



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
September 19, 2023
7:30 p.m.

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE:

Mr. Messerschmidt led everyone 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 - Present
Eric Olsen – Present
John Carafello – Present
Suzanne Howell – Present
Richard Skewes – Present
Joseph Ordile – Present
Krista Gilchrist – Present
Sean Degan – Present
Paul Messerschmidt – Present

Also Present:

Richard Briigliodoro, Esq.
Cory Stoner, PE
Stephanie Pizzulo, Secretary

ADMINISTRATIVE ITEMS:

Approval of Minutes:

September 5, 2023

A motion to approve the minutes of the September 5, 2023 meeting was made by Ms. Howell and seconded by Mr. Olsen. Roll Call: Eric Karr – yes, Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Krista Gilchrist – yes, Paul Messerschmidt – yes. Motion carried.

RESOLUTIONS:

None.

COMPLETENESS REVIEWS:

1.) Ringo Properties, LLC B: 158 L: 6 Application # A23-5

Mr. Stoner said the Completeness Review subcommittee met and they went through the application for completeness. Mr. Stoner said the subcommittee requested a clarification on the proposed uses for the flex space building, they requested a copy of the DEP freshwater wetlands permit, detail for fire protection, location of all wells within 500 feet of the property as well as the location of the proposed well, additional information on the utilities, an update to the parking requirement calculations, clarification of all variances and waivers, the means of material removal from the site, structural information regarding the proposed porous pavement, a traffic report and truck circulation plan, and an updated EIS to address some missing information.

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

Mr. Messerschmidt said Mr. Ordile will provide to Mr. Stoner a list of additional minor items that need to be addressed. He said Mr. Stoner will advise the applicant of all of the items that need to be addressed.

2.) DePinho, Stephen B: 71 L: 3.29 Application # A23-6

Mr. Stoner said he did request additional site distance information for the proposed driveway. The Board Secretary will advise the applicant the information is needed. Mr. Stoner recommended the application be deemed incomplete.

A motion to deem the application incomplete was made by Ms. Howell and seconded by Mr. Ordile. Roll Call: Eric Karr – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – yes,

Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – abstain, Sean Degan – yes, Paul Messerschmidt – yes. Motion carried.

HEARINGS:

(All submitted materials can be found under the Land Use section on the Township website www.andovertwp.org.)

1.) Condemnation Area in Need of Redevelopment Study Block 108, Lot 4.02

On January 19, 2023, the Governing Body of the Township of Andover authorized the Andover Township Land Use Board via Resolution R2023-46, to conduct a Condemnation Area in Need of Redevelopment Study for the area identified as Block 108, Lot 4.02 on the official tax maps of the Township of Andover. The Study Area is located at 1045 Limecrest Road, Andover Township, Sussex County, New Jersey

Mr. Briigliodoro swore in Ms. Jessica Caldwell, PP. Ms. Caldwell said she prepared the report and gave a review of the study area. She said the property was partially developed with the Pace Glass recycling facility which was granted preliminary and final site plan and variance relief in May of 2017 and an amended approval in February of 2018. Construction started around May of 2018. She went over the proposed construction. She said construction had started in 2018 however; it stopped and the site was completely vacated in 2022 with no plans to continue and described the partially constructed buildings. Ms. Caldwell described the condition of the site and said a review of Building, Zoning and Health Department records found reports related to bales of glass stored on the site. The bales were ordered to be removed and were removed by December of 2022.

Ms. Caldwell gave a brief history of the site, which included agricultural uses until the 1950's when it became part of the Limecrest Quarry operation. She said the site is surrounded by wetlands; however, most of the interior of the site is barren land. She felt the property is underutilized and went over the zoning analysis. Ms. Caldwell went over the criteria for redevelopment and said the buildings on the property are substandard and there is no water, sewer, or electricity to the buildings. She said the buildings are not functional since they are not completed. She felt the property is in decline and deterioration. Ms. Caldwell said the site was never completely occupied; however, it did have storage of the glass bales on the site. She felt the abandonment of the buildings and not continuing the use of the buildings and allowing them to fall into a state of disrepair meets the criterion "b". She said the study area is mostly disturbed land, which contains no significant environmental constraints for the bulk of the property and has existing infrastructure to allow for a variety of redevelopment options for industrial type uses. She said the study area meets four of the eight criteria for an area in need of redevelopment.

