

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
OCTOBER 13, 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: Ted Klepac, Lynn Petrozza, Christopher Phifer, Susan Adelizzi-Schmidt, Andrew Shawl, Carol Tutelian, Larry Truli, Matthew Unsworth and Paul Casaccio.

Absent: Sherrie Lisa Galderisi and Joseph Healy.

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

SWEAR IN PAUL DIETRICH AND SHELLEY LEA

APPROVAL OF THE SEPTEMBER 8, 2016 MEETING MINUTES

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

APPLICATIONS

1. **DAVE & NORMA WALLACE – BLOCK 581 LOT 8 – BA 16-16**

Application is for a front yard setback variance to allow 31 ft. where 50 ft. is required to construct a front porch on an existing single family dwelling at 30 Pacific Avenue, Marmora.

David and Norma Wallace, 30 Pacific Avenue in Marmora, were sworn along with Giovanni Esposito of Imperial Remodeling.

Mr. Esposito testified the applicants would like to extend the front porch 3 ft. the full length of the house. The required setback is 50 ft. and the house is currently at 39.6 ft. The proposed setback is 31 ft. The applicants do not qualify for the grandfather clause since the proposed porch would be closer to the road than the adjacent property. This is a corner lot with two front yards. Many of the neighbors have front porches. He testified the proposed setback is compatible with other homes in the neighborhood. There would not be any heat or a/c on the

porch. The porch would be used to enjoy the outdoors and entertain. The existing porch is too small for outside chairs and tables.

Mr. Dietrich testified there are no houses on the opposite side of Pacific Avenue across from this property. The porch would not impact the well or septic.

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

MR. SHAWL – There is an existing front porch on the house, however they would like to add three feet to make the porch more useable and improve the aesthetics of the home. The addition is designed to be in character of the neighborhood. The required setback is 50 ft. and the applicants are proposing a 31 ft. setback. Other homes in the area have a similar setback. The lots across the street are vacant. This is a corner lot and the porch will be located along Pacific Avenue. He has reviewed the evidence submitted and listened to the testimony of the builder and sees no reason why the variance cannot be granted.

MS. PETROZZA – She finds the testimony satisfies special reason c. There was no public comment. She agrees with Mr. Shawl's findings.

MR. PHIFER – He concurs.

MR. TRULI – He concurs.

MR. UNSWORTH – He concurs. The well and septic will not be impacted.

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

MR. CASACCIO – He concurs.

A motion to grant the application was made by Mr. Unsworth and seconded by Ms. Adelizzi-Schmidt. In favor: Petrozza, Phifer, Schmidt, Shawl, Truli, Unsworth and Casaccio.

2. ROBERT T. SINCLAIR – BLOCK 568 LOT 14 – BA 17-16

Applicant is requesting a two lot minor subdivision to create two lots from one existing lot, a use variance for the expansion of a non-conforming use to allow an existing mobile home to remain on the lot until the construction of a new single family dwelling is complete, lot frontage variance and front yard setback variance is needed for proposed lot 14.02 along with a variance to allow the existing garage to be located in the front yard when the home is constructed at 1255 Stagecoach Road in Palermo.

Robert Sinclair, 1255 Stagecoach Road, Seaville, New Jersey, was sworn. He is proposing a two lot subdivision. He wants to construct a single family home on lot 14.01 to sell. After that he will demolish the existing mobile home and construct a new house on lot 14.02.

There was discussion as to when the mobile home would have to be removed from the property. The applicant agrees that the mobile home will be removed within one year of the

issuance of a CO for lot 14.01 and the applicant will amend the subdivision plan dated 5/17/2016 and revised 8/15/2016 to remove the note "coordinates not assumed" and add the language described by the board engineer.

Mr. Sinclair intends to keep the existing block garage and possibly attach the house to it. The garage currently meets the side yard setback for an accessory structure, however if this garage were attached to the house it would become part of the principal structure and it would not meet the setbacks. A side yard setback variance is needed to attach the garage and proposed dwelling.

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

MR. UNSWORTH – The applicant is requesting a minor subdivision and variance relief for lot frontage and setbacks. The lot is 2.19 acres and he is proposing to subdivide it into one conforming lot and another lot with only 63.80 ft. of road frontage. He is requesting that the mobile home remain on site during construction of the single family home. The existing garage on the property meets the current setback for an accessory structure. A variance is needed since the existing garage would be in the front yard when the house is constructed. The applicant has testified that he will build the house on lot 14.01 and the mobile home would be removed with twelve months of the issuance of the CO on lot 14.01. The applicant has been requested to revise the note on the plan regarding the coordinates. He finds the application can be granted without detriment to the zoning plan and zoning ordinance and without substantially impairing the public good.

MS. ADELIZZI-SCHMIDT – She concurs with Mr. Unsworth.

MR. SHAWL – Both lots will meet the minimum lot area requirements.

MS. PETROZZA –Concurs.

MR. PHIFER – Concurs.

MR. TRULLI – He finds that two new homes would be an improvement over the mobile home.

A motion was made by Ms. Adelizzi-Schmidt and seconded by Ms. Petrozza, to grant the application with the conditions the existing mobile home will be removed within one year of the issuance of a CO for a new home on lot 14.01 and the applicant will revise the subdivision plan dated 5/17/2016 and revised 8/15/2016 to remove the note "coordinates not assumed" and add the language described by the board engineer. In favor: Petrozza, Phifer, Adelizzi-Schmidt, Shawl, Truli, Unsworth and Casaccio.

3. RAYMOND & CRYSTAL BLAINE – BLOCK 16 LOT 17 – BA 15-16

Applicants are requesting a D variance to allow two principal structures on one lot to allow an RV to be used as temporary living facilities May through October each year at 271 Route 49 in Tuckahoe.

Raymond and Crystal Blaine, 271 Route 49 were sworn in along with Joseph Maffei, Professional Engineer.

Mrs. Blaine testified they would like to stay in a fifth wheel trailer on the property for six months during the year to help care for their grandchildren that live in the house.

Mr. Maffei testified the applicants are requesting a D1 variance to allow two principal uses on the site. The single family dwelling and the RV are depicted on the plan by EDA dated 8/8/16 and revised 9/29/16. The property is in the "R" Center Residential Zoning District and is 41,702 sq. ft. The property conforms with the bulk standards. A Google Map showing the property with the trailer was marked A-1.

Mr. Maffei testified the applicant's daughter and her family live in the house. The applicants would like to live in their RV on site from May until October each year. Accessory structures are permitted on the property as long as they are in side or rear yard. The RV is located in the side yard. He feels the application would be different if it were in a neighborhood and not on Route 49 where the speed limit is 50 MPH. The applicants own the home and the RV. They propose to add evergreens for additional screening. The RV is on site during the summer while the leaves are on the trees. He feels that special reason (a) applies since the RV and the home meet the bulk standards and the family can be together during the summer, (g) since this is a unique way of providing an in law facility without building an addition and (p) the RV would provide affordable housing.

Mr. Maffei testified he sees no detriment to the public good and the variances could be granted without impairing the intent and purpose of the zoning ordinance. The RV would not be leased or rented.

Mr. Shawl stated there are plenty of campgrounds in the township where the RV could be located without a variance. He stated this is not a dwelling since there is no foundation. He feels that increasing the density on the property would be a detriment to the public good. He has concerns since the variance would run with the land.

Mr. Maffei testified that a deed restriction would be filed to allow only the applicant to utilize a trailer on the site. He stated the applicants propose to use the holding tanks inside the RV and have it pumped. Currently the RV is connected to the septic. They utilize the kitchen in the RV as well. Mr. Maffei stated the applicants would have to go through the permit process to hook up to the septic.

Ms. Lea testified that a complaint was made last year regarding the trailer on the site. A formal complaint was not made to the zoning office this year but she did send a notice when she saw the trailer set up on the property again.

Mr. Dietrich recommends a condition if approved that the applicant be required to go to the health department for a permanent connection and add a permanent power post that is inspected and certified.

The meeting was open to the public.

Constance Zorn, 274 Marshallville Road, Tuckahoe, was sworn. She testified that the RV can be seen from her back porch and it is visible from Marshallville Road. She objects to the variances.

Mr. Blaine testified they are lifelong residents of Upper Township. He is disabled and so is his daughters husband. He would live in the trailer in a campground if he could afford to.

The board gave their finding of facts.

MR. SHAWL – The property is located on the north side of Route 49. The existing three-bedroom dwelling on the lot meets the bulk standards in the R zone. The applicants propose to park a seasonal trailer on the property to utilize as additional living space. The trailer is permitted on the property as long as it is unoccupied. He does not agree with the special reasons given. The applicants want to park their RV adjacent to the house and occupy it each year from May until October so they can provide child care for their grandchildren. The RV would be removed from the property each year. He finds the density on the lot would increase. The applicant intends to plant 5 Leyland cypress trees across the back of the lot to screen the trailer from Marshallville Road.

MS. PETROZZA – Nothing to add.

MR. PHIFER – He does not agree with the special reasons given by Mr. Maffei. He cannot find any special reasons for granting the variance. He does not believe the applicant has offered any testimony that special reasons apply.

MR. TRULLI - he finds that granting the application would open up a flood of applications.

MR. UNSWORTH – He concurs with Mr. Shawl. He finds this is a campsite on a single family lot.

MS. ADELIZZI-SCHMIDT – She concurs with her colleagues. She finds there was not any positive criteria presented to support the variance.

MR. CASACCIO – He concurs.

A motion to grant the application with the conditions listed by the Board Solicitor was made by Mr. Shawl and seconded by Mr. Phifer. In favor: Opposed: Petrozza, Phifer, Adelizzi-Schmidt, Shawl, Truli, Unsworth, Casaccio.

DISCUSSION

Chairman Casaccio read the definition of a pole barn included in the letter from the board to Township Committee requesting that they add a definition of a pole barn to the ordinance. The board discussed the definition of a dwelling unit.

BILLS:

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

ADJOURNMENT:

A motion to adjourn the meeting was made by Ms. Adelizzi-Schmidt and seconded by Ms. Petrozza. The meeting was adjourned at 9:00 p.m.

Submitted by,

Shelley Lea