



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
August 20, 2024
7:30 p.m.

CALL TO ORDER:

Mr. Messerschmidt called the meeting to order at 7:31pm.

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) – Excused
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) – Present
Karen Rozek (Alternate) – Absent
Paul Messerschmidt (Class IV) – Present

Also Present:

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

ADMINISTRATIVE ITEMS:

Approval of Minutes: August 6, 2024

A motion to approve the minutes of the August 6, 2024 meeting was made by Ms. Gilchrist and seconded by Ms. Howell. Roll Call: Eric Olsen – yes, Eric Karr – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – yes, Krista Gilchrist – yes, John Carafello – yes, Sean Degan – yes, Paul Messerschmidt – yes. Motion carried.

RESOLUTIONS:

Always Comfy, LLC

Block: 100 Lot:2

Application # 22-2

Extension of “c” variance approval for property located at 4 Mountainside Drive, in the R-5 residential district.

This matter was carried to the September 3, 2024 meeting.

ORDINANCES:

None.

COMPLETENESS:

None.

HEARINGS:

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

Ringo Properties, LLC

B: 158 L: 6

Application # 22-5

The applicant is seeking approval to develop the property for a combination of uses entailing retail, office, warehouse/storage and/or light manufacturing. Bulk variances are also required.

Mr. Joseph O’Neil, Esq. was representing the applicant.

Mr. Messerschmidt noted that Mr. Ursin, Esq., attorney for the objectors, questioned the proper notice for a use variance for the soil removal operation. He said the notice needed to be redone

to which Mr. O'Neil said that was taken care of. Mr. O'Neil said he was confident that the notice was now proper.

Mr. Ursin noted the hearing has to be restarted because the former notice was not proper.

Mr. Brigliadoro swore in Mr. Kevin Robine, PE of Dykstra Walker Design Group. Mr. Robine was previously accepted by the Board.

Mr. Robine said the subject property is Block 158, Lot 6, on the corner of Brighton Road and Route 206, and is located in the Route 206 Redevelopment Zone District. He testified that the property is 10.858 acres; the northern portion of the property was cleared and is now covered with brush and small trees. The property consists of rocky peaks and valleys throughout the site and freshwater wetlands exist along Brighton Road. There is one isolated wetland in the northern part of the property which they are requesting a General Permit #6 from the DEP to fill that wetland. There is another wetland on the southern portion along Brighton Road, which they are not intending to touch. They have an application pending at the DEP for a LOI verifying the location of the wetlands and buffer requirements. They have received confirmation via email stating that the buffers are 50 feet and the line shown is approved. The adjoining properties to the north are residential, a County maintenance facility, to the west and south are residential properties and wooded areas, and to the east, there is an agricultural use. Mr. Robine said they are proposing to clear and regrade the property, to allow for the construction of a 10,000 square foot retail building near Route 206 and Brighton Rd, and the construction of two 25,000 square foot flex commercial buildings along Brighton Rd. Each flex building would contain five units; 500 square feet of office and 4,500 square feet of storage/warehouse space. They are proposing a screened outdoor storage area to the rear of the two commercial buildings, which would be screened with a 6-foot fence provided on all visible sides of the storage area.

Mr. Robine said the uses anticipated in the flex commercial space would consist of contractors, and businesses that require storage for outdoor equipment such as landscape trailers, mowers and equipment however, they do not have any tenants at this time. There would be no light manufacturing. The tenants would store product within the warehouse space. Mr. Robine explained the parking, which would be to the north and west of the retail building and to the west of the flex buildings, with a total of 125 spaces. He said 149 spaces are required per the ordinance, so they are requesting a variance for the deficiency. There is a shared parking reduction factor, which results in the 149 spaces required. There would be 33 spaces at the front of the retail building, 22 spaces at each of the flex buildings, 15 spaces at the rear for employees of the flex buildings and 14 additional spaces to the west of the retail building for parking. He felt there was adequate parking for the proposed uses. Mr. Robine said there

would be two access points to the site both from Brighton Road. There is no proposed access from Route 206. A 6-foot-wide sidewalk is proposed along Route 206 and Brighton Road frontages. Mr. Robine said they need a variance for the percentage of parking in the rear of the building. Parking for the public would be in the front of the building.

Mr. Robine said there is no public water or sewer available. Water is proposed via a potable well with a pump house within the screen in storage area. The buildings would be sprinkled with water from an above ground 36' diameter by 20 high above ground storage tank. Sewer would be provided by an onsite sewer disposal system, which would be less than 2,000 gallons per day.

