

**MINUTES OF THE ANDOVER TOWNSHIP LAND USE BOARD MEETING HELD
JUNE 20, 2017**

OPEN MEETING: Chairman Howell called the meeting to order at 7:30 p.m. and led the flag salute.

OPEN PUBLIC MEETINGS ACT NOTICE: Chairman Howell read the following statement: 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.

ROLL CALL:

Ken Roberts – Present
Paul Messerschmidt, Vice Chairman – Absent
CeCe Pattison — Present
Ellsworth Bensley, Jr., – Present
Dolores Blackburn – Present
Eric Olsen – Present
John O'Connell – Present
Richard Skewes – Present
Suzanne Howell, Chairman – Present
Wayne Grenewicz (Alternate 4) – Absent

BOARD PROFESSIONALS:

Richard Brigliadoro, Esq. – Present
Joseph R. Golden, P.E., P.P., C.M.E. – Present
Jessica C. Caldwell, PP, AICP, LEED GA – Present

MINUTES:

Minutes of the Andover Township Land Use Board Meeting Held May 16, 2017: A motion to approve was made by Richard Skewes and seconded by John O'Connell. There was no discussion. Roll Call: Ken Roberts – yes, CeCe Pattison – yes, Ellsworth Bensley, Jr., – yes, Dolores Blackburn – yes, John O'Connell – yes, Richard Skewes – yes, Suzanne Howell – yes. The motion carried.

RESOLUTIONS: **A-2-17-1, A.B. Richards, Inc., Preliminary and Final Site Plan, Steep Slope Waiver Application, Block 151 Lot 20** — A motion to approve was made by John O'Connell and seconded by Richard Skewes. Richard Brigliadoro, Esq., reviewed the definition of a warehouse in response to a request by Ellsworth Bensley, Jr. Mr. Brigliadoro also reviewed §190-54 and §190-54(b) of the Andover Township Code. There was no further discussion. Roll Call: Ken Roberts – yes, Richard Skewes – yes, CeCe Pattison – yes, Ellsworth Bensley, Jr., – yes, Dolores Blackburn – yes, John O'Connell – yes, Suzanne Howell – yes. The motion carried.

COMPLETENESS REVIEWS: A-5-17-1, Pitfoa Partnership, Final Site Plan, C Variance, Block 116.02 Lot 2 — Daniel A. Benkendorf, Esq., appeared on behalf of the Applicant. He acknowledged the matter was being reviewed for completeness only.

Joseph R. Golden, P.E., P.P., C.M.E., presented his report dated June 11, 2017, and provided an overview of the matter. He identified multiple issues for the Board's consideration. He noted that conditions of the prior approval had not received closure. He also noted the parking lot is in poor condition and the detention basins have not been maintained. He stated the Andover Township DPW had to maintain the basins. Mr. Golden recommended the matter be deemed incomplete.

The Board discussed the matter and confirmed the Applicant was to decide what type of case they would submit for the Board's review.

A motion to deem the application incomplete based on Mr. Golden's report was made by John O'Connell and seconded by Ken Roberts. Roll Call: Ken Roberts – yes, Richard Skewes – yes, CeCe Pattison – yes, Ellsworth Bensley, Jr., – yes, Dolores Blackburn – yes, Eric Olsen – yes, John O'Connell – yes, Suzanne Howell – yes. The motion carried.

A-12-15-1a, Stanhope Sparta Road, LLC, D Variance, Preliminary and Final Site Plan, C Variance, Certificate of Nonconforming Use, Block 153 Lot 24 —

Daniel L. McCarthy, III, appeared on behalf of the Applicant. Richard Briigliodoro, Esq., confirmed the Land Use Board would be constituted as a Zoning Board of Adjustment. Dolores Blackburn, Eric Olsen, and Ellsworth Bensley, Jr., recused. Board members reviewed a report dated June 2, 2017 prepared by Joseph R. Golden, P.E., P.P., C.M.E. Mr. Golden recommended the matter be deemed complete.

A motion to deem the application complete based on the recommendations of Board Engineer Golden was made by John O'Connell and seconded by Richard Skewes. Roll Call: Ken Roberts – yes, Richard Skewes – yes, CeCe Pattison – yes, John O'Connell – yes, Suzanne Howell – yes. The motion carried.

HEARING: A-12-15-1a, Stanhope Sparta Road, LLC, D Variance, Preliminary and Final Site Plan, C Variance, Certificate of Nonconforming Use, Block 153 Lot 24 —

Richard Briigliodoro, Esq., confirmed the Board had jurisdiction to hear the matter. Daniel L. McCarthy, III, appeared on behalf of the Applicant. Michael Taylor, owner, was sworn. He provided an overview of the application for development of the site as a retail facility for the sale and distribution of propane, propane related products, welding supplies, and compressed gases. He presented Combined Energy Services has been in business 49 years. He stated the company has five branch locations, six propane storage facilities, barbeque filling stations, three fuel oil facilities, and four welding supply stores. He stated the company has 140 employees.

