



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
March 19, 2024
7:30 p.m.

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE:

Mr. Messerschmidt led everyone 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 to be conducted in-person only at the Municipal Building, located at 134 Newton Sparta Rd., Andover, NJ 07860. 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 notice of this meeting has been provided, with an electronic copy posted on the Andover Township website at www.andovertwp.org.

ROLL CALL:

Michael Lensak (Class I)- Present
Eric Olsen (Class II) – Present
Eric Karr (Class III) – Present
Suzanne Howell (Class IV) – Present
Richard Skewes (Class IV) – Present
Joseph Ordile (Class IV) – Present
Krista Gilchrist (Class IV) – Present
John Carafello (Class IV) - Present
Sean Degan (Alternate) – Absent
Karen Rozek (Alternate) - Present
Paul Messerschmidt (Class IV) – Present

Also Present:

Richard Briigliodoro, Esq.
Cory Stoner, PE
Stephanie Pizzulo, Secretary

OATH OF OFFICE: Karen Rozek

Mr. Briadoro swore in Ms. Karen Rozek as an Andover Land Use Board Alternate Member.

Mr. Messerschmidt announced that the Daniel Scully application would not be heard due to a notice issue.

ADMINISTRATIVE ITEMS:

Approval of Minutes: March 5, 2024

A motion to approve the minutes of the March 5, 2024 meeting was made by Ms. Howell and seconded by Mr. Ordile. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, John Carafello -yes, Paul Messerschmidt – yes. Motion carried.

RESOLUTIONS:

1.) Recommendation on Adoption of Zoning Map

A motion to memorialize the resolution recommending the Township Committee adopt the updated zoning map was made by Mr. Ordile and seconded by Mr. Skewes. Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Krista Gilchrist – yes, Eric Olsen – yes, Joseph Ordile – yes, John Carafello – yes, Paul Messerschmidt – yes. Motion carried.

COMPLETENESS: None.

1.) Andrutchuk, AndreB: 124 L: 7 Application # 24-1

The applicant is proposing a two-family dwelling.

Since the application was for a d1 use variance, Mr. Lensak and Mr. Karr stepped down for this matter and left the dais.

Mr. Stoner said the Board received a survey of the property, architectural plans, the Land Use application and photos and renderings. He went through the checklist items and said many of the items did not apply because it was an existing building. He said the Board did not receive a variance plan however did receive all of the items that should be on the variance plan and felt the Board could hear the application. Mr. Stoner said there was sufficient information provided to deem the application complete and hear the application.

Mr. Mark Blunt, Esq., attorney for the applicant, said he did submit a letter requesting a waiver on the Board of Health issues.

A motion to deem the application complete was made by Ms. Gilchrist and seconded by Ms. Howell. Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Krista Gilchrist – yes, Eric Olsen – yes, Joseph Ordile – yes, John Carafello – yes, Paul Messerschmidt – yes. Motion carried.

HEARINGS: (All submitted materials can be found under the Land Use section on the Township website www.andovertwp.org.)

1.) Andrutchuk, Andre B: 124 L: 7 Application # 24-1

The applicant is proposing a two-family dwelling.

Mr. Mark Blunt, attorney for the applicant, said the application is for 38 Yates Ave., with a home that was constructed in approximately 1956. He said when Mr. Andrutchuk bought the home over a year ago; it was a two-family, which had been in existence for some time. He said they were unable to prove that it was a pre-existing, non-conforming two-family and asked for variance relief for a two-family dwelling to continue to exist with some modifications.

Mr. Briadoro swore in Mr. Andre Andrutchuk, owner of the property.

Mr. Andrutchuk said his primary income is to purchase houses that need work, renovate them and either sell or rent them. He said when he originally looked at the property, it appeared to be a two-family; it had two doors, two kitchens, two bathrooms and two-family rooms but after doing more due diligence, it was determined by the Zoning Officer that it was not a two-family. He said they were before the Board to ask for approval to leave it as a two-family as opposed to demolishing it or reconstruct it to what it should have been in accordance to the zone. He said he did as much research as he could with Google drive-by going back to 2006, and it always had the two doors. He went to the County Public Library, which had nothing. He said the municipal records date back to 2016. He received a copy of a tax assessment card that was from 2016 which says it is a two-family. He said he checked on Zillow and said it was rented from 2014 through 2018. Mr. Andrutchuk is proposing to renovate the property and rent it to qualified tenants. He said he removed two 30-yard dumpsters of garbage however there is still garbage that needs to be cleaned up. He said the former owner purchased the property from a bank. He said everything needs to be replaced except the kitchen cabinets. He said the only proof he has that it was a two-family was a Google drive by from 2009 and that the two units are separated by a wall with two separate units.

