

February 24, 2011

Mr. Ford 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. Walchuk, Mr. Nace, Mrs. Corcoran, Mr. Badenhausen, Mr. Ryland, Mr. Kastrud (7:30 p.m.), Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Bischoff, Ms. McBride, Mr. Taibi

Others Present: Atty. Jolanta Maziarz, Carl Hintz, Robert Clerico, Atty. Donald Souders, Robert Brecker, Tylman Moon, James Higgins, Frank Montgomery, Robert Zederbaum, Atty. Scott Carlson

Approval of Minutes: February 10, 2011 Workshop minutes deferred until the March 10, 2011 meeting.

Appointment of Engineer for P.S. Construction matters: Mr. Badenhausen made a motion to appoint Rick Roseberry of the Firm Maser Consulting as the engineer in matters related to P.S. Construction. Mr. Ford seconded the motion.

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

Public Hearing: Lehigh Gas/Jutland Convenience Store: Block 13, Lot 11.01, 169 Perryville Road: Atty. Donald Souders was present on behalf of Lehigh Gas, the parent Company of the applicant, Jutland Convenience Store 169 Perryville Road LLC. Atty. Souders said he had provided required Notices. Atty. Maziarz had reviewed them and said the Notices were adequate. Atty. Souders gave an overview of the site. He said presently there are a Shell Gas Station and Auto Repair Shop. Applicant proposes making numerous aesthetic improvements at the site. The footprint of the building will remain the same. The repair shop will be closed and replaced with a convenience store. Gasoline will continue to be sold. Atty. Souders said the store is a permitted use; however, gas stations are not permitted. He said the gas station requires two "D" variances. Three bulk variances are required for pre-existing conditions, including a reduction in impervious surface coverage.

Atty. Souders asked Robert Brecker, Vice President of Lehigh Gas to come forward. Mr. Brecker is in charge of operations at 154 convenience store/gas stations. Mr. Brecker was sworn by Atty. Maziarz. He cited his duties at Lehigh Gas. Mr. Brecker said that presently the business is open 24-hour a day. Minor repairs are performed. The existing bays would be converted to a convenience store. Food would not be prepared on the site. Presently there is a total of eight employees (two to three each shift) Lehigh Gas is the employer. The store is operated by managers who report to Mr. Brecker. It is not anticipated that number will change. Mr. Brecker said the building will be refreshed, the lot will be striped and handicapped accessibility will be provided.

Shell will remain the purveyor of gas and Unimark (Shell's own brand) will supply products at the store. Mr. Brecker said Lehigh Gas has a similar operation near Bethlehem Pa. Mr. Kirkpatrick asked the number of gallons of gasoline sold per day. Mr. Brecker said about 8,000 gpd on a good day and 5,000 gpd on a bad day. It was anticipated that would be about the same. All foods will be pre-packaged. A microwave will be available to reheat food items. Coffee would be available. Mr. Brecker explained the reason Lehigh Gas was proposing the convenience store. Mr. Ford asked about the continuation of the propane filling facility. Mr. Brecker said that was used by the previous operator. Applicant does not plan to continue the service. Mr. Kirkpatrick asked about outside sales. Mr. Brecker mentioned that motor oil and windshield cleaners have been sold at their facilities. Mrs. Corcoran asked the number of years Lehigh Gas has owned the site. Mr. Brecker said five or six years. Mr. Ford asked the connection between the subject site and the Shell station located by Exit 11. Mr. Brecker said he does not operate that business.

Mr. Kirkpatrick said questions from the Public would be addressed after Board member's and would be on a witness-by-witness basis. Atty. Maziarz said the questions would be limited to the witness's testimony.

