

May 6, 2008

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, May 6, 2008 by the Chairman Stan Christodlous.

Present: Members    Bob Smith, Class III  
                              Lois deVries, Class II  
                              Stan Christodlous  
                              Suzanne Howell  
                              Gerald Huelbig  
                              Michael Lensak  
                              Diana Boyce  
                              Ron Raffino, Alt.  
Secretary    T. Linda Paolucci  
Absent:        Gail Phoebus, Class I  
                              CeCe Pattison

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

**OPEN TO THE PUBLIC** – The Chairman opened the meeting to the public.

From the public Christine Kretzmer of 131 Hillside Drive stated that she was at the meeting to express her hopes that the Board will pass a tree ordinance. Kretzmer explained that her neighbor at 319 Spring, clear cut their property and now they are raising the level of the property without any silt fence or hay bales and it looks like the level was raised from 5 ft. to 10 ft. of dirt. Kretzmer believes that rain will now produce mud and dirt from the mountain and will end up on Limecrest Road. Germinario stated that the neighbors could not “fill” the property without applying for a permit. There was further comments made by Kretzmer with regard to the amount of water that the trees that were cut down could hold, which would help absorb some of the water and was concerned about french drains being installed on the surrounding neighbor’s property line, but was told that the neighbor at 319 Spring was “stopped”. She said when she went to the neighbor’s home at 319 Spring to ask what was happening, no one answered at the house. Kretzmer is concerned about property flooding and expressed concern that the township does not have a tree ordinance. Christodlous expressed his thanks for Kretzmer coming before the Board but recommended that she attend the next Township Committee meeting and bring her concerns before them, including her request for a tree ordinance, which some members on the Board support.

Germinario questioned Kretzmer whether or not she was stating was that the township was not going to allow the french drains on the property lines, is this correct and is that why they stopped it? Kretzmer answered that she did not actually get a direct answer back on why they stopped it and from what she understood it was not Jim Cutler, the township’s Zoning Officer, who went to the property today. DeVries stated that she could add some clarification and said that she received a phone call from Jayme Alfano, the Township Administrator, today and was told that Kretzmer was in contact with her and DeVries told the Administrator she would give a call back to Kretzmer. DeVries continued that Kretzmer had made a phone call to the

Environmental Commission and was told that someone from the town was going to the property to assess the situation. It was not confirmed who from the township had gone on to the property to assess the situation, but Kretzmer was advised from DeVries to keep in touch with the Township Administrator regarding the situation.

**MINUTES – February 19, 2008.** A motion was made by Howell, seconded by DeVries to approve the minutes with one change being made of the wording “flag lot” to “corner lot” on the first page. In favor: Howell, DeVries, Lensak, Boyce, Christodlous. Opposed: None. Motion carried.

**ORDINANCE – PRC PLANNED RETIREMENT COMMUNITY ZONE – Introduction of Recommendation to the Township Committee for adoption of -Ordinance Amending Chapter 190 “Zoning” Article V, “Use and Bulk Regulations”, Section 190-40, “PRC Planned Retirement Community Zone, and Article IX, “Zone Map, Section 190-74 “Zone Boundaries” of the Revised Ordinances of the Township of Andover.** Germinario stated this ordinance has been recommended in the Master Plan Re-Examination report that the “PRC Zone” be changed because it is inconsistent with the policy of protection and preservation of the rural characteristics in the environs area, which is where this is located. He continued that this would be to implement the Master Plan Re-Examination Report recommendation. The Board members may recall that this zone was originally proposed in connection with a development that was applied for by K. Hovanian several years ago and they have since abandoned that project, but the zoning remains in place, Germinario stated. He continued that what the new ordinance would be doing is changing the “planned retirement community zone” to a less intensive zone, which would be the R-2.5 which has a common boundary to that zone to the north. He stated that this new zoning of the PRC Zone would merge it to the adjoining R-2.5 zone to the north. Germinario made clarification that this has not been introduced yet and the Board would simply be recommending this to the Township Committee for introduction.

Christodlous stated that he does not believe there is a down side to this recommendation, in answer to one of the Board member’s questions, as this area is surrounded by an area is zoned for 2.5 acres, and the application for the PRC Zone has been withdrawn by the original applicant, and there is no point for having a special zone for an application that does not exist. DeVries wished to add that the water table in that area has risen by 30 ft. Christodlous added that this is also the recommendation by our Special Planner, Chuck McGroarty of Banisch & Associates.

A Motion was made to forward the ordinance to the Township Committee for introduction by DeVries, seconded by Smith. All in favor: Aye. Opposed: None. Motion carried.

