

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING MINUTES  
TUESDAY, OCTOBER 25, 2011**

A special 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: Christopher Phifer, Jeffrey Pierson, Matthew Unsworth, Joseph Healy, Edward Barr and Chair Paul Casaccio.

Absent: Ted Klepac, Andrew Shawl, Lynn Petrozza, and Hobart Young.

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

**SHELLEY LEA SWORN**

**APPLICATIONS**

1. MPS LANDHOLDERS LLC – BLOCK 479, LOT 46 – BA22-11 AND BLOCK 479, LOTS 30, 31, 32, 35 & 37 – BA23-11

Applicants are requesting an extension of a lot frontage variance granted to construct a single-family dwelling at 501 Willetts Point Lane and extension of a use variance to permit a multi family use at 525 Tuckahoe Road, Marmora.

Michael Fusco, Esquire, represented the applicants. He stated the applicants are requesting their third extension. They have been trying to sell the properties to the State or the County. There may be a chance to sell to the properties in 2012 to the County Open Space Farmland Preservation. There is no money in Green Acres that is sufficient for these properties. They are seeking their final one-year extension.

Solicitor Marcolongo stated the extension would expire on October 11, 2012. The Permit Extension Act is not applicable to either of the applications due to the environmentally sensitive conditions on sites.

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

MR. UNSWORTH – MPS Landholders LLC is the applicant of both the applications. The applicants are requesting their third one-year extension as permitted by the Zoning Ordinance. Mr. Fusco has stated that the applicants are still trying to negotiate with the County but there will not be funds available until 2012. There have been no zoning changes on this property. He has no problem extending the variance for another year. MR. PIERSON – Believes the extension can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance. He is in favor.  
MR. HEALY – Nothing to add.  
MR. PHIFER – Agrees with Mr. Pierson.  
MR. BARR – He concurs.  
MR. CASACCIO – There have been no changes in the neighborhood.

A motion was made by Mr. Pierson and seconded by Mr. Unsworth to grant the one-year extension expiring on October 11, 2012. In favor: Phifer, Pierson, Unsworth, Healy, Barr and Casaccio.

### **TABLED APPLICATION**

The following application has been tabled until December 8, 2011. The applicants have agreed to waive the tolling of time in which the Board has to act on this application. There will be no further notice.

MICHAEL & ELIZABETH CLIFFORD – BLOCK 841, LOTS 15 & 16 – BA20-11

### **APPLICATIONS CONTINUED**

#### 2. JOSEPH CALLAHAN – BLOCK 838, LOTS 16.01 & 16.02 – BA16-11

Applicant is requesting variances for front and side yard setback, building coverage, impervious coverage and number and width of street openings and a waiver of landscaping plan, for renovations to an existing single-family dwelling at 31 E Tecumseh Avenue, Strathmere.

Arthur T. Ford, Esquire, represented the applicant.

Joseph A. Callahan, 31 E Tecumseh Avenue, Strathmere, was sworn along with Robert Bachich, Registered Architect.

Mr. Callahan testified that he has owned the property since 1987. He knew the house previously since he grew up in Strathmere. The property was last renovated in 1990.

Robert Bachich testified that he prepared the plans last revised on 9/6/11. Mr. Bachich explained the photos showing the elevations and the large street opening in front of the house.

Solicitor Marcolongo confirmed that Mr. Ford supplied a copy of an easement that was filed in 1972 allowing the 2 ft deck encroachment. The easement allows the owner of the property to reconstruct the deck if necessary and the easement goes to their assigns. He is comfortable the easement is still in full force and effect and allows them to maintain or reconstruct the deck.

Mr. Bachich reviewed each of the requested variances. In regards to the deck he stated the applicant desires to remove the knee walls and the railings and rebuild them as well as the existing stairs. In regards to building coverage the applicant proposes 32.78% where 27% is allowed. He has included on page Z-2 what portion of the building will be removed. Rather than build up the applicant wants to maintain the old style and keep the structure more lateral. A variance is needed for impervious surface to allow 47.21% where 45% is permitted and 41.13% currently exists. There are no accessory structures being proposed. The curb cut currently in front of the property is 55 ft. The applicant is proposing two 12 ft wide driveway openings to access the proposed garage on the northwest side and the existing carport on the southeast side. This would leave a 27.5 ft closed curb for off site parking where none exists.

