



# ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board  
Municipal Building  
134 Newton Sparta Road  
MINUTES  
December 20, 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](http://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  
Krista Gilchrist - Present  
Paul Messerschmidt – Present

**Also Present:**

Thomas Molica, Esq.  
Cory Stoner, PE

Matthew Morris, PP  
Stephanie Pizzulo, Secretary

**ADMINISTRATIVE ITEMS:**

**Approval of Minutes:** October 4, 2022, October 18, 2022, October 25, 2022, November 1, 2022, November 15, 2022.

A motion to approve the minutes of the October 4, 2022 meeting with the noted correction was made by Mr. Ordile and seconded by Mr. Skewes. Roll Call: Richard Skewes – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion carried.

A motion to approve the minutes of the October 18, 2022 meeting with the noted corrections was made by Mr. Tolerico and seconded by Ms. Gilchrist. Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion carried.

A motion to approve the minutes of the October 25, 2022 meeting with the noted corrections was made by Mr. Ordile and seconded by Mr. Skewes. Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion carried.

A motion to approve the minutes of the November 1, 2022 meeting with the noted corrections was made by Ms. Gilchrist and seconded by Mr. Tolerico. Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion carried.

A motion to approve the minutes of the November 15, 2022 meeting was made by Ms. Howell and seconded by Ms. Gilchrist. Roll Call: Suzanne Howell – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion carried.

**RESOLUTIONS:** None.

**COMPLETENESS REVIEWS:**

1.) BHT Properties Group B:151 L:21 A22-6

*An application for a minor subdivision to comply with the request of the State Historic Preservation Office (SHPO) which requested that the buildings on the site not be removed.*

Mr. Roger Thomas, Esq. said he was representing the applicant.

Mr. Stoner went over his report dated December 16, 2022 for the minor subdivision. He said the applicant submitted a subdivision plan dated October 3, 2022 and said the subdivision is

being added to the Site Plan as an amendment. Mr. Stoner went over the checklist items and requested waivers. He felt the scale of the map was small and requested a larger scaled map. He requested the plan be updated with the applicant's name, the wetland and riparian buffers shown on the maps, setbacks for the existing structures, and the dimensions of all buildings on the site. He felt they needed the updated map to make a full determination. Mr. Thomas said SHPO requested the buildings were to remain and that they are not part of the development. He said they are pursuing the subdivision as part of a State agency requirement. He requested the Board deem the application complete subject to the requested items being provided.

Mr. Messerschmidt reminded Mr. Thomas that the Township has a property maintenance code. Mr. Thomas said the buildings would be maintained in their current state since they have been in existence for a considerable period of time. He said they would not make any additions or improvements to the buildings and they would not be occupied. Mr. Thomas felt there is no "D" variance needed since the buildings are residential in terms of their architecture but they are not residential uses. He said he would stipulate that there would be no residential occupancy and they would remain vacant. He said they would need to return to the Board to get approval for any occupancy of the buildings. He said it is not a use variance because there is no proposed use for the structures.

Mr. Ordile asked if the original development plans would need to be changed. Mr. Stoner said there would be items that needed to be changed on the original plans as stated in his report. Mr. Thomas said the development has not changed because the existing buildings were never part of the development. He said the development would not change because of the subdivision. Mr. Stoner said the site plan map would have to be updated. Mr. Ordile asked if the subdivision is a new and separate application. Mr. Molica took the position that the applicant amended the application to seek the subdivision relief and felt it should not be heard separately from the site plan and variance application. He felt the Board could make a completeness determination. Mr. Ordile asked if BHT plans to keep the property in perpetuity and never put it up for sale. Mr. Thomas said he did not say that. The discussion was held for testimony.

Ms. Liz Durkin, Esq. was representing the objectors. Ms. Durkin reminded the Board the application had been going on for the better part of a year and a half. She said this is an added layer to what is before the Board and that the applicant is adding the additional layer. She asked the Board to move the application along.

There was a discussion on when the Board could expect the requested materials. Mr. Nusser said he could have everything to the Board by January 6, 2023.

A motion to deem the application conditionally complete was made by Mr. Skewes and seconded by Ms. Gilchrist. Roll Call: Suzanne Howell – no, Richard Skewes – yes, Joseph Ordile – no, Joseph Tolerico – no, Krista Gilchrist – no, Paul Messerschmidt – yes. Motion failed.

Mr. Thomas asked if the Board could determine if the remaining items are waived, not applicable or they could be conditions of approval so they could move forward at the next hearing. The Board members who voted no indicated they had no other items that would need to be provided for a completeness determination. Ms. Durkin asked when the updated E.I.S. would be provided. Mr. Thomas said they are working on it and would hope to have it completed by February. There was a discussion on the E.I.S. being provided and determining the minor subdivision for completeness.

#### **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. Thomas presented Mr. Michael Kovacs with EcolSciences Inc. for additional testimony. Mr. Kovacs was still under oath.

Mr. Kovacs presented his field notes as requested by the Board. He went over his summary of his notes with the Board. He gave a summary of the dates and the amount of time spent on the site. He said they inspected the vernal pool and collected data on wildlife on the site. He noted the resumes of the people involved in the survey, are in the report. He said the surveying was done at the appropriate times of the year for migration and breeding of wildlife. He said they did not do night surveys however, they observed habitats and nests for owls during the day. He said the methodologies used were accepted by his office and the N.J.D.E.P. He said the vernal pool is isolated however; there is a connection to the wetlands associated with the Pequest and Stickles Pond for wildlife habitat. He said the habitat would not be adversely affected by the noise or other activities of these kinds of sites.

Mr. Ordile asked if the vernal pond was at its highest-level during Mr. Kovacs' visit. Mr. Kovacs explained that different species breed at different times and explained the process of surveying to the Board. Mr. Ordile asked when the greatest activity takes place in the vernal pond. Mr. Kovacs said it would be around the April 22nd visit and explained that the weather could affect the activity. Mr. Ordile asked about the cross outs in Mr. Kovacs field notes. Mr. Kovacs said

they were for other sites he visited that day. Mr. Ordile asked Mr. Kovacs questions about his testimony that the noise would not have a significant effect on the wildlife to which Mr. Kovacs explained what he meant. Mr. Ordile asked Mr. Kovacs to point out where the vernal pond is located on the site and the corridor the wildlife would use to get to the Pequest or Stickles Pond. Mr. Kovacs explained his testimony.

Mr. Messerschmidt asked if all of the species checked off on the list in the field notes were observed on the site to which Mr. Kovacs said yes.

Mr. Thomas' letter to the Board dated December 15, 2022 and Mr. Kovacs' field notes attached to it were marked and entered as exhibit A-41.

Ms. Durkin asked if the field notes submitted were all of the field notes he had to which Mr. Kovacs said no, there were additional notes that were contained in his report, which was marked as exhibit A-34. Ms. Durkin questioned Mr. Kovacs on the dates of his field visits. Ms. Durkin asked why there were no field notes on his August 15, 2022 visit to the site. Mr. Kovacs said the important part of the vernal pool survey was to document the wildlife using it and his visit on August 15, 2022 was to determine it was dry so he did not take any field notes on that day. Ms. Durkin asked if the reports were submitted to the D.E.P. Mr. Kovacs said they would submit the information on the Phase One Bog Turtle report and the vernal pool to the D.E.P.

Mr. Messerschmidt opened the meeting to the public to ask questions of Mr. Kovacs.

Mr. Lawrence Neil Hubbard of 12 Caitlyn Court, Andover, NJ asked if the Board was considering hiring a firm to conduct their own study. Mr. Messerschmidt said the Board hired a firm to conduct an assessment of the report submitted to the Board by the applicant. He said they are waiting for a report from the applicant's hydrogeologist.

Mr. Hubbard said PSE&G did a complete rebuild of the power lines adjacent to the property and they did a significant environmental study within a ¼ of a mile and the property which is similar in environment and asked if that would be of interest to the Board. Mr. Thomas said that if Mr. Hubbard had information he would be happy to discuss that with him. Mr. Hubbard asked Mr. Kovacs if he had looked at any additional studies in the area. Mr. Kovacs said they obtained studies from the Natural Heritage Program, which keeps documentation of sightings of threatened and endangered species. He said there are habitats within a ¼ of a mile but the species were not sighted on the subject property. He said EcoSciences did work on the PSE&G easement project and he had been on that site and said that habitat is significantly different from any habitat that occur on the subject property.

Mr. Al Bills of 15 Springdale Garden Road, Andover, NJ said the corridor for the wildlife to enter into the wetlands is on a different piece of property and asked how they could depend on using

that since they had no control over the development of the adjoining property. He asked if there is sufficient space on the subject property for the wildlife. Mr. Kovacs said if the other lot were developed, it would cut down on the size of the corridor however; there is still a corridor for the wildlife and the vernal pool is contained within a forested wetland, which the D.E.P. put a 150-foot buffer around. Mr. Bills asked if the vernal pool could increase from an additional flow of water when the trees are removed. Mr. Kovacs said a lot of the water on the property infiltrates in to the ground and explained the flow of the water.

Mr. Brian Dowling of 3 Westview Terrace, Andover, NJ asked if there are other times during the year where there are active species that would not be seen in the spring. Mr. Kovacs said there is only one species of salamander that breeds in the fall but the larvae hatch in the spring and you would see evidence of that in the spring. He said wildlife needs to complete its life cycle before the pool dries up and this is the acceptable time to do the survey.

Mr. Ray Wexler of 121 Andover Sparta Road, Andover, NJ asked about the category status of the Pequest River. Mr. Kovacs conformed it is a category one stream with a 300-foot buffer.

Mr. Gary Wittrien of 3 Bernard Drive, Andover, NJ asked why no study was done during the night. Mr. Kovacs said they look for nests during the day and did not observe any. Mr. Wittrien asked about the frogs that are heard during the evening. Mr. Kovacs said the frogs heard in the evening are there during the day and he observed frogs on the site in the vernal pool.

Ms. Alice Romano of 6 Michael Court, Andover NJ asked about the frost state in Sussex County to which Mr. Kovacs said he did not know. Ms. Romano asked why he did not use cameras to observe wildlife moving on the property. Mr. Kovacs said they did take pictures but do not typically take videos to do the studies. Ms. Romano asked if the weather was dry when Mr. Kovacs visited the site to which he said it was drizzling on one occasion. Ms. Romano asked if there was a significant amount of rain, would the pool expand to which Mr. Kovacs said yes. He said the site is very steep around the pool so it would not go too far. Ms. Romano asked what the weather conditions were in Sussex County this year to which Mr. Kovacs said there was a drought. Ms. Romano asked how the significant rain that we got in the fall would affect the ponds to which Mr. Kovacs said they would fill back up. There was a discussion on the temperature of the field visits. Ms. Romano asked if the property owner was going to give testimony. Mr. Messerschmidt said that is the applicant's decision.

The Board took a 10-minute break.

Mr. Greg Metzgar of 6 Fawn Hollow Drive, Newton, NJ wanted to ask a question. Mr. Molica said Mr. Metzgar was a client of Ms. Durkin and was represented by her.

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

Mr. Christopher Nusser, PE of E&LP, 140 West Main Street, High Bridge, NJ who was still under oath was present to give testimony on the updated site line exhibits.

Mr. Nusser presented an updated site line exhibit consisting of four sheets dated December 6, 2022, which were marked and entered as exhibit A-42A, A-42B, A-42C and A42D.

Mr. Nusser explained that his previous site line exhibit were A-8, A-9, and A-10 and compared the changes to the Board. He said the material and equipment storage areas have been moved and explained the proposed site lines. He explained the proposed fence and the existing vegetation and trees. He felt the storage areas had adequate screening from the surrounding homes. Mr. Nusser explained the site line for all four pages of exhibit A-42. He said the existing trees are at mature height of 50 or 60 feet and are predominantly hardwood with a shrub area below them.

Mr. Messerschmidt said the Board would continue with the cross-examination at the January hearing date and would conclude the hearing for this evening.

Mr. Thomas gave a further extension for the Board to act through March 31, 2023.

Mr. Messerschmidt asked Ms. Durkin for an updated list of the clients she is representing.

Mr. Molica announced the hearing would be carried to January 17 2023 without further notice by the applicant.

Mr. Thomas said he was hoping to have the hydrogeologist report to the Board before the next hearing date. Mr. Messerschmidt said the Board would not be hearing testimony on the report at the January meeting.

Ms. Howell asked Mr. Thomas for an updated list of stipulations.

**ORDINANCES:** None.

**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

**VOUCHERS:**

Company	Purpose	Amount	Paid By
Weiner Law Group	Legal	\$160.00	Budget

Weiner Law Group	John Larick	\$880.00	Applicant's Escrow
Weiner Law Group	Ringo Properties	\$96.00	Applicant's Escrow
Harold Pellow & Associates	Engineering	\$472.50	Budget
Harold Pellow & Associates	Pace Glass	\$43.58	Applicant's Escrow
Harold Pellow & Associates	Ringo Properties	\$607.50	Applicant's Escrow
Harold Pellow & Associates	John Larick	\$755.50	Applicant's Escrow
Harold Pellow & Associates	BHT Properties Group	\$635.75	Applicant's Escrow
Vogel, Chait, Collins & Schneider	BHT Properties Group	\$1,264.00	Applicant's Escrow
Equity Environmental	BHT Properties Group	\$1,200.50	Applicant's Escrow

Ms. Howell asked for an update on Pace Glass. Mr. Stoner said there have been some clean up items on the site and all of the bags have been removed. He said the owner is looking at other ways to use the site.

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

**CORRESPONDENCE:** None.

**PUBLIC PORTION:**

Mr. Messerschmidt opened the meeting to the public and read the following into the record:

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. Wayne Grenewicz of 267 Newton Sparta Road, Andover, NJ asked questions about the Township Engineer to which Mr. Messerschmidt said those were questions for the Township Committee and not something the Land Use Board had jurisdiction over or could answer.

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

**UPCOMING MEETINGS:** January 10, 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. Skewes and passed with everyone saying aye.



Respectfully submitted,

Stephanie Pizzulo  
Land Use Administrator