The Applicant submitted the following exhibits:

A-1 — A set of thirteen (13) photographs depicting existing locations of the Applicant's facilities at Dingmans Ferry, P.A.; Goshen, N.Y.; Monticello, N.Y.; Liberty, N.Y.; Bethel, N.Y., and Kerhonkson, N.Y.

A-2 — A set of four sheets consisting of sheet one titled *Exhibit 1 Aerial and Zoning, 430 US Route 206, Andover Township, New Jersey*, prepared by Paul Ricci, AICP, PP, dated June 2017. This sheet was identified as an aerial photograph identifying the subject property and the immediate area's tax parcels, zoning, and municipal boundary line. Sheets two through four were identified as *Planning Exhibit for Combined Energy Services — 430 Route 206, Andover Township, New Jersey*. These sheets contain a series of twelve (12) photographs identified as follows:

1. View of the subject property from Route 206.
2. View of the Route 206 streetscape.
3. View of the rear portion of the existing building.
4. View of the rear yard area where the propane tanks are proposed.
5. View of the adjoining Thorlabs business frontage across the street from the subject property.
6. View of the adjoining Econo Lodge motel/hotel.
7. Partial view of an adjoining residential property (behind trees.)
8. View of a nearby property containing a restaurant and freestanding sign.
9. View of an existing Combined Energy Services Facility.
10. View of an existing Combined Energy Services Facility.
11. View of an existing Combined Energy Services Facility sign.
12. An example of a store interior.

Mr. Taylor confirmed he took the photographs over the last three to four years.

A-3 — Email dated June 16, 2017 from Gregory Martin, Chief, Andover Township Fire Department, requesting that the Applicant insert a cistern between 5,000 gallons and 10,000 gallons to the left of the building near Route 206.

A-4 — A rendering of the front of the building with a vantage point from Route 206.

A-5 — A rendering of the front of the building from an aerial view.

A-6 — Letter dated June 20, 2017 from Michael Taylor, Combined Energy Services, to Anne-Marie Wilhelm, Land Use Administrator, Andover Township with a copy of an email from John A. Tomasone, P.E., Supervisor LP-Gas Safety Unit, Bureau of Code Services, Division of Codes and Standards, New Jersey Department of Community Affairs dated June 20, 2017.

Mr. Taylor presented he has a lifetime of experience in the propane business and has taught propane emergency classes in nine states. He discussed operations and safety including the use of nitrogen charged remote closure valves to ensure an expedient shut down if needed. He stated the tractor-trailers are also equipped with automatic shutdown mechanisms. He explained that the weakest link is human error, and safety redundancy features are built into company operational procedures in an effort to maximize safety. He noted the industry is highly regulated in New Jersey. He stated he must comply with NFPA 58, state standards that govern propane, the LP Gas Code, and the New Jersey Department of Community Affairs Liquefied Propane Gas Division regulations. Chris Mohler, P.E., of Chestmont Engineering was identified as the Applicant's propane engineer. With reference to site security, Mr. Taylor stated the site would be fenced and feature an electronic gate. Following discussion, he agreed to increase the height of the chain link fence to 8'.

Mr. Taylor stated he met with the Andover Township Fire Department Chief, Gregory Martin, and agreed to provide a 10,000-gallon water tank onsite. He also agreed to provide propane emergency training to the Andover Township Fire Department and a KNOX box.

Mr. Taylor discussed the proposed retail welding supply operation, which he identified as the primary use of the site. He noted the use is a destination use and stated he would like to attract business from a three-county area. He stated the closest supplier is in Hamburg, New Jersey, and he opined an Andover location would provide a service to local residents. He presented that proposed site operations also include the distribution of home heating oil. Mr. Taylor presented that nitrogen, oxygen, argon, carbon dioxide, helium, acetylene, and various blends of said gases would be stored on site. He discussed the Able Fuel Oil incident and stated he believes driver error caused the accident. He stated his company owns its trailers and has employed a consistent group of same drivers.

With reference to hours of operation, Mr. Taylor stated the site would operate from 6:00 a.m. to 6:00 p.m., with store hours of 7:30 a.m. – 6:00 p.m., Monday through Friday; and 8:00 a.m. – 3:00 p.m. on Saturday. He stated the facility would be closed on Sunday except during emergencies. Mr. Taylor stated he anticipates there will be five employees on site.

With reference to potential noise impacts, Mr. Taylor stated the site would operate with a low pitch propane pump. He stated he doubted the pump would be audible off site.

Nick Barile, P.E., was sworn, qualified, and accepted as an expert. Referencing the site plan, he provided an overview existing conditions and the proposal. He stated the Applicant intends to reconstruct a portion of the existing building. Requested variance relief was noted as follows:

relief for the number of parking spaces as 17 spaces are proposed and 23 are required; for exceeding signage area limits as the proposed sign area is 64 sq.ft. and 32 square feet is the maximum size permitted; for setback encroachment as the sign is not setback and the required signage setback is 12' ; for the existing lot width that is 180.32' where 200' is required, and for the front yard setback requirement that is 100' and 38.8' is proposed. Mr. Barile stated the front yard setback would be increased from 30' to 38'. He noted the proposal reduces impervious coverage by 2600 sq.ft. as the proposed renovation to the existing structure will reduce the existing 7,885 sq.ft. building to 5,255 sq.ft. He identified a design waiver from the size of the parking stalls where 9' x 18' spaces are proposed and 10' by 20' parking spaces are required. Mr. Barile also located an existing storage building that would be removed, and he pointed out two proposed 30,000 gallon proposed propane tanks on concrete piers toward the rear of the property. He stated the area under the piers would be gravel. Mr. Barile stated the tanks would be a minimum distance of 75' from the rear property line, 50' from the side property line, and 70' from the limits of the existing building. He noted a protective guide rail around the tanks is proposed. He confirmed the existing septic system, grading and drainage system, and utility line would remain as is. Mr. Barille stated the existing pavement would be repaved and the rear parking area limits would be decreased by 10' at the northern property line. He stated the graveled area in the back would remain and new gravel added. He also confirmed a 10,000 gallon underground water storage tank for fire suppression would be installed in accordance with the recommendation of the Andover Township Fire Department. He stated a security fence would run from the property line to the corner of the building and block off access with a security gate. The Applicant agreed to increase the height of the fence to 8'. Mr. Barille confirmed that site lighting would be on a timer. With reference to other required approvals, Mr. Barile stated a NJDEP application was pending, a letter of *No Interest* was obtained from NJDOT, and Sussex County Soil Conservation was received.

Paul Ricci, P.P., was sworn, qualified, and accepted as an expert witness. Referencing Exhibit A-2, Mr. Ricci provided the areas existing land uses and discussed zoning requirements. He confirmed retail uses are permitted in the HC Zone. He stated the Applicant's requests "D" Variance relief as the storage and sale of propane is prohibited in the zone. He noted the use is not permitted anywhere in the Township without obtaining a "D" Variance. Mr. Ricci noted that the propane use is a fully contained system and the facility would be regulated by the NJDCA. He stated it is a niche use that meets the purposes of the Andover Township Master Plan. He stated the proposed use is similar to other uses permitted in the ordinance noting the use is similar to a gas station. He confirmed the Applicant would meet all state safety and setback requirements. He stated the facility was 260' from the nearest home.

Mr. Ricci stated the proposed location is suitable as 14,000 vehicles drive by each day and visibility is desirable. He stated the proposal offers the Township an opportunity to strengthen the Rt. 206 corridor by bring the property back into use. Noting that the combined uses were not contemplated by the Township, he stated the uses are consistent with the Zone Plan and Master Plan. Specifically discussing the welding supply use, Mr. Ricci stated the use was high quality from an economic development perspective as it could bring in customers from other areas, including Passaic and Warren counties. He also noted the development would create jobs while not over developing the property. He confirmed that the Applicant was providing double the amount of parking spaces needed to conduct the businesses as well as installing the fire suppression water tank, which will benefit the surrounding neighborhood.

With reference to the purposes of zoning, Mr. Ricci cited N.J.S.A. 40:55D-2(a)(b)(c)(g)(i) stating the application promotes the general welfare; secures safety from fire, flood, panic, and other natural man-made disasters; provides adequate light, air, and open space; provides sufficient space in appropriate locations for a variety of commercial uses; and promotes a desirable visual environment through creative development techniques and good civic design and arrangement. He stated the application could be granted without substantial detriment to the public good and without impairing the intent and purpose of the Zone Plan and Ordinance. He stated the site is suited for the proposed use.

Referencing the Board's planner's comments presented in her report dated August 15, 2016, Mr. Ricci stated the Applicant satisfied comments one-nine on pages two and three. He reviewed the company's safety procedures and confirmed that the propane system is fully contained. He stated no hazardous materials would be discharged into sewage disposal systems. He stated safety and security were addressed and noted the Applicant would provide training to the Andover Township Fire Department.

The Applicant noted the gases to be stored on site as follows: O₂, argon, CO₂, helium, acetylene, nitrogen, and various blends of each. The Applicant confirmed blending would be done off site. In response to an inquiry, the Applicant confirmed that approximately 24 acetylene tanks would be stored on site.

With reference to signage, Mr. Ricci stated the proposed sign is in the same location as the prior sign, which is consistent with other signage along the Route 206 corridor. He stated relief for both the setback and maximum sign area permitted is needed. He presented the proposed 64 sq.ft. ground-mounted sign, located at the property line, is more attractive and desirable.

Referencing the engineering report prepared by Joseph R. Golden, P.E., P.P., C.M.E., dated August 12, 2016, the Applicant discussed the design waiver from Belgium block curbing in the parking areas. Mr. Golden confirmed he had no objection to the waiver request. The Applicant agreed to provide the information requested together with a certification indicating that all required permitting has been sought and obtained.

David Kolstad, Chairman, Andover Township Environmental Commission, and Peter Spinney, Andover Township Environmental Commission, were sworn. Mr. Spinney presented the Environmental Commission's report titled *Analyses of Environmental, Health and Safety Issues, Combined Energy Services Application, Block 153, Lot 24, Andover Township, NJ*. Mr. Taylor reviewed safety operations. He confirmed the industry is highly regulated. Landscaping options were also discussed and the Applicant agreed to provide native species subject to the approval of the Board Engineer.

The Board recessed from 9:35 p.m. – 9:45 p.m.

Chairman Howell opened the meeting to the public. Mr. Drew Smith was sworn. He stated he did not believe the use fits. He stated the retail facility was fine but the propane tanks were scary. He

noted the area was zoned for Mt. Laurel with a potential for over 300 units to be built. He submitted Exhibit 0-1, a reduced colorized segment of the Andover Township Zoning Map highlighting contiguous properties.

No other members of the public addressed the Board and Chairman Howell closed the meeting to the public.

Richard Briigliodoro, Esq., informed the Applicant that the Board had only five members to vote. Board members did not present any concerns for the Applicant's consideration. The Applicant elected to proceed to a vote.

Mr. Briigliodoro reviewed the variance and waiver requests. A motion to approve the application subject to the conditions discussed and noted below was made by Ken Roberts and seconded by John O'Connell. Roll Call: Ken Roberts – yes, Richard Skewes – yes, CeCe Pattison – yes, John O'Connell – yes, Suzanne Howell – yes. The motion carried. The conditions were stated as follows: the Applicant will train the Andover Township Fire Department and provide the Fire Department with a list of gases stored on site; comply with Mr. Golden's report recommendations; and add signage as required by the DCA. Design waivers were granted for parking space size and the installation of Belgium block curbing. "C" variances were granted for the number of parking spaces, front yard setback, for the area and location of the sign, and for the provision of an 8' high black chain link fence as recommended by the Board. The Board granted the Applicant's request for a waiver of the reading of the resolution. The Applicant was advised he could proceed at his own risk.

Board members Olsen, Blackburn, and Bensley, Jr., joined the meeting.

PUBLIC PORTION: Chairman Howell opened the meeting to the public for general comments and inquiries. No members of the public addressed the Board. The meeting was closed to the public.

OLD/NEW BUSINESS:

Liaison Reports — Open Space Committee, Township Committee, Environmental Commission, Sustainable Andover, Redevelopment Subcommittee:

- **Open Space Committee** — Suzanne Howell stated improvement project bids were out and the paving of Goodale Road was pending.
- **Andover Township Committee** — Dolores Blackburn presented the committee worked on financing the redevelopment agenda. She explained the funding mechanism and stated an ordinance is needed as well as a resolution. The professionals were advised to resubmit totals for the entire project.

- **Environmental Commission** — Mr. Olsen inquired about the Board’s inclusion of the Commission’s recommendations in their case reviews. Mr. O’Connell suggested the commission specify the desirable native species plants they would like to see included on site plans.
- **Sustainable Andover** — Mr. Olsen stated the group was working with the Economic Development Committee on a buy local, web-based, business directory.
- **Redevelopment Subcommittee** — The committee discussed meeting with Jessica C. Caldwell, PP, AICP, LEED GA, to identify the specific properties to be included in the redevelopment plan.

Scheduling: Following discussion, the Board assigned A-6-17-1, Ag Choice, LLC, Site Plan Waiver, Block 128 Lot 4.02 to the July 18, 2017 Agenda.

The upcoming meeting dates of July 18, 2017 and August 1, 2017 were confirmed.

VOUCHERS: A motion to approve the vouchers was made by Ellsworth Bensley, Jr., and seconded by John O’Connell. There was no discussion. All were in favor. The motion carried.

ADJOURNMENT: Having no further business, a motion to adjourn was made by Richard Skewes. The meeting concluded at 10:55 p.m.

Minutes respectfully submitted by:

/s/Anne-Marie Wilhelm
Anne-Marie Wilhelm
Land

Use

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