

These minutes were approved at the September 23, 2021 Meeting

Call to Order and Notices: Mr. Ford called the meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Open Public Meetings Act Notice: The Open Public Meeting Requirements of Law have been satisfied by our notices dated January 21, 2021, as published in the Hunterdon County Democrat and January 20, 2021, 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.

Members Present: Mr. Mazza, Mr. Nace, Mr. Kastrud, Mr. Neary (7:12pm), Mr. Pettitt, Mr. Kirkpatrick, Mr. Ford, Mr. Beldon, Dr. Rasavage.

Board Professionals Present: Atty. Mark Anderson, Planner Emily Goldman, Special Engineer Richard Roseberry

Members Absent: Mr. Stothoff, Mr. Dix

Others: (PS Construction) Jeff Lehrer-Attorney, Steve Parker-Engineer
(Tigmar, Inc.) Michael O'Grodnick-Attorney, Steve Perdue-applicant

Approval of Minutes: Mr. Mazza made a motion to approve the minutes of the June 10, 2021 Meeting minutes. Mr. Kirkpatrick seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Nace, Mr. Pettitt, Mr. Kirkpatrick, Dr. Rasavage and Mr. Ford. **Abstain:** Mr. Kastrud, Mr. Beldon. **No Nays. Motion carried.**

Extension of Approval: QuickChek Corporation: Block 22, Lots 39, 40, &41, 170 and 172 Perryville Road
A motion was made by Mr. Kirkpatrick and seconded by Mr. Kastrud to approve the extension of 190 days.

Vote: Ayes: Mr. Mazza, Mr. Nace, Mr. Kastrud, Mr. Pettitt, Mr. Kirkpatrick, Mr. Ford, Mr. Beldon, and Dr. Rasavage. **No Nays. Motion carried.**

Completeness/Public Hearing: Tigmar, Inc. dba Spruce Run Exxon: Block 12 Lot 8.01, 70 Route 173
Mayor Mazza recused himself from the hearing.

Attorney O'Grodnick distributed exhibits A-1 through A-5, a survey, an aerial and photographs. He advised the application is to add one diesel dispenser onto an existing fuel island pump. The pump is towards the east. No tractor trailers are allowed or will be fueled on site.

The property is in the PO zone on 2.06 acres. The attorney gave a brief history of the site. In 1997, the existing structures were demolished and new buildings were installed following a Board of Adjustment application. Exxon Corporation was the applicant at that time. At that time, the property was located in the SC zone, which permitted service stations with convenience stores as an accessory use. The Board granted approval, however, it was noted in the Resolution that "Exxon service station will be dispensing of gasoline and petroleum products, excluding diesel fuel."

Attorney O'Grodnick advised the question before the board is whether or not this is an insubstantial/negligible change or whether a change of fuel would create a change of use or intensification. He reviewed case law with regards to intensity and reviewed the positive and negative criteria necessary for granting a variance.

Steve Perdue, applicant and owner of the property, was sworn in. He advised there are currently five gas pumps and ten fueling positions, the number of which will not change. The request is to change one of the gas pumps from gasoline to gasoline and diesel fuel. Mr. Perdue advised he is not aware of the reason why, in 1997, the plan excluded diesel fuel. He advised there is a market for passenger diesel fuel. Tractor trailers will not be allowed to fuel on the site. There is no room for tractor trailers on the site and they are not permitted. Inquiries regarding diesel have been received from owners of small vans, pickup trucks and contractor vehicles. Pilot will only dispense diesel to these types of vehicles, and not to tractor trailers. In the last ten to twelve years there has also been an uptick in passenger vehicles which require diesel fuel. There are no other locations with diesel fuel at exit 12. Attorney O'Grodnick advised that the photographs from Exhibit A-3 through A-5 shows signs posted on the property, some of which show no tractor trailer entry or parking.

Mr. Perdue explained the process of converting the tank from supreme to diesel. The only change would be at the fuel island for the dispenser in which a new nozzle would be used.

Mr. Kastrud asked if the diesel plan requires any operational changes. Mr. Perdue advised he would need to notify the DEP but the operational plans are the same and reviewed the process. Mr. Kirkpatrick asked about the rate of flow for dispensing fuel. Mr. Perdue advised that the rate is about 5-8 gallons per minute. Mr. Perdue advised a tractor trailer would not be permitted to fuel on his site. Mr. Ford asked if the applicant is proposing for more than one fueling station. Attorney Anderson advised the application is for one fueling station. Mr. Perdue confirmed it is for one fueling station and two pumps. There are two fueling pumps at a single fueling station. Mr. Kirkpatrick felt that this is an expansion of an existing non-conforming use but testimony given by the applicant indicates that it will not cause a detriment to the public good.

Mr. Ford asked for public comment. There was no public comment.

A motion to approve the D variance with the conditions that the pumps do not exceed 10 gallons per minute, that there be only two fueling points at only one single fueling station, that the signage shall remain in place and that no service to tractor trailers be enforced was made by Mr. Kirkpatrick and seconded by Mr. Kastrud.

Vote: Ayes: Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Petitt, Mr. Kirkpatrick, Mr. Ford, and Mr. Beldon. **No Nays. Motion carried.**

Public Hearing: PS Construction: Block 22 Lot 27.04, Race Street

Mayor Mazza recused himself from the hearing.

Attorney Lehler reviewed the previous approval for the applicant from the Board of May 22, 2008. He advised the applicant is proposing a gravel driveway area for 6 parking spaces, which will be RSIS compliant. The applicant is no longer seeking to amend condition "n" from the 2008 approval, withdrawing that portion of this application, and will build the affordable housing units before any further CO's are obtained. He reviewed the history of the application beginning from 2005. The 16 residential lots were approved on May 22, 2008 requiring the construction of two affordable housing units. In May of 2016, the applicant received final major subdivision approval for the sixteen lots subject to all the conditions of the May 2008 resolution. The resolution adopted on February 27, 2014 granted the use variance, density approval, bulk variance approval and site plan approval to construct the two

affordable housing units on Lot 27.04. That approved plan would have a 3-bedroom affordable apartment appendage to a market rate home, as well as two-bedroom apartment above a detached garage. The applicant is now seeking relief to construct a stand-alone duplex for two affordable rental units which will have the look and design of a single market rate home. The home will not be any higher than 35'. The intensity of the prior use variance has been significantly reduced. There will be one three-bedroom unit and one two-bedroom unit which will be at least 800 square feet.

Peter Stretetz, principal of the applicant was sworn in. He testified that he is seeking to build a duplex structure for two affordable housing rental units. The single-family market rate unit and detached garage is being eliminated. It will comply with the uniform housing affordability controls. Mr. Stretetz will work the township to amend the affordable housing agreement that was previously signed and deed restriction to account for a change to a duplex rental. The applicant will comply with items 5-10 of the planners' report dated July 6, 2021, (4.0 Affordable Housing Requirements). Mr. Stretetz confirmed that the siding of this unit will be consistent with the siding material of the market rate units.

Mr. Stretetz advised the combined size of the units is 1600 square feet. The two bedrooms will be 800 sq. ft. Regarding the parking spaces, six are required and he is seeking seven, however a space can be eliminated.

Mr. Kirkpatrick asked if there were any restrictions on subdividing this lot in the future. Attorney Lehler advised this was part of a prior approval, and there will be no further subdivision. Mr. Ford asked the intended height of the building. Mr. Stretetz advised between 16 and 21 feet depending on the pitch of the roof. Mr. Ford asked about the combined size of the units at 1600 square feet. Mr. Stretetz testified he would work with Ms. Goldman to ensure the units are correct in terms of size. Mr. Ford stated he believes this would be a condition of approval.

Ms. Goldman reviewed her memo dated July 6, 2021. She pointed out to the Board that the type of use such as duplex is not permitted and requires a D-1 variance. Attorney Anderson advised it would be prudent to include a use variance for two principal uses. Attorney Lehler agreed. Mr. Kirkpatrick advised as defined by ordinance, this is considered a twin house versus a duplex.

Ms. Goldman advised there is a discrepancy on the variance plans vs. the township tax map regarding the acreage. The plan shows 2.532 acres while the tax map indicates 2.39 acres. The actual acreage needs to be verified. The applicant indicated that engineer will verify this. Ms. Goldman reiterated that the applicant will provide six parking spaces on site for adequate parking.

Ms. Goldman asked for clarification if the units will both be low income or will one be moderate and one low. Attorney Lehler advised he believes one will be moderate and the other low. Attorney Anderson advised this needs to be consistent with the previous affordable housing agreement. Attorney Lehler advised he will comply with the previous agreement. After a brief discussion, it was determined that the previous affordable housing agreement was due to the obligations of the requirements at the time. If it is permitted to deviate from this with one moderate and one low, the applicant would like to do this.

Ms. Goldman confirmed with the applicant that the heating source will be the same as the other built homes. Mr. Kirkpatrick asked for a description of the materials used on the other homes and if it would be consistent. Mr. Stretetz described the materials used and advised the home would consist of vinyl siding like the last three units.

Mr. Ford asked if any member of the public would like to ask a question of Mr. Streletz. There were no questions.

Mr. Roseberry, Engineer for the Board was sworn in. Mr. Parker, applicant's engineer/planner was sworn in and deemed to be a qualified expert by the Board. Mr. Parker recapped the application. He advised it will have a well and septic system which has already been tested and approved. He advised the site is constrained by conservation easements in the front part of the property and also a utility easement in the back of the property. A significant amount of the property is constrained by easements also due to stream buffers and wetland buffers which have been approved by the DEP as well as construction of the driveway and construction of the structure.

Attorney Lehler reviewed the variances for the area and dimension regulations for other uses, where the applicant has 2.39 acres and 5 acres is required. In addition, a variance for gross density is required where a maximum gross density of .44 dwelling units per acre is required. The proposed density is .79 dwelling units per acre. The applicant received a variance relief to permit a density of 1.18 dwelling units per acre.

Attorney Lehler reviewed the positive and negative criteria for the Board. Mr. Parker advised this is an inherently beneficial use under the Medici standards in the MLUL a., e., and i. Regarding the negative criteria, Mr. Parker's opinion is that there is no substantial detriment to the surrounding area. This home will look like the other homes in the area with the same materials and will look like a single-family home. Mr. Parker advised this use advances the Township's third round housing plan.

Attorney Lehler reiterated that the density the applicant is seeking is a reduction in gross density from the previous approval. The site still functions irrespective of the deviation in density. Mr. Parker concurred.

Mr. Kastrud asked for clarification regarding the parking. He asked for a conditional approval that there be no parking on the street. The parking should be at or behind the front of the home to ensure parking is away from the septic and conservation easement. Mr. Kastrud asked if the driveway easement with 27.03 has been filed. Attorney Lehler advised this was part of post approval compliance and that it has been filed. Mr. Kastrud clarified that at some point the lot owner of 27.03 will share the driveway with 27.04.

Mr. Kirkpatrick asked if this fits in within the limit of disturbance approved by DEP for the flood hazard area plan. Mr. Parker advised that it does. Mr. Roseberry advised the applicant still has to stay under an acre which should be a condition of approval. Mr. Parker advised they are still within the area of disturbance and does not believe an amendment to the DEP needs to be done. Mr. Roseberry agreed with that comment.

Mr. Kastrud asked if the footprint of the home as shown on the variance plan is 1600 sq. ft. Mr. Parker advised it is 2,100 sq. ft. as shown but will be reduced. Mr. Neary asked if the homes were ADA compliant. Ms. Goldman advised that under the Affordable Housing Act the units have to be adaptable. The developer would need to put up a bond in case it needs to become adaptable. Attorney Lehler advised if the board engineer determines it needs to be ADA adaptable, the applicant will comply. Mr. Neary pointed out that the elevation of the parking area and house needs to be within a 2-3% incline and ADA compliance would need to be known before construction.

Regarding, Mr. Roseberry's letter dated July 7, 2021, Mr. Parker advised the applicant will comply with everything in the letter. Ms. Goldman asked to address the acreage discrepancy. Mr. Kirkpatrick advised calculations should be based on the 2.39 acres per the tax map. Mr. Parker advised the discrepancy may have resulted from the right of way dedication. Attorney Lehler advised the right of way dedication documents have already been completed. Attorney Lehler advised there will be a revised plan for compliance review for the professionals. Ms. Goldman pointed out that the Board had previously granted exception relief for the driveway setback.

Attorney Lehler advised the soil conservation plan has been approved. Attorney Anderson commented that the notice requests density variance relief of .79. Ms. Goldman advised the density is actually .84. Attorney Anderson advised that although not ideal, the notice does provide for exceptions. Attorney Lehler advised the stormwater calculations have already been resolved.

Mr. Ford asked for any comments from the public. There were none.

Mr. Kirkpatrick made a motion to approve the application, conditioned upon satisfying the items from the planner and engineer's letters. In addition, the lot would be deed restricted from any further subdivision. All the conditions of the February 27, 2014 resolution, particularly those on pages 4 & 5 will carry through to this application, which include conditions such as maintenance and AHA standards for low- or moderate-income designation and unit minimum size. In addition, the parking locations are to be shown on plan. Mr. Kastrud seconded the motion. **Vote: Ayes:** Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Pettitt, Mr. Kirkpatrick, Mr. Ford, and Mr. Beldon. **No Nays. Motion carried.**

Correspondence: Informational Only – Highlands exemption for pool and patio.

Comments from the Public

There were no public comments.

Motion to Adjourn: There being no further business to discuss the meeting was adjourned at 8:31p.m. A motion was made by Mr. Nace and seconded by Mr. Kirkpatrick. All Ayes. No Nays. Motion carried.