Mr. Skewes asked if the septic would be updated. Mr. Andrutchuk said he would comply with whatever the County Board of Health requires. Mr. Stoner said he noted in his report that there is a malfunctioning septic system on the property. Mr. Andrutchuk said he checked with the County and they had no records of the septic installation or any repairs. Mr. Stoner said there was a record dated May 2023 of a septic inspection that shows the septic is leaking.

Mr. Olsen asked if there is a door connecting the two units from the inside to which Mr. Andrutchuk said no. Mr. Olsen asked if there are two existing decks. Mr. Andrutchuk said there is only one however they are proposing a second deck. Mr. Olsen asked if Mr. Andrutchuk was proposing to tear the structure down and rebuild it to which Mr. Andrutchuk said he was proposing to keep the structure and renovate it. He said the interior layout would stay the same. He said the only additions would be the two front porches and the one deck in the rear. Mr. Olsen asked if the renters would be long-term or short-term. Mr. Andrutchuk said they would be one-year leases.

Mr. Messerschmidt asked if Mr. Andrutchuk had seen the inside prior to purchasing the house to which he said yes. Mr. Messerschmidt asked if he had checked with the Zoning Officer prior to purchasing the house to confirm a two-family was allowed in the zone. Mr. Andrutchuk said he did find a violation and then did file a Zoning Permit but by the time he had a response, he had to close on the property. He said he received a denial letter from the Zoning Officer after he closed. Mr. Messerschmidt asked if he knew at the time of closing that there could be a problem with a two-family house in the zone to which Mr. Andrutchuk said yes. Mr. Messerschmidt asked if Mr. Andrutchuk had proof it was built as a two-family to which he said he did not. Mr. Messerschmidt asked if Mr. Andrutchuk knew to check with Zoning to which he said he has a checklist he uses but it is impossible to cover everything. He said it appeared to be a two-family, it is on a busy street, there is a church next door, power lines on the other side a club down the street so this led him to believe it should not be an issue. He said there were commercial and industrial uses on the street so he did not think the two-family would be an issue.

Mr. Ordile asked if Mr. Andrutchuk's other rental properties are long-term to which he said yes. Mr. Ordile asked if as a condition of any approval, there would be no short-term rentals allowed. Mr. Blunt said they would not have an issue with the request however he said some renters go month to month after the first year. The applicant agreed to no short-term rentals except for a month to month for a holdover tenant from a long-term lease.

Mr. Carafello asked if Mr. Andrutchuk owned the property to which he said yes. Mr. Carafello asked if Mr. Andrutchuk bought the property from an individual or a bank to which Mr. Andrutchuk said an individual. Mr. Carafello asked if the bank noted it was a two-family in the foreclosure. Mr. Andrutchuk said he looked at the County records and the deed did not indicate what is on the plot only information on the plot itself. Mr. Carafello asked if Mr. Andrutchuk was proposing new siding, windows and doors to which Mr. Andrutchuk said yes. Mr. Carafello said he could easily make it into a one-family. Mr. Andrutchuk said it would not be easy and would be expensive to make it into a one family. He said the idea is to clean up the property and rent it to qualified tenants. Mr. Carafello felt the applicant did not prove it was a two-family and felt it could be converted to a one-family with a little work and would conform to the zone. Mr. Andrutchuk said the doors would have to be moved to make the inside work as a one family. Mr. Andrutchuk said the town did not have any records so he went to the library and County Clerk's Office to see if there were records. He said the County Clerk's Office only had a description of the plot and not the actual building. Mr. Carafello asked if Mr. Andrutchuk had looked for old tenants to which Mr. Andrutchuk said he did not.

Mr. Briigliodoro swore in Mr. Matthew Smetana, Architect for the project. Mr. Smetana gave his qualifications which were accepted by the Board.

Mr. Smetana went over the proposed plan that was submitted with the application. He said the house is laid out as a two-family and explained the various rooms in each unit. He explained the basement to the Board and said there is slight step in the roofline. He said there is no door connecting the two units and the dividing wall follows around the laundry room. He said the

house requires a decent number of repairs. He explained the proposed plan which would keep the basic spaces in the same location except an adjustment to rework the laundry room. He said they are also adding a front porch and an additional deck in the back. He said they are reworking the bathroom to get a laundry room in it. He explained the color scheme which would reflect the proposed rendering.

Mr. Blunt said the front porch would require variance relief for a front yard setback. Mr. Smetana agreed and said the front porch gives the house a better architectural look.

Mr. Carafello asked about the size of each unit to which Mr. Smetana said unit 2 is 687 square feet and the unit 1 is 999 square feet. The basement is an additional 962 square feet.

Mr. Ordile asked if the basement is livable space to which Mr. Smetana said yes. Mr. Ordile asked about the access to the basement. Mr. Smetana said there is an entrance from inside the unit on the right and from the outside. Mr. Ordile asked if there was attic space to which Mr. Smetana said there is no usable space. Mr. Ordile asked how the interior wall would be altered to which Mr. Smetana explained they are stepping the wall to get a better layout to both units. Mr. Ordile asked about the decks. Mr. Smetana proposed shifting the existing deck and then building an additional deck. Mr. Ordile asked for the location of the well and septic. Mr. Smetana explained the location of the septic. Mr. Andrutchuk explained the location of the well head. Mr. Ordile asked if there is water to the house. Mr. Andrutchuk said there is no electric or water to the house currently. Mr. Ordile asked about the mechanical room and if both units have access to the mechanical room. Mr. Smetana said the mechanical room is in the basement. Mr. Andrutchuk said each unit has its own electric heating system with its own thermostat and there are two separate water heaters. Mr. Stoner said the mechanical room needs to be accessed by both tenants. Mr. Andrutchuk said the tenants do not need access to a mechanical room. He said the management would handle any problems and would be able to access the boiler room without access to the apartment unit. There was a discussion on access to the utility room.

Ms. Howell asked if the basement would have a bathroom to which Mr. Andrutchuk said they are not proposing a bathroom. Mr. Stoner said they would have to get a special permit from Sussex County Health Department.

Mr. Messerschmidt asked if there would be sidewalks along the front of the building as depicted in the rendering. Mr. Andrutchuk said it was an illustration to show the Board what materials would be used. He said there would be a walkway to access the entrances. He said presently there is asphalt there which would be removed. Mr. Messerschmidt asked if the driveway was sufficient for 4 cars. Mr. Andrutchuk said off to the left they would add a parking area for the cars. Mr. Messerschmidt asked if there were photos of the rear of the building. Mr. Andrutchuk said the rear of the property is wooded and then goes into the property of the former radio station. Mr. Messerschmidt asked if vehicles could get behind the building to which Mr. Andrutchuk said no. Mr. Messerschmidt asked if there were sheds in the back to which Mr. Andrutchuk said no.

Mr. Olsen asked for the location of the heating units. Mr. Andrutchuk said they are electric baseboard heat. Mr. Olsen asked if there would be condensers outside to which Mr. Andrutchuk said no.

Ms. Gilchrist asked if all of the windows would be egressing windows. Mr. Smetana said the bedroom windows would be egress. He said not all of the windows need to be egress windows but they are changing them so they match. Ms. Gilchrist asked if closets were being added to the bedroom to which Mr. Smetana said yes.

Ms. Rozek asked about the dividing wall and asked if it was a loadbearing wall. Mr. Smetana said it is not loadbearing. Ms. Rozek felt the wall did not make it a two-family house since the wall was not loadbearing. Mr. Smetana said the loadbearing wall does not determine if the house is one family or two family. He said if it was a townhouse then it would be but a two-family house does not follow the same requirements. Ms. Rozek asked if there is room for 8 cars in the parking area. Mr. Briadoro said it would be regulated by the Residential Site Improvement Standards which has standards for the number of bedrooms and that is the standard the applicant needs to meet.

Mr. Skewes asked if all of the windows need to be brought up to code. Mr. Smetana said the code allows the windows to remain unless the applicant is proposing a new opening for the window. He said they are proposing new egress windows.

Ms. Howell asked if the rendering depicted what the structure would look like. Mr. Smetana said it was a representation of the materials that would be used because the actual dwelling is wider than the rendering and the window configurations are different. Mr. Andrutchuk explained the changes from what is proposed and what is on the rendering. He said the rendering was taken from the internet. Mr. Stoner said it was interesting that it was close to what is proposed. Ms. Howell asked for an explanation on the parking.

Mr. Andrutchuk handed out a survey prepared by John C. Ritt dated 10/18/23 identifying tax lot 7, block 124 which was marked and entered as exhibit A-1. Mr. Andrutchuk noted the proposed parking area on the survey.

Mr. Ordile asked if the rendering depicted the materials proposed for the exterior of the house. Mr. Ordile asked if any of the trees would be removed. Mr. Andrutchuk said he has already removed some trees. He said there are two trees that would need to be removed to accommodate the parking. Mr. Ordile asked if a driveway permit needed. Mr. Stoner said the driveway is reviewed as part of the application process. Mr. Ordile asked if the septic does not support four bedrooms would they come back to the Board. Mr. Andrutchuk said if they cannot fit a four-bedroom septic, they would return to the Board.

Mr. Carafello asked about the height of the basement to which Mr. Smetana said it just over seven feet tall. Mr. Carafello asked what keeps people from sleeping in the basement. Mr. Andrutchuk said as part of the rental agreement the maximum amount of people is 4 people per unit.

Ms. Rozek asked about the discrepancy in the size of the parking area on the two surveys. Mr. Smetana said the numbers are blurry but they are the same. Ms. Rozek ask about the setback of the parking area and if the cars would fit. Mr. Smetana said the cars would fit.

Mr. Stoner expressed a concern with headlights shining on the neighboring property. Mr. Andrutchuk said there is brush there that he would maintain. Mr. Stoner felt the left side of the house might have been a garage at one time. Mr. Smetana said there is a fireplace in the back of that area.

The Board took a 10-minute break.

Mr. Briigliodoro swore in Mr. Alexander Mc Clean, Professional Planner for the applicant. Mr. Mc Clean gave his qualifications which were accepted by the Board.

Mr. Mc Clean gave an analysis of the property and said it is a single tax lot totaling 14,252 square feet on the western side of Yates Ave., the property is in the R-1 zone and is surrounded by a heavily wooded area in the rear and across Yates Ave with vegetation separating the properties on the side. He said the applicant is seeking to improve the two-family dwelling with proposed covered porches in the front of the home and decks in the rear of the house. He said the two-family home is not permitted in the zone but generally conforms with the bulk requirements of the zone district with the exception of the proposed front yard setback. He said they are seeking a bulk variance and a use variance. He said the application is in conformance with the Town's Master Plan Reexamination Report by providing a variety of housing options in the appropriate locations. He felt this is an appropriate location based on the long history of the property and the concealed nature of the structure.

Mr. Mc Clean handed out a series of five-page exhibit identified as Planning Exhibit for Blue Investing, LLC, 38 Yates Ave, Township of Andover, photos taken by John Mc Donough Associates on February 15, 2024 which was marked and entered as exhibit A-2. Mr. Mc Clean described the exhibit to the Board. He said the last page was the tax card showing it is a two-family dwelling and when the structure was built.

Mr. Mc Clean went over the positive criteria. He said they are working with the existing structure and would not be building anything new. He said they would enhance the property, it would allow for a rental since not everyone could not afford a single-family home, it would improve an underutilized property, and the improvements would result in a more aesthetically pleasing residence as this was a blighted property. He went over the negative criteria and felt an approval would not be a detriment to the public good and without impairment to the zoning plan and the zoning ordinance. He felt the site is suited for the use, and would not impair the intent of the Master Plan and Zoning Ordinance. He said the home is still a low density building and would reuse of what exists. He said the home is less than half of the allowable height limit and is fully obscured from the street. He felt the applicant has met the burden of proof. The application advances the goal of the Master Plan Reexamination Report and is low density. Mr. Mc Clean felt the application does not negatively impact the surrounding properties, there is no

change to the structure and the density is remaining the same. He felt there was sufficient buffering between the properties.

Mr. Stoner asked if Mr. Mc Clean felt the two-family dwelling was needed in the area. Mr. Mc Clean said it is a pre-existing nonconforming use. Mr. Stoner asked what uses are surrounding the property. Mr. Mc Clean said it is largely surrounded by vegetation and is isolated. Mr. Stoner asked about traffic. Mr. Mc Clean said the applicant would make the necessary accommodations for the cars.

Ms. Rozek noted the tax record said it was a five-bedroom house and that there must have been a change at some point. Mr. Mc Clean said that is the only record they had found.

Mr. Olsen asked if the application meets the definition of affordable housing and what is meant by the term "the missing middle". Mr. Mc Clean said it provides for a variety of housing. It is a single-family zone but allows for rentals in this area. Mr. Mc Clean explained affordable housing. Mr. Briadoro said the application is not for affordable housing.

Mr. Messerschmidt asked if a single-family home would be better planning for the zone. Mr. Mc Clean felt a two-family dwelling is not a massive shift from the single-family dwelling in the zone. Mr. Messerschmidt asked if it would be a detriment to the zone if the neighboring property asked for a two-family to which Mr. Mc Clean said every application is considered on its merits and not what was permitted elsewhere.

Ms. Howell felt the house was built as a one-family dwelling.

Mr. Messerschmidt opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

Mr. Andrutchuk gave an overview of the property and noted the surrounding properties. He said he would like to provide more proof that it is a two-family house but he could not find any records.

Mr. Blunt said every application has to be heard on its individual merits. He said just as there are no records showing this is a two-family house, there are no records showing that it was illegally constructed. He said the two-family house has existed for many years. He said town employees have known it was a two-family. He said there are no records and that is not Mr. Andrutchuk's fault.

Mr. Briadoro said the applicant proceeded with a d1 use variance. He went over the conditions with the Board.

A motion to approve the application with a variance and with the noted conditions was made by Ms. Gilchrist and seconded by Mr. Olsen. Roll Call: Eric Olsen- yes, Suzanne Howell – no, Richard Skewes – no, Joseph Ordile – yes, Krista Gilchrist – yes, John Carafello – no, Paul Messerschmidt – no. Motion denied.

2.) Scully, Daniel B: 119 L:8 Application # 23-10

The applicant is proposing a two-story wood frame addition to the house. There are no new bedrooms proposed. The addition would be in the front yard.

The application was deemed complete earlier in the meeting and would be scheduled for a hearing date at a later time.

OLD BUSINESS: None.

NEW BUSINESS: None.

LIAISON REPORTS:

- Township Committee* – Mike Lensak
- Environmental Commission* – Eric Olsen
- Sustainable Andover* – Eric Olsen
- Economic Development Committee* – John Carafello
- Zoning Map/ Zone Changes Subcommittee* – Paul Messerschmidt
- Master Plan* – Joseph Ordile

The Board agreed to carry the liaison reports to the next meeting.

VOUCHERS:

Company	Purpose	Amount	Paid By
Weiner Law Group	Legal	\$578.00	Budget
Weiner Law Group	Redevelopment Study	\$224.00	Applicant's Escrow
Weiner Law Group	Scully, Daniel	\$176.00	Applicant's Escrow
Weiner Law Group	Priority Compacting Repair, LLC	\$ 80.00	Applicant's Escrow
Weiner Law Group	698 Route 206 South, LLC	\$224.00	Applicant's Escrow
Weiner Law Group	Andrutchuk, Andre	\$496.00	Applicant's Escrow
Weiner Law Group	Seegul, LLC	\$880.00	Applicant's Escrow
Harold Pellow Assoc.	Engineering	\$213.00	Budget
Harold Pellow Assoc.	Priority Compacting Repair, LLC	\$258.00	Applicant's Escrow
Harold Pellow Assoc.	Scully, Daniel	\$174.00	Applicant's Escrow
Harold Pellow Assoc.	Andover Munsee Realty	\$174.00	Applicant's Escrow
Harold Pellow Assoc.	698 Route 206 South, LLC	\$ 71.00	Applicant's Escrow
Harold Pellow Assoc.	Feels of Green	\$638.00	Applicant's Escrow

A motion to pay the bills was made by Mr. Skewes and seconded by Mr. Olsen. Roll Call: Suzanne Howell – yes, Richard Skewes – yes, Krista Gilchrist – yes, Eric Olsen – yes, Joseph Ordile – yes, John Carafello – yes, Karen Rozek – yes, Paul Messerschmidt – yes. Motion carried.

CORRESPONDENCE: None.

PUBLIC PORTION:

If a member of the public has a question or comment, please raise your hand and wait to be recognized by the Chairperson to speak. Please come forward when recognized and state your name and address, unless you are a registered covered person under Daniel’s Law by the Office of Information Privacy. Please refrain from asking questions or making comments about any pending application before the Board, as the applicant may not be present for cross-examination. The Chairperson has the right to limit the amount of time a person from the public has to ask questions and make comments so all members of the public may have a chance to speak.

Mr. Messerschmidt opened the meeting to the public. With no public coming forward, the meeting was closed to the public.

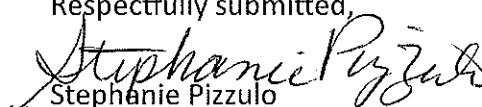
PENDING APPLICATIONS:

- Ringo Properties – Deemed Incomplete 9.19.23.
- 698 Route 206 South, LLC – Deemed Incomplete 10.3.23 & 1.16.24
- Priority Compacting Repair, LLC – Deemed Incomplete 1.16.24
- Seegul, LLC – Deemed Complete 2.20.24/ Hearing Date 4.16.24
- Redevelopment Study for Block 103, Lots 2 & 3.02 – Public Hearing 5.7.24

UPCOMING MEETINGS: April 2, 2024, April 16, 2024

ADJOURNMENT:

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

Respectfully submitted,

Stephanie Pizzulo
Land Use Administrator