

**UPPER TOWNSHIP PLANNING BOARD  
MEETING MINUTES  
APRIL 16, 2020**

The Upper Township Planning Board held a virtual meeting on April 16, 2020. The meeting was called to order at 7:30 p.m.

**SUNSHINE ANNOUNCEMENT**

**SALUTE TO THE FLAG**

**ROLL CALL**

Present: Georgette Costello, Ted Kingston, Janet McCrosson, Craig Reeves, Gary Riordan, Mayor Richard Palombo, Hobart Young, Robert Young Sr., Chairman Joseph Harney.

Absent: Michael Endicott, John Klebaur.

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

**APPROVAL OF THE FEBRUARY 20, 2020 MEETING MINUTES**

A motion to approve the minutes was made by Ms. McCrosson, seconded by Mr. H. Young, and approved.

**SWEAR IN PAUL DIETRICH**

**APPLICATIONS**

1. KENNETH & BONNIE MOORE – BLOCK 549 LOTS 9, 10 & 11 – SUB 02-2020

Applicants are requesting a minor subdivision to realign the lot lines, variances for pre-existing non-conforming frontage on lots 10 and 11 and distance between the shed and the house on lot 10 located at 23 & 25 Tyler Road in Seaville.

Kenneth Moore, 25 Tyler Road, Ocean View, NJ was sworn. He testified that correspondence from John F. O'Connor, owner of lot 11, indicates that he is in favor of the application. A copy of the letter is attached to the application.

Mr. Moore testified that realigning the lot lines will clean up the properties. Lots 10 and 11 have 27' of frontage on Tyler Road. There is a joint driveway that is required by the County. The frontage on the two lots will remain non-conforming. The frontage on Lot 9 exceeds the requirement. Each lot will have access to an improved road. A variance is

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needed since the shed on lot 10 is 14.4' from the house and 15' is required. The shed is old and can't be moved to another location on site. Lot 9 is being sold.

Mr. Dietrich testified the subdivision complies with the minor subdivision standards since there are no more than 3 lots. No new lots are being created. He discussed the right of way easement.

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

MRS. COSTELLO – Kenneth and Bonnie Moore are requesting minor subdivision approval with variances for Lots 9, 10 and 11 in Block 549. They wish to realign the lot lines in preparation of the sale of lot 9. The frontage on lots 10 and 11 is non-conforming. Each lot has 27' of frontage and share access. The non-conforming shed will stay in place. There was no public comment.

MR. KINGSTON – A portion of a right of way easement will be removed to benefit lot 11 which is vacant. There are 3 driveways.

MS. MCCROSSON – The variances are for pre-existing conditions. Granting the variances would not substantially impair the intent of the zoning ordinance. The subdivision makes the lots less non-conforming. There is no detriment to the adjoining properties.

MR. RIORDAN – The applicants represented themselves. The Plan of Minor Subdivision prepared by The Martinelli Group is dated 1-23-20.

MR. H. YOUNG – He concurs.

MAYOR PALOMBO – He concurs.

MR. R. YOUNG – He concurs.

MR. HARNEY – The applicant has testified the shed can't be moved without falling apart. The application meets the criteria for a minor subdivision.

A motion was made by Mr. H. Young and seconded by Ms. McCrosson to grant the minor subdivision to realign the interior lot lines, a variance for the pre-existing non-conforming shed and lot frontage variances with the standard conditions. In favor: Costello, Kingston, McCrosson, Reeves, Riordan, Palombo, H. Young, R. Young, Harney.

2. ABUNDANT LIFE ASSEMBLY OF GOD INC. – BLOCK 453.10 LOTS  
337.02 & 337.05 – PB 01-2020

Application is for preliminary and final site plan approval to construct a 6,240 SF addition at 44 Route 50 in Seaville.

Avery Teitler, Esquire, represented the applicant. He stated the property is in the R zoning district. The multipurpose room addition requires a variance for the number of parking spaces being provided and a waiver for site lighting.

Pastor Walter Nistorenko and John Halbruner, Professional Engineer, were sworn.

Mr. Halbruner testified this is an existing one-story church with 84 parking spaces, playground, basketball court and wooded areas. There are freshwater wetlands on the property. He described the surrounding area.

Mr. Halbruner reviewed the "floor plan" section of the site plan he prepared. The proposed addition is 6,240 SF. The addition contains a 2,409 SF multipurpose room, 206 SF stage, 426 SF youth room, storage room, kitchen, Café/lounge, mechanical room and restrooms. There is a foyer that connects the addition to the existing church. There is also a concrete courtyard proposed. He stated that 77 spaces are required for the existing church and 84 are currently provided. They do not propose any additional parking spaces since there will not be a demand for additional parking. It is better for the environment not to add impervious parking spaces that would never be used. The proposed addition complies with the bulk standards. A waiver is being requested since there is no additional site lighting proposed. He feels the existing lighting is adequate since this is a residential zone. There is 121.50' between the addition and the adjoining property line and 170' to the house on lot 338.

Mr. Halbruner testified the application can be granted since churches are an inherently beneficial use and promotes the general welfare and provides an aesthetic enhancement. The addition would compliment and update the look of the existing church. Light, air and open space is provided. There is no detriment to the public good and granting the variances will not impair the intent of the zoning ordinance or zoning plan. The negative criteria has been satisfied.

Mr. Dietrich concurs with the comments by Mr. Halbruner. He discussed the drainage on the property. He stated the proposed drainage provides better stormwater function. He feels the existing lighting is sufficient.

Mr. Nistorenko has been the Pastor for 10 years. The congregation gathers Sunday mornings at 10 a.m. The parking spaces are 80 to 90 percent full at that time. The addition would provide an opportunity to gather with food and additional space for activities. The spaces provide for parishioners to gather and is not open to the general public. Two different activities will not be held at the same time. They are currently raising money to fund the project. The addition would be used for church related events such as fellowship dinners and vacation bible school. The trash enclosure is located on the east of the building. The trash may increase slightly. A private contractor picks up the trash. They propose to place a table with an umbrella on the concrete area.

Mr. Kingston expressed a concern with the parking. There are 140 spaces required and 84 spaces provided. He feels that additional parking should be installed. The board discussed if the addition should be restricted from being used by a 3<sup>rd</sup> party.

The meeting was open to the public.

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John Perone, 7 New Vernon Avenue, Seaville, was sworn. He has concerns about the septic and the freshwater wetlands. He feels that a fence should be installed around the pond for the safety of the kids. Mr. Dietrich explained the plan meets the State standards for the distance between the wetlands and the septic.

Mr. Halbruner testified there is no need for a fence due to the dense vegetation. He stated that a fence can't be in the wetlands. He provided a photo that he took today from the corner of the proposed addition toward the Perone property. The house is barely visible because of the vegetation.

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

MR. H. YOUNG – The application meets the MLUL requirements for a site plan. He doesn't find the parking variance to be a detriment. This will not be used in conjunction with the other. He feels the applicant should be allowed to continue allowing a 3<sup>rd</sup> party to use the space for things other than fellowship.

MR. R. YOUNG – He concurs.

MAYOR PALOMBO – There are 84 parking spaces existing where 77 spaces are required. They are requesting a technical variance for parking since the proposed building would not be used at the same time as the church, vice versa. There is no anticipation of having any sort of celebration or some sort of activity at the new building while church services are being held. Testimony was given that the 84 parking spaces and the lighting is sufficient. Adding lighting could be a detriment to the neighborhood. The property is across the street from Osprey Cove. The addition would be used for activities related to the church such as bible school and Christmas pageants. With the new addition the parking comes out to about 40% of what is required under the current ordinance. Mr. Dietrich has determined the drainage would improve based on the rooftop runoff. The proposed drainage basin will protect the wetlands behind the property. The engineers have stated a fence is not needed because of the berm and the existing vegetation and that a fence cannot be installed in the wetland area. He feels this is a growing tool for the parishioners that are there. He finds the proposed addition would not cause any detriment.

MR. RIORDAN – Pastor Nistorenko testified the parking lot is typically 80% full on Sunday mornings. A note on the site plan prepared by HDG Engineering states that although the facilities are being expanded, the use of the proposed multipurpose addition will not occur concurrently with worship services within the existing church building. Mr. Halbruner, P.E. has shown the advantages of the project include aesthetic enhancement and that the building is an inherently beneficial use that and helps promote general welfare. One member of the public has concerns about the wetlands. He finds the positive aspects of this application outweigh any negative aspects and that the application can be granted with no substantial detriment to the Township Land Use Code. He feels the addition would be a welcome addition and an asset to the township.

MS. MCCROSSON – A variance is needed since there are 56 fewer parking spaces than required. The parking for the addition would be at an alternate time than Sunday worship so it should not be a burden. The existing parking exceeds what is needed for the current

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building. Since no additional parking spaces are being added the lighting for the existing parking area remains sufficient. The addition does not exceed any zoning requirements. She sees no detriment to the adjacent properties.

