

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MINUTES OF A SPECIAL MEETING HELD ON
TUESDAY, SEPTEMBER 20, 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, Andrew Shawl, Matthew Unsworth, Joseph Healy, Hobart Young, Edward Barr, Chair Paul Casaccio.

Absent: Ted Klepac, Jeffrey Pierson, Peter Schuler and Lynn Petrozza.

Also in attendance were Dean Marcolongo, Board Solicitor; Paul Dietrich, Board Engineer; Stewart Wisner, Acting Board Engineer sitting for the applicant Seaside Cemetery; Shelley Lea, Zoning Officer and Board Secretary.

TABLED APPLICATIONS

1. BRIENNA GINN – BLOCK 715, LOT 9 – BA15-11
2. JOSEPH CALLAHAN – BLOCK 838, LOTS 16.01 & 16.02 – BA16-11
3. EUGENE & DAWN DOHERTY – BLOCK 735, LOT 2 – BA18-11

The above applications have been tabled until October 13, 2011. The applicants have agreed to waive the time in which the Board has to act on this application.

BOARD PROFESSIONALS SWORN

APPLICATIONS

1. ATLANTIC CAPE BUILDERS, LLC – BLOCK 568, LOT 2.05 – BA12-11

Applicant is requesting a use variance to eliminate a condition of prior approval to permit the subdivision of this property into 2 conforming lots at 2 Wyndom Way, Seaville.

Matthew Unsworth stepped down during this application. Julius N. Korschak, Esquire, represented the applicant. Mr. Korschak stated that preliminary and final subdivision approval was granted to create 5 lots in 2002 and 2003. When this approval was granted there were concerns about wetlands and drainage. As a result the Board incorporated a condition in the approval that the 2 larger lots in the subdivision could not be further

subdivided without returning to the Board. The zoning of this property has always been commercial.

Mr. Korschak stated there is currently a house under construction on the rear portion of the lot. The subdivision plan by Stephen C. Martinelli, last revised 3-30-11, includes both the R2 and CM2 zoning districts to show that both proposed lots conform to all the standards.

Solicitor Marcolongo stated that he has marked the following exhibits:

- A-1 Plan of Minor Subdivision by Stephen C. Martinelli dated 12-08-10 and revised 6-30-11.
- A-2 Project Narrative
- A-3 Grading and Drainage Plan by EDA, dated 6-29-11.
- A-4 Correspondence from DEP (LOI) dated March 23, 2011.
- A-5 Deed of Restriction recorded on 3-14-03.
- A-6 Resolution No. BA24-02
- A-7 Resolution No. BA02-03

Stephen Martinelli, Vincent Orlando and Thomas Tower, were sworn.

Mr. Martinelli, Licensed Land Surveyor, testified the applicant proposes to create 2 conforming lots from 1 existing lot. The property is located in the CM2 zone. They included the standards for the R2 zone since the neighborhood is mostly residential.

Mr. Dietrich requested the applicant confirm the lot number with the Tax Assessor.

Vincent Orlando, Professional Engineer, testified he was involved in the original subdivision. He has investigated the soils on site for possible wetlands. A Letter of Interpretation from the NJDEP indicates there are no wetlands or wetland buffers on site. The lot would require 1 ½ to 2 ft of fill. He discussed the propose grading.

Mr. Orlando testified the proposed lots would conform to the neighborhood. He feels the purposes of zoning would be advanced under 40:55D-2 c since all the setbacks are being met; e due to the preservation of the environment and g since the lots would comply to both the CM2 and R2 zoning requirements. He believes the proposed lots are particularly well suited for the proposed development given its location and surroundings. Another propose of zoning that would be advanced is m. He does not believe there is any negative impact on the public good since the proposed lots and dwellings are the same in size as the surrounding area. He doesn't believe that an additional house would have any detriment to the zone plan or zoning ordinance since the area is developed.

Mr. Dietrich commented that he believes the drainage plan is sufficient, however he would like a condition of approval that any roof runoff be directed toward the inlet on Wyndom Way or the existing drainage basin on lot 2.04. He agrees the Board had concerns about possible wetlands on this lot. The landscape buffer and tree preservation requirements need to be added to the zoning schedule.

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

MR. SHAWL – Atlantic Cape Builders is before the Board to eliminate a condition of prior approval in Resolution BA 24-02 to permit the subdivision of this property into 2 conforming lots. The applicant has submitted Exhibits A-1 through A-7 in support of the application. The lots meet or exceed all requirements in the CM2 and R2 zones. The NJDEP has determined there are no wetlands on site. The additional drainage would not cause any off site impacts. The proposed development is in keeping with the character of the existing neighborhood. He agrees with the special reasons cited by Mr. Orlando. The roof runoff will be directed into the inlet or existing drainage basin. Mr. Dietrich agrees with the testimony given and requested that the zoning schedule be revised to evidence the landscape buffer. There was no public

MR. YOUNG – The deed restriction was a condition set forth in a prior resolution.

MR. BARR – He concurs with Mr. Shawl.

MR. PHIFER – He concurs with Mr. Shawl.

MR. CASACCIO – The applicant has testified that a septic system can be installed. He incorporates Mr. Orlando's testimony into his findings.

A motion was made by Mr. Shawl and seconded by Mr. Phifer to grant the use variance, minor subdivision and decision of condition of no further subdivision without returning to the Zoning Board with the condition the applicant confirm the lot number with the Tax Assessor, plans will be revised to evidence that the roof runoff will be directed onto Wyndom Way or to the drainage basin on lot 2.04, the zoning schedule will be revised to evidence the required landscape buffer and tree preservation. In favor: Phifer, Shawl, Unsworth, Healy, Young, Barr and Casaccio.

2. SEASIDE CEMETERY COMPANY – BLOCK 599, LOTS 2, 3, 4 & 8 – BA04-11

Applicant is requesting a use variance to permit parking and storage of landscape vehicles and equipment on the premises and a waiver of site plan details at 599 South Shore Road, Marmora.

Mr. Dietrich stepped down due to a conflict and Stuart Wiser, Professional Planner, acted as Board Engineer.

Solicitor Marcolongo marked 7 photographs as Exhibits A-1 through A-7. Julius N. Kenschak, Esquire, represented the applicant. The property is located in the "R" zone. Cemeteries are a permitted use in this zone. The lot is 27 acres and is bordered by commercial uses. The property began to be used as a cemetery around 1865. He discussed a complaint that was filed in the Zoning Office requiring Mr. Newman to appear before the Board. The storage area is in the rear of the property and cannot be seen from the road. He reviewed each of the 7 photos that were submitted.

Vincent Orlando was previously sworn. Bob Millar and Jay Newman were sworn.

Jay Newman, General Manager of Seaside Cemetery Company, listed the equipment that he owns and stores on site. He also testified that the landscaping equipment stored by Mr. Millar is similar.

Mr. Newman testified that he has never received any complaints about the equipment being stored on site. He testified that the exhibits depict what is currently on site. He allows Mr. Millar to store his equipment on his property since he is his friend. Storing the equipment here is a benefit to Mr. Newman since he can use the equipment for maintaining the cemetery.

Mr. Newman testified the cemetery is tax exempt under State law. Mr. Korschak stated that the taxation status of the cemetery is not an issue before the Board. Solicitor Marcolongo advised that the non-exempt status of this property is not relevant to the application.

Mr. Newman testified that Mr. Millar does not run an office out of the cemetery property. The employees arrive in the morning to pick up the trucks and equipment and leave the site. Sometimes some of the employees stay behind and help out in the cemetery. There are other landscaping companies that come to the site to work on burial lots.

Mr. Newman testified that close to 10,000 people are buried in the cemetery. Mr. Millar has been storing his equipment on the site for approximately 15 years. The property has been 27 acres since his family purchased it in 1971. He would be in favor of a condition that the storage area could not be expanded.

Mr. Millar testified that he allows Mr. Newman to use his landscaping equipment when he needs it. He also uses Mr. Newman's equipment if he needs it. His office is located in Avalon. Approximately 90 percent of his business is in Avalon and Stone Harbor. He has never paid rent for storing his equipment on this site.

Vincent Orlando testified the storage area is 175' x 175, well maintained, fenced and is approximately 700 ft from the road and is not visible from the neighboring properties. The lot is unique given the large size. He believes the cemetery is an inherently beneficial use to the community since it serves the public good and is easily accessed from Route 9. He believes the storage area is accessory to the cemetery. He feels the purposes of zoning would be advanced under 40:55D-2 e, g, m and c. He believes this site is particularly suitable given the nature of the use, size of the lot and surrounding uses. He does not believe that granting the variance would have any negative impact on the public or the zoning plan or zoning ordinance.

Mr. Wisner stated that he needed more testimony in regards to the positive criteria and how it relates to the dual use and not just the cemetery use. In his opinion the strongest reason is M. Mr. Orlando testified that it is not necessarily a dual use but that Mr. Millar's equipment is at the cemeteries disposal to use any time. It would be difficult to

maintain the property without the landscaping equipment on site and additional outside help may be needed or equipment may have to be rented. He feels the increase in traffic is minimal.

Mr. Young asked if storing someone else's equipment for free is detrimental to the township. He stated that if Mr. Millar were not storing his equipment here he would have to pay to store it somewhere else that is being taxed as a commercial storage facility. He stated the gain is for an individual and not what is best for the entire township.

The meeting was open to the public.

Ronald McCole, 54 E. Mapleshade Lane, Beesleys Point, was sworn. Mr. McCole had several questions for Mr. Millar. Mr. Millar testified that he owns Hill Top Landscaping. Most of the landscaping debris is taken to a recycling facility in Court House and some mulch is dumped at the cemetery. Mr. Newman testified that he allows another landscaper to dump the material generated by the cemetery on the site. He is not paid for this.

Mr. McCole testified that from the storage facility adjacent to the cemetery you are able to view mounds of debris on the cemetery property. Mr. Newman testified that the piles are dirt from the burials, trees, leaves and other material from the cemetery that are mulched. Mr. McCole recommended the Board postpone voting on this matter so that they can see the debris.

The Board gave their Findings of Fact.

MR. UNSWORTH – Seaside Cemetery is the owner of Block 599, Lots 2, 3, 4 & 8. They are requesting a use variance to permit the storage of vehicles and landscape equipment on the premises and a waiver of site plan details. Mr. Millar has been storing equipment on this site for 10 to 15 years. Some of the equipment is used on site. There have been no complaints about the equipment being stored on this site. There is no compensation for storage. The applicant has agreed to limit the storage area and he will provide detailed information to the Board Engineer in regards to the specifications of the area. The cemetery site is 27 acres and the storage area is not visible from the road. The storage area and storage building are appropriate uses and typical of a cemetery site. This is a unique site since it is so large. There was discussion about the cemetery being an inherently beneficial use. Testimony was given that there would be no negative impact on the site or the surrounding area. There would be no additional traffic impact. There would be no negative impact on the site or the community. Mr. McCole has indicated that he is concerned about the piles of debris in the rear of the site. Mr. Newman testified the debris is generated on site and is made into mulch. In his opinion the testimony concludes that the site is appropriate for the way it is currently being used.

MR. SHAWL – Mr. Newman testified the exhibits are accurate. Having the landscaping equipment on site provides a benefit to the cemetery. Although the employees of Hill Top Landscaping come to the site everyday the traffic is insignificant. Mr. Millar testified that the business relationship described by Mr. Newman was accurate. Mr.

Orlando testified the area is accurately depicted in the photographs. Cemeteries are a permitted use in the Residential zone. The landscaping equipment has been described as an accessory use. Mr. Orlando has testified that a number of special reasons have been advanced. Although he does not agree with all of the reasons he does believe this is efficient use of the land and that there is sufficient light, air and open space. He agrees that storing equipment does not negatively impact the public good.

MR. PHIFER – The cemetery has been 27 acres since it was purchased in 1971. The equipment being stored is the same type of equipment being used by the cemetery so they are not storing something that would not normally be on site. The storage area is approximately 700 ft from the front property line and is not visible from Route 9.

MR. YOUNG – He agrees the site is adequate and proper for the storage of vehicles and equipment. He has concerns about the financial aspect of the application. He is not sure if the fact that the storage benefits the individuals if it benefits the township.

MR. BARR – He agrees the site is being used properly, however there does have to be a limitation as to expansion.

MR. HEALY – The site is well maintained.

MR. CASACCIO – The storage area and building maintain a good buffer between the Residential and TC zoning districts and is a good transition. Mr. Newman testified that the debris in the rear of the site is natural type material. The area of access to the commercial use has been limited. He is in favor of the application as presented.

A motion was made by Mr. Shawl and seconded by Mr. Unsworth to grant the request for use variance for a use not permitted in the zone, waiver of site plan details, with the condition that there will be no expansion of the existing 175' x 175' storage area and the applicants professional will work with Mr. Wisner and Solicitor Marcolongo in quantifying the area very specifically, the storage will be limited to equipment that can be used in conjunction with the cemetery operation and that Hill Top Landscaping will be the only landscaper authorized to store equipment on site. In favor: Phifer, Shawl, Unsworth, Healy, Young, Barr, Casaccio.

3. WILLIAM McDANIELS – BLOCK 348, LOT 83.01 – BA14-11

Applicant is requesting a 3 lot minor subdivision, a use variance to allow an existing residence to remain in the CM4 zone and bulk variances at Route 50 in Tuckahoe.

Mr. Young stepped down during this application.

William J. McDaniels was sworn.

Mr. Orlando, previously sworn, testified that this property was part of a 5-lot subdivision granted by the Planning Board in 2007 (Resolution No SD08-07). Since that time the zoning has changed and the front portion is now zoned CM4. There is an existing single-family dwelling on the property.

Mr. Orlando testified that the applicant proposes to abandon the approved 5-lot subdivision and create 3 lots as shown on the Plan of Minor Subdivision dated 7-5-11 and

revised on 8-1-11. The existing dwelling is located in the CM4 zone. Access to each of the lots would be off of Route 50. He believes the project provides light, air and open space. He also believe that granting the variance would promote special reason e since 3 lots would be less impervious surface than 5 lots and since the lot sizes are larger than others in the area. He believes the application as proposed would have no substantial detriment to the public good, zone plan or zoning ordinance.

Mr. Dietrich requested that the zoning schedule be amended to include the landscape buffer and tree preservation. He also asked that the applicant confirm the proposed lot numbers with the Tax Assessor.

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

MR. SHAWL – Mr. McDaniel’s is the owner of 1611 Route 50 in Tuckahoe. The property is located in the CM4 and AR zoning districts. The current approval is for 5 lots and a new road. The applicant proposes 3 flag lots with access off of Route 50. A use variance is needed to permit the house to remain on proposed lot 83.01 and variances for lot area, lot frontage, width and side yard setback. Proposed Lots 83.06 and 83.07 require variances for lot area and lot frontage. He agrees with the special reasons identified by Mr. Orlando and that there would not be any impact on the public or zoning plan.

MR. PHIFER – The proposed amended plan would improve the environmental preservation of the area since fewer trees would be removed.

MR. BARR – He concurs.

MR. UNSWORTH – He concurs. There was no public comment.

MR. HEALY – He concurs.

MR. CASACCIO – He incorporates Mr. Orlando’s testimony as his findings.

A motion was made by Mr. Phifer and seconded by Mr. Unsworth to grant the minor subdivision together with the use variance and bulk variances with the condition the applicant confirm the lot numbers with the Tax Assessor and revise the zoning schedule. In favor: Phifer, Shawl, Unsworth, Healy, Young, Barr, Casaccio.

4. DANIEL PASHLEY – BLOCK 566, LOT 37 – BA17-11

Applicant is requesting a use variance to construct a single-family dwelling in the CM2 zone at 1308 Route US 9 South, Palermo.

Daniel Pashley, 1316 Shore Road, Palermo, was sworn.

Vincent Orland, previously sworn, testified there is currently a single-family dwelling on the property that was constructed in the 1950’s as shown on the survey by Stephen C. Martinelli Surveying dated 6-27-11. Mr. Pashley is proposing to demolish the existing structure and construct a new single-family home. There are other residential homes in the area. The lot meets or exceeds all the bulk standards for the CM2 and R2 zoning districts. The driveway shown on the plan is existing.

Mr. Orlando believes that granting the use variance would advance special reasons c, e, g and i. If this were used commercially it would have to be cleared and a parking lot and a larger building would be constructed. He does not believe there would be any detriment to the public good since the area is a mixed use and there are many single-family homes in the immediate area. He believes that granting the variance would have a substantial impact on the zone plan or ordinance since this is a transition area next to the R2 zone.

Mr. Orlando testified the garage on site would remain. The garage encroaches onto lot 31. An encroachment agreement or easement will be submitted as a condition of approval.

