



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
December 3, 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. The Township cannot guarantee the reliability of internet service and the ability of a member of the public to join the meeting. In the event that the live stream meeting is unavailable, the in-person meeting will proceed as scheduled.

ROLL CALL:

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

Also Present:

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

ADMINISTRATIVE ITEMS:

Approval of Minutes: None.

RESOLUTIONS:

1.) Consistency Determination for a Redevelopment Plan known as 99 Mulford Road Redevelopment Plan

A resolution to for consistency determination for Ordinance 2024-19 which adopts a redevelopment plan with condemnation for property located at 99 Mulford Road.

A motion to adopt the resolution in the matter of the consistency determination for a redevelopment plan known as 99 Mulford Road Redevelopment Plan was made by Mr. Skewes and seconded by Ms. Howell. Roll Call: Suzanne Howell – yes, Sean Degan – yes, Eric Olsen – yes, Eric Karr – yes, Krista Gilchrist – yes, Richard Skewes – yes, Paul Messerschmidt – yes. Motion carried.

2.) National Land Developers, LLC B: 151 L: 21 Application # 24-8

A resolution granting preliminary and final site plan approval, “c” variance relief and exceptions from design standards to permit the construction of a warehouse building.

A motion to adopt the resolution in the matter of National Land Developers, LLC was made by Ms. Howell and seconded by Ms. Gilchrist. Roll Call: Suzanne Howell – yes, Krista Gilchrist – yes, Eric Karr – yes, Paul Messerschmidt – yes. Motion carried.

ORDINANCES: None.

COMPLETENESS: None.

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

1.) 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. William Ruggiero, Esq. of Garofalo, O’Neill, Ruggiero, LLC was representing the applicant. He said the architect; Mr. Joseph Gates had been sworn in at the last meeting and had presented two exhibits.

Mr. Joseph Gates, Architect, of Gates Architectural Design presented amended exhibits. He said they have updated some of the materials, colors and the entrance to the warehouse buildings however, the footprints have not changed.

Mr. Gates presented a color rendering of sheet A-1 of the submitted plan set which is entitled "Building 1", with a revision date of 11-15-2024, which was marked and submitted as exhibit A-4. He said the footprint, number of units, doors, entrances and all of the physical elements of the original plans had not changed. He said the colors have been refined to match the Benjamin Moore historical colors.

Mr. Gates submitted a color rendering of sheet A-2 of the submitted plan set which is entitled "Building 2 & 3, with a revision date of 11-15-2024, which was marked and entered as exhibit A-5.

Mr. Gates said the retail building is 175 wide by 57 feet deep, which is four units at 2,500 square feet each. He said buildings two and three are 250 wide by 100 feet deep at 25,000 square feet each. The buildings would be divided into five tenant spaces at 5,000 square feet each.

Mr. Gates said the roof height has been increased to 35'8" to the ridge but remains a one-story building. He said the change does not add square footage to the building. He said it is a ten-foot increase in height since the original plans were submitted to allow for higher type vehicles inside. He said the second change adds canopies and decorative treatment around the doors that would be similar to the retail buildings. He said they also changed the grade around the buildings to match the site plan. He said it was a grade change for clarification. He said the warehouse spaces would have a small office and restrooms in the front of the space. Other than that, it would be open warehouse space. He said the retail would be wide-open spaces with lavatories in the back with no other partitions at this time. He said they wanted to make sure the colors matched the Benjamin Moore historical colors. He explained how they would break up the appearance of the full height of the building with the colors and materials chosen.

Mr. Stoner asked for clarification on the proposed changes to the decorative elements. Mr. Gates said they are proposing decorative treatment around the entrances of the warehouse buildings, which is similar to the retail building. He said the building's height went from 25'8" to 35'8" however; it still remains as a single-story building and complies with the ordinance height.

Ms. Rozek asked about the exterior roof height and expressed a concern with firefighting. Mr. Gates said the peak of the roof is 35'8". Ms. Rozek asked about the fire suppression system. Mr. Gates said they would have sprinkler systems and there is a sprinkler room. He said they would have a water storage tank in the back of the building, which would be designed in accordance with N.F.P.A.

Ms. Gilchrist asked about the building materials. Mr. Gates said the building materials would be masonry blocks up to the man door height at 7-foot high, then metal panels up to the eave height and metal panels for the roof for the warehouse buildings. He said the retail building

would have stone vernier up to a three-foot height, cement panels for the main walls and metal panels for the cap and a commercial roof. Ms. Gilchrist asked what type of architectural design the buildings would be classified as. Mr. Gates said it would have a more modern design. Ms. Gilchrist noted the redevelopment plan requires varying roof heights for the individual stores. Mr. Gates said the canopies at the entrances step up but the roofline stays the same.

Mr. Olsen asked if the depiction over the windows were awnings to which Mr. Gates said yes. He said at the back door is a flat canopy for protection from the rain. Mr. Olsen asked if the front doors had canopies. Mr. Gates said there is a flat canopy that sticks out over the front doors. Mr. Olsen asked if there was a sidewalk in front of the retail building linking the entrances together. Mr. Gates said there is a sidewalk on the site plan, which shows, about a four-foot grass or vegetation strip in front of the buildings so the sidewalk is four feet from the front of the building. Mr. Olsen asked if the chosen color palette was brown. Mr. Gates said the colors would be earth tones. Mr. Olsen asked for the exact color chosen. Mr. Gates said he looked at a color chart but did not have the exact paint spec number. Mr. Olsen asked about the utilities for the building and if the HVAC was on the roof. Mr. Gates said the mechanicals would be on the roof and the electrical panels and water would typically come in towards the back of each tenant space. Mr. Olsen asked if the height increase was for vehicles. Mr. Gates said it was for forklifts.

Mr. Messerschmidt asked if there would be any “green initiatives” designed into the building. Mr. Gates said it was not designed under government type green initiatives. He said it is always intended to try to get products that are locally available to minimize shipping. He said that is part of the construction phase. Mr. Messerschmidt asked if they considered solar panels to which Mr. Gates said at this time they are not proposing them. Mr. Messerschmidt asked if they considered any type of special glass to lower the heat coming into the building. Mr. Gates said they always have low E Value glass and explained how they calculate the requirements for the glass. He explained the insulation as well. Mr. Messerschmidt asked if the applicant would be open to solar panels or any green infrastructure to which Mr. Gates said he did not think there would be an objection to that however he would defer that to the applicant. Mr. Messerschmidt asked how high the mechanicals would be on the roof. Mr. Gates said they are three to four feet high. He said typically the units are screened.

Mr. Messerschmidt opened the meeting to the public.

Mr. John Ursin, Esq, attorney for the objectors, asked if there were elevations that would show the visibility of the warehouse buildings with the added height from the neighboring lot or the lots across the street. Mr. Gates said the heights are based on the topography of the site. He said he did not have an exhibit to demonstrate that. Mr. Ursin asked if they added loading docks to the architectural drawings. Mr. Gates said they were already on the site plans however, the architectural drawings did not show the loading docks only the overhead doors. Mr. Ursin asked if the increased height was to allow for forklifts to operate safely to which Mr. Gates said yes. Mr. Ursin asked why the exhibit with the increased height was not provided to the Board ahead of the meeting. Mr. Gates said due to the holidays they did not submit them.

Mr. Ursin asked if Mr. Gates was aware that he was the first witness to refer to the buildings as warehouses. Mr. Gates said the ordinance allows for flex space. Mr. Ursin said Mr. Gates referred to the buildings as warehouses numerous times to which Mr. Gates said that is what they are labeled as on the plans. Mr. Ursin said warehouses are a conditional use in the zone and asked if he had looked at the ordinance. Mr. Gates said he looked at the ordinance for other areas. Mr. Ursin felt Mr. Gates did not look at the ordinance.

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

Mr. Ruggiero said the Route 206 Redevelopment Plan defines flex space buildings.

Mr. Briigliodoro swore in Mr. Matthew Pennisi, applicant. Mr. Pennisi said he was going to contract for the development of the property. He said they would need to prepare the site prior to construction. He said they raised the height of the building because they do not know what type of tenants they may get and a tenant may need a racking system for storage. Mr. Ruggiero read the definition of flex space building and asked Mr. Pennisi if he felt the proposed buildings met that definition to which Mr. Pennisi said yes.

Mr. Stoner asked about the former testimony on the rock removal, construction phasing, and why they needed to do the construction staging on the property. He asked if they could build the retail and then move on to the next stage so it does not become a totally cleared lot or pad site. Mr. Pennisi said to set the operation up it would be more conducive to clear the site. He said he does not know what the condition in the ground will be. He said they would need to put in underground drainage and footings. Mr. Pennisi said they could start to develop in the front and work their way to the back. He said when they get to that point they could come up with a plan as to how to attack it the most efficient way. Mr. Stoner said they would need a phasing plan now so he knows what to expect during inspections. Mr. Pennisi said they would need to drill a well, provide firewater and tie in the drainage. He said they would need to get on a schedule with JCP&L to tie in the power. Mr. Stoner expressed a concern with a five- or ten-year stone pad site and nothing on the property other than just rock removal. Mr. Pennisi said he did not anticipate taking ten years to remove rock. Mr. Ruggiero suggested as a condition of approval that Mr. Pennisi submit a phasing plan that is acceptable. Mr. Stoner did not want that to be the Board Engineer's decision; he wanted it to be the Board's decision and have the Board see what the phasing would look like. Mr. Pennisi said there is a lot of work to be done and it is not a fast process. He said he does not know what is underground. He said he is amenable to a plan but did not want to be tied to a timeline. There was a discussion on the way the process would proceed. Mr. Pennisi said he would consult with his engineer to develop a plan on what needs to be done to develop each area and he could come up with a phasing plan that the Board can look at and approve. He said he would screen the front with fencing so it is not open to the public. Mr. Pennisi said he would add a planted berm around the perimeter and maintain it. Mr. Stoner felt the Board needs a clear picture of what would take place.

Ms. Howell asked if Mr. Pennisi had any interested tenants and if so what type of tenants would they be. Mr. Pennisi said he reached out to a few people however, there are no commitments.

He said he knows what type of tenants he would like to have however; he does not have any now.

Mr. Messerschmidt asked if Mr. Pennisi would be amenable to a phasing plan where one area would be cleared and the building built and then move on to another area to which Mr. Pennisi said yes. Mr. Pennisi said there are a lot of moving parts to get everything to work together and wants to work efficiently. Mr. Messerschmidt asked if Mr. Pennisi ever did a project of this magnitude. Mr. Pennisi said he worked on a project that was close in size to this application however, that project did not have rock. Mr. Messerschmidt asked where it was to which Mr. Pennisi said Whippany and explained the area and the work done. He said his proposal is what the trades need for their businesses. Mr. Messerschmidt asked if he had experience in phasing construction to which Mr. Pennisi said yes. Mr. Messerschmidt asked how long that project took to which Mr. Pennisi said from 2008 to 2012. He explained the construction timeline. Mr. Pennisi explained other sites he has worked on. Mr. Messerschmidt asked if Mr. Pennisi plans to remain the property owner after it is built to which he said he plans on keeping it. Mr. Messerschmidt asked if Mr. Pennisi would store his equipment in one of the buildings to which Mr. Pennisi said no, he just plans on being a landlord.

Mr. Olsen asked about the types of uses Mr. Pennisi would invite onto the property. Mr. Pennisi said mechanical, plumbing or HVAC contractors. Mr. Olsen asked about the retail space. Mr. Pennisi said it could be professional uses or doctor offices. Mr. Olsen asked if Mr. Pennisi has the intention of developing the site or just removing the stone and leaving the site vacant. Mr. Pennisi said he would develop the site and this could be his retirement. He said he does not know the hardness of the stone and it may not be worth anything. Mr. Olsen said a prior expert testified that the work would take about three years and asked Mr. Pennisi if that was his understanding of the timeline. Mr. Pennisi said he would like to move through it as quickly as he can but he did not have a timeline but the goal is to finish the project. He said it is not going to be an easy site however; his goal is to get the place up and running because that is how he is going to make his money.

Ms. Gilchrist asked what would be stored in the outdoor storage area. Mr. Pennisi said that would depend on the tenant and gave some examples of HVAC equipment, parking for a truck crane or bins for sand or stone. He said there would not be any garbage stored. Ms. Gilchrist asked if there were any other plan ideas for the property. Mr. Pennisi said the size of the lot allows for tenant space, parking, storage area, water and infrastructure and felt they were not packing too much building on the site.

Mr. Karr asked how long Mr. Pennisi owned the property to which Mr. Pennisi said about 3 years. Mr. Karr asked what attracted him to this site. Mr. Pennisi said he saw an ad for the property and knew a Wawa or Quick Chek had applied to develop the site.

Ms. Rozek expressed a concern with the disturbance of the steep slopes and said phase two may destroy part of the property to get the other buildings in. Mr. Pennisi said he spoke to the realtor when he purchased the property about the proposed Wawa and he thought the realtor

said Wawa wanted to donate some of the property to the town however; they did not want it. He felt this was an opportunity and it was not destroying the property. He felt the property was developable. Mr. Pennisi said he looked at the ordinance to see what was allowed. Ms. Rozek asked if he was invested in the site enough to move his business to the site and be a tenant. Mr. Pennisi said he did not envision that, he wanted it as a rental opportunity.

Mr. Degan asked if Mr. Pennisi did site work to which Mr. Pennisi said yes. Mr. Pennisi said he went to school for landscape architecture. Mr. Degan asked if he planned to do the site work on the property to which Mr. Pennisi said he would do some of it. Mr. Degan asked if he had experience in crushing stone to which Mr. Pennisi said he has done it in the past.

Mr. Skewes said it was his opinion that the project needed to be done in phases.

Ms. Howell asked if Mr. Pennisi knew how many trees would be removed. Mr. Pennisi said he did not count them. Ms. Howell asked if he knew about Andover's tree ordinance. Mr. Pennisi said he would comply with the ordinance. Ms. Howell said that if the steep slope variance were not granted, he would be unable to remove trees in that area. Mr. Stoner clarified that the Board approval would allow them to remove the trees. There was a discussion on the tree removal ordinance. Mr. Pennisi said he did not have a specific number of trees that would be removed but he provided for the replanting of whatever the ordinance requires. Ms. Howell said Mr. Robine had testified that the onsite rock would be removed, crushed and sold. Mr. Pennisi said he would need to get the rock tested. He said it only has value if the rock is hard and he does not know what it is yet. Ms. Howell said the projects he described in Whippany sounded like he was not the developer. Mr. Pennisi said he worked for the developer. Ms. Howell asked if he planned the project to which Mr. Pennisi said he is not an architect or planner. Ms. Howell asked if this is his first project he designed. Mr. Pennisi said he has worked with architects and engineers to fix problems. He said he was not the planner on former projects he just fixed them. He said this is the first project where he worked with an engineer to plan. Ms. Howell asked if they received the LOI. Mr. Pennisi said it has not been released yet but they have submitted all of the paperwork. Ms. Howell expressed a concern with the lack of information in the EIS. She said when the Wawa application was before the Board their EIS noted the Indiana Brown Bat habitat was on the site. She requested more information on if the habitat was still there.

Mr. Kevin Robine, who was still under oath, said there is suitable habitat for the Indian Brown Bat however there is no restriction about clearing trees; there is restriction on the timing of when those trees can be cleared. He said it does not restrict the development only the time when the trees can be removed. Ms. Howell said it would restrict the timeline to which Mr. Robine said it restricts the tree clearing timeline.

Mr. Stoner asked about the outdoor storage. He felt it was very large at over an acre. He expressed a concern with sand and gravel material being stored because the drainage system is in that area and it could clog up the porous pavement area. He recommended that the loose materials not be stored in that area.

Mr. Olsen asked if there was a plan to create some order to the outdoor storage area. Mr. Pennisi said the tenants designated storage area would be adjacent to their space. He said there would be some sort of order to the area. Mr. Olsen asked if it was standard practice to have an open storage area for flex space buildings. Mr. Pennisi explained the storage area and said some tenants may not want the outdoor storage.

Mr. Messerschmitt opened the meeting to the public.

