October 22, 2009

Mayor Dziubek called the Joint Committee meeting and the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read. The regular Board meeting began at 8:25 p.m.

Members Present: Mrs. Dziubek, Mr. Bischoff, Mr. Walchuk, Mr. Taibi, Mrs. Corcoran, Mr. Badenhausen, Mr. Ryland, Mr. Nace, Mr. Kirkpatrick

Members Absent: Mr. Kastrud, Mr. Ford

Others Present: Atty. Mark Anderson, Carl Hintz, Kevin Smith, Atty. Salvatore DiFazio Atty. Larry Fox, Robert Zederbaum, Joan Bulvanoski, Douglas Wieder, Jorge Gonzalez, Frank Goldberg

Approval of Minutes: Mr. Walchuk made a motion to approve the September 24, 2009 minutes. Mrs. Corcoran seconded the motion.
Vote: Ayes: Mr. Walchuk, Mrs. Corcoran, Mr. Badenhausen, Mr. Ryland, Mr. Nace, Mr. Kirkpatrick
Abstain: Mrs. Dziubek, Mr. Bischoff, Mr. Taibi

Goldberg: Block 28, Lot 25, 64 Cooks Cross Road: Extension of Approval: Mrs. Dziubek made a motion to grant a one-year extension in the matter of the Preliminary Major Subdivision approval. Mrs. Corcoran seconded the motion.
Vote: Ayes: Mrs. Dziubek, Mrs. Corcoran, Mr. Bischoff, Mr. Walchuk, Mr. Taibi, Mr. Badenhausen, Mr. Ryland, Mr. Nace, Mr. Kirkpatrick

Bulvanoski: Block 22, Lots 9 & 10, Frontage Road: Atty. Larry Fox gave a brief overview of the history of a previous application. He said applicant had proposed a flex-space building which the Board denied. Litigation followed. A Settlement was reached in December 2008. The terms of the Settlement provided that applicant would return to the Board with an application for either a day-care center of approximately 10,000 square feet, or a two-lot subdivision. Mrs. Bulvanoski is applying for the subdivision.

Atty. Fox asked Engineer Robert Zederbaum to come forward. Mr. Zederbaum was sworn by Atty. Anderson. Mr. Zederbaum stated that he is a licensed engineer and planner. His credentials were accepted by the Board. Mr. Zederbaum described the property. There are two lots. One lot is approximately two acres and the other lot is approximately three acres. Applicant proposes reconfiguring the lots into two two-and-one-half acre lots for residential purposes. The property is heavily wooded. Applicant proposes minimum disturbance of the site. Mr. Zederbaum referenced Sheet 4, Lot Development Plan and Lot 4a, Tree Removal Plan. He said applicant plans to maintain as much of the existing vegetation as possible. Mr. Zederbaum said development of the property as per the zone (VC) would result in considerably more disturbance of the site. It would also have a greater impact on the nearby residential property owners.

He said there would be adequate buffering between the proposed lots and the commercial site behind the subject property. Mr. Zederbaum addressed Engineer Smith's letter dated September 22, 2009. Mr. Smith recommended that a small radius of right of way be dedicated at the intersection of Frontage and Everett Roads concentric to the curb radius. Mr. Zederbaum said applicant would not have a problem providing the radius. Mr. Smith said applicant must submit detailed storm water calculations for review showing that they conform to the Township's Stormwater Control Ordinance. Applicant has proposed dry wells. He also said an operations and maintenance manual must be prepared for each homeowner. Mr. Smith said a grading and disturbance plan would be required once the house plans have been determined. Mr. Zederbaum said that would not be a problem. He said that prior to obtaining a building permit lot grading and storm water control plans would be submitted. Mr. Zederbaum asked they be conditions of approval. Mr. Kirkpatrick asked Mr. Smith to ensure that final language include the maximum amount of impervious surface and how much storm water is required to go into dry wells.

