

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 14, 2011**

The regular meeting of the Upper Township Zoning Board of Adjustment was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Ted Klepac, Christopher Phifer, Andrew Shawl, Lynn Petrozza, Peter Schuler, Paul Casaccio.

Absent: Jeffrey Pierson, Joseph Healy.

Also in attendance were Dean Marcolongo, Board Solicitor; Paul Dietrich, Board Engineer; Shelley Lea, Zoning Officer and Board Secretary.

APPROVAL OF THE MARCH 10, 2011 MEETING MINUTES

A motion was made by Mr. Unsworth and seconded by Mr. Schuler, to approve the minutes. In favor: Klepac, Phifer, Unsworth, Petrozza, Schuler, Healy. Abstain: Shawl and Casaccio.

BOARD PROFESSIONALS SWORN

APPLICATIONS

1. MARILYN S. ROLAND – BLOCK 855, LOTS 2 & 2.01 – BA07-11

The applicant is requesting a one-year extension of variances granted to raise an existing boathouse at 204 N Bayview Drive, Strathmere.

Robert Roland and Marilyn Roland, 18 W Seacliff Avenue, were sworn. The applicant was granted a use variance and side yard setback variance on March 13, 2008 (BA02-08) to raise an existing boathouse. This will be the second extension. The first extension was granted on March 11, 2010 (BA39-09). They are still in the process of looking for a responsible contractor that will give them a reasonable price to do the work. There have been no changes to the plan.

Solicitor Marcolongo stated that the extension would carry the approvals to March 13, 2012.

The meeting was open to the public. Hearing no response the meeting returned to the Board for findings of fact.

MR. UNSWORTH – Marilyn Roland is the owner of the subject property located at 204 N. Bayview Avenue, Block 855 Lots 2 & 2.01. The applicant is seeking a second extension of variances granted in 2008. The applicants are entitled to 3 one-year extensions. He is in favor of the extension.

A motion was made by Mr. Klepac and seconded by Mr. Unsworth to grant the one-year extension. In favor: Klepac, Phifer, Shawl, Unsworth, Schuler, Casaccio.

2. JOHN WECHSLER – BLOCK 851, LOT 4 – BA05-11

The applicant is requesting a one-year extension of bulk variances to construct a single-family dwelling at 13 N. Commonwealth Avenue, Strathmere.

John Wechsler, 533 Lombardy Street, Drexel Hill, Pennsylvania, was sworn along with Joseph Maffei, Professional Engineer.

Solicitor Marcolongo explained that the variances were granted on May 8, 2008 per Resolution BA05-08, memorialized on June 12, 2008. Although the applicant did not appear before the Board for the first one-year extension he suggests granting extension one and two. The extension would carry until May 8, 2012. This is an environmentally sensitive property therefore the permit extension act does not apply.

Mr. Wechsler testified that his family still wants to build a house on this property. He actually had the permits in place but due to the economy has not been able to build.

The meeting was open to the public. Hearing no response the meeting returned to the Board for findings of fact.

MR. UNSWORTH – John Wechsler is the owner of the subject property located at 13 N. Commonwealth Avenue in Strathmere, Block 851 Lot 4. The applicant is seeking an extension of variance relief. For economic reasons they have not been able to build yet. This will be his first and second extension taking them to May 8, 2012. The Permit Extension Act doesn't apply to this property since it is environmentally sensitive. There was no public comment.

A motion was made by Mr. Schuler and seconded by Ms. Petrozza to grant the first and second extension expiring on May 8, 2012. In favor: Klepac, Phifer, Shawl, Unsworth, Petrozza, Schuler and Casaccio.

3. ALBERT & PATRICIA DONZANTI – BLOCK 568, LOT 11 – BA03-11

Applications are requesting a use variance to construct a single-family dwelling in the CM2 zoning district.

Michael Fusco, Esquire, represented the applicants. Joseph Maffei, Professional Engineer, was sworn.

Solicitor Marcolongo stated that the Notice failed to include that a side yard setback variance is needed, however it is noted on the plans. The board was satisfied that the public has been placed on notice as to what the applicant is asking for and moved forward with the application.

Bertha Field, 1148 South Shore Road, Palermo, property owner within 200 ft., had no objection to the Notice that was sent.

Mr. Fusco submitted an aerial photograph of the property dated 1/2/11 that was marked as Exhibit A-1.

Joseph Maffei, Professional Engineer, with EDA, was sworn. Mr. Maffei testified the lot is zoned CM2. The applicant proposes to construct a single-family dwelling on the property. He believes the lot is more suited for residential since it is surrounded by residential homes. There will be a barrier between this property and the commercial use that exists because of the trees and since they are limited in the amount of clearing that can be done because of the wetlands on the property. The construction of a dwelling rather than a commercial use would result in less building coverage and impervious coverage since there would not be a parking lot and other commercial type improvements. The Cape May County Department of Health has issued a well permit and a septic permit. He believes the proposed dwelling would preserve light, air and open space. He does not believe that granting the variances would have a detrimental effect to the zoning plan or zoning ordinance. He believes that any commercial use on the property would be limited as to what could be done on the property. Also, a commercial use would not be visible from Route 9.

Mr. Maffei explained that Ms Field has expressed concerns about drainage and is scared that the water from the applicant's property would run onto her property. Part of the project involves installing a storm pipe to direct water from the east side of the property toward the railroad tracks. This would help keep most of the water from going toward Butter Road. In 2003 the property was rezoned residential and then zoned back to commercial.

Mr. Dietrich commented that this lot was included in the sketch plat approval on the Wyndom Way subdivision that came before the Board. This lot was removed prior to preliminary approval due to the wetlands on the property. He stated that the area is covered with almost 2 ft of water at times. The proposed pipe would allow the water to

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

APRIL 14, 2011

PAGE 4 OF 6

flow to the naturally low area on the property. He recommends that a French drain be installed for the downspouts of the building so there is less surface water and more natural percolation. He stated that the proposed development would potentially make the entire area worse since the applicant will need to fill the lot. Obviously it would be a detriment because the applicant will be putting fill into a low area. The property routinely floods and there is standing water in this area.

Mr. Maffei testified that the CM2 zone requires a 25 ft setback and an additional 25 ft since the lot adjoins a residential zone. The total side yard setback required is 50 ft. and they propose 40 ft.

The meeting was open to the public.

Bertha Field, 1148 South Shore Road, Palermo, was sworn. Ms. Field testified that the property is wetlands and there is water on it right now. She stated that the existing drainage swale does not hold water. The drainage on Butter Road needs to be upgraded. Her main concern is the water and drainage. She is opposed to the application.

Mr. Dietrich stated that Ms Field's property is 2 ft higher than the rear of the subject property.

Hearing no further comment the meeting was closed to the public.

Mr. Fusco stated that the applicant agrees to a deed restriction that requires the owner of the property to come back to the Board before increasing the impervious surface. Only a shed less than 100 sq ft could be placed on the property without Board approval.

The Board was asked for their Findings of Fact.

MR. UNSWORTH – Albert and Patricia Donzanti are the owners of property on Butter Road known as Block 568, Lot 11. The applicants are seeking a use variance to build a single-family residence on a commercial lot. The applicant is also requesting a side yard setback variance, 40' proposed where 50' is required. Joe Maffei from Engineer Design Associates testified that the applicants have received DEP approval and septic approval for the project. He also offered that this would be a less intense use than a commercial use. The lot is unique in shape, location and elevation requiring substantial fill on site. There were previous approvals granted to construct on this lot. The old railroad track in the rear cuts this property off from the commercial uses along Route 9 and acts as a buffer. The applicant has agreed to the condition in regards to the French drain and impervious coverage. Bertha Field the owner of property on the corner of Butter Road and Route 9, has concerns about flooding that has occurred in the area in the past. There was extensive discussion concerning the site drainage, proposed swale and French drain. There was testimony that there would not be substantial increase or detriment to the flooding conditions that exist. The stone driveway shown on the plan may not be paved without returning to the Board. A deed restriction will be filed requiring that there will

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

APRIL 14, 2011

PAGE 5 OF 6

be no increase in the impervious surface other than a small shed without returning to the Board. With these conditions he is in favor of the application.

MR. KLEPAC – Mr. Dietrich assured the resident that the additional impervious surface would not be a detriment to her property.

MR. SHAWL – The subject lot is adjacent to other residential lots and is located on a residential type road. There will be a barrier between this lot and the commercial use consisting of trees. The application as proposed would provide light, air and open space. A side yard setback is needed to allow 40' where 50' is needed. Testimony was given that the variances could be granted without detriment to the municipal land use ordinance.

MR. SCHULLER – The Board Engineer stated that the additional lot coverage could be managed by adding a French drain. The additional lot coverage would create an insignificant amount of flooding.

A motion was made was made by Mr. Shawl and seconded by Mr. Unsworth to grant the use variance and side yard setback variance with the condition that the applicant install a French drain that would tie into the gutters on the house and a deed restriction so that they cannot pave the drive way and parking areas and that they cannot increase the impervious coverage by more than 100 sq ft. to allow for a small shed. The deed restriction must be filed prior to the issuance of a building permit and that the applicant's professionals will provide the Township Engineer with drainage calculations and creation of a storm water management system that is sufficient to handle the runoff for this building. In favor: Klepac, Phifer, Shawl, Unsworth, Petrozza, Schuler, Casaccio.

RESOLUTIONS

1. KEVIN & MAUREEN SHERIDAN – BLOCK 756, LOT 3 – BA02-11

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Mr. Shawl, and approved. Abstain: Shawl and Casaccio.

BILLS

A motion to approve the bills was made by Mr. Unsworth, seconded by Mr. Phifer, and approved.

ANNUAL REPORT

The Board discussed wind turbines and other sources of alternate energy. They asked that the Planning Board continue investigating.

Other items discussed were motels being rented as apartments, home occupations, pets and farm animals. Boats and trailers being stored in the front yard will be drafted back into the ordinance. Clearing of lots was also addressed and Mr. Dietrich commented that a permit is now needed to clear more than 5,000 sq ft.

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

APRIL 14, 2011

PAGE 6 OF 6

CLOSED SESSION

Mr. Unsworth made a motion to enter into Closed Session to discuss pending litigation. (9:03 p.m.) The Board went back on the record at 9:07 p.m.

ADJOURNMENT

Mr. Unsworth made a motion to adjourn the meeting. The meeting was adjourned at 9:08 p.m.

Submitted by,

Shelley Lea