

April 23, 2009

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. Bischoff, Mr. Walchuk, Mr. Badenhausen, Mrs. Corcoran, Mr. Ryland, Mr. Nace, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mrs. Dziubek, Mr. Taibi

Others Present: Atty. Mark Anderson, Kevin Smith, Lisa Specca, Marla Roller, Salvatore DeFazio, Atty. George Dilts, Gregory Brown, Thomas Horvath

Approval of Minutes: Mrs. Corcoran made a motion to approve the minutes of the March 26, 2009 meeting. Mr. Walchuk seconded the motion.

Vote: Ayes: Mrs. Corcoran, Mr. Walchuk, Mr. Badenhausen, Mr. Ryland, Mr. Nace
Mr. Kirkpatrick

Abstain: Mr. Bischoff, Mr. Ford

Mr. Kirkpatrick changed the order of the agenda.

Correspondence: Pilot Travel Centers LLC: Block 11, Lot 24.03, 68 Route 173 West: Engineer Smith gave an overview of his memorandum dated April 22, 2009 regarding Field Changes/Deviations at the site. Changes requested and approved with conditions pertained to water line piping, diesel island rain leader piping, scale sump pump discharge, trunk line to OWS, collection basin at tank farm, installation of trench grate, column roof leaders, addition of a drop inlet box, reconstruction of sidewalk along front of Subway, extension of pedestrian walkway at northeasterly corner of the automobile parking lot, resetting curb lines so tractor trailers do not back into fence.

Change requested but not approved at this time was the installation of concrete berms at the diesel fuel island; changes requested and disapproved were moving the timber rail fence and relocation of a light fixture along the sand filter island and a 12 to 75' asphalt access drive to the rear of the building. Mr. Smith told the Board that a manhole had been disturbed during excavation and Pilot may be returning with a change because of that problem. Mr. Kirkpatrick said changes will be discussed, documented and presented to the Board at a workshop or regular meeting. He said if there is any doubt about whether the change is minor or not, it will be brought back to the Board.

Mr. Bischoff recused himself from the meeting after the Pilot discussion.

Issue of Completeness: St. Catherine of Siena: Block 22, Lot 34.02, 142 Perryville Road: Engineer Smith apprised the Board that the applicant proposes expanding the parking from 48 to 119 constructed spaces and 25 "future" spaces.

A variance for impervious surface coverage is required. Applicant proposes an increase from 10 to 20%. Maximum allowed in the VR District is 15%. The floor area of the Church will not be changed. Mr. Smith said the Planning Board will hear the matter. Mr. Smith said certain waivers were requested. Marla Roller, Certified Landscape Architect, addressed outstanding issues.

Mr. Kirkpatrick asked for a motion on the completeness matter. Mr. Ford made a motion to deem the application complete, subject to the following: A waiver will be granted for the Aquifer Test Requirement and all other outstanding items, including a letter stating the absence or presence of wetlands in lieu of an L.O.I., will be provided during the course of the application. Mrs. Corcoran seconded the motion.

Vote: Ayes: Mr. Ford, Mrs. Corcoran, Mr. Walchuk, Mr. Badenhausen, Mr. Ryland, Mr. Nace, Mr. Kirkpatrick

Memorialization of Resolution: Wagner: Block 25, Lot 21, Hill and Dale Drive:

Mrs. Corcoran made a motion to memorialize the Resolution. Mr. Walchuk seconded the motion.

Vote: Ayes: Mrs. Corcoran, Mr. Walchuk, Mr. Badenhausen, Mr. Ryland, Mr. Nace
Mr. Kirkpatrick

Republic Services of NJ, LLC: Block 22, Lot 30.03, Route 173 East: Atty. George Dilts was present on behalf of applicant. Atty. Anderson reviewed the Notice Documents and found them to be in order, giving the Board jurisdiction to hear the matter. The matter had been carried from the March 26, 2009 Board meeting. Mr. Dilts said the Republic/Raritan Valley Disposal (RVD) application is for a site plan and expansion of a non-conforming use. Applicant seeks approval to install a 10,000 gallon underground diesel storage tank for refueling the trucks that already exist on the site.

Mr. Dilts said HCPB approval had been received on January 24, 2009. Reports dated January 6, 2009 from John Reymann, previous Board Engineer and Planner Carl Hintz, January 21, 2009 had also been received. Atty. Dilts said he had two witnesses available for testimony; Engineer Gregory Brown and RVD Operations Representative Thomas Horvath. Messrs Brown and Horvath were sworn by Atty. Anderson. Mr. Brown stated his credentials. He is a licensed Professional Engineer and Planner. His credentials were acceptable to the Board.

Mr. Brown displayed a set of Plans, consisting of seven sheets, with a Final Revision Date of July 15, 2008. The Plans were marked Exhibit A-1. Mr. Brown gave an overview of the site location, including nearby properties. There is an area of open space at the rear of the property which is completely pervious. The proposal would not change the amount of impervious surface coverage. All improvements would be on existing pavement. Sheet S-2 of the Plans shows the outline of the last parking island at the back of the property.

Approximately 43 feet to the rear of that island is a canopy; a new fuel tank with a concrete drive pad is also shown. Beyond that area is gravel and grass, woodlands, etc. Mr. Kirkpatrick asked the length of Republic's vehicles. Mr. Brown said they are approximately 35 feet. The aforementioned 43 feet are in front of the stall. The parking spaces in the rear of the property are for employees vehicles. Mr. Brown said those spaces are not fully utilized at this time because there are not enough employees to use them. Mr. Brown said Republic proposes a fiberglass storage tank underneath a concrete island. A canopy would be over the island so that vehicles would be out of the weather when being refueled. Hoses from fuel dispensers are designed with an overhead hose reel that keeps them from being damaged. The hoses have a breakaway feature that shuts off fuel in the event that a truck should drive away without disconnecting the hose. Mr. Brown said there are also dead man nozzles on the dispenser nozzles which would also preclude trucks from leaving without disconnecting. He said the driver must physically fuel the truck, so it is unlikely that there would be any problem. Mr. Brown said operator training is required.

Mr. Brown described the state-of-the-art double-walled fiberglass tank. The tank has over fill protection and containment. He explained the alarm system. Mr. Brown said a tank cannot be filled to more than 95% of its capacity because of allowance for expansion. A five gallon spill containment is required around every fill. The NJDEP makes a monthly check. Documentation of spills is required. Mr. Brown explained how leaks would be detected.

Mr. Brown provided information on the 1,000 gallon double walled oil/water separator. The separator has a 30-year warranty. Atty. Dilts asked Mr. Brown, from an environmental viewpoint, how he would compare this private operation proposal to a commercial establishment. Mr. Brown said it would be equal or better. Mr. Kirkpatrick asked Mr. Brown about Truck Stops of America (TSA) and the oil spill that occurred a few weeks ago. He said (TSA) has double-walled tanks and oil/water separators. There was a heavy rain and the separator failed, dumping gallons and gallons of fuel oil into the Musconetcong River. Mr. Brown said he did not know what they had at that facility. He said if the separators are not properly maintained they can become overwhelmed and flood out. Mr. Kirkpatrick asked Mr. Brown about RVD's proposed maintenance provisions. Mr. Brown said NJDEP requires that the separators be cleaned on a regular basis. He thought that would be at least quarterly. Mr. Horvath was asked to provide information on inspections. He said RVD Policy requires monthly facility inspections of catch basins, underground retention basins and the oil/water separator. The septic tank must also be inspected. Pumping is done on an annual basis. Mr. Kirkpatrick emphasized the RVD facility is sitting immediately above a reservoir. Mr. Horvath said a spill-response plan and kit, with operator training, is required. He also said fuel can only be dispensed by authorized personnel. Surveillance cameras on site preclude vandalism. Fire extinguishers are required. Mr. Horvath noted that diesel fuel would be dispensed and it is less flammable than gasoline.

Mr. Horvath provided statistics. He said there are 52 vehicles on the property and approximately 48 are used daily. Approximately 35 gallons of fuel oil, per day, per truck would be dispensed. The dispenser runs at 12-15 gallons per minute. There are two fuel positions. The total time occupied at the fueling area would be approximately one hour per day. Mr. Horvath addressed the issue of idling and air pollution. He said RVD has timers on the trucks. They shut down after they have idled for three minutes. The State allows idling for five minutes. The site has 187 parking spaces; 75 for trucks and 112 for cars. Existing use is 52 trucks and about 30 for office personnel.

The signage on the white-aluminum canopy will have Republic's logo and star. Atty. Dilts indicated the Board could discuss that issue further. Mr. Hintz had raised a concern about the signage. Mr. Horvath said the lights under the canopy are full cut off and would provide downward illumination. A photocell will be installed and activate the lights when it gets dark. A timer will shut the lights off after the last trucks are fueled, somewhere between 5:00 and 6:00 p.m. The lights would only be on during periods of darkness.

