

March 20, 2007

The regular meeting of the Andover Township Land Use Board was called to order at 7:40 p.m. on Tuesday, March 20, 2007 by the Chairman Stan Christodlous

Present: Members      Thomas Walsh, Class I  
                                 Gerald Huelbig, Class II  
                                 Diana Boyce  
                                 Stan Christodlous  
                                 Michael Crane  
                                 Lois deVries  
                                 Suzanne Howell  
                                 Michael Lensak  
                                 Ron Raffino, Alt. 1  
                                 Attorney Thomas J. Germinario, Esq.  
                                 Engineer Joseph Golden, P.E.  
                                 Planner Russell Stern  
                                 Secretary Mary Spector  
Absent:                      Gail Phoebus

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

**ALTERNATES SITTING** –Raffino for absent member.

**OPEN TO PUBLIC** – Fred Gillespie raised a question about the Township’s removal of the wall on Ballantine Road. Walsh and Golden gave a brief history of events leading up to the Township action and described what was done. After some discussion Germinario suggested that Gillespie speak to Golden about this at another time as this is not an issue for the Land Use Board.

**SALLY DOBSON** – Block 1, Lots 6 and 17, minor subdivision and lot line adjustment, Forest Lakes Rd., R-1.0 and R-2.0 zones. Paul Abramo, Esq. was present on behalf of the applicant. He stated they are developing additional information in the field to accommodate the Board’s requests. The work was delayed by the snow storm last week. Abramo asked if they could return to a workshop session with the Review Committee and then come back to the full Board on a date following that meeting. The schedule was discussed and it was determined to carry this application to the meeting of May 1, 2007 without further notice. The applicant will attend the Review Committee meeting on April 25, 2007.

**WAWA** – Bl. 158, Lot 6, HC zone, Rt. 206 and Brighton Rd.; final site plan for gas station and convenience store. Golden stated he had a few changes to recommend. He noted items 7 and 32 are similar in intent. He recommended deleting no. 7. He suggested item 41 about delivery truck movement through the site be amended to make the illustrations to the satisfaction of the Board Engineer. Lastly he suggested adding an item to require documents and permitting information as well as plans be submitted in electronic format. There was no further

discussion. A motion was made by Crane, seconded by Howell, to adopt the resolution memorializing the approval of this application. In favor: Crane, Howell, Lensak, deVries, Huelbig, Raffino, Christodlous. Motion carried.

**THE WOODEN DUCK** – Block 133, Lot 5, Goodale Road, R-2.0; site plan revision for an addition. It was noted the Review Committee and professionals had no outstanding completeness items. A motion was made by Boyce, seconded by deVries, to find the application complete. In favor: Crane, Howell, Lensak, Walsh, deVries, Huelbig, Boyce, Raffino, Christodlous. Motion carried.

The applicants, Mary and Harry Krummel, were sworn in. Mr. Krummel explained they plan to add a two car garage and some storage area and to expand the laundry room. He further stated there will be no additional occupancy at the bed and breakfast establishment. Germinario noted the issue of the expansion of a non-conforming use was raised in the professionals' reports. He explained in his opinion this application does not require "d" variance relief. Stern concurred, noting the expansion is not that intense and is related solely to the residential use of the property. Germinario stated the uses itemized by the applicant will be made part of any resolution of approval.

The Board reviewed the Engineer's report. Golden asked about the ramp to the back porch. Krummel stated it more than complies with the requirements for handicapped accessibility. Stern noted he had inspected the property. He asked about the septic use. The Krummels both confirmed there will be no additional sewage use. DeVries referred to the fact that the garage on site had been converted to guest rooms previously. She questioned whether a restriction is necessary to prevent this proposed garage from being converted to guest quarters. Germinario stated the applicant would have to return to the Board for any change of use in the garage as it would require a "d" variance. There were no comments from the public on this application.

A motion was made by Crane, seconded by Huelbig, to grant permission for the addition of the garage and other expansion to the Wooden Duck as described by the applicant, subject to conditions. In favor: Crane, Howell, Lensak, Walsh, deVries, Huelbig, Boyce, Raffino, Christodlous. Motion carried.

**UPCOMING MEETINGS** – The meeting schedule for April was discussed. It was necessary to rearrange the second regular meeting because of a conflict with school board elections. It was decided to hold the second regular meeting on Tuesday, April 24, 2007.

**MINUTES** - February 6, 2007. The Chairman pointed out several discrepancies in the section of the minutes when the meeting was open to the public. These inconsistencies were noted by the Secretary and it was recommended to delete two sentences containing incorrect information. DeVries noted on page 2 the minutes should state, "Conservation Plan Element." No further discussion. A motion was made by deVries, seconded by Walsh, to adopt the minutes as amended. In favor: Crane, Howell, Lensak, Walsh, deVries, Huelbig, Boyce, Christodlous. Abstained: Raffino. Motion carried.

February 20, 2007. A motion was made by Howell, seconded by Lensak, to adopt the minutes as distributed. In favor: Crane, Howell, Lensak, deVries, Huelbig, Raffino, Christodlous. Abstained: Walsh, Boyce. Motion carried.

**VOUCHERS** – See Schedule A. A motion was made by Howell, seconded by Lensak, to approve the vouchers submitted. All in favor. Motion carried.

**OLD/NEW BUSINESS** – Germinario gave a summary of the judge's decision in the Ballantine Woods case. The judge determined the Board was justified in requesting additional testing but they were not justified in not allowing additional time for that to be done. Germinario stated that he suggested and the judge agreed the applicant should use the testing protocol that was submitted by the applicant as Exhibit 7 in the remand hearing. Lot yield would be reduced as necessary based on the results. The Board's expert would be involved in selecting locations for the test wells. Germinario noted the Board will have to authorize a new contract for Mulhall. Crane asked about the time line. Germinario stated the judge made it clear that the applicant has to exercise reasonable diligence. He noted it will help to have the Board consultant involved in the process. They will wait for the Court order for the ground rules. Christodlous asked about the school bus issue at this site. The Board agreed it would be acceptable for Germinario to raise this issue with the applicant's attorney.

**CHECKLISTS** – Golden reviewed the comments received from deVries on the proposed revised checklists. The first item was a discussion of whether to allow a waiver of a Letter of Interpretation (LOI) regarding wetlands. Golden recommended allowing a waiver when warranted. He revised the language to make it clearer that the applicant must submit a letter stating there are no wetlands that would then be verified by the Board Engineer. At the suggestion of deVries Golden stated he added a reference to vernal pools where freshwater wetlands and transition areas are mentioned. Golden noted the requirement for detention basin maintenance manuals is a part of the stormwater management ordinance.

There was discussion about the need to set permanent markers to delineate conservation easements. Stern noted there would need to be an ordinance amendment to require that and it would then be on the checklist. Germinario stated it could perhaps be handled as a condition of approval so that homeowners are aware of the area of restrictions. Another suggestion that was discussed concerned the amount of buildable area in a minor subdivision. Golden noted that this information is not required in the ordinances. Golden stated he will change all references to the Planning Board to the Land Use Board instead. As to the location of soil and well borings Golden noted the ordinances do not have a requirement to show test wells. He stated this requirement will be part of the wellhead protection ordinance.

Discussion ensued about the Environmental Impact Statement (EIS) checklist. Golden pointed out in the past the identification of threatened and endangered species was only required if wetlands were present. DeVries stated she is currently doing this work for the applicant and she thinks the applicant should be doing the research. She noted it involves only two phone calls initially. Golden stated this investigation is not typically done as a matter of course. DeVries

stated she is asking that there be a requirement for a presence/absence letter. More detail may be required, she noted, if there is a presence. Golden stated this would be part of an EIS checklist. Germinario stated he has drafted an overall ordinance that would go to the Township Committee. Christodlous had several comments about the checklists. He noted it is correct to state that one inch “represents,” not that it “equals.”

The Chairman opened the meeting to the public. Carla Kostelnik asked whether the checklists flow from an overall plan. Germinario explained the items in the checklist must also be present in the ordinances. He stated the Board is not including extra constraints in these lists. Christodlous noted the changes involve new formatting for the most part. Stern pointed out the revisions constitute a much needed updating to the lists.

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

**RESOLUTIONS** – Resolutions adopted during this meeting are made a part of these minutes by referral to the specific file.

**ADJOURNMENT** – Time 9:06 p.m. A motion was made by Walsh, seconded by Lensak, to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

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Stan Christodlous, Chairman

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Mary Spector, Secretary