

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
MARCH 10, 2016**

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: Sheri Lisa Galderisi, Joseph Healy, Thaddeus Klepac, Alistair Lihou, Lynn Petrozza, Christopher Phifer, Andrew Shawl, Matthew Unsworth and Paul Casaccio.

Absent: Susan Adelizzi-Schmidt, Carol Tutelian,

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

APPROVAL OF THE FEBRUARY 2016 MEETING MINUTES

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

SWEAR IN PAUL DIETRICH AND SHELLEY LEA

APPLICATIONS

1. SUSAN WILLARD – BLOCK 840 LOT 6 – BA02-16

Applicant is requesting variances for front yard setback, side yard setback, building coverage and impervious coverage, to construct an open deck on the rear of the existing single family dwelling at 201 Bayview Drive in Strathmere.

Arthur T. Ford, III, Esquire, represented the applicant. Mr. Ford stated the property is in the RR zoning district and it located on the corner of Bayview Avenue and Webster Avenue. There is a frame dwelling and a shed on the lot. The lot currently does not meet either of the front yard setbacks or the side yard setback.

Susan Willard, 6123 Wayne Avenue, Philadelphia, PA and Christine Amey, Architect, were sworn.

Ms. Willard testified she purchased the property in 2012. The house was built in the 1920's.

Ms. Amey testified this is a pre-existing non-conforming lot in the RR zone. She referred to the plans she prepared dated 1/13/2016 and revised 2/22/16. The lot is 2,988 sq. ft. The applicant proposes to construct a deck and outdoor shower. Variances are needed for side yard setback, 6 foot required, 2.1 foot proposed, front yard setback on Webster Avenue, 15 foot required, and 5.67 foot proposed. The maximum building coverage is currently 39.17% where 27% is permitted and 42% is proposed. The impervious coverage is currently 45% where 45% is permitted and 48% is proposed.

Ms. Amey testified the deck would be open and would not interfere with the view of any of the neighbors. She feels that granting the variances would not negatively affect the zoning ordinance or master plan. The new deck would not affect the septic.

Mr. Dietrich stated there is a section where there is no curb or sidewalk. The curb and sidewalk in this area would have to be continued along the property line. He feels that a 16 foot curb cut would be acceptable.

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

MR. SHAWL – Susan Willard is the owner of 201 Bayview Drive also known as lot 6 in block 840. This is an irregular shaped corner lot with two front yards. The house was built in the 1920's. The building coverage and impervious coverage would be increased approximately 3% by adding the proposed deck and exterior shower. A new open deck would be added to the rear of the house and the shower location would be changed. Testimony was given that light, air and open space would be preserved and that the variances could be granted without detriment to the master plan or zoning ordinance. The applicant has agreed to extend the curb and sidewalk along her property with a curb cut not to exceed 16 ft. There was no public comment. He finds the application can be granted without detriment to the zoning ordinance.

MR. PHIFER – He agrees.

MS. PETROZZA – She concurs.

MR. KLEPAC – He concurs.

MS. GALDERISI – She concurs.

MR. UNSWORTH – He concurs.

MR. HEALY – He concurs.

MR. CASACCIO – The applicant can install an awning over the deck.

A motion was made by Mr. Unsworth and seconded by Mr. Healy, to grant the application with the condition the applicant install curb and sidewalk with a curb cut not to exceed 16 ft. The curb and sidewalk design must be approved by the board engineer prior to installing. In favor: Healy, Lihou, Petrozza, Phifer, Shawl, Unsworth, Casaccio.

2. RONALD MONTGOMERY – BLOCK 845 LOT 7 – BA25-15

Applicant is requesting a use variance for expansion of a non-conforming use, a variance to allow three habitable floors and a height variance to raise an existing triplex at 10 E. Whittier Avenue in Strathmere.

Mr. Lihou stepped down during this application since he was not present during the March meeting.

Solicitor Marcolongo marked a revised survey by Mark G. DeVaul, dated November 27, 2015 and revised March 3, 2016 as Exhibit A-5.

Paul Dietrich testified that he spoke with the construction official and he confirmed that the ground floor area labeled family room on the plan by Mr. Peterson, Architect, was not included in the zoning board approval and was not part of the construction permit that was issued. The ground floor was constructed below base flood elevation and was built in an improper location without permits. He compared the current plans with the plans approved in 2002. The prior plan shows the first floor of the structure was 695sq. ft. and is now 883 sq. ft. The prior plan also shows the second and third floors were 883 sq. ft. in 2002. The current plan does not include the square footage of the units.

Mr. Dietrich testified the family room addition shown on the current plan was part of the previous approval and was supposed to be added to the second and third floors and not the first floor. The prior approval included expanding the habitable space on the second and third floors to make them both 883 sq. ft. and adding a rooftop deck and spiral stairs from the third floor to the deck. The ground floor was to remain 695 sq. ft. The board could not have granted approval to expand the ground floor since the ground floor is below base flood elevation. The applicant could not have obtained approvals from the construction office to construct habitable space below base flood elevation.

Solicitor Marcolongo stated that in 2003 the applicant received a variance to allow a 4 ft. rear yard setback. The rear yard setback is currently 2.7 ft. At that time a 3 ft. side yard setback variance was granted and the structure is currently 1.75 ft. on one side and 0.95 ft. on the other side.

Mr. Montgomery testified that it made sense to him to finish the grade floor to match the second and third floor. He was not aware that the ground floor was below base flood. He did not know that expanding the area of the ground floor would be in violation. He stated that the work on all three floors was done pretty much the same time.

Mark DeVaul, previously sworn, testified the ground floor addition did not change the building coverage. He stated the problem with the difference in the surveys is that the lot is not perfectly square.

Mr. Ford discussed the septic and the height of the building. Mr. DeVaul testified that in his opinion granting the variances would not have a detrimental effect on the zoning ordinance or zoning plan. There was discussion concerning the impervious coverage and

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if it would change by adding the proposed steps. There was discussion in regards to reducing the pavers. There is curb and sidewalk along the frontage and the curb cut is pre-existing.

Mr. Unsworth stated the family room on the ground floor intensifies the already non-conforming use. He has concerns about adding living space to the structure because of the 40 year old seepage pit system that is currently servicing the triplex. Mr. Ford stated that by enclosing the ground floor the property is more in keeping with the neighborhood.

The meeting was open to the public.

Daniel Reeves, Esquire, represented the owners of lots 23 and 24. His clients object to the application including the violations of the previous approvals and the increase in height. He submitted a photo of the subject property that was marked as Exhibit P-1.

Mr. Ford stated that since the picture was taken (P-1) a new house has been constructed on one of the vacant lots next door. Mr. Montgomery agreed the google map photo shows the picture of the triplex was taken in 2013. He testified the number of pavers existing today are the same shown in the photo. He testified the ground floor apartment was utilized by his daughter until the flood. At this time he is not certain who he will hire to raise the structure.

Olga Chyzowych, 9 E. Webster Avenue, Strathmere, was sworn. She purchased her home in 1980 and lives there from May until October. She spends much of her time outdoors during these months. She objects to the proximity of the applicant's property to hers. She stated that the house is already very high and now it will be even higher. It is her opinion that the applicant has plenty of room to move the structure forward on the lot so that it is not so close to her property and septic. She is concerned about her property value and her septic.

Decima Anderson, 5 E. Webster Road, Strathmere, was sworn. She objects to the applicants request to raise the structure. If approved this would be one of the tallest buildings in Strathmere. She feels the structure would look like a tower. She also objects since the structure is so close to her property. She likes to garden and spend time in her back yard. If the variances are granted the structure would make her back yard unpleasant. She believes that Mr. Montgomery has other options such as moving the structure forward. She feels the structure should not be raised and that the first floor should be dedicated to fulfilling the FEMA requirement. At the previous hearing it was her understanding that the first floor was not going to be an apartment. She feels the structure should not be so close to her property line and that the structure should be moved forward since there is sufficient room in the front yard. She understands this would cause additional economic burden, however there have been economic burden on all of us due to Sandy and the most recent flood. She stated that if the height is approved the structure should certainly be moved away from the rear property line since it would cause shadowing onto her property. She is concerned about the waster that accumulates

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on her property due to the poor drainage of the exterior shower on the southwest corner of the structure. She is concerned about mosquitos in the summer. During questioning Ms. Anderson testified the structure existed when she purchased her home. She agreed she has a detached garage that is approximately 2 ft. from the property line.

Mr. Reeves stated the application is to raise a non-conforming structure that is in violation of the previous approvals. If approved the structure would have a detriment on his client's lifestyles and properties. He stated that the variances cannot be granted without impairing the public good, the zone plan and the zoning ordinance. He believes there are other alternatives available that would be less detrimental to the zoning plan and ordinance that would allow the applicant to reduce his risk of flooding. He stated that the house could be moved forward while it is being raised since the entire house is built in the rear yard setback. Mr. Ford stated that it is not feasible to move the house into the middle of the lot. If the house were moved forward it would block the neighbor's view of the beach. He stated that the triplex has been here since the 1920's and they are here to bring the structure into compliance with FEMA regulations. He feels this is enough to justify granting the variances.

Mr. Unsworth feels the applicant could easily lessen the impervious coverage by removing some pavers and still keep the required parking. He feels that a good neighbor would move the shower or improve the drainage so that it does not run into the neighbor's yard. He doesn't feel that relief above the 35 ft. elevation is necessary according to the applicant's drawings. The first floor building height of 9 ft. 5 inches, even though it includes the ceiling joist system would provide a ceiling height of at least 8.5 ft. This would keep the structure under the 35 ft. elevation. He feels the applicant is asking for things that are not necessary and intensifying a non-conformity. Some of the board members showed concern that the plans do not indicate that the height of the ceilings in the first floor are being raised since testimony given by the applicant was that there would be no interior changes. Mr. Dietrich stated the ground floor is built on a slab on grade and was most likely a garage when the structure was built. In order to raise the structure a floor system needs to be constructed. Mr. Ford stated that the applicant will meet with the architect to see how exactly the building will be raised. Mr. Montgomery testified that he would have the architect attend the April meeting to give testimony. Mr. Dietrich asked that the architect calculate what the actual building footprint would be with the stairs. Chairman Casaccio asked that a revision be made to the plan to show the driveway layout and new coverage calculations. Solicitor Marcolongo asked that the applicant renounce if the building is being moved forward. He also requested that Mr. Ford provide a copy of the revised plan to Mr. Reeves at least ten days in advance.

Chairman Casaccio announced the application will be continued to the April 14, 2016 meeting at 7:30 p.m. There will be no further notice. The applicant agreed to waive the tolling of time.

BILLS

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

RESOLUTIONS

1. ESTATE OF RITA SCHIAVO – BLOCK 836 LOTS 1, 2, 5.03 – BA03-16

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

2. KEVIN MURTA AND KARLYN ACCIAVATTI MURTHA – BLOCK 348 LOT 84.04 – BA26-15

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

3. 71 ROUTE 50 LLC – BLOCK 561 LOT 36 & 37 – BA27-15

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

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Shawl and approved. The meeting was adjourned at 9:43 p.m.

Submitted by,

Shelley Lea
Secretary