

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
NOVEMBER 8, 2012**

The regular meeting of the Upper Township Zoning Board 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, Hobart Young, Joseph Healy, Susan Adelizzi-Schmidt and Vice Chair Matthew Unsworth.

Absent: Alistair Lihou and Chair Paul Casaccio.

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

SWEAR IN BOARD PROFESSIONALS

APPROVAL OF THE OCTOBER 11, 2012 MEETING MINUTES

A motion to adopt the minutes was made by Mr. Young and seconded by Ms. Petrozza. In favor: Klepac, Phifer, Shawl, Petrozza, Young, Adelizzi-Schmidt, Unsworth.

APPLICATIONS

1. **BRETT SCHIEMER – BLOCK 10, LOT 215 – BA11-12**

Applicant is requesting a variance to allow a 6 ft. high fence in the front yard where only 4 ft. is permitted at 486 Route 49, Tuckahoe.

Brett Schiemer, 486 Route 49, Tuckahoe, New Jersey, was sworn. Mr. Schiemer testified that he would like a 6 ft. high fence in the front yard to protect his kids and to cut down on the noise. He proposes a solid beige vinyl fence. The fence would be located 25 ft. from the property line and would go back 48 ft. or 6 panels along the side yard. He stated that the panels on the side would be barely visible because of the trees and would not negatively affect the neighbors on either side. The fence would be located behind the berm. He proposes two gates in the driveway.

Mr. Schiemer requested to amend the application to extend the fence 100 ft. down the side property line if he needed.

Mr. Dietrich testified the front yard setback in the F25 zone is 200 ft. The setback can be reduced to 100 ft. because of the wetlands in the rear of the property. The house is currently located 168 ft. from the front property line. The fence would not affect the utility lines.

The meeting was open to the public. Hearing no response the meeting returned to the Board for finding of facts.

MR. SHAWL – Brett Schiemer, 486 Route 49, Tuckahoe, is requesting a 6 ft. high fence in his front yard. The wetland buffer limits the area in the rear yard. He has small children that he would like to separate from the traffic on Route 49. There would be a gate at the end of the driveway. The fence would be situated behind the 3 ft. high berm on Route 49. The front of the lot is heavily wooded and the fence would not encroach on the light, air and open space and would not affect visibility on Route 49. The fence would not surround the entire property. The fence could run 100 ft. down the side of the property and along the frontage. There was no public comment.

MR. YOUNG – He would like a condition that the berm stays in place. He believes the applicant has met the burden of proof. Because of the wetlands there are limitations on this property. This is a secluded area.

MR. PHIFER – He concurs.

MS. PETROZZA – She concurs.

MR. KLEPAC – He concurs. The applicant wants the 6 ft. high fence to protect his children.

MR. UNSWORTH – The applicant has chosen a tan fence that would be less visible from the highway.

A motion was made by Mr. Shawl and seconded by Ms. Petrozza to grant the application for a 6 ft. high fence in the front yard with the conditions that the fence is setback 25 ft. from the property line, the side panels can extend back 100 ft., the existing berm will remain and the standard conditions. In favor: Klepac, Phifer, Shawl, Petrozza, Young, Schmidt, Unsworth.

2. CHARLES H. WHITE – BLOCK 840, LOTS 7 & 8 – BA12-12

Applicant is requesting variances for lot depth, front yard setback, rear yard setback, number and size of parking spaces, width of street opening and a use variance to allow renovations to an existing two-family dwelling at 6 W. Webster Road, Strathmere.

Arthur T. Ford, III, Esquire, represented the applicant. The applicant is requesting a use variance to permit a non-conforming duplex to be raised and rebuilt. The property was built in 1938. Since the applicant has owned the property it has flooded three or four times. The

structure currently encroaches over the property line and into the right of way. The structure would be made more conforming and more aesthetically pleasing.

Charles White, 1548 Pikeland Road, Chester Springs, PA, and Robert Bachich, Principal of Bachich & Associates, Registered Architect and Professional Planner, were sworn.

Solicitor Marcolongo marked as A-1, A-2 and A-3 three documents each containing four photos of the subject property and/or the neighboring area. A letter from FEMA, dated July 3, 2012, was marked as Exhibit A-4. A general letter to residents from Paul Dietrich, dated July 25, 2012 was marked as Exhibit A-5.

Mr. White testified that he has owned the property since 2000. He took the photos last week after Hurricane Sandy. Some of the photos show the waterline on the interior and exterior of the structure after the storm.

Mr. White testified that he spoke to Mr. Kenney about the septic system. He also spoke to the Cape May County Department of Health. They informed him that he could utilize the existing septic as long as the construction did not impede upon the current system. The number of bedrooms in the structure is being reduced.

Solicitor Marcolongo marked several emails between the applicant and Mrs. Wilde of the Cape May County Health Department as Exhibits A-6 and A-7.

Mr. Bachich testified that he prepared the plan dated 9/5/12 and revised 9/25/12. He referred to the DeVaul survey showing the elevations of the lot. The first floor elevation is 6.6. There is currently a two-family residence on the site. The previous floods have caused a significant amount of damage to this structure. He is familiar with the area and it floods a lot.