**ORDINANCE – “SR”- SPECIAL RESIDENTIAL ZONE – Introduction of Recommendation to the Township Committee for adoption of Ordinance Amending Chapter 190, “Zoning” Article V, “Use and Bulk Regulations”, Section 190-34, “Tables”, Table 1, Uses Permitted in Residential Zones,” of the revised Ordinances of the Township of Andover.** Christodlous stated that this zone change is for what is now known as the “Special Residential Zone” which area is known as Life Care Mews and this is minor change. Germinario

explained that the zoning in the area now allows for a number of permitted uses, including nursing homes. He continued that one of the uses provides for single family detached dwellings and the density provided for single family detached dwelling is the R-1 standard, which is a minimum lot size of one acre. Germinario stated that since this property is located in the environ area under our Master Plan documents it should be kept to a low density consistent with preserving existing rural and agricultural characteristics, which is the recommendation of our consulting Special Planner, Chuck McGroarty, to take this portion of the permitted use and de-intensify it to make it single family detached dwellings under the R-2.0 single family standards, which would require a minimum of two acres per dwelling.

Boyce questioned if there was a draft of the Master Plan as it is being revisited. Germinario answered that the closest document right now in a final form is the Re-Exam Report that was adopted in December of 2007. Germinario stated that McGroarty of Banisch & Associates is working on a draft document of the Master Plan at this time.

A motion was made to forward the ordinance to the Township Committee for introduction by Lensak, seconded by Boyce. All in favor: Howell, Huelbig, Smith, DeVries, Lensak, Boyce, Raffino, Christodlous. Opposed: None. Motion carried.

**INFORMAL DISCUSSION REGARDING DRIVEWAY ORDINANCE** – Chairman Christodlous announced that the Township Committee sent back to the Land Use Board the Driveway Ordinance for any further comments or considerations on which the Board’s Engineer, Joe Golden had comments. Germinario told the Board members that he will go over the “marked up” version of the ordinance with the changes that Golden is recommending. In *Section 68-4 – Permit Required* – the object of the insertions made to the new *paragraphs B & C* is to have a procedure where the initial driveway permit gets submitted to someone other than the Engineer – such as the Construction Official and then forwarded onto the Engineer; *68-5 – Escrow Fees* – In view of the driveway permits, it would best be submitted to the Municipal Clerk or the Construction Official, there should be someone designated from the Township to handle the escrow fees; *68-9 Angle of Roadway* – There is a misprint referring to *Section 68-D*, it should have been referring to *Section 68-9D*. Germinario stated that Golden also suggested a change to *Section 68-11 Erosion Control* – Golden felt that *Section B* may be problematic, as this applies to existing driveway and it should be considered not to create a set of circumstances whereas people who have existing driveways suddenly have to bring up to standards, etc. because of this new ordinance and creating an unacceptable burden. Germinario suggested that the word “problems” be qualified by changing it to “public safety problems” such as soil or water run-off. The wording should be changed to “if the owner of any existing driveway that causes public safety problems in connection with soil erosion or excessive run-off” etc.”. Germinario explained Golden’s technical changes to *Section 68-13 Construction materials – B* (2) Golden suggested that instead of requiring “any driveway with slopes in excess of 8% to have to be paved” to limit to those who have an excess of 8% within 250’ of the public right-of-way; (C) *Commercial driveways* - The base course and surface course description has been changed.

Christodlous reiterated that other than some technical changes, the two major changes that Golden is recommending is (1) the person to whom the driveway permit be submitted and (2) the issue of “existing” driveways.

Smith brought up his concerns regarding different items, such as the title of the ordinance, *Section 68-2 Definitions – Alter Driveway* should have more definitive wording as to paving matters; *Section 68* has some formatting issues as to numbering; *Section 68-6 ( C ) – two or more driveways* – Smith had a question on why the driveways must be 150 ft. apart. There was much discussion amongst the Board members regarding the distance of the driveways being apart. Christodlous stated that the technical issues should be discussed at the Township Committee meeting when it is introduced. Smith wanted clarification of *Section 68-6 Location – ( D )* – regarding backing out of driveways by any motor vehicle and feels it is unreasonable for homeowners of existing driveways – it was suggested that the word “New” be added to the beginning of the paragraph when referring to driveways; *Section 68-7 Common Driveways – ( A )* wording to the second sentence should be changed from “the Township will not be responsible for enforcement of this provision.” to *the Township will have the power, but not the duty, for enforcement of this provision* as suggested by Germinario. There was some further discussion regarding the ordinance.