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

MR. SHAWL – Daniel Pashley is the owner of 1308 Route US 9 South in Palermo. Mr. Pashley is seeking a use variance to demolish the existing single-family dwelling and replace it with another single-family dwelling. The property is zoned CM2. Mr. Orlando has testified that the property has been used as a residence for 55 years and that the application promotes special reasons d, e and g. The relief would not result in substantial detriment to the public good and will not impair the intent and propose of the zone plan or zoning ordinance since the dwelling was constructed by the applicants parents and has remained a residence. There are other single-family dwellings in the area along with commercial uses.

MR. PHIFER – He agrees that special reason g would be advanced.

MR. BARR – Nothing to add.

MR. YOUNG – Nothing to add.

MR. UNSWORTH – The applicant could renovate the existing structure and maintain the residential use. The property meets all bulk standards. A residence is less intense than a commercial use would be. The applicant will provide an easement for the garage.

MR. CASACCIO – The existing garage encroaches on the adjacent property. It is the applicant's intention to provide an agreement or an easement.

A motion was made to grant the use variance with the condition the applicant prepare an encroachment agreement or easement satisfactory to the Board Engineer to be filed prior to the issuance of a demolition permit and revise the plans to evidence that the garage is not going to be removed. In favor: Phifer, Shawl, Unsworth, Healy, Young, Barr, Casaccio.

5. GARY & BARBARA SEAGRAVES – BLOCK 834, LOT 4 – BA19-11

Applicants are requesting variances for lot area, lot width, lot depth, rear and side yard setbacks, building coverage and street opening width for renovations to a single-family dwelling at 501 South Bayview Drive, Strathmere.

Richard Carlucci, Esquire, represented the applicants. Gary Seagraves, 7 Democrat Road, Mickleton, NJ, was sworn along with Robert Bachich, R.A. Mr. Carlucci stated this is a very small lot, 22.5' x 66.67'. A single-family residence has been situated on the lot since the 1930's. The Township has recently vacated 2.5 ft of Bayview Drive so that the applicant can remove the portion of the house that encroaches into Bayview Drive. The applicant desires to raise the house above flood elevation. This is a pre-existing lot with a pre-existing structure. The renovations will not impact any neighbors by encroaching onto their properties since the house and eaves are entirely on the property.

Mr. Seagraves testified in regards to the photos of the house that were marked as Exhibits A-1 and A-2. He explained that the house was originally a houseboat that was used as a fishing cabin. In the 1940's it was made into a house and in the 1950's an addition was put on. He would like to raise the house since it has flooded twice since he has owned it.

Mr. Bachich testified he prepared the plan consisting of 3 pages dated 7/21/11 and revised 9/6/11. The lot is at elevation 5 ½ and the flood zone in this area is 10. The building code requires base code plus 1. In order to raise the building to base flood elevation he suggested that the applicant raise the building high enough to get room for parking underneath the building. He stated the building would be picked up and moved so that pilings can go in. It would then be situated so that it is not in the right of way.

Mr. Bachich testified that most of the variances are pre-existing. He reviewed each of the variances needed. There is currently no parking on site. The applicants propose 2 parking spaces under the building. In order to access the proposed 2 car garage a 19 ft curb cut is needed. This would leave one on street parking space. He believes the purposes of the land use law would be advanced due to the unique characteristics of the lot and providing better flood protection and parking. He believes the benefits outweigh any detriments and that the variances could be granted without detriment to the public good. He believes the benefits to the neighborhood and community would be advanced since the scope of work proposed by the applicant is minor. He feels the only negative is that there would only be a setback of 5 inches along the interior property line.

Mr. Dietrich requested sidewalk and curb on the Sumner Avenue and a concrete curb on Bayview Drive.

The meeting was open to the public.

Suzanne Kubiak, Springfield, PA, was sworn. Her Father passed away and she is now owner of Lot 5 along with her brothers. She read her notes into the record. Some of the highlights included that she doesn't agree with the testimony given by the applicant. She stated that the 1944 hurricane did not put this house in the right of way of Bayview Avenue. In 1944 the house was on a different lot and floated to this location and a septic was added. In 2007 the zoning officer denied the request to raise the structure. The applicants chose to purchase the property after being told of the flooding issues. Off street parking is available on Sumner Avenue. She doesn't agree that granting the

variance would promote/advance zoning and that the deviation would outweigh any detriment. She believes that raising the house would endanger the public. The proposed renovation would create a less desirable visual environment by allowing an out of proportion towering structure that would be much less attractive than the well maintained cottage it is now. Providing off street parking would not provide public safety rather if granted would provide substantial detriment to the public good. The pre-existing site conditions would be further exasperated if granted. Raising the building would not provide the neighborhood with any additional flood protection. If granted this would substantially impair the intent and purpose of the zone plan and zoning ordinances and would negatively affecter their property. Due to the closeness of the homes any construction could severely damage their home. The house would be directly on their property line if it were moved. A photo showing her fence and the neighbors step on her property was marked Exhibit P-1. A book titled Strathmere Volume Two was marked P-2. She discussed how their windows would be blocked and possible drainage issues. The property would negatively impact the property values by towering over her property in such close proximity. She asked about bonding in case anything was to happen to her home during remodeling. She asked that the Board deny the application.

During cross-examination by Mr. Carlucci, Ms. Kubiak stated that she was not here during the 1944 storm. She discussed past storms and how it is a known fact that on a barrier island the bay and ocean meet sometimes causing flooding.

Mr. Bachich confirmed the storage/garage area would be a concrete slab. The current septic system is not a raised system. To meet base flood elevation the house would have to be raised 5.5 ft. They are proposing 9 ft to add parking underneath.

There was discussion in regards to how the renovations would be done with the building only 5 inches from the property line.

James Garoh, III, Egg Harbor Township, was sworn. He is concerned about the drainage. They planted bamboo as a privacy fence but now the neighbors are raising the building and making his house like a fish bowl. He does not propose any modifications to his home.

The meeting was closed to the public. The Board gave their findings of fact.

MR. UNSWORTH – Mr. & Mrs. Seagraves are the owners of 501 South Bayview Drive in Strathmere. The applicants are proposing to renovate and raise an existing single-story, single-family home on a small and unique lot. The lot was 20 ft wide and is now 22.5 ft since the Township recently vacated 2.5 ft of Bayview Drive so the applicant's house would no longer be in the right of way. The applicants purchased the property in 2006. The proposed renovations would raise the structure to flood elevation requirements and provide off street parking. The footprint of the building is not being expanded except for the addition of stairs to access the building. The dimensions, location and environmental conditions make this a unique lot. The septic location doesn't allow the house to be moved toward Sumner Avenue. There is a long history that goes

with the property dating back to before 1944. The lot is very undersized. The adjoining property owners have concerns about possible damage to their home during construction, drainage, raising the structure and effect to septic and property value. Curb is required on Bayview and curb and sidewalk are needed on Sumner. The curb cut variance is needed to get into the garage. Due to the unique size and location of this lot he thinks the variances can be granted but conditions need to be added to protect the neighbors.

MR. SHAWL – The architect has testified that changes to the house would be aesthetically pleasing to the neighborhood. There is parking available on Sumner Ave. The character of the house should be preserved. Raising the structure would negatively affect the neighbor's sunlight and bay views. The applicants professional spoke in regards to the narrowness of the lot. The applicant is requesting several variances. Testimony has been given that the variances would promote public safety and welfare by providing off street parking and flood protection. Six of the variances are pre-existing. Granting the variances would not substantially impair the intent of the zone plan.

MR. PHIFER – He agrees with the neighbors that the light, air and open space could be affected. Raising the building also has its advantages.

MR. YOUNG – He is not sure if the off street parking is enough of a benefit to negatively affect the neighbors light and air. Raising the building to flood elevation is beneficial but raising to get parking underneath is not. He feels they should be held at base flood elevation.

MR. BARR – He concurs with Mr. Unsworth that special consideration needs to be given for the impact the construction would have on the neighbor.

MR. HEALY – He concurs with Mr. Phifer.

MR. CASACCIO – He concurs with Mr. Shawl. He is in favor of raising the structure.

Mr. Carlucci requested that the Board not vote until the applicant has had a chance to discuss the application with the owners of lot 5 and make modifications to the plan. The meeting will be continued on October 13, 2011.

BILLS

A motion to approve the bills was made by Mr. Unsworth and approved with all in favor.

CLOSED SESSION

A motion to go into closed session to discuss pending litigation was made by Mr. Shawl, seconded by Mr. Unsworth, and approved. (11:26 p.m.)

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Unsworth and approved. The meeting was adjourned at 11:32 p.m.

Submitted by,