

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 2, 2015**

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: Sherrie Lisa Galderisi, Joseph Healy, Ted Klepac, Alistair Lihou, Lynn Petrozza, Christopher Phifer, Susan Adelizzi, Andrew Shawl, Carol Tutelian, Paul Casaccio.

Absent: Matthew Unsworth.

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

APPROVAL OF THE MARCH 12, 2015 MEETING MINUTES

A motion to approve the minutes was made by Mr. Healy, seconded by Ms. Schmidt, and approved. Abstain: Klepac, Phifer and Tutelian.

SWEAR IN BOARD PROFESSIONALS

SWEAR IN TED KLEPAC – BOARD MEMBER

TABLED APPLICATIONS

1. ADVANTAGE EQUIPMENT SALES LLC AND ATLANTIC CAPE BUILDERS LLC – BLOCK 600 LOTS 26 & 30 – BA25-14

At the applicant's request this application has been tabled until a special meeting on May 7, 2015 at 7:30 p.m. No further notice is required.

2. SCOTT & JUDY BEARD – BLOCK 453 LOT 240.18 – BA05-15

At the applicant's request this application has been tabled until May 14, 2015 at 7:30 p.m. No further notice is required.

APPLICATIONS

1. ENDICOTT REARDON FAMILY MUSEUM – BLOCK 558 LOT 25 – BA24-14

Rehearing of an application for preliminary and final site plan approval, a use variance to permit two principal uses on one lot and second use variance to permit a residential use in the

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commercial zone, along with several bulk variances to construct a museum and to utilize the existing single family dwelling for caretakers living quarters at 3036 Route US 9 South in Seaville.

The meeting was open to the public. Hearing no comment the meeting returned to the Board.

Jon Batastini, Esquire, represented the applicant.

Solicitor Marcolongo stated that this application came before the board on February 15, 2015 and was approved with conditions. After the hearing it was discovered that the meeting had been published in the Gazette rather than the Atlantic City Press or Sentinel Ledger. The online forms stated that the Gazette was a paper used by the board, however it is not. Council for the applicant has agreed to send notices, publish and appear before the board a second time. Since there is no one from the public present he suggested the testimony from the previous hearing be incorporated and the votes be limited to those present at the February meeting.

A motion was made by Mr. Healy and seconded by Ms. Petrozza to grant the application as proposed by the applicant. In favor: Casaccio, Healy, Petrozza, Phifer, Shawl, Tutelian.

2. SANDRA J KOENIG – BLOCK 861 LOT 5 – BA02-15

Applicant is requesting variances for building coverage and side yard setback to construct a single family dwelling at 304 N. Commonwealth Avenue in Strathmere.

Mark Langford, Cape May Court House and Sandra Koenig, Limerick, PA, were sworn.

Mr. Langford testified the applicant would like to construct a new single family dwelling with a rear deck. For them to build a deck they would have to exceed the lot coverage by 3%. The deck would not be covered or enclosed. They are also requesting a side yard setback to allow 5 ft. where 6 ft. is required for a gas fireplace.

Mrs. Koenig testified the deck would help her family enjoy the light, air and open space and would be compatible to other homes in the neighborhood. Most of the homes in Strathmere have decks.

Mr. Landgraf testified the lot is 40' x 100' and is located in the RR zone. The bump out on the side for the fireplace is 6 ft. long and 7 ft. high with a shed type roof. The septic system has been installed.

Mr. Dietrich commented the proposed construction would be above the flood elevation requirements.

The meeting was open to the public.

Steve Marshall, 1120 Youngsford Road, Gladwyne PA, was sworn. His mother is Catherine Marshall who has owned the adjacent property at 2 N. Bayview Drive for 22 years. He would like the applicant to plant landscaping along the property line. He asked that the board consider this as a condition of their approval. Mrs. Koenig agreed to plant eight 6 ft. tall plantings of the evergreen species.

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Dennis Sigovich, 458 Kings Lane, Andalusia PA, was sworn. Mr. Sigovich is the owner of the adjacent property at 300 N. Commonwealth Avenue. He feels there is no need to request a variance and the structure should fit within the setbacks. He requested the applicant plant a row of cedar trees on his side of the property. Mrs. Koenig stated that there is only 6 ft. between the house and the side property line and she doesn't believe there is enough room to plant 18 trees as requested by Mr. Sigovich. Solicitor Marcolongo stated that there has to be enough room for fire prevention. Mrs. Koenig agreed to plant 6 evergreens on Mr. Sigovich's side.

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

MR. SHAWL – Sandra Koenig is the owner of 304 N. Commonwealth Avenue in Strathmere. She is proposing to construct a single family dwelling on this property that would maximize the permitted lot coverage. The house would be above flood elevation and allows for two parking spaces underneath. The proposed lot coverage is 30% where 27% is permitted. The applicant is also requesting a side yard setback for a gas fireplace on the first floor of the house. The house is designed with porches and decks to maximize the light, air and open space. The applicant has agreed to a landscape buffer along the adjoining properties on the north and south. The house will fit in well with the existing structures.

MS. PETROZZA – She finds the application can be granted since it satisfies special reason c.

MR. PHIFER – He is in favor of the application for the reasons previously stated.

MRS. GALDERISI – She concurs.

MR. KLEPAC – He concurs.

MRS. TUTELIAN – The proposed house is consistent with the neighborhood.

MR. LIHOU – He finds the variances should be approved.

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

MR. HEALY – He concurs.

A motion was made by Ms. Petrozza and seconded by Ms. Schmidt to grant the application as proposed with the condition the applicant will plant eight 6 ft. tall evergreen trees on the north side of the property and six 6 ft. tall evergreens on the south side. In favor: Healy, Lihou, Petrozza, Phifer, Schmidt, Shawl, Casaccio.

3. JOHN QUIGLEY – BLOCK 722 LOT 1 – BA04-15

John Quigley, Jr. and Kim Quigley, 34 Seaview Avenue, were sworn.

Mr. Quigley testified they would like to install an in-ground fiberglass pool. This is a corner lot and therefore there are two front yards. They would like to install the pool in what they consider their rear yard but is actually a second front yard.

Mr. Dietrich stated that the applicant made a request to vacate the road to eliminate the second front yard, however the neighbors were not in favor and the request was withdrawn.

The meeting was open to the public. Hearing no comment the meeting was closed to the public and returned to the board for finding of facts.

MR. SHAWL – John and Kim Quigley are the owners of 34 Seaview Avenue in Beesleys Point. The applicants propose to install an in-ground pool in their front yard. The applicants utilize this

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area as their rear yard, however it is technically their front yard since they are located on a corner lot. There are not any houses behind the applicant's house. The pool would be located 10 ft. from the property line. There are existing evergreens that would provide a buffer. There was no comment from the public.

MS. PETROZZA – She concurs.

MR. PHIFER – He agrees with Mr. Shawl's findings.

MS. GALDERISI – She concurs.

MRS. KLEPAC – He concurs.

MRS. TUTELIAN – She concurs.

MR. LIHOU – He concurs.

MS. SCHMIDT – She is in favor.

MR. HEALY – He concurs.

A motion to approve the application was made by Mr. Lihou and seconded by Ms. Petrozza. In favor: Healy, Lihou, Petrozza, Phifer, Schmidt, Shawl, Casaccio.

4. KURTS WOODROW AND KEITH WOODROW – BLOCK 558 LOT 30.01 – BA06-15

Applicants are requesting a use variance for expansion of a non-conforming use to allow an existing residence in the TC zoning district and a minor subdivision to create two lots from one existing lot, preliminary and final site plan approval and a variance to allow a parking area in the front yard, to construct an 11,390 sq. ft. building to be used for a gun range, firearm safety classrooms and retail space at 3018 Route US 9 South in Seaville.

Carol Tutelian stepped down during this application.

Brian Heun, Esquire, represented the applicants. Mr. Heun stated the applicants propose to construct an indoor shooting range. There would be no shooting outside. The proposed use is a permitted use in the TC zoning district. A use variance is being requested to allow the existing single family dwelling to remain on one of the lots after the property is subdivided. A variance is needed to allow the parking to be located in the front yard. Variances are also needed for the proposed basin and landscape buffer.

Kurtis Woodrow 184 Route 47 South, Cape May Court House and Keith Woodrow, 22 Brewers Lane, Dennisville, were sworn along with Christina Amy, Architect.

Keith Woodrow testified they would like to open an indoor gun range with sales and a training facility. Their proposal includes bringing back the youth program for gun safety since there is nothing available in the area and training for law enforcement for re-certifications. They would like to get the residents that currently shoot in their back yards inside and into a safer environment. The instructors would be NRA certified.

Mr. Woodrow testified he has been involved in law enforcement for 20 years. He was a police officer in Alabama for 5 years and has worked for the Middle Township Police Department for 15 years. He is a distinguished expert in marksmanship and gun safety. As a gun enthusiast himself, there is nowhere close for him to go for recreational shooting.

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Mr. Woodrow testified they propose gun sales and gunsmith and gun repairs and training sessions. There would also be indoor shooting lanes for people to practice and keep their proficiency up. They must be licensed through the State Police and ATF. They come in monthly to do inspections. The ranges would be supervised at all times as well as surveillance cameras and monitors throughout the building. The range supervisors are NRA certified. The gun smith they have on board is already a licensed gun smith. He explained the requirements for purchasing shotguns and hand guns. The guns are kept in cases in a secured area of the building. They can sell semi-automatic weapons but not automatic weapons. The gun smith cannot alter a gun to make it automatic. The windows in the proposed building would be at 7 ft. high so the firearms would not be visible.

Keith Woodrow testified in regards to the sound proofing. The range would have a concrete floor. There would be 8" solid concrete walls and concrete ceiling panels and AR steel plated baffles inside the range. He described the interior and exterior of the proposed building which consists of multiple layers and a sound absorbing system. A full security system would be built into the entire property including surveillance cameras. The guns and ammunition are in a separate lockable area. The windows on the side of the building are more for aesthetics. The 3 windows along the front of the building are up high and secured on the inside.

Those using the range are required to bring a partner and there are range supervisors present. No one is ever left in the range by themselves. Employees are required to have their Firearms Identification Card to work in the facility. This would be a family owned and operated business. There are approximately 55 facilities in New Jersey similar to this. Environmental issues are also regulated. He stated that they have looked at several other properties within the past 3 years and have chosen this property since it is on Route 9 and close to the Parkway.

They anticipate approximately 75 people per day visiting the site. The hours of operation would be 8 a.m. until 9 p.m. The lanes would cost \$25 per hour. You can bring your own ammo or if you are renting one of their guns you would have to use their ammo. There is not an age requirement for participants; however their youth program would start at 12 years old with adult supervision. He stated that gun sales have gone up but people are taking them home without any kind of training. Anyone shooting at this range must take a 20 minute safety class.

Vincent Orlando, Professional Engineer, Planner and Landscape Architect, was sworn. He testified the gun shop and shooting ranges are a permitted use. He referred to the minor subdivision plan prepared by Stephen C. Martinelli, dated 1/24/15 showing the 2.414 acre parcel divided into two lots. He stated the applicants require a use variance to allow the pre-existing non-conforming single family dwelling to remain in a commercial zone. He feels the home could remain on the property without any detriment to the neighborhood or without substantial detriment to the zoning plan or zoning ordinance.

Mr. Orlando reviewed the proposed parking using the site plan by EDA, dated 3/4/15 and revised 3/20/15. A variance is needed to allow parking in the front of the building. He believes the parking area in front of the building is consistent with the area. He discussed the proposed drainage basin. They propose to add landscaping along the property lines and around the basin. He believes the C variances can be granted since there would not be any negative impact to the zoning plan or zoning ordinance.

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Mr. Dietrich agreed that besides the variances being requested the site plan does meet the technical requirements and the minor subdivision meets the plat filing requirements.

There was a short break at this time and then the meeting was open to the public.

Sarandoe Kordomenos, 3020 Route US 9 South was sworn. His property is next door and he has two young children. He has concerns about traffic and noise. He asked that an 8 ft. high vinyl fence be put up along the property line. Mr. Orlando suggested installing a 6 ft. high solid vinyl fence along the property line where the parking would be located. Mr. Kordomenos asked about a lock down procedure in the event something went wrong.

Robin Gatto, 17 Corson Tavern Road, was sworn. She wanted to know if the existing home would be renovated and about the proposed lighting on site. Mr. Orlando testified the house would be renovated and rented. Mr. Orlando discussed the proposed lighting.

Charles Zushnitt, 10 MGM Way, was sworn. He testified that he looks forward to the facility being constructed. He feels the proposed use would improve the property.

Krystyna Chiccarine, 1 Marissa Court, was sworn. She asked about the approvals being requested and the decibel levels.

Christina Amy testified that based on the information she has no noise from within the building will be heard off the property.

Brandon Walcott, 17 Lenape Lane, was sworn. He is concerned about property values in the area and if there would be any safety concerns for residents in this area.

Mr. Dietrich stated that many residents still shoot on the properties. There are two gunning clubs in the Township with outdoor shooting ranges and a shotgun area at the game preserve within 1,000 ft. of Township Hall.

Benjamin Haberman, 57 W. Katherine Avenue, was sworn. He feels the local economy needs a boost. He stated that rental demand in the area is extremely high and rental inventory is low. He feels the residence and commercial use would bring nothing but benefits to the Township.

Evan Kooker, 27 Elmwood Avenue, was sworn. He is an NRA instructor. He feels the proposed facility would improve safety in the Township. He stated that law enforcement from different counties would be using the facility due to the EPA law changes. He is in favor of the youth program. He feels this would be great for the Township because of safety and economics.

Mr. Phifer asked if there was a lockdown procedure in place to prevent someone from leaving the building with a loaded gun. Kurtis Woodrow stated that an electronic measure could be put in place to buzz people out of the range. A system to prevent unauthorized exiting of the range would have to be approved by the State Police.

Hearing no further comment the meeting returned to the board for finding of facts.

MR. SHAWL – Kurtis and Keith Woodrow are proposing a two lot minor subdivision at 3018 Route US 9 South, Block 558, Lot 30.01. The existing residence would remain on one lot and a

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new commercial building would be constructed on the other lot. They are requesting a use variance to allow the non-conforming residential use to continue. The proposed building has been designed to conform to other commercial buildings in the area. The applicants propose to promote gun safety. Certified instructors would be used. The applicants propose to provide an indoor facility for shooting. The applicants have experience in law enforcement. Testimony was given about how the building would be constructed to dampen the sound. Measures are taken inside the building to provide safety. Customers are trained prior to shooting. Vincent Orlando gave expert testimony regarding the site improvements and the existing residence. The property is located in the TC zone. There are other commercial facilities in the area with parking in the front. The existing house would be renovated and used as a rental. There was testimony that the sounds from the shooting range would not be heard past the property line. The new lots provide light, air and open space. Allowing the house to remain would not be a detriment to the township since it has been there for so long.

MS. PETROZZA – She concurs.

MR. PHIFER – There were both positive and negative comments from the public. Safety in the Township would be enhanced since law enforcement from other areas would be using the facility. The applicants have agreed that a safety mechanism will be in place to prevent someone from leaving the building if something happened. He finds that special reasons c and g apply to the residence and that there would be no detriment to the neighborhood.

MR. LIHOU – He finds the positive criteria for light, air and open space have been met. He finds the negative criteria has also been met since there is no detriment to the zoning plan.

MS. SCHMIDT – She finds the application can be granted using special reasons a, c, d and g. She finds the hours of operation should begin later than 8 a.m.

MR. HEALY – The applicant has shown special reasons to grant the application. He finds the variances can be granted without detriment to the public good and without impairing the intent and purpose of the zoning plan.

MR. CASACCIO – He concurs with the comments made by his colleagues. This section of Route 9 is a combination of commercial and residential use.

A motion was made by Mr. Shawl and seconded by Ms. Petrozza, to grant the application with the condition this will be an indoor range only, the applicant will create a storm water basin easement to be approved by the Board Solicitor and Board Engineer, the plan will be revised to add a 6 ft. high vinyl fence along the south property line, the applicant will maintain a mechanism to exit the shooting area that will be approved by the NJ State Police prior to Certificate of Occupancy and documentation will be provided to the zoning officer as to that mechanism, only one door will open at a time in the vestibule coming out of the shooting area, all other governmental agency approvals. In favor: Healy, Lihou, Petrozza, Phifer, Schmidt, Shawl, Casaccio.

5. EQUITY LIFESTYLE PROPERTIES LLC – BLOCK 558 LOTS 17 & 46 – BA07-15

Applicants are requesting a use variance for the expansion of a non-conforming use and preliminary and final site plan approval to construct a new swimming pool and pavilion and replace the existing office and garage at Echo Farm Campground, 3066 Route US 9 South in Seaville.

Colin Bell, Esquire, represented the applicants. Vincent Orlando, Professional Engineer, Planner and Landscape Architect, was sworn. He stated that campgrounds are a conditional use and require 40 acres. This site is 31.26 acres so they do not meet all the conditions. The applicants

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have received a permit to replace the swimming pool. They propose to construct a pavilion/cabana to get out of the sun. There are three existing buildings on site that the applicant would like to demolish and install a model home that would be used as an office. A photo showing what the homes look like was marked as A-1. They are asking the board to grant preliminary approval to construct a building to be used for a recreation building. There is also a small pool shed proposed. He feels this would be an improvement to the community. He feels that granting the variances would not have a detriment to the public or the zoning ordinance or zoning plan.

Mr. Bell stated the applicants are currently resolving a title issue with part of the property. Mr. Dietrich testified the prior owner purchased a piece of property from the township and one of the conditions was that the lots must be consolidated. The applicant purchased the campground but not the lot that was owned by the township. There are campsites and other improvements on this lot.

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

MR. SHAWL – The applicants are the owners of 3066 Route 9 South in Seaville. The applicant proposes to add a new pool, cabana and pool shed to improve the area. Three of the buildings on site will be demolished and a new office will be built. The applicants are requesting preliminary approval to construct a new rec building. The impervious surface will be reduced. He believes the benefits of granting the variances are the maintaining of light, air and open space. There was no public comment.

MS. PETROZZA – She finds the application can be granted using c, d and i. She finds there was enough testimony in support of the applicant to determine there would not be any detriment to the public good and there would not be any substantial detriment to the zoning ordinance or zoning plan.

MR. PHIFER – He finds the proposed improvements are much needed. He finds special reasons b, c, e, g and i apply.

MR. KLEPAC – Nothing to add.

MRS. GALDERISI – Nothing to add.

MR. HEALY – He concurs.

MR. CASACCIO – The applicant has title issues that they are working diligently to resolve. The title issues must be resolved by March 31, 2016 or the applicant will have to return to the board.

A motion was made by Mr. Phifer and seconded by Mr. Healy, to grant the application with the condition that no building permits will be issued for Phase II until the applicant has title to the land and only preliminary approval is granted for the proposed rec building, a deed of consolidation must be filed after the title is resolved and the applicant is required to return to the board on March 31, 2016 if they have not resolved the title issue. In favor: Healy, Lihou, Petrozza, Phifer, Adelizzi, Shawl, Casaccio.

BILLS

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

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Phifer, seconded by Ms. Petrozza, and approved. The meeting was adjourned at 10:25 p.m.

Submitted by,

Shelley Lea