MR. KINGSTON – He finds that 56 additional parking spaces are needed. There are zero being provided. He feels additional spaces are needed for this large addition. He anticipates parking issues and vehicles parked along the road.

MRS. COSTELLO – The applicant was represented by Avery Tietler, Esquire. They are requesting preliminary and final site plan approval for a 6,240 SF addition that includes a multipurpose room that connects to the existing church by a foyer. Mr. Dietrich testified the addition is in accordance with the design standards. The new drainage basin would provide adequate stormwater management. The positive aspects outweigh the negatives.

MR. HARNEY – He finds the application meets the C2 standards since the light, air and open space will be maintained. He feels that if the church grows additional parking spaces may be needed and that the hours of operation should not be limited. He feels this is a benefit to the community.

A motion was made by Ms. McCrosson and seconded by Mr. H. Young, to approve preliminary and final site plan approval to construct a 6,240 SF addition/multipurpose room, along with a parking variance wherein 140 parking spaces are required and 84 parking spaces are being proposed and a waiver for exterior site lighting with the condition the use of the proposed multipurpose addition will not occur concurrently with worship services with the existing church. In favor: Costello, McCrosson, Riordan, Palombo, H. Young, R. Young, Harney. Opposed: Kingston. The connection with Mr. Reeves was lost.

3. JCM DEVELOPMENT LLC – BLOCK 557 LOT 3 – PB 03-2020

Applicant is requesting an extension of site plan approval at 3004 Route US 9 South in Seaville.

Robert Belasco, Esquire, represented the applicant. He stated there is an existing commercial building on the site that has fallen into a state of extreme disrepair and needs a renovation. The property is in the TCC zone. The applicant is seeking expansion of prior approvals that were obtained by the previous owner, Howard Prokrass, as shown in Resolution PB 01-05, dated November 17, 2005. Mr. Prokrass received preliminary and final site plan approval and variances for front yard setback, building coverage lot area, deviation from the required landscape buffer and a waiver to permit parking on crushed stone.

Mr. Belasco stated the applicant purchased the property on January 10, 2020 with the intentions to redevelop the property consistent with the prior approvals. Final site plan approval protects the applicant for two years. He discussed the Permit Extension Act that was passed by the State which protected the approved site plan until October 18, 2017. The applicant is now seeking three 1-year extensions from the board. These approvals would be retroactive. Granting the extensions would carry the approval until October 18,

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2020. Granting the extension request would allow James McNulty to develop the property in accordance with the prior approvals. Mr. McNulty is a local developer in the area and frequently redevelops properties that have deteriorated or in a dilapidated condition. He plans to complete this project as soon as possible. The approvals were to permit commercial/retail sales on the first floor of the existing structure, as well as office space and storage on the second floor. The approval included a new accessory building. The property is in a prime location. Mr. McNulty intends to utilize the first floor for commercial uses and use the second floor for his personal office.

Mr. Dietrich suggested the applicant reach out to the County sooner rather than later regarding their road project in this area which is scheduled to take place soon followed by a 5-year moratorium. He agrees the site plan is still valid.

Mr. Barnes stated that he has provided Mr. Belasco with case law and a memorandum with regard to the extension of time. He finds the comments by Mr. Belasco are 100% accurate.

The board discussed the Preliminary and Final Site Plan by Gibson Associates, last revised 8/17/2005.

The meeting was open to the public.

Stacy Dotts, 1 Gardner Lane, Beesleys Point, was sworn. She asked where the property was located, what was approved and what actions the board is taking. Mr. Belasco answered her questions.

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

MS. MCCROSSON – This is an application by JCM Development LLC. The planning board approved this application in 2005. The approvals were extended by the Permit Extension Act until 2008 which was again amended in 2016. The applicant is now applying for three one-year extensions retroactively, which would allow the previously approved resolution to be in effect until October 2020. The use is permitted in this zone and minimal variances were needed. This is a unique property. This would improve the aesthetics of the property. The benefits of having a functional commercial use that looks nice in this area outweigh any detriments. She sees no detriments associated with granting this request. The six crushed stone parking spaces help with the drainage.

MR. H. YOUNG – He concurs.

MRS. COSTELLO – No further comment.

MR. KINGSTON – No further comment.

MR. RIORDAN – The approved variances include minimum lot area, landscape buffer, front yard setback and rear yard setback. Mr. Dietrich suggested the applicant reach out to the county to coordinate the development plans with their upcoming road projects. There was public comment from one property owner in Beesleys Point. The site plan

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was prepared by Gibson Associates. The property is unique in that it has three front yards and he believes the project will be an overdue benefit to the neighborhood.

