhibit. The list submitted and entitled “Stipulations to the Board” with a date of August 16, 2022 was marked and entered as exhibit A-32.

Mr. Ordile asked if the site line exhibits are still valid. Mr. Nusser said they are not 100 % as they were before since they have relocated certain things. He explained the aggregate storage area had been moved and the existing vegetation is still there which would make it less visible. He explained the areas that had been changed to the Board. Mr. Thomas said the plans would be updated. Mr. Ordile asked which plans have been submitted to the D.E.P. Mr. Nusser said the D.E.P. is working off of the March 8, 2022 plans.

Mr. Olsen asked when the Board could expect updated exhibits. Mr. Thomas said he would like to have them available by the September meeting date. Mr. Nusser said he would be updating exhibits A-8, A-9 and A-10.

Ms. Durkin asked if Mr. Nusser was a licensed Engineer in the State of NJ and employed by EL&P to which Mr. Nusser said yes. Ms. Durkin said Mr. Nusser testified that the application was for a construction business office and construction equipment and material storage facility. Ms. Durkin asked if there have been any changes in the proposed site plan uses. Mr. Nusser said the proposed use of the site has remained consistent. Ms. Durkin asked Mr. Nusser what his understanding of the proposed uses are for the site. Mr. Thomas objected to the question since it had already been answered. Ms. Durkin referred to exhibit A-27, sheet 4 of the overall site plan and noted all of the plans are signed by Mr. Ingram of Mr. Nusser's office. Ms. Durkin asked if Mr. Ingram had been to any of the meetings to which Mr. Nusser said no. Ms. Durkin asked if Mr. Nusser had prepared any of the site plans to which he said yes. Ms. Durkin asked what his involvement was in preparing the site plan. Mr. Nusser said he has been overseeing and managing the preparation of the plans for the project and Mr. Ingram reviews them and they are issued by Mr. Ingram as the signing Engineer. Ms. Durkin questioned Mr. Nusser on his office's practices in the signing of plans. Mr. Nusser said he signs plans but did not sign these and explained that Mr. Ingram had started with the project and Mr. Nusser had taken it over for the management and design of it. He said Mr. Ingram is still reviewing it and signing off on them. Ms. Durkin continued to question Mr. Nusser about Mr. Ingram's involvement in the site plans and asked why none of the plans were signed by Mr. Nusser. Mr. Nusser said it is a matter of practice that once he starting signing them, he has continued to sign them. Ms. Durkin asked Mr. Nusser what his overall involvement in the design of the project was. Mr. Nusser said he worked with the client to figure out what their needs and uses for the site were and worked with them to lay out the site in a way they felt worked best for them. He said he has worked with them as the plans have been modified. Ms. Durkin asked if Mr. Nusser had direct communication with the applicant as to their needs for this site plan to which Mr. Nusser said he was involved in those communications. Ms. Durkin questioned Mr. Nusser on who he had spoken to which Mr. Nusser said he spoke to the principal of the company and the project manager. Ms. Durkin questioned Mr. Nusser on the names of the principal and project manager, if he met in person and asked when he last spoke to them to which he said he did not remember but it was not within the last month. Ms. Durkin asked if his firm handled the previous application for Co-Parts to which he said yes. She continued to question Mr. Nusser on his firm's handling of other auto auction applications to which Mr. Thomas objected due to relevancy. Ms. Durkin said Mr. Nusser was present at all of the hearings for BHT to which Mr. Nusser said that was incorrect. She asked Mr. Nusser if he was present for the meetings in October and November of 2021 to which he said he believed he was. Ms. Durkin asked Mr. Nusser if he had ever met Mariella Sainz prior to those meetings. Mr. Thomas said Ms. Sainz is no longer with the company. Mr. Nusser said he had discussions with her prior to those

meetings. Ms. Durkin asked if the principal and project manager were at those meetings to which Mr. Nusser said he did not recall. Ms. Durkin asked if Mr. Nusser heard her testimony as to the type of material to be stored on the site. Ms. Durkin handed out copies of previously marked exhibits A-3, A-4, A-5, and A-6. Ms. Durkin asked Mr. Nusser of his involvement in the design of any other construction office and construction storage and equipment facility. Mr. Nusser said he has been involved in a number of sites with similar uses. He listed one in Raritan, about an acre in size that did not get built and one in Alpha Borough. He explained the sites. Ms. Durkin questioned Mr. Nusser if those sites had shipping containers to which he said he did not think so. Ms. Durkin asked if the Andover site is a unique situation for his firm. Mr. Nusser said it could be considered unique and said this is a regional facility as opposed to the other sites, which were local. Ms. Durkin asked if Mr. Nusser recalled Ms. Sainz testimony. He said he vaguely remembers it. Ms. Durkin asked Mr. Nusser to explain a regional construction yard as to a non-regional construction yard. Mr. Nusser explained the difference to Ms. Durkin. Ms. Durkin asked Mr. Nusser what his experience in a construction yard was to which he said he had none. Ms. Durkin asked if a construction yard in New Jersey was feasible for a project in Virginia. Mr. Nusser said that was not for him to decide. Ms. Durkin asked what construction site this site was going to support. Mr. Nusser said it was his understanding it would support projects from Virginia to Maine for the client's operations in the Northeast. Ms. Durkin asked what his understanding of any of those sites, as they exist today. Mr. Nusser said he did not know and did not need to know where their construction sites are located. Ms. Durkin questioned Mr. Nusser about the location of a construction yard from the construction site. Mr. Nusser said it is the applicants place to decide where the best place to locate their facility would be.

Ms. Durkin questioned Mr. Nusser about the shipping container area. She referred to exhibit A-3 and asked if that is what the proposed shipping container would look like. Mr. Nusser said it is a typical shipping container. Ms. Durkin questioned Mr. Nusser on the size of the containers and the number of shipping containers in the area indicated on the site plan. Mr. Nusser said he would have to count them however, he had testified that there would be about 2/3 on one side and about 1/3 on the other side of the container area. Ms. Durkin said she found it difficult that the containers were not numbered on the site plan. Mr. Nusser said there would be no more than 1,000 containers.

Ms. Durkin asked if it was Mr. Nusser's idea to store construction material in a shipping container to which he said it was the applicant's request. Ms. Durkin asked Mr. Nusser if he ever said to the client that that may not be feasible. She continued to question Mr. Nusser on operational questions. Mr. Thomas objected due to the questions because Mr. Nusser is not an expert in that area. Mr. Thomas clarified Ms. Durkin is referring to a plan which is A-27 with a revision date of March 8, 2022, and testimony from July 2021. There was a discussion on the revision dates of the plan. Ms. Durkin asked about the significant changes to plans. Mr. Nusser said the aggregate storage area was relocated from the southeastern portion of the property to

the western area, the equipment storage area has been reduced in size and consolidated and the overall footprint of the development has been reduced. There was a discussion on the size of the changed areas and the areas that are no longer proposed for development. Mr. Nusser said they relocated the aggregate area and reduced the footprint of the site and relocated it closer to the entrance of the facility to reduce the travel throughout the site as was suggested by the Board and their professionals. He said the equipment storage area is solely contained and located on the western portion of the site and again reducing traffic on the site. Ms. Durkin asked what the changes in use have been. Mr. Nusser said there has been no change in the uses only a change in where those uses are proposed on the site. Ms. Durkin asked for clarification on the operations of a construction materials facility. Mr. Nusser said he did not testify to that and felt Ms. Durkin was asking him to give operational testimony and could not answer that question. Ms. Durkin referred to exhibit A-4 and asked if there has been any change from his July 2021 testimony regarding exhibit A-4 as to the type of construction equipment that is proposed for the construction equipment area to which Mr. Nusser said no. Ms. Durkin referred to exhibit A-5 and asked if there has been any changes to the aggregate storage area. Mr. Nusser said there would be no asphalt stored only inert natural materials. Ms. Durkin asked questions about aggregate storage. Mr. Thomas felt Ms. Durkin was asking questions of Mr. Nusser that were beyond his area of expertise. Ms. Durkin questioned Mr. Nusser about exhibit A-6 and what was pictured in the exhibit and the typical length of various products. Ms. Durkin questioned Mr. Nusser on why the containers would be on a gravel surface. Mr. Nusser said it is easier to maintain and less expensive and is a smooth surface.

Ms. Durkin wanted to show a YouTube video. Mr. Thomas said he did not know what was being offered and did not know if it would be objectionable. Ms. Durkin said the first video is how to open and close a shipping container. Mr. Thomas felt this was an operational issue and would be better addressed by the owner and it may not be the type of shipping container that is being proposed by the applicant. He felt this is substantial prejudice and that Ms. Durkin could end up showing operations that do not work on this site. He felt it was irrelevant.

Mr. Molica suggested Ms. Durkin show the videos when Mr. Adar is present.

The Board took a ten-minute break.

Ms. Howell said the Board was missing members and felt that the videos should be held for a different meeting. She opened the discussion to the Board. The Board agreed to view the videos.

Ms. Durkin presented a video, which she entitled "Opening and Closing a Shipping Container Door" which was entered and marked as exhibit O-9.

Ms. Durkin questioned Mr. Nusser on the opening and closing of a shipping container door. Mr. Nusser said he was familiar with how shipping containers open. Mr. Nusser said his plan shows an area where the shipping container would be located. Ms. Durkin questioned Mr. Nusser on how the proposed shipping containers would open. Mr. Nusser said he was asked by the Board to identify the location of the containers not to locate where the doors would be however; his understanding is the doors would face the aisles. Ms. Durkin asked if there is space between the shipping containers to which Mr. Nusser said yes. He said the boxes on the site plan are 10 feet by 40 feet long to depict the space where the shipping container would be placed. He said the spaces are wider than the container to allow for space between them. Ms. Durkin continued to question Mr. Nusser on the size of the container and the size of the spaces on the site plan. Mr. Nusser explained why the space was depicted wider than the actual size of the shipping containers. Mr. Nusser said the purpose of the depiction on the site plan was to show how 1,000 shipping containers could fit in the proposed location allowing for space in-between them. He said the plan did not show the exact location of each container.

Ms. Durkin asked if there are four separate uses on the property and went over them with Mr. Nusser. Ms. Durkin asked if the shipping container area is the largest proposed area on the property to which Mr. Nusser said yes.

Ms. Durkin questioned Mr. Nusser on the Truck Circulation Plan of the site plan set. She asked him why the truck circulation plan was only depicting a portion of the site. Mr. Nusser said it shows all of the turning movements including the most restrictive ones on the site and is representative of all of the movements on the site. Ms. Durkin said there were no dimensions on the width of the drive aisles and questioned Mr. Nusser on the dimensions of the drive aisle. Mr. Nusser said the plan is to show truck circulation and not the width of the aisles. Ms. Durkin again questioned Mr. Nusser about the location of the shipping containers. Ms. Durkin asked Mr. Nusser about the type of trucks that would access the site. Mr. Nusser said the plan was modeled with a WB-50 standard truck, which is a tractor-trailer.

Ms. Durkin questioned Mr. Nusser on the stipulation that no truck larger than a WB-50 would be delivering to the site. Mr. Nusser said that was his understanding. Ms. Durkin continued to question Mr. Nusser about the size of the trucks that would access the site. Ms. Durkin asked Mr. Nusser what type of truck is used to transport rebar. Mr. Nusser said it could be in an enclosed or unenclosed truck. Ms. Durkin asked how Mr. Nusser concluded no sleeper trucks would access the site. Mr. Nusser said based on his discussions with this client that deliveries would be coming from the ports. Ms. Durkin questioned Mr. Nusser if the material would be coming in a shipping container to which Mr. Nusser said he did not know and that would be a question for the applicant. Ms. Durkin continued to question Mr. Nusser on the movement of shipping containers. Ms. Durkin said that is new evidence that shipping containers would be coming from the port. Ms. Durkin questioned Mr. Nusser about the movement of the

construction equipment. Ms. Durkin asked if they would transport equipment with a Lowboy type truck. Mr. Nusser said it could be used and explained what a Lowboy type truck is.

Ms. Durkin presented a series of three photos of various trucks taken by one of her clients which was dated 8-16-22 and which was marked and entered as exhibit O-10.

Ms. Durkin presented a series of three photos of various trucks taken by one of her clients which were dated 8-16-22 and which was marked and entered as exhibit O-11.

Ms. Durkin presented a series of three photos of sleeper cab tractors taken by one of her clients which was dated 8-16-22 and which was marked and entered as exhibit O-12.

The Board took a two-minute break.

Ms. Durkin explained the photos to the Board. Ms. Durkin questioned Mr. Nusser about the trucks in the photos. Mr. Nusser said they are larger than the WB-50 type trucks and they did appear to be transporting some type of construction material. He said the stipulation is that no truck larger than the WB-50 truck would be accessing the site. Ms. Durkin asked how Mr. Nusser came to the determination that the trucks pictured in her exhibits would never access the site. Mr. Nusser said it was based on discussions with the client and his professional judgement. Ms. Durkin questioned Mr. Nusser on the size of the materials proposed to be shipped to the site. Mr. Nusser said the material had to fit into the 40-foot container so if it fit in the container, it would fit on the WB-50 truck. Ms. Durkin said Mr. Nusser testified that the trucks would transport the container to the site. Mr. Nusser said he did not testify to that and could not answer operational questions. Ms. Durkin felt her questions were not operational and did not understand how the material would get to the site other than in a shipping container. Ms. Durkin continued to ask Mr. Nusser if material would arrive to the site in a shipping container and the container be dropped on the site to which Mr. Nusser said he did not know. Ms. Durkin asked if Mr. Nusser did any analysis on trucks larger than the WB-50 coming to the site. Mr. Thomas said it was already stipulated that the maximum truck size would be the WB-50 or less. Ms. Durkin asked if Mr. Nusser's truck circulation plan would work for the larger trucks to which Mr. Nusser said he did not know. Ms. Durkin asked about the size vehicles that might bring cars to an auction yard and asked if that would be a truck greater than a WB-50 truck to which Mr. Nusser said he did not know. Mr. Thomas objected to the relevancy of the question. Ms. Durkin asked about the type of material that could be stored in the containers by limiting the truck to a WB-50 type truck. Ms. Durkin suggested rebar could come on a truck larger than a WB-50. Mr. Thomas objected to the relevancy and said rebar probably comes on trucks much larger than the WB-50 but that is not what they are doing.

Ms. Durkin asked how material would be loaded and unload from a shipping container. Mr. Nusser said that is a question for the applicant. Ms. Durkin asked again how the material would

be loaded and unloaded from the shipping container to which Mr. Nusser said he did not know. Mr. Nusser said he did not know the specifics on how the applicant intends to run his operation. Ms. Durkin questioned Mr. Nusser if there were loading docks proposed to which he said no. She asked him to explain how the material gets loaded and unloaded from the shipping containers to which he said he did not know. Mr. Thomas objected to the repeated questioning. Ms. Durkin asked Mr. Nusser to define the plan to which he said it is a plan to show how a WB-50 truck would circulate throughout the site. Mr. Stoner noted it is a truck circulation plan and not a loading or unloading plan.

Ms. Howell said Ms. Durkin could continue her questioning at the August 30, 2022 meeting.

Mr. Thomas said he would not have Mr. Adar at the August 30, 2022 since Ms. Durkin would continue her questioning of Mr. Nusser.

Mr. Thomas said the State Historic Preservation Office has advised them that the plans are acceptable however; the buildings must remain. He said Mr. Nusser is revising the plans for a subdivision plan so they do not run into a variance issue. Ms. Durkin said that would further delay the application. Ms. Durkin said she was disappointed that Mr. Adar would not be at the next meeting. Ms. Howell said it made sense that he not sit here while she questions Mr. Nusser.

Mr. Molica said the hearing would be carried to the August 30, 2022 meeting at 7:30pm, in the municipal building with no further notice provided by the applicant.

Mr. Thomas gave an extension of time through the end of the year, December 31, 2022.

ORDINANCES: None.

OLD BUSINESS:

1.) Live Stream

The Board agreed to carry this matter to the next meeting when Mr. Briigliadoro is present.

NEW BUSINESS: None.

LIAISON REPORTS:

Township Committee – Eric Karr

Environmental Commission –Eric Olsen

Sustainable Andover – Eric Olsen

Economic Development Committee – John Carafello

Zoning Map/ Zone Changes Subcommittee – Paul Messerschmidt

Master Plan Subcommittee – Joseph Ordile

Ms. Howell asked to table the liaison reports to the next meeting.

Mr. Ordile said the Township Committee approved the Redevelopment Study. He said the Master Plan was postponed because one of the committee members was not present.

VOUCHERS:

Company	Purpose	Amount	Paid By
Weiner Law Group	Redevelopment Study	\$1,360.00	Redevelopment Escrow
Weiner Law Group	McDonald, Robert	\$64.00	Applicant' Escrow
Weiner Law Group	Always Comfy	\$64.00	Applicant's Escrow
Harold Pellow & Associates	Engineering	\$405.00	Engineering Budget
Harold Pellow & Associates	Sweeney, Cheryl	\$202.50	Applicant's Escrow
Harold Pellow & Associates	McDonald, Robert	\$202.50	Applicant's Escrow
Harold Pellow & Associates	Ballantine Woods	\$485.00	Applicant's Escrow
Vogel, Chait, Collins & Schneider	BHT Properties Group	\$1,640.00	Applicant's Escrow

Mr. Ordile questioned the engineering bill. The Board agreed to table the bill until Mr. Stoner has a chance to review it.

A motion to pay all of the vouchers except the engineering voucher was made by Mr. Olsen and seconded by Mr. Tolerico. Roll Call: Eric Olsen – yes, Richard Skewes – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Suzanne Howell – yes. Motion carried.

CORRESPONDENCE: None.

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.

Ms. Howell said there was no public remaining in the room.

UPCOMING MEETINGS: August 30, 2022, September 6, 2022

ADJOURNMENT:

With no further business to come before the Board, a motion to adjourn was made Mr. Tolerico. It was seconded by Mr. Olsen and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo
Land Use Administrator