

UPPER TOWNSHIP PLANNING BOARD VIRTUAL MEETING MINUTES APRIL 15, 2021

The regular meeting of the Upper Township Planning Board was held as a virtual meeting and was called to order at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Curtis Corson, Ted Kingston, Janet McCrosson, Christopher McGuire, Craig Reeves, Gary Riordan, Robert Young, Sr., Joseph Harney.

Absent: Georgette Costello, John Klebaur, Mayor Richard Palombo.

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

APPROVAL OF THE MARCH 18, 2021 MEETING MINUTES

A motion to approve the minutes was made by Mr. Kingston, seconded by Mr. Harney, and approved.

APPLICATIONS

1. REVIEW AND POSSIBLE REVISIONS TO THE REVISED GENERAL ORDINANCE CHAPTER XX – 20-6.4 CONDITIONAL USES – F SPECIAL REQUIREMENTS FOR CAMPGROUNDS

Solicitor Barnes explained the attorneys for Bayberry Cove have requested this matter be tabled until the May meeting to allow time for an additional subcommittee meeting.

2. GEORGE AND CATHERINE TURNER – BLOCK 477 LOT 21 – SUB 02-2021

Applicants are requesting a two-lot minor subdivision and a variance for lot frontage at 401 Old Tuckahoe Road in Petersburg.

George Turner and Catherine Turner, 401 Old Tuckahoe Road, Petersburg, NJ, were sworn. Mr. Turner testified the property is 2.6 acres and located in the “R” Center Residential Zone. They are requesting a lot frontage variance to allow proposed lot 21.02 to have 30 feet of frontage where 140 feet is required. He testified that 12 to 15 lot frontage variances have been granted within ¼ mile of his house. Two of the lots across the street have 25 ft frontages. He stated that lot 21.01 would have 195’ of frontage and

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lot 21.02 would have 30'. He will clear the driveway, so it is 12' wide with a 14' high clearance for emergency vehicles to access the rear property. They are not sure if they will build a house and sell it or keep the property in the family.

Paul Dietrich, Board Engineer, was sworn. He discussed the previous requirements for flag lots which is no longer contained in the ordinance. Both the proposed lots exceed the lot area requirement.

Mr. Turner testified the existing fence is for the above ground pool and the dogs. Both lots will have well and septic.

The board was asked for finding of fact.

MR. RIORDAN – George and Catherine Turner are requesting a two-lot subdivision and a variance for lot frontage at 401 Old Tuckahoe Road in Petersburg also known as Block 477 Lot 21. The applicants represented themselves. Mr. Dietrich testified that proposed lot 21.02 meets all the bulk requirements except lot frontage. The plan of minor subdivision was prepared by The Martinelli Group and dated 9-22-2020 and revised 3-22-2021.

MR. YOUNG – Nothing to add.

MR. CORSON – Mr. Turner acknowledges the fence is on both property lines and will move the fence when the property is developed.

MR. MCGUIRE – Nothing to add.

MR. KINGSTON – Nothing to add.

MR. REEVES – He is concerned that the applicants cannot confirm what they plan to do with the property after it is subdivided. For this reason, he will vote to deny the application.

MR. HARNEY – The lot frontage was addressed. Notices were sent to the public.

The meeting was open to the public. Hearing no comment, the meeting was closed to the public.

A motion to grant the two-lot minor subdivision with the C2 variance for lot frontage was made by Mr. Riordan and seconded by Mr. Corson. In favor: Corson, McCrosson, McGuire, Riordan, Young, Harney. Opposed: Kingston, Reeves.

3. STEVEN BREUNIG – BLOCK 600 LOT 50 – PB 02-2021

Applicant is requesting preliminary and final site plan approval and variances to replace an existing commercial building with a new commercial structure at 518 Route US 9 South in Marmora, NJ.

Mr. Breunig testified the property was hit by a tornado last August. It doesn't make sense to rebuild the building in its present form. The structure is more than 100 years old

and has suffered structural damage. He proposes to demolish the building and build a new one with the same shape and use.

Vincent Orlando, Professional Engineer with EDA, testified utilizing the plans by EDA, dated 2-11-2021 and revised 3-4-2021. The property is 46,042.92 SF and is in the "MTCD" Marmora Town Center District. There are multiple uses on the property. They are seeking variance relief from some of the new standards in this zone since they cannot meet them. The proposed building is more rectangular and does not have bump outs like the existing building and is the same square footage. They propose to relocate some of the display areas and the interior sidewalks. A handicap parking space will be added to the site. There are pre-existing conditions such as lot depth. The MTCD requires a 0 front yard setback, however they are asking to construct the building 35' from the property line. The building will be moved 6' closer to the front property line to bring it more into compliance. He referred to the ordinance, section 20-4.20 which requires 60% of the total habitable space to be residential and 40% non-residential. There will be an apartment on the second floor, and they are proposing 36.36% residential and 63.63% commercial. The façade will not meet the current ordinance standard and there is no off-street loading or unloading proposed. The permitted outside display is 200 SF and they would like to maintain the current 864 SF display. There are no changes proposed to the parking, driveway entrances, signage, etc. He feels the variances can be granted using the C2 criteria and the purposes of zoning g and n. He finds there is no substantial detriment to the zoning plan, zoning ordinance or public good since this is an existing building with existing uses. There are no plans to add curb and sidewalk on Route 9.

Mr. Dietrich agrees with the comments by Mr. Orlando. He agreed the variances could be granted since this property is not in the downtown area where it would impact the future layout of the town center.

Mr. Breunig testified that every tree on the property was damaged by the tornado. He will look into planting landscaping. They currently utilize wall mounted lights and he does not intend to add any lighting. There is a light on a pole in the rear of the property that was damaged and may be put back up. He plans to utilize the Morton building style and dress up the front and side with brick, vinyl siding and black frame windows and roof overhangs. He stated the entire second floor was always used as residential.

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

MR. CORSON – Mr. Breunig is the applicant and he is being represented by Vincent Orlando from EDA. He is demolishing and reconstructing a building damaged in the tornado last summer. He is requesting variances for lot depth and front yard setback, mixed use percentages, off street loading and unloading and area of outside display. The original building is more than 100 years old with a lot of additions. The outside display will remain the same size, but the location will change.

MS. MCCROSSON - Adequate parking spaces are proposed.

MR. RIORDAN – Vince Orlando testified there are a number of pre-existing nonconforming conditions and that the benefits of granting the application outweigh any negative conditions. There are no detriments to the neighborhood or zoning ordinance.

MR. YOUNG – He concurs.

MR. KINGSTON – The applicant proposes to construct a Morton building. The mix use percentage is close to conforming and meets the spirit of the ordinance. This is the second application where the applicant is not complying with the zero setback.

MR. REEVES – He concurs.

MR. MCGUIRE – Nothing to add.

MR. HARNEY – He finds the application meets the C2 criteria since there are benefits to the community. The second floor will be residential.

A motion was made by Mr. Corson, seconded by Ms. McCrosson, to grant preliminary and final site plan approval with requested variances with a copy of the front page of the site plan setting forth the variances to be attached to the resolution. Corson, Kingston, McCrosson, McGuire, Reeves, Riordan, Young, Harney.

4. 201 WILLARD LIQUOR LLC C/O JULIAN FOX – BLOCK 850 LOTS 1, 1.01, 3, 3.01, 4 & 5 – PB 04-2021

Applicant is requesting preliminary and final site plan approval and variances to allow the construction of a restroom in an existing accessory structure and to construct a permanent canopy over the deck at the Deauville Inn, 201 W Willard Avenue in Strathmere.

Mr. Riordan stated that he will be stepping down during discussion and voting on this application due to a conflict.

Dorothy McCrosson, Esquire, represented the applicant. The property is in the “RC” Resort Commercial zone. She announced the applicant will be withdrawing the request to have the existing canopy up on a year-round basis. They are still asking to create restroom facilities within an existing two-story accessory building that is currently used for storage. She does not believe there are any variances required.

Vincent Orlando, previously sworn, referred to a Variance Plan by EDA, dated 3-10-21 revised 4-1-21. He testified the applicant is withdrawing the portion of the application pertaining to the permanent canopy structure. The canopy will remain a temporary structure and will continue to be taken down in accordance with the construction officers’ requirements. They are seeking approval to convert the existing garage into restrooms. No additions will be added to the building. There will be men and women’s restrooms inside the building and will be handicapped accessible. The new restroom facilities will service the outside area and beach area. The 16’ x 16’ portable bandstand will be relocated and covered with a tent. This will be a temporary structure and will also be taken down in accordance with the temporary structure code. The parking will remain

the same and they will continue to park at the old pancake house. He stated there are 167 parking spaces where 162 spaces are required. They are not seeking approval for the parking spaces but have shown them as current on-site conditions. He agreed to amend the plan to show the bandstand and tent as one item and not two side by side squares on the plan. He stated the bandstand sits about 12" off the ground and is open underneath and is not impervious. The tent and bandstand will be removed at the end of the season and put into storage. He stated there are no spotlights proposed for the bandstand area. There will be no flashing or strobe lights. He has been told the band is a three-piece band that plays dinner music at a low volume and not rock and roll. The plan indicates the bandstand hours of operation are 6 p.m. until 10 p.m. The bandstand will be near the fence and directed toward the beach. He discussed improvements at the end of Willard Avenue that have been done by the applicant.

Mr. Kingston discussed his concerns with the application. He discussed improvements at the end of Willard Avenue that have been done by the applicant. Mr. Orlando testified the bike rack and the benches have been moved onto the subject property and signage will be added that reads no alcoholic drinks are permitted off the premises. The guardrail was covered for aesthetics for the neighborhood and the restaurant and will no longer be used as a waiting area for the restaurant. Drinks will no longer be served in this area. Mr. Dietrich testified the applicant's ABC license governs where alcohol can be consumed on the property.

Mrs. McCrosson addressed a township resolution from 1996 that addresses the rectangular area that contains 3 pilings where the prior owner received an easement. If this easement is no longer in place, they will talk to the township committee about renewing the easement to utilize the area. Mr. Dietrich agreed it is only the 3 pilings that would be within block 849 lot 6.01 owned by the township. The dock is within the Deauville's tideland license area. Mr. Kingston addressed the boat slips, the public path along the bridge and parking. Mr. Orlando stated that the pancake house parking spaces will continue to be used by the Deauville Inn. Mr. Dietrich commented that outdoor dining is not used when calculating parking spaces. Mr. Kingston would like the applicant to provide a parking analysis. Mr. Orlando testified the septic is sufficient to handle the new bathroom. Mr. Dietrich testified that he met with the Deauville along with Mr. Reeves and the Township Administrator to discuss beautification efforts that they wanted to do on the street end.

The board discussed a condition of approval that if there is a change in the ownership of the pancake house then the applicant should have to come back to the board.

The meeting was open to the public.

Mark Berger, 2 W Winthrop Avenue, was sworn. He disagrees with the testimony that the new bathroom would not create additional flow into the septic. He is concerned that boaters will stop there to use the facilities. He is concerned about the impact on the current septic system and noise and smell. He does not agree with the number of parking

spaces that exists. He feels the Deauville does not have the infrastructure to support what is there already. The employees park on the street so there is no parking for residents and their guests. He feels granting this application will cause a substantial detriment to the public good.

Victoria Green, 2 W Winthrop Avenue, Strathmere, was sworn. She discussed the noise from the band. She has called the Deauville numerous times to complain. The bands frequently play past 10 p.m. The employees are parking on the street. She feels they need personnel outside to monitor what is going on. She discussed the public access path used by kayakers. She agrees with the comments by Mr. Kingston. She feels the Deauville is detrimental to the neighborhood.

Delores Correntini, 21W Winthrop Avenue, Strathmere, was sworn. She stated the new bathroom will replace a temporary bathroom that was not flowing into the septic system. She is concerned about when the septic will be emptied. She would like someone to confirm the number of parking spaces since she disagrees with the number of spaces being referenced on the plan. She feels the bathroom facilities are to support an outdoor crowd. She testified the Deauville is advertising that they can host wedding receptions for up to 500 people when there is not enough parking or septic capacity. The bandstand is being moved closer to her property and she wants to know where the prior approved location was on the site. She discussed a warning issued to the Deauville by the Department of Health for exceeding the permitted decibels before and after 10 p.m. She discussed property values and access for emergency vehicles.

Mr. Orlando testified the portable toilets did flow into the septic system. Ms. McCrosson stated the bandstand would be removed by the end of September.

Chris Kinicki was sworn. He owned 100 W Willard Avenue in Strathmere and is currently building a house at 90 W Willard Avenue, was sworn. He stated the new owners of the Deauville have been pushing the limit. The path referred to by Mr. Kingston was blocked. He stated the barrier they have installed at the end of the street does not allow the residents to look at the sunset or see the water. He asked why a public meeting was not held about the improvements done by the applicant at the end of the street. He discussed the decibel readings done by the county. He stated the prior beach bar did not have seating and was not covered. He feels that parking is a major problem.

Frank Correntini, 21 W Winthrop Avenue, Strathmere, was sworn. He agrees with the comments by his neighbors and Mr. Kingston. He is concerned about the bandstand and noise. He asked if the portable bathroom would be removed if approved. He discussed the bandstand location and why it is not part of this application. The bandstand is being moved closer to his property.

Bill Sheridan, 2 S Bayview Drive, Strathmere, was sworn. He agrees with the comments by his neighbors and Mr. Kingston. He feels the Deauville has no regard for the town or its neighbors. He feels the noise from the bands are excessive.

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Deborah Rivel, 10 E Seacliff Avenue, Strathmere, was sworn. She stated the Deauville has built a large outside bar that is bigger than before. She can hear the band playing at her house.

Sophia Wisniewska, 10 S Bayview Drive, Strathmere, was sworn. She feels that granting the application will exasperate the huge problems with noise and parking that already exist.

David Cummings, 1808 S Commonwealth Avenue, Strathmere, was sworn. He agrees with comments given. He feels that parking is out of control in Strathmere. He is concerned about noise and septic odors.

Linda Bateman, 14 E Tecumseh Avenue, Strathmere, was sworn. She is a year-round resident and President of the Strathmere Improvement Association. She asked if the pancake house and the Deauville will be open at the same time since the Deauville now serves breakfast and if the parking would be sufficient for both. Mrs. McCrosson stated there are no plans to open the pancake house this summer. If the pancake house does open it will operate at different times than the Deauville. Mrs. Bateman testified the end of the street now looks like an extension of the restaurant. She feels this is a quality of life issue and a commercial enterprise that has outgrown its neighborhood. She feels this is not a benefit to Strathmere. She supports her neighbors that have spoken before her.

Scott Buehler, 1 S Bayview Drive, was sworn. He feels the bathrooms and other improvements make the existing problems with parking, smoking, etc. even worse. He stated the issues are not being enforced. He is concerned about noise and stated there are people in the parking lot until 3:30 a.m.

Jim Bowen, 105 Whittier Avenue, Strathmere, was sworn. He agrees with the comments made by his neighbors. He asked the board to table the application and look at the parking situation. He has concerns about septic and parking.

Mrs. McCrosson requested to table the application until the special meeting on May 5, 2021 at 7:30 p.m. to address the parking and noise complaints. No further notice of this meeting will be given.

A motion to table the application was made by Mr. McGuire, seconded by Mr. Harney, and approved.

Mr. Riordan rejoined the meeting.

PUBLIC PORTION

Hearing no comment, the meeting returned to the board.

RESOLUTION

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1. SHAUN ANDREWS – BLOCK 453 LOT 240.23 – SUB 01-2021

A motion to adopt the resolution was made by Mr. Corson and seconded by Mr. Kingston and approved. Abstain: McCrosson, Young.

2. MCINTYRE ENTERPRISE – BLOCK 736 LOT 43 – PB 03-2021

A motion to adopt the resolution was made by Mr. Corson, seconded by Mr. McGuire, and approved. Abstain: McCrosson, Young.

3. BILLS

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

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Young, seconded by Mr. Harney, and approved. The meeting was adjourned at 11:07 p.m.

Submitted by,

Shelley Lea