July 24, 2014

Mr. Kirkpatrick called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:05 p.m.

Members Present: Mr. Bischoff, Mr. Walchuk, Mr. Nace, Mrs. Corcoran, Mr. Ryland, Mr. Eschbach, Mr. Ford, Mr. Kirkpatrick

Members Absent: Ms. McBride, Mr. Kastrud, Mr. Gibbons

Others Present: Atty. Mark Anderson, Engineer Robert Clerico, Planner Andrea Malcolm, Atty. John Lanza, Dr. John and Nalini Titus, John and Janet Brennan, Engineer Wayne Ingram, Atty. Donald Scholl, Engineer Christopher, Architect Susan Rochelle, Julie Van Scott

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by out notices dated January 16, 2014, as published in the Hunterdon County Democrat and the Courier News. A copy of the Notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Municipal Clerk.

Approval of Minutes: Mr. Ford made a motion to approve the minutes, as amended. Mr. Eschbach seconded the motion.

Vote: Ayes: Mr. Ford, Mr. Bischoff, Mr. Walchuk, Mr. Nace, Mr. Ryland, Mr. Kirkpatrick

Abstain: Mrs. Corcoran, Mr. Eschbach

Kramer Electronics USA, Inc. Memorialization: Block 23, Lot 2.04, 6 Route 173 West: Mr. Bischoff made a motion to memorialize the Resolution. Mr. Ford seconded the motion.

Vote: Ayes: Mr. Bischoff, Mr. Ford, Mr. Walchuk, Mr. Nace, Mr. Ryland, Mr. Kirkpatrick

Fischer/589 Main Street Pattenburg LLC: Block 14.03, Lot 4, 589 Major Street (Pattenburg): Issue of Completeness: Atty. John Lanza, representing Principals David and Patricia Fischer, gave an overview of the application. Mr. Lanza said variances are sought to permit a Professional Office Use and to continue the Residential Use. The Fischers operate an accounting office and want to move their business to 589 Main Street. Atty. Lanza referenced Engineer Clerico's completeness review letter dated July 21, 2014 which Indicated additional information was required. Atty. Lanza said applicant would submit additional items. He asked the Board if the information was submitted in time for the next meeting if they would consider deeming the application complete and continue with the Public Hearing. Mr. Kirkpatrick said the Board could grant conditional completeness approval and if the additional items were submitted in a timely manner the Public Hearing could proceed. Proper notice would also be required. Mr. Clerico said there were several waivers. He also observed that a site plan would have to be submitted. He enumerated the Checklist Items that are incomplete and those items for which waivers could be granted.

Based upon Mr. Clerico's comments, a motion was made by Mr. Bischoff to deem the application complete, including granting of waivers and submission of additional information by August 13, 2014. Mr. Nace seconded the motion.

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

Abstain: Mr. Bischoff

Titus/Brennan: Block 9, Lots 1.05 & 1.06, 10 & 1 Serpentine Drive: Public Hearing: Engineer Wayne Ingram, representing applicant, stated his qualifications. They were accepted by the Board. Mr. Ingram and Messrs. Titus and Brennan were sworn by Atty. Anderson. Mr. Ingram gave an overview of the Minor Subdivision/Lot Line Adjustment application. He displayed the Driveway, Soil Erosion & Sediment Control Plan which was prepared by Mr. Ingram, Engineering & Land Planning Associates, Inc. The Plan was dated September 5, 2013. It was marked Exhibit A-1. Mr. Ingram said 783 square feet (sf) would be taken from Lot 1.05 and added to Lot 1.06, for the purpose of improving conditions along the driveway. He said the existing gravel driveway for Lot 1.06 has a 90 degree angle to the roadway. Applicant proposes paving the driveway. Mr. Ingram also displayed a Survey entitled Proposed Lot Line Adjustment Plat that was prepared by David B. Swanson, Swanson, Halsey & Associates, LLC, latest revision April 16, 2014. It was marked Exhibit A-2. The driveway currently has a 14% slope. Proposed is a 4% slope at the driveway entry. Serpentine Drive has a 25 mph speed limit with a line of sight distance requirement of one-hundred and sixty feet. Mr. Ingram said Serpentine Drive has minimal traffic.

Mr. Clerico noted there are a number of variances requested. He suggested that applicant review the Township Driveway Ordinance to determine if relief would be required from that Ordinance. Mr. Ingram referenced Mr. Clerico's letter dated May 15, 2014. He said applicant will comply with Mr. Clerico's request that the new wall along the relocated portion of the driveway will be integrated into the existing wall. Mr. Ingram understood that an exemption is not required from the Highlands Council for residential properties. Mr. Ingram addressed Township Driveway Regulations. It was determined that applicant would require relief from 11-2.4d – Sight Distance; 13-2.4e – Elevation of the Driveway Apron; and 13-2.5, Angle of Approach.

Mr. Ingram addressed Mr. Hintz's and Ms. Malcom's May 15, 2014 report. He said both Lots are undersized and require variances. Mr. Ingram said granting of the variances would be beneficial for health and safety reasons and would outweigh any detriments. Setbacks would not change. Septic systems are in the rear of each property. Mr. Kirkpatrick asked how a future property owner would be able to maintain the line of sight. Mr. Ingram said there could be an easement on Lot 1.05 preventing planting of trees or placement of other objects that would obstruct visibility within the portion of the property that encroaches upon the 160 foot sight distance. Both applicants were amenable to that idea.

Ms. Malcolm asked the number of trees that would be removed. Mr. Ingram said one large tree and twenty to thirty small trees. Ms. Malcolm understood sufficient screening would remain. Mr. Kirkpatrick reminded applicant to contact the Zoning Officer prior to removal of trees.

The Board discussed the easement issue thoroughly. Mr. Kirkpatrick asked for comments from the Public. There were none.

Mr. Kirkpatrick asked for a motion to grant conditional approval, granting waivers from the Township Driveway Ordinance for the Sight Distance and Angle of Approach associated with the Lot, granting the Minor Subdivision/Lot Line Adjustment, including a Conservation Easement, the area of that Easement to be approved by the Board Engineer and the form of the Deed description to be reviewed by the Board Attorney. Mrs. Corcoran made the motion, consistent with the most recent discussion, to grant the approval. Mr. Ford seconded the motion.

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

Van Scott: Block 1.08, Lot 28, 11 McCrea Road: Public Hearing: Atty. Donald Scholl gave an overview of applicant's proposal to construct a 63 square foot (sf) Kitchen Nook. The Notice Documents were discussed. Atty. Scholl said testimony will address any potential discrepancies in the Notice. The Hearing proceeded. Atty. Scholl asked that applicant Julie Van Scott, Surveyor/Planner Christopher Melick and Architect Susan Rochelle be sworn. They were sworn by Atty. Anderson. Ms. Van Scott said she and her husband are the owners of the subject property. The Van Scotts purchased the property in October 2001. Ms. Van Scott cited the reason for the expansion of the kitchen. She said her property has minimal visibility to neighboring residents. Mr. Nace asked Ms. Van Scott if she was concerned about a driver losing control of their vehicle and running into her house, since it is only 14 feet from McCrea Road. Ms. Van Scott said McCrea Road is a dirt road and there is only one other house on the Road. Mr. Ford asked Ms. Van Scott to comment on emergency access on the 90 degree turn to the other house on McCrea Road. Mr. Melick said he would address that issue.

Mr. Melick had been qualified when the application had been deemed complete. He is a Licensed Surveyor/Planner. Mr. Melick had prepared the Variance Plan for the Proposed Kitchen Nook, dated March 21, 2014, revised July 1, 2014. The Plan was marked Exhibit A-1. An Aerial View of the property was marked Exhibit A-2. Mr. Melick said there is a substantial tree row on the northeasterly side of McCrea Road, as well as a conservation easement that was created when the Subdivision shown on the Aerial View was approved. Mr. Melick said there is also a hedge between McCrea Road and the proposed Nook. There is also a seven foot vertical drop at the bend. The tree row, hedge and vertical drop all provide substantial buffering for residents who would have a view of the Nook. Mr. Melick emphasized that even though McCrea Road is a Municipal Road it is not fully improved. He said it is relatively narrow (approximately sixteen-feet wide) with a fairly tight curve.

Ms. Van Scott said she wanted to respond to Mr. Ford's question. She said they had installed a wind turbine on the property and the crane that delivered the turbine was able to make the turn. Mr. Melick emphasized that McCrea Road is only used to provide access for two dwellings, the Van Scott's and the house located on Lot 29.01. The other properties with frontage on McCrea Road all have alternative access locations on County Road 614 or through the Deerfield development. Mr. Melick said the property has over eight acres. All improvements are on the eastern side of the property which creates a hardship for development; hence, a variance is required. Atty. Scholl asked that Mr. Melick address the compensation area for the 63 sf. Mr. Melick said that 63 sf of impervious surface can be removed from the stone driveway near the paddock area. Mr. Melick next addressed Mr. Clerico's concern as set forth in his report dated July 21, 2014, about the McCrea Road Right-of-Way (ROW). Mr. Melick's Plan illustrates the ROW line as 33 feet from the boundary line of the tract. He said that was consistent with the Tax Map of Union Township. Mr. Melick had acquired a copy of the Final Plats for Chestnut Hill and Union Hill Subdivisions, the Pattenburg Quarry Survey and also researched deeds of adjoining properties. Mr. Melick said the ROW line is entirely on the Van Scott property. He understood there was a requirement that there be a ROW dedication that would conform to the Master Plan (MP). Mr. Melick was uncertain whether this application justifies the need for additional ROW dedication. Mr. Clerico stated in his letter that if the Project Surveyor confirmed that condition, there would be no purpose in requesting additional ROW dedication. Mr. Melick said there is minimal traffic on the Road and the area is environmentally challenged. Mr. Kirkpatrick asked Mr. Melick about the conservation easement along the tree line. What was the distance between the westerly side of the conservation easement and the easterly side of the new addition (Nook)? Mr. Melick said it was 47 feet. Mr. Kirkpatrick wanted assurance that two vehicles could pass between the conservation easement and the nook and the answer was they could. RSIS Standards require a minimum road width of 24 feet. Mr. Kirkpatrick asked for questions from the Board and the Public. There were none.

Atty. Scholl said there were a number of variances. Mr. Melick said the testimony would essentially be the same as provided previously. Atty. Scholl asked Mr. Melick to provide positive and negative criteria. Mr. Kirkpatrick and Board members were amenable. Atty. Anderson emphasized that all variances should be identified. Atty. Scholl referenced the variances requested: Section 30-4.2c (front yard setback) minimum required 75 feet, existing 21.1 feet, proposed 14 feet; Section 30-4.2b (pre-existing maximum impervious surface ratio) required is .03, existing and proposed .054; Section 30-4.2b pre-existing maximum gross density and proposed .135 (DU/AC), required .12; Section 30-7e.4 regarding accessory buildings with a floor area of one-hundred sf or more meeting setback requirements of the applicable district, the chicken pen and garage on eastern side of the property are pre-existing and do not conform to the Ordinance, no changes are proposed; Section 30-5.5H-2(g) regarding chicken coops and runs in rear yard of principal building, there is an existing chicken pen in the front yard setback and no change is proposed. Mr. Melick testified that the C-1 criteria could apply because of the extraordinary and exceptional situation with the subject property. He also said there are special reasons outlined in the Municipal Land Use Law (MLUL) that would apply to this request for variance relief.

Mr. Melick said there are a number of special reasons that would satisfy the positive criteria, i.e., safety. Mr. Melick said the size of the kitchen is a safety factor and granting the variance would alleviate that situation. The addition of the Nook would be an architectural enhancement to the property. Mr. Melick said the purposes of the MLUL would be advanced by the proposed deviation and the benefits of the deviation would outweigh the detriments. He said there are no wetlands in the area of the proposed Nook. Construction of the Nook would not change grading and the topographic information illustrates that the vertical drop between the hedge and McCrea Road helps to satisfy the negative criteria. Regarding existing buffering, there is a substantial hedgerow, and the conservation easement on the easterly side has a large tree row. Mr. Melick said the distance from the Nook to the back of the nearest house is 190 feet. Mr. Bischoff said that he had been in the kitchen and took umbrage regarding a safety issue. Mr. Bischoff also noted that the house had historical significance. Atty. Anderson did not think the safety issue was relevant to the MLUL.

Atty. Scholl said if there were no questions for Mr. Melick he would like Architect Rochelle to come forward. Ms. Rochelle provided her qualifications. Ms. Rochelle's credentials were acceptable to the Board. She provided information to the Board on the Drawing she had prepared for the alterations and addition to the Van Scott residence. The Drawing, dated May 1, 2014, was marked Exhibit A-3. Ms. Rochelle said the Nook will extend approximately six foot, seven inches from the house and will replace the existing bay window. The width is eleven feet, one inch, plus or minus. A concrete block foundation is proposed. The frame would be wood and consistent with existing house materials. The floor of the Nook would match the existing floor of the house. Atty. Scholl addressed Mr. Bischoff's reference to the historical significance of the house. Ms. Van Scott said the Nook would not be impacting the historical part of the dwelling. Mr. Ford asked how far the bay window extended from the house. Ms. Rochelle said it extends approximately one foot. Therefore, the Nook would only add six feet. Mr. Kirkpatrick asked for input from Professionals. Ms. Malcolm briefly addressed the Board on her report dated July 17, 2014 and indicated there were no issues regarding applicant's request. Mr. Clerico had no comments. Mr. Kirkpatrick asked if Board members had any issues for discussion. There were none.

Mr. Kirkpatrick asked for a motion. Mr. Walchuk made the motion to approve variances for the addition, specifically existing condition variances, and additional variances as represented on the Plan. Mr. Eschbach seconded the motion.

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

DJOCVS Holdings LLC: Block 26, Lot 18, 52 Finn Road: Public Hearing: Atty. Donald Scholl, representing applicant, gave a brief overview of the Variance Plan to convert the existing Daycare Center to a Residential Dwelling. The property is located in the Village Residential District. Engineer Christopher Melick and applicant Julie Van Scott had been sworn previously. Ms. Van Scott said the property had been acquired in October 2012. The Day Care Center leased the property from DJOCVS.

Applicant sought to convert the building to a café; however, the septic system became a problem for that use and it was decided to convert the building to a single-family residence. Ms. Van Scott said the building was constructed as a school in the early 1900's, later sold to Hickory Grange and lastly became First Step Learning Center. Ms. Van Scott said there is a one-story building and a small shed on the site and commercial lighting. There are two large rooms in the front of the building, a third room and kitchen in the back of the building and two restrooms. There is a large paved area. Applicant proposes a bedroom in the front of the building, living/family room, two additional bedrooms and a bathroom. The restrooms would be converted to a second bathroom. The footprint of the building would remain the same. One window would be lowered approximately 12 inches, as per Fire Code. Atty. Scholl asked if there had been any complaints regarding the on-site lights. Ms. Van Scott indicated there had not been any complaints. The lights were left on for security reasons. Mr. Kirkpatrick voiced a concern about the number of parking spaces and what appeared to be an excess of lighting for the proposed use. He said specific variances had been granted for the Day Care Center Use and they would not apply for the proposed residential use. Mr. Kirkpatrick thought two spaces would be applicable for the proposal, as per RSIS Standards. Twenty spaces exist. Atty. Scholl said Engineer Melick would address the impact of removing the pavement. Mr. Scholl said lighting is a different issue. Mr. Kirkpatrick noted variances, i.e., impervious surface, shed not conforming to setback requirements. Atty. Scholl said variances are also requested for front yard setback, minimum distance between buildings, minimum gross site area and minimum lot area. Mr. Scholl referenced the Flood Hazard Area which Planner Andrea Malcom noted may not need a variance.

Atty. Scholl cited Ordinance Section 30-14.2 regarding exemptions. Mr. Nace asked why relief was not sought from side yard requirements. The Ordinance sets forth a 25 foot requirement and existing and proposed is 22.9 feet. The Plan indicated the side yard requirement was 20 feet. Atty. Scholl had not specifically noticed that applicant was seeking relief from the side yard setback requirement; however, he thought that the notice covered any and all variances. Atty. Anderson advised the Board that relief for a setback could not be covered by a catchall notice. The Plan said impervious surface coverage had a requirement of .30 feet and the Ordinance requirement is .03. The Board discussed those issues briefly.

Atty. Scholl asked Mr. Melick to provide testimony that granting the variances would provide a benefit to the community, as well as providing a better zoning alternative for the property. Mr. Melick said the structure on the property pre-exists zoning and was never used as a residence. He said the proposed residential use is the best possible use. The current use of the property is not economically feasible. Atty. Anderson said it wasn't necessary for applicant to justify the economics of the proposal. The property is in a residential district and that is not the reason for the variance. Mr. Kirkpatrick said it was not necessary to provide testimony as to the benefits of the property being residential. Testimony is required as to why the impervious surface and other variances are beneficial to the community.

Atty. Scholl asked Mr. Melick to provide testimony about the impact of removing existing improvements. Mr. Melick said the paved parking area is a stable surface and to remove paving would

disturb environmentally sensitive areas, emphasizing that there are Wetlands, a Wetland Buffer Area, a Flood Hazard Area, a Transition Area and a Riparian Buffer. Also, the property is in the Highlands Preservation Area. Mr. Kirkpatrick said there is an outfall at the depressed curb and grading in the Transition Area. He asked Mr. Melick if he had copies of the Stream Encroachment and Wetlands Permits for those activities. Ms. Van Scott had submitted a request for an L.O.I. from the NJDEP. She had no documentation about any of those Permits. Improvements were installed at the site soon after the Day Care Center approval in 1995. Atty. Scholl said applicant was unable to obtain Professionals' Reports regarding that approval. Atty. Scholl asked that the Variance Plan for the Conversion of the Existing Daycare to Residential Dwelling, prepared by Christopher Melick and dated March 27, 2014, be marked Exhibit A-1.

Mr. Kirkpatrick asked if there were any Storm Water Management Facilities to control the rate of runoff from pollutants discharged into the Flood Hazard Area. Mr. Melick said there were none. He displayed The Site Plan for First Step Learning Center, prepared by A.J. O'Sullivan, dated March 17, 1995. It was marked Exhibit A-2. Mr. Melick said that Exhibit did not show any subsurface structures to handle runoff. A small drainage channel allows flow through the parking lot into the Wetland Area through a depressed curb and a swale. Mr. Kirkpatrick said that salt would be discharged into the Wetlands and the Transition Area with no pretreatment and no flow attenuation. Mr. Melick said there have been no cars parked in the lot recently. Mr. Kirkpatrick asked if he would normally salt a lawn. Mr. Melick said "no". Mr. Kirkpatrick asked Mr. Melick if he would normally salt a parking lot. Mr. Melick said he would not. Mr. Kirkpatrick asked the reason why so much paved area should remain. Mr. Melick emphasized obtainment of permits could be cumbersome. Mr. Kirkpatrick thought that the DEP would not have an issue with the removal of pavement. He felt they would encourage restoration of the area with vegetation. Mr. Melick asked the amount of paving the Board would want removed. Mr. Kirkpatrick said the entire parking lot. Mr. Ford said two spaces are required, the Board might consider some additional area.

Mr. Clerico said the site has infrastructure that would not be part of a single-family home. He asked if the intent was to obtain approval to rent, or sell the dwelling as a residence. Mr. Clerico said constructing a garage could be beneficial to the proposed residential use. Mr. Kirkpatrick asked the total area of impervious surface minus the parking lot. Mr. Melick said it is 12,494 sf. The building has 2,465 sf. The shed has 101 sf. Mrs. Corcoran asked about plans to remove lighting. Mr. Melick said Ms. Van Scott testified that the lighting could be moved or removed. Mr. Kirkpatrick asked the distance from the Street to the back of the Day Care Building. It is approximately 95 feet. Mr. Kirkpatrick suggested that something on the order of a total of 5,000 square feet might be sufficient to accommodate the proposed uses. That would allow the existing buildings to remain, a driveway with two to three parking spaces could be built to the rear of the building, with access from a single driveway point off of Finn Road. The Final Site Plan to be approved by Mr. Clerico. The driveway would have 1,500 sf of impervious surface. A variance might be required for the driveway. Mr. Clerico suggested applicant decide what they want on the site and come back next month. Mr. Kirkpatrick indicated it

would be more efficient to resolve the issue during the current meeting. Mr. Melick suggested that 5,500 square feet of impervious surface would be sufficient to meet the applicant's needs. Mrs. Corcoran asked if there was an Ordinance limiting the number of cars parked on a property. Mr. Kirkpatrick said that becomes an enforcement issue. Atty. Anderson said he was not aware of a restriction on the number of cars. There is a design standard for the number of parking spaces. Mr. Kirkpatrick said there have been no compelling reasons set forth for leaving the excess spaces; however; there appeared to be good reasons for removing them (i.e., NJDEP Rules; character of the neighborhood).

The existing lighting was discussed. Mr. Ford said it was not residential in appearance. Mr. Nace concurred with Mr. Ford. Mr. Kirkpatrick did not find it objectionable. Mr. Melick referenced a garage. Atty. Anderson referenced the existing signage. Ms. Van Scott indicated that would be removed. Mr. Ford understood that there could be 5,500 sf of impervious surface, lighting, signage and some of paving to be removed. Mr. Kirkpatrick said the Site Plan would be modified showing one ingress/egress, the total amount of impervious surface shall not exceed 5,500 sf. The driveway layout shall be approved by the Township Engineer with the permit being obtained from the Zoning Official. Applicant will either remove the existing lighting or replace it with appropriate residential fixtures. The areas that are not impervious shall be restored to lawn conditions. Mr. Clerico said the Plan should be amended to show changes. Atty. Scholl asked if applicant could begin interior improvements. Atty. Anderson said that was not within the purview of the Board. The Construction Official would make the decision regarding issuance of building permits. Mr. Kirkpatrick emphasized that Mr. Melick's testimony was not relevant to turning the property into a residence from a non-conforming use. The relevant testimony was related to either leaving or removing impervious surface.

Mr. Ford made a motion to approve the requested setback variances including the following conditions: submission of a Redesigned Driveway Plan that shows a single entranceway and satisfactory to the Board Engineer, there shall be no more than 5,500 sf of impervious surface coverage on the lot, signage and lighting to be removed or that a lighting fixture suitable to the residential character of the area be allowed; the area of impervious surface coverage removal to be restored with appropriate vegetation. M. Eschbach seconded the motion.

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

Comments from the Public/Other Discussion: No comments from the Public. Mr. Ford announced the August 14, 2014 Workshop would be cancelled.

Motion to Adjourn: Mr. Bischoff made a motion to adjourn. Mr. Eschbach seconded the motion. (10:05 p.m.)

Vote: All Ayes, No Nays, Motion Carried