

December 21, 2010

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, December 21, 2010 by Chairman John O’Connell.

Present Members: Diana Boyce  
Sue Howell  
Gerald Huelbig  
Gail Phoebus  
Ellsworth Bensley  
CeCe Pattison  
Christine Kretzmer  
Paul Messerschmidt, Alt. 1  
John O’Connell

Secretary T. Linda Paolucci

Absent: Rick Melfi

Professionals Present: Joseph Golden, PE  
Bob Guerin, PE  
Richard Brigliadoro, Esq.  
Chuck McGroarty, PP

Late Arrival – CeCe Pattison

**FLAG SALUTE - RULES - OPEN PUBLIC MEETINGS ACT**

**OPEN TO THE PUBLIC** – The Chairman opened the meeting to the public and read the rules of the act.

The Chairman announced that the meeting of January 4<sup>th</sup>, 2011 will be cancelled and stated that the re-organization meeting will be held on January 18<sup>th</sup>, 2011.

Hearing - carried

**SUSSEX & WARREN HOLDING CO.,** Block 1, Lot 5.03, Route 206 – Use Variance for SMA Corp.- Route 206 Truck Repair facility

The Chairman announced that the applicant has requested to be carried with no further notice to the February 1, 2011 meeting.

Brigliadoro, Esq. stated that in addition to the announcement the applicant has granted the Board an extension to February 28, 2011 in order to allow the Board to hear and decide the matter.

Motion to carry the hearing was made by Messerschmidt, second by Howell. In favor: Boyce, Howell, Huelbig, Kretzmer, Pattison, Bensley, Messerschmidt, O’Connell. Opposed: None. Motion carried.

Completeness- Hearing

CAMBRIDGE PAVERS/LIMECREST QUARRY DEVELOPERS, LLC, Block 108, Lot 4.02, Limecrest Road – Preliminary Site Plan.

Phoebus asked the Chairman to be recused from this portion of the meeting.

Brigliadoro announced that this application is being heard for completeness only and explained that there will be no discussion of the merits of the application, nor any testimony under oath at this. This is merely procedural administrative in nature on whether or not the application is going to be deemed complete.

Bernd Hefele, Esq. announced that he is the attorney for the applicant Cambridge Pavers/Limecrest Quarry Developers and stated that this is an application for preliminary site plan approval for the construction of a paving stone, wall stone, facility on Limecrest Road of property on Block, Lot 4.02. He stated that the applicant has submitted a comprehensive application to this Board consisting of site plans, surveys, various reports, environmental reports, environmental impact studies, stormwater studies, drainage studies, endangered species studies and are present tonight before the Board to have the application deemed complete.

O'Connell asked Guerin, PE to give an over-review his report of December 5, 2010 (*December is correct date*). Guerin discussed the waiver request discussed in his report of *Item 30.E. – Aquifer recharge areas, including safe sustained groundwater yield* – Guerin stated that the applicant submitted a report asking for a waiver providing that information and he has no engineering objection to waiving it for completeness only and stated that the Board should hear the testimony before they decide whether they should provide that additional information or not.

Guerin gave an overview of the other numbered outlined items in his report of December 5, 2010.

Hefele commented on the issues brought up in Guerin's report and stated that specifically with the aquifer recharge and safe groundwater yield "we did have our environmental consultant on that issue produce a report with regard to that and we will bring him in and provide testimony with regard to why we think that that waiver is appropriate under the circumstances and then the Board can decide" and stated that report has already been submitted.

The only other item, Hefele said he wanted to note, with regard to the noise study, is that they have a specific reason why they do not have the noise study as part of the application. He continued that he is going to provide a noise study and noise testimony, however, the town has a noise consultant, Norm Dotti, that they use and would like to have him on the site to produce the noise study, he stated. Hefele continued that they waited until the application has been filed, and an escrow established, and the fact that they will have to pay for the township's consultant.

