

**ANDOVER TOWNSHIP LAND USE BOARD
ANDOVER MUNICIPAL BUILDING
134 Newton-Sparta Road, Newton, NJ 07860
MINUTES
March 16, 2021
7:30 p.m.**

You are invited to a Zoom webinar.
When: Mar 16, 2021 07:30 PM Eastern Time (US and Canada)
Mar 16, 2021 07:30 PM

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Topic: Andover Land Use Board Meeting

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CALL TO ORDER:

Mr. Messerschmidt called the meeting to order at 7:30pm.

FLAG SALUTE:

Mr. Messerschmidt led the Board in a flag salute.

OPEN PUBLIC MEETINGS ACT NOTICE: 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. Adequate and electronic notice to the meeting has been provided.

ROLL CALL:

Janis McGovern – Present

Eric Olsen – Present

John Carafello - Present

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

ALSO PRESENT:

Richard Briigliodoro, Esq.
Cory Stoner, PE
Thomas Molica, Esq.

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.

MINUTES: March 2, 2021

A motion to approve the minutes of the March 2, 2021 meeting with the noted corrections was made by Ms. Howell and seconded by Mr. Ordile. Roll Call: Janis McGovern – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – yes, CeCe Pattison – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion passed.

RESOLUTIONS: None.

COMPLETENESS REVIEWS: None.

HEARINGS:

1.) BHT Properties Group B:151 L: 21

Mr. Briigliodoro had recused himself from this portion of the meeting.

Mr. Carafello and Ms. McGovern had stepped down from the meeting for this matter.

Mr. Messerschmidt advised that there would be no hearing on the BHT Properties Group application because proper notice had not been given and because the applicant had submitted correspondence they have changed the application. Mr. Messerschmidt said the timeframe for the Board has been reset and the application has a submission date of March 10, 2021.

Mr. Molica said he is the conflict counsel for the matter. He said there would not be a hearing on the matter because the applicant did not notice and the applicant has submitted correspondence

withdrawing their original application and had submitted a new application. He said Mr. Roger Thomas, attorney for the applicant and Ms. Liz Durkin attorney for the objectors were present and would be allowed to make comments. Mr. Molica said the applicant's attorney has confirmed the new materials were filed on March 10, 2021, that is the operative date by which all time periods shall run from, and the applicant is withdrawing the previously submitted application.

Mr. Roger Thomas, Esq. was present on behalf of the applicant and filling in for Mr. Haggerty. Mr. Thomas said he agreed with what Mr. Molica had said except they are submitting an amended application as opposed to a new application. He explained why he felt the application is an amendment and cited cases from the Municipal Land Use Law. Mr. Thomas said they are withdrawing the 'd' variance and submitting an amended application with a permitted use.

Ms. Liz Durkin, attorney for the objectors said she was disheartened that the applicant has failed to provide her with any copies of their communications or correspondence with regard to the application. She felt she should have the opportunity to put a brief together and submit it to the Board with her legal position as to whether or not this is a new or amended application. Mr. Molica had no objection to this and said the new DCA Covid regulations require all applications to be submitted electronically. Mr. Thomas said he will make sure an electronic file is submitted to the Board Secretary. Mr. Messerschmidt requested that all documents and correspondence be sent to Ms. Durkin. Mr. Thomas agreed.

Ms. McGovern, Mr. Carafello and Mr. Brigliadoro returned to the Board.

2.) Jump, Richard B:151 L:19 A120-5

Mr. Gary Kraemer, Attorney for the applicant, said his client is located in Arizona and does not have a computer that enables him to join the meeting electronically.

Mr. Brigliadoro said the Board had looked into this matter at its February 2, 2021 meeting at which time Mr. Kaemer had expressed a concern with hearing the appeal of the Zoning Officer's Notice of Violation in an electronic format. He felt he could not effectively represent his client and wanted the matter continued until such time the Board could meet in person. Mr. Brigliadoro said under the Township's ordinances, all matters to come before the Zoning Board of Adjustment, are required to provide notice. He reminded everyone that the DCA regulations, allow boards to conduct virtual or remote public meetings. He said the reason Mr. Kraemer is before the Board is to determine if the matter should be heard remotely or postponed until such time the Board can meet in person.

Mr. Messerschmidt advised Mr. Kraemer that with the current technology his client does have, he should be able to participate and there are options that would allow him to hold private discussion with his client during the hearing.

Mr. Kraemer felt that justice would not be done by handling the appeal virtually. He said they have a piece of property, where their contention is they have rights to use the property for purposes they are being cited for. He felt credibility is a factor and will be compromised. He said Mr. Jump is entitled to have his case fully evaluated by the Board. He said any delay in a hearing before the Board is not delaying anything in the Municipal Court. Mr. Kraemer requested the matter be carried until such time the hearing can be heard in person. He said he will notice the appeal and then ask the Board to carry the notice from month to month.

Mr. Kepreos felt it would be an undo hardship for the applicant to hold the appeal virtually and felt the matter should be carried until the Board can meet in person.

Mr. Karr asked if the postponing of the appeal will have an effect on the matter before the court. Mr. Kraemer said the courts are not hearing contested matters via Zoom.

Mr. Ordile asked Mr. Kraemer if there is currently activity on the property to which Mr. Kraemer said he did not believe so. Mr. Ordile asked Mr. Bollmann, Township Zoning Officer, if additional violations would be written against the property while waiting to hear the appeal.

Mr. Briigliodoro said the filing of the appeal with the Board acts as a stay on enforcement action in this case. Mr. Kraemer said all of the conditions at the property have been cleaned up.

Mr. Bollmann said he would not issue new citations for any previously issued violations. He said there are other existing violations on the property however; he has not gotten any new complaints. If he gets a complaint he will look into the matter.

Mr. Kraemer said he was under the understanding there are no new violations on the property and felt the appearance of the property has improved.

Mr. Messerschmidt went over options for handling a virtual meeting. The Board discussed the property remaining out of compliance by delaying the hearing.

A motion to carry the matter to the April 20, 2021 meeting date was made by Mr. Karr and seconded by Mr. Tolerico. Roll Call: Janis McGovern – yes, Eric Olsen – yes, John Carafello – recused, Suzanne Howell – yes, CeCe Pattison – yes, Steven Kepreos – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion passed.

PUBLIC PORTION:

Mr. Messerschmidt opened the meeting to the public.

Mr. Brian Dowling of 3 Westview Terrace, Andover, NJ asked when the amended BHT Properties application would be available to view. Mr. Messerschmidt said the public can view the application during normal working hours.

With nobody else coming forward, the meeting was closed to the public.

Mr. Molica left the meeting.

ORDINANCES: None.

VOUCHERS:

Weiner Law Group	Legal	\$1,344.00	
Weiner Law Group	Escrow – Richard Jump	\$96.00	
Harold Pellow & Assoc.	Escrow – BHT Properties Group	\$1,164.00	

A motion to approve the vouchers as presented was made by Mr. Kepreos and seconded by Mr. Olsen. Roll Call: Janis McGovern – yes, Eric Olsen – yes, John Carafello – yes, Suzanne Howell – yes, CeCe Pattison – yes, Steven Kepreos – yes, Joseph Ordile – yes, Joseph Tolerico – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion passed.

OLD BUSINESS:

Mr. Ordile said he notice the privacy fencing at the Pace Glass site has been removed and asked Mr. Stoner if he knew why. Mr. Stoner said he was not aware of fencing being removed and said he will check it out.

NEW BUSINESS:

Mr. Ordile encouraged the public to attend more Township meetings to stay involved with what is happening in the town. Mr. Olsen asked about the next step in the Master Plan process to which Mr. Carafello said they are waiting on the budget to be approved.

LIAISON REPORTS:

Township Committee:

Ms. McGovern said they are still working on the budget and invited the public to the next meeting. She said the Township Attorney is working on the Food Truck and Cannabis ordinances that were sent up to the Township Committee.

Environmental Commission:

Ms. Howell said the Commission discussed signage for the Lakeside Nature Park, Hillside Park and The Goodale Fields. Ms. Howell said they had a continuation of the presentation by Michaeline Picaro, who is a member of the Ramapough Lunaape Nation, on the mapping of the ceremonial stonescapes in the area. The Board asked if they could get a copy of the presentation. The Board Secretary said she would look into posting the meeting on the Township website.

Sustainable Andover:

Mr. Olsen said they have not met and had nothing new to report.

Redevelopment Sub-Committee:

Mr. Ordile said they are waiting for a draft of the Redevelopment Study. As soon as he gets the draft copy, he will send it out to the Board for their review.

Zoning Map/ Zone Changes Subcommittee:

Mr. Messerschmidt said the subcommittee met and went over the proposed changes the Board had recommended. The Board Secretary went over the proposed changes with the Board. The Board

discussed some of the proposed changes. Mr. Olsen and Mr. Carafello agreed the parcels are very difficult to see on the current map. Ms. Pattison asked about agriculture being allowed in all zones. Mr. Messerschmidt said it is a permitted use in all zones.

UPCOMING MEETINGS: April 6, 2021, April 20, 2021

CORRESPONDENCE: None.

ADJOURNMENT:

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

Respectfully submitted,

Stephanie Pizzulo

Land Use Board Administrator