Mr. Robine said the onsite lighting would be 15 acorn style decorative streetscape fixtures along the street frontage and LED downlight fixtures within the site. All light intensities meet the ordinance requirements. Landscaping includes 14 street trees along the frontage, 40 shade trees provided throughout the site and a hedgerow along the parking bank. Foundation plantings would be along the front and sides of the retail building, and at the front of each flex building. They are not proposing any foundation plantings with the outdoor storage area.

Mr. Stoner asked if the volumes leaving the site would be reduced to, which Mr. Robine said yes. There was a discussion on the size of the pipes. Mr. Stoner said it would be under DOT review. Mr. Stoner felt there could be an impact to the properties down site. Mr. Robine felt the volumes would be reduced.

Ms. Gilchrist ask if the applicant would agree to work with the property owner of the agricultural land to get an easement for drainage over their property. Mr. Robine said if necessary and noted that currently there is a valley where water is concentrated within that drainage area to that property. Mr. O'Neil said they are having that conversation with Mr. Stoner. Mr. Robine said they are meeting their stormwater requirements and currently there is stormwater that flows from the applicant's property to Lot 10 and they would continue to mimic that. Ms. Gilchrist asked if they could bury the water tank. Mr. Robine said there is a significant volume of water require for the suppression system. He said it is a possibility however it is more efficient to propose an above ground structure to provide the volume that is required. Ms. Gilchrist asked if the monitoring wells would be decommissioned to, which Mr. Robine said yes. Mr. Stoner express a concern with the sediment basin and the length time of the operation and felt this needs to be considered in the drainage design. He suggested a berm around the entire property or some type of grading to keep the water on the property.

Mr. Olsen asked if it was standard practice to design the stormwater basins for higher volume storms. Mr. Robine said they are designed for the 2, 10 and 100-year storms. Mr. Olsen asked where the stormwater outlets convey the water. Mr. Robine said once it gets to Lot 10 is just

dissipates. Mr. Olsen asked what allows the discharge to go onto agricultural lands. Mr. Stoner said it is what is currently taking place and they have to mimic what is happening today.

Mr. Karr asked what is creating the reduction of flow. Mr. Robine said the stormwater basins hold back a significant amount of stormwater and release it slowly over time. Mr. Olsen asked what the monitoring wells are monitoring. Mr. Robine said they engaged with an LSRP to research the monitoring wells and they were associated with a storage tank on the property and based on their research there was a no further action letter provided by the DEP. Mr. Olsen asked if the storage tank was still underground. Mr. Robine said there was a no further action to take. Mr. Olsen requested the applicant work with the Board Engineer to choose native plantings. He asked if there are planting plans for the stormwater basins. Mr. Robine said there was a planting detail in the plan set submitted. Mr. Olsen asked if there would be a maintenance plan for the basins. Mr. Stoner said it is a DEP requirement. Mr. Olsen asked if they knew of any excluded uses in the flex space. Mr. Robine said it would be governed by the allowable uses within the zone. Mr. Olsen expressed a concern with the amount of lighting around the storage area. Mr. Robine said the ordinance requires a certain amount of lighting. He said they are providing 16 foot down-lit lighting. Mr. Stoner felt the applicant complied with the ordinance.

Mr. Messerschmidt asked about the monitoring wells and if the applicant had access to the documents, the DEP had regarding the wells. Mr. Robine said they would have to research the records. Mr. Messerschmidt asked if Mr. Robine knew what was in the underground storage tank. Mr. Robine said he believed it was fuel oil. Mr. Messerschmidt asked about the size of the tank to which Mr. Robine said he did not know. Mr. Messerschmidt asked if the water from the monitoring wells was tested to, which Mr. Robine said no. Mr. Robine said he did not know if the tank was removed however, they have a no further action letter from the DEP. Mr. Messerschmidt asked about the maintenance of the retention basins. Mr. Robine said the temporary sediment basins are temporary and meant to provide a settlement area for silt-laden waters. He said the stormwater basins are designed to stabilize upstream conditions, there is maintenance required, and a manual would be recorded with the deed. The temporary monitoring basins are monitored throughout the construction process. Mr. Messerschmidt expressed a concern with the length of time of the proposed construction and the possible need to maintain the temporary sediment basins. Mr. O'Neil said the phasing is designed to disturb the area for as little time as possible rather than try to do the entire project at once. There was a discussion on the stabilizing of the ground and the maintenance of the basins. Mr. Robine explained the phasing process and the tree removal. Mr. Messerschmidt asked for the location of the sediment basins to which Mr. Robine explained their location and the flow of water. He explained the discharge towards Lot 10 and the elevations. Mr. Messerschmidt asked about the depth of the sediment basins to which Mr. Robine said they are three feet. There was

a discussion on the maintenance of the temporary basins. Mr. Stoner requested a maintenance plan for the sediment basin as a condition of any approval. Mr. Robine agreed to this as a condition. Mr. Messerschmidt asked for clarification on the various storm event amounts. Mr. Robine explained the rain amounts. He said there is a high runoff on the property currently.

Ms. Howell asked for clarification to the Phase I of the plan to which Mr. Robine explained the construction trailer, fencing, temporary basins, storage area, and the material processing area. He explained the Phase II tree clearing and soil removing areas. Ms. Howell asked if they had received permission for the access point. Mr. Robine said they need to obtain a road-opening permit from the County. Ms. Howell asked about the rock crushing. Mr. Robine said the intent is to use the crushed stone to the extent possible on the site. He said there would be an excess of material, which would be sold off site. Ms. Howell asked how the crushed rock and soil would be stored on site. Mr. Robine said they would stock pile it on the property and explained how they would contain it. Ms. Howell ask for the number of trees anticipated to be removed. Mr. Robine said they have not done a tree survey so they did not have a number. Ms. Howell asked about a State tree ordinance. Mr. Stoner explained the State's tree preservation. Ms. Howell asked about the Phase I length of time. Mr. Robine said Phase I would be about 14 months and Phase II would be about 10 months. Mr. Robine said Phase III could take upwards of a year.

Mr. Carafello asked about the water suppression system. Mr. Robine said the tank is 36' in diameter and 20' in height. Mr. Carafello asked if they applicant would make that available to the Fire Department to which Mr. Robine said yes. Mr. Robine said they would have standpipes available.

The Board took a 10-minute break.

Mr. Ordile asked Mr. Stoner if the soil and rock removal met the Township ordinances. Mr. Stoner said the soil removal issue still needs to be addressed. Mr. Ordile asked about the construction equipment on the site to which Mr. Robine said that was for the soil testing. Mr. Ordile asked about the 2 acres of property that are not being disturbed. Mr. Robine explained that location. Mr. Ordile asked about the fencing to which Mr. Robine explained the security and safety fencing. Mr. Ordile asked about the elevation to which Mr. Robine said they would take it down to 590. Mr. Ordile asked about dust control. Mr. Robine said they would use a combination of sweeping and water. Mr. Ordile asked about the area to be approved by the DEP. Mr. Robine said if it is not approved, they would have to return with an amended site plan. Mr. Ordile asked about drainage area phasing to which Mr. Robine explained the phasing. Mr. Ordile asked if there are specific areas for the piles of stone. Mr. Robine explained the stone pile locations. Mr. Ordile asked if the trees would be sold to, which Mr. Robine said he did not

have information on that. Mr. Ordile asked about the current water flow off the property. Mr. Robine said there are three drainage areas and explained the water flow. Mr. Ordile asked why there is not access from Route 206. Mr. Robine said there is an informal access from Route 206 however; the DOT requires the use of a side access if one exists. Mr. Ordile asked about the type of fencing proposed. Mr. Robine explained the 6' privacy fence, the split rail fence and the locations of the fencing. Mr. Ordile asked how the outdoor storage area would be monitored for hazardous spills. Mr. Robine said it would be monitored by the property manager. Mr. Stoner asked for a deed restriction on the porous paved area so it could not be paved over in the future. Mr. Robine explained the dimensions of the storage area. He said there would be truck circulation outside of the porous pavement area. There was a discussion on the parking of vehicles and the outdoor storage area. Mr. Ordile asked about the width of the access gates to which Mr. Robine explained the dimensions. Mr. Ordile asked who would operate the gates. Mr. Robine said it would be a site operation issue. Mr. Ordile asked about signage to which Mr. Robine said they are not proposing any at this time because they did not have tenants. Mr. Ordile asked about security cameras. Mr. Robine said they did not propose any at this time. Mr. Ordile asked about the proposed location for propane tanks. Mr. Robine said that would be determined when they have their specific tenants. Mr. Stoner asked for the approximant location of the propane tanks to be shown on the plans. Mr. Ordile asked about the lighting in the storage area to which Mr. Robine explained the lighting in that area. Mr. Ordile asked about the landscaping to which Mr. Robine explained the landscaping. Mr. Ordile asked about the site distance on Brighton Road. Mr. Robine said there is 425 feet of sight distance from the access areas. Mr. Ordile asked if the applicant could request the County put up signage advising that trucks would be entering the roadway to which Mr. Robine agreed. Mr. Ordile felt the turning radius would be a sharp turn between the retail and the loading zone. Mr. Robine explained the site circulation. Mr. Ordile asked if the EV spaces would be make-ready spaces. Mr. Robine said they would comply with the State regulations. Mr. Ordile asked about the aquifer and the distance from the surface. Mr. Robine explained the aquifer depth and how that depth is calculated. Mr. Ordile what wildlife was observed. Mr. Robine said they observed squirrels and birds and there is the probability of snakes.

