

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
OCTOBER 12, 2017**

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: Sherri Lisa Galderisi, Ted Klepac, Karen Mitchell, Christopher Phifer, Andrew Shawl, Matthew Unsworth and Chairman Paul Casaccio.

Absent: Joseph Healy, Lynn Petrozza, Susan Adelizzi-Schmidt, Larry Trulli.

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

APPROVAL OF THE SEPTEMBER 14, 2017 MEETING MINUTES

A motion to approve the minutes was made by Mr. Phifer, seconded by Mr. Unsworth, and approved. Abstain: Galderisi, Klepac and Casaccio.

BILLS

A motion to approve the bills was made by Mrs. Galderisi, seconded by Ms. Mitchell, and approved.

SWEAR IN PAUL DIETRICH AND SHELLEY LEA

APPLICATIONS

1. **CURTIS KALLER – BLOCK 840 LOT 10 – BA 13-17**

Applicant is requesting a use variance to replace a pre-existing, non-conforming duplex with a new duplex and variances for existing non-conforming lot depth and front and rear yard setbacks, building coverage and impervious coverage at 204 S. Commonwealth Avenue in Strathmere.

Jules Korschak, Esquire, represented the applicant. Mr. Korschak stated the property is 6,000 sq. ft. which is oversized. The applicant purchased the duplex in 2005. He has checked the tax assessor's records and this has been a duplex since at least the early 1990's.

Curtis Kaller, 1406 E Willow Grove Avenue, Glenside, PA and Christina Amey, Licensed Architect, were sworn.

Mr. Kaller testified he purchased the property in 2005. He rents half of the duplex and utilizes the other half himself. There was some flooding on the first-floor due to hurricane Sandy. He

testified it is his intention to demolish the duplex and construct a new side by side duplex. A copy of the Cape May County Department of Health permit, issued 8-9-2017 to construct a new sewage disposal system adjacent to the duplex was submitted as exhibit A-1. He intends to use the south side for his personal duplex and rent the other side.

Christina Amey testified this is a shallow lot which is the primary reason for the variances. The lot is unique since there is 100 ft. of road frontage and only 60 ft. of lot depth. The setback variances are needed due to the configuration of the lot. She testified that the structure would be raised to conform with the ordinance and two parking spaces would be provided for each unit. She stated that the side yard setbacks would be made conforming and the front and rear setbacks are being made less non-conforming. Variances are needed to allow 29% building coverage where 27% is permitted and impervious coverage to allow 45.6% where 46% is permitted. She stated this plan increases the light, air and open space on the north side of the property. It's her opinion that the variances could be granted since the benefits outweigh any detriments. She does not feel there would be a detriment to the public good and that there would not be any shadows projected onto any adjoining homes. A copy of page 33.02 of the Tax Map was marked A-2. The map is highlighted to show the lots where the duplexes are in Strathmere. She stated there are a cluster of duplexes between Vincent Avenue and Willard Avenue. Other duplex lots in the area exceed the coverage requirements far more than what is being proposed.

Ms. Amey testified the side by side duplex is safer in the event of a fire. She stated that two 9 ft. curb cuts are proposed. A variance is needed since the ordinance allows one 12 ft. wide opening. It is not possible to have only one driveway. Each unit in the existing duplex is approximately 1,731 sq. ft. and the proposed duplex is 1,100 sq. ft. larger per unit making each proposed unit 2,832 sq. ft. Each proposed unit includes a study without a closet. At this time she does not know what material would be used in the driveways.

Mr. Kaller agreed to a condition to utilize permeable pavers in the driveways to eliminate the impervious coverage variance.

The meeting was open to the public within 200 ft. Hearing no comment, the meeting was open to the public outside of 200 ft.

Ted Kingston, 5 E. Willard Road, Strathmere, was sworn. He has lived at his current address since 1963. His property is two blocks from the applicant's property. Page 37 of the 2006 Master Plan designates the RR zone as single-family units. The applicant wants to tear down a non-conforming duplex and build another duplex. The COX book states that if you tear down an existing non-conforming use you lose your non-conforming status. He asked how many applications to rebuild duplexes have been denied. He feels there is a trend going on and that there is no benefit to Strathmere. He feels that the town is being negatively impacted by the granting of variances to allow duplexes.

Linda Bateman, 14 E. Tecumseh Avenue, was sworn. Ms. Bateman has owned her property in Strathmere for 21 years. She testified there is a dramatic increase in the number of duplexes and it's startling to see what has happened to the town. There is no room for day trippers since there are renters. The increase in rentals have reduced the number of year-round residence along with the green space, fresh air, breezes and there is no sense of community. Giant homes are being built to replace smaller homes that are creating shadows and changing the makeup of the town. She feels the board is giving away variances and therefore everyone is asking for them. She feels

its hard to have to oppose an application being proposed by a neighbor. There are fewer year round residences and only four school age children. She stated there is not enough parking since multiple families share a home for a week and split the rent.

Jason Lombardi, 2716 Commonwealth Avenue, was sworn. He concurs with the comments by Ms. Bateman and Mr. Kingston. He believes the study will be made into a third bedroom. He finds the granting of duplexes is a trend.

Daniel Lee, 2716 Commonwealth Avenue, was sworn. He is not in favor of tearing down the building to construct another non-conforming structure that is larger than the previous one. He feels this is spot zoning that will set a precedent.

Mr. Korschak stated the applicant wishes to withdraw the coverage request and reduce the building coverage by 117 sq. ft. so that it complies with the ordinance requirements.

The board was asked for their findings of fact.

MR. SHAWL – Curtis Kaller is the owner of 204 Commonwealth Avenue also known as Block 840 Lot 10. The property is in the RR zone. The applicant has owned the duplex since 2005. The duplex was damaged during Sandy and the applicant wishes to construct a new duplex. A permit has been obtained for a new septic system. The property has 100' of road frontage and 60' of lot depth. The existing duplex does not comply with the front and rear yard setbacks because of the odd shape lot. The new structure would be safe from floods and would comply with the new flood ordinance. The applicant would like to keep the use the same and build a new structure. Christina Amey, Architect, testified the proposed side by side duplex is more desirable than an up and down duplex. The building was designed to look like one unit but there are two garage doors and two front doors. Ms. Amey provided testimony that the use variance could be granted since the property would be secured from fire and flood. The fire rating on the walls separating the two units would make the duplex safer. There is parking underneath the building to comply with the number of parking spaces needed. There are two 9' curb cuts proposed. The application is being amended to reduce the building coverage. During public testimony, it was stated that the Master Plan indicates the RR zone is for single family dwellings and that the proposed structure does not meet the character of Strathmere. He agrees the side by side duplex is safer regarding fire. He finds the proposed building is attractive and would fit in with the neighborhood and that the variances could be granted without detriment to the public good. The existing duplex could be raised to have parking underneath and the use would not change. He finds the driveway and parking issues can be resolved without creating a public hardship and that the benefits outweigh any detriments.

MR. PHIFER – He finds the C1 variances can be granted since the lot is exceptionally narrow and that the application can be granted without substantial detriment to the public good. Overall, he finds the benefits outweigh any of the negative implications since the structure could be raised and remain a duplex. He finds that allowing the applicant to construct a new duplex is better than raising the existing older duplex.

MS. GALDERISI – She finds that some of the non-conformities will be made conforming and others are being eliminated and that the applicant has amended the plans to comply with the coverage requirements for the benefit of the community.

MR. UNSWORTH – The applicant could raise the building 12' without needing a variance. He is in favor of the C1 variances but is wrestling with the expansion of use. The application increases the living space by 1,200 sq. ft. and the deck area by 700 sq. ft. He has no problem with

adding a garage and foyer area but he feels this is to great of an expansion of a non-conforming use.

MR. KLEPAC – He concurs. No one inside of 200’ objected to the application. The new septic would be an improvement. He finds the new duplex would be an asset to Strathmere. Julius Kenschak, Esquire, represented the applicant.

MS. MITCHELL – She does not find the burden of proof has been sustained. The plans show a tremendous amount of square footage. She does not see this as contributing to the wellbeing of the neighborhood or an asset to the community. She finds that granting the application would be setting another precedent. She stated that thinking a neighbor would contact the township about converting a study into a bedroom will not happen. There is no proof this will be a safer building.

MR. CASACCIO – He finds the house could have been raised without installing a new septic and that building a new structure rather than keeping the existing 60 year old structure is a better plan for the neighborhood. He finds the new building will be better in regard to fire and flooding.

A motion was made by Mr. Shawl, seconded by Ms. Galderisi, to grant the application for a D1 use variance and bulk variances for lot depth, rear and front yard setback and number of curb cuts with the condition the applicant revise the plan to add pervious pavers to eliminate the impervious coverage variance, revise the plan to add sidewalks and reduce the building coverage by at least 117 sq. ft. to eliminate the building coverage variance with all the revisions completed to the satisfaction of the board engineer. In favor: Galderisi, Klepac, Phifer, Shawl, Casaccio.

Opposed: Mitchell, Unsworth.

2. GEORGE & SANDRA DRESS – BLOCK 310 LOT 3 – BA 15-17

Applicants are requesting a variance to allow an accessory storage shed in the front yard at 189 Marshallville Road in Tuckahoe.

George Dress, 189 Marshallville Road, was sworn. Mr. Dress testified he purchased the property in 1977. At that time, it was a corn field. He is not able to see his neighbors’ homes on either side because of the trees he has planted. His property is located on the Tuckahoe River so his rear yard is his front yard. His in laws are moving in with him and he needs the shed to store their things. The proposed shed would be located 388 ft. from the front property line and 123 ft. from the house. He has talked to the neighbors and they do not have an objection to the shed being located in the front yard. He has a garage where he keeps his vehicles and another shed on the property where he keeps his lawn equipment. The house does not have a basement. The proposed shed would have a garage door as shown in the photo he supplied with the application.

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

MR. SHAWL – George Dress is the owner of 189 Marshallville Road in Tuckahoe also known as Block 310 Lot 3. The applicant’s property faces the Tuckahoe River. A variance is needed to place the shed in the front yard. The lot is large and narrow and its located on a vacated county road. The neighbors would not be able to see the shed because of the trees on the property. The shed will be used for storage. He finds the variance can be granted without detriment to the public good and the zone plan. There was no public comment.

MR. PHIFER – He concurs.

MS. GALDERISI – She concurs.

MR. UNSWORTH – He concurs.

MR. KLEPAC – The applicant represented himself.
MS. MITCHELL – She agrees.
MR. CASACCIO – He concurs.

A motion was made by Ms. Galderisi and seconded by Mr. Shawl to grant the application to place an accessory structure in the front yard with the condition the shed is 14' x 24' prefab shed shown in the application and located in the area shown on the plan. In favor: Galderisi, Klepac, Mitchell, Phifer, Shawl, Unsworth, Casaccio.

3. JEFFREY & LORI JOHNSON – BLOCK 642 LOT 32 – BA 16-17

Applicants are requesting a front yard setback variance 50' required, 38' proposed, to construct a front porch at 52 Rivendell Road in Palermo.

Jeffrey Johnson, 52 Rivendell Road, was sworn. Mr. Johnson testified this is a corner lot with two front yards. The porch will not interfere with the well or septic. He apologized for beginning construction without a permit and reviewed the photos included in the application package that show the porch as well as other porches in the area.

Mr. Johnson testified that he and his family want the porch to enjoy the outdoors, fresh air and neighbors. He stated that because of the variance process he has spoken to more of his neighbors than he has since purchasing the property over 30 years ago. The porch and setbacks are similar to others in the neighborhood. This will be an open porch with a roof.

The meeting was open to the public. Hearing no comment, the board gave their findings of fact.

MR. UNSWORTH – Jeffrey Johnson, 52 Rivendell Road is requesting a variance for reduced front yard setback to add a porch on the front of the house. This is a unique lot since it is a corner lot with two front yards. This is an undersized lot. The septic is in the other front yard so that is not an option for locating the porch. The proposed porch would be consistent with others in the neighborhood in size, style and location. He sees no detriment to the neighborhood.

MR. KLEPAC – He concurs.

MS. MITCHELL – She has been to the site and finds the porch is consistent with neighborhood. She finds this will be an asset to the property and the neighborhood.

MR. SHAWL – He concurs.

MR. PHIFER – He concurs.

MS. GALDERISI – She concurs.

A motion was made by Mr. Unsworth and seconded by Mr. Shawl, to grant the front yard setback variance with the condition the porch is constructed in accordance with the plans submitted. In favor: Galderisi, Mitchell, Phifer, Shawl, Unsworth, Casaccio.

DISCUSSION

Chairman Casaccio announced that Solicitor Marcolongo has