

June 26, 2008

Mr. Kirkpatrick called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Mazza, Mr. Bischoff, Mr. Martin, Mr. Taibi, Mr. Badenhausen, Mrs. Corcoran, Mr. Ryland, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Walchuk

Others Present: Atty. Jolanta Maziarz, John Reymann, Beth McManus, Atty. Lloyd Tubman, Frank Jones, David Banisch, Rita Petri, David & Cynthia Case

Perryville Wine & Spirits: Block 12, Lot 8.04, 72 State Highway 173: Issue of Completeness: Mr. Kirkpatrick said a letter, dated June 25, 2008, had been received from applicant's Engineer, Andrew Holt, requesting that the current site plan application for the project be withdrawn. Township Engineer John Reymann had written a letter dated June 17, 2008 recommending that the application be deemed incomplete. Mr. Reymann had identified further items to be addressed.

Wagner: Block 25, Lot 21, Hill and Dale Drive: Memorialization of Resolution Granting Extension: Mr. Ford made a motion to memorialize the Resolution, with a revision. Mr. Walchuk will be listed as ineligible. Mrs. Corcoran seconded the motion. Vote: Ayes: Mr. Ford, Mrs. Corcoran, Mr. Mazza, Mr. Bischoff, Mr. Martin, Mr. Badenhausen, Mr. Ryland, Mr. Kirkpatrick
Abstain: Mr. Taibi

Case: Block 17, Lot 2, Lakeview Lane: Extension of Approval: Mr. Ford recused himself. He is an adjoining property owner. Mr. Case addressed the Board. He gave an overview of the application and approvals. Mr. Case requested the Board grant an extension until such time as the NJDEP comes to a conclusion on the application. The property is in the Highlands. Also, a lawsuit had been filed by a neighbor who opposed the approval. The Court has dismissed all of the neighbor's complaints. Mr. Kirkpatrick said the Board is limited to granting extensions one-year at a time. He also said the State Legislature is considering a Permit Extension Act.

Mr. Bischoff made a motion to grant a one-year extension. Mr. Mazza seconded the motion.

Vote: Ayes: Mr. Bischoff, Mazza, Mr. Martin, Mr. Taibi, Mr. Badenhausen, Mrs. Corcoran, Mr. Ryland, Mr. Kirkpatrick

Mr. Case thanked the Board for their consideration. Mr. Ford returned to the meeting after the above action.

Petri: Block 15, Lots 8 and 8.01, 25 Stonehaven Lane: Public Hearing: Atty. Lloyd Tubman was present on behalf of applicant. Notice Documents had been provided. Atty. Maziarz had reviewed Documents. They were found to be in order giving the Board jurisdiction to hear the matter. The Documents were marked Exhibit A-1. Ms. Tubman said applicant is seeking a lot-line adjustment. The property is in the Conservation Management District and Highlands Preservation Area. Lot 8 has two residential dwellings. Applicant proposes a new Lot (8.09). Lot 8.09 would be a flag lot which would not abut a public street. A portion of Lot 8 would be added to Lot 8.01. The addition of land from Lot 8 would make Lot 8.01 conforming. Atty. Tubman said there are existing non-conforming conditions. One house and accessory structures are too close to a lot line. Ms. Tubman does not believe variances are required for the pre-existing conditions. However, to be conservative, she had noticed for those conditions. There would be four lots on the private Lane. Three of those would be Petri lots and one would be a third-party lot.

Atty. Tubman said she had two witnesses; Engineer Frank Jones and Planner David Banisch. They were sworn by Atty. Maziarz. Mr. Kirkpatrick asked Messrs. Banisch and Jones to state their credentials. They were accepted by the Board. Mr. Jones displayed a Subdivision Plan. It was marked Exhibit A-2. Mr. Jones provided testimony. He said the property consists of 30 + acres. The proposal would provide for Lot 8.01 to have a total of 9.665 acres. Flag Lot 8.09 would have 9.935 acres and the remaining Lot (8) would have 18.23 acres. Mr. Jones said that Lot 8 contains the original homestead. He described Stonehaven Lane. The Lane leads to Main Street. There is a 50-foot wide strip that belongs to the State. It was purchased at the same time as a contiguous property a few years ago. Mr. Kirkpatrick asked about access via Williamson Lane. Mr. Jones said because of the ravine and wetlands, access would be difficult. A portion of Williamson Lane has improvements. Atty. Tubman mentioned the presence of Category I Stream and associated SWRPA. Mr. Bischoff asked Mr. Jones for clarification about Williamson Lane improvements. Mr. Jones said the improvements end by the Petri flag stem. Mr. Kirkpatrick asked the reason that Stonehaven Lane was not lengthened to eliminate the need for the flag lot and one of the variances. Atty. Tubman asked Mrs. Petri if she understood what was being proposed. Mrs. Petri indicated that she did not understand. Atty. Tubman said the question was asked about dedicating a portion of Lot 8.09 as a private road. Lot 8.09 would still be conforming. Ms. Tubman asked if the Board would want the private road area improved. Mr. Kirkpatrick said "probably not". However, the Board should weigh in on the subject. Mr. Ryland agreed with Mr. Kirkpatrick's statement about eliminating the flag lot and the need for the associated variance.

Mr. Kirkpatrick asked Mr. Reymann for comments. Mr. Reymann noted the environmental sensitivity of the property. He said that if the subdivision was approved, there would be no improvements. Mr. Reymann stated his reluctance to the cul-de-sac proposal. He said that Williamson Lane would not be a possible access to the property because of environmental constraints. Mr. Reymann said it should be determined who is responsible for maintenance of the private road. He cited the need for easements for the existing driveways. Atty. Tubman agreed with Mr. Reymann's comments.. Mr. Reymann recommended that if the subdivision was approved, a Plat should be filed. Mr. Kirkpatrick asked Mr. Reymann his feelings about construction materials for the proposed driveway. Mr. Reymann said gravel would be fine. He said cross-access easements could be granted. He re-emphasized his statement about no improvements. Atty. Tubman took issue with that statement. She said the Lot which Mrs. Petri proposes granting to her son has a very small house. Ms. Tubman said a Resolution of approval should provide that a larger residence could be built on that Lot at some time in the future. The existing dwelling would be removed. She also said that agricultural structures should be acceptable. Atty. Tubman would agree that a condition of approval would be no further subdivision of any of the Lots. Atty. Tubman noted that the subject property is in the Highlands Preservation and that restricts the property.

Beth McManus, Planner, echoed many of the comments of the Township Engineer, including as few improvements as possible. Ms. McManus would not recommend a paved driveway. She said a gravel driveway would probably be sufficient. Mr. Kirkpatrick asked Ms. McManus about maintenance of Stonehaven Lane. Atty. Tubman responded. There is no maintenance agreement. She said there are numerous easements. The property has functioned as a farm since the Petris bought it in 1965. Mr. Reymann said there is adequate access for emergency vehicles. He recalled that driveways on the property are paved. Mr. Bischoff voiced a concern about a future change to non-family ownership of any of the Lots. He would feel more comfortable with a condition of approval being that no other structures, other than for agricultural purposes, be allowed, unless a prior structure is demolished. He also thought that cross-easements should be filed with each of the deeds. Atty. Tubman said that cross-easements and a maintenance agreement would be acceptable. Mr. Kirkpatrick voiced a concern about the possibility that the State might prohibit use of Stonehaven Lane by other property owners. Atty. Tubman said the State cannot do that.

Mr. Kirkpatrick asked if aside from no further subdivision, no other structures, extension of the cul-de-sac, which exists on paper only, thus eliminating the flag lot, were there any other questions. Mr. Taibi did not see why the Board would ask applicant to change from their desire to create a flag lot. The flag lot would require a variance. Mr. Bischoff said the Ordinance states that flag lots should not be created.

Mr. Kirkpatrick asked the Board's preference about leaving the cul-de-sac as it exists or extending the private road to serve Lot 8.09. Mr. Bischoff prefers the extension. Mayor Mazza concurred.

Mr. Kirkpatrick asked for a motion. Mayor Mazza made a motion to approve the subdivision, with the following conditions: The Road gets extended; there will be no further subdivision; no additional buildings, other than agricultural structures and the dwelling on Lot 8.09 could be torn down and replaced with another house. Atty. Tubman asked the Board consider that instead of a filed Plat, applicant be allowed to file by deed and include a reduced version of the Plat. Ms. Tubman said otherwise concrete monuments would have to be installed on every corner of each Lot and that becomes expensive. Atty. Tubman's request was acceptable to the Board. Mr. Bischoff also said that cross-easements, for purposes of access, be included and recorded with the deeds. Atty. Tubman concurred. Ms. Tubman asked if the Planner would need to provide testimony on existing conditions. Mr. Kirkpatrick said the Board had looked at the application in detail. Mr. Banisch's testimony would not be necessary. Mr. Bischoff seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Bischoff, Mr. Martin, Mr. Taibi, Mr. Badenhausen, Mrs. Corcoran, Mr. Ryland, Mr. Ford, Mr. Kirkpatrick

Atty. Tubman asked that the Resolution state that extending the Road without a cul-de-sac creates a variance condition as to frontage only. The Ordinance requires 60-feet of frontage. Mrs. Petri expressed appreciation to the Board for their consideration of her request.

Correspondence: Fallone: Block 22, Lot 34, Perryville Road: The letter from Maser Consulting dated May 28, 2008 was briefly discussed. Ms. McManus questioned a deadline whereby there would be an automatic approval of building materials if Mr. Hintz's office did not provide a review in two weeks. Mr. Kirkpatrick said if the Planner's office did not have time to review the submission, the request would be rejected. Mr. Kirkpatrick told Ms. McManus to send a letter to Fallone telling them the materials were rejected. **Perryville Group LLC: Block 22, Lot 4, Frontage Road:** The letter dated June 9, 2008 informed the Board that Perryville was applying for a Letter of Interpretation. **P.S. Construction LLC: Block 22, Lot 27, 22 Race Street:** Atty. Lehrer's letter dated June 9, 2008 provided information on soil samples taken at the site. Mr. Kirkpatrick said the letter indicated that no contaminants were found above allowable residential rates. No action was required. Mr. Bischoff mentioned that test sites are to be filled in and seeded. He wanted the record to reflect that information. Mrs. Corcoran noted that the arsenic level was close to the allowable rate. **Milligan Farms: Block 22, Lot 20, Route 513: HCPB** letters dated June 10 and 12, 2008 were provided for the Board's information. Mr. Ryland noted that the June 10 letter states the application is unconditionally approved and the June 12 letter granted approval to construct and unconditional approval would be granted subsequent to completion.

UTEC Minutes: May 13, 2008: Mr. Kirkpatrick noted that the minutes reflect that Mr. Nargi stepped down as UTEC Chairman. Mr. Kirkpatrick also noted that Ms. McBride had misstated the Income Requirements for Farmland Preservation, as it pertains to Property Management. He said property must have more than five acres, have a house on it and a gross income of \$500.00 for the first five acres. He said there are additional requirements for additional acreage.

Comments from the Public/Other Discussion: Mayor Mazza had a comment on **P.S. Construction LLC: Block 22, Lot 27, 22 Race Street:** He questioned why certain contaminant data was not listed. Mr. Kirkpatrick said there probably was not a standard.

Mayor Mazza mentioned the traffic situation on Frontage Road. He spoke with Sargeant Billings at the State Police. The Sargeant is aware of the problems with overnight parking, the weigh station and parking at Dunkin Donuts. Officers from the Washington Barracks will be in the area and issuing tickets. The Mayor will be following up regarding this important issue.

Mr. Kirkpatrick said if there were no further comments he would like a motion to go into Executive Session. Mr. Bischoff made the motion to go into Executive Session for the purpose of discussing the Pilot Litigation. Atty. Maziarz said, for the record, the motion is for a Closed Session to discuss the Pilot Litigation, the time and circumstances under which minutes can be disclosed is when all Litigation is complete and the time for appeal has expired. Mrs. Corcoran seconded the motion. (8:05 p.m.)

Vote: All Ayes

A Resolution providing for a meeting Not Open to the Public in Accordance with the revisions of the N.J.S.A. 10:A-4-12.

WHEREAS, the Planning Board of the Township of Union is subject to the Open Public Meetings Act, N.J.S.A.10: A-4-6, et Seq., and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:A-4-12, provides that an Executive Session, not open to the Public, may be held for certain specified purposes when authorized by Resolution, and

WHEREAS, it is necessary for the Planning Board of the Township of Union, assembled in public session on June 26, 2008, in the Union Township Municipal Building, 140 Perryville Road, Hampton, NJ 08827, for the discussion of matters relating to the specific items designated above.

It is anticipated the deliberations conducted in closed session may be disclosed to the public upon determination by the Planning Board that the public interest will no longer be served by such confidentiality.

The Executive Session ended at 8:55 p.m.

Mr. Ryland made a motion to return to the regular session. Mr. Taibi seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Approval of Minutes: Mr. Ford made a motion to approve the minutes of the May 22, 2008 meeting. Mrs. Corcoran seconded the motion.

Vote: Ayes: Mr. Ford, Mrs. Corcoran, Mr. Mazza, Mr. Bischoff, Mr. Martin,
Mr. Badenhausen, Mr. Ryland, Mr. Kirkpatrick

Abstain: Mr. Taibi

Mr. Bischoff made a motion to approve the minutes of the May 22, 2008 Executive Session, with an amendment. Messrs. Bischoff and Kirkpatrick asked that certain changes be made. Mr. Ford seconded the motion.

Vote: Ayes: Mr. Bischoff, Mr. Ford, Mr. Mazza, Mr. Martin, Mr. Badenhausen,
Mrs. Corcoran, Mr. Ryland, Mr. Kirkpatrick

Abstain: Mr. Taibi

Cancellation of July 1, 2008 Workshop: It was the consensus of the Board to cancel the Workshop.

Motion to Adjourn: Mr. Bischoff made a motion to adjourn. Mr. Ford seconded the motion. (9:00 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary