

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES DECEMBER 10, 2020

The regular meeting of the Upper Township Zoning Board of Adjustment was held as a virtual meeting and began at 7:00 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, Paul Casaccio.

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

APPROVAL OF THE NOVEMBER 5, 2020 MEETING MINUTES

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

MEETING DATES 2021

A motion to approve the 2021 meeting dates was made by Ms. Mitchell, seconded by Ms. Petrozza, and approved.

Meetings will be held on the second Thursday at 6:30 p.m. except for April and November. Completeness review will begin at 6 p.m.

January 14, February 11, March 11, April 1, May 13, June 10, July 8, August 12, September 9, October 14, November 4 and December 9.

SWEAR IN PAUL DIETRICH, SHELLEY LEA AND TIFFANY MORRISEY

APPLICATIONS

1. JOSEPH BAKER – BLOCK 649 LOT 15 – BA 18-2020

Applicant is requesting variances for side yard setback and to allow an accessory structure in the front yard at 299 Burley Road in Marmora.

Joseph Baker, 299 Burley Road, Marmora, New Jersey, was sworn. Mr. Baker testified that he purchased a new shed that was larger than the original shed. The old shed had

termite damage and he could not rebuild it. There is no garage or basement for storage. He has extended the existing foundation 12' to the south. The shed is no closer to the neighbor's property or the road. The shed is under 200 SF and does not require a construction permit. The existing house, addition and new shed are under the coverage requirements. This is a unique lot with two front yards that restrict where the shed can be located. The lot is undersized, and the septic and water locations dictate the location for the shed. There is more than 15' provided between the house and the shed.

The meeting was open to the public.

Bruce Johns, 406 Tuckahoe Road, Marmora, was sworn. He is the closest neighbor to the shed. He is in favor of the application.

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

MR. UNSWORTH – Joseph Baker is the owner of 299 Burley Road, also known as Block 649 Lot 15. He is requesting variances to put an accessory structure in the front yard and side yard setback relief. He has installed a 16'x12' shed where an 8'x12' existed. This is a unique lot situated on a corner. There are two front yards which limit where the shed can be placed. This is an undersized lot. The same side yard setback is being held. The septic and water on the property further limit the placement of the shed. Bruce Johns, a neighbor of the applicant, spoke in favor of the application.

MS. PETROZZA – She concurs.

MR. MASHURA – Nothing to add.

MR. SHAWL – He concurs.

MS. MITCHELL – She concurs.

MRS. GALDERISI – She concurs.

MR. PANCOAST – He agrees.

MR. TRULLI – Nothing to add.

MR. PHIFER – Nothing to add.

A motion to grant the application was made by Mrs. Galderisi, seconded by Mr. Shawl, and approved. In favor: Mashura, Mitchell, Petrozza, Phifer, Shawl, Unsworth, Casaccio.

BILLS

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

Chairman Casaccio and Mark Pancoast left the meeting at this time.

There was a short break until 7:30 p.m.

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

Continuation of an application for preliminary and final site plan approval, a use variance for the expansion of a non-conforming use in the RC zone, a D6 variance for the height of the proposed structure and possible bulk variances to construct a 15 unit hotel at 513 Commonwealth Avenue in Strathmere.

Solicitor Barnes explained this is the third meeting of the Strathmere Motel project. Since the second meeting revised plans have been submitted. The plans were posted on the township website 10 days prior to the meeting date. The attorney for the applicant and the attorney for the objector had some exchange as to whether the application needed to be dismissed with prejudice and the application re-noticed. There are no proposed primary or ancillary uses being proposed or amended. The application with the modifications shows a lesser height, lesser density and more compliant with the zone. He reviewed case law that supports the applicant's attorney and professionals providing testimony on the changes to the plans.

Mrs. Morrissey testified she reviewed the revised plans and prepared an updated report dated December 10, 2020. In the report she comments on the height and slope of the roof. The size of the units and the size of the building has been reduced to better conform with the setbacks. The front yard setback variances on Sherman and Sumner Avenues have been eliminated. A front yard setback variance is still needed on Commonwealth Avenue. A lot coverage variance is no longer needed. The building coverage has been reduced but when the decks are calculated into the coverage a variance is still needed. The building coverage without decks is 26.7% and with the decks it is 34.63% where 30% is permitted. The building meets the rear setback requirement, but the steps are only 17' from the property line. Whether this is considered a flat or sloped roof determines if a D6 variance is needed. The peak of the roof meets the 35' height requirement.

Raymond Went, Attorney for Christopher and Jessica Kohles, stated that he has not seen Mrs. Morrissey's revised report. A copy of the report was emailed to him at this time.

Richard King, Attorney for applicant, stated they have considered the concerns of the objectors and the board to create a revised plan that mitigates concerns while constructing a hotel that is architecturally pleasing while being an economically viable and functioning useful hotel. They perceived the boards concerns as mass, height, streetscape, coverage, and room size. To address these concerns, they have eliminated one of the pods which reduces the building size by 20%, the volume of the habitable space from 191,000 cubic feet to 108,000 cubic feet, a reduction of 44% which is 20% less than the maximum volume of a buy right single-family dwelling on this site. The roof ridge is now 35' and no longer 40'. The variances on Sherman and Sumner have been eliminated. The front yard setback where the Kohles are located is 7' more than the ordinance requires. The building coverage was reduced from 34% to 24%. They are now 6% below the impervious coverage requirement. The room sizes have been reduced by 15% and they are now only 600 SF. The building complies with the rear yard setback requirement. The walkways are proposed 17' from the sides of the houses closest to them.

Mr. King reviewed a chart titled Hotel District Area and Bulk Requirements, Revised December 10, 2020, that compares the proposed building with a hotel permitted in the town village section. He feels the building is right sized and looks like it should according to the ordinance.

Lance Landgraf, Jr., Licensed NJ Planner, William C. McLees, Registered Architect, Robert Bruce Professional Engineer, were sworn in.

Mr. Went was present to represent Christopher and Jessica Kohles. He stated there is case law that indicates where an application is substantially changed there should be at least a re-noticing. Comparing the proposed hotel with other districts in the township is inappropriate. The objectors feel this is the wrong use on the property.

Mr. Dietrich testified this is a curved roof. The ordinance states that any sloped roof less than 3:1 is considered a flat roof and would have a 31' building height which would require relief.

Mrs. Morrissey testified she agrees with Mr. Dietrich. She testified this is a unique type of roof and not a traditional roof.

Ms. Lea testified the height of the structure has been reduced and agrees with Mr. Dietrich that it should be considered a flat roof.

Mr. King stated this is not a flat roof but an architecturally curved roof that has been incorporated into the design of the building. The proposed building has a ridge of 35' which is lower than some of the houses they addressed at the last meeting.

Stephen Hawk, Professional Planner, was sworn. He testified that he has reviewed the revised plans and just now reviewed the revised report by Mrs. Morrissey. He reviewed his previous testimony. In his opinion the density is not less with the newer application. He stated this represents a cluster of multifamily that is out of character with the area. He reviewed revised overlays of the proposed hotel. He reviewed a chart showing how the height, width and depth have changed. Additional slides show representations of how the hotel would look. The new height of the structure would comply if the use were permitted. He reviewed the proposed parking. He stated that structures in the RR and RC zones are limited to two habitable floors above BFE. He feels this is the greatest reason why this property is out of character with the rest of Strathmere. Out of 374 structures only five have three levels above flood. Four or five of the proposed pods have 3 levels above flood. He stated that 85% of all structures in Strathmere have three or two levels the other 13.7%, a total of 51 structures are one level. The hotel is being put into an area where there is a concentration of older one- and two-story cottages. He concurred there will be diminished views of sunsets and sunrises because of the extra floor. He has reviewed the reexamination report and the previous master plans. He testified that as far back as 1994 there were concerns of overdevelopment in Strathmere. The reexamination report was adopted by the planning board in March 2020. He discussed Exhibit 14 which is Section

20-4.5 Resort Districts. He stated the hotel would end up like triplexes. Exhibits 15, 16 & 17 are the reexamination report addressing Strathmere and overbuilding and the size of structures, lot coverages and the creation of duplexes to preserve Strathmere. He stated that Harvey Cedars and Surf City do not allow hotels and Longport allows the existing hotels to remain, but no new hotels are permitted. He feels Strathmere is not like Atlantic City. He feels Strathmere is in its own category since it is less developed, has no public sewer and because of its quaintness and character.

Mr. Hawk does not agree that the applicant meets the parking requirements since the 1.25 spaces per unit is for zones that allow hotels. He feels the proposed units are more like a vacation suite since they will function like an apartment and they are three times the size of a typical hotel room. He feels the intensity of the units will warrant more than the 1.25 parking spaces in the ordinance.