Mr. Zederbaum said applicant would adhere to the limit of disturbance shown on plans. Mr. Smith said conservation easement limits should be delineated to provide for limited future disturbance including an area for a reserve septic disposal field, small patio or shed. Mr. Kirkpatrick said that would be subject to the disturbance limitations permitted under the Natural Resource Protection Ordinance. He thought that buffering should be left around the limits of disturbance. Mr. Kirkpatrick noted that things do not always look the same in the field as they do on the topographic survey. Atty. Anderson said if there is to be an easement; the Board needs to know the extent of that easement. Mr. Smith said the plan should note that no disturbance would be permitted within the conservation easement. Mr. Kirkpatrick said the conservation easement would follow roughly the limit of disturbance shown on the current site plan. Atty. Anderson emphasized the conservation easement should be definitive. Atty. Fox indicated that the conservation easement might change when the area of development is determined.

Mr. Kirkpatrick said if the Natural Resource Protection Standards (NRPS) allowed a larger footprint of development the limit of disturbance could be expanded. He said under the NRPS a portion of the woodlands, steep slopes, etc. could be disturbed, with the remainder of the land being placed in a conservation easement. Mr. Kirkpatrick said that since calculations had not been provided, it could not be determined whether the area of disturbance is greater than that allowed under the NRPS Mr. Smith felt that if the Natural Resource calculations were more restrictive the limit of disturbance would have to be smaller. Mr. Smith said applicant had submitted a plan that shows a reasonable size house. He would not want to see anything much larger. Mr. Zederbaum said an attempt had been made to minimize disturbance. Mr. Kirkpatrick said he was not suggesting a smaller limit of disturbance. He said the disturbance could be larger, if permitted by the NRPS. Atty. Anderson said that if the Board does not know the limit of disturbance, it would not be appropriate to impose a condition that it does not understand.

Atty. Anderson indicated a condition of approval could state that the conservation easement would cover all of the area not indicated on the Plans as within the limit of disturbance. Mr. Anderson said the Township Engineer should approve the description of the limit of disturbance and the conservation easement. Mr. Smith cited the need for planting of street trees. Mr. Hintz concurred. Mr. Hintz did not see the need for sidewalks. He recommended that consideration be given for an alternative septic system location. Mr. Zederbaum said applicant would be willing to comply. He said that would, however, increase the limit of disturbance. Mr. Zederbaum will check if there is an area within the limit of disturbance that could be utilized for a reserved system. Mr. Kirkpatrick asked if there were other locations within the limit of disturbance that meet slope requirements for a septic system. Mr. Zederbaum said he was not in a position to answer that question at this time. Mr. Kirkpatrick emphasized the conservation easement would preclude applicant from installing a septic system. Mr. Zederbaum said expansion of the conservation easement could address that issue. Mr. Hintz said applicant would be required to pay an Affordable Housing Development Fee. Mr. Kirkpatrick asked about compliance with the Tree Protection Ordinance. Mr. Hintz explained. Applicant indicated that no tree replacement is required. Mr. Hintz suggested that efforts be made to save additional trees. He said trees should also be added along Everett Road. Regarding the additional septic system, Mr. Kirkpatrick suggested that a portion of the conservation easement be reserved, in the event the existing system failed. He also said no other improvements should be allowed in the easement.

Atty. Fox asked Mr. Zederbaum if he thought the granting of the variances would have a negative effect on the value of the surrounding properties or the intention of the zoning plan. Mr. Zederbaum said it would be consistent with development in the area. Mr. Hintz said the approval should note that an industrial use exists to the east of subject property (PJAX). Mr. Kirkpatrick said it should be noted on the deed. Atty. Anderson concurred. He said the deed description would be subject to Mr. Hintz's approval.

Mr. Kirkpatrick asked for questions from the Board. Mrs. Corcoran asked Mr. Zederbaum the distance from the proposed southernmost house to the swimming pool on the property south of subject property. Mr. Zederbaum said it would be approximately two-hundred and fifty feet. Mr. Ryland asked about buffering. Applicant would have control.

Mr. Kirkpatrick asked for questions from the Public. Douglas Wieder, Everett Road, asked about the area of disturbance. Mr. Kirkpatrick explained. He said the only area that could be disturbed beyond that shown on the Plan would be for a replacement septic system, if the original failed and a satisfactory location could not be found within the existing limit of disturbance. Mr. Wieder mentioned ARC and tree removal. Mr. Kirkpatrick said ARC would be subject to the Tree Removal Ordinance.

Mr. Wieder asked what was being decided today and what is reserved for another time. Mr. Zederbaum said the area for the development of the houses and driveways will be decided today. Prior to obtaining a building permit, detailed development plans will be submitted to the Township Engineer and Planner for their review. Mr. Kirkpatrick said the Board will set a maximum impervious surface coverage area. Mr. Wieder voiced a concern about the location of the proposed driveway in relation to the driveway on his property. Mr. Zederbaum assured Mr. Wieder that his concerns would be considered at the time of further development. Mr. Wieder asked if the future property owners could be combined with the Highland Ridge Homeowners' Association. Mr. Zederbaum suggested that the property owners be invited. He did not believe they could be forced into combining with the Association.

Jorge Gonzalez, Everett Road, had a question about the distance between his property and the proposed area of development. Mr. Zederbaum said it would be approximately one-hundred and fifty feet. Mr. Gonzalez stated there are twenty-one street trees along Everett Road.

Mr. Kirkpatrick asked for other comments from the Public. There were none. He asked for a motion to approve the application, subject to conditions. Mr. Kirkpatrick recited the six conditions: Easement at the curb radius at the eastern side of Frontage and Everett Roads; Final Site Plans for the homes, subject to review by the Board Engineer and Planner; Detailed Soil Investigations for the Dry Wells; Area outside of Limit of Disturbance, as illustrated by the scalloped line on the Site Plans; subject to a Conservation Easement, with the only exception for a reserve septic field; specifically identified in that area and that reserve septic field would only be used if the existing field failed and there were no alternative locations outside the conservation easement; seven street trees shall be added, the location to be determined by the Board's Landscape Architect; and a notice in the deed advising the future property owners of the industrial and semi-industrial nature of the surrounding zone and that there may be noise, dust, etc. associated with those existing uses. Atty. Anderson said it appears there would be a design waiver, Section 7, Para. five in Mr. Hintz's. Letter, regarding sidewalks.

Mrs. Corcoran made a motion to approve the subdivision, subject to the six requirements listed by Chairman Kirkpatrick and the Design Waiver regarding sidewalks. Mr. Badenhausen seconded the motion.
Vote: Ayes: Mrs. Corcoran, Mr. Badenhausen, Mr. Walchuk, Mr. Taibi, Mr. Ryland, Mr. Nace, Mr. Kirkpatrick

Pilot Travel Centers, LLC: Block 11, Lot 24.03, 68 Route 173 West: Alan Steere gave a status report. Mr. Steere said he anticipates the work will be complete by Monday, October 26, 2009. Mr. Kirkpatrick noted two occurrences at the site. A truck driver unloading fuel left the truck unattended. Mr. Steere said it was brought to the attention of the main office. He understands that driver is no longer working for Pilot.

Mr. Kirkpatrick also said there was no one in the security office at the time of the occurrence. Mr. Kirkpatrick suggested placement of a sign reminding drivers that they are not to leave the trucks unattended while unloading fuel. Mr. Steere will bring that to the attention of operations. Mr. Kirkpatrick said drivers are ignoring the No-Left Turn Sign. Additional signage, including posting of penalties, should be installed. Mr. Steere has spoken to the Manager about the matter. Mr. Kirkpatrick mentioned that No Parking Signs are being ignored. Mr. Steere said he had notified the Main Office that enforcement is required. Mr. Kirkpatrick said construction appears to be proceeding in accordance with the Plan and the site looks much better. Mr. Steere said there has been a problem with trucks accessing the Cat Scale. He proposed additional signage. Mr. Kirkpatrick said that should be included as part of field changes. Mr. Ryland had a comment about the Scale Sign. Mr. Kirkpatrick said it had been approved; however, it would be preferable that the sign facing the road not be lighted.

St. Catherine of Siena: Block 22, Lot 34.02, 142 Perryville Road: Memorialization of Resolution: Mrs. Corcoran made a motion to memorialize the Resolution, with minor changes. Mr. Ryland seconded the motion.
Vote: Ayes: Mrs. Corcoran, Mr. Ryland, Mr. Walchuk, Mr. Badenhausen, Mr. Nace, Mr. Kirkpatrick

Correspondence: None

Comments from the Public: Frank Goldberg said he had no comments.

Motion to Adjourn: Mrs. Corcoran made a motion to adjourn. Mr. Badenhausen seconded the motion. (9:45 p.m.)
Vote: All Ayes, No Nayes, Motion Carried

Grace A. Kocher, Secretary