

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES SEPTEMBER 9, 2021

The regular meeting of the Upper Township Zoning Board of Adjustment was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 6:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: James Burger, Mark Pancoast, Lynn Petrozza, Christopher Phifer, Andrew Shawl, Larry Trulli, Matthew Unsworth, Paul Casaccio.

Absent: Sherrie Lisa Galderisi, Richard Mashura, Karen Mitchell

Also, in attendance were Jeffrey Barnes, Board Solicitor, Paul Dietrich, Board Engineer, Liz Oaks, Board Secretary and Zoning Officer.

APPROVAL OF THE AUGUST 12, 2021 MEETING MINUTES

A motion to approve the minutes was made by Ms. Petrozza, seconded by Mr. Trulli, and approved. Abstain: Mr. Phifer

PAUL DIETRICH AND LIZ OAKS ARE SWORN

Mr. Mashura arrived at the meeting. Mr. Casaccio offered to allow any members to leave because we had plenty in attendance. Mr. Mashura took the offer and left the meeting at this time. All others in attendance stayed.

APPLICATIONS

1. DANIEL EICHHORN – BLOCK 558 LOT 24.02 – BA 13-2021

Applicant is requesting to remove a condition of his previous approval as shown in Resolution BA 06-2019 that there will not be any utilities at the property other than electric inside of the garage at 3040 Route US 9 South in Seaville.

The project on this property was approved in 2019 with a variance for an accessory structure without a house. It required a height variance because accessory structures don't have the same height as a principal structure. There were a few conditions. One, no commercial use on the site. This is effectively a "man cave" and is used for projects and storage of quads. Two, that no well or septic were permitted. After spending some time at the structure and he has realized that may not have been a wise decision. He wants to eliminate the

condition from the prior approval to allow for a well and septic to add a half bath which would include a toilet and sink.

Joe Maffei, Engineer, 5 Cambridge, Ocean View was sworn
Mr. Maffei testified that the original condition of the prior resolution was that the applicant could not have well and septic. Once Mr. Eichhorn started using the structure, he realized how impractical that was. The site is wooded and there is no change of use. The prior resolution said it was a unique application since the applicant could be using the property for something more profitable that would create a more intense use of the land. That, and the other positive criteria findings are still present in this application. The negative criteria are completely satisfied that this will not substantially impair the intended purpose of the land use ordinance or the zone plan.

Paul Dietrich added that there should be a specific condition regarding the loft area in the garage and that the space cannot be converted into living quarters, apartment or any type of permanent living facility. It is strictly for storage space.

Mr. Unsworth questioned the status of the septic design. Mr. Maffei confirms that the design is in the works and awaiting approval.

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

Mr. UNSWORTH – Mr. Eichhorn, represented by Mr. Cantanese and Mr. Maffei, is the owner of 3040 US Route 9 in Seaville. He originally came before the board in 2019 and got approval for an accessory structure without a primary structure there. The application was approved with a height variance and condition that no well or septic would be present. The applicant has built the pole barn and is currently using it. And has found there is a need for a restroom on site. He is asking for the condition of the prior resolution to be removed. No other conditions have changed since the previous approval. The applicant has agreed to use the loft for storage only and will not create a living space. The septic design is in the works and is awaiting approval. There is no detriment to the public good. This is a minor change to a previous approval, and he is in favor of approving this application as presented with the condition that the structure does not become or get used as living space

Mr. TRULLI – Nothing to add.

Mr. PANCOAST – He is in favor.

Mr. BURGER – Nothing to add.

Ms. PETROZZA – Nothing to add.

Mr. SHAWL – He agrees and would like to add that the applicant indicated the following special reasons exist for the justification of this use variance and removal of previous condition. NJSA 40:55D-2, a) To encourage municipal action to guide the appropriate use or development of all land in the state, in a manner

that will promote the public health, safety, morals, and general welfare. c) Provide adequate light, air and open space. i) Promote a desirable visual environment through creative development techniques and good civic design and arrangements. He agrees this variance can be granted without detriment to the public.

MR PHIFER – He is in favor.

MR. CASACCIO – He concurs.

A motion was made by Ms. Petrozza and seconded by Mr. Trulli to grant the application to allow well and septic in order to add a powder room to the existing pole barn with the condition that the loft area to be used for storage and not to become living space. In favor: Burger, Pancoast, Petrozza, Phifer, Shawl, Trulli, Unsworth, Casaccio.

2. ANTHONY & NICOLE DEFEIO – BLOCK 453 LOT 240.05 – BA 18-2021

Applicants are requesting a side yard setback to allow 5' where 15' is required to construct a pole barn at 15 Meghan Lane in Ocean View

Nicole Defeo, 15 Meghan Lane, Ocean View was sworn.

The applicant testified the location of the pole barn is required to be 15 feet from the house and the property has wetlands in the rear. They are unable to place it on the right side of the property due to a patio. These are the reasons why they are requesting the variance of a 5 feet setback where 15 feet is required. They want to be able to drive straight in using the driveway. The pole barn will be used for cars, bikes and various equipment. There will be 2 parking spaces in the front of the pole barn.

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

MR. UNSWORTH – Our applicants Anthony and Nicole DeFeo are the owners of 15 Meghan Lane in Ocean View. They are building a new home at 15 Meghan Lane and are looking to add a pole barn as a detached structure to the project and have proposed to put that 5 feet off the left side of the property line where 15 feet is required. Nicole DeFeo is here representing herself and stated the location is necessary to access the pole barn. They cannot set it behind the existing structure or garage and still get into it properly. It does not impact any of the other aspects of the project. It does not encroach on the wetlands setback, it does not impact the septic and well locations and stated that a neighbor, while unable to attend, does not have a problem with the location. He does not think there is any detriment to the location of the pole barn. There was no public comment. He is in favor of approving this application.

MR. SHAWL – He concurs.

MS. PETROZZA – She concurs.

MR. BURGER – He concurs

MR. PANCOAST – He concurs with his colleagues.

MR. TRULLI – He concurs.

MR. PHIFER – He concurs.

MR. CASACCIO – He concurs and adds this lot is unique with the wetlands and location of the well, driving the location of the pole barn.

A motion was made by Mr. Shawl and seconded by Ms. Petrozza to grant the application with the standard conditions. In favor: Burger, Pancoast, Petrozza, Phifer, Shawl, Trulli, Unsworth, Casaccio.

3. PATRICK & ELIZABETH MAHON – BLOCK 839 LOT 3 - BA 15-2021

Applicants are requesting bulk variances needed to raise a single-family dwelling at 209 S. Commonwealth Avenue in Strathmere.

Patrick Mahon, 43 Oakhurst Lane, Mt. Laurel, NJ and Arthur Chew, Engineer, 130 W. Seaview, Linwood, NJ were sworn

Mr. Chew testifies that the existing condition is a typical shore home, a little cottage. With a first floor, second floor, dormers and a sloped roof. Looking at an elevation of about 4 feet. Hoping to lift to put parking underneath. Existing is a consistent 5 feet, looking to raise to 16.88. Lifting to that height due the ordinance that requires the garage floor at the right height. Right now, the garage floor is lower. But they are putting all the headers in so that way if they raise the road in the future, then they can raise the garage floor. Right now, they have it at the maximum slope that is in accordance with the ordinance. As part of the project, they are getting rid of the cesspool in the backyard. They already have septic approval. What happens when they lift this, they need a wraparound deck to access each entry door. To get the steps so they aren't out in the street they put them on the side and brought them up to a landing causing a 1-foot setback. Nothing is changing on the other side other than elevating the air conditioning platform. This project is driven by 1) improving of the flood hazard for the community and 2) adding parking where it is currently limited. They are creating an aesthetically pleasing structure to the neighborhood. There is no substantial detriment to the character of the neighborhood or public good. No substantial detriment to the zoning plan.

There was a discussion about the wrap around deck that requires a setback variance for the steps and if there were any other options. The three entry doors are already existing. The wraparound deck eliminates having three separate stairways that would still create a need for a variance or maybe more.

Paul Dietrich confirms applicant is aware that he cannot exceed the 61% FAR, floor area ratio.

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

MR. UNSWORTH - The applicants, Patrick and Elizabeth Mahon of 209 S. Commonwealth Avenue, Strathmere have come before the board because they are going to raise their existing home and need setback and coverage relief because of decks and a stairway created by the raising of the structure necessitates them to move closer to the property line and enlarge the footprint of the decks. They are also looking for relief for parking access and driveway. The board has discussed in detail the design of the decks and currently have three separate stairwells that is not practical with the raising of the home. Our ordinance does allow relief from a setback as close as one foot to the side property line for access for the stairs. The applicant is also replacing their septic system with a current design which will greatly improve the environmental impact of the system currently on site. There was a discussion of the driveway and the number of parking spots that it does create even though they lose frontage in front of the house. They do gain additional parking spots on site which will off set the loss out on the street. There was no public comment on this application. He is happy to see they are raising and renovating an existing structure rather than replace with a new structure. He is in favor of this application.

MR. SHAWL – Concurs with his colleague He states that it can be done without substantial harm or detriment to the zone plan.

MS. PETROZZA – She concurs.

MR. BURGER – He agrees.

MR. PANCOAST – He believes they had a good discussion about this and is in favor.

MR. TRULLI – He is satisfied with application as presented.

MR. PHIFER – He concurs and added the removal of the cesspool and the septic has been approved.

A motion was made by Mr. Pancoast and seconded by Mr. Shawl to grant the application as presented with conditions. The applicant is not to exceed 61% Floor Area Ratio and the zoning schedule to be included in the resolution. In favor: Burger, Pancoast, Petrozza, Phifer, Shawl, Trulli, Unsworth, Casaccio.

4. ROBERT HANSON – BLOCK 837 LOT 7 – BA 17-2021

Applicant is requesting variances for front yard setback, rear yard setback, impervious coverage, and driveway width to raise an existing single-family dwelling at 308 S. Commonwealth Avenue in Strathmere.

Robert Hanson of 308 S Commonwealth Avenue, Strathmere and Andrew Shaeffer, Engineer, 1425 Cantillon Boulevard, Mays Landing were sworn.

This is a house lift with a garage on the ground floor. The house does not currently have parking underneath. The minimum elevation for the finished floor for this zone is 12 feet with 2 feet free board. They are allowed to go up to elevation 13 and not create or have to address the existing non-conforming details. They are going to 14.5. This will create 8 feet 3 inches from the top of the garage slab to the bottom of the joist. Just enough for the garage, not quite as much as the last application where they tried to create more ceiling height. This driveway rarely floods, and they didn't feel the need to go any higher. With out any ordinance that would require it. Currently there is an existing deck in the front of the house. The back deck will be reconfigured and will include concrete below. Which takes us to the only non-conformity that they are creating, coverage. Impervious coverage is permitted at 45%, currently it is 43.9% and they are proposing 51%. The other variance required are pre-existing non-conforming. First is the lot area where 4,000 square feet is required, and they have 3,000 square feet. Next is the front yard setback where 15 feet is required, and they currently have 9.5 feet with no change. The rear setback required is 30 feet, currently at 13 feet and proposed to improve to 14 feet. The side yard setback required is 6 feet. Currently is 4.1 feet and propose to improve to 4.7 feet. The total side yards required is 15 feet, currently 12.9 and proposed improvement to 13.5 feet. These are existing non-conforming but do require variances because they do not comply. They are creating 2 parking spaces. With relatively new curb and sidewalk the area directly in front of the house is a depressed curb. From the back of the sidewalk to the front of the garage is 16 feet, this does not create a legal parking spot, vehicles can and have parked there. This creates a relief for parking on this street. He believes that in accordance with Municipal Land Use Law the structure is aesthetically pleasing with a design that does not fill the frontage with many stairways. The proposed variances are improving the existing conditions.

There was a discussion regarding the existing depressed curb and an existing electric pole in the center of the parking. The plans will amend the driveway apron to be 24 feet instead of 30 feet, with the location to be adjusted according to an on-site inspection with Mr. Dietrich, the Township Engineer.

Mr. Shaeffer inquired about the potential option to use stone or crushed shells rather than concrete to comply with impervious coverage.

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

MR. UNSWORTH – Robert Hanson of 308 S. Commonwealth Avenue, Strathmere comes before the board to raise an existing structure to meet current

flood code. The changes are also affecting his access to the structure and existing decks. He is removing an existing front deck and rebuilding the rear deck and changing the configuration of the deck. The reconfiguration does improve the rear, side and front yard setbacks. The lot size is a pre-existing undersized lot which stresses the ability to put a normal sized house on there. The applicant is choosing to raise the existing structure and improve there flood protection as well as providing additional parking on site. The applicant has agreed to emend their application to a 24 foot driveway opening where 30 foot was proposed. And they have been given the latitude to move the driveway as needed to access the structure. The garage floor is also agreed to amend to meet the ordinance of Upper Township to accommodate a garage door at 7 foot either now or in the future. There were no public comments. There is a new septic system on site. Put in service this year. There is proposed drainage on site to maintain stormwater management requirements. He believes this will be an aesthetic improvement to the neighborhood. He doesn't see any detriment in approving this application as presented and amended. He is in favor of this application.

MR. TRULLI – He is in favor.

MR. PANCOAST – He is in favor.

MR. BURGER – He is in favor.

MS. PETROZZA – She is in favor.

MR. SHAWL – He is in favor.

MR. PHIFER – Three of the existing non-conformities are actually improving with this project and the impervious coverage affected may be changed due to changing one of the concreted areas to stone. He is in favor.

MR. CASACCIO – He concurs.

Mr. Barnes – This resolution is to include the zoning chart and variances.

A motion was made by Ms. Petrozza and seconded by Mr. Unsworth to grant the application as presented with the raising of the finished floor of the garage area and reducing the driveway apron to 24 feet. The location can be adjusted working with the Township Engineer In favor: Burger, Pancoast, Petrozza, Phifer, Shawl, Trulli, Unsworth, Casaccio.

RESOLUTIONS

1. RONALD O'HARA – BLOCK 453 LOT 197 – BA 21-2021

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

2. WILLIAM LAYTON – BLOCK 851 LOT 3 – BA 20-2021

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

3. GLENN SHEELER – BLOCK 638 LOT 5 – BA 14-2021

A motion to adopt the resolution was made by Mr. Shawl, seconded by Ms. Petrozza and approved. Abstain: Mr. Phifer and Mr. Casaccio

4. ATLANTIC CITY ELECTRIC – BLOCK 639; 560 LOT 15.01 & 15.02; 7.01
– BA 19-2021

Mr. Barnes testified that the applicant requested that the resolution not be memorialized at this time due to timing issues with the project.

Mr. Dietrich explained that due to material supply the applicant may need to delay the project one year.

PUBLIC PORTION

BILLS

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

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Unsworth, seconded by Ms. Petrozza, and approved. The meeting was adjourned at 10:54 p.m.

Submitted by,

Liz Oaks