

These minutes were approved at the June 10, 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.

Mr. Ford would like to have placed in the minutes that due to the Covid Emergency and the closure of the Municipal Building the meeting is being held electronically and complies with the Department of Community Affairs Regulations. A link to the meeting was provided on the Township Website, is included in the posted agenda, and is posted on the doors of the Township Offices and may be read from outside the building. 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.

Appointment of Board Secretary: Mr. Nace made a motion to appoint Leigh Gronau. Mr. Pettit seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Swearing in of Member: Attorney Mark Anderson swore in new Planning Board/Board of Adjustment member Dr. Nicole Rasavage.

Members Present: Mr. Mazza, Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Dix, Mr. Pettit, Mr. Kirkpatrick, Mr. Pettit, Dr. Rasavage, Mr. Ford.

Board Professionals Present: Atty. Mark Anderson, Planner Emily Goldman and Engineer Robert Clerico

Members Absent: Mr. Stothoff, Mr. Belden

Others: Nicole Voigt-Applicant Attorney, Chris Nusser – Applicant Engineer, Frank Bell - Applicant Architect, Andrew Pecoraro-Applicant, Mary Bancroft, John Malone, Chris Hood, Stanley John Purzycki, Linda Purzycki, Richard Lordi and Tariq Ismail.

Approval of Minutes: Mr. Kirkpatrick made a motion to approve the minutes of the February 25, 2021 Meeting. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Pettit, Mr. Kirkpatrick and Mr. Ford. **Abstain:** Mr. Mazza

Memorialization of Resolution: Gjevukaj: Block 4, Lot 3.16, White Oak Park

A motion was made by Mr. Pettit and seconded by Mr. Kastrud to approve the Resolution.

Vote: Ayes: Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Pettit, Mr. Kirkpatrick and Mr. Ford

Public Hearing: Pecoraro: Block 25, Lots 2, 61 Race Street:

Atty. Nicole Voigt, representing Andrew Pecoraro, advised she is prepared to give testimony as to whether or not a "D" variance is needed for a home occupation. Because the application being considered may include a D variance, Mr. Mazza recused himself at 7:17pm from the discussion on the matter. Ms. Voigt said the property is a 2.41-acre single-family home located on 61 Race St, Block 25 Lot 2. in the Conservation Management District (CM). The applicant is proposing to put a two-story addition with the first floor used as a garage and the 2nd floor used as living area inclusive of a private art

studio, as well as expanding a deck and relocating the driveway. She summarized that three bulk variances are required, first a maximum impervious surface ration of .03 where a ratio of .04 is requested, second a minimum front yard setback of 75 feet where a setback of 11.06 is requested which is a deviation of approximately 3" of the existing non conformity by continuing the front of the home, and third a minimum side yard setback of 50 feet where a setback of 31.57 feet is requested.

Mr. Anderson swore in Andrew Pecoraro, 61 Race Street, Pittstown, NJ. He summarized the proposed addition. He described his home as a 250-year-old home and the smallest home in the neighborhood. He advised even with the proposed addition it will be smaller than the majority of the homes in the neighborhood. Ms. Voigt displayed an architectural drawing of the home by Frank Joseph Bell of the proposed addition for the Board. She led the Board through the proposed changes to the home. She subsequently displayed a revised survey of February 22, 2021 for the property from Engineering and Land Planning in High Bridge.

Ms. Voigt brought the new driveway configuration to the attention of the Board. Mr. Pecoraro advised the new driveway will allow for the applicant to turn around in the driveway, thereby allowing a vehicle to exit forward facing as opposed to backing up into the street from the current parking pad.

Mr. Pecoraro discussed the needs and motivation for the proposed changes. He advised he currently has no storage space. He would like to use the garage for storage of a lawnmower, snowblower, tools and other outside items that need to be stored inside during the winter months. He also needs the garage to keep his car out of the elements. Mr. Pecoraro continued that the second-floor area would be also for storage, to have a full purpose utilitarian room and a place to do his artwork.

Mr. Pecoraro testified that the changes to the garage and driveway would make it safer for himself and his children to leave the home in a forward-facing manner as the side entry garage would allow for himself and his children to complete a K-turn in the driveway as opposed to backing out. He testified that Race Street lives up to its name and that fast-moving vehicles present safety concerns when backing out.

Ms. Voigt advised she would like to address some of the concerns brought up by the Board Planner in the letter dated March 21, 2021. One concern was the use of the studio space which does not appear to have a direct connection to the dwelling. However, as they reviewed the architectural plan, the proposed addition does have a direct connection through the mudroom. The applicant testified that he has no intention to use this new studio space as an apartment and only wants to use this for his own personal purposes. He stated his multiple personal uses for this space to clarify.

Ms. Voigt then discussed the Board concerns regarding the home occupation use standards. Mr. Pecoraro testified that he is a professional artist. He is a medical illustrator and does this work part-time at his desk on a computer. He advised that he envisions using this space as an artist for his own purposes, for a hobby and not for monetary gain. He does not sell his artwork or show in galleries. Ms. Voigt said the question for the Board is to determine if the usage of this space for the reasons described is a home occupation. Mr. Pecoraro reiterated this is his own space for his own personal use. He advised that he needs wall space for the artwork and the rest of the space will be for his personal uses. He advised the bathroom in the new addition is to clean up after painting. He advised that he also needs the floor space to stretch his canvases and they are not delivered via a commercial truck. Ms. Voigt advised that she does not believe this to be a home occupation.

Ms. Voigt reviewed the next concern from the Board planners report regarding parking. The RSIS standard requires two parking spaces for a 3-bedroom single family detached dwelling. The 2-car garage and driveway combination allow for 3.5 spaces. Mr. Pecoraro testified that the additional driveway width and length is to allow for the applicant to make a K-Turn with the vehicle in the driveway to face forward when leaving the property.

Ms. Goldman advised that from the letter written by the applicant to the Board, it appeared that the applicant was using the space for a home occupation. However, after the given testimony she does not believe that this is a home occupation. Ms. Goldman expressed a concern with the addition of the home being connected through the mudroom. Since a subsequent owner could convert this space into a separate apartment, she felt the Board might want to place a condition on the applicant. Mr. Kastrud advised he does not believe that this is a home occupation. He also felt that it needs to be explicitly stated that this is not for a bedroom or apartment. Mr. Ford asked the applicant about the amount of room required for storing these paintings and if he has ever sold any of his artwork. Mr. Pecoraro testified that he has no intention of selling his artwork. When he is finished, he will sometimes reuse the canvas; he would move others down to the garage and store them. Mr. Kirkpatrick advised that the application has some elements of a home occupation, however he believes it is within the constraints of the use regulations of a home occupation as permitted by code.

Attorney Anderson advised the Board that Mr. Pecoraro has been possibly already conducting a home occupation by using his home as a medical illustrator. This additional space is not necessary for Mr. Pecoraro in that current capacity since his profession does not need this space.

Mr. Purzycki, 1 Bailey Farm Road, asked if the applicant is aware of the negative effects of this application. Ms. Voigt asked if Mr. Pecoraro was aware of any negative impacts. Mr. Pecoraro replied no.

There were no additional questions from the public.

Ms. Voigt called upon Frank Joseph Bell, the architect for the applicant, who was sworn in by Attorney Anderson. Mr. Bell was qualified as an expert by the Board. Mr. Bell advised that the addition was kept in accordance with the already pre-existing non-conforming front line of the home. He reviewed the architectural plans of the proposed addition. He advised once the project is complete the total livable space will be 3,302 sq. ft without the garage square footage included. He advised the home would be designed to fit into the surrounding neighborhood by using similar materials. There were no questions from the Board professionals.

Mr. Ford asked if there was any consideration to prevent separate access to the addition, thereby negating the possibility of the addition becoming a separate apartment. Mr. Bell advised due to the aesthetics and practical matters there was no other feasible way to provide access to the addition. Ms. Voigt commented that Mr. Pecoraro would have no issue with providing a deed notice that this would not be used as an apartment. Mr. Bell advised the only plumbing would be to the bathroom and once built would be difficult to install additional plumbing. There were no questions from the public for the witness.

Mr. Kirkpatrick asked if Mr. Bell had considered any alternative areas to the expansion of the home. Mr. Bell advised due to the constraints of the lot and the lake there were no other areas. Mr. Nace asked if

the current septic system was on the left-hand side of the home as well. Mr. Bell advised the engineer can testify to that but then the addition could not go on the left side of the home.

Chris Nusser, planner and engineer for the applicant, from Engineering and Land Planning was sworn and deemed to be qualified by the Board. Mr. Nusser showed sheet 2 from the plans dated February 26, 2021. He reviewed the particular shape of the lot. He advised there is a parking pad to the west side of the house, and that any parked vehicle is in the right of way. The septic is on the east side of the house. The home is sandwiched in between Race St and Jutland Lake. He reiterated the variances needed by the applicant. He advised the proposed layout is driven by all the existing constraints on the lot such as shape, presence of the lake and buffers that go along with it. He advised the NJDEP has approved the proposed construction. Any location for the addition to the rear would not be permissible by the state due to the 25-foot buffer required from the lake. He advised the side entry garage would permit a vehicle to pull out and face forward to the street.

From a planner perspective, he agrees with the Board that there are some elements to a home occupation, however it fits under the required regulations and does not believe a use variance would be required. He advised the 3 "c" variances fits under a hardship application due to the property constraints. He feels the negative impacts are substantially outweighed by the positive impacts. He said the addition is consistent with the existing style of the home. The expansion of the impervious coverage is approximately 1600 sq ft which is not a large amount. In addition, he would be able to store his items inside. They also have a letter from the County Board of Health that the septic does not need any alterations. He feels that the proposed addition increases the home's utility and is beneficial to the public by allowing the cars to exit forward facing.

Mr. Clerico advised there were not many engineering issues here, since municipal and state agencies have given their approval. He asked about the stream encroachment line and if it was an easement. Mr. Nusser advised it is a drainage easement and there were no restrictions to placing a structure in that area. It is a requirement that it must be maintained by the property owner. Mr. Clerico specified that the applicant would need to obtain a driveway permit from the Township. The existing driveway would need to be closed up and that area restored.

Ms. Goldman asked a couple of comments from her letter, one being the tree protection detail that goes to the dripline. She asked if the engineer would be willing to update that to the most current soil erosion sediment control figure that goes to the root protection zone. Mr. Nusser replied yes. Her comment to the Board would be that the tree being removed is not significant in size and would be up to the Board if they would want a replacement tree or not. Ms. Goldman asked about fence detail on the plan. Mr. Nusser advised that the fence is the same. Ms. Goldman said if you are just replacing and relocating the fence it would not need to be added to the detail. Ms. Goldman's asked Mr. Clerico if any additional stormwater management would be needed due to the increase in impervious coverage. Mr. Clerico advised that would be a provision that would go the zoning officer once the zoning permit is filed. Mr. Nusser asked for a waiver for that requirement, one being the constraint for the applicant to install a system on a lot that size. Everything drained from this site, drains into the lake. Mr. Kirkpatrick asked for the net change in the impervious coverage. Mr. Nusser estimated about an increase of 1,300 sq. ft. and would not have any impacts on the neighboring property.

Mr. Purzycki asked for clarification regarding the front yard setback. Mr. Nusser confirmed it is 75 feet. Mr. Purzycki commented that the front yard setback variance is deficient by roughly 700%, and asked if

the engineer doesn't consider this a substantial detriment to a neighboring property. Mr. Nusser advised that he cannot propose an addition with a 75-foot setback when the original home is already set within the front yard setback. Mr. Kirkpatrick asked for clarification on the testimony given that changing the addition to another location would not be practical. Mr. Nusser confirmed.

Mr. Nusser confirmed to Attorney Anderson that placing the addition to the rear of the home would further increase the impervious coverage. Mr. Nusser also confirmed that except for the little jog from the mudroom that the addition would go straight across the home. Mr. Nusser confirmed the setback from the front of the home to the addition would be the same. Mr. Nusser advised that he believes the drainage easement is a public easement and not held by a private owner. Attorney Anderson asked if the sidewalk addition in the front of the home is counted in the impervious coverage. Mr. Nusser confirmed it is.