Mr. Brown said the project is consistent with the existing uses in the area. There is a trucking company, a block company and the subject property, which is a sanitation company. The positive affect of the proposal would be less traffic congestion and pollution because Republic's vehicles would be able to refuel on-site. Impervious surface coverage would not be increased and there would be no net increase in runoff. Applicant has addressed environmental issues by providing storm water containment and adding an oil-water separator. Fire suppression, security lighting to prevent vandalism and leak detection devices address potential man-made disaster issues.

Applicant does not believe there would be any substantial detriment to the Public or substantial impairment to the purpose or intent of the Land Use Code. The net benefit would be to have better control over refueling of trucks. Mr. Kirkpatrick noted that the previous applicant had shown a refueling tank on-site and was asked to remove it from the plan. Mr. Kirkpatrick asked how this proposal was different from that proposed earlier. Mr. Brown responded. He understood that the fuel-dispensing station was added to the plans after the application had been deemed complete and Hearings had begun. Mr. Brown thought that since they had not been discussed it was decided to remove the station rather than prolong the Hearings. Mr. Kirkpatrick asked Mr. Smith if he thought there was adequate room for a full-size pickup truck to pull out of the last row while a vehicle was refueling. Mr. Smith thought there would be room. Mrs. Corcoran asked where storm water drains from the pad and the site. Mr. Smith explained.

Mr. Kirkpatrick asked the efficiency of the oil/water separators. Mr. Brown indicated they are about 99.9% efficient. He said the storm water discharge from the property probably exceeds any surface water standards promulgated by the NJDEP.

Mr. Ford had a question about any residue that might be left in trucks returning to the site and the potential effect on the oil/water separator. Mr. Brown said refuse is dumped at the transfer station. Mr. Horvath added that trucks used for garbage pickup are typically self-contained. The outside of the trucks are washed on-site. The water is recycled and taken off-site.

Atty. Dilts addressed the matter of the fueling-tank, which had been part of the previously adopted Resolution. He referenced a letter dated November 30, 2007 from Atty. William Sutphen. Mr. Sutphen had reviewed appropriate minutes and Resolutions. He said the tank was shown as a potential use and not a part of the proposed application. The Board advised applicant that the tank had to be removed from the site plan. That action was confirmed by Condition 4 of the Resolution adopted by the Board on December 18, 2003. Atty. Sutphen's letter stated that applicant could proceed with the underground fuel storage tank application. Mr. Smith commented on the fuel island and its proximity to the graveled area where dumpsters are located. He thought that there should be separation between the fuel island pad and the graveled area. Applicant was amenable.

Mr. Kirkpatrick asked if there was room for a fuel delivery truck to enter and exit through the proposed refueling area. Mr. Brown responded. He said there would be adequate space. Lisa Specca, Clarke Caton and Hintz, presented an aerial photo showing dumpsters and vehicles where the refueling station is proposed. The photo was marked Exhibit A-2. She also referenced the open space area which showed an open gate and activity in the area. Mr. Horvath said the gate is locked. It could have been opened for an inspection. He invited Ms. Specca to visit the site. Ms. Specca asked the size of vehicles which transport dumpsters and how they circulate around the fuel island. Mr. Horvath explained that the dumpsters are usually transported during the day. Ms. Specca was concerned about activity by the edge of the paved area. She asked if parking could be restricted where trucks would be refueling. Applicant had indicated they would install barriers and that should alleviate Ms. Specca's concerns.

Mr. Kirkpatrick asked Ms. Specca if she had any comments regarding applicant's demonstration regarding positive and negative aspects of the proposed plan. Ms. Specca said the testimony about the reduction of traffic at local truck refueling centers was appropriate. She also referenced testimony regarding compliance with the MLUL as it relates to reduced air pollution, because of less idling as trucks waited at off-site refueling centers. Ms. Specca said the Board should consider that there is a residential area nearby. She emphasized that the underground storage tank and the fueling operation are the subject of the Board's review. The existing facility is not a part of the review. Ms. Specca was satisfied that applicant has met Mr. Hintz's concerns regarding signage and lighting. Ms. Specca questioned whether the canopy would have a glow. Mr. Brown said the canopy would be totally opaque. Lights will be recessed in the canopy. She also questioned the hours lights would be on. The lights would come on at dusk and would generally go off by 6:00 p.m.

Ms. Specca recommended that if the Board approves the application, a condition would include the time lights would be on. Mr. Kirkpatrick asked applicant if they would include their Maintenance Schedule as a condition. Applicant replied in the affirmative. Atty. Dilts asked that a provision be included for emergency lighting. Mrs. Corcoran asked if additional noise was anticipated that would impact nearby residents. None is anticipated. Mr. Kirkpatrick asked if there was any monitoring of groundwater quality down gradient of the recharge basin. Mr. Horvath said there are manholes that are checked regularly for the water level. Mr. Kirkpatrick said that would not tell the quality of the water. Township Engineer Smith questioned whether there was a recharge system or a subsurface detention facility. Mr. Kirkpatrick asked applicant if they would be willing to install a monitoring well to insure there is no discharge of petroleum products into groundwater. Mr. Horvath said he would have to check with his superiors. Mr. Horvath asked if a water sample could be taken from the storm water discharge area. Mrs. Corcoran asked if a sample could be taken monthly from the front detention basin. Mr. Brown said that could be done if the basin contained water. He had not seen water in the basin. Mr. Brown felt that they have met current storm water requirements. Atty. Dilts said that applicant could take samples on a quarterly basis.

Mr. Kirkpatrick asked why applicant wanted the proposed facility. Mr. Horvath said it would control costs. Trucks would not be waiting in line to refuel at a neighboring facility. It would also be better for the environment. Mr. Kirkpatrick asked for questions from Board members. Mr. Ryland voiced a concern about spills and maintenance. He also said enforcement could be an issue. Mr. Horvath indicated that monitoring is with highly technical equipment and any spills should be noticed quickly. Mr. Brown said that applicant had addressed any potential problems. Mr. Ford had a question about alarms. Where would they be heard? Mr. Horvath said the control console for the leak-detection system is in the building. The console has battery backup. There would be monitoring by personnel from approximately 2:00-3:00 a.m. until 11:00-12:00 p.m. Mr. Horvath said it could probably be connected to off-site security monitoring.

Atty. Anderson asked Atty. Dilts how applicant obtained approval for a site that had more impervious surface coverage than allowed by Ordinance. The Ordinance permits 20% and the site has 35%. Atty. Dilts said the Ordinance may have been amended after the original approval. He will research the matter. Atty. Anderson asked that the issue be resolved prior to the adoption of the Resolution. Mr. Walchuk had a question about where fuel was purchased. Mr. Horvath said a high percentage of the fuel is purchased from local vendors.

Mr. Kirkpatrick asked for further questions. There were none. He said there were a total of eight conditions. There would be a satisfactory barrier between the bin storage area and the fueling area, except in the event of an emergency; fueling would not start until 8:00 a.m. and would be completed by 6:00 p.m.; the current maintenance schedule with specific cleanout periods for the oil/water separators would be included in the Resolution; a satisfactory sampling plan to monitor the water quality of the storm water discharge to

either the outlet leaving the site or the groundwater immediately down gradient of the underground storage area would be required; applicant shall submit documentation that the impervious surface coverage on site is either in compliance with the Ordinance that was in place at the time of approval or the current Ordinance; the alarm system shall be tied into a central alarm system with 24-hour monitoring; the oil/water separator is 99.9% efficient and the total petroleum volatile organics would not exceed 10 ppm in the storm water leaving the site and use of the pumps will be limited only to company vehicles and not for employees or outside use.

Mrs. Corcoran made a motion to approve the application, subject to the requirements as set forth above. Mr. Walchuk seconded the motion.

Vote: Ayes: Mrs. Corcoran, Mr. Walchuk, Mr. Badenhausen, Mr. Ryland, Mr. Nace
Mr. Ford, Mr. Kirkpatrick

Union Station Associates, LLC: Block 22, Lot 19, County Route 513: Applicant asked to be carried, without further notice, until the May 28, 2009 meeting.

Correspondence: None

Comments from the Public/Other Discussion: Mrs. Corcoran asked about Mr. Harclerode's email about the Busy Bee. Mr. Kirkpatrick said the Zoning Official apparently reviewed the proposal and determined that no variances or site plan was required.

Motion to Adjourn: Mrs. Corcoran made a motion to adjourn. Mr. Badenhausen seconded the motion. (9:40 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary