

June 13, 2024, Planning Board/Board of Adjustment Meeting Minutes

These minutes were approved at the July 25, 2024, meeting.

Call to Order and Notices: Chair Ford 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: Mr. Nace, Mr. Kastrud, Mr. Neary, Ms. Bartolomeo, Chair Ford, Mr. Lepore, Mr. Gatanis, Mr. Tousignant.

Board Professionals Present: Attorney Anderson, Robert Clerico-Engineer

Members Absent: Mayor DeGiralamo, Committeewoman Cherney, Mr. Kirkpatrick, Mr. Belden, Mr. Glacken.

Others Present: Mr. Spatz. For Cobb Industries: Attorney Flynn, Mr. Hajjar-engineer, Mr. Ricci-planner, Mr. Callahan-applicant, Mr. Moonie-architect.

Approval of Minutes: Mr. Lepore made a motion to approve the minutes of the May 9, 2024, regular meeting. Mr. Neary seconded the motion. **Vote: Ayes:** Mr. Nace, Mr. Neary, Ms. Bartolomeo, Chair Ford, Mr. Lepore, Mr. Gatanis, Mr. Tousignant. **Abstain:** Mr. Kastrud. **No Nays. Motion carried.**

New and Pending Matters

- **V.A. Spatz & Sons, Inc – Amended Site Plan & Variance – Completeness Review**
35 Frontage Road
Block 22 Lot 5

The Board reviewed the Board Engineer's report dated June 10, 2024. The Board also reviewed the Board Geologist's report dated April 23, 2024 which addresses checklist items 61 & 62, and the June 11, 2024 memorandum from the Union Township Environmental Commission (UTEC) regarding checklist item #55..

The Board determined that checklist items 3, 4, 40, 56 & 59 are now complete.

Mr. Kastrud made a motion to deem the application conditionally complete, with the following conditions:

- Items 51 & 57 are provided 3 weeks prior to the public hearing.
- Item 55 be addressed by providing supplemental information addressing the expanded area from the previously approved site plan in accordance with the UTEC recommendation, at least 3 weeks prior to the public hearing.
- Temporary waivers are granted for items 36, 54 & 60. Information, if any, for items 36 & 54 is to be provided at least 3 weeks prior to the public hearing.

- Waivers for items 61 & 62 are granted. Mr. Nace seconded the motion. **Vote: Ayes:** Mr. Nace, Mr. Kastrud, Mr. Neary, Ms. Bartolomeo, Chair Ford, Mr. Lepore, Mr. Gatani, Mr. Tousignant. **No Nays. Motion carried.**
- **Pathan – Variance application – Completeness Review**
2 Asher Smith Road
Block 27 Lot 3.16

Mr. Clerico sent a completeness email to the Board on June 10, 2024, recommending that with the latest submission the application be deemed complete. He stated that he received a site plan from SMBT Consultants, dated August 18, 2023, and now revised on May 30, 2024. In addition, the applicant submitted a Boundary & Topographic Survey prepared by Johnson Surveying Inc. dated January 4, 2019, with the latest revision of February 25, 2024. Checklist items 3, 4, 5, 13, 46, & 56 can now be considered complete. In the prior completeness review on December 14, 2023, the Board granted permanent waivers for checklist items A-9, C-58 & C-61. The Board granted temporary waivers for checklist items C-21, 23, 24, 32, 33, 34, 35, 36, 54 & 59.

Ms. Bartolomeo made a motion to deem the application complete. Mr. Kastrud seconded the motion. **Vote: Ayes:** Mr. Nace, Mr. Kastrud, Mr. Neary, Ms. Bartolomeo, Chair Ford, Mr. Lepore, Mr. Gatani, Mr. Tousignant. **No Nays. Motion carried.**

- **Cobb Industries, LLC (Sawyers Controls) –Use Variance/Site Plan – Public Hearing**
28 State Route 173
Block 11 Lots 23.02 & 23.03

Attorney Matthew Flynn was present on behalf of the applicant. He stated the applicant is present for site plan approval with variances to construct a 2-story accessory garage. Attorney Anderson confirmed that the application was properly noticed. Attorney Anderson swore in the applicant's witnesses, Tony Hajjar – professional engineer, Paul Ricci – planner, Tom Callahan - applicant, and David Moonie - architect.

Tony Hajjar – engineer for the applicant was deemed to be a qualified expert by the Board. He stated the proposal is to merge lots 23.02 & 23.03 and create one lot consisting of 3.52 acres. The applicant is proposing to construct a 1,907 sf 2-story building to be utilized for storage on the 2nd floor and a three-vehicle garage on the ground level. The lots are located in the PO – Professional Office zoning district. Mr. Hajjar described the proposed improvements to the site. The existing stone parking lot will be paved. Also proposed are four 16 feet light poles, concrete curb, trash enclosure, concrete sidewalks with ADA ramps providing access to the existing building. Landscaping is also proposed.

Mr. Hajjar reviewed the current existing bulk standards and the proposed bulk standards. Mr. Hajjar presented a colorized version of the proposed site plan, marked as Exhibit A-1. He stated the applicant is proposing 16 parking stalls, 9 feet wide by 15 feet long. The size of the parking stalls complies with the ordinance. However, the number of stalls does not. The applicant is requesting a variance.

Mr. Hajjar stated there are 14 employees. The site plan proposes 16 spaces plus 3 spaces in the proposed garage first floor. Mr. Hajjar stated the aisles of 25 feet comply with the ordinance. The

applicant is seeking a variance for the required number of parking spaces. Ordinance 30-5.5. d.3(b) requires no less than one off-street parking space for every 250 square feet of gross floor area, plus one space for every employee. In addition, the applicant is requesting a variance under ordinance 30-7.3 from providing a loading zone, a loading zone is not being proposed.

Mr. Hajjar stated that the current parking lot is within 14 feet of the right of way, where 20 feet is required under Ordinance 30-7.2f. 6(a). He stated this portion of the parking lot is pre-existing non-conforming condition.

Mr. Clerico asked for clarification regarding the use of the proposed turf area. It doesn't meet any design standards. Outdoor storage is prohibited and there needs to be clarification regarding the use of the turf area. Attorney Flynn stated that his client is willing to eliminate this from the proposal. Attorney Anderson asked for clarification that the turf area is no longer being proposed. Attorney Flynn answered in the affirmative. Attorney Flynn confirmed that the driveway and parking area to the rear is now being withdrawn.

Mr. Kastrud asked if the ordinance requires that parking be calculated based on square footage and the number of employees. Mr. Clerico replied in the affirmative. Mr. Kastrud requested that this be added to the plans, since the plans appear to show that it complies. Mr. Hajjar stated he will revise the plans. Mr. Clerico stated there are a number of criteria listed on the plan that are not consistent with the testimony provided and Mr. Clerico's assessment. Attorney Flynn stated that the applicant will accept as a condition of approval to remediate any inconsistencies in the plans. Mr. Kastrud asked if this also includes the FAR. Mr. Clerico stated that it does.

Mr. Lepore asked about the survey, dated 10/28/22 and if the merged lot had been created. Mr. Hajjar stated it has not yet been merged. Mr. Lepore said the metes and bounds are of the proposed and not the existing and as such are incorrect.

Chair Ford asked if any members of the public had any questions for the witness. There were none.

Attorney Flynn called Tom Callahan, applicant. Attorney Flynn asked Mr. Callahan why he feels the 19 parking spaces are adequate for their needs. Mr. Callahan stated there are two office employees that run the day-to-day operations of the business, as well as his brother and himself. They are in the office during the day doing design work for the team. Most of the other employees do not work in the office during the day. 50% are there in the morning to get their assignments and then leave to go to the locations of their clients. He stated on any given day there are not 14 employees in the building. The average day has four employees. Occasionally there are one to two employees in training.

Mr. Callahan stated that additional parking was being created potentially for the future, but at this time, he has no issue removing the additional driveway and parking to the rear. Chair Ford asked if the employees who leave for their work assignments, leave their personal cars on the site or if they take their cars on their assignments. Mr. Callahan stated that half of the employees have company vehicles that they drive home at night and the other half do leave some cars there and switch to a company car.

Mr. Tousignant asked how many cars are parked on site at night. Mr. Callahan stated two or three. Mr. Callahan stated they purchased the property with the intent of one day building a separate garage structure. Mr. Clerico asked if the garage would either be vacant or have vehicles on the ground floor. Mr. Callahan stated that the right- and left-hand side of the garage parking area will be used for storage for mechanicals. Mr. Clerico asked what will be stored on the second floor. Mr. Callahan responded that items that are used infrequently would be stored upstairs.

