

March 22, 2010

The special meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Monday, March 22, 2010 by the John O’Connell, Chairman.

Present: Members Diana Boyce
Suzanne Howell
Gerald Huelbig
CeCePattison
Ellsworth Bensley
John O’Connell
Paul Messerschmidt, Alt. No. 1
Rourke Day, Alt. No. 2

Secretary T. Linda Paolucci

Absent: Gail Phoebus
Rich Melfi

Recused: Christine Kretzmer

Professional Present: Attorney Richard Brigliadoro, Esq.

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.

OATH OF OFFICE – Rourke Day was sworn in by Richard Brigliadoro, Esq. and took the Oath of Allegiance and Office.

RE-EXAMINATION OF THE MASTER PLAN – Chuck McGroarty, Planner Consultant, of Banisch Associates, Inc., 111 Main Street, Franklin, NJ 08822 was sworn in by Richard Brigliadoro, Esq.

Donna Erem, Esq. of Wolf & Samson, One Boland Drive, West Orange, New Jersey from the public asked to speak and stated that she is representing Ronald Krueger and wanted to discuss a couple of issues before the meeting moved on. She stated that Mr. McGroarty was directed to prepare a Re-Examination Report and a Land Use Plan Element which he did prepare. Ms. Erem commented with regard to the filing dates of both reports and felt that the Board did not have jurisdiction this evening to consider the Master Plan and Re-Examination Report with regard to the filing dates of the reports and asked that the determination of that report be postponed.

Brigliadoro explained to the Board that he and Ms. Erem previously spoke and stated that Erem is correct that the Land Use Element amendment to the Master Plan was on file 10 days before the Re-Examination Report which was on file approximately 5 days before. Brigliadoro stated that the two documents are compatible with one another and the purpose of today’s hearing is to basically consider re-zoning with respect to industrial zones within the Township of

Andover. These documents, he continued, were sent via e-mail to Ms. Erem and he stated that although the Re-Examination Report was not on file 10 days before the hearing, he does not believe that divests the Board the jurisdiction to proceed this evening, he believes that the 10 day requirement as to the Re-Examination Report is basically a “directory provision” and is something that although we did not meet the 10 days it was still on file 5 days before. The Land Use Element to the Master Plan considers the rezoning of industrial zone, as does the Periodic Re-Examination Report and believes that if a member of the public was interested in looking at these documents to provide themselves with notices to what the Board would be doing tonight, he believes that this was satisfied. For these reasons, Briigliodoro stated, his recommendation is that the Board proceed tonight on both the Re-Examination Report and the Amendments to the Master Plan.

McGroarty gave an overview to the Board of the Re-Examination Report and stated that we are not talking about creating a zoning ordinance tonight, but are talking about subject to the Board’s review and approval, amending the Land Use Plan which will set the stage for changes to zoning down eventually that are appropriate for the zone and consistent with the Board’s objectives.

McGroarty stated that under the Municipal Land Use Law the municipality has the obligation every six years to do a re-examination of the master plan and development regulations. He continued that this needs to be done at least every six years but can be looked at much more frequently than that. McGroarty stated that to the best of his knowledge there is no notice requirement for a periodic re-examination report hearing as opposed to the notice for a master plan change or adoption. McGroarty stated that township in December of 2007 adopted a Re-Examination report which he prepared with the Land Use Board and approximately a few months later there was an amendment to that to establish a specific zone district and are here again in 2010 to look at the industrial zones. The framework, he stated, for this re-examination report follows that which is set forth in the statute in the Land Use Law. There are five areas that must be addressed and he focused in on the industrial areas which he thinks are apparent, but did want to mention that there are three other areas of concern that were raised in 2007 and briefly discussed them. He continued that the first was in 2007 wherein he and the Board looked back at the 2005 plan and the plans that came before that and there was a need to address residential density, which is still being worked on. There is currently county-wide wastewater management plans to establish appropriate septic in Andover Township which will then translate, most likely into residential densities and for controls in the non-residential sectors as well.

The second is the strategy of creating centers, which was raised in 2005, McGroarty explained. This strategy would not work in 2007 and 2008, therefore there was interest in “hamlet” type centers. This is still being looked into by the township, along with the allocation of water and sanitary sewers, which are the primary concerns. This is a complicated process which involves “Plan Endorsement” and is still under consideration.

The third issue is that of affordable housing and in 2007 it was identified and was understood that there is an urgent need to address the affordable housing obligation. Prior to this time there had been approved plans by the Council on Affordable Housing but the township had not been able to actually achieve any affordable housing except for one group home. In October of 2009, the township was successful in submitting a Housing Element and Fair Share Plan, which was granted substantive certification by COAH.

McGroarty stated that this brings us up-to-date with now looking into the industrial zone. McGroarty pointed to two exhibits of *Exhibit B-1 – Current Zoning Map* and *Exhibit B-2 – Industrial Zone Analysis (Study Area Map 1)*. McGroarty pointed out that some of the industrial zones will never be developed for industrial use as some of the areas, like the one by Hampton Township, is almost entirely owned by the State, which areas are identified in his report.

McGroarty continued and discussed various pieces of land which are owned by the DEP and the State Land Conservancy.

McGroarty went on to explain and identify the various study areas which are mentioned in the Master Plan and Re-Exam Report. McGroarty identified various zones in exhibits marked as *Exhibit B-3*(Aerial Photo) and *Exhibit B-4* (Proposed General Industrial Zone District). McGroarty pointed out the different areas that are being re-considered for industrial zones.

In summary, he stated, the recommendation in the Re-Exam report is to continue the study of the industrial districts and the study of the residential districts will continue with the study of the density issue. He stated that it is appropriate to move forward and look at the industrial zoning and see if some expansions and permitted uses are appropriate depending on the characteristics of the surrounding areas, but in particular the Re-Exam report recommends that the area by Sparta and Lafayette townships be re-zoned to the “general industrial classification”, which will be more detailed when going over the Master Plan report. McGroarty stopped for comments from the Board.

Chairman O’Connell stated that he would like to set up a sub-committee to investigate those sites that were described by McGroarty of the various industrial zone areas. Huelbig, Pattison and Messerschmidt volunteered to be on the subcommittee.

With no further comments from the Board, McGroarty moved on to discussing the proposed Land Use Amendment. McGroarty pointed to two exhibits one marked as *Exhibit B-3*, which comes from the draft Amendment of the Land Use Plan Element, proposed General Industrial Zone District. McGroarty said that he went through the industrial zone and focused his attention on a site and there was interest in developing the site last year and that brought the focus and attention to it and there was a proposal to develop the site last year and it did not go forward. Therefore, the question was can the industrial zone be amended in the township to accommodate what was proposed last year, he stated, on this site which was a concrete paver production type of operation as far as he knew. McGroarty stated that his job was to look at the industrial zones as is evidenced by the Re-Exam Report and thought if there were to be changes to the industrial zone, that kind of use would not be appropriate through out the township, in his judgment, which is presently classified as industrial. However, he stated, that he does believe that concrete/asphalt production would be appropriate in the area that is described on the exhibit that he pointed to. There are three parcels that are being dealt with he continued, the three parties front along County Route 669, otherwise known as Limecrest Road. The first is parcel Lot 1 in Block 108.01, which comprises 5.6 acres +/- has approximately 900 ft. of frontage on Limecrest Road which serves a portion of the site is the driveway for ingress/egress and the southerly portion would appear to be an unpaved condition of stone cover. Sussex Mills Road extends up to Sparta to the east, there is a single family dwelling one and a half story building which is in serious deteriorated condition and clearly uninhabitable. Second is the mulch production facility referred to as Lot 1.04 in Block 108 which consists of appx. 3.5 acres and has frontage on Limecrest Road. The third and largest lot is a predominately disturbed site which is Lot 4.01, Block 108 consisting of appx. 95.4 acres, however, the easterly square part of the property is approximately 10 acres and is in the R-2 zone. He continued that part of this lot of the zone district is bisected and there is no proposal to change the zoning for that 10 acre zoning. Therefore, he continued, effectively the three lots together combine and comprises appx. 95 acres, which excludes the 10 acres that is the R-2 zoning,

McGroarty stated that in the County Strategic Growth Plan sees it more as what is known as commercial/manufacturing nodes here in Sussex County and feels, in his opinion, that what the township is doing is consistent what the County is looking for. He informed that there is clearly a heavy industrial node as well, none of which is inconsistent with the County’s Plan or the objectives in which they have set forth in the creation of job incentives and the like.

McGroarty stated that he believes the proposed does address the municipal land use law requirements, the State Plan guidance and also is consistent with the County's Strategic Growth.

After some further questions from the Board members the Chairman announced a break at 8:51 p.m. and came back from the break at 9:05 p.m.

This portion of the meeting was opened up to the public. John Reed of 161 Pinkneyville Road, Andover, NJ was sworn in by Briigliodoro, Esq. and stated that his property is directly across from the property being looked at. Reed had questions regarding the compatibility with surrounding areas. McGroarty and O'Connell addressed his questions.

Vic Capo, 23 Victoria Pines, Andover, NJ of the public was sworn in by Briigliodoro, Esq. and made a statement with regard to zoning and potential sprawl and asked that the Board members take a look at that.

Anthony Massaro, Current Drive, Andover, NJ was sworn in by Briigliodoro, Esq. and stated that he has a lot of memory of the history of the sites. Massaro went over some of the characteristics of the sites and how the town should be planned and what the cost to the town might be for various departments of the town.

Irene Christodolous of 6 Wisteria Road of Andover, NJ was sworn in by Briigliodoro, Esq. and stated that she believes that there is pressure being put on this board and the council to have this ordinance changed/passed for this particular project and made further comments.

Ken Malkin of 24 Yates Avenue of Andover, NJ was sworn in by Briigliodoro, Esq. and questioned one of the areas that was not detailed in McGroarty's report as to proposal for study "c". He stated that he realizes that a lot of the property is land conservancy and that the report kind of glossed over that area. McGroarty answered that that was correct and as the chairman said, they possibly will be looking at the other areas that were not discussed today.

Lois deVries, 85 Lawrence Road of Andover, NJ was sworn in by Briigliodoro, Esq. wanted to add a few comments with regard to schools and other services that would be impacted and had further questions and comments.

Donna Erem, Esq. of the law firm of Wolf & Samson, West Orange, NJ was previously sworn in and stated that she is representing Ronald Krueger and went over the history of how the research for tonight's report was presented by Chuck McGroarty came about and the results of same. Erem spoke of a past application that was withdrawn and the consequences of re-zoning for that area. Erem commented with regard to NRI inventory, the goals and objectives of Andover as to land use, transportation and economic development goals, community design goals and others with regard to Andover Township and how they will be impacted.

Christine Kretzmer, 131 Hillside Drive of Andover, NJ was sworn in by Briigliodoro, Esq. Kretzmer asked questions of Erem as to who she represents, occupation and where they reside. Erem answered that she represents Ronald Krueger who lives in Sparta, owns Concrete, Stone & Tile and was before this Board as an expert witness.

Bernd Hefe, Esq. of 21 Bowling Green, Lake Hopatcong, NJ stated that he represents Cambridge Pavers and has an interest in what the Board is doing and what is before the Board. He stated that they did have an application last year that was withdrawn. Hefe made statements with regard to past comments made and explained the property consisting of 90 acres and the type of development best for the site in terms of a future application.

Briigliodoro, Esq. stated that the Board clearly understands that there is no development application pending before it. To the extent something came before it in the past, may come before the Board in the future is not this Board's concern tonight. What the Board will be doing tonight is considering whether or not to adopt the Re-Examination Report and the Land Use Element Amendment to the Master Plan as prepared by the Board's Planner and that is all that is being done this evening.

Dan Freed from the public of 85 Lawrence Road, Andover Township, NJ was sworn in by Brigliadoro, Esq. Freed asked the Board to consider the impact that this kind of change to that zone would have on the citizens of this town.

With no further comments from the public, the public portion of the meeting was closed.

Brigliadoro, Esq. stated that as previously stated the Board has to make a decision whether or not they want to adopt McGroarty's Re-Examination Report as well as the Land Use Element Amendment.

Messerschmidt had a question on the acceptance of both reports and what they are agreeing with at this time.

O'Connell and Brigliadoro answered Messerschmidt's question. Brigliadoro explained that basically the process would be if the Board were to go along with McGroarty's recommendations, which would be communicated to the Township Committee. If the Township Committee wants to go a step beyond that and implement what is being discussed then they would have an ordinance prepared which would be introduced and under the Municipal Land Use Law, that ordinance gets referred back to this Board. Then this Board would make a recommendation back to the Township Committee and the Township Committee would hold a public hearing on that ordinance.

O'Connell asked for a motion to adopt the Periodic Re-Examination Report of the Master Plan and Development Regulations. Motion made by Huelbig, second by Pattison. In favor: Boyce, Huelbig, Pattison, Bensley, Day, O'Connell. Opposed: Howell, Messerschmidt. Motion carried.

O'Connell asked for a motion to adopt the Amendment to the Master Plan Land Use Plan Element. Motion made by Huelbig, second by Bensley. In favor: Boyce, Huelbig, Pattison, Bensley, Day, O'Connell. Opposed: Howell, Messerschmidt. Motion carried.

OLD/NEW BUSINESS – Howell asked for the status on the insurance for a matter in litigation. The Secretary of the Board answered that it was not covered under the insurance.

PUBLIC PORTION – Lois deVries commented with regard to ANJEC. Donna Erem, Esq., of Wolf & Samson, asked a question with regard to what the schedule will be for introduction for the ordinance before the Township Committee.

Grace Massaro asked what is the purpose of the sub-committee. Chairman O'Connell & Brigliadoro answered that the subcommittee would be looking at other industrial zones for future development and what the appropriate classifications are for the property uses.

ADJOURNMENT – Time 10:10 p.m. Motion made by Pattison, seconded by Bensley. All in favor: Carried unanimously.

Respectfully submitted,

John O'Connell, Chairman

T. Linda Paolucci, Secretary