

April 26, 2012

Mr. Kirkpatrick called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

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 our notices dated January 19, 2012, 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 Clerk.

Members Present: Mr. Walchuk, Mr. Nace, Mrs. Badenhausen, Mr. Ryland,
Mrs. Dziubek, Mr. Kastrud (7:25 p.m.), Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Bischoff, Mr. Hirt, Mrs. Corcoran

Others Present: Atty. Mark Anderson, Robert Clerico, Atty. Donald Morrow,
Frank Montgomery, Eric Quisenberry

Approval of Minutes: Mr. Ford made a motion to approve the minutes of the March 22, 2012 meeting. Mrs. Dziubek seconded the motion.

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

Memorialization of Resolution: Wells Fargo Bank: Block 22, Lot 19, 2 Pittstown Road: Mr. Ford made a motion to approve the Resolution. Mr. Walchuk seconded the motion.

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

Lehigh Gas: Block 12, Lot 11.01, 169 Perryville Road: Discuss Traffic Mitigation: Atty. Donald Morrow was present on behalf of applicant. Mr. Morrow said a meeting had been held with Mr. Clerico on March 29, 2012 to discuss traffic mitigation, as set forth in the memorializing Resolution. Frank Montgomery, Project Manager, Traffic Planning and Design, Inc. were present. Mr. Montgomery was sworn by Atty. Anderson. Mr. Montgomery referenced traffic signal modification. He said applicant had reviewed potential modification that would include a southbound left turn phase for vehicles coming over Route 78, turning left onto Frontage Road and traveling east. Applicant looked at the impact of that proposal in terms of queing and level of service and felt the modification would be beneficial. Mr. Montgomery said change would impact other approaches to the intersection, specifically the northbound Perryville approach. He said the cost associated with an improvement involving the I-78 Bridge could potentially be around a half-million dollars.

Mr. Montgomery showed an Aerial Photograph of the I-78 off Ramp. The Photograph was entitled Ramp Observation, dated November 16, 2011. It was marked Exhibit A-1.

Mr. Montgomery explained various elements shown on the Exhibit. He also provided information on Report 505, the National Cooperative Highway Research Program. Mr. Montgomery said Report 505 deals with design values for stopping sight distance. The American Association of State Highway Transportation Officials (AASHTO) sight distance criteria was attached to Report 505. The Report was marked Exhibit A-2.

Mr. Montgomery explained the differences in the two reports. He said 65 mph was the speed applicant felt appropriate to use for vehicles coming off the ramp.

Mr. Kirkpatrick referenced the number of intersection movements that had decreases in the level of service. He asked Mr. Montgomery to summarize the changes in delays and levels of service at intersections. Mr. Montgomery said the proposed addition of the southbound left turn arrow would reduce the level of service to C. Mr. Kirkpatrick told Mr. Montgomery they appeared to be on the right track. Applicant should submit a formal proposal indicating the implementation plan. Atty. Morrow said if it were determined that the proposal is feasible a submission to NJDOT would be required and need their approval. Mr. Morrow said the Township had to make the application to the NJDOT for the traffic signal modification. Applicant is willing to provide an analysis and reasonable financial assistance. Atty. Morrow emphasized that his client's impact was de minimus. Pilot has created serious problems at the intersection. Mr. Morrow thought there should be coordination with Pilot to improve conditions at the intersection. Mr. Kirkpatrick said it appeared that applicant had a reasonable solution to the traffic issue that could be implemented without significant cost. Mr. Kirkpatrick said the Board has been frustrated with Pilot's lack of ability to get approval. The Township is stuck with their traffic impact because they were allowed to begin construction and operate before making improvements. He did not think the Board would want to make that mistake again.

Atty. Morrow asked if applicant was to consider anything Pilot has done or plans to do. Mr. Kirkpatrick said "No". He said the Township could open a line of communication between Lehigh Gas and Pilot to make sure there is no conflict with their proposals. Mr. Kirkpatrick recalled that Pilot's proposed improvements were at other intersections. Atty. Morrow said he observed that the problems are much greater on the other side. Mr. Morrow said Mr. Clerico was familiar with Pilot's mitigation efforts. Mr. Clerico said that is ongoing and the Township is having discussions in that context. He said applicant would be required to file a submission with NJDOT and the Township should indicate that they endorse the proposal. Mr. Montgomery said they would like the Municipality to be the applicant. He indicated the proposed improvement would ease the traffic situation; however, applicant is not putting traffic on the approach. Atty. Morrow emphasized that it is preferable for the Township to initiate the application. Mr. Clerico said a cost estimate should be determined.

Atty. Morrow assured Mr. Kirkpatrick that he trusted Mr. Clerico and Mr. Hoffman to make an assessment as to the best way to proceed. Mr. Kirkpatrick said Mr. Clerico is also the Township Engineer. Mr. Kirkpatrick asked for questions/comments from the Board or the Public. There were none.

Pilot Travel Centers: Block 11, Lot 24.03: Review of Traffic Circulation and Safety Plan: Mr. Clerico gave a brief overview. He said Pilot had an obligation to submit a truck circulation and safety plan as part of their original approval. Mr. Kirkpatrick said the plan had a minimum standard to prevent offsite impact.

Pilot's Traffic Engineer Joseph Staigar submitted a Narrative of Truck Circulation and Safety Plan dated March 29, 2012. The letter was sent to the Planning Board, the State Police, Hunterdon County Planning Board and NJDOT. Attached to the letter was a Plan, dated 2007, showing truck movements indicating that the largest tractor-trailer should be able to circulate safely through the site. Pilot concluded that the site functions properly and is safe. Mr. Ford noted a typographical error and a severe factual error. The factual error states that all vehicles, including passenger cars enter the westerly driveway when, in fact, they enter the easterly driveway. Mr. Clerico said the 2007 Plan is outdated. Mr. Clerico said the Plan shows a counter-clockwise truck circulation pattern.

Mr. Clerico said the majority of trucks in the back area do not follow the circulation pattern that was established as part of the approval. He also understood that trucks were to back into parking spaces and most trucks are parking head in. Mr. Kirkpatrick said that was part of Mr. Staigar's testimony. Mr. Clerico noted that signs are not being followed. He said the island is narrow making it difficult for trucks to follow the clockwise pattern. Mr. Clerico said there is virtually no enforcement of any of the truck movements. He said Mr. Staigar stated that vehicles could freely maneuver within the geometry of the site. Mr. Clerico said that could be true if vehicles were not parking where they were not allowed. Mr. Clerico had been at the site with Committeewoman McBride and taken photos showing trucks backed up onto the highway creating gridlock. The gridlock was creating a public safety issue for emergency vehicles. Mr. Clerico re-emphasized the enforcement issue. He said when he and Ms. McBride were at the site, two of Pilot's employees were attempting to disentangle the truck backup. Mr. Clerico said he observed an arrow to the west of the pump islands that would allow vehicles to proceed to the north. Mr. Kirkpatrick said Mr. Staigar and Pilot testified that truckers would get their fuel and upon leaving the fuel island proceed toward the back of the site to park.

Mr. Kirkpatrick said the crux of the matter is the minimum condition is that Pilot would have to submit a traffic safety plan that would provide operation of the site that would not negatively impact any offsite roads. He said Pilot has clearly not met that burden. Mr. Kirkpatrick said he feels the Plan Pilot submitted is inaccurate and should be rejected in its entirety. Mr. Clerico asked if the Board should be adopting a Resolution.

