

March 28, 2013

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 17, 2013, as published in the Hunterdon County Democrat and January 15, 2013, as published in 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: Ms. McBride, Mr. Walchuk, Mr. Nace, Mr. Badenhausen, Mr. Ryland, Mr. Kastrud, Mrs. Church, Mr. Ford, Mr. Kirkpatrick

Members Absent: Mr. Bischoff, Mrs. Corcoran

Others Present: Atty. Mark Anderson, Tom Decker, Atty. Walter Wilson, Wayne Ingram

Approval of Minutes: Mr. Ford made a motion to approve the minutes of the February 28, 2013 meeting. Ms. McBride seconded the motion.

Vote: Ayes: Mr. Ford, Ms. McBride, Mr. Walchuk, Mr. Nace, Mrs. Church, Mr. Kirkpatrick

Abstain: Mr. Badenhausen, Mr. Ryland, Mr. Kastrud

Issue of Completeness: Molnar: Block 12, Lot 13.01, 92 Route 173: Mr. Kirkpatrick asked Engineer Decker to give an overview of the March 25, 2013 report from Robert Clerico. Applicant was seeking to bifurcate the application and there were concerns about the bifurcation. Mr. Clerico said it would be difficult to assess the impact or merits of granting the variance relief without basic site plan information. He also indicated that bifurcation is typically reserved for use variance applications. Atty. Walter Wilson, representing applicant, gave a brief overview of the property. He said it had been an ice cream stand and has been undergoing environmental cleanup. The site is in the final stage of the NJDEP cleanup. Applicant proposes construction of a 6,603 square foot (sf) building for his company. The building would exceed coverage allowed by the Ordinance. The property is in the Highlands and a redevelopment application is being pursued through the DEP that allows 125% of the disturbed area to be utilized. The 125% must encompass the previously disturbed area. Parking was originally proposed on the side and to the rear of the building in compliance with the Land Use Code. Landscaping was proposed for the front of the building. Because of DEP regulations the parking is now proposed in the front and variances are required. A 24 ft. driveway aisle is proposed and the Ordinance requires 25 ft. minimum width. Atty. Wilson emphasized the bifurcated application was submitted in order to find out whether the requested relief would or would not be granted. Mr. Wilson said further discussion with the Highlands Council would follow after the Board's decision.

Atty. Wilson had submitted a letter dated March 28, 2013 in response to Mr. Clerico's letter and the bifurcation matter. He cited provisions of the Municipal Land Use Law that allow applicant to elect to submit separate applications. Mr. Kirkpatrick opined that applicant had not provided adequate information to consider the variance relief. He also said information included with waivers requested was critical to the Board's decision making process on completeness. Mr. Kirkpatrick emphasized the sole purpose of tonight's meeting was to determine whether the application was complete or incomplete.

Atty. Wilson said he would be willing to discuss the waivers requested. Mr. Kirkpatrick told Mr. Wilson to proceed. Atty. Anderson addressed issues raised by Atty. Wilson. Mr. Anderson referenced the matter of whether the Board may hear a bifurcated application and whether they must bifurcate the application because they are asked to do so. Atty. Anderson said the answer is "No". Mr. Anderson concurred with the Chairman about the adequacy/inadequacy of the variance information and the Board being able to make a fair determination without additional information. He did not consider this a simple variance application.

Atty. Wilson asked that the Engineer's office provide applicant with the additional information required. Mr. Wilson said Site Capacity Calculations had been provided. The aquifer test would be done as a part of the site-plan application. Landscaping plans would be provided that would comply with the Ordinance. Mr. Kirkpatrick said the Site Capacity Calculations were incorrect.

Engineer Wayne Ingram was sworn by Atty. Anderson. He stated his credentials. Mr. Kastrud made a motion to accept Mr. Ingram's qualifications. Mr. Walchuk seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Mr. Ingram gave a brief overview of the application. He said applicant had prepared a site plan for submission to the Board. They were not able to obtain Highlands approval because of an impervious surface coverage issue. Applicant has a NJDOT Permit for the Driveway access. Septic system, soil and storm water tests have been performed. Mr. Ingram was asked if NJDEP had issued a written decision. Mr. Ingram said DEP issued a rejection of an exemption. Applicant met with DEP; however, nothing conclusive came of the meeting. Mr. Kirkpatrick asked if a Highland's application had been submitted, other than to ask if applicant was exempt from their rules. Mr. Ingram said an application had been submitted; however, a pre-application meeting was required before the Highland's Council would take action. Mr. Kirkpatrick asked if there were any records regarding that meeting or findings, as a result of the meeting. Applicant assured Mr. Kirkpatrick that minutes of the meeting would be provided. Mr. Ingram indicated there would not be any findings unless a complete application had been submitted. Mr. Kirkpatrick said there is an application for a simple Highland's development. Mr. Ingram said that was true. Applicant's intent is to become exempt and it would be necessary to prove they are being as environmentally sensitive as possible in order to submit the application referenced by Mr. Kirkpatrick. Mr. Ingram said the option exists to come before the Board and locate their project in such a way that would allow them to apply for a Highland's exemption. Mr. Kirkpatrick said there are other exemptions.

Mr. Ingram said there are no other exemptions that would allow applicant to develop the site other than the 125% reconstruction. Atty. Wilson said if the application was denied by the Board and applicant demonstrated there was no reasonable way to develop the site another regulatory exemption could be sought. Mr. Ingram addressed several issues. He said applicant indicated an area that had been tested and approved for a septic system. Storm water management is not proposed. Structures were existing on the site when the Highland's Regulations were approved. Mr. Ingram said impervious surface is being expanded minimally. He also said there are very few environmental constraints in the area to be developed. Mr. Decker said adequate information had not been provided to determine if a storm water management design would be required. He also said that with the requested variances it is uncertain whether Ordinance landscaping requirements could be met. Mr. Decker said if a smaller building was proposed some of the variances might be eliminated. The proposal is for light industrial use on one side and contractor's use on the other side. Mr. Kirkpatrick said Site Capacity Calculations indicate there are no wetlands or floodplains on the site. He said wetlands are shown on the rear corner of the plan. That would affect Site Capability Calculations and the impervious surface coverage. Mr. Ingram said that information would be provided on the revised plan.

Mr. Kirkpatrick asked for questions from Board members. Mrs. Church asked the type of business proposed. Applicant operates a medical equipment repair business. Ms. McBride asked if the storm water would run onto Route 173. Mr. Ingram said the water drains to the back and into the wetlands. Mr. Kirkpatrick said he remains unconvinced there is enough information to consider requested variances. Atty. Wilson asked that incomplete items be identified and applicant would try to address them. Mr. Kirkpatrick said all waiver items must be identified. Checklist Items 43, regarding percolation and soil logs; 54, landscaping plan; 55, impact statement; 57, easement of land, etc.; and 62, carbonate area investigation, need to be addressed. Mr. Kirkpatrick told Atty. Wilson it would be advisable to come to a workshop meeting and discuss outstanding issues.

Mr. Kirkpatrick asked for a motion to deem the application incomplete. Mr. Ford made the motion. It was seconded by Mr. Kastrud.

Vote: Ayes: Mr. Ford, Mr. Kastrud, Ms. McBride, Mr. Walchuk, Mr. Nace, Mr. Badenhausen, Mr. Ryland, Mrs. Church, Mr. Kirkpatrick

Correspondence: None

Comments from the Public/Other Discussion: None

Motion to Adjourn: Mr. Ryland made a motion to adjourn. It was seconded by Mr. Nace. (7:45 p.m.)

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary

