

September 27, 2018

Mr. Ford called the Meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Members Present: Mr. Mazza, Mr. Neary, Mr. Walchuk, Mr. Nace, Mr. Stothoff, Mr. Kirkpatrick, Mr. Ford

Members Absent: Mr. Eschbach, Mr. Kastrud, Mr. Sullivan

Others Present: Board Atty. Mark Anderson, Engineer Robert Clerico, Planner Daniel Haeben, Atty. Alan Lowcher, Christopher Habig and Wayne Ingram.

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 February 1, 2018, as published in the Hunterdon County Democrat and January 31, 2018, 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 Municipal Clerk.

Approval of Minutes: Mr. Kirkpatrick made a motion to approve the minutes of the August 23, 2018 meeting. Mr. Mazza seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Neary, Mr. Nace, Mr. Stothoff, Mr. Ford

Abstain: Mr. Mazza, Mr. Walchuk

Issue of Completeness: Fallone Group LLC: Block 22, Lot 34, Perryville Road: Preliminary & Final Site Plan Approval: Mr. Ford asked if there was a representative in attendance. There being none, he said the matter should be deferred until the Board's next meeting. Mr. Kirkpatrick made a motion to defer the matter until the next meeting. Mr. Stothoff seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Public Hearing: Powerco Partners, LTD: Block 23, Lot 2.02, Route 173 West: Use Variance: Atty. Anderson said the application is before the Board of Adjustment and Committeemen Mazza and Neary would have to recuse themselves. Thereupon, they left the podium. Atty. Alan Lowcher, representing Powerco, noted that five Board members were present and all five would have to approve this Use Variance. He requested that Powerco present their case and hear feedback from the Board. Applicant could then decide whether to ask for a vote or wait until absent Members listened to the CD and would be eligible to vote.

Atty. Lowcher gave an overview of the Use Variance application. He said Powerco sells new Case and Kubota equipment on Lot 2.02. Powerco is now mandating that Case and Kubota must separate the two

businesses. Kubota would be building and moving their business to Lot 2.06. D-1 Variances are required for Sales and Service of Power Equipment, Outdoor Storage and Outside Display. Atty. Said Bulk Variances would also be required; however, he asked that they be addressed at the Site Plan Hearing.

Atty. Lowcher asked to have Christopher Habig, Powerco Sales Operation Manager, be sworn. Mr. Habig was sworn by Atty. Anderson. Mr. Habig provided information on the Powerco operation. He said the new name will be Powerco Equipment Company; however the operations will remain mostly unchanged and he does not anticipate expansion of the business. Mr. Habig said the proposed building has a much smaller footprint and will be more aesthetically appealing than the existing building.

Mr. Haeben asked the possibility of vehicular movement between the existing and proposed buildings. Mr. Habig indicated that Powerco wanted a separation of the two sites. He said a walkway between the buildings is proposed. Mr. Habig also said Powerco mandates that dealerships must comply with their guidelines. Mr. Haeben noted there would be more free indoor space with the second building and asked if the paved area could be reduced by storing more equipment inside.

Mr. Kirkpatrick asked Atty. Anderson to reference the three variances requested. Mr. Anderson said they are as follows: All are D-1 Variances. 1) Use not permitted in the District; 2) Outdoor Storage and 3) Display of Equipment.

Mr. Kirkpatrick made a motion to approve the requested three variances allowing the sale of equipment, and allowing storage and display of equipment. Mr. Nace seconded the motion.

Atty. Anderson thought that basic planning testimony should be provided in conjunction with the Use Variance.

Atty. Lowcher asked that Engineer Ingram provide requested testimony for the record. Mr. Ingram was sworn by Atty. Anderson. Mr. Ford said his credentials were acceptable. He had appeared before the Board before. Mr. Anderson understood that Mr. Ingram is an Engineer and Planner and qualified for both. Mr. Ingram said that he is qualified for both those professions. Mr. Ingram recited why he believes the proposed use is suitable for the location. He referenced Sheet 5 of the Site Plan submitted to the Board. He said the use is compatible with other uses and the topography of the area. For purposes of zoning, he cited purpose G, providing space for a variety of uses; purpose H, pertaining to transportation, i.e., access to I-78; and provision of a desirable visual environment by limiting the area of disturbance. Mr. Ingram does not believe there is a negative impact since the proposal is not dissimilar to other uses allowed in the area. Mr. Ingram emphasized that applicant proposes reduction of parking spaces from the required 55 spaces to 18 spaces. Mr. Walchuk asked about well and septic. Mr. Ingram said applicant has submitted a septic system design to the Hunterdon County Health Department and a well is proposed. He does not believe there will be an increase in demand with the proposal.

Mr. Clerico mentioned that the northwest corner of the property has been disturbed. Mr. Ingram said that is an encroachment by a neighboring property owner who will be asked to cease infringing.

Mr. Haeben asked Mr. Ingram if applicant had viewed their site from Rupell Road. Mr. Ingram thought there would be limited visibility of the site because of steep slopes and vegetation buffering the site. He also said he did not foresee any greater impact on storm water runoff.

Mr. Nace asked the process for washing returned equipment. Mr. Habig explained. Mr. Habig said the proposal would provide an internal system that complies with current environmental regulations.

Mr. Stothoff referenced a common driveway for the two sites that would limit additional impervious surface, as well as less impact on the State Highway. Mr. Habig indicated they would look into the matter. Atty. Anderson mentioned the prospect of the Planning Board making that a Condition of approval.