Mr. Ford asked if there were any additional questions for Mr. Nusser. There were none. Mr. Ford declared a 5-minute recess and to reconvene at 9:18pm.

The Board Secretary took roll call and confirmed all Board Members were back.

Mr. Purzycki, 1 Bailey Farm Road, was sworn in and testified to problems created with the proposed addition to his property.

Mary Bancroft, 1 Gephardt Farm Rd, was sworn in. She testified that Mr. Pecoraro has improved the property since he has moved in. She testified that due to the size of the other homes in the area, he should be able to have the proposed addition. Mr. Kirkpatrick asked her if in her opinion it would alter the character of the neighborhood. She felt it would make it better and improve home values.

John Malone, 11 Senator Gephardt Farm Rd was sworn in. He testified that he recently moved in and considered the home where the addition is being proposed. However, due to the constraints of the home, they decided to buy another. He feels the proposed additions would be beneficial to the homeowner, to the neighborhood and safer for the homeowner to travel onto Race Street.

Chris Hood, 3 Senator Gephardt Farm Rd was sworn in. He advised they moved into the neighborhood at the beginning of last summer. He feels that the proposed driveway and addition would be safer for the owner and his children. He also feels it is an improvement in the view and neighborhood.

Tariq Ismail, 5 Senator Gephardt Farm Rd was sworn in. He advised he has been living in the neighborhood since 2013 and it is his understanding that the lake is a private lake and not a public lake. It is maintained by the association of the homes. He also felt that the driveway and addition would enhance public safety and would not cause a substantial detriment. He advised that the length of the lake is large and obstruction of the view would be minimal.

Mr. Purzycki testified to the views and wildlife from his home. He advised the addition would substantially interfere with the use and enjoyment of his property. He advised that the addition of the home across the street would impact his property values. He presented pictures of the effects of the proposed addition.

Mr. Bell stated that the proportions of the exhibits shown were out of scale and are three feet taller than what is proposed. He feels it would not be a detriment.

There were some additional questions asked by the professionals, public, and the Board to the testimony given.

Mr. Nusser advised that after listening to the testimony his opinion has not been changed and he believes that there is no substantial detriment to the public good. He feels that regardless of whether the addition is built at the setback or what is currently proposed, the view would not be impacted by any substantial sense.

Ms. Voigt advised that in addition with the bulk variances requested, she would like a waiver for the applicant from the stormwater drywell. She advised the public notice advised of any such waivers.

Mr. Nace made a motion to close the public hearing. Mr. Pettitt seconded the motion. All Ayes. No Nays. Motion carried.

Mr. Ford recapped the requests by the applicant, the three bulk waivers, the impervious coverage, the front setback and the side yard setback for the rear deck.

After some discussion, the Board felt that a deed restriction related to the addition would not be necessary as these would be considered through municipal ordinances and agencies regardless. The Board felt that the home occupation as presented was not a violation of the home occupation ordinance and would not require a "D" variance.

Mr. Kirkpatrick recapped the public testimony regarding the public safety and property value benefits. He also reviewed testimony given from the home owner regarding the negative implications. He advised that the Board takes the concerns with deep consideration but felt the evidence presented showed there would be significant benefits and no substantial detriment to the public good.

Mr. Kirkpatrick made a motion to approve the application and require that the applicant make application for the tree removal permit and driveway opening permit; and that the waiver for the application for the stormwater drywell be granted. Mr. Kastrud seconded the motion. The motion was amended to include the requirement that the applicant must update the tree protection plan, and fence detail be added to the plan. **Vote:** Ayes: Mr. Nace, Mr. Kastrud, Mr. Neary, Mr. Dix, Mr. Pettitt, Mr. Kirkpatrick and Mr. Ford. Motion carried.

Motion to Adjourn: There being no further business to discuss the meeting was adjourned at 10:43p.m. A motion was made by Mr. Kastrud and seconded by Mr. Nace. All Ayes. No Nays. Motion carried.