

January 29, 2008

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, January 29, 2008 by the Chairman Stan Christodlous.

Present: Members Lois deVries, Class II  
Bob Smith, Class III  
Diana Boyce  
Stan Christodlous  
Suzanne Howell  
Gerald Huelbig  
Michael Lensak  
CeCePattison  
Ron Raffino, Alt.  
Planner Chuck McGroarty, Special Planner  
Secretary T. Linda Paolucci  
Absent: Gail Phoebus, Class I  
Thomas Germinario, Esq.  
Joseph Golden, P.E.  
Russell Stern, P.P.

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

**OPEN TO THE PUBLIC** – The Chairman opened the meeting to the public. Diane Gillespie of Andover Township spoke about the Environmental Commission and stated that it would like to start an educational outreach program and would like to find a way to distribute an information pamphlet with regard to the things you can do in your backyard with environmentally practices to advise the residents of the community.

Carla Kostelnik of Andover Township stated that next month, February 4<sup>th</sup> the Sussex County Board of Agriculture will be hosting a forum to discuss the C-1 Stream designation and it will be held at the extension office at the Homestead on the 3<sup>rd</sup> floor. With no other public coming forward, this part of the meeting was closed to the public.

**RESOLUTION -WE PINEAPPLES** – Bl. 157, Lot 4.02, R-2 Zone. Minor subdivision and “d (3)” variance relief. Lensak questioned page 6 of the Resolution and asked if in *Paragraph 1* of the Resolution the wording meant that all of the lots including the main lot were restricted against further subdivision. Christodlous answered that it does as that is what was agreed upon. Pattison questioned the Conservation Easement Agreement, Christodlous responded that the agreement needs to be approved by the township engineer and the township planner. A motion was made by Huelbig, seconded by Pattison to approve the resolution. In favor: Howell, Huelbig, Pattison, deVries, Lensak, Boyce, Christodlous. Opposed: None

**INFORMAL DISCUSSION – Proposed COAH Third Round Rules.** Chuck McGroarty, P.P., AICP of Banisch Associates Inc. began his presentation by discussing an overview of the proposed Third Round Rules by the Council On Affordable Housing (COAH) in response to an Appellate decision last January, 2007 which invalidated a number of provisions in the Third Round Rules, explaining that there is a whole new set of rules to work with and to try and figure out. He continued that there is public comment period that can be submitted up to March 22, 2008, which this Board may want to do following this evening’s discussion. He stated that the new rules depart from the prior practice as there used to be one deadline for all

municipalities who wish to participate, underlining the fact that you are not compelled to participate in this process with COAH, but the way it works now is that COAH has taken the entire state and has divided it up. Essentially, they are grouped by County for the entire State of New Jersey and imposed in that fashion. He continued that the first deadline is in September of this year, but this does not concern Andover. The second is in November and the last final deadline is in December, and this last deadline is the one that concerns Andover. The last deadline of December 31<sup>st</sup> of this year concerns Andover, Sussex, Warren and several other counties. This means that the Township has to have a new Housing Element and a new Fair Share Plan for what is known as substantive certification, which means COAH's approval. McGroarty said that the time-frame for putting together the new Fair Share Plan and Housing Element will need to be done within the next eight months.

McGroarty went over the prior round rules with an obligation by Andover Township to provide 55 affordable units, however, the number has gone up and the total third round new construction obligation to the year 2018 is 130 affordable units. This projection of 130 affordable units is consisting of two parts, the amount of residential growth that is anticipated and the amount of new jobs anticipated to be created through commercial and industrial growth. He continued that you must add the prior round of 55 affordable units and the new projection of 130 units which total 185 units, which is Andover's affordable housing obligation through the year 2018. For the moment, these are the numbers that need to be used according to the new COAH rules. There are limits on how many age restricted units that low and moderate income can qualify for credit, there is an obligation that a certain percentage of the units have to be rented units. The calculation for Andover would appear to be for the prior round 55 units at least 14 of those must be rentals, and as there is already a group home in Andover Township. The calculation can be reduced by 4, which leaves Andover with a balance of 10 rentals and Andover needs the balance to reach 55 units, McGroarty stated. Again, he continued, the maximum age restricted units from the prior round would be 13 units of which Andover does not have any such units as of yet.

McGroarty discussed the obligations with regard to the Third Round Rules which is 130 units as stated previously. Thirty-three of those units would have to be rental, no more than 33 could be age-restricted and half of them (65%) must be family units, at least one-half of the growth share has to be in the family occupied units category. Andover will have to show the zoning and mechanisms to be used for implementing this (unit obligations) and submit it to COAH or COAH will not certify Andover's plan.

McGroarty referred to his Memorandum given to the Board Members dated January 18, 2008 and the consequences that may occur if Andover were to request that COAH reduce the number of units for the third and prior round obligations.

Howell asked McGroarty what steps COAH would take when reviewing the areas in Andover for such development. McGroarty stated that he believes that they would be looking at the Route 206 corridor and vacant and non-vacant sites that were excluded by the municipality. He continued that COAH has the right to look at all sites not considered suitable for residential development which shall be considered suitable for non-residential development. The minimum presumptive density shall be six units per acre for residential sites and 45 jobs per acre for non-residential sites. He stated that there are numerous other things that can be imposed by COAH as

outlined in his Memorandum of January 18, 2008, *page 9* with regard to their jurisdiction over development and meeting the requirements of the First and Third Round Rules. McGroarty said that the rules have not been adopted yet, but are expected to be adopted sometime in June, 2008.

Christodlous stated that it would be a good idea to join other townships and send written comments to COAH by March 22, 2008 regarding the requirements of the new round rules. McGroarty said that he would help draft a letter to be sent from the Board.

McGroarty went on to identify some of the conditions that COAH will look at in satisfying the Third Round Affordable Housing Obligations. He said that for Andover Township this would mean that it must commit to higher density development to satisfy it, which in turn requires infrastructure, identifying new development within a center or hamlet, which would require plan endorsement. He continued that this would cost the township considerable amounts of monies as they would have to put together a housing element together in less than six months from now, having to come up with real zoning, which may involve infrastructure and new centers, which would also involve plan endorsement. The cost element of doing a master plan, plan endorsement and all the things that go along with it in one calendar year would be costly. He stated that although no municipality could be forced to get plan endorsement in one year, Andover is already being asked to make decisions that should be thought out first.

Smith asked how the projected growth is established. McGroarty answered that this time around COAH used the services of consultants that have national reputations in demographics and housing who look at census data, building permits data, latest trends and they made projections which were based on that. McGroarty said that there are a lot of problems with that analysis as the growth conditions, the economy, local conditions and regulatory changes are not always reflected in the projection. Therefore, a municipality may have grown at a 13% rate over a ten year period and it is slowing down now and the new environmental regulations will further slow that growth. The projection that McGroarty stated that he come out with for Andover, even using the new methodology, is a total of 202 jobs through the year 2014, however COAH, applying the same methodology through the year 2018 their growth is 885 jobs. This can be a problem, however, the problem at hand now is the insistence by COAH that all the zoning has to be in place now, which is the thing that should be argued by the citizens and get them to change.

Huelbig questioned the cost to the Township for addressing the affordable units within the township. Christodlous and Huelbig discussed the situation of the original 55 units of the first round and the costs involved. Huelbig stated that although there are still conditions that need to be discussed, he understood the necessity for affordable housing within the township.

McGroarty stated that Andover Township has inclusionary zoning which will have to change if the new rules are adopted. What it now states is that if you have 8 market units you have to provide one affordable unit, but the ration has changed to every 4 market units you have to provide one affordable unit. However, the way the new rules are written, if the developer is required to do one affordable unit, he or she gets one bonus market unit on top of that. So for every affordable unit the developer gets one market unit, and that market unit is not counted towards the growth share number. So the density is not really 5 units but for that particular scenario it is 6 units.

Lensak asked McGroarty whether or not Andover has to build 33 rental units. McGroarty stated "yes" in order for Andover to get its plan approved for the Third Round number over the course of the next 10 years. Such as, if 130 units were built out, 33 of those would have to be rental units. Lensak stated that he wondered whether or not a builder would be willing to build under those conditions especially with the growth market today. McGroarty stated that within a municipality you have a choice, that were inclusionary ordinances come into place. If Andover should choose to create an ordinance which requires a developer to provide affordable units along with the marketable units, it can do so. In other words, it is not every developer who comes in the door who will be required to provide affordable units; it will happen only if you mandate it by ordinance that it wills that need to take place. If in so doing, Andover must consider that they would have to provide certain incentives to the developer in order for them to be required to do so.

Lensak questioned if the 206 corridor were to have high density development who would be responsible for the infrastructure there. McGroarty answered that if there were no infrastructure in place, then development of that land could not go forward. However, if there is the potential for the township to create the infrastructure and signed on to the vacant lands to get their numbers down, COAH could come and say that they have an interested party who is willing to amend the wastewater management plan through the County and the DEP to bring in a package treatment plant, or extension of sewers from a central system, and the municipality will then be committed to signing off on it.

McGroarty went on to mention that the lands that are protected under the Conservation Easement can be extracted out from the development area. But an interesting thing is the "open space" and "recreation" areas must be capped out at 3% of the land area within the municipality of what is municipally owned. Therefore, taking this approach will only increase the cost of preparing such a plan and he does not think that it will serve the township well anyway.

Boyce questioned whether or not COAH offers any incentive programs for developers to come in and develop in accordance with their conditions, such as a tax related incentive. McGroarty answered that COAH does not, but they do say that the township itself should be creating different incentives in order to get the developers to meet the COAH obligations.

McGroarty summarized the plan that the township submits to COAH needs to include the figure of affordable units in order to receive an "approved plan".

Huelbig questioned McGroarty that if a builder was able to receive a "builders remedy" whether or not the builder would still have to comply with all the hoops of meeting all of the environmental constraints. McGroarty answered "yes" they would.

Fred Gillespie of Andover Mohawk Road questioned if under the new guidelines can you still sell some of your obligations to other towns. McGroarty answered "yes you can" you can do a Regional Contribution Agreement (RCA) up to 50% can be sent out if you work out that agreement with another municipality of up to \$80,000.

Carla Kostelnik questioned how many housing units are presently in Andover Township. McGroarty answered that there are presently 2116 housing units in 2004 and the projected

growth through the year 2018 to be 2485, which is a net change of 369 units. He continued that from that number they will work to get the affordable housing requirements. Christodlous concurred from McGroarty's report that the projected Third Round would be 369 units, affordable housing units required would be 73.8, the total new jobs would be 885.

There was some further discussion between the Board members and the public with the understandings of the new round rules.

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

**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 9:12 p.m. A motion was made by Lensak, seconded by Howell, to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

---

Stan Christodlous, Chairman

---

T. Linda Paolucci, Secretary