Mr. Bachich believes the proposed renovations would be more compatible to the older style architecture in Strathmere. The utilities will be upgraded as part of the renovations. The building would also meet flood elevation. The proposed design would maintain light, air and open space. He feels the proposed design would create a desirable visual environment. He doesn't believe that granting the variances would have a detrimental effect to the zoning plan or master plan.

The Board agreed that the lots should be consolidated as a condition of approval. Solicitor Marcolongo requested that sheet Z-1 be amended to delineate the length of the curb cut. Sheet Z-2 must be amended to show the correct elevations.

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

MR. UNSWORTH – The applicant is Joseph A. Callahan, owner of 31 E. Tecumseh Avenue in Strathmere, Block 838, Lots 16.01 and 16.02. The applicant is requesting bulk variances for front and side yard setbacks, lot coverage, impervious coverage and street opening. The applicant has owned the property since 1997. No major renovations have occurred in the time that he has owned the property. This is a one-story structure with parking underneath. The applicant proposes to add on to one end of the structure where there is additional space. There is a 2 ft encroachment in the side yard to the east. An easement was granted in 1972 allowing the encroachment. This easement runs with the properties. They are proposing to repair the 4 ft wide deck only and not structurally change it. The house is a raised ranch style home. The applicant could have doubled the living space by adding an additional story. By keeping the building 25 ft high they are maintaining light, air and open space. The renovations would include upgrading the home to current building standards. He believes the renovations as proposed would

improve the area and would not be detrimental. He also believes the easement and encroachment is protected by the submitted easement granted in 1972. He is in favor of granting the variances as requested.

MR. PIERSON – He believes this is an exceptionally narrow and shallow lot to a degree. It makes it difficult since the house is situated on an angle making the deck encroach. He is in favor of the application since it provides for adequate light, air and open space. He believes the variances can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zoning plan or zoning ordinance.

MR. HEALY – He concurs.

MR. PHIFER – He concurs with Mr. Pierson.

MR. BARR – He concurs.

MR. CASACCIO – The applicant has agreed to a deed of consolidation. He incorporates the testimony by Mr. Bachich as his findings.

A motion was made by Mr. Pierson and seconded by Mr. Healy, to grant the application as proposed with the standard conditions and that Z-1 is amended to evidence the width of the second curb cut, the applicant add the 27.5 ft of curbing and revise sheet Z-2 to correct the details on 4 and 5. In favor: Phifer, Pierson, Unsworth, Healy, Barr, Casaccio.

3. EUGENE & DAWN DOHERTY – BLOCK 735, LOT 2 – BA18-11

Applicants are requesting a side yard setback variance for renovations to an existing single-family dwelling at 101 Harbor Road, Beesleys Point.

Julius N. Korschak, Esquire, represented the applicants. This is an older home on Harbor Road that is unusual since it has a barn style garage/workshop. The applicants propose to construct an addition to the house. The property is located in the R2 zone where 40,000 sq is needed and the lot is approximately 25,000 sq ft. Lot frontage required is 140 ft and there is 100 ft existing, however there is no land on either side to purchase. The addition will be within the existing footprint except for the proposed deck. He has advertised for the existing conditions including the existing 1.3 ft side yard setback.

George Wray Thomas, Professional Engineer, Professional Planner and Registered Architect, was sworn. Mr. Thomas testified that his office prepared the plans last revised 10-7-11. The lot is similar to others on this side of Harbor Road. There are small side yard setbacks in this neighborhood. He utilized sheet Z-3 to show the Board how the area above the garage/workshop would be turned into habitable space for bedrooms and a family room. A deck is proposed off of the family room on the second floor toward the bay. He feels this is a logical place for the addition since the front façade is appealing in its present state. Using the ill configured space in the rear of the house and making it more visually pleasing benefits the applicant and the neighborhood. The existing tennis court would be removed which would reduce the impervious surface.