Tylman Moon came forward. He was sworn by Atty. Maziarz. Mr. Moon stated his credentials. He is a registered architect in the State of New Jersey and elsewhere. Mr. Moon was accepted as an expert witness in the area of architecture. Mr. Moon displayed an Exhibit (A-1) a photograph of the existing building. A computerized rendering of the proposed front façade of the building was marked Exhibit A-2. Mr. Moon said the Shell canopies would remain the same. He gave an overview of existing conditions of the building. There are two service bays as well as an office, sales, storage area, mechanical and shop area and restrooms for men and women. Mr. Moon explained the proposed changes. Existing overhead doors would be removed. Traditional appearing windows would be installed and entry doors will be in the middle of the building. A handicapped-accessible bathroom is proposed. Brick veneer is proposed for the front of the building. The roof will be replaced with grey fiberglass shingles. An 8' x 8' x 2' internally-illuminated sign is proposed. Mr. Kirkpatrick said an illuminated sign would be prohibited under the Sign Ordinance. The building will be white. Mr. Moon said the building has 2,117 square feet. Handicapped accessibility has been provided by extending the walkway in front of the building toward the existing gas pumps. Access would be from the western part of the building. The building height will remain unchanged.

Mr. Ford asked about the entrance and exits of the building. Mr. Moon said there is one door for entering and exiting. Mr. Ryland mentioned the proposed one bathroom. Mr. Moon said that was acceptable and he felt one was enough. Atty. Souders said applicant would have no issue if the Board prefers two bathrooms. Mrs. Corcoran asked about existing bathrooms. Mr. Moon said there are separate bathrooms for men and women.

The women's bathroom has two toilet stalls and the men's bathroom has one toilet stall and two urinals. Mr. Moon said the problem is with allowing room for maneuvering wheelchairs. Mrs. Corcoran asked the location of the cashier. Mr. Moon said that person would be stationed near the door. Mr. Kirkpatrick asked about security cameras. Mr. Brecker said there would be five interior and two exterior cameras. All of the interior would be covered. Exterior cameras would cover the front and Perryville Road side of the site. Mr. Ford asked about coverage of the above-ground propane tanks that are located on the west side of the building. Mr. Brecker said a sixth camera would be added to cover the tanks. Mr. Walchuk asked for confirmation that there is a propane tank on the premises. Mr. Brecker replied in the affirmative. Mr. Badenhausen asked the location of the refrigerated units. They will be in the center of the building. Mr. Kirkpatrick stated that he was uncomfortable with one way in and out of the store. He also felt the east side of the building could be changed to break up the starkness of the wall. Mr. Moon said a window could be provided. Mr. Kirkpatrick said applicant could work with Mr. Hintz on that matter. Mr. Ford said that another ingress/egress could be located on the east side. Mr. Kirkpatrick said it could be an emergency exit. Mrs. Corcoran asked about landscaping. That matter was deferred to Mr. Zederbaum.

Mr. Kastrud arrived at 7:30 p.m.

Mr. Kirkpatrick asked about the trim colors. Everything is proposed to be white. He also asked about any proposed changes to the Shell sign along the road. Mr. Kirkpatrick said the size and illumination of any sign could not be any more than what exists. Mr. Kirkpatrick asked for questions/comments from Professionals. Mr. Hintz agreed with adding some windows on the east side. Mr. Clerico asked if access to the building, including deliveries, would be strictly through the front door. Mr. Moon said "Yes". Mrs. Corcoran asked if the door would be automatic for handicapped accessibility. Mr. Moon said they do not have to be automatic. The doors would swing outward and adequate room has been provided for a wheelchair. Mr. Clerico asked the width of the sidewalk. Mr. Moon said it was about 9 and ½ feet. Mrs. Corcoran emphasized that there should be separate bathrooms for men and women. Atty. Souders said that could be provided.

Mr. Hintz asked about the Shell Signs on the canopy. Mr. Moon said the Shell Logo is on the east and west ends of the canopy. Mr. Kirkpatrick asked if he had prepared any of the design of the illumination under the canopy. Mr. Moon had not. Applicant had not proposed any changes. Mr. Kirkpatrick emphasized that any fixtures would have to be full cut off.

Mr. Kirkpatrick asked for comments from the Public. The questions would be for Mr. Moon. Wayne Schmied, owner of the Bagelsmith, had some concerns/questions that would be addressed under Comments from the Public.

Robert Zederbaum, applicant's Engineer, came forward. He was sworn by Atty. Maziarz. Mr. Zederbaum stated his credentials. He has appeared before the Union Township Board many times, also other Boards in the County and State. Mr. Kirkpatrick asked Mr. Zederbaum if he had been rejected by any Board. Mr. Zederbaum said he had not. He was accepted by the Board.

Mr. Zederbaum gave an overview of the proposal. He said applicant proposes adequate parking. Fourteen parking spaces would be needed. Mr. Clerico had recommended that two spaces near Frontage Road be removed and consider that parking be provided behind the building for employees. Mr. Zederbaum said five banked parking spaces were proposed. There are presently three driveways. Applicant proposes removing some blacktop from the northernmost driveway. Mr. Zederbaum said the septic design had been approved by the Hunterdon County Board of Health. Mr. Zederbaum said there would be no modifications to either canopy or building lighting. Landscaping plans have been submitted. Mr. Kirkpatrick asked about storm water management. Mr. Zederbaum said none is proposed, based upon calculations submitted as part of the plan. He said applicant proposes reducing impervious coverage. Mr. Kirkpatrick said the Board requires additional storm water management practices to remove the vehicle-derived pollutants when there is a change in use that increases the intensity of use of the asphalt. Mr. Zederbaum asked what would be needed. Mr. Kirkpatrick said a storm water oil separator, grass swales, or a detention basin i.e.

Mr. Clerico asked Mr. Zederbaum to describe how water from the site currently drains. Mr. Zederbaum said the water drains in an east to westerly direction to the Mulhocoway Creek. The Mulhocoway is a Category I trout production Creek which is Federally listed to have Endangered Species. The water then flows to the Spruce Run Reservoir, which provides drinking water for thousands of New Jersey residents. Mr. Zederbaum said a cartridge could be installed to remove what he thought would be minimal suspended solids. Mr. Kirkpatrick said the Board typically requires 50% TSS removal. He said in similar types of applications applicant has been asked to demonstrate that there would not be additional pollutants discharged into area groundwater from the updated septic system. Pretreatment or denitrification could be included in the system. Mr. Kastrud asked if the applicant could demonstrate that by removing the repair shop there might not be an increase in the TSS. Mr. Kirkpatrick indicated that would not be attainable. Mr. Clerico asked Mr. Zederbaum if there were any existing floor drains in the repair bays. Mr. Zederbaum did not believe there were. Atty. Souders asked if the Board were to grant requested relief could a condition of approval be that if Messrs. Clerico and Zederbaum could achieve the objective cited by Mr. Kirkpatrick that would be acceptable. Mr. Kirkpatrick said that would be fine.

Mr. Zederbaum said a variance would be required for the canopy, which violates the front yard setback. A variance is also requested for reduction of impervious surface coverage.

Mrs. Corcoran asked about the impervious surface coverage of the proposed banked spaces. "Could the banked spaces be paved at some point?" Mr. Zederbaum indicated they could be paved. He also said if the Board wanted they would be paved as part of an approval. Mrs. Corcoran asked if the number of spaces proposed, not including the five banked spaces, met Ordinance requirements. Mr. Zederbaum said, per Ordinance "No", per actuality, "Yes". Mr. Ford asked when the two proposed hatch-marked extenders shown where the banked spaces are located would be installed. Mr. Zederbaum said they would be installed only if the banked spaces were built. The curb would be installed as shown on the Plan if the spaces are not built. Mr. Clerico asked to clarify the number of parking spaces in the northwest corner of the site. Eight spaces are shown. Mr. Zederbaum said that number has been reduced to six. Four spaces would be in the rear of the building where paving exists. Mr. Clerico asked how gasoline deliveries are made. Mr. Zederbaum explained. Atty. Souders said the Traffic Consultant would provide details on that matter. Mr. Kastrud asked what would trigger the use of the banked spaces. Mr. Zederbaum indicated it could be either the applicant or the Township. Mr. Kastrud asked about landscaping in the banked area. Mr. Clerico said the landscaping was designed with the assumption that all the parking would be built. Mrs. Corcoran asked about paving. Was restoration of the entire lot proposed? Mr. Zederbaum said that was not proposed at this time.

Mr. Ryland voiced a concern about the Perryville Road exit. Mr. Zederbaum said the Traffic Consultant would address that matter. Mr. Clerico asked for dimensions between the pump pilings and the proposed sidewalk or the existing curbing on the opposite side. Mr. Zederbaum said the existing 23-1/2 feet would be reduced to 20-1/2 feet. Mr. Clerico asked the dimensions of the Frontage Road side between the existing island and the curb. Mr. Zederbaum said it is about 17 feet. Mr. Clerico voiced a concern about confinements at the site and vehicles being able to circulate with the proposed dual use of the property. Mr. Zederbaum said the only change proposed is the removal of three feet in front of the building to provide handicap access. He does not believe the addition of the convenience store would add a great deal more traffic. Mr. Kirkpatrick concurred with Mr. Clerico regarding traffic flow because of the convenience store. He said it changes the character of the traffic flow. He referred to the Exxon site. Mr. Ryland said he believes Exxon has more non-gas traffic. Mr. Clerico re-emphasized the need to review the Plan as it relates to the reduction of the three feet in front of the building. Atty. Souders asked Mr. Zederbaum if there would be a practical solution to Mr. Clerico's concerns. Mr. Zederbaum said that perhaps pavement could be added where landscaping had been proposed. Mr. Kirkpatrick asked that Mr. Zederbaum demonstrate that a vehicle could get from Frontage Road through the site while other cars are at the pumps. Mr. Zederbaum said the Traffic Consultant would address the practicality of removing an entrance to the site.

Mr. Kastrud asked Mr. Zederbaum if he would be addressing all of Mr. Clerico's comments. Mr. Zederbaum said applicant plans to comply with the majority of the comments. Mr. Kirkpatrick asked that Mr. Clerico's letter be reviewed. Mr. Hintz said he had issues about the Use Variance. Mr. Clerico asked if there was anything that would prohibit parking over the gas tank area where employee parking is proposed. Mr. Breker said it is done at their other locations and that employees might have to move their cars. Mr. Clerico asked about proposed modifications at the driveway opposite Exit 12 that is a NJDOT jurisdictional driveway. Mr. Clerico will contact the DOT regarding a permit. Mr. Ford asked the location of trash bins. Mr. Zederbaum said the existing dumpster is located adjacent to the propane area. UTEC had asked for additional trash containers. Mr. Zederbaum said applicant would provide the containers. Mr. Ford asked about used oil containers. Mr. Zederbaum said the containers would be removed. The containers were used by the repair shop.

Mr. Clerico referenced the northernmost driveway and its proximity to the intersection. He asked that consideration be given to closing that driveway or limiting it to ingress movement only. Mr. Clerico said the proposal is an intensification of the use and offers an opportunity to upgrade the standards at the site. He said alternate parking layouts might be considered. Impervious surface coverage could potentially be reduced and circulation could be improved. Mr. Hintz had recommended that the two parking spaces closest to the northwest access be removed. He also feels that access should be reduced in width. Mr. Hintz recommended the northeast access should be eliminated and the southeast access should be modified to have a 90 degree entrance. That change would compensate for the removed northeast access. Mr. Hintz voiced a concern about tractor-trailers parking along side of the site. Mr. Kirkpatrick noted many revisions would be necessary from the engineering standpoint. Mr. Clerico said other issues included water use, septic design and input from Vincent Uhl. Mr. Hintz mentioned lighting, windows, exterior façade as issues to address.

He asked that the Traffic Consultant provide testimony. Consultant Frank Montgomery was sworn by Atty. Maziarz. Mr. Montgomery provided an overview of his credentials. Mr. Kirkpatrick asked Mr. Montgomery about follow up on traffic projections. Mr. Montgomery said he had done that a few times and the count is generally within 5 – 10% of the projections. He did not recall having reviewed a multiple use site. Mr. Kirkpatrick accepted the credentials even though there was little to verify that his projections are accurate. Mr. Montgomery explained the procedure for the traffic study. Traffic counts had been made at the site. Mr. Kirkpatrick said that until a count had been performed at the Exxon site he considered Mr. Montgomery's report to be deficient. Mr. Kirkpatrick asked if the southeast driveway lined up with the access to the Bagelsmith. Mr. Montgomery said applicant's driveway is south of the Bagelsmith driveway and the residential driveway next to the Bagelsmith. Mr. Kirkpatrick asked Mr. Montgomery to provide pros and cons of having one versus two driveways on Perryville Road.

Mr. Montgomery said one driveway would necessitate vehicles traversing the whole site to get to the fuel pumps. He felt it was a good idea to leave the access closest to Exit 12 for entrance only. Mr. Kirkpatrick said one driveway would reduce impervious surface. It would also reduce congestion at the intersection. Mr. Montgomery did not think that cars at the light were a big issue in terms of ingress. Mr. Kirkpatrick asked for concerns from Board members regarding closing the driveway. Mr. Ford said there was a need to rethink parking and circulation patterns at the site, including the effect on fuel pumping and usage of the propane tank. Location of garbage storage should be discussed. Mr. Ford was concerned that the handicapped space requires the handicapped individual to cross a driveway that garbage trucks and other vehicles would be using. Mr. Kirkpatrick said Mr. Montgomery had a great deal of work to do. Atty. Souders said it was an appropriate time to regroup and continue the Hearing at the next scheduled meeting.

Mr. Kirkpatrick asked for comments from the Public. Atty. Maziarz said comments or questions would only pertain to testimony given. Mr. Wayne Schmied had prepared a letter to the Board. Atty. Maziarz said most of Mr. Schmied's letter discussed traffic. Since the Traffic Consultant had not had the opportunity to fully give his testimony it would not be appropriate to address Mr. Schmied's concerns at this time. Mr. Kirkpatrick told Mr. Schmied if he had questions about what the engineer or architect had said he could ask them. General comments about how the facility works could be asked after all testimony is given. Atty. Souders granted the Board an Extension of Time to Act until the March 24, 2011 meeting.

Correspondence: Pilot Travel Centers LLC: Block 11, Lot 24.03, 68 Route 173 West: Review of Anti-Idling Plan. Mr. Kirkpatrick asked Messrs. Clerico and Hintz to provide a summation. Mr. Hintz had prepared a review letter dated February 23, 2011. He said a Condition of Approval in 2008 was that there was to be no idling on the site. Mr. Hintz does not feel the Plan meets the condition of approval. He said there is an enforcement issue. Mr. Clerico said his comments were basically the same as those of Mr. Hintz. Atty. Maziarz said Pilot had agreed to the condition of approval eliminating idling. Pilot has not challenged the condition and has not complied therefore they are in violation of the Site Plan approval. Mr. Kirkpatrick said he is proposing a meeting with the Township Committee to discuss what steps to take. Mr. Kastrud expressed his concern about the matter.

Comments from the Public: Atty. Scott Carlson, representing Pilot had a question. Atty. Maziarz cautioned Mr. Carlson that this was not a hearing, Mr. Carlson cannot give testimony, the Board is not entitled to hear testimony and Pilot is not an applicant before the Board at this time. Nothing that Mr. Carlson says at this point can sway the Board in one way or another. Atty. Maziarz told Atty. Carlson he is free to speak as a member of the Public. Atty. Carlson agreed. He said Pilot was under the impression that the condition had been satisfied by placement of Anti-Idling Signs at the site. Atty. Carlson said Pilot was willing to discuss the components of the Plan with the Board.

Motion to Adjourn: Mr. Walchuk made a motion to adjourn. Mrs. Corcoran seconded the motion. (9:20 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary