

A REGULAR MEETING OF THE PLANNING/ZONING BOARD OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY WAS HELD ON MONDAY, APRIL 16, 2018 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Messrs. Walter, Conrads, Pearson and Morgan
Mmes. Brothman, Smith and Daschko

ABSENT: None, (vacancies)

ALSO, PRESENT: Tom Prol, Attorney
Cory Stoner, Engineer

The meeting was called to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of the meeting in the N.J. Herald and by posting copy of notice in the Borough Hall.

The Oath of Office for Mr. Pearson Class III and Mrs. Daschko Class IV was administered by the Board Attorney

MINUTES:

A MOTION was made by Mayor Morgan, seconded by Mrs. Smith to approve the minutes of the meeting held on September 18, 2017 as presented. Upon roll call the following votes were cast: AYES: Smith, Pearson, Walter, Brothman, Conrads, Morgan. NAYS: None. ABSTAIN: Daschko. Motion carried.

A MOTION was made by Mayor Morgan, seconded by Mr. Pearson to approve the minutes of the meeting held on January 22, 2018 as presented. Upon roll call the following votes were cast: AYES: Smith, Walter, Brothman, Conrads, Morgan. NAYS: None. ABSTAIN: Pearson and Daschko. Motion carried.

AUDIENCE PARTICIPATION: None.

CORRESPONDENCE: The following was presented to the board and placed on file:
T Prol, Planning Board Attorney to C. Moynihan re: Cease & Desist – Stop Work Order

FORMAL APPLICATION HEARINGS:

APPLICATION #: PZ-01-2018
TYPE: D Variance
APPLICANT: Jay & Tatiana Ziegler
BUSINESS NAME: N/A
ADDRESS: 122 Main Street, Andover NJ 07821
LOCATION BY TAX MAP: 122 & 124 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE: Block 11 Lot 8 & 8.01 Zone: C1
PREVIOUS USE: Mixed Use Commercial antiques and collectibles & apartments
PROPOSED USE: Single Family Residence

Mr. William Haggerty, of Dolan and Dolan, began the testimony by explaining the request to the board. The approval sought is to convert one of three buildings on the property from a mixed commercial use to a single-family residential use. Mr. Haggerty explained that the building consists of a business downstairs and an apartment upstairs. This request would convert it back to its original use, a single family home.

Board Attorney Prol confirmed with the board secretary that the application has properly noticed to include for "D" Variance use approval if deemed necessary. The application was confirmed complete and that proper notice was satisfied. Mr. Jay Ziegler and Mrs. Tatiana Ziegler were sworn into to the testimony by Mr. Prol.

Mrs. Tatiana Ziegler confirmed through questioning by Mr. Haggerty that she has owned the property since 2007. The property use was explained as commercial use in other buildings. The subject building has one apartment and a commercial use downstairs. Her business consisted of selling antiques, statuary and other items. She's had a hard time finding suitable tenants and vendors are not seeking space to use as they once day. Demand for commercial use is down. She requests converting to a single family home which consists of removing the commercial use element.

Mr. Haggerty explained that Andover Borough Code "134-5 lots and structures" within the code is the basis of this request for use variance and that this request does not significantly conflict with the ordinance. The ordinance does permit residential use and since there are no significant changes, no proposed changes to ingress or egress. The property was moved back from the roadway and a gas station was built in front of it more than forty years ago.

Mrs. Ziegler explained that there are two lots in question. The main parking lot is on the other lot. The 10-foot entrance between the gas station and antique store on the route 206 will be the driveway. There was some discussion about parking and where the Ziegler's would park their own cars. They've never had problem with parking. These would be two separate lots, lot 8 and 8.01, and could be sold separately. Mr. Ziegler testified the residence would be their family home.

Mr. Haggerty confirmed the outside would look the same as they do today. There would be no change. Mr. Prol and Mr. Haggerty reviewed the code for permitted uses at length as the code offered a complicated diagram. Complications were considered as this is the C-1 Commercial Use zone, but the overlay of residential use is somewhat inconsistent in the way the code is written. Mr. Prol explained the request before the board. The argument is that the use request could be considered more conforming.

The approach to a use variance was discussed between Mr. Prol and Mr. Haggerty. Mr. Prol asked if the access road from the front property to the back was recorded as an easement. Mr. Haggerty said it was and it referenced. Mr. Prol continued to ask if the back lot where it is going to residential, would continue to benefit by the commercial side. "Yes", Mrs. Ziegler confirmed. The driveway provides access from the front lot to the back lot. Mr. Prol

To the extent of an easement, the Board Engineer's information did not show there is a permanent easement for lot 8 from lot 8.01. Mr. Stoner would like that clarified. An easement would help bind the two lots together in ensuring the commercial lot is in compliance.

The board and professionals considered the various ways to best make the change to accommodate for future ownership.

The matter was opened to the public. Mr. Ralph Carchia who resides at 120 Main Street testified that the building has always had a residential use and would be hardly noticed. He also agreed that the suggestion of an easement is a good idea. With no further comment, the matter was closed to the public.

Mrs. Ziegler testified that her hours of operation on her store side are 9-5, Wednesday through Sunday, but she works seven days a week 7 to 7 p.m. There are no changes to signage. Mrs. Ziegler confirmed there is one sign on the house that would be taken down so that people are not confused. Her items are mainly outside. She explained that she sells mainly outdoor items, that's what she focuses on. Applicants agreed to remove the fencing on the front porch. Mr. Conrads commented that he would like to see the front porch return to a 'residential' feel, no items for sale or blocked view. Professionals confirmed the kitchen would be removed from the apartment and the building is not approved to be used under a dual use, such as mother-daughter.

A MOTION was made by Mrs. Smith, seconded by Mr. Conrads to approve the application subject to conditions of the resolution. Upon roll call the following votes were cast: AYES: Walter, Brothman, Daschko, Conrads, Smith. NAYS: None. ABSTAIN: None. Motion carried.

APPLICATION #: PZ – 02-2018
TYPE: Site Plan and Other Variance
APPLICANT: Clarke J. Moynihan
BUSINESS NAME: Clarke J. Moynihan Landscaping and Construction
ADDRESS: 229 Main Street, Andover NJ 07821
LOCATION BY TAX MAP 229 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE: Block 29 Lot 2.01 Zone: C1
PREVIOUS USE: Commercial Property
PROPOSED USE: Approved Commercial Use and Request to commence with prior resolution for commercial & residential status

Mr. Clarke Moynihan appeared with his attorney Cara Parmigiani and Planner Eric Snyder. She explained that the application before the board is to revert the current approved commercial use to a prior resolution for commercial and residential status. Ms. Parmigiani reported that the prior resolution from 1989 permitted 12 trucks and a four bay garage with commercial and residential use. Her client is the third owner who took ownership in 2017 and intends to perfect the prior resolution conditions. She explained that the pre-existing non-conforming use predates the code and Mr. Moynihan would not be expanding any portion of the use approval.

Mr. Clarke Moynihan was sworn into testimony and his planner, Eric Snyder testified to his credentials and was also sworn in. There were no objections to Mr. Snyder acting as an expert witness.

Testimony was provided that the business which was converted from a residential use to a commercial use would be converted back to residential use.

Mr. Snyder explained the historical use of the property. The variance request was appropriate in his opinion because there would be no substantial negative impact on the town. His testimony explained the mixed-use aspect within the C-1 zone. He noted the property was only asking to go back to what it was. He continued to state that there is nothing to suggest that there has been any issue that suggests the property doesn't work well. Mr. Snyder stated that his client understood what he could and could not do on that property with no substantial impact to the property. He wanted to "reassure" the board there would be not substantial change.

Mr. Snyder pointed out the gravel driveway on an adjoining property to the North and stated he had communicated with some people from the State Park to request permission to use that driveway. Mr. Stoner pointed out that is land owned by the State. Mr. Snyder confirmed he understood and they thought it would offer better site distance to enter Route 206 from that property.

Mr. Snyder turned his report to the waterway known as the Kymer Brook, noting the brook is "well-deserved of protection" and agreed a buffer would be appropriate and an improvement to what it is today. Concerning signs, there would be no changes.

The Board reviewed the engineer report. It was noted that a one-bay garage is what was installed, not four bay, and it is in a slightly different spot. The engineer noted that Mr. Moynihan has left the bed of his trucks up to run off into the stream. Mr. Snyder assured the Board that the NJDEP is involved. Ms. Parmigiani assured the board that the NJDEP has been involved.

Mr. Moynihan confirmed he has about four to five employees in the morning and evening only. They sometimes commute in or drive out individually. Mr. Moynihan testified that there would be twelve vehicles on the site. The board engineer requested more information on the maintenance, storage and number of vehicles. Mr. Moynihan explained his business as mostly exterior and landscaping. He testified he does not store any product on his property. No asphalt. No Concrete. No materials at all.

Fuel storage would consist of five 5-gallon gas cans for small tools. There will be no vehicle fuel. There are above ground tanks there, but he does not use them for his vehicles. Mr. Moynihan testified there is a 225-gal fuel tank above ground for the house. He testified he will not be changing oil or doing repairs on site. He does work with Hampton Automotive normally. The board was concerned about maintenance on the

property. He said there is a 550-gal tank to heating fuel the garage and two more 550 gal. auxiliary diesel fuel tanks on the side of the other garage. All tanks are used for heating oil. Mr. Stoner pointed out that the tanks should be shown on the plan. Upon questioning by Mr. Prol, Mr. Moynihan testified that he did not have sonar done for underground oil tanks and did the best he could to investigate any environmental issues. The Engineer confirmed that there shall be no washing or repairing of vehicles of any kind. Mr. Moynihan agreed. Mr. Moynihan testified that the vehicles are washed and repaired off site. He also offered that he does not offer a fertilizer element to his services. The Engineer reported that the access to the State property on the north side should be barricaded. Hours of operation are 6 a.m. to 7 p.m. Monday through Sunday. There will be no customers on the property.

The Board Engineer discussed the need for a vegetative buffer and that it will be part of the condition of approval. The purpose is to filter out impurities. Mrs. Parmigiani spoke with her client to confirm he understood the need for the buffer planting. Mr. Moynihan stated "I'm willing to do whatever is necessary". The NJDEP approval was discussed as being part of the conditions of approval. A timeframe to complete will be necessary. Mr. Snyder stated he would provide the proof that the contact has been initiated.

The matter was opened to the public. Mr. Evan Stanford who resides at block 29 lot 1.01 asked what kind of truck would be traveling on the State property if that is approved. She showed the board that it would be impossible for large trucks and trailers to use that route without trespassing on his property. He notes that a vehicle shown in the pictures parked behind the garage is on his property. He was concerned how that approval may be granted. The Board Attorney added that it would require a site plan submission by Mr. Moynihan. Mr. Stanford asked if the parking calculates the residential parking use as well and he understood a full-time mechanic was hired. He also expressed concern that the vehicles are coming in at all hours of the night. They were using the State Park land access at night, so he contacted the State Park about it. He expressed concern about expansion of the garage, he was assured that change was not being considered by the board this evening. The matter was closed to the public.

Mr. Moynihan was asked what vehicles would be parked at this site. Mr. Moynihan stated he could not guarantee it would always be the same. He was asked what is there now. He stated that he has about 8-9 trucks, a mix of pickups, mason dumps, tri-axle and tandem dumps, 2 trailers, a back hoe, a light tower and a portable air compressor. Mr. Moynihan stated that he is looking at another property to park his larger vehicles.

Mr. Prol explained that the board would stick to the letter of the prior approval. If he finds himself with thirteen trucks, that would constitute a violation.

A MOTION was made by Mayor Morgan, seconded by Mr. Pearson to approve the application as presented with conditions. Upon roll call the following votes were cast: AYES: Walter, Brothman, Daschko, Conrads, Morgan, Pearson, Smith. NAYS: None. ABSTAIN: None. Motion carried.

OLD BUSINESS:

A MOTION was made by Mr. Pearson, seconded by Mayor Morgan to approve the memorialization of application #WSP-2017-007 in the matter of Sheri Arnold d/b/a Made in the Shade Too, 127 Main Street, Andover NJ 07821, Block 21 Lot 3 Zone C1 for waiver of site plan. Upon roll call the following votes were cast: AYES: Smith, Pearson, Walter, Brothman, Conrads, Morgan and Daschko. NAYS: None. ABSTAIN: None. Motion carried

A MOTION was made by Mr. Pearson, seconded by Mayor Morgan to approve the memorialization of application #WSP – 2017-008 in the matter of Michael J. Inge d/b/a GFC Contracting and Professional Services, 124 Main Street, Andover NJ 07821, Block 19 Lot 1 – Zone C1 for waiver of site plan. Upon roll call the following votes were cast: AYES: Smith, Pearson, Walter, Brothman, Conrads, Morgan and Daschko. NAYS: None. ABSTAIN: None. Motion carried

NEW BUSINESS:

The Mayor noted that the water department should be notified to update their billing on the application for Moynihan to reflect the mixed-use change.

AUDIENCE PARTICIPATION: None.

A MOTION was made by Mr. Pearson, seconded by Mr. Conrads to adjourn the meeting. AYES: All in favor. NAYS: None. Motion carried.

Beth Brothman
Board Secretary