Ms. Howell asked if Mr. Robine knew if there were owls or night creatures on the property. He said he did not do his survey during the night and did not know. Ms. Howell asked for testimony as to if the Indiana Bat nests on the property. Mr. Robine said they would check on it. Mr. Stoner said the presence of the Indiana Bat did not mean they could not take down the trees; it may just dictate when they take the trees down.

Mr. Messerschmidt asked about Mr. Robine's qualifications in regards to the EIS. Mr. Robine explained what was required to draft an EIS. Mr. Messerschmidt asked if Mr. Robine had conducted any research as to any protected or endangered species that may be on the property.

Mr. Robine said they requested a report from the Nation Heritage Data Base from the NJDEP, which they evaluated, and there was no indication of any endangered species.

Mr. Olsen asked for a copy of the National Heritage Data Base report to which Mr. Robine said yes. Mr. Olsen asked if there is a time limit as to how long the stockpiled material can be left onsite. Mr. Stoner suggested placing a time limit on the stockpile and post a restoration bond to which Mr. O'Neil agreed. There was a discussion on the length of time before the restoration bond would be used.

Mr. Ursin deferred his right to cross-examine based on the time left for the hearing. Mr. Ursin felt that due the amount of money being gained by quarrying the property, the property would be quarried and left in place. He said that is a primary concern of the neighbors.

Mr. Messerschmidt said the hearing would be carried, without further notice to October 1, 2024 at 7:30pm. Mr. O'Neil granted the Board the time necessary to act, to the end of October, 2024.

OLD BUSINESS:

Lapel Microphones

Mr. Messerschmidt said that he and the Board Secretary would see if the existing stand-alone microphone and speaker system would work.

Cannabis Ordinance Amendments

The Board agreed to carry this to a later meeting date.

NEW BUSINESS:

None.

LIAISON REPORTS:

Township Committee – Mike Lensak

Environmental Commission –Eric Olsen

Sustainable Andover – Eric Olsen

Economic Development Committee – John Carafello

Master Plan – Joseph Ordile

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

VOUCHERS:

Company	Purpose	Amount	Paid By
Weiner Law Group	Legal	\$480.00	Budget
Weiner Law Group	Ringo Properties, LLC	\$1,253.00	Applicant's Escrow
Weiner Law Group	Priority Compactor Repair, LLC	\$320.00	Applicant's Escrow
Weiner Law Group	Perona Realty Corp.	\$240.00	Applicant's Escrow
J. Caldwell & Assoc.	General Planning Work	\$280.00	Budget

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

PUBLIC PORTION:

Mr. Messerschmidt read the following into the record:

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. James Grenewicz asked if the Board retained jurisdiction if any representation made by an applicant is false. Mr. Briigliodoro said the person who had proof of misrepresentation would have to make an application to the Board explaining the false statement, obtain a list, send notice the surrounding property owners, and publish notice in the paper. The Board would then hear the application to determine if there was a misrepresentation. Mr. Grenewicz asked if that is on the application. Mr. Messerschmidt said the Board would follow the MLUL. Mr. Briigliodoro said the person who had proof of the misrepresentation would have to notify the applicant and provide fees and escrow. Mr. Briigliodoro said the applicant that obtained the approval has vested rights in that approval and would have to be put on notice that someone is

trying to undo that approval. He said someone making that assertion would have to go through the procedural aspects as any other application. Mr. Grenewicz felt the escrow money should be returned to him if the applicant who made the false statement was found guilty of that. Mr. Messerschmidt said the Board professionals would need to be compensated for their time.

Mr. Wayne Grenewicz said there were two letters with the facts submitted before the resolution was passed and the resolution was approved without any discussion of those letters.

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

CORRESPONDENCE:

From: Dykstra Associates, PC

Re: Notification of Request: Water Quality Management Plan Site Specific Amendment
St. Paul's Abby, Block 151 Lots 22 & 22.02 and Block 153 Lot 35

PENDING APPLICATIONS:

UPCOMING MEETINGS:

September 3, 2024, September 17, 2024

ADJOURNMENT:

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

Respectfully submitted,
/s/ Stephanie Pizzulo
Stephanie Pizzulo
Land Use Administrator