

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
OCTOBER 9, 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, Andrew Shawl, Matthew Unsworth, Chairman Paul Casaccio.

Absent: Thaddeus Klepac, Jeffrey Pierson, and Susan Adelizzi-Schmidt.

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

**APPROVAL OF THE SEPTEMBER 11, 2014 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Unsworth, seconded by Mr. Healy, and approved. Abstain: Petrozza, Casaccio.

**SWEAR IN PAUL DIETRICH AND SHELLEY LEA**

**TABLED APPLICATIONS**

The applications listed below have been tabled until November 13, 2014. The applicants have agreed to waive the time in which the applications must be heard. No further notice is necessary.

1. BENJAMIN HABERMAN – BLOCK 551, LOT 1 – BA18-14
2. BONNER & BONNER PARTNERSHIP – BLOCK 791, LOTS 22 & 23 – BA19-14
3. JAMES & DONNA YOUNG – BLOCK 476, LOT 2 – BA20-14
4. STEFAN POWELL – BLOCK 549, LOT 52.02 – BA21-14

**APPLICATIONS**

1. JAMES SCHRODER – BLOCK 453, LOT 255 – BA12-14

Applicant is requesting a use variance, site plan approval for pre-existing campsites, and variance for buffering at 98 Corson Tavern Road in Seaville.

Julius N. Korschak, Esquire, represented the applicant. Mr. Korschak explained there are three pre-existing campsites that are within the 100 ft. buffer. This was discovered when a property owner made complaints to the zoning officer. He stated that these campsites have been there since 1990 and were part of a site plan approval granted by the planning board in the 1980's. As

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part of this application Mr. Schroder is offering to install a fence and additional landscaping. He believes that moving the trailers would be a hardship.

Joseph Maffei, Professional Engineer was sworn along with James Schroder, 98 Corson Tavern Road, Ocean View, New Jersey.

Mr. Maffei testified in regards to the EDA plan dated 6/23/14 and revised 9/22/14 and a survey by Stephen C. Martinelli dated 6/6/14. Mr. Maffei described the existing campground. The plans show the eight campsites that are being discussed.

An Existing Conditions Plan by Stephen C. Martinelli, dated 6-6-14 and revised 8-21-14 was marked as Exhibit A-1. Mr. Maffei described the surrounding units and the eight units shown on the survey. A copy of the Campground License issued by the Township was marked A-2. The maximum number of sites on the license is 275. The actual number of sites currently established is 249. He submitted an old aerial photo that shows the campground existed prior to many of the houses in the area. The aerial photo taken in 1990 was marked A-3.

Mr. Maffei testified that the campground is located in the R2 zoning district. The campground is pre-existing non-conforming since campgrounds are no longer permitted in any zone. In order to create a visual buffer the applicant agrees to install 6 ft. high solid vinyl fence and plant red cedar trees. A copy of an approved Site Plan Of Existing And Proposed Conditions by Michael W. Hyland Associates PA, dated 12-2-86, consisting of 2 sheets was marked A-4. He feels the use variance can be granted using special reasons a, c and i. He believes the property is particularly suited for this type of relief. He also believes the variances can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zoning ordinance and zoning plan.

Mr. Dietrich suggested Leland Cyprus rather than the proposed cedar trees. The applicant agreed to plant Cyprus.

Mr. Schroder testified he has owned the campground since 1986. He testified that when he put the trailers in these locations he thought he met the buffer requirement. He explained a discrepancy in the survey and how the old marker was only a stone on the ground. When the campsites were created there were no houses only woods. He stated that the trailers have porches and sunrooms with footers that would be hard to move.

Mr. Dietrich stated at that time the trailers were set there were no requirements for as built surveys to show the location was in compliance. The campgrounds in the township were developed prior to zoning standards and existed before the residential uses. He feels the setback variance should be taken from the accessory structures also and not only the trailers.

The meeting was open to the public.

John James Germanio of Belleplain, New Jersey, was sworn. Mr. Germanio is the owner of the adjoining property. He submitted documents containing Resolution BA13-03 that was marked as P-1, three different aerial photos showing the trailers and Mr. Germanio's lot highlighted were marked P-2, P-3 and P-4, a copy of a portion of the tax map P-5, a large aerial photo was marked P-6, an aerial by Fralinger Engineering was marked P-7, Resolution SD01-06 was marked P-8, Resolution SD07-06 was marked P-9, and a deed dated October 5, 2009 P-10. Mr. Germanio

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reviewed each of the exhibits. He commented that there is trash on the property that wasn't there before and needs to be cleaned up. He referred to Exhibit P-9 to show that Mr. Schroder requested a tree line buffer and a fence 25 ft. on his property. He wants the applicant to have to do the same and install a fence 25 ft. from the property line on the campground property.

Edward Pearce, 6 Buckhorn Lane, Cape May Court House, was sworn. Mr. Pearce testified that he is the owner of lot 240.09 that backs up to the campground. He submitted five photos that he took about six days ago. The photos were marked P-11, P-12, P-13, P-14 and P-15. The photos show how close the sheds are to the property line and the trash on the ground.

Mr. Pearce testified that his house will be built 75 ft. from the street. He stated there is not much low vegetation only scrubby oaks. He does not want to see trailers from his back yard. Mr. Schroder agreed to add vegetation to help block the view of the trailers. He agreed to plant the trees 15 ft. on center rather than 25 ft. as shown on the plan.

Carl and Louis Wittkowski, 32 Luke Court, were sworn. They wanted to know what would be done behind their house. This application would not affect their property even though they are within 200 ft. of the campground.

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

MR. SHAWL – James Schroder is the owner of 98 Corson Tavern Road, Block 453, Lot 255. The property has been used as a campground since before 1990. The applicant submitted an aerial photo taken between 1987 and 1990 showing there were campsites in the rear of the property. Those campsites were mistakenly installed in a buffer established as part of a site plan approval granted by the planning board. The applicant is willing to provide additional buffering. Joseph Maffei of EDA testified there are 8 trailers within the 100 ft. buffer. The closest structure is 21.99 ft. from the north side property line and on the west side another shed is only 29.1 ft. The township committee has issued a permit for 275 sites. Mr. Maffei testified the campground has existed for over 30 years and that the campground would no longer be permitted in this zone. He finds the fence and trees would improve the buffer so the trailers could exist within the buffer without a visual impairment and that the fence and trees are an appropriate visual environment for the campground and residential properties. It would be a hardship to move the trailers since they have decks and Florida rooms. The error was discovered after a complaint was made to the zoning officer. The site is wooded and the applicant is willing to add additional vegetation and a 6 ft. high fence to correct the deficiency of the buffer. There were no as built survey requirements when the campground was developed. Mr. Germanio owns the adjoining lot and he testified there is trash on the ground that needs to be cleaned up. He requested enhanced buffers that differed from what the applicant proposes. Mr. Pearce also owns an adjacent lot and he submitted five photos indicating there are structures closer than 25 ft. to the property line and debris. Mr. Pearce is satisfied with the fence and trees proposed by the applicant. He concurs with Mr. Maffei's professional opinion that the trees and fence would enhance the buffer area and provide a better visual buffer and that these units would not impair the open space given there is still a buffer on the campground side and one on the residential side. He finds the board could approve this application without detriment to the zoning plan.

MS. PETROZZA – She finds the relief can be granted since it satisfies special reasons (i) and (c). She agrees the application could be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan or zoning ordinance.

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MR. PHIFER – He finds the application can be granted using special reasons (a), (c) and (j).

MR. LIHOU – He concurs.

MR. UNSWORTH – He concurs.

MR. HEALY – He concurs.

MR. CASACCIO - He concurs. These are seasonal units and not year round. There will be no further expansion of the campground without coming before the board. There is an area in the rear of the property where there is a dispute in the property line.

A motion was made by Mr. Unsworth and seconded by Mr. Healy to grant the application as proposed with the conditions that the applicant install a solid white 6 ft. high vinyl fence along the entire length of the western property line within 90 days, the applicant will revise his plans and plant 5 to 6 ft. high Leland Cyprus on the applicants side of the fence that will be 15 ft. on center and will be planted on or before April 15, 2015, there will be no future development of campsites or sheds in the buffer area without returning to the zoning board for approval, the any debris will be cleaned up within 30 days. In favor: Healy, Lihou, Petrozza, Phifer, Shawl, Unsworth, Casaccio.

2. JASMAR INVESTMENTS LLC C/O JASON GRECCO – BLOCK 599, LOT 13 – BA13-14

Application is for preliminary and final site plan approval to construct a 3,000 sq. ft. building for landscape office and equipment storage; a use variance to permit outside storage of landscape materials and equipment in the rear of the property; a lot coverage variance and variances for pre-existing front and side yard setbacks and pre-existing sign and a waiver of site plan approval for the existing office building in the front of the property at 507 South Shore Road, Marmora.

Julius N. Konschak, Esquire, represented the applicant.

Jason Grecco, 3 White Oak Drive, Palermo, was sworn in along with Joseph Maffei, 5 Cambridge Drive, Ocean View, New Jersey.

Mr. Maffei testified in regards to the EDA Site Plan, dated 6/20/14 and revised 8/28/14. He feels this is an appropriate location for this use since the property is located in the TC zoning district which encourages multiple uses on the same property. The application as proposed preserves open space. The property is over one acre. The fenced portion of the lot in the back is 18,000 sq. ft. and will be used to store topsoil and other related products. There are several offices intended to use the front building. There will be no retail sales on site. The applicant proposes to use the existing sign. The size and the height of the sign will not change and it will remain in the same location. The proposed lighting would be attached to the building and there will not be any lights on poles. The plan includes curb and sidewalks.

Mr. Maffei testified the application could be granted without detriment to the public good since the proposed use conforms to the intent of the TC zone. He reviewed the proposed drainage. The proposed 3,000 sq. ft. office / storage building to be built in the rear of the property would be used by Mr. Grecco for his landscape business. There would not be any trash or storage of vehicles in disrepair on the property.

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Solicitor Marcolongo stated that the applicant will be required to satisfy the non-residential development fee.

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

MR. SHAWL – Jasmar Investment LLC is the owner of 507 Route US 9 South, also known as block 599, lot 13. The property contains a 3,600 sq. ft. office building. The applicant wishes to construct a 3,000 sq. ft. office/storage building and a fenced area for storage of equipment and materials in the rear of the property. The applicant is proposing preliminary and final site plan approval, a use variance for two buildings on one lot and a variance for lot coverage. Joseph Maffei testified that the proposed use of the property conforms to the intent of the TC zoning district. Mr. Maffei believes the application meets the intent of the land use plan and zone plan. The special reasons for granting the use variance cited by Mr. Maffei was that the plan is consistent with the intent of the TC zone and the open space being retained. The front building would remain office space. There will be building mounted lights. There will not be any retail on site. There would not be any equipment or vehicles in disrepair stored on site. The storm water will be managed on site. There was no public comment.

MS. PETROZZA – She concurs. She finds the application can be granted relief as it satisfies special reasons ( c ), ( I ) and ( m ).

MR. PHIFER – He concurs.

MR. LIHOU – He concurs.

MR. UNSWORTH – He concurs.

MR. HEALY – He concurs.

CHAIR CASACCIO – He concurs.

A motion was made by Mr. Phifer and seconded by Ms. Petrozza to grant the application as presented with the condition the applicant satisfy the Upper Township non-residential development fee, there will be no storage of motor vehicles in disrepair in the rear lot, the office in the new building will be for Mr. Grecco’s business only any change would have to come before the board, the size and type of sign will remain the same, the storage in the rear will be for Mr. Grecco’s business only and there will be no retail sales. In favor: Healy, Lihou, Petrozza, Phifer, Shawl, Unsworth, Casaccio.

3. ROY & ELLA DIAMOND – BLOCK 833, LOT 2 – BA15-14

Applicants are requesting a use variance to demolish two existing single family dwellings and replace them with a duplex and variances for building coverage, length of the curb cut, front yard setback and lot depth at 509 Bayview Drive, Strathmere.

Arthur T. Ford, III, Esquire, represented the applicants. Robert Bachich and Roy Diamond were sworn. Mr. Diamond testified he purchased the property 1999. The house was originally constructed in the 1930’s. He testified that damage done by Hurricane Sandy has rendered the house unlivable. He proposes to demolish the two homes and replace them with a duplex. He has received a permit from the Cape May County Department of Health for a new septic.

Mr. Bachich, Registered Architect, testified that he prepared the plans dated 7-7-14 and last revised 8-26-14. He reviewed the current setbacks for both of the structures on the lot and the adjoining properties. He listed the variances being requested by the applicant to build the proposed two story duplex on a 4,000 sq. ft. lot in the RR zoning district. He stated there are two

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12 ft. curb cuts proposed and 20 ft. of curb between for parking. He stated that the septic takes up 1/3 of the lot and has driven the house closer to the road which is why the proposed setback is less than the current setback. He stated the coverage variance is needed to allow for the decks. He testified the area under the roof deck will be used for mechanical equipment and storage and would not be habitable. He feels the proposed duplex is compatible with other structures in the area.

Solicitor Marcolongo explained the lot depth variance would not be needed since it is an existing condition.

Mr. Bachich described exhibits A-1 through A-5, five photos showing the subject property. He feels the proposed duplex would provide a much more visual environment. The new structure would provide for better flood protection and fire protection and a new septic. He also feels the new structure would be consistent with the newer development in Strathmere. A large plan dated 7-7-14 showing the front of the proposed building and the southwest elevation was marked A-6. Exhibit A-7 is another large plan also dated 7-7-14 showing what the rear of the structure would look like. Both photos contain an aerial with the proposed structure inserted. He testified as to the drainage on the property.

Mr. Diamond testified there are three bedrooms in the front unit and one bedroom in the rear unit. Mr. Bachich testified that the proposed structure is only 209 sq. ft. more than what is there now. Mr. Dietrich added that the front yard setback is not being measured from the bow on the front of the building. He suggested revising the plan to show the setback from both the house and from the curve on the upper floor.

The meeting was open to the public.

Charles Doyle, 500 Bayview Drive, Strathmere, was sworn. Mr. Doyle feels that aesthetically the proposed duplex looks better with the curve and the decks. He feels the house would be an improvement to the neighborhood and the town. He is in favor of the variances requested.

Gary Seagraves, 501 Bayview Drive, Strathmere, was sworn. Mr. Seagraves is in favor of the application. The lot coverage on his property is greater than what the applicant is proposing.

Mr. Dietrich commented that the lots in this block are abnormally small.

Kathryn Blackwell 505 Bayview Drive was sworn. Ms. Blackwell is concerned about the size of the structure. She feels she will be in a tunnel and overshadowed by the new structure. She would not have a problem with it if it were set back more.

Another resident at 505 Bayview Drive was sworn. This is his permanent home. He is concerned about renters and noise. He asked that the contractor put up a barrier so the debris does not come onto their property.

Kenneth Weaver, 212 S. Bayview Drive, was sworn. Mr. Weaver feels the new structure would be a beautiful addition to the community.

Herb Hollinger, 113 Putnam Road, was sworn. Mr. Hollinger feels the new structure will fit into the community very nicely.

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George Welker, 702 Bayview Drive, was sworn. He feels the new building is an absolute asset to the community.

Hearing no further comment the meeting was closed to the public.

Mr. Ford commented that the benefits of granting the variances far outweigh any negative impacts. He feels that granting the variances would not have a negative effect on the neighborhood or the zone plan or zoning ordinance.

The board gave their findings of fact.

MR. SHAWL - Roy and Ella Diamond are the owners of 509 Bayview Drive in Strathmere, also known as Block 833, Lot 2. They purchased the property in 1999. There is a main house and a smaller house in the rear. The owners have made many improvements to the structures, however damage from Hurricane Sandy made the houses uninhabitable. They plan to demolish the buildings and replace them with a new duplex. The new septic requires the duplex to be built closer to the road so that it cannot meet the front yard setback requirement. The variance for building coverage is needed for the proposed decks. Each unit would have a garage that would provide 2 onsite parking spaces. There are two proposed 12 ft. street openings where only one is permitted. There is 20 ft. between each driveway to provide offsite parking. The design of the new building is well suited to the character of the neighborhood. The side yard setback of the new structure is larger than the existing house allowing for more space between the adjacent houses. Mr. Bachich testified the proposed design creates a more desirable visual environment because of the location of the structure on the property and since it would be one building rather than two buildings on the lot. The proposed structure secures the property from fire and flood and a new septic would be constructed. The drainage and runoff would be managed off site. The number of bedrooms remains the same. The curve on the second floor exceeds into the proposed 12.08 ft. front yard setback. The setback will be shown on a revised plan and the applicant has requested an additional 18" to accommodate this. Several neighbors spoke in support of the application. One of the neighbors felt their home would be boxed in because of the size of the proposed structure. The township engineer has stated that block 833 contains very small lots. He concurs with the special reasons cited by Mr. Bachich. He has no problem with the amended front yard setback since it is on the second floor.

MS. PETROZZA – She concurs.

MR. PHIFER – Nothing to add.

MR. LIHOU – In favor of the application for the reasons stated.

MR. UNSWORTH – He feels the requested building coverage is too high.

MR. HEALY – He finds the variances can be granted without substantial detriment to the neighbors.

MR. CASACCIO – He concurs. He finds this type of structure is the new trend in the Strathmere and the proposed structure is compatible to other homes in the neighborhood.

A motion was made by Ms. Petrozza and seconded by Mr. Shawl to grant the application for the construction of a duplex with the condition the plan is revised to evidence the front yard setback to the building will be 12.08 ft. and the setback to the third floor deck is 10.58 ft. In favor: Healy, Lihou, Petrozza, Phifer, Shawl, Casaccio. Opposed: Unsworth.

**RESOLUTIONS**

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1. BARBARA & MICHAEL CONTINO – BLOCK 826, LOTS 2 & 2.02 – BA14-14

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mr. Lihou, and approved.

2. KEVIN & KARLIN MURTHA – BLOCK 348, LOT 84.04 – BA17-14

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mr. Healy, and approved.

**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. Shawl, seconded by Mr. Unsworth, and approved. The meeting was adjourned at 10:56 p.m.

Submitted by,

Shelley Lea