DeVries made some comments with regard to the Environmental Commission’s report that will be submitted to the Township Committee. DeVries commented that some of the sites on Lake Lenape, on the high side of Hillside, Mountainside, Maple, and all those little older homes, and anybody that did any kind of either major structural change or even a cosmetic change, like putting concrete pavers down, would have to now comply and felt that this would be putting a burden on those people. She continued that people with longer driveways of 400 ft. would now have to provide that their old driveway would allow a fire engine to turn around at the top of the driveway. She stated that the proposed driveway ordinance contains some provisions that would require major changes should one of original owners of these properties get too old and decides to pave their driveways. She continued that the slopes issue in taking into consideration the people who live on Hillside, Skytop, Lake Lenape and particularly the rock outcrop high sides of Forrest Lakes, would ever be able to comply with the ordinance proposed. There were other issues as to site distance, etc. DeVries stated that she feels the ordinance needs to have more thought as to what now exists out in the field. She continued that Peter Spinney pointed out that the way that the ordinance is written now, it applies to all differences in height of more than 6 ft. and guiderails are really only needed for a negative slope and not for a positive slope.

Christodlous asked for a motion to forward the driveway ordinance to the Township Committee with the changes as noted by Joe Golden and the others changes discussed this evening that were agreed upon by the Board members. There was some further discussion regarding verbiage changes.

Carla Kostelnik of Goodale Road from the public stated that she has one driveway on her 60 acre farm which is for agriculture and residential property purposes and feels that this ordinance affects her driveway because it goes to her house. Christodlous informed her that it would not as long as she does not change it. Kostelnik still had concerns with her necessity to

comply with the ordinance as it is also for residential uses. She stated that she felt that the ordinance should be tied to just new construction. She questioned the Board that when someone is applying for subdivision approval she wants to know how this ordinance would fit in with the standards that are now required for approval. Germinario said that it would state that with condition of the approval the driveway would comply with this ordinance. Kostelnik questioned how does this ordinance deal with the Steep Slopes Ordinance, and suggested that this ordinance be cross-referenced with the Steep Slopes Ordinance.

Karen Davis of 4 Wisteria Road from the public stated that she wished to discuss the *Section 68-6* of the ordinance and addressed her question to Lensak regarding the issue of where two or more driveways connect a single site, you need 150' in between the two driveways; she questioned when someone says that they are putting in a driveway for safety reasons to clear sight distance, does something else need to be added to make sure that someone doesn't have two adjacent driveways going down. Smith stated that he believes that question is covered in "B" right above it where it states that *no part of any driveway shall be located within a minimum of 10' of a side property line unless one driveway serves two lots*. She again stated that she heard the word "safety" and coming out and having clear sight distance for distance, she continued, you want these two far enough apart on the same lot, but you don't care that you put it on top of your neighbors lot. She requested that the Board reconsider this for safety reasons.

Vic Capo of 23 Victoria Pines stated that he is concerned about the language that has to do with "shared driveway" and turnaround and passing lanes. He stated that he lives on a cul-de-sac and notices that the garbage truck and fire truck cannot make it in one pass. He questioned the language contained in *Section 68-7 (C) & (E)* portion of the ordinance that discusses what the definition of a driveway is, and likewise a passing portion, if there is a shared driveway that is two car widths wide and approaching the proportion of a road. He continued that in talking about defining developments and shared driveways, there is nothing that suggests that this may start to take on the proportions of a road and in the future doesn't somehow become reconstituted as a road for some other reason like an adjacent development. Christodlous stated that the "no cut through" ordinance now in place would prevent this from happening. He explained that there is an ordinance that states that someone cannot run a road to connect two subdivisions. DeVries explained that you cannot take an existing driveway from an existing subdivision and make a road out of it into another subdivision that you create later. There was some further discussion regarding roads and subdivisions.

Christodlous again requested a motion to forward the driveway ordinance to the Township Committee with the changes as noted by Joe Golden and the others changes discussed this evening that were agreed upon by the Board members. A motion was made by Lensak, seconded by Smith. All in favor: Aye. Opposed: None. Motion carried.

**VOUCHERS** - See Schedule A. Motion was made for approval. A motion was made by Howell, seconded by Huelbig, to approve the vouchers submitted. All in favor: Aye. Opposed: None. Motion carried.

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

**ADJOURNMENT** - Time 9:06 p.m. A motion was made by Howell, seconded by Huelbig, to adjourn. All in favor. Opposed: None. Motion carried.

Respectfully submitted,

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Stan Christodlous, Chairman

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T. Linda Paolucci, Secretary