MAYOR PALOMBO – He concurs.

MR. R. YOUNG – He concurs.

MR. HARNEY – The property needs to be improved. The board solicitor has confirmed the dates.

A motion was made by Mr. Riordan and seconded by Mr. R. Young, to grant extension of preliminary and final site plan as previously approved. In favor: Costello, Kingston, McCrosson, Riordan, Palombo, H. Young, R. Young, Harney.

4. MASTER PLAN REEXAMINATION IN ACCORDANCE WITH NJSA40:55d-89

Tiffany Morrissey was sworn. The Master Plan she discussed is dated March 2020. She stated the reexamination report is an update to the existing Master Plan and reexamination report and it is being done specifically to deal with certain issues that have occurred since our last report in 2018. Specifically, the Marmora Town Center which relates to the settlement agreement for our housing element and Fair Share Plan, updates and clarifications we needed to make in order to satisfy the court order. There are updates relative to Strathmere and the land use ordinance for residential development. There's also an update to the BL England property since the plant is closed and the township has the potential to address future land uses in that area. The plan also includes information relative to plan endorsement. Last month the board adopted the public access and recreation plan which will be incorporated into the report as well. Updates will be made to the Conservation Plan and Transportation Plan.

Mrs. Morrissey testified the house element and fair share plan that was certified by the courts was approved in 2018. Subsequent to that the board adopted and implemented the ordinances relative to the Marmora Town Center. In doing that it was brought to our attention that the percentage of residential and commercial development were not as anticipated, and modifications were made. It is recommended that the ordinance be revised to create a ratio of 60% residential to 40% non-residential which meets the required 295 affordable housing units in the center area. The permitted uses will also be clarified.

A subcommittee has met over the past year to update the land use ordinances specific to the construction in Strathmere. The subcommittee looked at the height of structures and access to roof top decks. The amount of habitable space is being amended and floor area ratio will be added to the ordinance. Decks and porches would not be included in the FAR to encourage outside space and to avoid square buildings. New homes will be elevated higher to ensure flood protection. Single family uses will now be permitted in most of the RC zoning district. The homes would have to meet the standards in the RR zoning district. Stormwater controls will be included to ensure there are no negative impacts on the adjoining properties.

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The reexamination reports recommend the creation of a waterfront town center district in Beesleys Point. The new zone would promote waterfront development areas and enhance the waterfront area. There are no residential uses permitted in this zone. The goal is to encourage the redevelopment of this property that was once BL England. The plan endorsement expires in June 2020. A comment about the conservation plan and New Jersey resilient coastal community's initiative and the transportation plan will be added. The last section deals with development plans. The township is considering the possibility of creating two redevelopment designations.

Mr. Dietrich stated the legend needs to be amended to add the WTC Waterfront Town Center zone. The definition of "building" will be amended.

There was discussion regarding the proposed changes to the Strathmere ordinances.

The meeting was open to the public.

Stacy Dotts, 1 Gardner Lane, Beesleys Point, was previously sworn. She has been an Upper Township resident for 20 years and has also lived in Ocean City. She has concerns about the proposed redevelopment of the BL England property into a recreational use. She does not understand how this could be positive for Beesleys Point. She is concerned about the traffic and the speed limit. She asked about forming subcommittees to discuss the rezoning.

Mayor Palombo explained that the township does not own the property and therefore a plan is needed to limit what is permitted in that area of the township.

Mr. Dietrich addressed the speed limit. He has been in contact with the NJDOT about reducing the speed limit to coordinate with the shared bike shoulders along Shore Road.

Lisa Carr, 33 E. Webster Avenue, Strathmere, was sworn. She had a question about decks and the proposed change to the definition of building. FAR was discussed and how it will control development in Strathmere.

Linda Bateman, 14 E. Tecumseh Avenue, Strathmere, was sworn. She is in support of the proposed zoning changes and she is anxious to see the revised ordinances move on to the township committee for review.

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

A motion to adopt Special Resolution 03-2020 was made Ms. McCrosson and seconded by Mr. R. Young. In favor: Costello, Kingston, McCrosson, Riordan, Palombo, H. Young, R. Young, Harney.

**BILLS**

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A motion to approve the bills was made by Ms. McCrosson, seconded by Mr. Palombo, and approved.

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. R. Young. The meeting was adjourned at 10:47 p.m.

Submitted by,

Shelley Lea  
Secretary