Brigliadoro, asked Hefele if the Board's professional, when he goes out to the site, whether or not he will be monitoring what the applicant's professional is going to be testing, or is the Board's professional going to be doing the testing, sort of speak. Hefele stated that he believes that he will be confirming what the applicant is doing. Brigliadoro stated that he wanted to make clear that whatever testing is going to be done, will be done by the applicant and that the Board professional's role will be i.e. monitoring any testing, review any results, and make recommendations to the Board. Hefele agreed.

Guerin had questions with the mention by the applicant of Norm Dotti as the consultant being used on behalf of the Board. Brigliadoro agreed and confirmed that it is the Board's job to select its own professional. Hefele agreed and said he understood that whoever the Board decides to use they will start to work with him as soon as possible. It was agreed that they will wait until the first hearing date to choose the professional to be used for the study.

Brigliadoro stated that for purposes of tonight, it is just a waiver of that requirement for completeness purposes only.

Brigliadoro stated that the waiver for completeness only are *Item 30.E; Checklist No. 5 – Items 5 & 34* of Guerin’s report of December 5, 2010, for completeness only and a waiver of *Item No. 1 of Checklist No. 5*.

With no further questions from the Board, the Chairman asked for a motion to find the application complete pending the items that have been discussed and their conditions. Motion was made by Messerschmidt, second by Huelbig. In favor: Boyce, Howell, Huelbig, Pattison, Bensley, Messerschmidt, O’Connell. Opposed: None. Motion carried.

### Resolution

#### **BALLANTINE WOODS, LLC –Phase A Extension of Final Subdivision Approval Phase B, Extension of Preliminary Subdivision Approval Block 6, Lot 3.02; Block 7, Lots 10, 10.02 & 10.03**

Messerschmidt had a question on the resolution as it was written with regard to Phase A. Briigliadoro answered Messerschmidt’s question and agreed that one of the words should be changed within the resolution to paraphrase it more properly.

Motion was made to approve the resolution with the amendment, by Bensley, second by Phoebus. In favor: Huelbig, Phoebus, Pattison, Bensley, O’Connell. Opposed: None. Motion carried.

### BOARD DISCUSSION

**MASTER PLAN CONSISTENCY with regard to Amend to Chapter 190 “Zoning”, Article II, §190-4 to add new definitions, to Amend Article IV to Establish a New Zone District to be known as “C/I – Commercial/Industrial” Zone District, to Amend Article IX to Modify the Township’s Zone Map to Reflect the Boundaries of the New “C/I” Zone District, to Amend Article V to establish the permitted principal and accessory uses of the “C/I” Zone District, to modify the permitted principal and accessory uses of the I/A-2 Zone District and to Modify Article V to provide lot area and bulk standards for the C/I Zone District.**

Kretzmer recused herself from this portion of the meeting.

O’Connell asked the Board for comments with regard to the item opened for discussion with regard to Master Plan consistency. Phoebus gave an overview to the Board members of the proposed ordinance. She explained that there are some pre-constructed industrial buildings in certain areas that do not fit today’s businesses and, therefore, the ordinance is somewhat obsolete. She explained there have been would-be applicants who have wanted to either buy or rent one of the buildings for certain types of businesses i.e. gyms, studios, etc. and the ordinance as it is written does not allow for it, therefore, they would those types of businesses would need to come in for a variance. The proposed ordinance would broaden the specific areas as to the type of uses and would have the ability to fill these buildings so that they don’t become vacant and would be profitable for those and the township would bring ratable properties.

McGroarty, the township planner, further explained that what it would do is affect some of the properties in the industrial zone on either side of Stickles Pond Road. Some of the other properties are either in the “I” Zone and in the Nature Conservancy and the proposed ordinance would be not to rezone those properties. In addition, he stated, there are properties down closer to the borough on Route 206, again on both sides of the road, presently in the “I” Zone, Strawberry Farm on 206 and lastly the Airport Zone, with the industrial zone/airport classification. He further commented that what the proposed ordinance would do is it would add a number of permitted uses to the industrial zone, and does not remove any permitted uses, does not produce any other industrial zones. It also includes, flex buildings, for example which are

permitted under Highway/Commercial Zone but are not permitted in the Industrial Zone which are, quite frankly, really where they belong, McGroarty stated. It does not propose to alter the zoning that is applicable in terms of the bulk standards and lot area for the industrial zones, if it can accommodate an industrial use, the thought is that it can accommodate the kinds of limited type of commercial uses proposed.

The chairman asked McGroarty to explain what the meaning of “flex” building is. McGroarty stated that quite often flex buildings have approximately twenty percent of the building as an office space, and then the remainder is warehouse or storage and it can be anything for example from electrician to a landscape person, or someone who has a small business and does not really need a lot of office space, just a portion of the that building to operate out of and the bulk of it is for their product. This proposed ordinance, he explained, would also introduce a couple of definitions that are missing today, including a business/service definition.

Phoebus also mentioned that the ordinance the way it is presently written, makes it difficult for the construction/zoning official to interpret the ordinance when an applicant comes before him to either rent or purchase a building for a particular use.

McGroarty suggested that there may need to be either have a Land Use Plan Amendment or give public notice with regard to the proposed ordinance.

There was further discussion on the steps that still need to be done before the proposed ordinance could be adopted.

**PUBLIC PORTION** – Stan Christodlous of Wisteria Road, Andover, NJ asked about the status of the revised Land Use Plan and the revised Master Plan.

To answer his question, McGroarty explained that last year the Board looked at both residential and non-residential zoning and the residential side would be affected by changes to the subject density limits within the township as the Department of Environmental Protection has new rules which would affect the number of septic in sub-water sheds. He continued the regulations have been adopted but they have not been implemented to date and the DEP has postponed the effective date as they have not worked out the methodology yet. At some point, he continued, when those changes come into effect, the rules do say that if the zoning is inconsistent with the number of septic that are permitted on the HUC-11, then your zoning needs to be changed. At the same time, he continued, we were looking at the non-residential zoning in the town, and are looking the proposed floor ratio areas. This Board has focused on industrial areas, are concerned about the Route 206 corridor to deal with some conditions that are in need of revitalization and then later next year when these regulations take effect and when the methodology is figured out, we will figure out what the actual densities need to be in terms of the rest of the zones.

There was further discussion with regard to Build-Out Analysis, Re-Examination Report, Land Use Plan and Master Plan.

Phoebus answered Christodlous question regarding the lack of current activities on the master plan and stated that the reasons are finances and also the current on-going changes in Trenton with regard to government rules, regulations and committees.

With no one else from the public coming forward, the chairman closed the public portion of the meeting.

MINUTES

Minutes of December 7 , 2010 – Motion was made by Phoebus to approve the minutes, second by Bensley. In favor: Huelbig, Phoebus, Pattison, Bensley, O’Connell. Opposed: None. Motion carried.

VOUCHERS

Vouchers – Motion was made by Phoebus to approve the vouchers, second by Howell, In favor: Boyce, Howell, Huelbig, Phoebus, Kretzmer, Pattison, Bensley, Messerschmidt, O’Connell. Opposed: None. Motion carried.

**OLD BUSINESS/NEW BUSINESS** – Messerschmidt had a procedural question on Environmental Impact Statements and the township’s environmental committee.

Phoebus informed the Board of the necessary steps that need to be taken if someone is interested in putting a business on a property that is deemed farmland preserved. She stated that the Board Secretary spoke with Donna Traylor of the County Planning Board who said that the applicant must first go to the County Planning Board and speaks with her, before they come to the township, to first discuss what may or may not be allowed on the property.

The Chairman advised the Board of the letter of resignation he received from Diana Boyce.

**MATERIAL RECEIVED, GENERAL INFORMATION** - See Schedule

**AJOURNMENT** – Time 8:43 p.m. A motion was made by Messerschmidt, second by Bensley to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

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John O’Connell, Chairman

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T. Linda Paolucci, Secretary