Atty. Anderson said the Board Chairman asked him to look at whether the report met the test of the Resolution. Mr. Anderson said the requirement of the Resolution is that the Plan is to insure that vehicles entering or exiting do not adversely impact traffic circulation onto public roads. Mr. Staigar's letter states that if the site layout can accommodate large tractor-trailers then other vehicles can safely and efficiently access and circulate the site. Atty. Anderson said that is not what the Resolution states. He said the Resolution states it is an offsite traffic impact issue. Atty. Anderson said it might be desirable for a motion be offered that what has been submitted does not meet the test and, therefore, is not acceptable and is rejected. Mr. Ford said that, basically, the premise in Mr. Staigar's report that is supposed to satisfy some internal conditions is not appropriate or correct. Atty. Anderson said the Resolution does not speak to whether the site can accommodate WB-67 tractor-trailers.

Mr. Anderson said if it turned out that the real difficulty on site had nothing to do with trucks, that there were a vast number of automobiles that wanted to fuel at the facility causing the problem offsite that would be covered by the Resolution. Mr. Clerico asked about deadlines in the Resolution. Mr. Kirkpatrick said Pilot had outlined certain deadlines that they would meet, as far as submitting information required by the Resolution. Those deadlines had been discussed when Pilot had met with a subcommittee regarding the lawsuit. Mr. Kirkpatrick emphasized Pilot had not met those deadlines. He said Pilot is not in compliance with their approval and, further, they are not in compliance with the last subcommittee discussions. Mr. Kirkpatrick asked if the Zoning Official should be taking further action. Atty. Anderson recited conditions from the Resolution. He said applicant shall comply with conditions a. through l. prior to issuance of a Certificate of Occupancy (C/O). Atty. Anderson understood Pilot was operating under a Temporary C/O. Mr. Kirkpatrick said the Temporary C/O had expired. Pilot was granted a limited time extension. A second extension was granted in order to come up with a resolution to outstanding issues. Mr. Kirkpatrick said there could come a point when they have not submitted required information, the temporary C/O would have expired and they would be unable to operate legally.

Mr. Kirkpatrick said if there is no additional discussion from the Board or the Public he asked for a motion as to whether the Board believes that this is a Traffic Circulation Plan as required by a condition of the Resolution, or not. Did Pilot submit the Plan, or not. He does not believe they submitted a Plan.

Mr. Ford made a motion that Pilot did not comply with the Resolution condition requiring submission of a Traffic Circulation Plan. Mr. Walchuk seconded the motion. Mrs. Dziubek asked if the request was made this calendar year. Mr. Kirkpatrick said "Yes". The Resolution was adopted in a previous year. Mrs. Dziubek wanted to know if she was eligible to vote since she had served on the Township Committee. She was advised to abstain.

Vote: Ayes: Mr. Ford, Mr. Walchuk, Mr. Nace, Mr. Badenhausen, Mr. Ryland,
Mr. Kastrud, Mr. Kirkpatrick
Abstain: Mrs. Dziubek

Mr. Clerico will apprise Pilot of the Board's action. He was asked to prepare an assessment on all documentation that has been submitted and will include the action taken by the Board. Mr. Kirkpatrick said to make it clear that the Board did not make a determination on the adequacy of the Plan. They made the decision that Pilot did not submit a Plan.

Correspondence: Mr. Kirkpatrick mentioned a letter from Applied Water Management, dated March 23, 2012, regarding a request that the certified tester for the Lookout Pointe Wastewater Treatment Permit quarterly Physical Connection Test be exempt from acquiring Zoning Board Approval. Mr. Kirkpatrick thought the request should be denied.

Mr. Clerico said Atty. Peter Jost advised the Zoning Officer that applicant be qualified for the exemption. Atty. Anderson suggested that he speak with Atty. Jost about the matter. He will report back to the Board.

Comments from the Public/Other Discussion: None

Appointment of Hydrologist: Mr. Kirkpatrick suggested that Vincent Uhl be appointed for the remainder of 2012. Mrs. Dziubek had a concern about the appointment. She asked for an Executive Session. Mr. Kirkpatrick said the matter would be scheduled for the May Workshop.

Motion to Adjourn: Mr. Ford made the motion. It was seconded by Mr. Ryland.
(8:10 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary