

**ANDOVER TOWNSHIP LAND USE BOARD
ANDOVER MUNICIPAL BUILDING
134 Newton-Sparta Road, Newton, NJ 07860
MINUTES
February 2, 2021
7:30 p.m.**

CALL TO ORDER:

Mr. Messerschmidt called the meeting to order at 7:32 p.m.

FLAG SALUTE:

Mr. Messerschmidt led the Board in a flag salute.

OPEN PUBLIC MEETINGS ACT NOTICE:

Mr. Messerschmidt read the following into the record.

This is an open public meeting of the Andover Township Land Use Board. Notice of this meeting was given in accordance with the Open Public Meetings Act, Chapter 231, Public Law 85. The rules are generally as stated on the agenda. No new testimony will be taken after 10:30pm. Both adequate and electronic notice of the meeting has been provided, due to the meeting being held remotely, specifying time, place and manner in which such notice was provided.

ROLL CALL:

Janis McGovern – Present
Eric Olsen – Present
John Carafello - Present
Suzanne Howell – Present
John O’Connell – Present
CeCe Pattison – Absent
Richard Skewes – Excused
Steven Kepreos – Present
Joseph Ordile – Present
Joseph Tolerico - Present
Eric Karr - Present
Paul Messerschmidt – Present

ALSO PRESENT:

Richard Briigliodoro, Esq.
Cory Stoner, PE

MINUTES: January 19, 2021

A motion to approve the minutes of the January 19, 2021 meeting with the noted corrections was made by Ms. McGovern and seconded by Mr. Olsen. Roll Call – Janis McGovern – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – yes, Steven Kepreos – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion carried.

RESOLUTIONS: None.

COMPLETENESS REVIEWS: None.

HEARINGS:

1.) Jump, Richard Appeal of Notice of Violation B: 151, L:19

Mr. Messerschmidt said the matter was up for discussion. Mr. Gary Kraemer, Attorney for Mr. Jump, said he was objecting to conducting the hearing remotely via Zoom. He explained he was anticipating witnesses and felt Zoom meetings are difficult and his client would not be able to be with him and felt it would deprive Mr. Jump of effective assistance of counsel. He said he has asked for the matter to be carried. He explained he was unable to get his files from his office due to the current storm and was unable to reach Mr. Jump to advise him of the Zoom meeting.

Mr. Briigliodoro explained that Mr. Kraemer had issued a letter dated January 26, 2021 and that Mr. Kraemer had also put on the record reasons why the matter should be carried until the Board can meet in person. Mr. Briigliodoro explained the regulations issued by the Department of Community Affairs in regards to conducting meetings during Covid 19. He said they encourage Boards to hold remote meetings. Mr. Briigliodoro advised that under the Township's ordinance the applicant will need to notice the appeal hearing date. Mr. Kraemer requested carrying the hearing to March 16, 2021.

A motion to hold the appeal hearing in the matter of Richard Jump on March 16, 2021 was made by Mr. O'Connell and seconded by Mr. Kepreos. Roll Call: Janis McGovern – yes, Eric Olsen – yes, John Carafello – abstain, Suzanne Howell – yes, John O'Connell – yes, Steven Kepreos – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion carried.

Mr. Messerschmidt said the Board will provide a list of the people testifying on behalf of the Township to Mr. Kraemer.

Mr. Kraemer left the meeting.

PUBLIC PORTION:

Mr. Messerschmidt opened the meeting to the public. The Board Secretary confirmed there were no public on the remote meeting platform. Mr. Messerschmidt closed the meeting to the public.

ORDINANCES:

1.) Stormwater Management Amendment

Mr. Stoner gave an overview of the proposed ordinance. He said it is very close to the existing ordinance with the biggest change being the requirement of green infrastructure such as dry wells, impervious pavement, sand filters and rain gardens. Mr. Stoner explained in the old ordinance green infrastructure was a suggested practice and the proposed new ordinance makes it a requirement. He said the new ordinance keeps the town's ordinances in line with the D.E.P. requirements. Developers will have to comply with these requirements and get the water to perk into the ground. He said it was introduced by the Township Committee and it is being brought to

the Land Use Board to be consistent with the Master Plan. The new ordinance helps promote the environmentally sensitive areas and clean water.

Mr. Carafello asked if the regeneration of water could encroach the C-1 riparian buffer to which Mr. Stoner said the D.E.P. does not want the 300-foot buffer affected. Mr. Stoner explained the new regulations are a requirement to update the town's stormwater regulations. He explained these regulations are for major projects. He said little projects would not require the regulations. Mr. Olsen asked about impervious pavement to which Mr. Stoner said it is one of the approved methods of the green infrastructure. He said the proposed ordinance blends the D.E.P. model ordinance with the Township's existing ordinance.

A motion to recommend the Stormwater Management Amendment to the Township Committee was made by Ms. Howell and seconded by Mr. Olsen. Roll Call: Janis McGovern – yes, Eric Olsen – yes, John Carafello – abstain, Suzanne Howell – yes, John O'Connell – yes, Steven Kepreos – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion carried.

VOUCHERS: None.