Mr. Bachich proposes to pick the building up and get it out of the right of way. The eastern corner of the building that is currently 3 ft. into the right of way would now be 0 ft. and the western corner that is currently 1.3 into the right of way would now be 2.36. The stairs would no longer encroach into the right of way. The septic sits directly behind the building. The biggest problem they face is the peculiar shape of the lot which renders the eastern portion almost useless. The side yard setbacks would become conforming. There is a currently a 19 ft. wide curb cut directly in front of the building. They propose to provide parking under the building. They also propose to take the lower section of the existing building that is rotted, jack up the second floor and redo the roof and walls. They would then build a new first floor. They propose to reduce the number of bedrooms. He believes the improvements are compatible with the neighborhood. He believes the plans presented will promote safety from fire and flood and would not have a negative effect on the light, air and open space. He believes the benefits of granting the variances include relocating the building out of the right of way, better visual environment and the building would be brought up to code.

The Board discussed the number of proposed bedrooms and asked that the closets in the dens be removed. Mr. Ford stated the applicant would be in favor of this request.

Ms. Lea testified that the tax assessor has the property listed as a duplex.

Ms. Schmidt shared concerns about making this small house into a monster that may not fit in with the neighboring cottages. Mr. Bachich pointed out that the proposed renovations are still within the permitted lot coverage requirements in this zone.

Solicitor Marcolongo marked a copy of the survey of the property as Exhibit A-8.

Mr. Dietrich requested that a condition of approval be that a deed restriction is filed prohibiting the first floor area to be used as habitable space. Mr. Ford stated that he would add this language in the deed of consolidation. Mr. Dietrich also requested that the gutters are tied into a stone french drain system leading to the street.

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

MR. SHAWL – Charles H. White is the owner of an existing duplex at 6 W. Webster Avenue, Block 840, Lots 7 and 8. The lot is irregularly shaped. The house currently does not sit parallel to the street. The applicant has experienced flooding at least five times since purchasing the property in 2000. Letters from FEMA and Paul Dietrich were submitted into evidence as well as photos of the property and the immediate area. There were also emails to/from the Cape May County Health Department regarding whether or not the existing septic could be utilized. The location of the septic in the rear of the property limits how the building can be positioned on the lot. The elevations shown on the DeVaul survey are 5 ft. to 5.5 ft. which is below flood elevation. There is an existing 19 ft. wide street opening that does not conform to the ordinance. Two off street parking spaces will be provided underneath the building. The existing foundation and first floor will be demolished and replaced with a new masonry foundation that meets flood requirements. There are currently five bedrooms in the structure; however the applicant proposes to reduce the number of bedrooms to only four. The proposed structure would be compatible to other homes in the neighborhood. There are other duplexes in this area. Two off street parking spaces and an inhabitable ground floor are proposed. A new first floor will be built on top of the foundation and the existing second floor will be remodeled. The structure is designed to provide light, air and open space. He believes the special reasons for granting the variance are that this will be a flood protected building and that components of the building will be recycled and reused. The plan will be revised to remove the closets in the dens. There was no public testimony. He finds this will be a nice addition to Strathmere. He believes the variances can be granted since there will be no negative effect on the light, air and open space, flood protection and the new structure would promote a better visual environment.

MR. YOUNG – He concurs. The property has been listed on the tax records for years as a duplex. He would like to see some type of restriction on the number of bedrooms. He finds the applicant has met the burden of proof to grant the use variance and C variances.

MR. PHIFER – He finds the applicant has met special reasons a, b, e and i. He feels the relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning plan and zoning ordinance. The applicant is improving the overall structure and reducing the need for on street parking. He feels that raising the structure above flood area is essential in this area.

MS. PETROZZA - She finds that special reason 40:55D-2, c applies. She also feels the proposed structure will be good for Strathmere.

MR. KLEPAC – The property would be raised above flood level. The non-conforming setbacks would be made more conforming. There was discussion regarding the septic. Arthur T. Ford represented the applicant. He concurs with the facts already presented.

MS. ADELIZZI – She concurs.

MR. UNSWORTH – He concurs with his colleagues.

A motion was made by Mr. Phifer and seconded by Ms. Petrozza to grant the use variance for expansion of a non-conforming use and multiple bulk variances with the condition that the applicant file a deed of consolidation, revise the plans to evidence there will be no closets in the dens, provide a deed restriction so there is no habitable space is on the first floor below base flood elevation, revise the plans to provide gutters on the roof that would tie into a French drain that would funnel into the street and the standard conditions. In favor: Klepac, Phifer, Shawl, Petrozza, Young, Schmidt, Unsworth.

RESOLUTIONS

1. SUSAN MORGAN – BLOCK 477, LOT 9.02 – BA04-12

A motion to adopt the Resolution was made by Mr. Phifer and seconded by Ms. Petrozza. In favor: Klepac, Phifer, Shawl, Petrozza, Unsworth. Abstain: Young and Adelizzi.

BILLS

A motion to pay the bills was made by Mr. Klepac, seconded by Ms. Petrozza and approved.

PUBLIC PORTION

The meeting was open for public comment. Hearing no comment the public portion was closed.

ADJOURNMENT

UPPER TOWNSHIP ZONING BOARD

NOVEMBER 8, 2012

Page 6 of 6

A motion to adjourn the meeting was made by Mr. Shawl and seconded by Ms. Petrozza. The meeting was adjourned at 9:07 p.m.

Submitted by,

Shelley Lea