

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 10, 2014**

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

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

Present: Joseph Healy, Thaddeus Klepac, Lynn Petrozza, Christopher Phifer, Jeffrey Pierson, Susan Adelizzi-Schmidt, Andrew Shawl, Matthew Unsworth and Paul Casaccio.

Absent: Alistair Lihou and Jeffrey Stuart.

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

APPROVAL OF THE MARCH 13, 2014 MEETING MINUTES

A correction was made to page 4, line 6, of the minutes.

A motion to approve the amended minutes was made by Mr. Unsworth, seconded by Ms. Adelizzi-Schmidt and approved. Abstain: Shawl and Casaccio.

TABLED APPLICATIONS

1. GABRIELA KAPLANOVA – BLOCK 568, LOT 2.05 – BA03-14

Chairman Casaccio announced that the above application has been tabled at the request of the applicant. The application will be heard on May 8, 2014 at 7:30 p.m. No further notice is required.

BILLS

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

RESOLUTIONS

NEW JERSEY AMERICAN WATER – BLOCK 560, LOT 101 – BA13-13

A motion to adopt the resolution was made by Mr. Pierson and seconded by Mr. Unsworth. In favor: Healy, Klepac, Phifer, Pierson, Schmidt, Unsworth. Abstain: Shawl and Casaccio.

2. LUCYANN & MICHAEL MCCARTHY – BLOCK 791, LOT 1 – BA02-14

A motion to adopt the resolution was made by Mr. Pierson and seconded by Mr. Unsworth. In favor: Healy, Klepac, Phifer, Pierson, Schmidt, Unsworth. Abstain: Shawl and Casaccio.

ZONING BOARD OF ADJUSTMENT

APRIL 10, 2014

PAGE 2 OF 6

APPLICATIONS

1. JOHN & MARY YAMRICH – BLOCK 791, LOT 16 – BA04-14

Applicants are requesting variances for front yard setback and building coverage to construct a single family dwelling at 2304 S. Commonwealth Avenue, Strathmere.

The Board professionals were sworn in.

Arthur T. Ford, III, Esquire, represented the applicant. The existing home was damaged by Hurricane Sandy and the applicants wish to rebuild. Mr. Ford requested to amend the application to include variances for pre-existing lot area, lot frontage, and lot width and lot depth.

Joan Yamrich, 109 Britain Wood Circle, Chalfont, PA 18914, owner of the subject property was sworn. She testified that her parents purchased the property in 1973. Her father passed away and her mother deeded the property to her and her daughter. Their family is growing and they need additional space. She knows that the house floated into the bay in the 1962 storm and was placed back in the same location. The Cape May County Department of Health issued a septic permit on 12/6/13. A copy of the permit was marked as Exhibit A-1.

Christina Amey, Architect, was sworn. Ms. Amey testified this is an existing non-conforming lot. The plans dated 1/30/14 and revised 3/18/14 show this is a 2,850 sq. ft. lot with 30 ft. of lot frontage and 95 ft. of lot depth. The existing structure does not meet the side yard and front yard setbacks and exceeds the permitted lot coverage and impervious coverage.

Ms. Amey testified the first floor of the new structure is proposed at elevation 16. Parking is proposed underneath the house where currently there is no parking. There would be two floors above the ground floor. The front yard setback would be 6' 11" where only 2' 9" exists. The side yard setback would be 3' 10" where only 1' 8" exists. The impervious coverage would be brought into conformance; however the building coverage would increase. The front yard setback is in line with the adjoining properties.

Ms. Amey testified that in her opinion granting the variances would not have a detrimental effect on the zone plan or zone ordinance. She believes the benefits associated with the new home would outweigh any detriments.

Mr. Dietrich testified that if the lot area were conforming a lot coverage variance would not be needed. He stated that sidewalks and curbs are not required.

The meeting was open to the public.

Joseph Boland, 2300 S. Commonwealth Avenue, Strathmere, was sworn. He feels the new house would be an asset to the neighborhood.

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

MR. SHAWL – The owners of the property are Jennifer Yamrich and Joan Yamrich, Mother and Daughter. They plan to demolish the existing structure and replace it with a new structure that would better conform to the standards in the RR zone. The application was amended to include

ZONING BOARD OF ADJUSTMENT

APRIL 10, 2014

PAGE 3 OF 6

variances for pre-existing lot area, lot frontage, and lot width and lot depth. Bulk variances are needed for front yard setback, side yard setback and building coverage. The house would be raised to conform to the base flood elevation (FEMA) requirements. The family purchased the property in 1973. The house has had a history of flooding. The new home would provide for parking underneath the structure. The house cannot be moved back further on the lot due to the septic location. The architect has testified the benefits of the new home would outweigh any detriments. A neighbor has testified the new house would be an improvement. The setbacks of the new structure would be compatible to the neighborhood. The new structure would not impair the light, air and open space. He is in support of the application as proposed.

MR. PHIFER – He agrees the new home would be a bonus to the neighborhood. He agrees with the testimony given by the architect. He is in favor of the application.

MR. KLEPAC – He concurs with the findings by Mr. Shawl.

MR. UNSWORTH – He concurs with his colleagues. The house predates the storm of 1962. The existing building is not current with the building codes. There is not any adjacent land to purchase to increase the size of the lot.

MR. PIERSON – He agrees with his colleagues. He finds the variances could be granted since the house would be brought into conformity with the other homes in the area, to secure from fire and flood and provide adequate light, air and open space.

MS. ADELIZZI-SCHMIDT – She agrees with her colleagues.

MR. HEALY – He concurs.

MR. CASACCIO – He concurs. He finds the testimony by the architect to be creditable.

A motion was made by Mr. Unsworth and seconded by Mr. Pierson to grant the application with the standard conditions. In favor: Healy, Phifer, Pierson, Adelizzi-Schmidt, Shawl, Unsworth, Casaccio.

2. JEFFERSON VANDREW JR – BLOCK 479, LOT 63 – BA05-14

The applicant is requesting a use variance for the expansion of a non-conforming use and to allow two accessory structures in the front yard at 255A Tuckahoe Road in Marmora.

Jefferson VanDrew, 255A Tuckahoe Road, Marmora, was sworn. Mr. VanDrew testified that he is asking permission to allow a structure for the charging and storage of his electric vehicle. The contractor he hired to build the structure failed to obtain the necessary permits. He found a location on the property that would be in compliance with the zoning ordinance; however a lot of trees would have to be destroyed. Removing the trees would be detrimental for drainage and for his neighbors.

Mr. VanDrew testified he owns the duplex with his sister and that he is asking for a variance for her existing shed to remain in the front yard. He further testified there were no trees taken down in the area where the garage is located since that area was cleared by the previous owners.

The meeting was open to the public.

Robert Greenling, 2 Marla's Hill Drive, Marmora, was sworn. He feels this is the best location for the shed.

Hearing no further comment the meeting was closed to the public and returned to the Board for finding of facts.

ZONING BOARD OF ADJUSTMENT

APRIL 10, 2014

PAGE 4 OF 6

MR. SHAWL – Jeff VanDrew Jr. is the owner of 255A Tuckahoe Road in Marmora, New Jersey. The applicant built a shed in his front yard, unknowingly without receiving permission ahead of time. The applicant is seeking a use variance for expansion of a non-conforming use since this is a duplex, a use variance to allow the accessory garage in the front yard and a use variance for the existing shed on the opposite side of the property to be in the front yard also. The new structure is located 36 ft. from Tuckahoe Road and the existing shed is 55 ft. from Tuckahoe Road. The residence is located 100 ft. from the property line. The location for the garage was selected since it was already cleared. The neighbor testified he is in favor of the location of the garage since it does not block his view of the woods. The garage doesn't interfere with anyone's light, air or open space. This is an appropriate use for the location. He does not believe that approving the variance would create a detriment to the zone plan or zone ordinance. The new garage blends nicely with the existing duplex and the character of the neighborhood.

MR. PHIFER – Nothing to add.

MR. KLEPAC – He concurs. Only one resident within 200' testified.

MR. UNSWORTH – He concurs with Mr. Shawl.

MR. PIERSON – He concurs. Special reason d (2) expansion of a non conforming use can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance.

MS. ADELIZZI-SCHMIDT – Nothing to add.

MR. HEALY – He concurs.

MR. CASACCIO – This is the best location for the garage because of the septic and well.

A motion was made by Mr. Pierson and seconded by Mr. Unsworth to grant the application with the standard conditions. In favor: Healy, Phifer, Pierson, Adelizzi-Schmidt, Shawl, Unsworth, Casaccio.

3. CLAYTON DEVELOPMENT ASSOCIATES LLC – BLOCK 479, LOTS 48.01 & 48.02 – BA06-14

The applicants are requesting sketch plat classification, preliminary and final major subdivision approval, a use variance to construct a garage on a lot without a principal residence, a variance for the height of the garage and bulk variances for lot frontage and width and front yard setback to divide the existing two lots located at 399 Willetts Point Lane in Marmora into 5 residential lots.

Mr. Casaccio, Mr. Unsworth and Mr. Pierson stepped down during discussion and voting on this application and Ms. Petrozza joined the Board.

A motion to make Andrew Shawl Acting Chairman was made by Mr. Pierson, seconded by Ms. Adelizzi-Schmidt, and approved.

There was a short break at this time.

Julius N. Korschak, Esquire, represented the applicants. He stated that the property consists of 59.06 acres. The meadows are in the rear of the property. The property is located in the Conservation zone and single family dwellings are a permitted use as well as garages. This zone requires 10 acre lots. This property received preliminary major subdivision approval from the planning board in 2002 for a 5 lot subdivision similar to this proposal. The applicant recently

ZONING BOARD OF ADJUSTMENT

APRIL 10, 2014

PAGE 5 OF 6

purchased the property from the Atlantic City Rescue Mission where they were using the existing dwelling as a group home.

The applicant has entered into an agreement with Matthew Unsworth to purchase one of the lots if approved. He further stated that the plan approved in 2002 included the paving of the entire length of Willetts Lane in front of the property. The proposed lots would be accessed off existing streets and there are two cul-de-sacs proposed rather than a road.

Vincent Orlando, Professional Engineer, Matthew Unsworth, 2 Farm Road, Petersburg, New Jersey and Ralph Clayton, 3 Cedar Hollow Court, Beesleys Point, New Jersey, were sworn.

Mr. Unsworth testified that he needs the garage to store household items and construction equipment and materials to build the house. He believes that 6 months from the completion of the garage to begin construction on the house is realistic. A photo of the proposed pole barn was included with the application. He requested to amend the application to add the variance for the height of the pole barn since this particular barn exceeds the 20 ft. height limit. He testified that it is not his intention to operate a business from the proposed accessory structure. They are currently looking into energy efficient design elements. He is looking into solar for the house and garage and possibly a windmill.

Mr. Orlando testified in regards to the major subdivision plan by EDA, dated 3/14/14. The plan includes the extension of Hudson Avenue and Bergin Avenue and the creation of two cul-de-sacs. They propose to improve the section of Willetts Lane between Essex Avenue and Bergin Avenue. He discussed the proposed drainage. He stated that the proposed lots exceed the lot area requirement and that three of the lots require a frontage and width variance. The cul-de-sacs have been designed to accommodate emergency vehicles and turning radius. He does not believe that providing relief for the frontage and width would create a substantial detriment to the zoning plan or zoning ordinance. He believes the benefits of granting the variances would outweigh the detriments since the entire street would not be paved which would preserve the environment.

Mr. Orlando testified in regards to the front yard setback variances needed for each of the lots. He stated that the variance is needed since there is limited developable land because of the 150 ft. wetland buffer.

Mr. Orlando believes that special reasons for granting the height variance for the garage can be found in 40:55D-2 I since the garage would be compatible with the proposed two story home as well as N and E. He feels that granting the requested variances would not be a detriment to the public good. He believes that granting the variances would not negatively impact the zone plan given the size of the property, the topographic conditions and the wetlands and wetland buffers.

Mr. Dietrich testified the plans meet the ordinance requirements.

The meeting was open to the public.

Joseph Moyer, 201 Elmwood Avenue, Marmora, was sworn. His property is located across the street and within 200 ft. He feels this is a good design since there is limited impact to the environment. He is in favor of the application.

ZONING BOARD OF ADJUSTMENT

APRIL 10, 2014

PAGE 6 OF 6

Hearing no further comment the meeting was closed to the public and returned to the Board for findings of fact.

MR. PHIFER – Clayton Development Associates and Matthew Unsworth are the applicants. They site is 59 acres and is located in the Conservation zone where 10 acre lots are required. Single family dwellings and garages are permitted uses in this zone. A similar subdivision was approved by the planning board in 2002. Mr. Unsworth proposes to purchase lot 48.05 and build a house and pole barn. He is requesting a use variance to build the pole barn prior to construction of the principal residence. The proposed lots would be accessed by a cul-de-sac off of Hudson Avenue and Bergen Avenue. There are not any proposed improvements on Willetts Avenue except to widen the road between Bergen Avenue and Essex Avenue. Mr. Unsworth testified he would begin construction on the house within 6 months after completing the pole barn. Mr. Orlando provided testimony as to why the 200 ft. front yard setback is being reduced to 70 foot. He believes the variances can be granted using 40:55D-2 c, e, g, h and i.

MS. PETROZZA – There was positive testimony from one resident within 200 ft. She finds there would not be any detriment to the current zone plan or the public good.

MR. HEALY – He concurs with the special reasons as stated by Mr. Phifer.

MS. ADELIZZI-SCHMIDT – She is in favor of the application.

MR. KLEPAC – The applicant was represented by Jules Konschak, Attorney.

MR. SHAWL – He concurs with his colleagues. The applicant has indicated that the proposed detached garage would contain design elements that would relate to energy efficiency and using alternative uses of energy. He feels the height of the garage would not be a detriment because of the size of the property. He finds that utilizing the garage for storage during construction is a benefit. He agrees with special reasons I and j since the proposed cul-de-sacs would be beneficial to the neighborhood.

A motion was made by Ms. Petrozza and seconded by Ms. Adelizzi-Schmidt to grant the application with the standard conditions and that the applicant post a performance bond in an amount to be set by the board engineer and that Mr. Unsworth must start construction on the house after six months of completing the garage or he must return to the board for an extension. In favor: Healy, Klepac, Petrozza, Phifer, Adelizzi-Schmidt, Shawl.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Klepac, seconded by Ms. Petrozza, and approved. The meeting was adjourned at 9:00 p.m.

Submitted by,

Shelley Lea