Mr. Clerico asked what utilities will be connected to the proposed building such as water or sewer. Mr. Callahan stated there is no bathroom being installed in the building. There will be electrical with heating and air conditioning. There were no further questions of Mr. Callahan.

Chair Ford asked if any members of the public had any questions for the witness. There were none.

Attorney Flynn called David Moonie, the applicant's architect. He was deemed to be a qualified expert by the Board. Mr. Moonie reviewed the plan dated 4/24/2024 of the building for the Board. Mr. Clerico stated the plan that he reviewed has two revisions and is dated 4/23/2024. Mr. Moonie stated that there was a design change that was requested, and it was revised. The new plan has an addition of a cupola. There is a stone veneer with a vertical roof siding with solar panels on the roof. On the rear of the building are skylights.

Mr. Moonie stated that the plans include three indoor parking spaces, storage on the sides of the first floor and the loft above on the second floor. Mr. Clerico asked about the proposed balcony on the second floor. Mr. Moonie stated that the primary purpose is to cover the entranceways from weather. The balcony will have railings.

Mr. Moonie stated the height of the building is 32.8' from the average grade to the ridge point. The cupola is an additional 6'8". Mr. Moonie stated the solar panels will be on the south side which faces the road. The ordinance was changed and now allows for solar panels to face the street. Mr. Kastrud asked if the balcony adds architecturally to the building. Mr. Moonie stated that it is for cover of the entry ways but that it could also be used during breaks and that there will be a nice view from that side. Mr. Kastrud asked for the type of siding. Mr. Moonie stated that it will be wide paneling, but the exact material hasn't been decided. The purpose is to give the building a rustic design. Mr. Clerico asked if there would be any workspace in the proposed building. Mr. Moonie stated there would not be any workspace, just storage.

There were no further questions of the architect.

Chair Ford asked if any members of the public had any questions for the witness. There were none.

Attorney Flynn called the applicant's planner Paul Ricci. He was deemed to be a qualified expert by the Board. Mr. Ricci stated the applicant is seeking relief under the C-2 and C-1 standard of the MLUL. The front portion of the building was built in 1854 prior to zoning. He stated they believe it is a lawfully existing building. The hardship variance, also known as a C-1 variance, entitles the applicant to relief for a pre-existing non-conforming building for the front yard setback of the existing building. The overall

tract is 3.52 acres. The minimum lot size in the PO district is 2 acres. He stated it is a large, oversized tract.

Mr. Ricci stated that most of the variance relief is for improvements that are already existing. With regards to the parking variance, the applicant is not adding any additional office space or employees. The area of the parking lot is not changing and if the application were denied the parking lot would remain the same. The benefits of having asphalt, curbing, lined spaces and aisles are an investment in the property. The property owner wants to invest and stay on this property.

Under the ordinance, the property could have slightly over 28,900 square feet of building area which is a barometer of intensity. The proposed intensity is much less. Mr. Ricci stated that an accessory building is permissible in the zoning district. An accessory building is a permitted use by right. Mr. Clerico's report states that accessory buildings are only permitted in certain districts as stated in the Use Regulations of the land use ordinance. Mr. Ricci stated that the zoning district permitted uses by right should prevail. Attorney Anderson commented that as part of the previous interpretation that the Board determined the accessory building was a permitted use.

Mr. Ricci stated with regards to the parking spaces, the applicant has specific data for the number of spaces needed even though it does not conform to the code. He stated that there are approximately 14 employees but most of them do not park on the site and the applicant does not have visitors. Mr. Ricci stated that there is clearly sufficient parking with 19 spaces. He stated alternatively that to comply with the ordinance would increase disturbance of the site, cost to the applicant and the need for stormwater management. Mr. Ricci stated the better alternative is to grant the variance based on the needs of the applicant.

Mr. Ricci stated moving forward there is additional land and if the applicant expands, he could come before the Board for an amended site plan. Mr. Ricci stated a loading zone is another required variance and stated that the business operates without a loading zone and that one is not needed with the applicant's business.

Mr. Ricci stated with regards to the variance required for the minimum right of way setback of the existing parking lot, only the existing parking requires variance relief. The other portion of the parking area is conforming. The parking lot is being improved and the benefits outweigh the detriments.

