

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
AUGUST 14, 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, Alistair Lihou, Lynn Petrozza, Christopher Phifer, Jeffrey Pierson, Susan Adelizzi-Schmidt, Matthew Unsworth and Paul Casaccio.

Absent: Thaddeus Klepac and Andrew Shawl.

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

APPROVAL OF THE JULY 10, 2014 MEETING MINUTES

A motion to approve the minutes was made by Mr. Phifer, seconded by Mr. Healy, and approved.

SWEAR IN PAUL DIETRICH AND SHELLEY LEA

APPLICATIONS

1. CEDAR LANE DEVELOPMENT LLC – BLOCK 565.02, LOT 117.03 – BA16-14

Applicants are requesting preliminary and final major subdivision approval to create 4 residential lots, a use variance to permit a flag lot and variances for lot frontage and width, setback variances for two existing sheds and a front yard setback variance for the existing house on the property at 1842 Route US 9 South in Seaville.

Jules Korschak, Esquire, represented the applicants. He explained the application was originally filed with the planning board, however one of the lots was deemed a flag lot which are not permitted in the Center Residential (R) zone. The property is unique in shape and has an extensive frontage along Route 9. A new road is not proposed as part of the subdivision therefore drainage calculations are not needed. The existing house located on proposed lot 117.06 requires a front yard setback variance and the two existing sheds on the lot require side yard setback variances. He stated that the frontage for proposed lot 117.04 is 100 ft. and most flag lots only have 50 ft. of frontage. This lot is 2.5 acres. He believes this is a better alternative than maximizing the number of lots.

Harry Vanderslice, 216 Victoria Lane, Ocean City and Vincent Orlando, Professional Engineer and Planner, were sworn.

Mr. Vanderslice testified he is the principal of Cedar Lane Development, Inc. He testified that the plans represent how he proposes to subdivide the property.

ZONING BOARD OF ADJUSTMENT

AUGUST 14, 2014

PAGE 2 OF 4

Mr. Orlando submitted an aerial photo of the subject property and surrounding neighborhood which was marked as Exhibit A-1.

Solicitor Marcolongo explained that the proposed lot meets the criteria of a flag lot. Flag lots are not permitted in this zoning district and require a use variance.

Mr. Orlando testified the proposed subdivision creates more open space and decreases density. He submitted an Alternative Major Subdivision Plan which was marked A-2. This plan includes 5 lots and a new road. This alternative plan is a buy rite subdivision and requires no variance relief. Mr. Dietrich commented that after 5 lots there is a requirement to have affordable housing.

Mr. Orlando testified the existing house would be rehabbed and sold. Mr. Vanderslice testified he is not sure if they will construct the houses for sale or sell the lots.

Mr. Korschak stated that the flag lot would meet the ordinance requirements for emergency access.

The meeting was open to the public.

Tom Keck, 4 Ortlieb Lane, was sworn. Mr. Keck asked about the size of the homes that would be built. He has lived here for 25 years. He is concerned about the impact to the wildlife on the property. He is opposed to removing the natural vegetation in the landscape buffer. Mr. Orlando agreed to deed restrict the 25 ft. wide landscape buffer so no trees can be removed.

John Ward, 2 Ortlieb Lane, was sworn. Mr. Ward believes that drainage should have to be installed. Mr. Orlando stated that the construction of homes on the lots would not have a detrimental impact on the properties on Ortlieb Lane.

Joseph Corey, 1836 South Shore Road, was sworn. Mr. Cory stated that his property is closest to the flag lot. His house is approximately 20 ft. from the property. His property is one foot below the surface of Route 9. If the proposed lot is filled their driveway would be higher than his and all the water would drain toward his property. Mr. Orlando stated that the lot would be graded so that the water would drain toward Route 9. Mr. Unsworth stated that the topography shows there is a low point across the front of the proposed flag lot and runs to Mr. Corey's property. Mr. Orlando testified that he would install a swale along the south side of the driveway to collect the water from the proposed flag lot and the Corey lot.

Roger Rink, 1852 Route 9, was sworn. Mr. Rink stated that Route 9 is definitely higher. He is concerned about making the problem worse. He lives on a flag lot that was created long before the ordinances were put in place. He believes this is the best plan for the neighborhood. He would like the flag lot restricted from any future subdivisions. Solicitor Marcolongo stated that because the board is being asked to approve a use variance the board would have the ability to deed restrict the flag lot if they find it to be appropriate.

Mr. Dietrich informed the board that he would like to review the drainage plan prior to the applicant receiving a building permit to confirm that it would not be detrimental to the neighbors.

ZONING BOARD OF ADJUSTMENT

AUGUST 14, 2014

PAGE 3 OF 4

Tom Keck, previously sworn, suggested moving the flag lot to the center of the property to get the driveway away from the existing homes. Mr. Dietrich testified that moving the frontage to the middle of the lot would reduce the landscape buffer.

John Ward of 2 Ortlieb Lane had questions about the utilities to the flag lot.

Alonzo Overman, 1850 Shore Road, was sworn. Mr. Overman testified his property is on the south side of this lot. He is concerned about the drainage. He asked if the applicant would cut the trees back out of the site triangle since it is hard to see the cars on Route 9. Mr. Orlando agreed to cut back the trees on their property for visibility.

The meeting was closed to the public at this time. The board was asked for finding of facts.

MR. PIERSON - The applicant Cedar Lane Development is the owner of Block 565.02 Lot 117.03 located at 1842 Route US 9 South in Seaville, New Jersey. They are requesting a use variance to allow a flag lot, frontage and width variance along with setback variances for the existing house and two existing sheds on proposed lot 117.06. They are also requesting a waiver for the grading plan. Flags lots are not a permitted use in this zone, however, he feels the applicant has presented many special reasons including special reasons a, b, c, e, g and m. This is a unique lot. This design would limit the number of lots and the homes that could be built. The applicant's professional's submitted exhibit A-2 that shows an alternative plan that involves a new road and more lots. They also submitted A-1 an aerial photo showing the vegetation. The applicants agreed to keep a 25 ft. landscape buffer along the driveway. A septic plan has not been designed. The lots are not sold yet. The applicants have further agreed to a deed restriction on lot 117.04 so that only one house could be developed. They have also agreed to install a swale for runoff. The applicant will maintain the site triangle by cutting back the trees on the property.

MS. ADELIZZI-SCHMIDT – Nothing to add.

MR. HEALY – He agrees with Mr. Pierson. He finds there would not be any substantial detriment to the public good.

MR. UNSWORTH – He concurs. He finds that the concerns voiced by the neighbors have been mitigated by the deed restriction, the drainage swales along the driveway and the 25 ft. landscape buffer. He is in favor of the application as presented.

MS. PETROZZA – She concurs.

MR. PHIFER – A variance is needed for proposed lot 117.06 for the pre-existing non-conforming 39.4 ft. front yard setback where a 50 ft. setback is needed. He finds that the neighbors want confirmation that there would not be any runoff onto their properties. The drainage will be addressed. He believes the design presented is the best alternative for the neighbors. He finds that relief can be granted without substantial detriment to the public good and would not impair the intent and purpose of the zoning plan or zoning ordinance. He finds that special reasons a, c, e, g and i apply. He is in favor of the application.

MR. LIHOU – He concurs.

MR. CASACCIO – He feels the variances needed for the two pre-existing non-conforming sheds can be granted without substantial detriment to the zoning plan. The proposed plan is comparable to the neighborhood since there are other flag lots in this area.

A motion was made by Ms. Petrozza and seconded by Mr. Pierson to grant the application as presented, conditions include the 25 ft. landscape buffer, deed restriction that only one single family house can be built on 117.04 and the Township Engineer must review the drainage plan

ZONING BOARD OF ADJUSTMENT

AUGUST 14, 2014

PAGE 4 OF 4

and the trees on the lot will be trimmed. . In favor: Healy, Lihou, Petrozza, Phifer, Pierson, Adelizzi-Schmidt, Unsworth, Casaccio.

RESOLUTIONS

1. KENNETH MOORE – BLOCK 549, LOT 10 – BA11-14

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

BILLS

A motion to pay the bills was made by Mr. Shawl, seconded by Mr. Healy, and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Pierson, seconded by Ms. Petrozza, and approved. The meeting was adjourned at 8:48 p.m.

Submitted by,

Shelley Lea