

TOWN OF ANDOVER  
PLANNING & ZONING COMMISSION  
MONDAY, MAY 17, 2021 7:00PM  
LOCATION: VIRTUAL MEETING VIA ZOOM

**PUBLIC HEARING AND REGULAR MEETING MINUTES**

**PUBLIC HEARING**

**Members Present:** Chair Jed Larson, Vice Chair Anne Peterson Crème, Scott Person, Leigh Ann Hutchinson, Kevin Arnesen (alternate), Anne Blanchard (alternate) (joined at 7:15pm)

**Member Absent:** Susan England

**Others Present:** Zoning Agent – Jim Hallisey, Board Clerk – Mindy Gosselin, Thomas Fiorentino, George Correia, Allan Parkington, Chris Bell, Joseph Mott, Erik Loteczka, Megan Phillips, Mark Branse, Andrew Bushnell

- 1) Call to Order: Chair J. Larson called the public hearing to order at 7:00 p.m.
- 2) Application #21-01, Application of **57 Hendee Road**, LLC, seeking a Special Permit so as to deposit fill and construct a single-family home in Flood Zone in accordance with Section 10.5 of the Andover Zoning Regulations

J. Larson reviewed the public hearing process/procedure. The public hearing was continued at the request of the applicant to consider alternatives and options brought up during the previous hearing.

M. Phillips, one of the applicants, stated that they have taken into consideration what was said last meeting in relation to the Andover zoning regulations. The application's engineer, Andrew Bushnell, has also taken into consideration attorney Mark Branse's comments last meeting. M. Phillips stated that they now understand the regulations for the building setback line to mean at least 50 feet from the center of the traveled way. On the revised plan the applicant's showed the 50-foot line for a point of reference and the new setback line at 93 feet. M. Phillips stated that this revision worked out really well to comply on all areas of the regulations even with the unusual shape of the lot. M. Phillips continued to explain that they were able to obtain the 200-foot lot width required, touching but not in front of the building line and keeping it parallel to Hendee road.

Agent J. Hallisey stated that he has no further comments. The only outstanding issue was the interpretation of the lot width definition. It has been suggested that it means exactly 50 feet or a minimum of 50 feet.

J. Larson stated that from his conclusion, this is a rear lot and not a lot that complies with a 200-foot width for a lot other than a rear lot. He then stated all of the other potential options to comply that were discussed last meeting.

Attorney M. Branse stated that he was incorrectly quoted to the commission without his knowledge. In regards to the lot width definition, last meeting M. Branse stated that some towns say at least 50 feet and the commission could construe it that way if they wish – but he did not say that it was his recommendation or that was how it should be read. He thinks that the commission has flexibility. M. Branse does have concern with if applicants can set the setback anywhere they want it and measure the lot width wherever they want it – there will be some pretty strange lots. M. Branse then shared a sketch on the screen to demonstrate the lot width issue at hand.

Attorney M. Branse stated that he thinks there is a threshold decision for the commission when it says measured at the building line, does that mean "at" or "at least". It is within the commission's decision to decide.

J. Larson read the definition of a rear lot and building lot line from the Andover regulations. He stated that his current assessment is that what is proposed, creates a rear lot. Whereas, if the lot lines were left as they are existing, the commission would most likely carry on.

A. Parkington asked why the applicants are being held up and refused to build a home where they want to build it. He also mentioned frontage in relation to the town property. Attorney M. Branse stated that Mr. Parkington is correct that the issue is measurement of lot width, however, he is not correct that the commission has held this up. This application did not comply with flood zone, use zone, there has been a variance, and there have been issues with the application since the beginning. The plans have been changed repeatedly and the initial plan did not show lot width at all.

J. Larson stated that there has been a dilemma because the applicants redrew the lot lines.

A. Parkington stated that he believes that if the applicants want to build in a flood prone zone and they assume responsibility of possible flood damage, they should be able to build.

3) Public Comment: Addressed previously.

4) Close or extend Public Hearing/Adjournment

S. Person MOVED to close the public hearing. A. Crème SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

The public hearing was adjourned at 7:28 p.m.

### **REGULAR MEETING (Held immediately following the Public Hearing)**

**Members Present:** Chair Jed Larson, Vice Chair Anne Peterson Crème, Scott Person, Leigh Ann Hutchinson, Kevin Arnesen (alternate), Anne Blanchard (alternate)

**Member Absent:** Susan England

**Others Present:** Zoning Agent – Jim Hallisey, Board Clerk – Mindy Gosselin, Thomas Fiorentino, George Correia, Allan Parkington, Chris Bell, Joseph Mott, Erik Loteczka, Megan Phillips, Mark Branse, Andrew Bushnell

1) Call to Order: Chair J. Larson called the regular meeting to order at 7:28 p.m.

2) Roll Call/Seating of Alternates: Alternate K. Arnesen was seated for S. England.

3) Additions/Changes to the Agenda:

J. Larson proposed to move Old Business item, 57 Hendee Road, to the first order of business in that section.  
MOTION CARRIED unanimously, 5:0:0.

4) Public Comment: None.

5) Old Business

- a) Action Item - Application of **57 Hendee Road, LLC**. Seeking a Special Permit to construct a single-family dwelling in a Flood Zone in accordance with Section 10.5 of the Andover Zoning Regulations (with relief previously granted by the Zoning Board of Appeals).

A Crème MOVED to approve the application of 57 Hendee Road. K. Arnesen SECONDED. By roll call vote, MOTION DEFEATED 2:3:0, with A. Crème and L. Hutchinson voting yes and S. Person, K. Arnesen and J. Larson voting no.

- b) Action Item – Application of Joseph Mott, **142 Wales Road**. Site Plan Review for an Accessory Apartment in accordance with Section 4.11 of the Andover Zoning Regulations

J. Mott, the applicant, stated that he addressed the comments from last meeting. He submitted an E&S plan and updated the site plan to include the driveway going to the rear garage. There was also a comment about the square footage. He stated that the inside dimensions of the apartment do fall under the 800 sqft.

J. Hallisey stated that the regulations do not specify whether or not the square footage calculations use the internal or external dimensions. Using the internal dimensions, it is just under 800 sqft.

J. Larson stated that the regulations say 800 sqft. gross floor area, which would be an external measurement. M. Branse also brought up this point and the definition of gross floor area. The external measurement would exclude the stairway.

Square footage calculation was discussed further.

It was concluded that the square footage was incorrectly calculated, it needs to use external dimensions. The apartment, using the external walls, is 856 sqft. J. Mott then explained how the apartment would be altered to meet the 800 sqft. maximum. He stated that he would void a 6 sqft. space behind the toilet and bump the front wall of the second-floor in. The garage would remain the same size. Additionally, the closet being added to the main house is not included in the accessory apartment sqft. calculations.

J. Hallisey stated that he discussed the reduction of square footage with J. Mott previously. J. Mott is not quickly making it up, he has thought through this alternative option as well.

J. Larson asked J. Mott how he will be keeping the character of the house. J. Mott explained how he initially wanted to construct a steel building but thought that it would not match the neighborhood. He stated that the current proposed garage and apartment will have the same windows, siding, trim, and overhang as the existing house. The internal design will also match the existing house.

J. Larson asked J. Hallisey if the nature of the submitted drawings for this application would be consistent with what would be presented to the building official for the construction of a house. J. Hallisey said yes, J. Mott provided very detailed plans.

S. Person asked about the percentage of an accessory apartment in relation to primary structure square footage and parking spaces vs. occupants. J. Larson stated that both of those points are satisfied with the current proposed plan.

Attorney M. Branse shared a draft motion on the screen – “Motion of Approval, 142 Wales Road”.

S. Person MOVED that the Planning and Zoning Commission approve the application of Joseph Mott for an accessory apartment in accordance with section 4.11 of the regulations at 142 Wales Road, subject to the condition that the construction be in accordance with the plans submitted to the commission. Except that one wall of the accessory apartment will not exceed 800 square feet of gross floor area, as that term is defined in section 24 of the regulations, compliance to be confirmed by the Zoning Enforcement Officer prior to the issuance of a certificate of zoning compliance. A. Crème SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

- c) Action Item – Application of George Correia & Erik/Melissa Loteczka, **Old Farms Road/Pine Ridge Drive**. Applicant Seeking a Special Permit for two rear lots in accordance with Section 4.0 of the Andover Zoning Regulations and a 2 lot Open Space Subdivision in accordance with the Andover Subdivision regulations in their entirety and Section 5.5 of the Andover Zoning Regulations.

J. Larson stated that Andover's Wetland Commission has not approved this application yet.

J. Larson stated that is an extensive application, however, he did not see the 57-item zoning checklist. J. Hallisey stated that he reviewed the 57-item checklist with E. Loteczka.

J. Hallisey stated that the deed restriction has not been provided for the conservation subdivision. However, the applicant is aware that it is required. J. Hallisey has provided him with samples.

J. Larson stated that for rear lots, the fire marshal needs to review and approve the driveway turn around. There is not a turn around on the proposed plan.

J. Larson asked for the extent of clearing to be shown.

G. Correia stated that the wetlands are flagged but the house will not be. However, the applicants said that they can stake out the houses and the septic system by the site walk date. For clearing limits, the applicants stated that they intend to leave as many trees as they can, they would like to maintain the natural area.

S. Person MOVED to schedule a site visit on Saturday June 5<sup>th</sup> at 9am. K. Arnesen SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

L. Hutchinson MOVED to schedule a public hearing on this application for the next PZC meeting on June 21<sup>st</sup>, 2021 at 7 p.m. S. Person SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

- d) Action Item – Application of Chris Bell, agent for William and Joe Genovese. Request for an extension to an existing Special Permit granted for a gravel operation located at **517 Route 6**.

C. Bell, the applicant's agent, shared the proposed site plan. He explained the plan in relation to the 100-foot stations. C. Bell stated that he visited the site 2 weeks ago to check on the progress of the project and took site photos. He stated that the gravel pit operations were started between station 250 and 350, it has then proceeded going west until it got to the other side of the property toward the parts building. During the operation they created a pile of sifted sand – shown on the plan in red. It will be moved, about a third of it has been moved in the last week. The elevations were indicated on the plan as 295 ft., the goal is to get the elevation to 294.5 ft. and then bring in 4 to 6 inches of top soil to get above floodplain. C. Bell then explained the grading of the property.

C. Bell stated that the contractor has put tree stumps in the rear of the property near the wetlands. The contractor was not supposed to do this, they are in the process of removing the stumps. About 25-30% of the pile was moved to the front of the property to be removed at a later date, and the rest will be removed by a third party within the next 2 weeks. There is a total of 4 tractor trailer loads of stumps back there, once they are removed, the area will be restored. There will be a meeting with J. Hallisey and H. Gruner to discuss restoration.

C. Bell explained the use and location of the topsoil on property. He also explained the scheduling.

C. Bell stated that they don't think they will get as much materials out of this project as originally planned. The operation is closer to being halfway done. They are currently finishing up multiple phases, they haven't been able to complete a whole phase of the whole project because of the shape of the site and the way traffic has to go. They have not reached the final phase. C. Bell stated that the goal is to complete the last phase from station four all the way to 565 with restoration before they move any further on the site.

S. Person asked how complete the project currently is. C. Bell said the actual removal of materials is about one third complete. There are parts of the phases being graded and removed and some parts that have not. Most of the work has been getting the site prepped. He stated that they also had contractor problems due to COVID-19.

S. Person asked if they are done taking out material at the elevation of 295. C. Bell stated "mostly yes". There will be a final grading to make sure it is draining properly towards the front of the property. S. Person stated that it seems like much more work has been completed.

S. Person asked if the stumps are in the wetlands. C. Bell stated that the stumps are in the buffer and they are not supposed to be there. They are working on removing them.

S. Person stated that initially each phase was supposed to be started and completed before the next phase began.

There was more discussion on elevation and volumes of material (which are approximate).

L. Hutchinson asked how many phases are in this project. C. Bell stated that there are 5 phases, the end of the project is at station 565.

J. Larson brought up S. Person's point about how there may be some things being done differently than the commission thought. J. Larson then referenced the regulation on permit renewal applications. It essentially states that the commission shall not renew or extend any permit unless the operator is able to show through the report of a registered engineer, that the excavation already completed conforms with the plan of operations approved. Additionally, J. Larson went back to read the special requirements for the special permit and it stated that the excavation shall proceed sequentially one section at a time – commencing with section 0 proceeding to section 5. Excavation shall be permitted to involve two sections at a time, however, at no time shall a third section be disturbed until at least one prior section is fully restored, stabilized, and approved by the ZEO. There is also a requirement of an engineer report after the completion of each phase.

J. Larson stated that there has been no communication with the ZEO about the project progress. This is the first time the commission is looking at serious progress of this project.

J. Larson asked C. Bell the schedule moving forward. C. Bell stated that the stumps will be removed within the next 2 weeks. After that, the goal is to get the prep done for the back part of the project so the restoration meeting can take place. The restoration should continue throughout the whole site until the extension gets approved. Most of the site should be able to be restored before they start on those front sections.

J. Larson quoted C. Bell's letter that he submitted citing the timeline for the removal of the stumps. They failed to complete it in the projected time stated.

Options on how to proceed were then discussed. C. Bell stated that a cease and desist would hinder their progress. Attorney M. Branse stated that there could be an order to not remove anything from the site but also to restore the site immediately. He asked C. Bell why restoration can't occur until the material is removed. C. Bell stated that it would be more advantageous to remove the material that is in the way of the restoration.

C. Bell stated that this isn't a matter of money, it is a matter of time to get rid of it. He is having trouble getting rid of material. C. Bell stated that they are having issues with the contractor, he is moving to areas he should not be. C. Bell asked for time to restore the area.

S. Person stated that it doesn't seem fair to ask for an extension when what has been approved has not happened. There has also been a wetlands violation. S. Person also mentioned the possibility of a cease and desist. Moving forward, the stumps need to be moved from the back end of the lot as soon as possible. S. Person stated that the wetland agent, Joe Wagner, should also consider a site visit.

