



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road

MINUTES

December 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 the 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 Briigliadoro, Esq.

Cory Stoner, PE

Stephanie Pizzulo, Secretary

ADMINISTRATIVE ITEMS:

Approval of Minutes: November 21, 2023

A motion to approve the minutes of the November 21, 2023 meeting was made by Ms. Gilchrist and seconded by Mr. Skewes. 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.

RESOLUTIONS:

1.) Barone, Pat B: 62 L: 4.04 Application # A23-2

A (d) 1 use variance granted to permit agricultural labor housing for a family member engaged in farming on the site.

A motion to approve the resolution for Pat Barone, granting a (d)1 variance to permit agricultural labor housing for a family member engaged in farming on the site was made by Ms. Howell and seconded by Mr. Olsen. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Krista Gilchrist – yes, Sean Degan – yes, Paul Messerschmidt – yes. Motion carried.

COMPLETENESS: None.

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

1.) Andover Munsee Realty, LLC B: 134 L: 26 Application # 23-9

The applicant is seeking preliminary and final site plan approval and bulk variance relief for proposed cannabis retail. The applicant is also seeking a Section 68 certification for the pre-existing, non-conforming use for the apartment, which was constructed in 1957. The applicant will remove the side driveway and expand the existing main driveway area, remove the gravel area behind the main building to offset impervious coverage and show additional parking by the shed area.

Mr. Karr, Class I member and Mr. Carafello, Class II member stepped down for this application and left the dais.

Mr. Michael Selvaggi, Esq., attorney for the applicant, said Mr. O'Brien was going to address some of the Board's concerns from the last meeting.

Mr. Briigliodoro explained that the cannabis retail is a class V license and is a regulated use. He said the Board has jurisdiction over zoning, and the governing body has the policing power. He said the State also issues a license and the applicant needs to get approval from the Land Use Board, a license from the Governing Body and a license from the State. He explained the Board is not prohibited from addressing issues in regards to the Township licensing.

Mr. Ray O'Brien, Architect, was still under oath from the last hearing. He presented a plan of the existing and proposed floor plans and elevations of the retail building with a revision date of 12/19/23, which was marked and entered as exhibit A-7.

Mr. O'Brien went over the changes they made from the original plan submitted to the Board. He said they added the location of the fire extinguishers and security cameras, which he pointed out to the Board. He explained the side and rear elevation, and said the condenser would be mounted on the building and would not be seen by the public. The existing propane tanks would remain where they are. He said they added the mesh barrier on the railing, and the required cannabis signage. He said they made changes to the size of the pylon sign.

Mr. O'Brien submitted an architectural plan of the existing apartment floor plan and elevations #3, 4, 5, & 6 and the proposed pylon sign with a revision date of 12/19/23 which was marked and entered as exhibit A-8. He explained the sign and said they were proposing to remove the garage doors from the apartment and would raise up the front wall façade due to the change in grade.

Mr. O'Brien presented an architectural plan with photos of the existing building and color renderings of the proposed siding colors and textures and a color rendering of the proposed sign with a date of 12/19/23, which was marked and entered as exhibit A-9. He explained the siding, veneer stone and felt the cedar siding and colors were consistent with the redevelopment plan. He explained the pylon sign to the Board.

Ms. Gilchrist asked if they were proposing landscaping to which Mr. O'Brien said it would be on the site plan.

Mr. Olsen asked about the third building off to the side. Mr. O'Brien said the roof needs repair however; they would not be changing the color of the roof. He said the owner would be willing to change the color of the façade. He said the building would be used for dry storage and would not be rented out to a third party.

Mr. Messerschmidt asked if the owner would stipulate that it would not be used for any other business. Mr. Selvaggi said if they wanted to use the building for anything other than storage, the applicant would have to return to the Board for approval.

Ms. Howell asked about the existing color and cedar siding. Mr. O'Brien said the cedar on the side would remain. Ms. Howell expressed a concern with the color of the existing siding and said it looked like mildew. She asked if the apartment siding was going to remain as is to which Mr. O'Brien said yes. Ms. Howell expressed a concern with the siding and said that also looked like mildew.

Mr. Ordile felt the siding was in deterioration. He asked about the siding on the back elevation where the window is to be removed to which Mr. O'Brien said they would match the existing

siding. Mr. Ordile questioned the siding on the building to which Mr. O'Brien explained the siding and colors. Mr. Ordile asked for clarification on the proposed changes to the building to which Mr. O'Brien explained.

Mr. Messerschmidt asked Mr. Selvaggi if the applicant would paint or stain the cedar siding. Mr. Vincent Mann, who was still under oath from the previous hearing, said they would stain the cedar however; they would like to stain it in a color of natural cedar. There was a discussion on the color of the stain.

Mr. Brigliadoro swore in Mr. Daniel Davies, PE of Davies Engineering in Fredon, NJ. Mr. Davies gave his qualifications, which were accepted by the Board. Mr. Davies explained the current conditions on the site.

Mr. Davies presented a "red line" version of the site plan entitled "Proposed Retail Cannabis Commercial Building Preliminary & Final Site Plans" with a revision date of 12/19/23 consisting of five pages, C1 through C5, which was marked and entered as exhibit A-10. He said they have eliminated the phased construction from the original plan. He said the property has three structures on it, the retail building, the apartment and the shed. He said there are two access locations with a smaller driveway on the left and a larger driveway on the right. He explained the existing gravel driveway, the existing mound and the steep slopes. He explained the existing right of way that was identified by the County of Sussex. He said as a result of that, the applicant had lost about 16.5 feet of property. Mr. Davies said the riprap apron is on County property and because of this, the property has only 44 feet of frontage on the State highway where previously they had shown 100 feet of frontage. He said they did get permission to cross the easement.

Mr. Davies said the property is about 1.4 acres where the zoning calls five acres. He said the lot width is 44 where the zone calls for 100. He said the house sits about 9.6 feet off the setback. He said the gravel driveway in the back will be removed and the County would maintain the riprap area. He explained the infiltration and said there is a paved road under the riprap area so it does not drain as well. He explained the slopes, lot coverage, and the existing mature vegetation and said there are no streams, vernal pools or wetlands on the property or buffers within 300 feet of the property. The property is serviced by a septic and the stormwater runs north to south. He explained the impact to the steep slopes. He said they would improve the driveway entrance. All deliveries will be via a van and would be outside of hours of operation. The hours of operation would be seven days a week from 9:30am to 9:00pm. He said they are not proposing a sign for the delivery area but it would be marked on the pavement. He explained the 11 parking spaces and felt what was proposed is sufficient. He said they would locate the trash behind the building, explained the sidewalk, the entrance and the ADA required ramp. He said there would be no seating on the deck area. They would put in a new septic which would serve the building and the apartment. Mr. Davies said the sidewalk is 5-foot wide, they are removing the canopy, they are proposing a freestanding sign, moving the stop sign and stop bar, which is dictated by D.O.T. He said there are some steep slope impacts, which were identified on the plan.

Mr. Davies explained the circulation plan, the parking spaces and the drive aisles. He explained sheet C3 and said the property slopes from the north to the south. He said they are closing off the garage doors and raising the grade up so there are no drainage problems. The front lawn will remain as lawn, the stormwater will sheet across the parking lot and the earthwork will require about 150 cubic yards of dirt to be import.

Mr. Davies explained sheet C4, which was the lighting and landscape plan. They were proposing a hedgerow along the southern edge of the property line, evergreens through out the parking lot, foundation plantings, trees to the right of the apartment, and in the front yard a mixture of evergreens, shrubs and deciduous trees. He said the lighting plan was altered to show a light near the freestanding sign. All lights have shields so there is no spill behind the light, they are 25-foot high which will light the entire front, a light for the entrance, and lighting for the parking.

Mr. Davies said they would submit a soil erosion plan to the Township. He said there are no designated pathways for a bike to get to the site so they did not show a bike rack. The property is on Route 206 so they are asking for an exception for the streetlights. He said they are making the last parking space an EV make ready space, they did not show a sidewalk in the front yard and asked for an exception since it would not work for the site.

Mr. Stoner asked about access to the apartment to which Mr. Davies explained the access. Mr. Stoner asked if the sign meets all of the criteria to the zone to which Mr. Davies said yes. Mr. Stoner felt the sign might not be seen since it would be about 30 feet off the road. Mr. Davies agreed it would not be seen sufficiently going southbound. Mr. Stoner asked as a condition of approval, that he have an opportunity to look at the lighting and landscaping plan and make recommendations. Mr. Stoner asked about the foundation plantings. Mr. Davies said they would be boxwood style hedges to break up the façade. He said they are removing one large tree. Mr. Stoner asked about design waivers. Mr. Davies said they would need a waiver for the size of the loading space. Mr. Stoner asked for testimony on the need for a waiver for the parking lot curbing requirement. Mr. Davies said they are asking for a waiver for the curbing to maintain and improve the stormwater flow pattern. Mr. Stoner asked if they were requesting a waiver for the sidewalk requirement to which Mr. Davies said yes. Mr. Stoner asked about the screening for the loading area. Mr. Davies said they have screening from the northbound travel side but it is not screened from the southbound side. He said they are trying to get the product into the building as quickly as possible and would have to sacrifice some screening. Mr. Stoner asked about the trash area. Mr. Davies said both the retail and the apartment have a recycling/trash areas located behind the retail building and receptacles would be wheeled to the curb. Mr. Stoner asked if the signage meets the Township requirements for cannabis to which Mr. Davies said yes.

Mr. Mann said the only State requirement is that there is no cannabis leaf on the sign. There was a discussion on the ordinance requirements for the sign.

Ms. Gilchrist asked if the freestanding sign would have lights to which Mr. Davies said there are no lights on the sign. Ms. Gilchrist asked if the advanced treatment unit had a freestanding pole with an alarm to which Mr. Davies said it would have a pole with the electrical panels on it. He said they could add some screening around it.

Mr. Olsen asked about the stormwater sheet and asked if the riprap would capture the runoff. Mr. Davies said they discussed it with the County Engineer and the County must maintain the riprap and based on the soil logs there is asphalt under it so if there is puddling the County is responsible for the drainage. There was a discussion on the drainage. Mr. Olsen asked if there was a plan for overflow parking. Mr. Davies said there was no plan for overflow parking however, cars might park on the grass area if the parking is full.

Mr. Messerschmidt asked if deliveries would be before opening or after closing. Mr. Davies said it would be morning deliveries before opening. Mr. Messerschmidt asked if there was a road-opening permit. Mr. Davies said they are applying for a driveway access permit to cross the County land that is a designated right-of-way. He said because they are removing improvements in the right-of-way; the County is calling it a road-opening permit even though there is no road there. Mr. Davies said they are applying to the D.O.T. to close the one driveway and to modify the other one. Mr. Messerschmidt asked about the runoff. Mr. Davies said the runoff area will not change and it is not a substantial amount of increase so they are not expecting flooding or puddling. He explained the runoff area to the Board. Mr. Messerschmidt asked about the evergreens along Route 206 to which Mr. Davies explained the hedgerow to the Board. Mr. Messerschmidt felt the evergreens would block the sign. Mr. Davies said the existing trees on the neighboring property are already blocking the sign area. There was a discussion on the location of the sign.

Ms. Howell asked if the landscaping was indigenous to which Mr. Davies said he believed they are. Mr. Stoner said he would still need to review the plan. Mr. Selvaggi said they would agree to use the indigenous plantings.

Mr. Ordile asked about the existing shed. Mr. Davies said the shed has electric but no water and would only be used for storage. Mr. Ordile asked about the rock wall. Mr. Davies gave the heights and said it would be a dry stack wall. Mr. Ordile asked if there would be a sign for the tenant parking to which Mr. Davies said no. Mr. Ordile said an eight-foot wall is required between the retail and residential uses per the ordinance. Mr. Stoner said the applicant could request a waiver from the Township Committee for any licensing condition that could not be met. Mr. Selvaggi said the ordinance reads that it is for residential from an adjacent property. There was a discussion on the need for the wall. Mr. Davies felt the wall would not provide any purpose. The Board agreed that the applicant would have to go to the Township Committee to request the waiver.

The Board took a five-minute break.

Mr. Ordile asked where the light poles were to which Mr. Davies explained their location to the Board. Mr. Ordile asked if there were lights on the building to which Mr. Davies said no. There was a discussion on the proposed lighting. Mr. Ordile asked about the stormwater flow improvement with the removal of the asphalt under the riprap. Mr. Davies said the soil logs showed asphalt below the riprap and if that asphalt were removed, it would improve the infiltration. Mr. Ordile asked about endangered species and if they exist on the property. Mr. Davies said based on the D.E.P. database, there is nothing to indicate there are endangered or threatened species on the property. Mr. Ordile asked about turning left out of the parking lot. Mr. Davies said the D.O.T. would make the determination on left turns out of the property.

Mr. Briadoro swore in Mr. John McDonough, PP, AICP. Mr. McDonough gave his qualifications which were accepted by the Board.

Mr. Mc Donough presented a series of five photos entitled "Planning Exhibits for Andover Munsee Realty, LLC – 667 Route 206, Township of Andover, NJ" taken by John McDonough Associates on November 30, and December 5, 2023 which was marked and entered as exhibit A-11.

Mr. Mc Donough said the photos depict the physical conditions of the property. He explained the photos to the Board. He said the lot consists of three buildings and is a little less than 1.5 acres. He said the property also consists of a driveway, parking area and lawn. He said the Kittatinny State Park is behind the property. Mr. Mc Donough said the park prohibits the applicant from acquiring more land to make the property conforming.

Mr. Mc Donough explained photos 2 through 5, which were the structures and woodlands on the property. He said the apartment is set up for a residential use, which is a one-bedroom dwelling. He said the cannabis portion of the application is fully conforming to the ordinance and the use relief is for the residential use. He discussed the Route 206 Redevelopment Plan principal uses and said the zone does envision some coexistence of residential and non-residential uses. He said the applicant is seeking use relief for the residential portion and the steep slope relief. He felt the development would bring the site up to modern standards. Mr. Mc Donough went over the positive and negative criteria. He said the application is not creating the residential use as it has been in existence since 1958. He felt it would retain and upgrade what exists. He felt neither use will interfere with the other nor not allowing the use would serve a practical purpose. He said the steep slope ordinance is to control erosion and said the engineering testimony is that the site would be designed in accordance with appropriate erosion control. He felt the hardship criteria has been met and the site would be revitalized from its current state. He explained the cannabis establishment and felt it would not be a detriment to the zone. Mr. McDonough felt the eight-foot wall was not needed because the adjacent lot is vacant. He said the existing conditions are not worsening and felt the project is a good fit for the site.

Mr. Stoner asked if the lot width met the zone requirements. Mr. Mc Donough said the lot width referred to the width along Route 206 and said the applicant has demonstrated there is

safe access to the property and the width is adequate for safe movements into and out of the property. He said with proper signage, they could provide safe access and circulation on the site. He felt it was an existing condition that was not worsened by the project.

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

Mr. Briadoro went over the identified variances and conditions with the Board.

A motion to approve the application with the requested variances and design waivers and the noted conditions was made by Mr. Olsen 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 carried.

The Board took a five-minute break.

2.) Open Space and Recreation Plan Update

A presentation of the Open Space and Recreation Plan update.

Mr. Messerschmidt and Mr. Olsen presented the Open Space and Recreation Plan to the Board for recommendations and approval.

Mr. Messerschmidt said they worked with H2M on the plan. He thanked the subcommittee that worked with H2M, which consisted of Mr. Olsen, Ms. Howell and Mr. Josh Osowski. Mr. Messerschmidt gave a definition of an Open Space and Recreation Plan. He went over the process, which included identifying the goals and objectives, current conditions, public input, open space inventory, needs assessment and recommendations. He said they looked at possible sites for more open space and the new and current uses for open space.

Mr. Olsen explained the public engagement. He said they created a website and a survey; they did outreach to the residents and an outward facing information page. He explained the survey results to the Board. He said the most visited park in Andover is the Kittatinny State Park with Hillside Park coming in second. He explained the reasons why people go to and use the parks. He explained the results showing what the residents want in the parks. Facility improvements. Benches and way finding signs. He said environmental protection such as protecting greenways, protecting habitat, resource-based recreation such as hunting and fishing and water resources are important to the residents. He explained the current conditions on the parks and open space and said Andover has many trails. Mr. Olsen said the goals and objectives are to protect and restore the environmentally sensitive areas, enhance and expand the Township's trail system, and ensure that all park facilities are in a good state of repair. The strategies for the next decade are to pursue open space protection opportunities and farmland preservation, preserving agricultural heritage, improve the existing parks, gain access to trails, and develop regional trails.

Mr. Messerschmidt explained the next steps and said it would eventually need approval from the Township Committee.

Mr. Stoner felt connecting the trails to other towns was a good idea and he discussed funding sources. There was a discussion on grants. Mr. Stoner asked if the town was looking for more open space. Mr. Olsen said the majority of the survey participants wanted more open space.

Ms. Howell asked if the town had an increase in children and should consider purchasing more playground equipment. Mr. Olsen said Andover was an aging population and there are not as many amenities for this age group. There was a discussion on the aging population. There was a discussion on grants for larger projects.

Mr. Briigliodoro explained the notice and adoption process.

ORDINANCES: None.

OLD BUSINESS: None.

NEW BUSINESS:

Mr. Ordile felt some of the Township’s ordinances are out of date. There was a discussion on updating the ordinances.

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

VOUCHERS:

Company	Purpose	Amount	Paid By
Weiner Law Group	Legal	\$832.00	Budget
Weiner Law Group	Puff City, LLC	\$1,024.00	Applicant’s Escrow
Weiner Law Group	Pat Barone	\$560.00	Applicant’s Escrow
Weiner Law Group	Stephen DePinho	\$96.00	Applicant’s Escrow
Weiner Law Group	Andover Munsee Realty, LLC	\$544.00	Applicant’s Escrow
Harold Pellow Assoc.	Engineering	\$414.00	Budget
Harold Pellow Assoc.	698 Route 206S – David Mosner	\$513.00	Applicant’s Escrow
Harold Pellow Assoc.	Barry Walsky	\$181.00	Applicant’s Escrow
Harold Pellow Assoc.	Andover Munsee Realty, LLC	\$1,235.25	Applicant’s Escrow
Harold Pellow Assoc.	Puff City, LLC	\$310.50	Applicant’s Escrow

A motion to pay the bills as presented was made by Ms. Gilchrist and seconded by Ms. Howell. 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:

Ringo Properties – Deemed Incomplete 9.19.23.

698 Route 206 South, LLC – Deemed Incomplete 10.3.23

UPCOMING MEETINGS: January 9, 2024

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