

October 25, 2007

Mr. Bischoff 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, Mrs. Nargi, Mr. Martin, Mr. Kirkpatrick (Absent for Roll Call 7:05 p.m.), Mr. Walchuk, Mr. Taibi, Mr. Scott, Mr. Bischoff

Members Absent: Mr. Lukasik

Others Present: Atty. William Sutphen, Richard Roseberry, Paul Ferriero, Carl Hintz, Stephen Souza, Anthony Rana, Atty. George Dilts, Atty. Michael Ligorano, Atty. Jeffrey Lehrer, Robert Clerico, Robert Badenhausen, Atty. Gary Hall, Arnold Witte, Atty. Peter Jost, Atty. William Brinton

Atty. Sutphen announced that the Pilot Travel Centers, Block 11, Lot 24.03, 68 Route 173 and Fallone Properties, Block 22, Lot 34, Perryville Road Resolution would not be memorialized tonight. They will be addressed at the November 29, 2007 meeting.

**Issue of Completeness: Perryville Group LLC: Block 22, Lot 4, 37 Route 173 East: Final Site Plan:** Atty. George Dilts, representing applicant, said he had received Paul Ferriero's letter dated October 19, 2007 that states that several items on the Checklist have not been submitted. Mr. Dilts said the items could be in readiness for the December 20, 2007 meeting, at which time the Board could take action for Completeness. He also asked that the Hearing might be held that night, as well. Mr. Ferriero concurred with Atty. Dilts. He did, however, ask that the application be deemed incomplete tonight.

Mr. Bischoff asked for a motion to deem the application incomplete. Mr. Kirkpatrick made the motion and it was seconded by Mrs. Nargi.

Vote: Ayes: Mr. Kirkpatrick, Mrs. Nargi, Mr. Mazza, Mr. Martin, Mr. Walchuk, Mr. Taibi, Mr. Scott, Mr. Bischoff

**P.S. Construction: Block 22, Lot 27, 22 Race Street: Preliminary Major Subdivision:** Atty. Sutphen reviewed the Notice Documents and found them to be in order, giving the Board jurisdiction to hear the matter. The Documents were marked Exhibit A-1. Atty. Jeffrey Lehrer gave a brief overview of the application. He said the property consists of 44.83 acres and is in the Country Residential District. Applicant proposes a seventeen lot subdivision. One of the lots would be for a detention basin. No variances are required. Mr. Lehrer said a 50-foot right-of-way is proposed for the cul-de-sac. RSIS requires 40 feet. An agreement would be required to exceed the 40 feet. Applicant has received conditional approval from Hunterdon County, subject to the Board's approval of a Stormwater Management Plan and Off-Tract Contributions of \$2,625 per lot. An L.O.I. indicating that no wetlands or water was present on the site was obtained on August 23, 2006. Individual wells and septic systems are proposed. A Homeowners Association is proposed for the maintenance of the detention basin.

Atty. Lehrer asked Engineer Robert Clerico to come forward. Mr. Clerico was sworn by Atty. Sutphen. He stated his credentials. They were accepted by the Board. Mr. Clerico had prepared the Plans that were submitted to the Board. He gave an overview of the existing conditions. Mr. Clerico said a three-lot subdivision on the same property had been approved by the Board. Access will be from Race Street. Transco Pipeline traverses the site. An overhead power line also traverses the property. A Category I Stream is on the opposite side of Race Street. Mr. Clerico displayed an Exhibit that was marked A-2. It was a colored rendering of Sheet 5 of the Plan filed with the Board. Mr. Clerico displayed an Exhibit entitled Plan and Profile - Road A, Sheet 10 of the Plan. It was marked A-3. He also displayed an Exhibit, Sheet 11 of the Plan, entitled Plan and Profile - Road A. The Exhibit was marked A-4. Mr. Clerico provided testimony on the proposed Road. The next Exhibit, marked A-5, was entitled Detention Basin Landscaping and Grading Exhibit. Mr. Clerico gave an overview of Exhibit A-5.

Mr. Clerico addressed Messrs. Ferriero and Hintz's letters. He said the farm buildings will be demolished. Mr. Hintz recommended one street light at the end of Race Street and one at the end of the cul-de-sac. No street lights are proposed. Mr. Clerico said applicant would work with professionals regarding landscaping. Atty. Lehrer addressed the COAH issue in a letter dated August 30, 2007. He said his client made an offer to make a payment in lieu which is allowed by the Township Growth Share Ordinance. Mr. Clerico said he received a report on October 25, 2007 from Dr. Souza. Atty. Lehrer said some issues may need to be addressed by his client's Environmental Consultant. Mr. Clerico addressed some issues in Dr. Souza's report. Mr. Kirkpatrick voiced a concern about the location of the inlets. Mr. Clerico said he thought the details could be worked out. Mr. Scott asked about drainage going into a culvert under Race Street and into the C-1 Stream. He also wanted to know if Race Street would be impacted by runoff from the site. Mr. Clerico indicated the design addresses those issues and there shouldn't be a problem. Mr. Scott asked if applicant would comply with issues raised in Messrs. Ferriero, Hintz and Souza's letters. Mr. Clerico replied in the affirmative. Mayor Mazza asked about grading. Mr. Clerico explained the proposed grading.

Atty. Lehrer said he believed applicant complies with Vincent Uhl's letters of July 6 and August 30, 2007. Mr. Lehrer mentioned concerns about the wood turtle habitat. Mr. Kirkpatrick had several questions. He asked the flood hazard elevation of the Sydney Brook, was there emergency access from the west side of Race Street. Mr. Clerico will check into that matter. Mr. Kirkpatrick also asked if the original three-lot subdivision requires any transition area waivers. Mr. Clerico said he recalled Permits had been obtained from the State. Mr. Kirkpatrick asked about the presence of wood and bog turtles. Atty. Lehrer said he has an expert who will provide testimony on that matter. Mr. Clerico said if there was an issue, modifications would be made to the detention basin. Mr. Kirkpatrick asked about identification of Natural Resource Areas. Mr. Clerico will provide whatever information the Board requests. He also said applicant will comply with the Tree Ordinance.

Mr. Clerico said there would be room at the cul-de-sac bulb for buses to pick up schoolchildren and emergency vehicles would also be able to turnaround in that area. Mr. Clerico explained the implementation of the Stormwater Management Plan. Referencing Mr. Scott's mention of the culvert under Race Street, Mr. Kirkpatrick asked the size of that culvert. Mr. Clerico said he believes it is 18 inches in diameter. Mr. Kirkpatrick asked about the COAH contribution rather than meeting that obligation on site. Atty. Lehrer said Mary Beth Lonergan, Clarke Caton Hintz, had made that recommendation.

Mrs. Nargi referenced street lighting. She would hope there would be none. Mr. Clerico said none is proposed. Mrs. Nargi also asked about the COAH contribution. She thought the dollar amount of that contribution might not be adequate. Atty. Lehrer said he understood.

Mayor Mazza asked the square footage of each house. Mr. Clerico said a 50' x 80' rectangular box is shown on the Plans. He said most houses would probably not be that large and would be in different shapes.

Mr. Kirkpatrick asked about impervious surface coverage and how it would relate to the Stormwater Management Plan if a future homeowner made application to build a swimming pool, deck, etc. Mr. Clerico said it would probably be prudent for homeowners to be aware of potential issues that might arise. Mr. Kirkpatrick thought something might be included in deeds.

Mr. Bischoff commented that he does not like in-lieu contributions for COAH. He would like to see a building. Atty. Lehrer said he understood.

Mr. Ferriero offered comments. He would like to work with Mr. Clerico on road details. Mr. Ferriero would also like to see language in the deeds stating the amount of impervious surface coverage of the lot. He said there is a potential for flooding onto Race Street. Mr. Ferriero recommended that the Race Street Culvert be upgraded. Mr. Scott asked if the detention basin might be revised to alleviate potential flooding. Mr. Ferriero mentioned that because of the unpredictability of storms that would be difficult.

Mayor Mazza referenced the proposed curbing. He thought curbing was not desirable. Mr. Ferriero said because of curves and slopes on the site, curbs are the right idea.

Mr. Hintz said he would be reviewing the detention basin plans with Dr. Souza. Mr. Hintz had recommended lighting at the intersection for safety reasons. He said if it is the Board's policy to not have lighting that was fine.

Dr. Souza stated concerns with the application. The concerns are listed in his letter. He does not feel the plan is consistent with the CR District. Mr. Souza said the Transition Areas associated with the wetlands should be delineated. He said it appears that the wetland transition area could extend into proposed Lots 11 and 12 and those lots could be set aside for the detention basin. He was not in agreement with the proposed plantings. Mr. Bischoff said it would be a good idea for Dr. Souza to discuss and resolve issues with applicant and present them to the Board. Dr. Souza said that seemed fair. Atty. Lehrer mentioned the inconsistency between Township Professionals about plants. Mr. Bischoff said Mr. Hintz should be involved. Mr. Clerico said it would be better to discuss the issue with Mr. Ferriero.

Anthony Rana referenced the Phase I Carbonate Rock Checklist. He said a 1/2 mile search should have been made. Peter DeMicco was sworn by Atty. Sutphen. Mr. DeMicco stated his qualifications. His credentials were accepted as a qualified Hydrogeologist. Mr. DeMicco said the requested 1/2 mile search will be done. Mr. Rana said he is concerned about the location of the test well. The well yields 500+ gallons per minute (gpm). There is gray shale in the well. Some limestone is on the site. He asked that applicant provide a video log of the test well. Mr. DeMicco said he would like to discuss the matter with applicant. Atty. Lehrer asked Mr. Bischoff if the two professionals might meet and arrive at a consensus and report back to the Board secretary. Mr. Bischoff was in agreement with that request. Mr. Lehrer asked if his environmental specialist could give testimony about the wood turtle.

Mr. Kirkpatrick said he had seen seepage along the Sydney Brook. He was concerned about the potential degradation of the Brook by septic system discharge. Mr. DeMicco said there would probably be some increase in nitrate concentration. There is some nitrate concentration from the existing farm practices; therefore, there may not be an increase. Mr. Kirkpatrick asked if anti-degradation standards would apply because of the Category I stream. He understood it would be necessary to show there would be no change in the water quality. Mr. DeMicco will review that issue further. Mr. Kirkpatrick would like to see calculations indicating that the project would not increase the concentration. Mr. Kirkpatrick asked that Mr. DeMicco work with Dr. Souza. A concern was raised about the impact of lawn fertilizers. Mr. DeMicco said it is difficult to calculate potential impact from fertilizers. Mr. Kirkpatrick said the Ordinance requires that a determination be made that a project will not have a measurable adverse impact on water issues.

Mr. Taibi said he thought that part of the problem might be the size of the subdivision. He said perhaps if there were eight homes instead of sixteen, many of the concerns might fall by the wayside. Dr. Souza said applicant has shown the project is consistent with the Ordinance.

Mr. Bischoff asked anyone from the Public to ask questions about testimony that had been presented. Mike Siroco, 18 Race Street, asked about the existing dump on the site and how cleanup would be addressed. Mr. Clerico said that part of the site will not be developed. Atty. Lehrer said he had no indication of the existence of the dump. He will speak to his client's environmentalist. Mr. Lehrer asked that the expert on the wood turtle give testimony. Michael J. Mussomeli came forward. He was sworn by Atty. Sutphen. Mr. Mussomeli stated his credentials. They were accepted by the Board. Mr. Mussomeli said an evaluation of the property had been made to determine the suitability of habitat for wood turtles. It was determined that wood turtle habitat was marginal. They usually prefer undisturbed areas. Mr. Kirkpatrick had questions about the lifestyles of wood turtles. Mr. Mussomeli provided details. Dr. Souza said there is an opportunity to provide a habitat in the area of the existing buildings. It is proposed that the buildings will be removed. Atty. Lehrer said applicant will work with Dr. Souza on the issue.

Mr. Bischoff asked for additional questions. There were none. The Hearing was adjourned until November 29, 2007. No further notice is required.

**Badenhausen: Block 5.01, Lot 20, 46 Grandin Court:** Applicant Robert Badenhausen appeared before the Board. He was sworn by Atty. Sutphen. Mr. Badenhausen presented required notices. Atty. Sutphen reviewed the notices and found them to be in order, giving the Board jurisdiction to hear the matter. Mr. Badenhausen displayed a survey of the property that was marked Exhibit A-1, various photographs of the area that were marked Exhibit A-2 and photographs of the existing house and architectural drawings of the proposed addition which were marked exhibit A-3. Mr. Badenhausen said the proposed addition would bring his dwelling to the equivalency of other homes in the Village Square development. He said the addition would be low impact and will blend in with the surrounding area. The addition would allow for a laundry room, enlargement of the kitchen, family room and one of the bedrooms and better accommodation of family needs. It would exceed minimum side and rear yard setbacks. The minimum rear yard set back is 50 feet. Applicant proposes 22.75 feet. The side yard requirement is 15 feet and applicant proposes 4 feet. Mr. Badenhausen presented a Chart showing impervious coverage. The Chart showed additional impervious coverage of 304 feet. An additional variance was not required for that issue. Atty. Sutphen said Mr. Hintz had presented good reasons for the addition in his report dated September 27, 2007.

Mr. Bischoff asked for questions from the Public. There were none. He asked for a motion. Mr. Scott made a motion to grant the variance with the condition that the application is not subject to the Union Township Growth Share Ordinance and there is no representation as to the suitability of the site for the addition. Mr. Taibi seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Taibi, Mr. Mazza, Mrs. Nargi, Mr. Martin, Mr. Kirkpatrick, Mr. Walchuk, Mr. Bischoff

**Quarry Licensing: Red Hills: Block 22, Lot 30, 28, 18.02:** No new information was provided.

**Witte: Block 29, Lot 10 & Block 30, Lot 7, Perryville Road: Horse Barn:** Atty. Gary Hall was present on behalf of applicant Arnold Witte. Mr. Hall gave a brief overview of Mr. Witte's request to construct a horse barn, riding arena and dwelling unit for a caretaker on the preserved property known as Seven Springs Farm. Required notices were submitted to the Board. Atty. Sutphen reviewed the notices and found them to be in order, giving the Board jurisdiction to hear the matter. Applicant submitted a Farm Conservation Plan and Architectural Plans. Mr. Taibi recused himself from the Hearing. Mr. Witte came forward and was sworn by Atty. Sutphen. Mr. Witte said the property (Block 29, Lot 10) across from the proposed barn will not be developed. He said the building will be approximately 30,000 to 35,000 square feet with a parking area. Twenty-four stalls, an arena, and storage barn are proposed. Horse education clinics will be held during the year. Mr. Ferriero had written a letter dated October 22, 2007 addressing storm water management. Mr. Ferriero and applicant agree that issues can be worked out. Mayor Mazza asked about the number of animals. There will be between 20 and 25 yearling calves for about six months of the year. There will be an average of six to eight horses, more when there are clinics. Lighting will be in agreement with recommendations of the Township Planner. Mrs. Nargi asked about the proposed caretaker's dwelling. Mr. Witte said he will pursue that proposal with County and State Agencies and, if necessary, return to the Board. Manure management is proposed. Boarding of horses is not proposed.

Mr. Bischoff asked for questions from the Public. A resident of Brass Castle asked about building on the property adjoining that Subdivision. Mr. Witte said he no intentions to build. Atty. Hall said the County Board of Agriculture is aware of the Witte proposal.

Pam Duda, 12 Perryville Road, said she and her husband are the most impacted. She believes the proposal will be an asset to the community. The proposal will not impact her property.

Mr. Scott asked the Plans be marked. The Architectural Plans were marked Exhibit A-1.

Mrs. Nargi made a motion to approve the application, in accordance with supporting documents A-1. Mr. Mazza seconded the motion.

Vote: Ayes: Mrs. Nargi, Mr. Mazza, Mr. Martin, Mr. Kirkpatrick, Mr. Walchuk, Mr. Scott, Mr. Bischoff

**FDRA LLC: Block 12, Lot 12, 86 Route 173 West: Final Site Plan:** Mr. Taibi returned. Atty. Michael Ligorano was present on behalf of applicant. Mr. Ligorano said his client is seeking final approval. Mr. Roseberry had written a letter dated October 23, 2007. Mr. Hintz had written a letter dated October 22, 2007. Mr. Hintz said the lights are not as approved. They are there temporarily. Approved lights are on order

Mr. Ligorano said applicant had offered to move the existing school. Applicant has been advised to leave the school where it exists. Removal of the school was not discussed at the time of Preliminary application. Mr. Hintz recommended it stay at the existing site. Landscaping will be provided around the school, if required. Bonding is in place. As-built plans will be provided upon completion of site work. The tree issue has been resolved. Mrs. Nargi asked about the time frame for installation of the approved lights. Mr. Ligorano said six to eight weeks.

Atty. Ligorano said he believes that conditions of Preliminary approval have been met. Atty. Sutphen asked if applicant would comply with items listed in letters from Board professionals. Atty. Sutphen asked if applicant would comply with outstanding conditions of Preliminary approval. Mr. Ligorano replied in the affirmative. He asked the Board approve the application.

Mr. Bischoff asked for questions from the Public. There were none.

Mrs. Nargi made a motion to grant conditional approval. Mr. Mazza seconded the motion. Vote: Ayes: Mrs. Nargi, Mr. Mazza, Mr. Martin, Mr. Kirkpatrick, Mr. Walchuk, Mr. Taibi, Mr. Scott, Mr. Bischoff

**Republic Services of NJ, LLC: Block 22, Lot 30.03, 7 Frontage Road:** Atty. Sutphen said he had spoken with Republic's Attorney. The matter will be discussed at another meeting.

**Sign Ordinance:** Municipal Atty. Peter Jost introduced Atty. William Brinton. He is special Counsel for matters pertaining to signs. Mr. Brinton gave an overview of litigation, as well as proposed changes to the Township Sign Ordinance. A discussion was held after which time the Board voted to recommend that the Governing Body adopt the Sign Ordinance, with modifications discussed tonight.

Mr. Martin made the motion to make the recommendation to the Governing Body. Mrs. Nargi seconded the motion.

Vote: Ayes: Mr. Martin, Mr. Mazza, Mrs. Nargi, Mr. Kirkpatrick, Mr. Taibi, Mr. Scott, Mr. Bischoff

Abstain: Mr. Walchuk

**Approval of Minutes:** Mr. Scott made a motion to approve the minutes of the July 26, 2007 meeting. Mr. Taibi seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Taibi, Mr. Martin, Mr. Kirkpatrick, Mr. Walchuk

Mr. Scott made a motion to approve the minutes of the September 4, 2007 workshop. Mrs. Nargi seconded the motion.

Vote: Ayes: Mr. Scott, Mrs. Nargi, Mr. Mazza, Mr. Martin, Mr. Kirkpatrick, Mr. Taibi  
Mr. Bischoff

Mr. Scott made a motion to approve the minutes of the October 2, 2007 workshop. Mr. Kirkpatrick seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Kirkpatrick, Mr. Mazza, Mrs. Nargi, Mr. Martin,  
Mr. Walchuk, Mr. Bischoff

**Motion to Adjourn:** Mr. Mazza made to adjourn. Mrs. Nargi seconded the motion. (11:20 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary