UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
MARCH 13, 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, Alistair Lihou, Lynn Petrozza, Christopher Phifer, Jeffrey Pierson, Susan Adelizzi-Schmidt, Andrew Shawl and Matthew Unsworth.

Absent: Jeffrey Stuart and Paul Casaccio.

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

APPROVAL OF THE FEBRUARY 5, 2014 SPECIAL SESSION MINUTES

A motion to approve the minutes was made by Mr. Shawl, seconded by Ms. Petrozza and approved.

APPROVAL OF THE FEBRUARY 13, 2014 MEETING MINUTES

A motion to approve the minutes was made by Mr. Pierson and seconded by Ms. Petrozza, and approved.

TABLED APPLICATIONS

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

Toni Gheen, Esquire, represented the applicant. She announced that the applicant wishes to table the application until April 10, 2014 at 7:30 p.m. She agreed to the tolling of the time. No further notice will be required.

APPLICATIONS

1. NEW JERSEY AMERICAN WATER – BLOCK 560, LOT 1.01 – BA13-13

Applicants are requesting preliminary and final site plan approval; a use variance for height and a use variance for more than one principal structure on the lot and waivers from providing a topographic survey and site survey and for a 2 year storm 50% runoff

flow reduction to install a 160 ft. tall 750,000 gallon elevated water storage tank at Cedar Square Shopping Center, 2087 Route US 9 South in Seaville.

Mr. Shawl stepped down during this application due to a conflict.

Paul Dietrich and Shelley Lea were sworn.

Stacey Mitchell, Esquire, represented the applicants. The applicants propose to construct a water tower along Route 9 in the TCC zoning district.

Edward DiMond, Professional Engineer from Buchart Horn, Inc., was sworn in as a professional. He prepared the site plan for the applicant.

Ms. Mitchell submitted an affidavit of proof of mailing and publication that was marked as Exhibit A-1. She stated the proposed 7,500 gallon water storage tank would serve the residents of Upper Township. She requested to amend the application to include a variance to allow an 8 ft. high fence with barb wire on the top where only 6 ft. is permitted.

Mr. DiMond used an aerial photo to describe the property and the location of the proposed tank. There is a 50 ft. clearance proposed around the tank for maintenance such as painting. The proposed 8 ft. high fence is for security purposes.

Mr. DiMond testified the water tank is needed as part of the high service gradient needed to provide higher water pressure. They will be creating a storm water basin on site that will meet the townships requirements. They are requesting a 38% reduction for the 2 year storm rather than a 50% reduction as required. He feels the difference is very minimal and would not impose a significant impact. Mr. Dietrich agreed this is a very diminimiss deviation from the standard.

Mr. DiMond testified there would be a 50 ft. buffer for future maintenance of the tank. Approximately 9/10 of an acre would be cleared. The rest of the area would contain the basin and the fence would go around the cleared area. There is a vegetated buffer proposed that averages from 42 ft. to 100 ft. Two lights are proposed, one near the gate that would be on a photocell and a motion sensor light on the tank. A paved driveway would be added and a parking area. The water company would visit the site twice a week to check the tank. This would create very minimal traffic. This is an elevated water tank so there are no pumps or motors. The tank reports back to the central facility as far as its tank elevation. There is a scata system which is a radio system and there is a pressure transmitter that senses the level of the tank. In the event of an extended power failure, there is an outlet on the outside of the tank for a portable generator. The generator would be brought out to continue the communication on the tank level. This is portable drinking water and would not emit an odor.

Mr. DiMond testified in regards to the outside agency permits including CAFRA, the Garden State Parkway and their Historical Preservation Office. He stated there was a concern about aesthetics of the tank, however they believe the color white on the tank is acceptable. They have been asked not to have any lettering or logo to face the parkway. They will need to work on this since the original plan was to have their logo facing the parkway. They intend to work with the Township professionals as to where they can put their logo.

James Schaller, Project Manager for New Jersey American Water, addressed the logo. They can now only put a logo on the west side of the tank facing Route 9. The logo would be totally up to the board professionals.

Mr. Shaller testified there are several tanks in the area, the most recent in Egg Harbor Township. They would be in favor of including the township name as well as their logo on the tank. He stated that the final route to get the water to the tower has not been established yet.

When asked if the tower would benefit only Upper Township residents Mr. Shaller testified that as of today their intentions are to stay in Upper Township. This project is to raise the radiance and stabilize the pressure. Upper is currently flowing off the Ocean City radiant and Upper's elevation is slightly higher since it is inland.

Mr. Shaller testified they would be utilizing the existing driveway into the rear of Cedar Square where there is presently a waste water treatment plant and other supporting utilities. They do propose to install security to prevent vandalism; however they did not want to elaborate on it. The tank is approximately 1,500 ft. from Route 9.

Mr. Shaller testified they have no intention of making this into a storage yard and that the tank would not have a negative effect on any septic systems.

Mr. Dietrich testified that last time the applicants extended the main the Township and the fire chiefs had input as to the locations of the fire hydrants. Mr. Shaller agreed to meet with the township and the fire company when they begin to the design process.

Mr. Shaller testified the tank would provide the same water pressure throughout the township. One third of the tank would be dedicated to fire suppression.

Kevin Brown, Production Manager for New Jersey American Water, was sworn in. He testified the biggest benefit is to the fire company.

Mr. Dietrich testified that he has been in contact with the Office of Emergency Management and they would like to have the ability to mount an antenna on the tower. Since the tank is located in a flood zone, he asked that any electric equipment or valving be kept above the 500 year flood benchmark although it is not a requirement in the ordinance. He also stated that he has had requests from aviators in the township to put lettering on the top of the tank to identify the area from the air.

Mr. Shaller testified the height of the tower including the railing is 160 ft. He stated the tower is still in the design stages but it would take approximately 8 to 10 months to construct and another two months to paint.

Ms. Mitchell stated that an easement is necessary since the only access is off of Route 9. In regards to the requested waivers she stated it is their position that a topographic survey is not needed since the 20 acres site is already developed. Mr. Dietrich agreed.

Mr. DiMond testified that the second waiver is for the 2 year storm or 50% runoff flow reduction. They do not meet this requirement, however they do meet the 10 year and the 100 year storm requirements. Mr. Dietrich feels it is worth saving the trees rather than making the basin larger.

Mr. DiMond testified the height of the proposed water tower would not substantially impair the intent and purpose of the zoning plan. There would be a benefit due to the increase in water pressure. He feels that adding an additional structure on this site would not be a detriment but rather a benefit through the increased fire protection. He feels the 8 ft. high fence with barb wire would not be a detriment to the public good since security is needed due to its location of the tower.

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

MR. PIERSON – He finds that New Jersey American Water is proposing to construct a water tower on Route 9 in the TCC zoning district. The applicants are requesting preliminary and final site plan approval as well as two waivers and variances. There will be a cleared area for maintenance and security. A water basin will be constructed on site. A photocell light is proposed near the gate and would be on during the night. A motion detector is proposed on the tower. Workers would check on the tank two times a week. There would not be any additional noise except in the event the power went out and a generator was hooked up. There will not be any odor associated with the tower. They are waiting for final approval from CAFRA. There are signage issues that will be handled by the applicant and the township professionals. The roadway leading to the tank will be paved. The route and the location of fire hydrants have not yet been determined. If the application is not approved the pressure would remain tied into Ocean City. The OEM has asked to place two antennas on the tank. The buffering meets the township requirements. The tank will be located in the flood zone so it is recommended to keep the critical components above the 500 year benchmark. There is a ten year cycle for maintenance on the tower. The consensus is that the tower would not impact the future of the township. He finds that special reason c and d are applicable.
MS. ADELIZZI- SCHMIDT – She feels the evidence provided has been favorable. She finds the benefits are the improved water pressure and fire protection.
MR. KLEPAC – He concurs.
MR. PHIFER – The proposed buffers are 42 ft. 55 and 100 ft. The site is 1,500 ft. from Route 9. The tower would offer enhanced fire suppression for the township. The

applicant has shown that relief can be granted without substantial detriment to the public good and would not substantially impair the intent or purpose of the zoning plan or the zoning ordinance. He finds the variance can be granted using 40:55D-2 special reasons a, b, e and g.
MS. PETROZZA – She finds the benefits of the application will substantially outweigh any detriments because of the increased fire protection and better water pressure. There was no comment from anyone in the public.
MR. HEALY – He finds the application can be granted without substantial detriment to the public good.
MR. LIHOU – He would be in favor of the application since he finds there would not be any negative impact.
MR. UNSWORTH – He concurs with his colleagues. The applicants testified there would not be a negative impact to any future interchange in Seaville.

A motion was made by Mr. Pierson and seconded by Mr. Healy, to grant the application as proposed, the signage on the tank will be determined by the Upper Township professionals, the applicant and the appropriate historical society and the logo if any would be secondary in size to the signage in favor of Upper Township, the applicant would continue to work with the Township in regards to fire hydrants along the route, the access road to the site would be asphalt, the applicant will permit the Upper Township EMS to locate antennas on the tower , all electronic and mechanical equipment would be above the 500 year storm line and the applicant agrees to maintain the exterior of the tower in a reasonable manner along with the standard conditions. In favor: Healy, Lihou, Petrozza, Phifer, Pierson, Adelizzi-Schmidt and Unsworth.

There was a short recess at this time.

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

Applicants are requesting variances for front yard setback, lot depth and street opening width, to construct a new single family dwelling at 2612 S. Commonwealth Avenue in Strathmere.

Joel M. Fleishman, Esquire, represented the applicant. He stated that the applicants purchased the property in 2010. The applicants propose to demolish the existing house and construct a new 3,080 sq. ft. single family dwelling. They filed their CAFR permit in

November 2013. The subject property is located on the corner of Commonwealth Avenue and Taylor Avenue and has two front yards.

Mr. Deitrich stated there is a clause in the ordinance that indicates 95 ft. lot depth is permitted along this section of Commonwealth Avenue.

Robert Bachich, Registered Architect, was sworn. Mr. Bachich testified there is an old fishing cottage currently on the property. He described the surrounding area. The

property was changed from a V zone to an A zone making it easier to get a CAFRA permit. He feels the existing 95 ft. lot depth is a hardship since the septic is in the rear of the lot. If the lot depth were 100 ft. they would not need variances. Access to the site is proposed off of Taylor Avenue.

Mr. Bachich testified the proposed improvements would promote a better visual environment since the existing building is in such bad repair. The occupants would be provided accessibility by providing an elevator in the unit. The occupants and community would be provided better safety since the building would meet the building codes and FEMA codes. The structure would provide adequate light, air and open space and would be compatible with the area. The only negative aspect of the project is that the house directly behind this property is a one story building and they have been able to enjoy a small structure in front of them with no one living there for years. He feels that any structure built on this particular property even if it met the setback requirements would limit their view.

Mr. Bachich testified that he believes the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the master plan or zoning ordinance.

There was discussion concerning the curb cut width. Mr. Dietrich confirmed that number of parking spaces on the road would not be reduced due to the larger curb cut. Mr. Bachich testified there is parking for two vehicles under the building and two in the driveway.

There was also discussion about the 40 sq. ft. front landing. Mr. Bachich did not think it was counted as building coverage; however it is because of the roof. It was determined that the building coverage is actually (.007) 27.7%. Mr. Fleishman requested to amend the application to request a building coverage variance, 27.7% where 27% is permitted.

Mr. Dietrich stated that the roof top deck on the third floor is not habitable space. Mr. Bachich read into the record a note that was written to the zoning officer confirming the vaulted ceilings make it impossible to add a habitable third floor.

Joseph Penzone, 2700 S. Commonwealth Avenue, was sworn. He is in favor of the proposed structure.

The meeting was closed to the public and returned to the Board for findings of fact.

MR. PIERSON – The applicants are being represented by Joel M. Fleishman, Esquire. The subject property is located on the corner of Taylor Avenue and Commonwealth Avenue, Block 791, Lot 1. It has been determined that the lot depth variance is not required since the lot is grandfathered. The application has been amended to add a variance to allow 27.7% building coverage where 27% is permitted. The applicants propose to demolish a dilapidated 2 story building and replace it with a new 3,120 sq. ft.

structure. The septic was designed for a 3 bedroom house. The size and type of house was dictated by the septic system. The house would be constructed toward the south of the lot to provide access on Taylor Avenue. The application as proposed provides a better visual environment along with light, air and open space and is consistent with the neighborhood. There is access to the upper floor via an elevator. The ground floor may not be used as habitable space. A neighbor has spoken in support of the application.
MS. ADELIZZI-SCHMIDT – She finds the handicap accessibility is a special reason for granting the variances.
MR. KLEPAC – He concurs with his colleagues.
MR. PHIFER – Nothing to add.
MS. PETROZZA – She concurs.
MR. HEALY – He concurs.
MR. LIHOU – He concurs.
MR. UNSWORTH – He concurs. A deed restriction will be filed for the ground floor.

A motion was made by Mr. Pierson and seconded by Ms. Petrozza to grant the application with the standard conditions and that a deed restriction will be filed to prohibit the ground floor from being used as habitable space and there would not be any habitable space on the third floor. In favor: Healy, Lihou, Petrozza, Phifer, Pierson, Unsworth.

RESOLUTIONS

1. RESOLUTION AUTHORIZING CONTRACT WITH DEAN R. MARCOLONGO, ATTORNEY AT LAW, FOR PROFESSIONAL SERVICES

   A motion to adopt the resolution was made by Mr. Pierson, seconded by Ms. Petrozza, and approved.

2. EUGENE & DAWN DOHERTY – BLOCK 735, LOT 2 – BA01-14

A motion to adopt the resolution was made by Mr. Pierson, seconded by Ms. Petrozza, and approved.

BLLS

A motion to pay the bills was made by Ms. Adelizzi-Schmidt, seconded by Mr. Pierson and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Ms. Petrozza, seconded by Mr. Healy, and approved. The meeting was adjourned at 9:40 p.m.

Submitted by,

Shelley Lea