

November 20, 2007

The regular meeting of the Andover Township Land Use Board was called to order at 7:33 p.m. on Tuesday, November 20, 2007 by the Chairman Stan Christodlous.

Present: Members Thomas Walsh, Class I
 Gerald Huelbig, Class II
 Gail Phoebus, Class III
 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, P.P.
 Secretary Mary Spector
Absent: None

FLAG SALUTE - RULES - OPEN PUBLIC MEETINGS ACT

OPEN TO PUBLIC – There were no comments from the public.

CUMBERLAND FARMS - Bl. 105.05, Lot 2, CB zone, Newton-Sparta Rd.; request for extension of preliminary and final site plan for site modifications at gas station. Gary Rosensweig, Esq. from the firm Archer & Greiner was present to represent the applicant. He stated they are asking for a one year extension of the site plan approval granted on January 17, 2006 because of delays. He stated this site is in line to be upgraded but other sites have taken priority. Walsh complained about the appearance of the property. John Babbitts, general manager of Cumberland Farms, was sworn in. He stated they are open to suggestions as to improvements at the site. Walsh stated he would like to see a face lift. The Chairman asked Stern for directions. Stern referred to a store he knew of where they painted landscape scenes in the vacant windows. Germinario suggested that Babbitts consult with the Township Planner to come up with a feasible plan for improving the appearance of the storefronts.

Howell asked when the utility pole would be moved. Keith Cahill of Bohler Engineering was sworn in. He stated the pole will remain in its current location. Stern stated the applicant should comply with the COAH contribution/growth share fee as it is in effect at the time of construction. A motion was made by Phoebus, seconded by Walsh, to approve the extension request subject to the conditions as discussed. In favor: Crane, Howell, Huelbig, Phoebus, Walsh, deVries, Lensak, Boyce, Christodlous. Opposed: None. Motion carried.

BLACKBURN/ROBERTS – Bl. 38, Lot 5.03, R-0.5 zone, Hemlock Ave.; “c” variance for steep slopes on lot for proposed construction of single family residence, continued from October 16, 2007. Megan Ward, Esq. was present to represent the applicant. She noted the applicant’s engineer submitted revised plans. The house has been moved back from the lake and is now 51.23 ft. from the rear property line but the design of the house has not changed. The revised site plan is dated November 9, 2007. A driveway profile was provided.

The applicant’s engineer, John Miller, reviewed the report submitted by the Board Engineer dated November 20, 2007. He stated they will provide a signed set of drainage calculations. They will move the stormwater storage area off of the right-of-way (r-o-w). Golden’s report asked for soil logs supporting infiltration at the storage area. Miller stated they are not considering this as infiltration although there would be some infiltration. He noted if the application is approved they will resolve this issue with Golden. On the question of the gutter flow in the area of the proposed driveway Miller stated they will make sure the gutter flow can be maintained across the driveway. Drainage from the roof of the house was discussed. Miller noted water will drain towards the lake. The architect stated there will be no roof leaders. Stern noted this could cause erosion. Golden pointed out the rock has very similar characteristics to an impervious surface. DeVries noted there are soils at the bottom of the hill. Golden stated if they are not using roof leaders the water will come off the roof almost naturally. Rain water is not going to erode the rock away and there should be no adverse effect. Ward produced a photo which was marked Exhibit A-16. The photo, taken by the applicant’s architect Jeff Flanagan, shows the site with a computer rendering of the house superimposed. The original photo without the house was marked Exhibit A-17. Miller noted they will pitch the driveway to the inside if necessary to prevent runoff onto Lot 4 and they will adjust the elevation of the trench drain as requested in Golden’s report.

Miller provided testimony on maintenance of proposed stormwater feature. He stated they will need to move vegetative material, leaves and so on. Golden noted they can get leaves off the top of the grate on the trench drain but any sediment and leaves that goes through the pipe underground into the stone bed will be difficult to clean out. Miller stated it will be the owner’s responsibility to keep it clean. It may have to be dug out occasionally. DeVries questioned whether there will be problems with this structure not functioning properly as with similar drainage structures in town. Golden noted it is a different type of structure, composed of a stone swale with a concrete enclosure with a metal grate on top. It resembles an elongated catch basin in the driveway. Germinario asked how often the pipe would need to be dug out. Golden stated it depends on the amount of material that drains off. He asked that they return to that question.

Miller stated they agree to provide the detail for the water main connection and the roadway trench restoration. They will provide the engineer’s certification on the guide rail. Miller noted posts will be placed only in filled areas. There was discussion on the proposal #14 in Golden’s report that the existing downstream pipe on Hemlock Ave. be replaced. Golden stated the recommendation ties in with #9 in his report concerning maintenance of the stormwater feature. He noted there are problems with drainage on Hemlock Ave. Ward stated they are not increasing the water onto the road. Golden noted if the Board decides the applicant doesn’t have to replace the pipe he recommends they submit a comprehensive plan showing the basin evacuates

properly. He noted they are installing a BMP and so they will have to maintain it. He stated if the necessary steps are taken and there is no drainage from the roof going into the structure he would be comfortable with their not replacing the pipe. Ward stated they've demonstrated that there is no increase in runoff. Golden pointed out the information as submitted doesn't prove that. He has some issues with the drainage report. Germinario suggested that as a condition of approval Miller provide his justification to the satisfaction of the Board Engineer that there will be no impact on the culvert. Otherwise they will have to replace the pipe. DeVries asked about additional drainage to the side yard. Golden stated he doesn't see any other areas with potential issues.

There was discussion about the location of the house. Ward referred to the differences in height calculations between Miller and Flanagan. Miller noted they used different methods to determine the height. Golden pointed out both are lower than the required maximum height. Miller stated the revised calculations for slopes are based on the new location of the house. By moving the house forward toward the road they reduced the amount and percentage of slope disturbance. Golden stated he is satisfied with the new location. Flanagan noted the angle of the garage was adjusted and the garage pulled back. The volume of the house and garage are still the same. They didn't raise the house. Flanagan described how he produced the rendered photo (Exhibit A-16) showing the location of the house on the site. He submitted Exhibit A-17 which shows a raised ranch house sitting higher on the site.

Miller gave planning testimony. He referred to the slope ordinance, Ord. Sect. 190-32.3:F2. He gave the amounts of disturbance for each slope category with the current plan: slopes from 20 – 24.99%, disturbance of 42.6%; slopes from 25 – 34.99%, disturbance of 35%; and slopes 35% or greater, disturbance of 18.59%. The house is 3,250 sq. ft. including the garage and patio. Miller pointed out the only relief needed is for the slope disturbance. He noted the property previously received a variance for height of a proposed four bedroom house. The septic was installed. Miller stated the variance relates to this particular lot which has existed since before 1950. He described the site topography, noting the land is mostly covered with rock outcrop and is sparsely vegetated. The current plan is scaled back significantly from the earlier one. Miller stated this proposed structure doesn't impact any of the list of disturbances protected by the slope ordinance. He noted they are leaving 70% of the lot untouched. He stated the plan will not impact erosion and there will be no siltation into the lake or onto Hemlock Rd.

DeVries asked whether the Board was properly constituted at this time. Germinario stated that Crane is present as the defacto Class 2 member and Huelbig as the defacto Class 4 member. DeVries asked about rock removal as limited by the ordinance. Golden noted the soil removal ordinance requires a permit for anything over 50 yds. He suggested the applicant provide calculations showing whether they would need a permit. Golden also asked about a discrepancy in the survey information between the Township tax maps and the survey attached to Miller's plans. Miller stated he will get the matter clarified. Golden noted it might be a vacated r-o-w. Stern brought up the question of a conservation easement. Germinario noted although the Board can request an easement for the slopes, in this case the slopes are rocky and an easement would have minimal impact. DeVries questioned whether it would be an issue for future owners and asked about a deed restriction. Germinario noted the owner would have to return to the Board

for a variance for further site development on this property. The Chairman opened the hearing to the public. Bill Howell noted when Lake Lenape was developed there were right-of-ways put in for taking fire hose down to the lake.

A motion was made by Phoebus, seconded by Huelbig, to approve the site plan and variance for this proposed development subject to conditions as discussed at this hearing and those items agreed to in the professionals' reports. Germinario asked about the condition concerning the pipe on Hemlock. Golden suggested the applicant consider ways to eliminate the trench drain and pipe by getting water into the stone and the other feature naturally or by some other method. He wants to be sure they don't have any problems with drainage on the road and if the stormwater feature is not maintained there could be problems. He noted it could be in the applicant's interest to replace the pipe in the road rather than spending money on site. No further discussion. In favor: Crane, Howell, Huelbig, Phoebus, Walsh, deVries, Lensak, Boyce, Christodlous. Opposed: None. Motion carried.

RECESS – The Chairman called a recess from 8:50 p.m. to 8:55 p.m.

MASTER PLAN RE-EXAMINATION REPORT – The Township Planner, Chuck McGroarty, distributed an Executive Summary of the draft Master Plan Re-Examination Report. He noted the report focuses on the recommendations in the Re-Examination Report from 2005. He briefly described the contents of the report, calling the Board's attention to Section 6, the Action Plan. DeVries asked about the size of centers for Andover Township. McGroarty stated either a hamlet or a village would be an appropriate size. DeVries stated she was concerned that development as mentioned in the report could triple the size of the Township. McGroarty stated he would revise the report to include the possibility of hamlets.

DeVries also asked that on pg. 17, under Environmental Concerns, the protection against flooding in the Limestone Valley and also protection of the aquifer be added. She would like to see mention of the problems at Rolling Hills and how conditions changed when the groundwater table rose. McGroarty suggested she e-mail him some text on that issue. Phoebus asked about the Transit Village. McGroarty stated he can mention that the railroad station will eventually be located in the Township and it will include parking. DeVries suggested adding a bullet under goals and objectives to protect the Limestone Valley and the Germany Flats aquifer. She questioned the use of the word "critical" in one of the bullets under open space. She also asked about the priority of acquiring public open space for recreation. McGroarty stated he would remove the word "critical." DeVries stated the Open Space Committee has not yet determined the priorities for acquiring open space. She noted according to the surveys collected by the Committee the preservation of water is the top priority. Christodlous stated he didn't see this as a conflict as written. The Board was comfortable leaving this statement as it is. There was discussion about the meaning of the word "cultural" and the reference to visitors.

The Board discussed Appendix B, the Life Care Mews WWTP. McGroarty stated that the amount of detail concerning The Mews as presented in this draft could be decreased. He noted much of the history of the wastewater treatment facility is academic because it did not get a permit to operate. The County is recommending the approved service area be eliminated.

Christodlous stated he thought there was too much emphasis on Life Care Mews as a proposed center. McGroarty stated the report recommends the Springdale area and the area encompassing The Mews site and the golf course as potential centers. DeVries stated this contradicts the emphasis on protecting the aquifer. Germinario stated the purpose of the report is to identify various options. It is appropriate to leave The Mews in the report unless the Board does not see it as an option. McGroarty stated studies need to be done and he is merely listing the options in the report. He noted the wastewater system will not operate unless there is a location for discharge. McGroarty thought if there is a need for a sanitary sewer system it makes sense to go with one that is already there. He noted the Township has control over the boundaries of the service area.

Christodlous stated the report seems to include more detail about Life Care Mews than other sites and implies to him that it is the preferred site. There are no comparable recommendations about golf course site or Jump airport. McGroarty stated he thinks of the Mews and the golf course as one site. Christodlous stated he is opposed to making that connection. McGroarty noted the golf course site will have limitations because of changes to the C1 stream regulations. He sees more factors in favor of a center in the area of the Mews than at Jump airport because of public amenities and such. He noted the DEP will not approve a new treatment plant in the golf course area with the problem of the nursing home situation still unresolved. There was further discussion about the location of a center at the Mews. Germinario noted these options are mentioned as being worthy of further study.

DeVries thought that having the Mews site mentioned in the Re-examination Report would lead to developers looking at it for potential development. Christodlous asked for comments from other members of the Board. Boyce cited all the problems in the vicinity of the Life Care Mews project and the nursing home as a reason not to include it in the report. She is not comfortable having a town center there. Lensak stated he agrees with the assessment as described by Boyce. Germinario reemphasized that the re-exam report is not presenting one option as the most viable. It only lists a number of options. The Board selects the most viable option to be included in the Master Plan. Walsh agreed he does not think The Mews is a good spot for a town center. Phoebus abstained. Huelbig stated he sees too many problems with the area. Howell agreed with what has been stated. Crane agreed he doesn't think it is a good site for a center. McGroarty stated the comments about Life Care Mews in the report can be changed. He stated it was not his intention to make the Mews a focal point for a center, only that it would be incorporated within the boundaries of the center and that the existing plant would serve whatever development took place in the center. Stern asked whether the Mews infrastructure could be used to service another area. McGroarty mentioned the treatment plant could be tied in to a development at the golf course. DeVries stated McGroarty is suggesting the Hovnanian lots be replaced by the golf course and she noted that a large portion of the golf course was inundated during a rain storm in April.

There was further discussion about the town center. McGroarty noted the plant and machinery are in place at the Mews. He is not saying to keep the service area. Phoebus asked for clarification about whether a wastewater treatment plant has to be in a center. McGroarty thought the nursing home and existing apartments should be included within center boundaries. If

they want to use the Mews sewer service facility it would have to be within the center. He stated the purpose for that is to avoid the current situation of having sewer service facilities all over the map. He noted the Township will not get approval of center designation in the area of the golf course without including areas of dense development such as the apartments and mixed use. Christodlous stated the Township can state they don't want the Mews wastewater plant in a center. McGroarty didn't think the State would allow a new treatment plant at the golf course because of the proximity of the Mews plant. It depends if the Township wants to say they don't want to see the Mews facility go into operation.