Mr. Carafello asked if the site could be used for warehousing to which Ms. Caldwell said it could.

Mr. Ordile asked if it is a requirement that professional engineers, carpenters, plumbers, electricians, or any other similar trade professionals provide their input on redevelopment plans. Mr. Briigliodoro said it is not a requirement. He said if it were a study for an area of rehabilitation then an analysis of the infrastructure would make it more logical to have an engineer's report in addition to the planner's report.

Mr. Ordile asked if the property taxes were current to which the Board Secretary said she did not know. Mr. Ordile asked if the property owner has been actively trying to sell the property to which nobody knew.

Mr. Ordile asked how it is determined that a property is deemed for condemnation or non-condemnation. Ms. Caldwell said it is a decision of the Governing Body. Mr. Ordile asked if there were any underground work completed on the property to which Ms. Caldwell said not to her knowledge. Mr. Stoner said when the site was active, there was drainage pipe underground but no underground storage tanks as far as he knew. Mr. Ordile asked if a developer could use building #2 to which Ms. Caldwell said it could be used but there could be obstacles. She said nobody has come forward to utilize the buildings. Mr. Ordile asked for clarification on criteria "b" to which Ms. Caldwell explained the building was partially used for equipment storage. Mr. Ordile asked if the contamination of the glass from the bales is still on the site. Ms. Caldwell said the glass that leaked from the bales is still onsite. Mr. Ordile asked if there was any oil or fluid contamination to which Ms. Caldwell said not to her knowledge.

Mr. Olsen asked if Ms. Caldwell had confirmed that the applicant has no plans to continue the construction of the site. Ms. Caldwell said it was her understanding there are no plans to construct the site.

Mr. Messerschmidt asked Mr. Stoner how long the use had been discontinued. Mr. Stoner said it has been inactive since about early 2020. He said the bales of glass sat onsite for many years and then were taken to the landfill. He said there are remnants from the bales and some of the glass is allowed to be used as fill.

Mr. Ordile asked if the freshwater area that was illegally filled in had been remediated. Mr. Stoner said they had addressed that issue.

Ms. Gilchrist asked how Ms. Caldwell accessed the buildings on the site. Ms. Caldwell said everything is open on the site.

Mr. Karr felt there is no security onsite, and it could be enticing to teenagers. Mr. Karr asked what the makeup of the ground is to which Ms. Caldwell said it is the remnants of the quarry. Mr. Karr asked if the site was open to erosion because of the lack of landscaping. Mr. Stoner said the white ground material is limestone, but they do have issues with soil erosion on the

rear of the property. He said they are addressing the issues but it is a constant erosion issue because nothing is stabilized on the property.

Mr. Messerschmidt asked if the glass on the property needs to be removed. Mr. Stoner said it could be mixed in with the soil because it is an inert aggregate material. Mr. Messerschmidt asked what becomes of the equipment on the property. Ms. Caldwell said the owner could remove the equipment.

Mr. Messerschmidt opened the meeting to the public.

Mr. Briadoro swore in Mr. Fotios Papamichael who said he was representing the owner of the property; Limecrest Road, LLC. He said he is a civil engineer and works for Alma Realty Corporation, 3110 37th Ave., Long Island City, NY. He said the owner has not abandoned the site. He said the site is secured with a gate and the property manager visits the site often. Mr. Papamichael said they are in negotiations with a purchaser. He said the owners are not walking away from the site and they are in discussions with potential parties interested in warehousing. Mr. Papamichael requested the Board consider a non-condemnation redevelopment area because the condemnation redevelopment area would hurt negotiations with a potential buyer. He explained that Pace Glass was a tenant and is no longer in existence. He explained the buildings were not completed because Pace Glass did not move forward due to Covid. He said they have not abandoned the site and have done everything to correct the issues on the site. He said the glass on the site could be used as an aggregate for the site.

Mr. Ordile asked Mr. Papamichael how the condemnation area would hurt the conversations with a potential developer. Mr. Papamichael said the condemnation gives the municipality the authority to exercise eminent domain and that would be a negative to a potential developer. He felt the property would lose value and it would compromise the negotiations. Mr. Ordile asked if the Township was brought into the conversation, would that help to which Mr. Papamichael said he did not know. Mr. Papamichael explained the process of the negotiations to closing on the property.

Mr. Carafello asked if Mr. Papamichael agreed with the study that the buildings are obsolete to which Mr. Papamichael said he did not agree.

Mr. Briadoro said the Township Committee decides if the study is conducted as a non-condemnation or a condemnation study are. There was a discussion on how the Governing Body could proceed. Mr. Papamichael asked about the appeal process to which Mr. Briadoro explained the process.

Mr. Briadoro swore in Mr. Rubin Gomez, of Chester NY. Mr. Gomez said he is the property manager for the site and said he has been working with Mr. Stoner to stabilize the site. He said

it took them a while to find someone to remove the bales and worked with an auction company to remove the equipment. He said they are working on getting rid of the scrap metal. Mr. Gomez said they are looking for someone to remove the cement plant. He said the site is open with a berm and a gate and if the Board had any suggestions on securing the site, they would consider them.

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

Mr. Briadoro summarized the redevelopment process.

A motion to determine the area meets the criteria as a condemnation area in need of redevelopment was made by Mr. Skewes and seconded by Mr. Karr. Roll Call: Eric Karr – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – no, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, Sean Degan – yes, Paul Messerschmidt – yes. Motion carried.

The Board took an eight-minute break.

2.) Feels of Green, LLC B: 155 L: 5.01 Application # A23-4

The applicant proposes to redevelop the existing commercial building to contain a small area in the front (721 square feet) for retail use and a back area for office and storage. The proposed use is a cannabis dispensary, this is a permitted use in the zone. The applicant proposes an addition of 95 square feet to the existing 1,434 square foot commercial building. An addition of 8 parking spaces and 1 loading area proposed with 1,000 square feet of new asphalt paving proposed along with an 8-foot-high masonry wall, new lighting and landscaping.

Mr. John Ursin, Esq., with the law firm of Schenck, Price, was representing the applicant. He said the application is for preliminary and final site plan and what they are proposing is an improvement to what exists.

Mr. Briadoro swore in Mr. Matthew Ryan, PE with Colliers Engineering & Design, 50 Chestnut Road, Montvale NJ. Mr. Ryan gave his qualifications, which were accepted by the Board.

Mr. Ryan presented an aerial of the site entitled “Existing Conditions Aerial Exhibit” which was marked and entered as exhibit A-1. Mr. Ryan said the site has the former “In and Out Deli” on it and is located along Route 206. He said the tract is approximately 4.5 acres and is in the Route 206 Redevelopment District. He explained the surrounding areas to the Board. He said the site is highly constrained by the Pequest River and some steep topography. He said the lot contains two principal structures and uses; a former deli and a detached residential unit. He said the residential home contains two gravel driveways. Access to the site is via a continuous curb cut.

Mr. Ryan presented a color rendering prepared by the architect, entitled "Renovation of Feels of Green Proposed Rendering", with a date of 9-18-23, which was marked and entered as exhibit A-2.

Mr. Ryan explained the Site Layout Plan, page 3 of the submitted plan set to the Board. He said they were seeking to renovate the existing building and add a 95 square foot addition for a Class V cannabis retail dispensary which is a permitted use in the zone. He said there are no bulk variances needed and the development is within the existing impervious coverage. He said they are proposing to repair the existing parking area and would have a total of 11 parking spaces. Mr. Ryan said they would have about 6 employees at one time and explained the parking to the Board. He said there would be a loading zone, which would require paving. He said deliveries are in box trucks a few times a week and there is plenty of room for delivery trucks. He said there is a delivery door on the northwest corner of the building. He said deliveries are wheeled into the store. Mr. Ryan explained the trash enclosure. He said they are proposing one 33 square foot façade sign. He said they are proposing supplemental site lighting and explained it to the Board. He said there is limited space for landscaping; however, they are proposing a row of evergreens along the parking area, and a few to the rear of the site. He said they are proposing an eight-foot-high masonry wall which would be planted with ivy.

Mr. Ryan said they are using most of the existing utilities and water service would be provided by an onsite shared well. He said they are proposing a new septic system and the old system would be removed. Mr. Ryan said they would need DOT approval and DEP approval for the freshwater wetlands. The septic is proposed to be installed within the wetland transition area.

Mr. Stoner went through his report and said the loading space is a design waiver, curbing in the parking lot is a design waiver, and the plans need to be updated to show the well lines. Mr. Ursin said the architect can move the roof mounted condenser closer to the front of the building so it would not be seen. Mr. Stoner asked about the wetland permits for the north side of the property. Mr. Ryan said they would obtain all necessary permits. Mr. Stoner asked Mr. Ryan to speak to the number of parking spaces for this type of retail business. Mr. Ryan said the maximum number of employees onsite at one time would be six. He explained where the restricted employee spaces would be. He said what they are proposing meets and exceeds cannabis retail use and felt the parking was sufficient. Mr. Stoner said the gravel parking spaces should be a design waiver. Mr. Stoner asked about the wall. Mr. Ryan said the cannabis ordinance requires an eight-foot wall between the cannabis use and any residential zone. He said the wall is intended to be a visual buffer but it also alleviates some of the grade drop behind the building. He felt the wall is not needed for the operation of the business. Mr. Stoner said they would need a variance for the sidewalk requirement that they cannot meet. Mr. Stoner asked why they could not provide screening for the loading area. Mr. Ryan said they

could not provide screening because it would create disturbance in the freshwater transition area, and they are trying to stay out of those environmental areas.

Mr. Karr asked about the residential house. Mr. Ursin said there are residential tenants in the house.

Ms. Gilchrist asked about the security and lighting. Mr. Ryan explained the site lighting and said there are security lighting and cameras. He said there are two pole mounted lights and three building mounted lights. Ms. Gilchrist asked about the bollards. Mr. Ryan said they are to protect the trash enclosure.

Mr. Olsen asked about the back up area to Route 206. Mr. Ryan said it is about 40 feet. Mr. Olsen said the Environmental Commission did a report to which Mr. Ursin said they did receive it. Mr. Ursin said they would comply with the recommended plantings. Mr. Olsen asked about the unnamed stream and if the proposed paved area would encroach on it to which Mr. Ryan said no.

Mr. Messerschmidt asked about the distance from the building to the enclosed dumpster area. Mr. Ryan explained the truck circulation in the loading zone. Mr. Messerschmidt asked if there would be one ADA parking space to which Mr. Ryan said yes. There was a discussion on the number of parking spaces in front of the building and the volume of turnover of customers.

Ms. Howell asked about the contradiction between the cannabis ordinance and the Route 206 Redevelopment zone. Mr. Briadoro explained the differences and said that is why the Board would grant relief. Mr. Stoner said the cannabis use is a conditional use and the applicant would need to meet the conditions.

Mr. Ordile asked if there are structures being demolished. Mr. Ryan said it is just old concrete which was picked up on the survey. He said they are not proposing to remove any structures. Mr. Ordile asked if there was a way to create six parking spaces into the gravel area. Mr. Ryan said they would have to expand the gravel area. Mr. Ordile asked if the area needs to be reinforced, to which Mr. Ryan said the area is compacted and no changes would be needed. There was a discussion on the gravel lot area. Mr. Stoner asked if the applicant would agree to refresh the surface to which Mr. Ryan said yes. Mr. Ryan said the area identified is incorrect on the plans. The driveway on the south side would be for employee parking. There was a discussion on the parking area on the south side.

Mr. Ordile asked about the proposed retaining wall. Mr. Ryan said it is needed to raise the grade for the septic system. Mr. Ordile asked for additional lighting for the employee parking area on the south side. Mr. Ryan said they could add low profile lighting. There was a discussion on the lighting.

Mr. Carafello asked if the property is owned by the applicant. Mr. Ursin said it is a lease. Mr. Carafello asked if they could stack the employee parking during the opening weeks when they might be at their busiest.

Mr. Briadoro swore in Ms. Jennifer Condron, owner of Feels of Green. Ms. Condron said she had not owned a business like this before however had done extensive research and planning. She explained she had been planning for over two years. Ms. Condron explained the deliveries and said the boxes are small and would be carried by the employees. She said deliveries are twice a week and are scheduled. Ms. Condron explained the floor plan to the Board. She said she helped design the layout and explained how a customer would move through the store, make a purchase and exit the facility. She said there is no cannabis on the floor; just empty packages. She said they have a receiving area, an inventory area, an office and bathroom. She said all of the security measure are according to what is dictated by the Cannabis Commission. She said the security cameras and alarm system are monitored.

Mr. Ordile asked Ms. Condron if she had submitted for the Township cannabis license to which she said she has not submitted for it yet. Mr. Ordile asked about deliveries. Ms. Condron said she would not have deliveries from her operation. Mr. Ordile asked if there would be an online presence. Ms. Condron said the customer would order and then would pick it up in the store. Mr. Ordile asked if all 14 cameras would be monitored by the State, to which Ms. Condron said yes. Mr. Ordile asked if all the interior doors were locked. Ms. Condron said all doors would be locked and explained the pass-through window. Mr. Ordile asked if anything else would be sold to which Ms. Condron said no. Mr. Ordile asked if there was a limit to the amount of cannabis stored onsite to which Ms. Condron said there is no limit. Mr. Ordile asked if there was a limit to the amount of cannabis that could be purchased at one time. Ms. Condron said the limit is one ounce per transaction. Mr. Ordile asked about the hours of operation. Ms. Condron said weekdays would be 10am to 8 pm, Saturday 9:30am to 8pm and Sunday 9:30am to 6pm. Mr. Ordile asked if Ms. Condron would be collecting information from customers, to which she said only the customer's ID and what they were purchasing. She said it is a State requirement. Mr. Ordile asked who is paying for the improvements to which Ms. Condron said she was.

Ms. Howell asked if there is a limit to the number of people allowed into the store at one time, to which Ms. Condron said the average is five customers per hour.

Mr. Messerschmidt asked if there have been discussions with the tenants in the residential dwelling. Mr. Ursin said the landlord owns both units and was present at the hearing.

Mr. Olsen asked if there would be armed security to which Ms. Condron said no. Mr. Olsen asked if the cash is removed every night to which Ms. Condron said yes. Mr. Olsen asked if onsite consumption is allowed, to which Ms. Condron said no.

Ms. Gilchrist asked if there would be curbside sales to which Ms. Condrón said no. Ms. Gilchrist asked if Feels of Green had obtained a license from the State to which Ms. Condrón said yes.

Ms. Howell asked if the alarm signals the police. Mr. Ursin said if the town requires it, they would comply.

Mr. Stoner asked if they would have an order kiosk to which Ms. Condrón said they would have two. Mr. Stoner asked if everything sold is bar coded, to which Ms. Condrón said yes. She explained the tracking of the cannabis.

Mr. Olsen asked if there would be vape batteries stored onsite to which Ms. Condrón said yes.

Mr. Stoner asked if there would be a generator. Mr. Ryan said they would comply with State regulations for backup power.

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

Mr. Briadoro went over the conditions.

A motion to approve the application with the requested variances was made by Mr. Karr and seconded by Mr. Olsen. Roll Call: Eric Karr – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, Sean Degan – yes, Paul Messerschmidt – yes. Motion carried.

ORDINANCES:

None.

OLD BUSINESS:

None.

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 – Joseph Ordile

The Board agreed to carry the liaison reports to the next meeting.

VOUCHERS:

| Company | Purpose | Amount | Paid By |
|--------------------------|----------------------------------|---------------|--------------------|
| Weiner Law Group | Legal | \$640.00 | Budget |
| Weiner Law Group | Redevelopment Study for Subacute | \$1,392.00 | Applicant's Escrow |
| Weiner Law Group | Barone, Pat | \$144.00 | Applicant's Escrow |
| Weiner Law Group | Feels of Green | \$96.00 | Applicant's Escrow |
| Harold Pellow Associates | Feels of Green | \$138.00 | Applicant's Escrow |

A motion to pay the bills was made by Ms. Howell and seconded by Mr. Karr. Roll Call: Eric Karr – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, Sean Degan – 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. 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 present, the meeting was closed to the public.

PENDING APPLICATIONS:

Braen Supply

– Deemed Incomplete 2.7.23 – No new information submitted.

Ringo Properties

– Deemed Incomplete 10.4.22 – Additional information submitted. Scheduled for completeness on 9.19.23.

Feels of Green

– Deemed Incomplete 6.13.23 – Additional information requested by 9.9.23 for hearing date of 9.19.23.

Puff City

– Deemed Incomplete 3.7.23 – Additional information submitted. Scheduled for completeness on 10.3.23.

Walsky, Barry

– Submitted 8/28/23

698 Route 206 South, LLC

– Submitted 8/25/23

UPCOMING MEETINGS:

October 3, 2023, October 17, 2023

ADJOURNMENT:

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

Respectfully submitted,
Stephanie Pizzulo
Land Use Administrator