Regarding the negative criteria, the improvements being proposed are minor and the surrounding properties will not be affected. The property abuts a park with a shooting range. The zone plan anticipates a greater amount of development on the property and the applicant is not proposing a large expansion. Therefore, the proposed expansion is significantly less than what the zone plan provides. The parking lot will now be paved with curbing where currently there is gravel with grass growing throughout. The property will look cleaner with the proposed improvements.

Attorney Anderson expressed concern over the allotted parking spaces if a new business were to replace the existing one. There is no automatic requirement for site plan review and there may be a new tenant who does require additional parking and a loading zone as required by the ordinance. Attorney Anderson explained that a condition of the approval could be that a different tenant or use would

require reapproval of the site plan. Attorney Flynn stated the applicant will accept a condition that the Board should reassess that parking variance for a future occupant.

Mr. Nace asked about compliance with the lighting ordinance and complying with a lighting plan which shall include hours of operation. Attorney Flynn stated if that is what the ordinance requires of this, then it will be added to the plan.

Mr. Clerico stated the landscaping plan doesn't have either a hedge or a fence as required by the Ordinance 30-7.2f.6(b) but proposes 6 Norway spruce evergreen trees west of the asphalt parking area. This only screens a portion of the entire parking area. He asked for clarification whether the applicant is going to comply with the ordinance or seek relief from the criteria. Attorney Flynn stated that the applicant is not seeking relief but will comply with the ordinance.

Mr. Clerico asked that the applicant needs to provide a more detailed plan for lighting and compliance with the ordinance. Attorney Flynn stated they will comply with recommendations from Mr. Clerico's letter dated May 7, 2024.

Chair Ford asked if there were any additional questions from the public for the planner. There were none.

Mr. Kastrud asked for the parking calculations from Mr. Hajjar. Mr. Hajjar explained the calculations and how the parking calculations were derived.

The Board asked Mr. Callahan to clarify the type of vehicles that will be parked on the property. Mr. Callahan stated that the vehicles are typical Ford work vans. He stated some nights there are 2-3 vehicles because some of the workers have overnight projects and their personal cars are parked in the lot. Mr. Callahan stated that on average, there are 2-3 vehicles per night.

Attorney Flynn concluded the testimony.

Chair Ford asked for any comments or questions from the public. There were none.

Attorney Flynn gave the Board a summary of the application. He stated it is to improve an existing business already located in town. It's to help with their storage capacity and streamline parking. The variances required are largely related to preexisting conditions and not to the new accessory building. He stated that the applicant provides a state-of-the-art service. The site is kept clean and well maintained.

Mr. Lepore made a motion with the conditions as stated in the testimony of the public hearing, specifically that:

- the applicant will comply with the engineer's letter dated May 7, 2024.
- The plans be revised to reflect the removal of the rear parking and access driveway.
- A lighting plan including hours of operation demonstrating compliance with the ordinance be submitted subject to the approval of the Board engineer/planner.

- A landscaping plan demonstrating compliance with the ordinance be submitted subject to the approval of the Board engineer/planner.
- Should the occupancy of the property change, the parking requirements will be reassessed, and additional parking requirements may be imposed by the Board.
- The plans be revised to discrepancies noted during testimony, to the satisfaction of the Board engineer/planner.

Mr. Neary seconded the motion. **Vote: Ayes:** Mr. Nace, Mr. Kastrud, Mr. Neary, Ms. Bartolomeo, Chair Ford, Mr. Lepore, Mr. Gatanis, Mr. Tousignant. **No Nays. Motion carried.**

Comments from the Public

Chair Ford asked if there were any comments from the public. There were none.

Other Discussion

Chair Ford stated that he and Mr. Stiger had a follow-up meeting with Highland's representatives regarding Block 7 Lot 3, and the concerns expressed in the Board's letter commenting on the application. He stated that the Highlands also had some concerns with the plan and was working with DEP on these points..

Correspondence

None

Motion to Adjourn

There being no further business to discuss, a motion to adjourn was made at 8:33pm by Chair Ford and seconded by Mr. Kastrud. **Vote: All Ayes. No Nays. Motion carried.**

Respectfully Submitted,

Leigh Gronau – Board Secretary