



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
January 31, 2023
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 – Present
John Carafello – Excused
Suzanne Howell – Present
John O’Connell – Excused
Richard Skewes – Present
Joseph Ordile – Present
Krista Gilchrist – Present
Sean Degan - Present
Paul Messerschmidt – Present

Also Present:

Thomas Molica, Esq.
Cory Stoner, PE

Matthew Morris, PP
Stephanie Pizzulo, Secretary

ADMINISTRATIVE ITEMS:

Approval of Minutes: January 10, 2023, January 17, 2023

A motion to approve the minutes of the January 10, 2023 meeting was made by Ms. Howell and seconded by Mr. Skewes. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion passed.

A motion to approve the minutes of the January 17, 2023 meeting was made by Ms. Gilchrist and seconded by Ms. Howell. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, Sean Degan – yes, Paul Messerschmidt – yes. Motion passed.

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. Thomas said they had made a resubmission of the map and believed it had satisfied the concerns raised by the Board.

Mr. Stoner gave an overview of the resubmission and recommended the application be deemed complete.

A motion to deem the application complete was made by Ms. Howell and seconded by Mr. Skewes. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, Sean Degan – yes, Paul Messerschmidt – yes.

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 sheet 1 of 2 of the subdivision plat dated 10/3/2022 and with a revision date of 1/3/2023 entitled "Overall Subdivision Plan" which was marked and entered as exhibit A-43.

Mr. Thomas presented sheet 2 of 2 of the subdivision plat dated 10/3/2022 and with a revision date of 1/3/2023 entitled "Overall Subdivision Plan" which was marked and entered as exhibit A-44.

Mr. Nusser, PE, still under oath, explained the subdivision map to the Board. Mr. Nusser said A-43 showed the entire property with the subdivision line. The proposed subdivided lot is slightly larger than a 10-acre lot and conforms to all of the bulk standards. He said all of the non-conformities were pre-existing. He said the existing buildings have existing nonconforming front yards, which would remain. He said SHPO had reviewed the plans and wanted the structures to remain, which are all contained in the proposed subdivision. He said there are two structures, outside the proposed subdivision because SHPO did not request they remain. He explained the structures SHPO wanted to remain. He said there is an existing berm behind building 1 and with the subdivision it would be on the proposed subdivided lot and provides buffering. He said the structures would remain and not be improved in any way.

Mr. Nusser spoke about the revised plans, which were the preliminary and final site plans for BHT consisting of 28 sheets, and revised on 1/3/2023. Mr. Nusser explained the modifications to the Board and said the subdivision was incorporated into it. He said the plan shows, which structures would remain and which would be removed. He said he could supply an inventory of the structures that would remain.

Mr. Stoner asked for clarification on what variances would be needed. Mr. Thomas said there would be no variances needed since they are pre-existing nonconformities and nothing is being changed by the subdivision. Mr. Molica did not agree. Mr. Stoner felt there were use and bulk variances with the subdivision. Mr. Morris agreed with Mr. Stoner and suggested a deed restriction on the use of the structures.

Mr. Molica asked if there is an update on the D.E.P. permits. Mr. Nusser said he would provide an update to the Board.

Mr. Ordile asked what the intent of the structures were to which Mr. Thomas said there is no intent to use the structures on the subdivided lot and would talk to his client about a deed restriction to that effect. Mr. Ordile asked if the applicant would maintain the property. Mr. Thomas said they would not maintain the property; just leave it the way it is and has been for the last 50 years. There was a discussion on the maintenance of the property.

Mr. Ordile asked about an email from SHPO. Mr. Nusser felt the email from SHPO was stating the buildings were to remain. There was a discussion on when SHPO required the structures to remain. Mr. Ordile asked for clarification on the area of impact. There was a discussion on why the subdivision was proposed the way it was. Mr. Thomas said SHPO required the structures be retained not maintained. Mr. Nusser explained why he designed the subdivision the way he did. Mr. Ordile asked if the proposed landscaping would still be applicable, to which Mr. Nusser said yes.

Mr. Messerschmidt asked about the fuel tank and fuel pump, which was shown, on the map. Mr. Nusser said it was his understanding the fuel tank was removed. Mr. Nusser said he would provide the testing and tank removal documents to the Board. Mr. Messerschmidt asked if the buildings would be used for any reason to which Mr. Thomas said no and it was a stipulation he agreed to. Mr. Messerschmidt felt the Township's property maintenance code would require the buildings to be maintained. Mr. Thomas said they would retain the buildings as required by SHPO but they would not be maintained.

Ms. Gilchrist questioned the report's reference to the previous owners of the homes and felt the homes would be eligible for a historical classification since they would be 161 years old. Mr. Thomas said SHPO has reviewed the report and had jurisdiction in the matter and it is their position that the plan is acceptable. Ms. Gilchrist felt there might be criteria that the homes meet because they date back to the Stickles family. Mr. Thomas said SHPO received the entire report. Ms. Gilchrist asked if the applicant was aware of the historical significance of the farmstead.

Ms. Durkin, Esq. asked Mr. Nusser if he prepared the subdivision based on communications he had with SHPO. Mr. Nusser said he prepared the subdivision based on conversations with the applicant's archeologist. Ms. Durkin asked how the subdivision line was created. Mr. Nusser explained how he determined where the property line should be proposed. Ms. Durkin continued questioning Mr. Nusser on who he spoke to regarding the proposed subdivision. Ms. Durkin asked how many structures are on the proposed lot. Mr. Nusser said the list of structures includes the stonewall and the fuel tank. Mr. Nusser said he would revise the map to reflect what is in the report. Ms. Durkin asked that the Board request an inventory of the structure on the subdivided lot. Mr. Messerschmidt said the Board would request that list.

Ms. Durkin asked what the potential uses would be on the newly created lot to which Mr. Nusser said it was his understanding there would be no proposed uses on the lot. Ms. Durkin continued to asked Mr. Nusser about potential uses on the lot.

Mr. Molica asked Ms. Durkin if she had provided an updated list of her clientele to the Board. She presented the list to the Board.

Mr. Messerschmidt asked if Mr. Nusser discussed the proposed subdivision lot line with the applicant's planner to which he said no.

Mr. Messerschmidt 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. Please come forward when recognized and state your name and address, unless you are a registered covered person under Daniel's Law by the Office of Information Privacy. 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. Ray Wexler of 121 Andover Sparta Road, Andover, NJ asked about the removal of the underground storage tank and if they had the permits and reports from the inspectors to which Mr. Nusser said, he did not have them on hand. Mr. Wexler asked when the removal took place to which Mr. Nusser said he did not know. Mr. Wexler asked if the proper permits were received to, which Mr. Nusser said that was his understanding. Mr. Nusser said they would provide the documentation they have as part of the updated EIS.

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

The Board took an eight-minute break.

Mr. Thomas said they are at the point for cross-examination of Mr. Nusser on his site line testimony.

Ms. Gilchrist asked if a second story on a house would have a higher site line to which Mr. Nusser said yes. Mr. Nusser referenced exhibits A-42 (B), exhibit A-42 (A), and explained the site line from a second story on a house across Stickles Pond Rd. and the proposed landscaping. He felt the screening would still be adequate. There was a discussion on the visibility of the container area.

Mr. Olsen asked if the development would be seen from any of the site line profiles. Mr. Nusser felt all of the screening would buffer the storage area. Mr. Olsen asked if they considered the deciduous trees in the buffering to which Mr. Nusser said yes and explained the buffering.

Mr. Ordile asked how the view lines were selected. Mr. Nusser explained the process to the Board. Mr. Ordile asked if the site lines were based on topography to which Mr. Nusser said yes. Mr. Ordile asked if Mr. Nusser could explained the density of the buffering. Mr. Nusser explained the buffering to the Board and felt it was very dense with breaks that would be filled in with supplemental plantings. Mr. Ordile asked about the visibility into the property from other locations. Mr. Nusser explained the view and landscaping to the Board. Mr. Ordile asked if the building would be visible to which Mr. Nusser said yes.

Mr. Morris asked about the proposed landscaping and how long it would take to reach the 20 foot height as depicted on the site line profiles. Mr. Nusser said there should be about two feet of growth per year. Mr. Morris continued to ask about the landscape buffering. Mr. Nusser explained the growth.

Mr. Olsen asked about the maintenance of the trees and asked if they would agree to a stipulation to maintain the density and buffering. Mr. Nusser said there is a two-year guarantee with the site plan so they would have to be replaced if they die. Mr. Thomas said they would agree to stipulate to Mr. Olsen's request.

Ms. Durkin asked if the plantings would be deer resistant. Mr. Nusser said to the extent that something is deer resistant, yes they would be. He said they would work with the Board Professionals to make sure what they plant is more deer resistant. Ms. Durkin asked if the site line profiles took into consideration the homes on Vivian Plaza to which Mr. Nusser said no.

Mr. Messerschmidt opened the meeting to the public and read the rules for the public portion into the record.

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

Mr. Thomas asked Mr. Nusser about the supplemental screening of the runway. Mr. Nusser explained that would be evergreen trees. Mr. Nusser explained the intensity and gaps of the existing buffering along the front of the property. Mr. Nusser explained the screening of the proposed building. He explained the existing trees and the understory. Mr. Thomas continued to asked questions of Mr. Nusser on the various site lines and the buffering.

Mr. Ordile asked if the plans were updated to show the changes agreed to. Mr. Nusser said he did not update the plans to show all of the stipulations that they agreed to. He said the plans were updated to show the subdivision and its impact on the development. Mr. Nusser said all of the stipulations would be a condition of any approval and that is when the changes would be made to the plans. There was a discussion on the changes that would need to be made to the plans and other documents that would be supplied to the Board. Mr. Thomas gave a list of the

witnesses that he would still need to have testify. Mr. Messerschmidt asked if Ms. Durkin could provide a list of her experts.

Mr. Messerschmidt said the hearing would be carried to February 21, 2023 at 7:30pm in the municipal building without further notice. Mr. Thomas extended the time of decision to the end of June 2023.

ORDINANCES: None.

OLD BUSINESS:

Mr. Ordile gave an update on the Master Plan subcommittee.

NEW BUSINESS: None.

VOUCHERS: None.

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. Please come forward when recognized and state your name and address, unless you are a registered covered person under Daniel's Law by the Office of Information Privacy. 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 remaining, the meeting was closed to the public.

UPCOMING MEETINGS: February 7, 2023, February 21, 2023

ADJOURNMENT:

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

Respectfully submitted,

Stephanie Pizzulo
Land Use Administrator