

RESOLUTION OF PLANNING BOARD
TOWNSHIP OF UNION
HUNTERDON COUNTY, NEW JERSEY

JOAN BULVANOSKI
APPLICATION: PB-09-03

Applicant: Joan Bulvanoski
Location: Frontage and Everett Roads
Tax Lot: Block 22, Lots 9 and 10
Hearing Date: October 22, 2009
Request: Use Variance and Minor Subdivision approval to
construct two single-family dwellings.
District: VC, Village Commercial
Relief requested:

Use Variance pursuant to N.J.S. 40:55D-70d; and
Minor Subdivision pursuant to N.J.S. 40:55D-47;

Relief Granted:

Use variance; Minor Subdivision; and Design Waiver from
Section 30-22.18.a of the Union Township Land Use
Ordinance.

Plans:

Entitled "Minor Subdivision for Joan Bulvanoski"
prepared by RBZ Enterprises, Inc., consisting of nine
sheets, last revised April 7, 2009.

WHEREAS, on or about April, 2003, Applicant applied to the Union Township Planning Board for preliminary and final site plan review pursuant to the provisions of N.J.S. 40:55D-46 and N.J.S. 40:55D-50, variance relief pursuant to the provisions of N.J.S. 40:55D-70d, and design waivers to construct a 26,400 square foot industrial flex building on the Property.

WHEREAS, the Board denied the Applicant's request on April 28, 2005 and memorialized the denial on October 27, 2005. Thereafter, Applicant instituted litigation challenging the Board's denial. The action was entitled Estate of Bulvanoski v. Union Township Planning Board and Township of Union and filed under docket number HNT-L-000605-05.

WHEREAS, the parties settled HNT-L-000605-05 on December 11, 2008, entering into a Stipulation of Settlement and Dismissal ("Stipulation") and agreeing to dismiss all claims with prejudice and without costs. In the Stipulation, the Applicant agreed to make an application to the Planning Board for approval to construct either a 10,000 square foot daycare facility or two single family residential dwellings.

WHEREAS, Applicant has applied to the Union Township Planning Board for a use variance pursuant to the provisions of N.J.S. 40:55D-70d and minor subdivision approval pursuant to the provisions of N.J.S. 40:55D-47, to construct two single family residential dwellings, the Relief Requested;

WHEREAS, a public hearing on the Application was held by the Board on the Hearing Date, at which time the Applicant, represented by Attorney Lawrence J. Fox, was given the opportunity to present testimony and legal argument, and the Board's consultants and members of the public were given an opportunity to comment on the Application;

WHEREAS, members of the public appeared to ask questions and present testimony on the application;

WHEREAS, the Applicant presented testimony to the Board as more fully set forth on the record from the following individuals:

1. Robert Zederbaum, Applicant's Engineer and Planner.

WHEREAS, the Applicant's witnesses testified in part as follows:

1. Robert Zederbaum testified that the property consists of two lots. One lot is approximately two acres and the other lot is approximately three acres.
2. Mr. Zederbaum testified that the applicant proposes reconfiguring the lots into two 2 and 1/5 acre lots for residential purposes.
3. Mr. Zederbaum testified that the property is heavily wooded and the applicant purposes minimal disturbance of the wooded site.
4. Mr. Zederbaum testified that the development of the property pursuant to the current zoning regulation would result in considerably more disturbance of this site than the Applicant's proposal.
5. Mr. Zederbaum testified that there is adequate buffering between the proposed lots and the commercial site behind the property.
6. Mr. Zederbaum testified that the development of the property with two residential houses would be consistent with development in the surrounding area.
7. Mr. Zederbaum testified that the Applicant would adhere to the limit of disturbance of the site as shown on the Plans.

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Applicant has shown sufficient evidence to substantiate the need for relief pursuant to N.J.S. 40:55D-70d and N.J.S. 40:55D-47, subject to certain conditions.
2. The grant of the Relief Granted will not alter the general character of the neighborhood.
3. The Applicant has demonstrated sufficient hardship as to the Relief Granted.
4. The granting of the Relief Granted, as conditioned in this Resolution, will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the evidence presented to it, and the foregoing findings of fact and conclusions of law, that the Planning Board does hereby GRANT the Relief Granted as noted above, subject to the following:

1. Applicant is required to comply with the following condition(s):

a. All construction to be substantially as shown on the Plans, except as noted in paragraph 4 below.

b. Applicant shall comply with the recommendations in the report of Kevin M. Smith, P.E., Planning Board Engineer, dated September 22, 2009, numbered 1, 2, 3, 4, 5, 6 and 7 under "Technical Review".

c. Applicant shall comply with the recommendations in the report of Carl Hintz, Township Consulting Planner, dated September 17, 2009, numbered 1 under "4.0 Regional Planning", numbered 3 and 4 under "7.0 Subdivision Issues", and numbered 1 under "8.0 Affordable Housing".

d. Applicant shall submit final site plans for the proposed homes, to the satisfaction of the Board Engineer and the Board Planner.

e. Applicant shall provide detailed soil investigation reports for the dry wells, to the satisfaction of the Board Engineer.

f. Applicant shall prepare a Conservation Easement which shall include the entire area outside of the "area of disturbance", as delineated on the site plan, with the only exception being for a reserved septic field, to the satisfaction of the Board Attorney.

g. Applicant may only use the reserved septic field within the Conservation Easement if the existing septic field fails and there are no alternative locations outside of the Conservation Easement.

h. Applicant shall provide seven street trees, the location to be determined by the Planner.

i. Applicant shall place, in the property deed, a notice advising all future property owners of the industrial and semi-industrial nature of the surrounding zone, to the satisfaction of the Board Attorney.

2. The grant of this application shall not be construed to reduce, modify or eliminate any requirement of the Township of Union Land Use Ordinance, other Township Ordinances, or the requirements of any Township agency, board or authority, except as specifically stated in this Resolution.

3. The grant of this application shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.

4. Applicant is required to comply with Applicant's representations to and agreements with the Planning Board during the hearing on this application.

5. Applicant must comply with the requirements of the Highlands Water Protection and Planning Act, NJS 13:20-1, et seq. prior to any construction.

6. Applicant shall contact the New Jersey One Call System, "Call Before You Dig", at 811 or 1-800-272-1000 at least three business days prior to construction.

7. All fees assessed by the Township of Union for this application and the hearing shall be paid prior to any construction.

8. The Township of Union Planning Board reserves the right to revoke or withdraw any approval granted herein, upon notice to the applicant and an opportunity to be heard at a public hearing, if there is any deviation from or alteration of the plan hereby approved, unless prior written approval for such deviation or alteration has been obtained from the Planning Board. So called "minor deviations" and "field changes" may be authorized solely by the Township Engineer in writing and only after consultation with the Chairman of the Planning Board to determine if the proposed minor deviations and field changes deviate from the intent of this Resolution. If it is determined by this consultation that the changes proposed are not minor, the matter must then be referred to the full Planning Board and no changes may be effected until the Board gives its approval.

9. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the submitted plan or the improvements to be installed, which are subject to third-party jurisdiction and which require approvals by any third-party agencies. This Resolution of approval is specifically conditioned upon the applicant securing the approval and permits of all other agencies having jurisdiction the proposed development. Further, the applicant shall provide copies of all correspondence relating to the application, reviews, approvals and permits between the applicant and third-party agencies from which approval and permits are required to the Union Township Planning Board at the same time as such correspondence is sent or received by the applicant.

WHEREAS, A Motion was made by Mrs. Corcoran and seconded by Mr. Badenhausem to grant approval of the variance and minor subdivision approval as set forth herein.

BE IT FURTHER RESOLVED, that this Resolution, adopted on October 22, 2009, memorializes the action of the Planning Board taken on the Hearing Date with the following vote: Yes: Corcoran, Badenhausem, Walchuk, Taibi, Ryland, Nace, Kirkpatrick; No: None; Abstain: None; Not Eligible: None; Absent: Dziubek, Bischoff, Ford, Kastrud.