

February 3, 2009

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, February 3, 2009 by the Chairman, Stan Christodlous.

Present: Members    CeCe Pattison  
                               Suzanne Howell  
                               Gerald Huelbig  
                               Lois deVries, Class II  
                               Bob Smith, Class I  
                               Michael Lensak  
                               Stan Christodlous  
                               Diana Boyce  
                               Ellsworth Bensley, Alternate  
 Acting Secretary    Jackie Huelbig

:                    Attorney        Thomas J. Germinario, Esq.  
                          Engineer        Joseph Golden, P.E.  
                          Planner         Russell Stern, P.P.

Absent:                    Gail Phoebus, Class III

**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.

**ROLLING HILLS CONDO ASSOC. – Mulford Road**, Block 109, Lot 4.01 – Site Plan Waiver. Alan Lowcher, Esq. spoke on behalf of Rolling Hills Condo Association, stated that he is the attorney for the applicant. He explained to the Board that the Rolling Hills Condo Association has had for approximately 15 years a centralized garbage/trash and recycling area and the Sussex County Board of Health has recently mandated that they have to enclose the bulk trash portion of that center. An application was submitted to the town’s zoning office and was denied and was directed to this Board for a site plan waiver. Lowcher stated that along with the application is a site sketch showing the location of the bulk trash enclosure which is completely located within the area of the existing concrete pad and the dumpster and a drawing of what the proposed enclosure will look like.

Golden stated that everything that Lowcher stated is true and in his report he asked that screening be put around the trash enclosures and recommends that the applicant submit a site plan to be reviewed by our town planner relative to the fence and how it fits with what is presently there. He continued, there is no increase in impervious area with no change in drainage characteristics and believes that all of the conditions of a site plan waiver have been met. Golden’s recommendation to the Board is to waive the site plan subject to Stern’s review of the fencing and whatever buffer is being proposed. Golden said that the other issue is a three sided lean-to style versus a four sided structure. Golden stated that for a more functional perspective a three sided lean-to style enclosure is more appropriate for storage as the nature of the storage is for large items, which is intended for this location. Golden suggests the waiver be granted

subject to Stern's review of a site plan and a wetlands assessment to include any jurisdiction of NJDEP.

Pattison had a question regarding lighting and how long of a time would it be lit for. Ron Lorman, President of the Rolling Hills Condo Association was sworn in to answer the question of the Board member. He stated that there are two lamps in the subject area, one was installed a year or so ago, both are of a flood type nature and they are both permanently on during the course of the evening. He stated that both lamps flood the area at this time. DeVries suggested that the lights should be put on a motion detector in order to save energy and applicant agreed.

Motion was made to waive the requirement of a site plan application by Smith, second by Boyce. In favor: Pattison, Howell, Huelbig, Lensak, DeVries, Bensley, Christodlous. Opposed: None. Motion carried.

**SUSSEX & WARREN HOLDING CORP.** – Mulford Road, Block 117, Lot 33 (COAH Housing), Christodlous stated that we are only hearing this application for completeness review this evening. Smith recused himself. Joel Kobert, Esq. of Courter Kobert & Cohen, Hackettstown, NJ introduced himself. Kobert explained to the Board that his firm has noticed for amended preliminary subdivision and with that there is a COAH lot. He stated he is prepared tonight to just deal with the "completeness issues", as stated, and his firm will re-notice for both the amended preliminary and the "d" variance for the for COAH units and for site plan at that time.

He stated that Germinario had supplied him this evening with a letter he received with regard to ownership which he will address later this evening. Bob Tessier of Dykstra Engineering was sworn in. Tessier was asked by Kobert to testify as a Planner and comment on the use variance requested for the COAH units. Tessier went on to explain that the applicant has discussed utilizing a four acre piece, the current preliminary and final subdivision of the Developer's Agreement of Mulford Road does not show the four acre piece, however the "amended" preliminary and final subdivision plan does show the four acre piece location. He continued that the agreement with the Town is to build four COAH units along with the project and the intent is to get the site plan approved. The COAH units are in the Single Residential zone, which is the reason for having to come before the Board for a use variance. The wind up is, he stated, is ending up with an amended preliminary and final twenty-one lot subdivision which has already been complete and a final site plan and a use variance, which the applicant would like to treat all together as one application.

Golden reviewed the comments in his report stating that there are three waivers requested for preliminary site plan, one is the application to the Sussex County Planning Board and stated that his office has no problem waiving that. The second waiver requested is for permeability results for one of the test holes because of the change in application, his office has no engineering objection to that request. And the request for waiver of the Environmental Impact Statement, he stated that there is an environmental impact statement for this particular parcel which is part of the main application for the Mulford Road subdivision. He continued that relative to the variance section of the application, the applicant is requesting a waiver for the test holes for the County Health Department, permeability testing.

The Chairman asked for a motion to approve the application complete. Pattison moved to deem the application complete, second by Huelbig. In favor: Pattison, Howell, Lensak, DeVries, Boyce, Huelbig, Christodlous, Bensley. Smith recused. Opposed: None. Motion carried.

**Sussex & Warren Holding Corp. – Mulford Road, Blocks 105, 105.01, 72.03, 117, Lots 6.01, 12.02, 7, 12, 1.02, 10.02 resp. – Amended Preliminary Final Major Subdivision –** Application was carried to March 3, 2009 meeting, along with the hearing for the Mulford Road COAH units, which shall be a combined hearing on both applications.

**ALMA LANE ASSOCIATES – Block 156, Lots 1 & 2, Huntsville Road – Preliminary Major Subdivision.**

Daniel O'Mullan, Esq. of O'Mullan and Brady, Budd Lake, NJ stated that he is appearing on behalf of the applicant. He continued that this matter was approved for completeness on December 22, 2009 and is on tonight for a public hearing. He said that with him is Jeffrey Careaga of Careaga Engineering who has received Golden's review dated January 6, 2009 and he would like to be the first witness to address the issue. Jeffrey Careaga was sworn in and stated that the project is Lots 1 & 2, Block 156 on Huntsville Road. Lot 1 is an 11.22 acre lot with an existing dwelling on it, Lot 2 is an existing 9.92 acre lot with an existing dwelling on it. He stated that they are proposing to combine the two properties and subdivide the properties into a total of eight lots while maintaining the two existing dwellings and are proposing six new dwellings. Careaga produced an aerial view of the property which was marked as *Exhibit A-1* dated February 2, 2009 to the Board which shows the property where Lot 1 has frontage over both on Huntsville Road and a county road, where an existing driveway comes into a flagstaff and is an existing 11.22 acre lot. Lot 2 is an existing 9 acre lot with an existing dwelling on it. Careaga continued that the applicant is proposing a cul-de-sac into the property and to add six new lots in the existing exhibit area. Careaga produced another exhibit which is *Sheet 12*, entitled *Exhibit A-2*, stating that it shows the lay-out along Huntsville Road and the applicant is proposing a new cul-de-sac coming onto the property proposed to be named Alma Lane for the new road. The existing dwelling on Lot 2 has an existing driveway that goes through Lot 2.03 which is proposing for the existing house to come off of the new roadway. He continued that all of these lots that are proposed all meet the requirements of the township and, therefore, need no variances with regard to the lot sizes and bulk requirements. The one variance being requested is for the disturbance of steep slopes, he stated. There are some minor areas of steep slopes at the beginning of the road that will need to be crossed for the new roadway. He continued to speak of proposed detention basins, landscaping trees, underground storage tank for fire prevention of a 10,000 gallon tank, soil logs performance, and drywells. He continued that all of the stormwater from the roofs of the proposed houses will be directed into the drywells that are proposed and stated that the soil logs have been witnessed by the Sussex County Health Department. He stated that on the plans are shown four bedroom dwellings, but does not propose to limit the housing to four bedroom size. There was further discussion regarding existing conditions and proposed conditions for the lots, grading plan, hydrology report and improvements to the property also improvements to sight distance on Huntsville Road..

Careaga stated that they will be revising the traffic control plan as shown on *Sheet 17* of the maps. He stated that in order to address the COAH requirements of the property the applicant is proposing to utilize the lot next door to the subdivision who is a family member to the applicant who owns the property. Careaga pointed to a colored rendering of the plan which was marked as *Exhibit A-3*. The applicant is proposing one structure with four units on the lot next door with 2,000 gallons a day septic system to meet the COAH obligation. Stern stated that the COAH obligation constitutes a use variance as the type of four unit housing is not a permitted use, although it is a nice proposal it will require more review.

O'Mullan pointed out that the applicant has an application that has been deemed complete, but was advised that they need to comply with the COAH obligation and this can be done. The methodology and procedure that they propose is to proceed to see if the applicant has a preliminary subdivision that can be approved and that it be approved should it reach that point subject to the condition that the applicant come in with the particular application either before or simultaneously with the final subdivision.

There was discussion regarding the COAH units and variance requirements. There was discussion regarding what type of housing would be best for the COAH requirements and whether or not it would be on the proposed site or on an adjacent lot.

O'Mullan asked that the applicant's hydrologist, Eric Paukstaitis, be sworn in and testified on behalf of the applicant. Paukstaitis stated that he reviewed the application, the recognizance of the site and prepared the aquifer test report that was submitted. He stated that the Plan addresses all of the current requirements in the aquifer testing ordinance. He continued that for the aquifer that the proposed subdivision is on he believes that the requirements of the aquifer testing ordinance is "overkill" and he understands that the ordinance was written because of water problems in other portions of the township. He stated that this subdivision is proposed in the limestone which is known as a very prolific aquifer and believes that new wells will not have to be drilled on the property in order to evaluate the impact on the surrounding groundwater users. O'Mullan requested that the Aquifer Test Plan dated December 10, 2008, was marked as *Exhibit A-4*, which is the test plan that was referred to in the report of the hydrologist.

There was much discussion regarding the costs of hydrology testing and the type of testing that needs to be done. O'Mullan asked the Board to consider that the applicant supply test results from the existing wells to the Board's Hydrogeologist as a condition of preliminary approval, as opposed to having to drilling new wells and the expense associated with that type of testing, especially for the fact that there is plenty of water to supply the proposed houses as outlined in Paukstaitis' report.

O'Mullan stated that the applicant would need to submit a new plan with the modification of the protocols for review by the town's hydrologist and the Board agreed.

Germinario stated that the applicant would need to submit a new application as it will require a "d" variance which in retrospect the application already submitted has become a "concept review" by the Board and the applicant will need to go back and include Lot 2.02 in the new plan and notice for a "d" variance, submit the Aquifer Test Plan to the Town's hydrologist along with the required escrow for same.

Carla Kostelnik from the public was sworn in and made a comment that there is information that she is aware of that may be helpful with regard to well drilling determination. She said that there are several springs across the road from the development and stated that one of the wells on her property is 200 feet from her house and is close to 200 ft. deep and only pumps 2 gallons per minute. She therefore feels that just because it is limestone does not mean that where you are going to have sufficient water supply.

Mike Strada from the public of 8 Huntsville Road stepped forward commenting that he probably will more impacted by this development than most people as he will be losing his back yard. He asked the applicant what will happen to Lot 2.04. O'Mullan stated that there is no proposal for development on Lot 2.04. Strada also stated that his well on his property is 501 ft. deep and is concerned about impacting his well water supply. It was suggested that Strada's well be monitored and it was agreed by the applicant to do so.

Christodlous asked for any closing comments. O'Mullan stated that he is withdrawing the application and will re-submit a new application in accordance with tonight's discussion.

Germinario stated that the application is withdrawn for lack of proper jurisdiction.

**RESOLUTION – CUMBERLAND FARMS INC.** – Block 105.05, Lot 2 – Extension of Final Site Plan Approval. Motion to approve Resolution made by Lensak, second by Howell. In favor: Pattison, Howell, Huelbig, Smith, Lensak, DeVries, Boyce, Bensley, Christodlous. In opposition: None. Motion carried.

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

**PROPOSED LOT LINE ADJUSTMENT ORDINANCE DISCUSSION –**

Germinario stated that the only revision made was with regard to “subsequent subdivision” which states that if you come in for a lot line adjustment and if you apply for a subdivision of the adjusted lots within two years, it will be considered the same as a “major subdivision”.

Boyce asked for definition of the terminology of “creeping subdivision”. Germinario stated that “creeping subdivision” is when someone makes multiple applications and gets around the requirement of filing a “major subdivision” application. This he explained is the reason why we have a provision now in our ordinance that if you do a minor subdivision from the date you file the deeds, if you come in with another minor subdivision, you have to treat that second one as a “major subdivision” within the two year requirement.

**PROPOSED COMMERCIAL PARKING LOT REQUIREMENTS ORDINANCE DISCUSSION –** Germinario stated that there is nothing substantively new except for *Paragraph A* which is new to the extent that Stern re-drafted this section in accordance with the comments of the Board from the last meeting.

Christodlous asked the Board members if there was any objection to having Germinario pass the proposed ordinances onto the Township Committee for introduction. Opposed: None  
Germinario to forward the two proposed ordinances to the Township Committee for introduction.

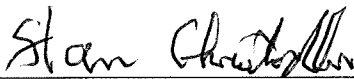
**OLD/NEW BUSINESS –**

Christodlous stated that he received an e-mail from the Special Town Planner who suggested that it is time to establish a Master Plan Subcommittee. Christodlous said that there already is a subcommittee and stated that Michael Lensak, Bob Smith, Russell Stern, Thomas Germinario, Stan Christodlous and Chuck McGroarty continue to be on the committee.

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

**ADJOURNMENT** – At 9:20:17 p.m. motion was made by Lensak, seconded by Howell, to adjourn. All in favor. Carried unanimously.

Respectfully submitted,

  
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Stan Christodlous, Chairman

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Jackie Huelbig, Acting Board Secretary