OLD BUSINESS:

1.) Food Truck Ordinance

Mr. Karr explained the current Peddler's License ordinance. He said the Peddler's License allows for an ice cream truck that only stops to make a sale and suggested that should be allowed to continue. He suggested the focus of the food truck ordinance should be for a stationary truck serving food and it should be event based. Mr. Karr felt the ordinance should limit the areas food trucks would be allowed to sell so as to not take away from the existing food establishments. He expressed a concern about the noise coming from generators. He asked for the Board's input on the lot size requirement. There was a discussion on property size and the size of an event where a food truck might be allowed. Mr. Carafello said he talked to the local restaurants and they are not in favor of food trucks but would like to see more permanent outdoor dining. There was discussion on the difference between catering and food trucks.

There was a discussion on tying the food truck to an event-based permit. The Board discussed and agreed not to make lot size a requirement. There was a discussion on the possibility of instituting a public gathering permit. The Board agree the food truck would need a temporary food handler's license. Mr. Ordile suggested the Board may need to address the peddler's license. Mr. Carafello said the Township Committee is addressing that at their next meeting.

Mr. Briigliodoro said he works for a town with an outdoor dining ordinance. He explained the procedure to the Board which would include a simple minor site plan, which once approved, would then require an annual permit. Ms. McGovern said the Township Committee had a concern the outdoor dining would increase the restaurant's capacity and the septic could become a concern. Mr. O'Connell felt the process is already in place by coming to the Board for site plan approval. Mr. Briigliodoro said he will send the Board the outdoor dining ordinance he referenced for their consideration.

2.) Cannabis Ordinance

Ms. McGovern said Green Wave Therapeutics has expressed an interest in starting an operation in Andover Township. They were requesting a resolution approving the use on their property. They gave the Township Committee a proposed generic resolution. Ms. McGovern said the Township Committee was looking at sites that were suitable for this type of use. Mr. O'Connell said an agriculture use is allowed in all zones. Mr. Briigliodoro felt cannabis is an agricultural use. Mr. Olsen felt the State probably required a minimum lot size for the cannabis use. Mr. Messerschmidt said he has been researching the new legislation. He said if a municipality has no ordinance in place once the Governor signs the Cannabis Law, then after 180 days, the cannabis growing use will be automatically default to be allowed in industrial zones only. He said this does not apply to the retailing of cannabis. Mr. Carafello explained the cannabis companies need the support of the town they are considering operating in before they can obtain a license from the State. Ms. McGovern said the Township Attorney is drafting an ordinance for consideration.

3.) Zoning Map Review

The Board Secretary had sent the Board a list of the proposed changes they had come up with when they broke into groups about a year ago. She explained both groups had proposed eliminating the airport zones everywhere except for the Aeroflex property. She also said both groups wanted to re-zone the PCD zone. The Board Secretary had looked at the existing uses in the PCD zone and felt they would work in the Highway Commercial zone without making them non-conforming uses. Mr. Messerschmidt asked the Board Secretary to reach out to Mr. Carafello and himself with dates and times to hold a subcommittee meeting to look into the matter in more depth. Mr. O'Connell asked if the Board re-zones certain areas would it conflict with the redevelopment study. Mr. Messerschmidt explained the process was a three-prong approach with the rezoning, redevelopment plan and the Master Plan review. Mr. Messerschmidt explained the redevelopment plan cannot rezone properties it can only change uses within those zones.

NEW BUSINESS:

Ms. Howell said she was contacted about Byram Township's Master Plan disallowing gas stations and then WaWa was approved. She asked why have a Master Plan if it will be violated. Mr. Stoner explained a nonpermitted use would have to go through a use variance application where the Board can then determine on a case-by-case application if it is acceptable. He explained the difference between a variance and a design waiver.

LIAISON REPORTS:

Township Committee:

Ms. McGovern said Mr. Messerschmidt had presented the Land Use Board 2021 goals to the Township Committee and it was well received. She said they discussed the cannabis ordinance, outdoor dining and the food truck ordinance. She said the Township Committee will be working on the budget in their upcoming meetings.

Environmental Commission:

Ms. Howell said they have not met since the last Land Use Board meeting and had nothing new to report.

Sustainable Andover:

Mr. Olsen said they are ramping up the Buy Local and they have planned events such as a sunflower event in the fall to promote agriculture and they are trying to get the local restaurants involved. They are considering applying for Sustainable Jersey Certification. There are number

of actions they need to complete such as a green design checklist. There was a discussion on finding money to print the Buy Local Guide. Mr. Carafello said Mr. Lensak went to two of the local Post Masters and they said Andover Township Businesses could use “Andover Township” as their mailing address to promote the town. He said Andover Township will never get a post office but the businesses could use the Andover Township address. He said the Post Office goes by the zip code.

Redevelopment Sub-Committee:

Mr. Ordile said he will take on the position of chair of the subcommittee. He said he received a lot of material from Mr. Messerschmidt and once he gets through that he will meeting with the subcommittee and Ms. Caldwell.

UPCOMING MEETINGS: February 16, 2021, March 2, 2021

The Board Secretary said she has not heard from BHT Properties Attorney. She said she will reach out to Mr. Molica asking him to reach out to Mr. Haggerty to see what their intent is. Mr. Stoner said the Applicant’s Engineer had sent a resubmission for the application. No information was sent to the Board.

CORRESPONDENCE: None.

ADJOURNMENT:

With no further business to come before the Board, a motion to adjourn was made by Mr. O’Connell. It was seconded by Mr. Olsen and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo

Land Use Administrator