As to the Jump property, McGroarty stated it would not be considered the preferred location because the Office of Smart Growth (OSG) does not look favorably on a linear residential development area. He stated it may work over there, but it is a tough project to work on. A town center needs to have mixed use to be approved by the OSG. Christodlous stated he thought that is done by zoning. He asked why it wouldn't be a center if it's zoned for residential, mixed used and a sewer plant. McGroarty noted there is more to a center than just having mixed use. It must also meet the policy objectives of the State Plan. McGroarty added if the Township does not want a center they will still have to deal with the COAH obligation. Christodlous stated he thought there were two spots in town being considered for centers – one at the golf course and one at the airport, each with its own treatment facility. Now the Life Care Mews is back. McGroarty stated he left it in because it is existing infrastructure that may be needed to correct a problem. He thinks the DEP will not allow a new sewer area when it has a failing system in place. McGroarty stated he was setting out items in the report that need further study and analysis. Phoebus noted the addition of mixed use at the Jump site would make it more favorable. McGroarty stated he saw this area as going back to the Springdale center. That proposed center was pretty well along in the approval process. Germinario asked about revising the report to refer to the Mews treatment plant as a contingency solution and at the same time note that the Mews area itself is probably not a good location for high density development because of the water table and other problems. The Board agreed with this suggestion.

DeVries brought up about the recommendation to drop the FCC licensed radio stations from the list of conditional uses. McGroarty suggested if they want to keep it in there should be some standards adopted. Stern noted this use should be analyzed more thoroughly. McGroarty stated the report gives an action plan for examining these types of questions. Cell towers is another topic that should be considered. DeVries asked about the certification for landscape architects. Stern explained the law relating to this matter. Germinario explained at the public hearing on the re-examination report the Board will also have the opportunity to adopt the goals and objectives section of the report as an amendment to the Master Plan. Christodlous asked about the comment on p. 37 referring to "area in need of rehabilitation..." McGroarty advised this section provides a tool that gives the Township flexibility. He will spell it out more fully. McGroarty then asked for a few minutes break in his presentation of the Re-examination Report.

MINUTES - October 16, 2007. A motion was made by deVries, seconded by Howell, to approve the minutes as distributed. In favor: Crane, Howell, Huelbig, Phoebus, deVries, Lensak, Boyce, Christodlous. Opposed: None. Abstained: Walsh. Motion carried.

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

NEW BUSINESS – Phoebus noted she is aware of two vacant houses that are in serious disrepair. From her investigations it appears that nothing can be done to require that they be fixed up. She asked what the next step should be. Christodlous suggested she speak to Fred Semrau, the Township Attorney, about this problem.

RE-EXAM REPORT – The Chairman opened the meeting to the public for comments on the Re-examination Report. Vic Capo stated he is concerned about the densities for development being discussed, in particular a development project that would support a density of 5,000 per sq. mile as spelled out in the re-exam report. McGroarty stated the Township is not bound by those density parameters. Those were mentioned in the existing Housing Element. Christodlous suggested deleting language in the report that refers to these densities. McGroarty reiterated the need to find a solution to the burden of the prior COAH obligation and stated the Re-examination Report can be amended. Walsh brought up the issue of RCAs. He noted with 10 RCAs before the end of the year the Township could reduce its COAH obligation and thereby the need for these densities. Phoebus asked about the status of the Round 3 regulations. McGroarty stated the revised regulations will be issued by the end of December.

Capo asked about the 5,000 number. McGroarty stated it is not a density requirement. The State is encouraging that kind of density in village centers. He stated the Township is protected from a builders remedy at this time because a new Housing Element was filed in December 2005. The Township will have time to repetition COAH with a new Housing Element that includes a “realistic opportunity” to fulfill the obligation. Dan Freed asked about adoption of the Recreation and Open Space Plan. McGroarty stated it is the Board’s decision to adopt that plan as a Master Plan amendment. DeVries asked about the Township bonding for 100% of the COAH obligation. McGroarty noted COAH would require documentation that the township can realistically provide the housing and they would want to see the locations. If the Township has the land and can create zoning to accommodate the COAH obligation, they may not need to consider other options.

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 10:51 p.m. A motion was made by Walsh, seconded by Howell, to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

Stan Christodlous, Chairman

Mary Spector, Secretary