Mr. Thomas testified the non-conforming side yard setback will not change only that it would be exasperated by raising the height of the building. He believes if granted special reason G and I and would be advanced. He believes the application can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zoning plan and zoning ordinance. The building and impervious coverage is half of what is permitted.

Mr. Korschak stated that the Zoning Office and Building Department rescinded the permit that was issued. The property to the west is located approximately 27 ft from the applicant's home.

Solicitor Marcolongo stated that sheet Z-3 evidences five bedrooms. The RSIS Standards requires three parking spaces. This sheet must be revised to show the third parking space.

The meeting was open to the public.

Nathalie Neiss, Route 50, Petersburg, was sworn. Ms. Neiss had questions about the side yard setback.

Hearing no further comment the meeting returned to the Board for findings of fact.

MR. UNSWORTH – Eugene and Dawn Doherty are the owners of 101 Harbor Road in Beesleys Point, Block 735, Lot 2. The applicant is requesting a side yard setback variance for an addition to an existing single-family dwelling and a deck. The lot area and lot width is non-conforming. The applicant is reframing an existing garage on the west side of the home and converting it into living space and adding living space on the second floor. There is a deck under construction in the rear of the home that was started without a permit. The building permit and zoning permit issued for this project was rescinded. The existing structure sits on an angle on the lot. The size of the lot is consistent with the neighborhood and there is no land to purchase to increase the lot size or frontage. The tennis court will be removed which would greatly reduce the impervious coverage. The renovations and addition will greatly improve the appearance of the home, which is in need of upgrading. This would be a good addition to the neighborhood. The applicant has agreed to amend the plan to show three parking spaces as required in the RSIS Standards. A resident outside of 200 ft had concerns about the setback. He is in favor of granting the application since there is no detriment to the neighborhood. The proposed improvements would advance the light, air and open space since the applicants propose to add an open deck.

MR. PIERSON – He believes the application can be granted since there is a pre-existing lawful structure on the property that justifies relief from the setbacks. He believes the variances can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zoning ordinance. He is in favor.

MR. HEALY – He concurs with Mr. Pierson. The third on site parking space will be delineated on the plan.

MR. PHIFER – He believes the application can be approved using special reasons C, G and I under 40:55D-2.

MR. BARR – Concurs with Mr. Unsworth.

MR. CASACCIO – He concurs with the findings.

A motion was made by Mr. Phifer and seconded by Mr. Healy, to grant the application as presented with the standard conditions and that Sheet Z-2 be amended to show the third parking space. In favor: Phifer, Pierson, Healy, Unsworth, Barr, Casaccio.

Mr. Young joined the Board at this time.

4. WILLIAM & BRIDGET BAILEY – BLOCK 456, LOT 20 – BA21-11

Applicants are requesting a use variance to allow two houses on one lot during construction of a new single-family dwelling at 691 Route 50, Petersburg.

William and Bridget Bailey, 1221 Mt. Pleasant Road, Tuckahoe, were sworn. Mr. Bailey testified that they are seeking a variance to allow two principal structures on one lot during construction. The property has been in his family for generations. They purchased the property eleven years ago. There is an existing home on the lot that has extensive termite damage. A close friend of the family has rented the property since they purchased it.

Mr. Bailey testified the lot was previously used as a farm. They propose to construct a new single-family dwelling on the lot and allow the tenant to stay in the existing house while the new home is under construction. As a condition of approval they propose to demolish the existing structure within 30 days after the Certificate of Occupancy is issued. They plan to maintain the existing asphalt driveway to access the property. The existing two-car garage will remain to be used for storage. The asphalt drive will be extended to the new structure. They propose to utilize the existing well. Test pits have been dug and their septic application has been submitted to the County for their review and approval. The submitted Proposed Site Plan by Christina Amey Architect LLC, dated 8/31/11 indicates that a variance is needed to allow 121.38 ft lot depth where 175 ft is required.

They have included this variance on their notices.

Mr. Bailey amended his application to request 90 days to demolish the structure after the issuance of a CO. He believes the proposed one-story ranch home will fit in well with the neighborhood. He stated that the property was cleared when they purchased it. They brush hogged the property and propose to plant a landscape buffer. They left some bushes in the front of the property.

Mr. Young stated that he is familiar with the area and the house most likely does not have a foundation. He feels the proposed new structure would be a nice addition to the Township.

The meeting was open to the public.

Steven Altimari, 703 Route 50, Petersburg, was sworn. He believes the new home will look great. He stated that the field is about 3 ft higher than his property. He asked if the applicant had any plans for the rainwater.

Mr. Bailey confirmed that he is not changing the elevation of the lot. He believes the grass and landscaping would help. Mr. Altimari asked if a buffer could be put in now so that he does not have to see the construction from his home. Mr. Bailey agreed to plant black pines in the buffer.

Nathalie Neiss, Route 50, Petersburg, was sworn. She asked about the number of proposed bedrooms compared to the number of existing bedrooms. She asked about the existing septic and the driveway. Her issue is with the storm water, which she stated has gotten worse since 2005. She stated the applicant's property is elevated and he took down the trees. She has asked the Township and the State to help her with the drainage problem. She went on to discuss the storm water problems in the area. The Board advised that she contact the State.

Mr. Bailey stated that he met with the Cape Atlantic Soil District on site. He agreed to obtain a permit from the Soil Conservation District prior to construction. This jurisdiction also has control over the silt fencing.

Hearing no further comment the meeting returned to the Board for findings of fact.

MR. UNSWORTH – William & Bridget Bailey are the owners of 691 Route 50, Petersburg, Block 456, Lot 20. They are requesting a use variance to allow two structures on one lot. The existing structure will be removed after the new structure has been built. The property has been in their family for generations. They purchased the property eleven years ago. The existing structure has extensive termite damage that is beyond repair. The proposed structure will meet all bulk requirements except for lot depth. The existing garage, driveway and well will remain. A septic permit is under review and a new septic will be installed upon approval. A landscaping buffer will be provided along the north side of the property also encompassing part of the rear property. Two neighbors spoke during public comment. Mr. Altimari testified the proposed buffer would satisfy his concerns about traffic lights. The applicant will demolish the home within 90 days from receipt of a Certificate of Occupancy. Mr. Bailey has met with the Cape Atlantic Soil District and was informed that he has no requirements to meet right now but will have to make application in the future. The proposed house will fit in with the residential neighborhood. The new home will improve the appearance of the neighborhood. He is in favor of the application.

MR. PIERSON – Granting the variance would promote special reason C. There will two homes on this lot for a short period of time. The applicant is trying to demonstrate that he has made the efforts to bring the property into conformity with the zoning ordinance by constructing a new home and then removing the old home within 90 days. He

believes the application can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning plan. He is in favor of granting the application.

MR. HEALY – The applicant has demonstrated the new home will be an improvement to the neighborhood.

MR. PHIFER – He concurs.

MR. YOUNG – He concurs.

MR. BARR – He concurs.

MR. CASACCIO – He concurs. The existing home is in very bad shape. There is a tenant in the existing home. Only one house will be used at a time.

A motion was made by Mr. Unsworth and seconded by Mr. Pierson, to grant the application as proposed with the standard conditions and that the older house is demolished within 90 days of the issuance of a Certificate of Occupancy, there will not be occupancy of both structures at the same time, the applicant will work with the Board Engineer to appropriately develop the landscape buffer to the west within the requirements of the zoning ordinance, the applicant will work with Cape Atlantic Soil Conservation in terms of the appropriate approvals. In favor: Phifer, Pierson, Healy, Unsworth, Young, Barr, Casaccio.

### **BILLS**

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

### **CLOSED SESSION**

A motion was made to enter into Executive Session to discuss pending litigation. (Close 9:00 P.M) Mr. Casaccio excused himself during this discussion. The Board returned to the record at 9:25 P.M.

Solicitor Marcolongo suggested the Board schedule a special meeting on November 15<sup>th</sup> to hear the outstanding applications on the agenda.

### **ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Pierson, seconded by Mr. Unsworth, and approved. The meeting was adjourned at 9:31 P.M.

Submitted by,

Shelley Lea