



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
August 30, 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, 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 – Excused
John Carafello – Excused
Suzanne Howell – Present
John O’Connell – Excused
CeCe Pattison – Excused
Richard Skewes – Present
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: None.

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 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. Messerschmidt said the Board would continue the BHT hearing with Ms. Durkin continuing her cross-examination of Mr. Nusser.

Ms. Durkin, attorney for the objectors, said she did not know for a fact that the buildings would be demolished. She said Mr. Thomas, in speaking before the Board, somewhat causally would be amending the application to include a minor subdivision. She said the application is pending before the Board for more than a year and felt there is still a deficiency in the documents provided to the Board. She said the revisions to the existing site plan and EIS have not been forthcoming and the Board is waiting on a report from the hydrogeologist. She said she was not aware the application was going to be amended and felt the Board needed to know the status of that. Mr. Messerschmidt said the Board has not received an application for a subdivision and until they do, the Board has to proceed with the application that is before them.

Mr. Thomas said he had responded to Ms. Durkin in an email on this matter. He said the applicant is waiting on a review by S.H.P.O. which may require the buildings remain. He said they are in the process of getting a new subdivision map so those structures can be separated from the overall project. He said as soon as he gets the new maps, they will be filed with an amended application. He said the first time he discussed this was at the last meeting. Mr. Thomas said he was hoping to have that amendment 10 days before the next meeting. Ms. Durkin said she was trying to move the application along and all of the delays were on behalf of the applicant and not on the objectors. She said the application may go on into 2023. Mr.

Messerschmidt said it may go into 2023 but the Board needs to make sure it is handled correctly.

Mr. Molica reminded Mr. Nusser he remained under oath.

Ms. Durkin showed the video clip which was previously entered as exhibit O-9 to the Board.

Ms. Durkin questioned Mr. Nusser on the containers that were depicted in the video. Mr. Thomas objected since this had been addressed already at the last hearing.

Ms. Durkin presented a video, which she retrieved from You Tube, showing how to load and unload HDPE pipe which was entered as exhibit O-13. Mr. Thomas asked about the source of the video to which Ms. Durkin said he would see that in the videos. Mr. Messerschmidt felt the videos should be identified by the author. Ms. Durkin said she would provide the native form of the You Tube video. She said she had a videographer shorten the videos. Ms. Durkin said she would provide the original videos to Mr. Thomas. Ms. Durkin showed the video.

Ms. Durkin questioned Mr. Nusser on the type of pipe and type of truck pictured in the video.

Ms. Durkin presented a You Tube video showing a truck driver loading and unloading rebar which was marked and entered as exhibit O-14. Ms. Durkin questioned Mr. Nusser about the size of the truck pictured in the video.

Ms. Durkin presented another You Tube video of rebar being loaded onto a truck which was marked and entered as exhibit O-15. Ms. Durkin said the rebar pictured in the video was 20 feet in length. Ms. Durkin questioned Mr. Nusser about the size of the truck pictured in the video and the length of the rebar pictured in the video.

Mr. Thomas noted there were printed words appearing in the video and asked who provided those words. Mr. Molica asked if Ms. Durkin would provide a transcript of the videos, as requested by Mr. Thomas, to which she said no. There was a discussion on the source of the videos. Ms. Durkin said she did not alter the videos other than to slice them. She said the videographer added the number reference and title to the bottom of the video. Mr. Thomas asked who provided the videographer with the information on the length of the rebar to which Ms. Durkin said it came from the video. Ms. Durkin said she was shocked that the Board had an issue with the identifying wording. Ms. Howell asked what company the man in the video was working for to which Ms. Durkin asked why that mattered. Ms. Durkin said she would try to get an affidavit from the video producers. Ms. Durkin said she is trying to understand how the material would get into and out of the shipping containers. Mr. Thomas said the Engineer does not deal with operations.

Ms. Durkin presented a You Tube video of rebar being loaded and unloaded from a truck which was marked and entered as exhibit O-16. Ms. Durkin asked Mr. Nusser if rebar is loaded or unloaded with a forklift or crane. Mr. Nusser said that he did not know because that was an operational question. Ms. Durkin asked how the rebar would get from the truck to the shipping container. Mr. Nusser said it was operational testimony and would defer that to an operational expert. Mr. Thomas said the question was asked and answer. Ms. Durkin felt he did not answer the question as an engineer. Ms. Durkin asked again how the rebar gets from the truck to the container. Mr. Nusser said it was an operational question and best answered by an operational expert. Mr. Thomas objected because there could be many ways for rebar to be loaded or unloaded; not just as it is depicted in the video.

Ms. Durkin referenced exhibit A-27 and continued to question Mr. Nusser about how the loading and unloading of the shipping containers would take place. Mr. Thomas said they would have operational testimony. Mr. Molica asked if Mr. Nusser knows how material would get into containers but wanted to defer to an expert or if he just does not know the answer. Mr. Nusser said he has a basic understanding of the process but to have a full understanding for this site, the questions should be directed to the operational person. Ms. Durkin asked Mr. Nusser if the site plan design would work to which Mr. Nusser said yes. Ms. Durkin asked how he arrived at that conclusion. Mr. Nusser said based on his conversation with the client and site specifications. Ms. Durkin indicated on the site plan where a truck would park and asked how a forklift would get the material off the truck and into the container and asked if any modeling had been done. Mr. Nusser said he did not do an analysis of the turning movements for forklifts. Mr. Nusser said a forklift would fit in the aisle.

Ms. Durkin presented a You Tube video which she entitled "Concrete Pipe, Part A Loading" which was marked and entered as exhibit O-17. Ms. Durkin questioned Mr. Nusser on the material and truck pictured in the video. She asked if the truck was a WB 50 to which Mr. Nusser said he could not determine from the video. Ms. Durkin asked how concrete pipe would get in and out of the shipping container. Mr. Nusser said he did not know how the applicant intended to move the material. Ms. Durkin asked if Mr. Nusser had any experience with concrete pipe being stored in a shipping container. Mr. Nusser said he did not. Ms. Durkin asked if Mr. Nusser did any modeling as to how the concrete pipe would get into the shipping container to which he said no.

Ms. Durkin presented a You Tube video which she entitled "Hauling Concrete Pipe, Part B Unloading" which was marked and entered as exhibit O-18. Ms. Durkin questioned Mr. Nusser on what was pictured in the video. Ms. Durkin asked how the concrete pipe would be removed from the shipping container. Mr. Thomas objected since they did not know if that type and the diameter of pipe shown in the video would be on their site. Ms. Durkin asked Mr. Nusser how the concrete pipe goes in or out of the container. Mr. Nusser said it was an operational question. Ms. Durkin asked Mr. Nusser if his testimony was that he had no understanding of

how the construction materials would be loaded or unloaded from the shipping containers to which he said that was not his testimony. Mr. Nusser said there are many ways to load and unload the containers. Mr. Nusser felt her questions were not engineering questions. He said there are aisles that the delivery equipment can access and there is adequate space for the loading and unloading of the containers. He said the site meets the specific requirements of the applicant and how they specifically load and unload the containers would have to be addressed by the applicant. Ms. Durkin asked if safety was a paramount concern on a construction site. Mr. Nusser said it is a paramount concern on any site. He said safety is always a concern. Ms. Durkin again asked if Mr. Nusser knew how the material would come out of the shipping containers or on or off the trucks to which Mr. Nusser said he did not know.

Ms. Durkin presented Sheet 8 entitled "Truck Circulation Plan" of the plan set with a revision date of March 8, 2022 which was marked with a yellow box by Ms. Durkin which was marked and entered as exhibit O-19. Ms. Durkin asked Mr. Nusser if the drive aisles are all 25 feet in width to which Mr. Nusser agreed.

Ms. Durkin presented a magnetic board which was an enlarged version of the yellow area on exhibit O-20 which was prepared by Mr. Steve Applebaum of The Evidence Store, 37 Giggleswick Way, Edison, NJ 08820 which was marked and entered as exhibit O-20.

Ms. Durkin said the magnetic board was drawn to scale. She said the shipping containers were drawn to eight feet in width. Mr. Thomas said the plan submitted to the Board had the shipping container areas at ten feet to allow for space between the shipping containers. He said Mr. Nusser had testified and made that very clear at the last meeting. Ms. Durkin referenced exhibit A-3 and said the dimensions show the containers are eight feet in width. She questioned Mr. Nusser about the plans and the size of the shipping container. Mr. Nusser said the plans do not show a representation of the size of the shipping container box on the plans. Ms. Durkin questioned Mr. Nusser about the spacing in between the shipping containers. Mr. Nusser said the spaces on the plan are represented larger than the shipping containers to allow for space between the shipping containers. Ms. Durkin asked for the reason for the spacing. Mr. Nusser said to provide room for laying out the containers. He said it is a representation of how 1,000 containers could fit on the site not how they would be laid out on the site. Ms. Durkin continued to question Mr. Nusser on the placement of the containers. Ms. Durkin asked why the shipping containers were not numbered to which Mr. Nusser said it was not a representation of the disposition of each container and did not know what the purpose of numbering them be and felt it would complicate the plan.

The Board took a five-minute break.

Ms. Durkin asked if the drive aisles would be fluid. Mr. Nusser said the drive aisles and the area where the containers are proposed would not be fluid. Mr. Nusser explained there would

be an opportunity to orient the containers in a different direction than what is indicated on the plans. Ms. Durkin continued to question Mr. Nusser about the positioning of the containers. Mr. Nusser explained the orientation and said the number of containers would be the same. Ms. Durkin felt the plans needed to be revised to show where the containers would be. Mr. Thomas said that is the Board decisions. Mr. Nusser said if the Board wanted the site plan to show every container and number them, then that is what they would do.

Ms. Durkin explained the magnetic Board. She presented a WB-50 truck to scale, a 63 50 Lowboy truck to scale and a WB-67 truck to scale. Ms. Durkin asked Mr. Nusser if he knew what a WB-67 truck would be used for to which he said it is an interstate truck with a sleeper cab. Ms. Durkin presented an 80 50 Lowboy truck to scale with exhibit O-20. Ms. Durkin asked what the 80 50 Lowboy would be used for to which Mr. Nusser said it is used to move equipment. Ms. Durkin asked Mr. Nusser what types of construction equipment would be on the site. Mr. Nusser said backhoe, dump truck, track hoes and bulldozers. Ms. Durkin asked what type of truck the equipment would come to the site on. Mr. Nusser said they could come on a number of different types of trucks. Ms. Durkin asked if the equipment would come to the site on a 63 50 Lowboy. Mr. Nusser said it would not come to the proposed site because they stipulated the maximum size of the trucks coming to the site. Ms. Durkin said she understood the stipulation. She questioned Mr. Nusser as to the largest truck to come on or off the site to which Mr. Nusser said the WB-50. Ms. Durkin continued to question Mr. Nusser about the size of trucks that would come to the site. She asked Mr. Nusser how he came to the conclusion that the equipment would only come on the WB-50 truck. Mr. Nusser said it was based on the specifications the applicant provided. Ms. Durkin asked Mr. Nusser about other construction yard sites.

Mr. Thomas clarified that no truck larger than the WB-50 truck would be on the site. Mr. Molica felt the discussion should be focused on this particular site.

Ms. Durkin continued to question Mr. Nusser about the truck circulation plan and the largest truck that would come to the site. She asked Mr. Nusser how he came to the analysis that there would be no truck larger than the WB-50. Mr. Nusser said the applicant stipulated to him that would be the largest truck on the site.

Ms. Durkin asked Mr. Nusser how the WB-50 truck would load or unload with the containers opening into the drive aisle. Mr. Nusser said the containers open towards the drive aisle not into the drive aisle. He said there are other pieces of equipment used to load or unload the trucks. Ms. Durkin questioned Mr. Nusser on the unloading of rebar from the truck into the shipping container. Mr. Nusser said that is an operational question. Ms. Durkin felt Mr. Nusser did not answer the question. Ms. Durkin continued to question Mr. Nusser on the unloading of rebar from a truck and into a container. Mr. Messerschmidt said Mr. Nusser responded to the question even if Ms. Durkin did not like the answer.

Ms. Durkin asked Mr. Nusser if he was involved in the preparation of the EIS to which he said yes. Ms. Durkin asked Mr. Nusser if he was present during the Equity Environmental testimony to which he said yes. She asked him if he was tasked with revising the EIS to which he said yes. Ms. Durkin asked if he was involved in the preparation for the previous EIS that was submitted for the previous BHT application for the auto construction yard. Mr. Thomas objected and said it was not relevant. Mr. Nusser said he did not recall. Ms. Durkin asked what the most recent EIS was that he worked on for this application to which Mr. Nusser said January 26, 2021. Ms. Durkin asked what material would be stored at the site as depicted in the EIS to which Mr. Nusser said aggregate, pre-cast concrete structures and other typical natural construction materials. Ms. Durkin asked if rebar was a natural construction material to which Mr. Nusser said metal is a natural occurring material. Ms. Durkin asked if the HDPE pipe was natural to which Mr. Nusser said it was not and he would have to update that in the EIS.

Ms. Durkin asked why the application was being amended for a subdivision. Mr. Nusser said it is being subdivided to satisfy SHPO. Ms. Durkin asked if Mr. Nusser had received any of the reports from the D.E.P. Mr. Nusser went over the reports that are pending with the D.E.P. Ms. Durkin asked what Mr. Nusser's background is in environmental engineering. Mr. Nusser said he had participated in a number of environmental remediations and cleanups. He said he has prepared a number of reports as far as it relates to wetlands and flood hazard areas. Ms. Durkin asked if Mr. Nusser had reviewed the Equity Environmental report, to which he said yes. She asked if there were any recommendations in that report regarding the inaccuracy of the EIS that he would disagree with. Mr. Nusser said it was not fresh enough in his mind. She asked if he would be updating the EIS to which he said yes. She continued to question Mr. Nusser on the updating of the EIS. Ms. Durkin finished her cross examination.

Mr. Messerschmidt opened the meeting to the public. He said anyone being represented by Ms. Durkin would not be permitted to ask questions since she was asking questions on their behalf.

Mr. Ken Best of 305 Stickles Pond Road, Andover, NJ asked if the plans specified that the storage containers are part of the approval process. Mr. Nusser said they are shown on the plan. He said the plan mentions storage containers and the location is depicted on the plan. Mr. Best asked if the containers would be going on and off of the site. Mr. Nusser said as the need arises, additional containers would be brought to the site. He said they are not all coming onto the site at once. If the containers were not needed, they would be removed.

Mr. Al Bills, 15 Springdale Garden Road, Andover, NJ said Ms. Sainz said all of the shipping containers would be the same color and neatly lined up and asked if the containers are going to be moved on and off the site, was that included in the traffic study. Mr. Nusser said the stipulations as far as truck traffic would not be exceeded. Mr. Bills said the testimony on hydraulic leak would be a drip here and there and asked if hydraulic fluid under pressure would

be more than a drip. Mr. Nusser said he did not recall that testimony specifically. He said typically if there were a problem it would drip and if the line burst then there is a spill plan that would be followed. Mr. Bills asked if the stormwater basins have required maintenance to which Mr. Nusser said yes. Mr. Bills asked who regulates the plan. Mr. Nusser said the State and Mr. Stoner would review the plan and a report would go to Mr. Stoner as part of his reporting to the Township. Mr. Bills asked if soil is considered an aggregate to which Mr. Nusser said no. Mr. Bills asked if any material from the applicant's construction sites would be allowed to be stored in the aggregate area. Mr. Nusser said no soils excavated from another site would be stored on this site. Mr. Stoner asked if that could be a stipulation to which Mr. Thomas said it could be. Mr. Bills asked if there would be rock-crushing equipment to which Mr. Nusser said no. Mr. Bills asked if recycled concrete would be stored onsite. Mr. Nusser said that is a possibility. Mr. Bills asked if there is any type of dust control for the aggregate area to which Mr. Nusser said yes and explained the relocation of the aggregate area and covers for the aggregate piles. Mr. Bills asked about the runway and the trucks carrying the aggregate. Mr. Nusser said there would not be a significant amount of dust coming from them.

Mr. Neil Hubbard of 12 Caitlin Court, Andover, NJ asked if material would be coming from the port to which Mr. Nusser said yes. Mr. Hubbard asked if loaded containers would come to the site and be brought off the site as well. Mr. Nusser said some of the material being brought to the site may arrive in containers. He said it is not his understanding that the loaded container would be dropped and left on the site. Mr. Hubbard asked if material would go to other companies and not BHT construction sites. Mr. Nusser said he did not ask the client that question.

With nobody else coming forward, the meeting was closed to the public.

Mr. Thomas said there were a lot of question about Mr. Ingram signing the plans and asked Mr. Nusser if that was unusual in his office to which he said no. Mr. Nusser said it is not unusual in any engineering office. He said Mr. Ingram will review projects he brought in but would leave the design and oversight of the project to others in the office.

Mr. Thomas asked Mr. Nusser to explained what he meant by his statement that this site was unique by comparison to the projects he worked on in Alpha, NJ and Raritan, NJ. Mr. Nusser said those sites were for a contractor who was doing more local work and this is a more regional construction yard servicing a larger geographic area. Mr. Thomas asked Mr. Nusser to explain the reduction of the areas that would be developed and used. Mr. Nusser explained those areas and the amount of reduction of development to the Board. He said the reduction reduces the impact to the environment. He explained the reduced impacts to the Board. Mr. Thomas asked if the applicant was no longer proposing to store asphalt millings on the site to which Mr. Nusser said yes. Mr. Nusser explained the asphalt millings are a petroleum byproduct and contain chemicals that could be problematic so they would not be stored onsite.

Mr. Thomas asked what the maximum length of the stored pipe would be to which Mr. Nusser said twenty feet. Mr. Thomas asked Mr. Nusser to explain the benefit of the gravel surface. Mr. Nusser said the stormwater would run off asphalt whereas it would filter through the gravel. He said it eliminates water at an elevated temperature to run off into any of the water bodies and eliminates the ponding of water around the containers. He said the gravel would be a solid firm base for the containers and easier to maintain. Mr. Thomas asked if the traffic circulation plan calculations and the turning radii provided were the same for all of the sections on site. Mr. Nusser said it is indicative of all of the turning movements that would occur. Mr. Thomas asked about the boxes on the plan indicating the container areas. Mr. Nusser said they are scaled to 10 feet and are to show the container area with some flexibility around the containers. Mr. Thomas asked what the benefit was to moving the aggregate storage area. Mr. Nusser said because of the consolidation of the aggregate area they are eliminating the aggregate deliveries from going to the eastern portion of the site, which reduces the crossing of the property with truck trips.

Ms. Durkin noted the list of stipulations did not address the length of the materials. Mr. Thomas said he will provide an additional stipulation list.

There was a discussion on who would testify at the next BHT hearing.

Mr. Messerschmidt said the hearing was carried to September 20, 2022 without further notice.

Mr. Molica left the meeting.

ORDINANCES: None.

OLD BUSINESS:

1.) Live Stream

The Board carried this matter to a meeting where Mr. Briigliodoro was present.

NEW BUSINESS: None.

LIAISON REPORTS:

Township Committee – Eric Karr

Mr. Karr was not present to give a report.

Environmental Commission –Eric Olsen

Mr. Olsen was not present to give a report.

Sustainable Andover – Eric Olsen

Mr. Olsen was not present to give a 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 he had nothing new to report.

Master Plan Subcommittee – Joseph Ordile
Mr. Ordile said he had no update on the Master Plan.

VOUCHERS:

Company	Purpose	Amount	Paid By
Harold Pellow & Associates	Sweeney, Cheryl	\$135.00	Applicant's Escrow
Harold Pellow & Associates	McDonald, Robert	\$202.50	Applicant's Escrow

A motion to pay the bills as presented was made. By Ms. Howell and seconded by Mr. Skewes.
Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Paul Messerschmidt – 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.

Mr. Messerschmidt opened the meeting to the public.

Mr. Neil Hubbard of 12 Caitlyn Court, Andover, NJ asked if the Board has a complicated application, could the Board put on the agenda the result of what would be covered in the meeting other than the name. Mr. Messerschmidt said the Board would consider that request.

With nobody else coming forward, Mr. Messerschmidt close the meeting to the public.

UPCOMING MEETINGS: September 6, 2022, September 20, 2022

ADJOURNMENT:

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

Respectfully submitted,

Stephanie Pizzulo
Land Use Administrator