Mr. Ursin asked if Mr. Pennisi was involved with his professionals to plan the site to which Mr. Pennisi said yes. Mr. Ursin asked if he considered building just the retail building to which Mr. Pennisi said no. Mr. Ursin asked if Mr. Pennisi had considered that if he just built the retail building, he would dramatically reduce the disturbance to the steep slopes. Mr. Pennisi said he did not believe they did. Mr. Ursin asked if Mr. Pennisi calculated that if he built just the retail building he would dramatically reduce the amount of rock needed to be removed to which Mr. Pennisi said they did not consider that. Mr. Ursin asked if Mr. Pennisi considered building just the retail building so they could provide the parking that is required by ordinance to which Mr. Pennisi said the parking for the site is adequate. Mr. Ursin asked if Mr. Pennisi analyzed if it was economically viable to just build the retail building to which Mr. Pennisi said no. Mr. Ursin asked if he knew what it would cost to build the retail building to which Mr. Pennisi said no. Mr. Ursin asked what he paid for the lot to which Mr. Pennisi said \$275,000.00. Mr. Ursin asked if he knew how much stone or rock is projected to be removed from the property to which Mr. Pennisi said they have not done the final calculations. Mr. Ursin said the applicant's engineer estimated about 60,000 cubic yards to which Mr. Pennisi agreed. Mr. Ursin asked if that rock were sellable, what would it sell for to which Mr. Pennisi said he did not know because he does not know the quality of the rock. Mr. Ursin asked if he had the rock tested to value its worth to which Mr. Pennisi said no. Mr. Ursin asked if he knew how many cubic yards a triaxle could hold to which Mr. Pennisi said 18 cubic yards. Mr. Ursin asked if there would be about 3200 truck trips out of the site, to which Mr. Pennisi said yes, but he had not done the math. Mr. Ursin asked that if the rock were not valuable what he would do with it. Mr. Pennisi said he would find a use for it. Mr. Ursin asked what size trucks would service the warehouse space. Mr. Pennisi said it would depend on who the tenant was. He said the maximum size truck would be 67 feet.

Mr. Briigliodoro swore in James Casler. Mr. Casler asked if Mr. Pennisi knew whom the tenants would be to which Mr. Pennisi said as of now, he did not know. Mr. Casler asked if he looked at the commercial rental market. Mr. Pennisi said he has looked at some areas of it. Mr. Casler asked if he knew what the price of crushed stone was to which Mr. Pennisi said he knew the retail cost of stone.

Mr. Briigliodoro swore in Mr. Thomas Frapaul. Mr. Frapaul asked why Mr. Pennisi bought a mountain and wanted to remove it. He felt that would be wrecking the area. Mr. Pennisi said he bought a piece a property to develop. Mr. Frapaul said there are other properties that are flat and would be a better location for development. Mr. Pennisi said the lot has many uses

permitted by the Town and felt the land would eventually be developed. He said any use would require the development of the land. He felt the 3 acres of flat land in the front was not enough for development. Mr. Frapaul said this development would affect the wetlands.

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

The Board took a five-minute break.

Mr. Messerschmidt said the Board would suspend the hearing for a few minutes and move on with their agenda while the applicant was waiting for their Planner to arrive.

OLD BUSINESS: None.

NEW BUSINESS:

Mr. Howell requested that the Board schedule two meetings in November. She said the Board normally only has one due to Election Day. Mr. Brigliadoro said the Board had three meetings in October.

LIAISON REPORTS:

Township Committee – Eric Karr

Mr. Karr said the Township Committee would hold the hearing for the 99 Mulford Road Redevelopment Plan on December 5, 2024.

Environmental Commission –Eric Olsen

Mr. Olsen had nothing new to report.

Sustainable Andover – Eric Olsen

Mr. Olsen said they are updating the Buy Local Guide and planning for the Winter Market.

Economic Development Committee – John Carafello

Mr. Carafello was not present to give a report.

Master Plan – Joseph Ordile

Mr. Ordile was not present to give a report.

VOUCHERS: None.

PUBLIC PORTION:

Mr. Messerschmidt opened the meeting to the public and 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.

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

CORRESPONDENCE:

- 1.) From: Brian P. Cramer, Wetlands Scientist
Re: Notice of Application for an LOI for Block 1, Lot 4

PENDING APPLICATIONS:

- 1.) Sussex Firearms – completeness pending
Mr. Messerschmidt said the building the applicant wanted approval for had sustained a fire and said the Board would need to take action. The Board Secretary said the applicant’s attorney extended the Board time to make a decision for 30 days. The Board would need to take action at their next meeting.

UPCOMING MEETINGS: December 17, 2024, January 7, 2025

Mr. Ruggiero said his planner was not going to be able to attend and asked the Board to carry the hearing to December 17, 2024. Mr. Messerschmidt announced the Board would carry the hearing to December 17, 2024. Mr. Ruggiero granted the Board an extension through the end of the December 17, 2024 meeting.

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