Mr. Ford asked for questions/comments from the Public. Mr. Mazza asked if there was fencing around the area. Mr. Habig replied in the affirmative.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Mr. Walchuk, Mr. Stothoff, Mr. Ford

Atty. Lowcher had a question for Atty. Anderson and Mr. Clerico about the Title. He believed that matter was resolved by information provided to the Board. He referenced the review of the Phase I Assessment by the Board's Geologist that is technically complete. Mr. Clerico said the Geologist recommended a Phase II Assessment. Mr. Ingram said they would begin the Phase II process promptly. Atty. Lowcher asked if the Board would consider the Issue of Completeness for the Site Plan and if submissions were acceptable, allowing him to advertise for the Public Hearing to be scheduled October 25, 2018.

Mr. Kirkpatrick asked Mr. Ingram the implications on the Site Plan pending the results of Phase II; favorable versus unfavorable. Mr. Ingram explained the ways the project would be accomplished.

After a brief discussion, it was determined the October meeting was not feasible. Applicant will attempt to provide required information in time for the November meeting that is scheduled for November 15, 2018. That date may be changed.

Motion to Approve: Mr. Kirkpatrick made a motion that the report will be submitted during the course of the application in order for the application to move forward. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Walchuk, Mr. Nace, Mr. Stothoff, Mr. Ford

Messrs. Mazza and Neary returned to the meeting at this time.

Scheduling/Rescheduling of Meetings: The Board discussed the issue. Mr. Mazza made a motion to reschedule the November 15, 2018 meeting to November 8, 2018 and to revise the 2018 Schedule of

September 27, 2018 Planning Board/Board of Adjustment Minutes, Page 4

Meetings Notice as follows: Regular Meetings November 8 and December 6. Mr. Nace seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Initial Discussion of Master Plan Changes: Planner Haeben gave a chronological overview of affordable housing that began in 1975 when the Superior Court ruled ((Mt. Laurel I) that municipalities had an obligation to provide an opportunity for affordable housing; in 1983 the Court ruled (Mt. Laurel II) the need to establish municipalities obligations; in 1985 the State Legislature adopted the Fair Housing Act which created COAH who administers the Act; in 1987 COAH created the 1st Round of Rules; in 1993 COAH created the 2nd Round of Rules through 1999; in 2004 the Growth Share Methodology was created; the Court ruled that set of rules was invalid; in 2008 COAH adopted the 3rd Round of Rules which was also ruled invalid by the Court; in 2010 COAH was given time to adopt new rules; in 2014 COAH was given until 2014 to adopt new rules that resulted in a tie vote; on March 20, 2015 the Superior Court ruled that COAH was not doing their job and gave the responsibility of administering affordable housing to the Trial Court. In June 2015 a 3rd Round Housing Plan was attempted, based upon based on COAH's numbers in 2014. COAH said the Township addressed its prior Round Obligation and had to create an opportunity to create 21 Units for the 3rd Round (2014 – 2024). P. S. Construction, Apgar, Lookout Point, ARC and Milligan Farms among the sites considered.

In May 2018 a settlement was entered into with Fair Share Housing. The Agreement stated that the Township has a 227 Unit 3rd Round Obligation. Because the Township demonstrated there is limited sewer infrastructure capacity they could get a Durational Adjustment. The Township agreed to put overlays on sites that have a realistic possibility of getting sewer at some time in the future. The Township agreed to put overlays on the undeveloped Foster Wheeler property and the former Red Hills Quarry. Mr. Haeben said that a Draft Housing Plan has been prepared and was sent to the Board. Since the Township agreed upon the overlays, Milligan Farms will no longer be part of the Housing Plan and the Township will not need to use the Affordable Housing Trust Fund toward building the Units on that site.

Mr. Kirkpatrick referenced the proposed ordinance. Mr. Haeben readdressed the Growth Share Ordinance that is unenforceable. He said that Ordinance is being repealed and there is no need to replace that Ordinance. Mr. Haeben said the Affordable Housing Ordinance has the Standards for developers use in providing affordable housing on their site, as well as how the Township is to administer compliance. The proposed Ordinance will include a mandatory set aside requirement.

Mr. Kirkpatrick asked Mr. Haeben the current Ordinance Standards. Mr. Haeben said the Standards state how many affordable units have to have a certain number of one, two or three bedrooms and how many have to be affordable to low, very low and moderate income individuals. Mr. Haeben said currently a developer is required to comply with affordable housing ordinances and, outside of the Growth Share Ordinance under consideration for repeal, our ordinances do not provide a requirement

for a specific number of units. The proposed Ordinance will include a 20% mandatory set aside requirement on any development in the Township.

The Board discussed the timing of the repeal of the existing Growth Share Ordinance and the proposed Affordable Housing Ordinance. It was the consensus of the Board to recommend that the Growth Share Ordinance have the same effective date as the adoption of the new ordinance, and that the changes be accomplished as soon as the Committee can act. Mr. Mazza asked .Atty. Anderson to e-mail Municipal Atty. Jost with that information.

Comments from the Public/Other Business:

Secretary was asked to draft a letter to Board members emphasizing the importance of their attendance at meetings and contacting the office if unable to attend.

Mr. Ford said the Board would be making a recommendation to the Township Committee on October 25, 2018 regarding Master Plan Changes and the Housing Element. Mr. Haeben asked that Board comments be sent to him by the end of next week. Mr. Kirkpatrick asked that residential development be referred to as a subdivision of the lots.

Motion to Adjourn: Mr. Nace made a motion to adjourn. Mr. Stothoff seconded the motion.
(8:30 p.m.)

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary