

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
SEPTEMBER 11, 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, Christopher Phifer, Susan Adelizzi-Schmidt, Andrew Shawl and Vice Chair Matthew Unsworth.

Absent: Thaddeus Klepac, Alistair Lihou, Lynn Petrozza, Jeffrey Pierson and Chairman Paul Casaccio.

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

**APPROVAL OF THE AUGUST 14, 2014 MEETING MINUTES**

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

**SWEAR IN PAUL DIETRICH AND SHELLEY LEA**

**TABLED APPLICATIONS**

The applications listed below have been tabled until October 9, 2014. The applicants have agreed to waive the time in which the applications must be heard. No further notice is necessary.

1. JASMAR INVESTMENT LLC C/O JASON GRECCO – BLOCK 599, LOT 13 – BA13-14
2. ROY & ELLA DIAMOND – BLOCK 833, LOT 2 – BA15-14

**APPLICATIONS**

1. BARABAR AND MICHAEL CONTINO – BLOCK 826, LOTS 2 AND 2.02 – BA14-14

Applicants are requesting a rear yard setback varianc, 18.1 ft. proposed where 30 ft. is required, for a second floor addition and variance for the length of the curb cut at 708 S. Bayview Drive, Strathmere.

Michael J.Contino, 203B Seneca Way, Havre de Grace, Maryland and Christina Amey, Architect, were sworn.

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Mr. Contino testified they purchased the property in 1992. Since then they have raised the dwelling and have done significant renovations. In the past they have rented the property and now they would like to use it for their family. The house is too small for their needs and they would like to add a second floor with a deck. The length of the curb cut also requires a variance.

Ms. Amey testified the existing house is one story with a U shape deck with two sets of stairs and parking below. She submitted a photo of the property that was marked as Exhibit A-1. One of the existing bedrooms will be made into a dining area. The living room will be expanded over the existing deck that encroaches four feet into the rear yard setback. The second floor would not encroach any further into the setback. This is an irregularly shaped property. One set of stairs would be removed so that the structure would not look like a duplex. The proposed stair and elevator on the south side meets the setback requirements. The living space in the house is very small and the addition would give them the space they need. The house would conform to the building coverage and impervious coverage.

Ms. Amey testified the existing curb cut is 20 ft. 11 inches and allows two cars to park in the driveway and under the structure. If the curb cut were reduced the applicants would lose a parking space. The driveway to the south is 17.7 ft. from the applicant's driveway so there is enough room for a car to park on the road. The curb cut would have to be centered on the property if it were reduced to 12 ft. which would eliminate some onsite parking. She submitted three photos on a sheet of paper showing the applicant's house, a photo of the house to the south and a photo of the house to the north to show driveways. This was marked as Exhibit A-2.

Mr. Dietrich agreed one offsite parking space would be lost by reducing the curb cut. He recommends a restrictive deed be filed as a condition of approval.

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

MR. SHAWL – Barbara and Michael Contino are the owners of 708 S. Bayview Drive in Strathmere. The property was previously raised above flood elevation. The property consists of two lots, one has a riparian grant. The applicants are seeking a rear yard setback variance. The applicants are also requesting a variance for the width of the curb cut. The applicants propose to renovate the existing house to provide additional living space for their family. The proposed renovations will improve the structure and fit with the character of other homes along Bayview Drive. The second floor addition will also include a deck. Steps and an elevator are proposed on the ground floor that will meet the setbacks. The second floor deck would mirror the first floor deck and would not encroach any further into the setback. The house would remain a single family dwelling. The lot is an unusual shape. The proposed addition would conform to the building coverage and impervious coverage standards in the RR zone. The current driveway allows for two vehicles to park in front of the structure and two vehicles to park underneath. If the curb cut were reduced one off-street parking space would be lost. He finds that granting the variances would not be a detriment to the public since the existing deck is already non-conforming. He agrees with the testimony given. There was no public comment. He further finds that the variances can be granted without detriment to the zoning ordinance.

MR. PHIFER – He concurs.

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

MR HEALY – He concurs.

MR. UNSWORTH – He concurs.

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A motion was made by Mr. Shawl and seconded by Ms. Adelizzi-schmidt, to grant the application as proposed with the condition the applicant file a deed restriction for non-conversion of space below base flood elevation with language to be approved by the board solicitor prior to filing. In favor: Healy, Phifer, Adelizzi-Schmidt, Shawl, Unsworth.

2. KEVIN AND KARLYN MURTHA – BLOCK 348, LOT 84.04 – BA17-14

Applicants are requesting two side yard setback variances, 37.47 ft. proposed where 50 ft. is required, to construct a single-family dwelling at 6 McDaniels Court, Petersburg.

Karlyn Murtha, 3 Gascony Circle, Manchester, NJ, was sworn. Mrs. Murtha testified the house they chose is too long for the property. They did not realize when they bought the property that it is zoned Agricultural and not Residential and requires a larger side yard setback.

Mr. Dietrich testified that when the property was subdivided it was in the residential zone but it is now in the AR zone. The AR zone has larger setback requirements than the R zone.

Mr. Dietrich asked about the portion of the structure in the rear of the garage shown on the plans by Kevin E. Shelley, PE, and dated 7-29-14. Mrs. Murtha testified this is a “man cave” with a bathroom and bedroom. Mr. Dietrich stated that there should be a deed restriction so this space could not be made into an apartment. He stated that other homes in this subdivision have 25 ft. side yard setbacks.

The meeting was open to the public.0

Herbert Degan, 4 McDaniels Court, was sworn. Mr. Degan had concerns about drainage.

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

MR. SHAWL – Kevin and Karlyn Murtha are the owners of 6 McDaniel’s Court, also known as Block 348, Lot 84.04. The applicant proposes to construct a single story house on this 3.39 acre cleared property. The applicant has provided a picture of the house and a plan showing the location of the house on the property. The property was previously zoned R but changed to AR after it was subdivided. The R zone allows for 25 ft. side yard setbacks. The applicant wants to build a house with a 37.47 ft. setback on both sides. He finds the proposed house fits with the character of the neighborhood. This is a single family dwelling with an attached garage. The proposed side yard setbacks are consistent with the neighborhood. Because the lot is narrow it is difficult to meet the required 50 ft. side yard setbacks. The applicant has testified the setbacks would not negatively impact the neighborhood. An adjoining property owner asked for clarification regarding the garage and the drainage. He finds that granting the variances would not negatively impair the intent and purpose of the zoning plan and would not impact the neighbors.

MR. PHIFER – When the property was originally created it was in the R zone which requires 25 ft. setbacks and was changed to AR in 2008 where 50 ft. setbacks are required. The proposed setbacks are 37.47 ft. on both sides. The proposed setbacks are probably more consistent with the other homes in the area.

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

MR. HEALY – He concurs.

MR. UNSWORTH – He concurs.

A motion was made by Ms. Adelizzi-Schmidt and seconded by Mr. Shawl, to grant the application with the condition that the applicant prepare and file a deed restriction so there would be no conversion of the area to the rear of the garage into a separate apartment/dwelling unit since it has its own entrance. In favor: Healy, Phifer, Adelizzi-Schmidt, Shawl, Unsworth.

**RESOLUTIONS**

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

A motion to adopt the resolution was made by Mr. Healy, seconded by Mr. Phifer, and approved. Abstain: Adelizzi-Schmidt and Shawl.

**BILLS**

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

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Shawl, seconded by Ms. Adelizzi-Schmidt, and approved. The meeting was adjourned at 8:20 p.m.

Submitted by,

Shelley Lea