L. Hutchinson asked if there was anyone on site that is there more frequently. C. Bell stated that there is a guy named Pat that is the manager on site everyday Monday-Friday. He works directly for the auto company. He manages both this project and the auto parts company.

J. Larson asked if Pat has cited the documents with all of the requirements. C. Bell stated that he has a set of plans and he has told him all of the requirements.

S. Person stated that a plan needs to be made. Attorney M. Branse stated that he helped craft the motion from when this application was initially approved. The commission was very specific when it was approved. For the current issue at hand, the first thing that needs to be done is to have the wetland agent, zoning agent, and Chris Bell meet on site and decide what needs to happen first. They then should craft orders for both zoning and wetlands as to what they each expect to happen. The town engineer might also need to get involved.

Attorney M. Branse emphasized that the commissions/agents should start with orders as to what is happening and when it is happening. If C. Bell has a schedule, the wetlands and zoning agent can

review it to see if they find it acceptable. There needs to be tight timelines. For excavation, there does not need to be 10 days, for a cease and desist order it can take effect immediately upon receipt. There is an exception in the statute for excavation violations. Once the orders are issued, fines can then be accrued. M. Branse then discussed the collection of fines and potential future legal/court action.

S. Person stated that the stumps may need a permit or some sort of plan to be removed due to the fact that they are so close to vernal pools.

S. Person and M. Branse stated that there needs to be a restoration plan before there is any more activity.

There will be a meeting with Wetland Agent Joe Wagner, Zoning Agent Jim Hallisey and the applicant's agent Chris Bell on Tuesday May 18<sup>th</sup>, 2021.

This application was continued to next meeting.

e) Discussion – Proposed revision to the Sign Regulations (zoning Regulations).

J. Larson is still working on this. This item was continued to next meeting.

f) Discussion – Update on the preparation of an Affordable Housing Plan as required by the Connecticut General Statutes.

J. Larson will be attending a regional meeting with other towns on Tuesday May 18<sup>th</sup>, 2021. The meeting will discuss preparing an affordable housing plan. It is a hot topic that has been in the paper lately.

g) Discussion – Regarding return to in person Planning & Zoning Commission meetings

A. Crème stated that she would prefer meeting in person.

L. Hutchinson said that she has mixed feelings, would there still be social distancing and masks? J. Larson stated that we would still social distance, he is unsure about the masks.

A. Crème stated that the board of education has been meeting in person for a few months and it works well. The public zooms in while the members are all together in person.

J. Larson stated that the Town Hall needs to open up first, for now we will remain virtual.

6) New Business

a) Discussion/Possible Action – Application of Adam Delventhal, **128 Wheeling Road**

Applicant seeking a Site Plan approval for an Attached Accessory Apartment in accordance with Section 4.11 of the Andover Zoning Regulations.

This application was received and will be continued to next meeting.

b) Discussion – Application of Scott Beebe, **241 Route 6**. Discussion of previously granted Special Permit for a kennel operation.

J. Larson stated that he needs to discuss this application with J. Hallisey. J. Hallisey stated that the owner was issued a special permit and it involved the construction of a facility on Post Farm. However, he never built it and never filed the special permit. Now the owner, Scott Beebe, recently bought out a business partner and this has triggered the state to send a certificate of zoning compliance to the business.

The state certificate of compliance requires S. Beebe to get the signature of the town zoning official in order to continue operating. J. Hallisey is unsure if S. Beebe's previous approval will cover what he is currently doing and therefore is unsure if he is able to sign the state's form.

S. Person stated that the kennel facility was approved. It went to court and he won, however, he did not have money left to build it.

J. Larson stated that he did not comply with what the special permit granted, and he is continuing to operate his business. There is now specific kennel regulations, so the Commission needs something that shows he is in compliance with the current regulations.

- 7) Approval of Minutes  
a) Public Hearing and Regular Meeting of April 19<sup>th</sup>, 2021

This item was postponed to next meeting.

- 8) Correspondence: None.

- 9) Administrative Report

Lots of building activity.

- 10) Commission Discussion/Miscellaneous:

J. Larson stated that there has been some thought to use open space funds to build a park. J. Hallisey stated that Eric was wondering if the Commission would be comfortable using open space funds for designs regarding a parking area at a trail head.

J. Larson stated that Dianne Grenier has been talking about community grant money. That grant could be used for the parking area at a trail head.

There has not been recent contribution to the open space fund which is not ideal. The open space fund needs to keep growing in order to buy more open space.

- 11) Public Comment: None.

- 12) Adjournment

S. Person MOVED to adjourn the meeting at 9:58 p.m. L. Hutchinson SECONDED. MOTION CARRIED unanimously, 5:0:0.

Respectfully submitted by Mindy Gosselin,

*Mindy Gosselin*

Please see the minutes of subsequent meetings for the approval of these minutes and any corrections hereto.