

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES OCTOBER 8, 2020

The regular meeting of the Upper Township Zoning Board of Adjustment was held as a virtual meeting and began at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Sherrie Lisa Galderisi, Richard Mashura, Karen Mitchell, Mark Pancoast, Lynn Petrozza, Christopher Phifer, Andrew Shawl, Larry Trulli, Matthew Unsworth.

Absent: Joseph Healy, Paul Casaccio.

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

SWEAR IN PAUL DIETRICH, SHELLEY LEA AND TIFFANY MORRISEY

APPLICATIONS

1. STRATHMERE MOTEL, INC. – BLOCK 834 LOT 1 – BA 09-2020

Applicant is requesting preliminary and final site plan approval, a use variance for the expansion of a non-conforming use in the RC zone and height and bulk variances to construct a 15-unit hotel at 513 Commonwealth Avenue in Strathmere.

Richard King, Esquire, represented the applicant. He stated there is a pre-existing non-conforming motel located on the site. It is the applicant's intention to continue that use. The present motel contains 16 units and is an obsolete design with air conditioning units hanging out the windows and is a flood hazard.

William C. McLees, Project Architect; Robert A. Bruce, Professional Engineer; Lance Landgraf, Licensed Planner, were sworn.

Mr. McLees reviewed his credentials for the board. He reviewed a slide presentation titled "The Inn at Strathmere". The property is in an AE9 zone. The original building was constructed in the mid-20th century and has been utilized as a motel for many decades. The structure is starting to show its age. The property owner, Stephen Maloney, purchased the property in 2008. He continued to use it as a motel, but it started experiencing structural and mechanical problems. For these reasons he ceased using it as a motel in 2018. It is now occupied by the same regular patrons and Mr. Maloney. The property owner would like to cater to families wishing to vacation in Strathmere. He

discussed the site plan that he prepared, dated 5-8-2020. The plan shows the buildings broken up into a series of pods. He introduced curving elements into the plan as opposed to a continuous straight street wall. Setbacks are needed because of the building being spread out. Ingress is from Sherman Avenue and egress is on Sumner Avenue.

Mr. Dietrich stated this presentation is online on the township website and contains the 48-slide exhibit provided by Mr. McLees.

Mr. McLees testified the number of units has been reduced from 16 to 15. This is new construction and therefore will comply with the current building codes, accessibility codes, fire safety and energy codes. They plan to incorporate sustainable items such as renewable flooring and LED lighting. The pods would be connected by an exterior walkway so there would be less walls which would save on building materials. They propose low flow plumbing fixtures, high efficiency HVAC systems with condensers located on the top floor so the heat rejection is above and not making its way into adjacent properties. The roof is white to reflect the heat to reduce the cooling load. The front yard setback on Sherman Avenue conforms, however the setback on Sumner and Commonwealth do not. The rear yard setback is slightly non-conforming. The proposed building must have an adequate buffer from the septic disposal field. This buffer pushes the building toward Commonwealth Avenue creating the need for a rear yard setback, 30' required, 29.44' proposed. The exterior walkways and stairs will project into the setback. There is service space between the pods that will be used for small storage closets for the units or mechanical electrical chase space. This space between buildings helps define each of the pods and take on the appearance of individual buildings which breaks the mass of the total building down into dimensions and scale that are more apportioned to the surrounding architecture. The 19 parking spaces being provided on the ground floor are surrounded by a garden wall and lush plantings. He described each of the floors and the interior circulation. Two remote means of egress are proposed on each floor. The front desk, managers office, and lobby area with coffee bar are located on the second floor. The site plan shows the typical unit plan with living/kitchen space, beverage bar, one bedroom and a bathroom. The owner's unit is slightly larger. The accessible unit has slightly reconfigured bath and kitchen area. He reviewed some of the design elements. The space between the pods allows for light into the units and common areas. They believe a kitchen in each suite is what the current market demands at the Jersey shore. The original building has kitchenettes and there is a limited number of food and beverage establishments in Strathmere. One of the pods is lower than the rest to provide a fourth-floor patio/deck area that could be accessed by the stairs or elevator. He discussed the height of the structure and the elevator. The exterior will be a coastal theme with light shingle siding. The units contain a useable 640 sf and gross area when factoring in the mechanical and closet space is 700 sf. The exterior walkways will have guardrails and intermittent screen areas which will be composite material that looks like wood.

Mr. Mclees used the site plan to show the amount of area the septic field consumes. There is a required setback from the septic field to the closest building. All this pushes the building closer to Commonwealth Avenue. The inability to have residential uses

within the flood plain and the need to have ground floor parking factor into the building design. There is a limited amount of building area to construct the motel forcing the building up and resulting in a fourth floor. Aftermarket studies and analysis by Mr. Maloney have resulted in 15 units being needed. The fourth floor is needed to fit in the 15 units. He reviewed slides showing the proposed landscaping, walkway trellis, garden wall, lush vegetation, and street trees, shake siding and Bermuda shutters. He discussed the shade trees and stated they are willing to work with the board engineer on the type of trees to use. They are looking into different grasses to provide a beach feel and pops of color like a Japanese maple and perennials. They have clustered a good deal of plantings to hide the trash/recycling enclosure near Sumner Avenue. He compared the proposed setbacks with the setbacks of the current structure. He discussed fire separation. The building would be fully ADA accessible by way of the elevator and small chairlift down from the walkway to the lawn and an accessible unit located on the third floor above the lobby. He feels the units are designed at a size that is appropriate to market since the typical unit has 16'x18' kitchen/living area, and a 10'x12' bedroom with a closet. Since the motel is geared for families there will probably be a pull-out couch in the living area for the kids to sleep on. He feels the units are not oversized and are an appropriate scale. He feels the market dictates the unit size.

The board was given the opportunity to ask questions at this time.

Mr. Mashura asked if the fire company has fire equipment that could handle the proposed height of this building. Mr. Mclees testified they have not had any meetings with the fire company. Ms. Lea testified a copy of the plan was given to the fire chief, but he has not provided any comment. Mr. Mashura asked questions about the height of the structure since there is a flat and pitched roof. Mr. Dietrich stated that he does not find this to be a flat roof structure. Mr. Mashura stated that the renderings show a paved public walkway. He wanted to know if the applicant intends to install a walkway like the one on the plan. Mr. Mclees testified they have not discussed this yet with Mr. Dietrich, but he finds the walkway adds to the streetscape.

Ms. Mitchell asked for clarification on some things such as the overall height of the building. Mr. Mclees testified the building height to the roofline is 40'1" from flood protection elevation. The height to the top of the elevator enclosure is 43'6" from flood protection. He has no control over this height since it is a function of service to the fourth floor. There are overrun requirements for the elevator to accommodate the machinery which are set numbers that are 13 ft above the last floor of service. She stated there is a height of 47'6" referenced on the plan. Mr. Mclees testified this is from sea level. The building from the concrete will be 44' to the top of the curved roof. She asked the height of the existing building. Mr. Mclees stated it is 20' at the most. Mr. Dietrich testified the permitted height is 35' above the design flood elevation or in this

case 35' above elevation 11 which would give them a roof elevation of 46. The applicant is proposing 40' 1" to the main part of the roof where 35' is permitted. Mr. Mclees discussed the elevation and adjacent grade. He stated there will be other buildings already in town that are a similar height. He is aware there are smaller houses to the east and two-story homes across Commonwealth Avenue. They feel this is an appropriate consideration in the height deviation since this is the main road through Strathmere, is in a commercial zone and is a county Thorofare. He feels the height is necessary for the feasibility of a hotel. She asked how much larger the proposed footprint of the new hotel will be compared to what is existing. Mr. Mclees stated the plans show the proposed building is 22.45% and they are proposing 33.81%. When the balcony areas and factored in it would be higher about double what is existing.

Ms. Mitchell asked how they came up with the size of the rooms. She referenced other motels built along the water that have smaller rooms. Mr. Mclees testified they created an area for the parents and the kids to have space during their stay. They had to coordinate the architecture with the parking below.

Mr. Pancoast commented that he would like to hear from the first responders regarding the height of the structure.

Mr. Shawl asked about the landscaping and the parking. Mr. Mclees stated there are 19 spaces proposed which meets the ordinance requirement. There are 15 units, and he assumes they will allow one car per unit. There will probably be an overflow space and a space for an employee. They have not reviewed this in detail with the owner. He asked if they plan to use solar panels or provide charging stations for electric vehicles. Mr. Mclees stated they would look into this.

Mr. Unsworth asked if the changes to the zoning ordinance would have any effect on the application. Mr. Dietrich stated that most of the changes were made to the Resort Residential zoning. Since there are not many commercial properties in the RC zone the ordinance now allows residential uses in the commercial zone without requiring a use variance.

There was a short break.

Lance Landgraf, Licensed New Jersey Planner, was sworn. He testified there is the Strathmere Motel currently on site. This is a much smaller unit than what is proposed. The subject property is zoned RC. There is a 16 unit facility on a 16,000 sq. ft. lot. A 15 unit hotel structure is proposed that would expand the current use on the property. They propose to construct the new hotel with a building elevation of 40' 1" and there is an elevator tower proposed at 43.5'. This is not a permitted use in the RC zone which is why they are presenting the application to the zoning board. He testified as to the permitted uses in the RC zone. He stated these are typical of resort commercial districts. A zone like this would typically include a transient, lodging facility use. He testified that under the zoning ordinance the lot could be subdivided into two lots, however the

county would not allow the lot size to construct two new homes because of the septic design requirements. He stated that an 8,000 sf house could be built on this lot. A house built on this property would have 3 frontages and one side yard that would be on the ocean. He commented the side yard setback could be 6 ft. The house could be 45 – 46 ft from grade. He agrees that it is important to find a viable commercial use that takes advantage of this large site. Other commercial uses that are permitted would be much more intense than this. He feels the use fits in with the area and is a distinctive need in this area. This current use has been there for many years. The existing structure is in poor condition. It's aged and is noncompliant as a hotel. There are old antiquated systems. There are window units for air conditioners that are not in a modern motel. The proposed use is less intense than a bar, tavern, or retail sales. This site is particularly well suited for a hotel since there is one there now and it is a historic use of the property. The property is located on the main thoroughfare which is a County roadway that connects the barrier islands through Cape May County. The motel use has been on the property since at least 1959. The proposed lot coverage is not well over what is allowed. He feels the site is adequately sized for this use. They meet the parking requirement and that is a benefit. They are reducing the number of units. The building can be accessed by 3 streets allowing for ingress and egress on opposite sides which provides a nice circular motion. There are wide front sidewalks being built allowing for good pedestrian circulation around the property. He stated the Master Plan does not address this site at all. There are other zones in the township that allow hotels such as the TC, TCC, MTCD and WTC district. The proposed hotel would fit in well with the hotel criteria. He stated that people want to be in a smaller facility such as the "boutique" hotels that are 10 to 25 units. He discussed a building height analysis that he prepared showing the permitted height in the RC zone is 35' and the requested height at 40'1". The permitted height in the TCC, TC, MTCD and WTC is 45'. He stated the proposed hotel fits within the criteria that the municipality has already designed in other areas. Focusing on the D1 criteria he stated special reason "a" applies even though the site is not zoned for this use, it's a historic use as a hotel and shows this use can work there and function as a hotel. Its location along Ocean Drive corridor makes the site ideal for a hotel use and provides good access. By allowing the hotel to be redeveloped along this transportation route the general welfare of the community and region is enhanced. The hotel is presently not a functional economic use on the site but what is being proposed will be. The new structure would meet the building codes, ADA codes, flood requirements, electric, plumbing and emergency ingress and egress. Currently some of the rooms are not usable because of the lack of access. He stated that any structure that does not comply with the flood elevation causes issues to buildings around it. This is why FEMA wants to raise the buildings and have breakaway walls, so the entire structure is not washed off its foundation and cause damage to other properties. Special reason "b" applies to secure from fire, flood and panic and natural and manmade disasters. Special purpose "g" applies as well because of the county road, the creative design and the parking complies. He finds this is an appropriate location since this has been a hotel for over 50 years. He stated that if this property does not remain a viable functioning hotel there is no other place where it would be permitted on the island. Special purpose "i" since the proposed design promotes a desirable visual environment through creative development techniques

and good civic design and arrangement. He stated the pods create a desirable visual environment compared to the two-story flat roof structure that is basically a box with a 4' eave hanging over the side. From a design standpoint he believes it meets purpose "i" and "m" since they have used a good portion of the site while still providing for the septic in the back of the property and meeting most of the setbacks. They have used the location in an efficient way. He stated that reusing the site for the same use is a good efficient use of a piece of property.

Regarding the negative criteria he stated that pulling the building toward Commonwealth Avenue lessens the impact, the height of the structure is similar to what can be built in this area. He does not see this as a substantial detriment due to the aesthetic features and since the number of units is being reduced from 16 to 15, the current use of the site, the amenities provided and the ample parking. He finds there will be no substantial impairment to the intent or purpose of the master plan since this is an architecturally desirable buildings that encourage outdoor decks, the proposed walking areas and rear decks and since the setbacks and angles break up the monolithic roles. The building is raised so that future improvements can be made to the roadway and clears the areas for floodwaters. They have provided stormwater management control and minimum ground floor elevation for garages. He feels they are not inconsistent with the Master Plan goals and objectives since the plan does not address a hotel even though there is an existing non-conforming motel on the property. The height in the Master Plan focuses on residential properties and there were no recommended changes to commercial uses. He feels the hotel will not be a substantial detriment to the public good and will not impair the intent and purpose of the zoning plan since the residential character of the surrounding properties will remain intact, the aging noncompliant structure will be removed and the front yard setback on Commonwealth will be improved. There are single family structures in the area that are elevated. He stated the hotel will not be much different in height than they are. The structures are higher to allow for parking underneath. From a distance the structure will not looker higher than the others. He stated there are taller homes built on the bay in Strathmere because of the different flood zone. He stated this will not be much different than some of the newer homes being built in this area.

Mr. Landgraf agreed the proposed height is a deviation from the height limitation. He discussed how it was determined if the site could accommodate the new hotel. He stated that pushing the building toward Commonwealth Avenue is the best design. He also discussed the architecture of the proposed hotel. He believes this design is better than constructing 8,000-sf residential building six feet from the property line. He believes the testimony he gave regarding the site's suitability and the other aspects of the Medicchi standards apply. He stated there is case law that when there is a use variance there are no C variances since there is no criteria for the proposed use in the standards. Using setbacks for other uses even residential uses is not appropriate. He stated the bulk variances are de minimis and reviewed each of them. He stated there are three signs proposed. The area of the signs is over what is permitted. He believes the variances requested are C2 variances. He does not believe they are over developing the property

since it is hard to develop it in a zone that does not have the criteria for them to meet. He feels the proposed setbacks are reasonable. There are three street frontages and a narrow depth going from Commonwealth back. The septic location pushes everything forward.

Mrs. Galderisi asked if the highest and best use is to continue the current use as a hotel. Mr. Landgraf stated that in his opinion it is. He stated that making this a bar/restaurant use would be extremely intense for this property. Mrs. Galderisi stated that parking under the structure would take away any traffic or any disturbance to the community because everyone coming here would be housed in the same location. She stated that bringing the septic into compliance will help purify what is existing since everything is antiquated. Mr. Landgraf stated the building is not up to code for a hotel use and the septic system may be as old as the structure.

Mr. Mashura asked if a single-family dwelling is permitted on a lot zoned RC. Mr King stated that a single-family home is permitted as long as it conforms with the bulk requirements contained in the RR zone.

Ms. Mitchell asked if there are any liquor licenses for sale in the township. Mr. Dietrich testified there are not. She confirmed the size of the lot and asked if Mr. Landgraf knew the average lot size on Sumner and Sherman Avenues. He stated they are significantly smaller than the zone requires. There was discussion regarding how many homes could be built on this lot because of the 35,000-sf needed to meet the county standards. Ms. Mitchell asked about the three proposed signs, one on the front of the building and one on each side of the building. Mr. Mclees testified the signs would be backlit with a low voltage LED light.

Mr. Shawl referred to testimony indicating this is an expansion of a non-conforming use requiring a D2 variance. Mr. Landgraf testified it could be considered that since the use is there now. Demolishing the building and constructing a larger building has been looked at as an expansion of a non-conforming use. There is also the possibility it could be a D1 since the use is going away and being recreated. Mr. Shawl asked for clarification of the testimony given regarding the number of proposed floors since the ordinance only allows two habitable floors above BFE. Mr. Landgraf testified that by pulling the structure closer to Commonwealth Avenue to allow almost 30' to the side property line allows them to offset the additional height. Mr. Shawl asked about a vegetated buffer for the neighbors in the RR zone near the septic. Mr Landgraf testified that only grass can be planted on the septic. Mr. Mclees explained there is a 5' setback to the base of the retaining wall. There is a small landscape strip shown on the plan. He discussed possibly adding a planter box system on the wall with a vine or creeping type planting that will cover the wall and supplement the buffer. He stated that the septic wall of the adjacent property is right on the property line.

Mr Unsworth stated the impervious (lot) coverage shown on the plan is 69.32% and the testimony by Mr. Landgraf is there will be 60.79%. Mr. Landgraf testified they will be utilizing permeable pavers and that will lessen the impervious coverage. Mr. Unsworth

asked about the reference made to the heights in the TC TCC, MTCD and WTC district. He asked for a comparison in the lot size and setback requirements. Mr. Landgraf will address this at the next meeting.

Mr. Dietrich stated the ordinance allows one unlit or lit sign for each occupant of the building. He described what signage is permitted in the ordinance, section 20-5.10. The existing driveway apron is about 60' and the ordinance allows 12'. The plan shows a 15' wide entrance and a 15' wide exit. He feels this is reasonable. He stated the fence in the front yard that exceeds 4' requires a variance. Mr. Mclees testified they will conform to the fence height requirement and the plans will be revised to show this.

Mr. Unsworth announced that testimony on this application will stop since it is after 10:30 p.m. The next virtual meeting will be November 5, 2020 at 7:30 p.m. Mr. King commented that no further notice of this meeting will be given.

APPROVAL OF THE SEPTEMBER 30, 2020 MEETING MINUTES

A motion to approve the minutes was made by Mrs. Galderisi, seconded by Mr. Mashura, and approved. Abstain: Mitchell, Phifer.

RESOLUTIONS

1. 71 ROUTE 50 LLC – BLOCK 561 LOT 36 – BA17-2020

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mrs. Galderisi, and approved. Abstain: Mitchell, Phifer.

2. MCKELVEY PROPERTY SOLUTIONS – BLOCK 568 LOT 14.01 – BA14-2020

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mrs. Galderisi, and approved. Abstain: Mitchell, Phifer.

3. SUZANNE HAAS – BLOCK 549 LOT 160 – BA16-2020

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mrs. Galderisi, and approved. Abstain: Mitchell, Phifer.

4. HENRY AND GRACE STEENLAND – BLOCK 549 LOT 160 – BA15-2020

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mrs. Galderisi, and approved. Abstain: Mitchell, Phifer.

ADJOURNMENT

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

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A motion to adjourn the meeting was made by Mr. Shawl, seconded by Ms. Petrozza, and approved. The meeting was adjourned at 11:00 p.m.

Submitted by,

Shelley Lea
Secretary