Mr. Hawk testified there is not a floor area ratio required in the RC zone. He feels these are essentially residential uses and should be subject to FAR because of its height.

Mr. Hawk discussed case law Price vs Himeji and stated this should not be considered due to the differences in that application. He feels the board must analysis the use variance and site-specific aspects such as parking and FAR. He feels the application is a substantial detriment to the public good and substantial impairment of the zoning plan and zoning ordinance because of how out of character this building is compared to the rest of Strathmere and how much it impairs the recent master plan and zoning ordinance in regard to the number of permitted stories.

Mr. Weeks stated the Kohles 5 exhibit is 12 PDF pages and is showing on the screen as Power Point Presentation.

There was a short break.

Mr. Shawl asked that Mr. Hawk give his reasons for thinking this is not similar to the mobile home park in Strathmere.

Mr. Unsworth asked about the volume of the proposed structure vs the existing structure. Mr. Hawk read from the applicant's chart 191,000 and 107,000 cubic feet. There is a reduction in cubic feet. Mr. McLees testified the existing building is 67,889 cubic feet. The original application was 191,000 Cubic feet and the proposed is 107,982 cubic ft.

Sandy Mursky, Professional Engineer, specializing in septic system designs, was sworn. He testified since this is new or reconstruction the system must meet all standards. He stated that a plan was submitted to the Cape May County Health Department, but it was denied. He discussed the septic design prepared by Mr. Bruce and whether the County Health Department or the NJDEP has jurisdiction. He believes the units are considered residential apartments and exceed the 2,000-gallon threshold. He finds that a larger septic system will be needed. He discussed the setbacks for septic systems and septic walls. He

finds the raised septic will cause major drainage issues in a rain event. He reviewed an email between himself and Brian Sage from the NJDEP. Mr. King objected to the document since it is hearsay, and he cannot question Brian Sage.

Mr. Mursky testified that if the units have kitchens and laundry facilities they will be rated as residential dwelling units at 350 gallons per day. He stated there will be problems associated with the septic such as overflows, and a sewer plant operator will be needed.

Mr. Shawl asked if Mr. Mursky had the opportunity to visit Sherman or Sumner Avenues to see if the existing septic systems are functioning properly. Mr. Mursky replied that he has not been there recently but was there a few years ago. His company has done 5 or 6 replacement systems in Strathmere. He is not aware of an individual property having issues now or if there are any substandard systems.

Mr. King then asked when Mr. Mursky was engaged to review this site. Mr. Mursky testified it was 3 months ago. Mr. Mursky indicated that he met with the owner of the property 3 or 4 years ago regarding enlarging or rebuilding the motel. He did not review any plans during their meeting. Mr. King shared an email between the applicant, his attorney and Mr. Mursky where it is stated here is the EDA concept plan. Mr. Mursky testified he has no recollection of this email with the plan attached.

The meeting was open to the public within 200 feet.

Kandy Kruse, 117 E Sherman Avenue, was sworn. She objects to the application. Her family has owned the property four doors away for five generations. This proposal means no sun in the afternoon, no sunset sky from the porch and no privacy. Recently a new zoning ordinance was adopted that would prevent over development. The proposed hotel does not resemble the houses in the town and would be sorely out of place.

Sean Montgomery, 2 E Sherman Avenue, was sworn. He lives across the street from the applicant's property. He feels proper notification should have been given regarding the revised plans. He discussed slides that he had given to Mr. Dietrich. He feels changes in the building design are insignificant and don't change the impact on their village. He discussed the new zoning laws. He feels the proposed structures fits in a city. He purchased his home over 20 years ago because of the personality the town has. A slide from his front porch shows what the new building will look like from his deck. He does not believe this is good for the community. Another slide shows what the building will look like at night. He objects to the variances and the plans for this structure.

Betty Ann Coombs, 6 E Sumner Avenue, was sworn. She lives next to the motel. She and her husband are farmers. She stated that once you destroy the land you never get it back. Mrs. Coombs written testimony objecting to the application will be accepted since the audio during her testimony was difficult to understand. Her testimony will be included in the minutes of the next meeting.

The meeting will be continued to January 14, 2020 at 6:30 p.m.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Trulli, seconded by Mr. Shawl, and approved.

Submitted by,

Shelley Lea
Secretary