

May 23, 2024, Planning Board/Board of Adjustment Meeting Minutes

These minutes were approved at the August 22, 2024 meeting.

Call to Order and Notices: Mr. Kirkpatrick called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00pm.

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 notice dated January 18, 2024, as published in the Hunterdon County Democrat and notice dated January 19, 2024, 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.

Flag Salute

Members Present: Mayor DeGiralamo, Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Kirkpatrick, Mr. Belden, Mr. Lepore, Mr. Tousignant, Mr. Glacken (7:01pm).

Board Professionals Present: Attorney Anderson, Robert Clerico.

Members Absent: Committeewoman Cherney, Ms. Bartolomeo, Chair Ford, Mr. Gatanis.

Others Present: For Wayne R. Schmied Revocable Trust: Attorney Gruenberg – applicants attorney, Mr. Schmied-applicant, Mr. Mooney-architect, Mr. Ferrante-engineer.

New and Pending Matters

- The Wayne R. Schmied Revocable Trust Variance Application – Public Hearing
60 Perryville Road
Block 25 Lots 37.01

Mayor DeGiralamo was recused at 7:03pm for the interpretation discussion.

Attorney Gruenberg was present on behalf of the applicant. He stated the lot is 5.016 acres with a 2-story single family dwelling. He stated there is a question as to whether “d” variance relief is required for an agricultural barn on a non-commercial farm unit. He described the current conditions of the property as well as the proposed improvements.

Attorney Gruenberg stated the reasons why he believes “d” variance relief is not required. The property is in the Agricultural Preservation zoning district. The zoning district allows agricultural uses by right. He continued that a single-family residence is a use by right. He interprets that having five sheep in a barn on five acres with a single-family residence is an accessory agricultural use permitted by right.

Attorney Gruenberg read the definition of accessory agricultural uses from the ordinance. He then read the requirements for livestock in the ordinance under section 30-5.5, which permits one head of livestock per acre with a minimum of 3 acres.

Attorney Gruenberg stated that this is not a farm or a farm-unit which relates to commercial farms. He stated that the applicant is proposing agricultural sheep with a barn. He stated they are not seeking designation as a commercial farm or farmland assessment.

Attorney Gruenberg referenced the planner's report dated March 26, 2024, which interprets that a farm unit under the agricultural (A-1) provisions allow a single-family detached dwelling along with farming activities but requires a minimum of 6.5 acres. Attorney Gruenberg argued that this is not a farm unit but a permitted agricultural use.

Attorney Anderson asked Attorney Gruenberg if his argument is that the agricultural use for a barn with sheep is accessory to a residential use. Attorney Gruenberg stated that would be for a swimming pool, shed, or bocce ball court, but that the ordinance states an agricultural accessory use is permitted by right on 5 acres.

Mr. Kirkpatrick advised that the Board would need testimony from the applicant regarding the use. Mr. Kirkpatrick asked about the public hearing notice which also asked for certification of a pre-existing non-conforming use. Attorney Gruenberg stated that the barn has seven stalls and there has been agricultural use on the property, and that this was added to the notice.

Attorney Anderson swore in Mr. Schmied. Mr. Schmied read a statement regarding his family and the property. He stated the barn would be used for sheep and spinning wool to make clothing. Attorney Gruenberg asked how many sheep and the purpose of the barn. Mr. Schmied stated the purpose of the barn is to have five sheep which his daughter and granddaughter could raise, shear, and spin the wool. The barn would also be used to store hay and farm equipment. Attorney Anderson asked if this was a commercial farm. Mr. Schmied stated it is not and that some clothing items may be sold. Mr. Schmied stated the sheep are more pets than anything.

Attorney Gruenberg distributed two photographs of the property to the Board which were marked as Exhibit A-1. Mr. Schmied stated the first photo shows the house, driveway, fenced in pasture, riding arena and barn. The second photo is similar.

The Board asked when the photograph was taken. Mr. Schmied said he believes that they were from 1979. Mr. Schmied stated there are seven horse stalls in the existing barn. Attorney Gruenberg asked if there was any storage for the horses. Mr. Schmied stated hay was stored on the first floor but that because the roof has a low pitch, it doesn't allow for additional storage. Attorney Gruenberg stated the photos were presented to show that the agricultural use has existed on the property for some time. After a brief discussion, the Board determined that the proposed use of raising five sheep is a permitted agricultural use on a lot of 5 acres.

Mr. Kastrud made a motion that a barn with the proposed use of raising five sheep is a permitted accessory use on the property. Mr. Neary seconded the motion. **Vote: Ayes:** Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Kirkpatrick, Mr. Belden, Mr. Lepore, Mr. Tousignant, Mr. Glacken. **No Nays. Motion carried.**

The Board continued to the Public Hearing. Mayor DeGiralamo returned to the Board at 7:46pm.

Attorney Anderson swore in Dave Mooney, Architect for the applicant. He was deemed to be a qualified expert in the field of architecture by the Board. The architectural plans were part of the original record. The plans were designed by Mr. Mooney and signed by his firm. Mr. Mooney reviewed the details of the plans for the Board. He advised the proposed barn is the same square footage as the existing barn. The proposal is to demolish the existing barn.

The Board asked what size stalls sheep require. Mr. Mooney did not know, but he adhered to the client's specifications. The Board questioned the total square footage of the barn and agreed that it is necessary to understand since it relates to the overall impervious coverage being created on the lot. Attorney Gruenberg commented that it would be best to ask this question of Mr. Schmied since the architect was adhering to the client's request.

Mr. Mooney stated that the upstairs portion of the barn was designed to accommodate storage for hay and feed for an extended amount of time between deliveries. He stated to his knowledge the existing footprint of the current barn would require variances due to setbacks. The proposed barn would meet the current setback requirements.

Mr. Mooney described the features of the proposed barn. Mr. Mooney stated the color scheme and lighting has not been discussed with the client. The proposed cupola would not be lit. The Board asked about the shed and playhouse. Mr. Mooney did not design these structures. Discussion ensued regarding other features of the barn.

Mr. Clerico stated that there needs to be a classification of the building in order to determine size restrictions. Mr. Clerico asked if the barn will have a water connection. Mr. Mooney stated that there was none proposed. A member of the Board asked if there would be a bathroom in the barn. Mr. Mooney stated there is no bathroom.

Mr. Ferrante, engineer for the applicant, was sworn in and deemed to be a qualified expert by the Board. Mr. Ferrante provided an aerial photograph from Google Earth to the Board. It was marked as exhibit A-2. Mr. Ferrante described the existing impervious surface and the proposed additional impervious surface. He stated the runoff from the additional impervious surface will be captured by leaders running off of the existing house into a drywell. Mr. Lepore asked where rainwater runoff from the new proposed barn would go. Mr. Ferrante stated that it would go towards the pool.

The Board asked about calculations for vehicle traveled surfaces. Attorney Anderson asked if the existing impervious surface has been approved. Mr. Ferrante was not aware of any approval. Mr. Clerico asked if the constructed gravel area was represented as proposed or existing. Mr. Ferrante stated it was shown as proposed. Mr. Clerico asked why the gravel area is 2,237 sf and how many vehicles can be parked. Mr. Ferrante stated the dimensions are 30' x 85', the typical parking stall is 9' x 18', which is 9 parking spaces.

Mr. Clerico commented that the depth is almost double what a standard space would be. Mr. Clerico asked if the depth could be cut back. Mr. Ferrante said that it could. He stated that the additional depth of is required to back out of the spaces. Mr. Clerico asked if the design is for 8 parking spaces using a commercial parking lot standard. Mr. Ferrante stated it was done in order for cars to safely back

out without going onto the grass. Mr. Glacken asked if the driveway area could be used to back out. Mr. Ferrante stated it is 90-degree parking and would park perpendicular to the access driveway. A discussion ensued regarding the size of the parking spaces for backing out for residential standards and commercial standards. The Board commented that there should be a more efficient way of parking 9 vehicles.

A Board member asked about using the garage area for backing out. Mr. Ferrante commented that there is no longer a garage in the existing home. Mr. Clerico asked for clarification that the garage is no longer there. Mr. Gruenberg stated that the garage was removed.

Regarding the soil tests, Mr. Kirkpatrick asked how much separation is from the bottom of the recharge pit to the seasonal high ground water table. Mr. Ferrante stated these calculations would be done. Additional questions were asked regarding the saturation of the soil for the drywell.

Mr. Kirkpatrick commented that no utilities are shown on the plans for the barn and pool. Mr. Clerico commented that the Board would need to know the adequacy of the existing well for serving the current number of bedrooms for the house, the proposed barn which houses animals, and for the pool as well.

Attorney Gruenberg stated that the applicant will revise plans based upon all the comments from the Board.

Mr. Clerico stated that testimony will need to be provided regarding the size of the building for livestock. Mr. Clerico commented that the building will need to be classified for the purposes of determining the permitted size, height, and area of the building. The Board previously determined that the barn was an accessory use to a residential structure.

Leslie Kulich asked what area the sheep will be in when outside since the proposed barn has a proposed swimming pool directly behind it. The engineer is unable to answer the question. She asked if the property has two front yards and two side yards. Attorney Anderson stated that due to the property fronting on two streets, it is classified this way.

Nancy Scilepti asked about the existing and proposed impervious surface of the property. The engineer stated the amounts. She asked if the impervious surface is taken into consideration with regards to the livestock permitted. Mr. Kirkpatrick stated the number of livestock is dependent upon the acreage only.

Carina Gustaffson asked if the size of the parking area will allow for a commercial vehicle, such as a school bus or box truck, to back up on the property. Mr. Ferrante stated that the area would not support the backing up of these vehicles.

Atty. Gruenberg stated that no more testimony will be presented this evening.

Atty Gruenberg requested that the meeting be carried to June 27th at 7:00pm without further notice. The Board agreed. Attorney Anderson advised that any additional variances that can reasonably be determined from the revised plans would need to be provided in a new notice.

Other Discussion

Mr. Kirkpatrick stated that he and the Chairman have reviewed the DEP's plans to build a new facility in the Highlands Preservation Area. He stated that the proposed development is extensive and that they have prepared a letter regarding the Board's concerns and recommending alternate locations for the development. The Board consented to sending the letter.

Correspondence

None

Comments from the Public

Keith Peters asked a question regarding income loss and commercial farms. Mr. Kirkpatrick stated there is no income requirement for farm use. Attorney Anderson stated there is an income requirement for farmland assessment.

Motion to Adjourn

There being no further business to discuss, a motion to adjourn was made at 9:31pm by Mr. Kirkpatrick and seconded by Mr. Lepore. **Vote: All Ayes. No Nays. Motion carried.**

Respectfully Submitted,

Leigh Gronau – Board Secretary