

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES DECEMBER 12, 2019

The regular meeting of the Upper Township Zoning Board of Adjustment was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey. The meeting was called to order at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Joseph Healy, Richard Mashura, Karen Mitchell, Christopher Phifer, Andrew Shawl, Matthew Unsworth, Chairman Paul Casaccio.

Absent: Sherrie Lisa Galderisi, Ted Klepac, Lynn Petrozza, Larry Trulli.

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

SWEAR IN SHELLEY LEA

APPROVAL OF THE NOVEMBER 14, 2019 AND NOVEMBER 21, 2019 MEETING MINUTES

A motion to approve the minutes was made by Mr. Healy, seconded by Mr. Unsworth, and approved. Abstain: Mashura, Mitchell.

TABLED APPLICATIONS

The applications below will be heard on January 9, 2019 at 7:30 p.m. The applicants have agreed to waive the tolling of time. No further notice is required.

CARLOS JAVIER GUTIERREZ – BLOCK 310 LOT 15

OCEAN CITY HUMANE SOCIETY – BLOCK 650 LOT 11.02

NEW APPLICATIONS

1. GARY AND DENISE RIORDAN – BLOCK 860 – LOT 1 – BA 17-19

Applicants are requesting variances for front yard setback, width of curb cut, and parking space dimensions needed to raise an existing single-family dwelling and construct an addition at 1 E. Seaclyff Avenue in Strathmere.

Christopher Baylinson, Esquire, represented the applicants. He stated the Riordan's wish to raise the home in which they have lived since the 1980's. The house and garage will be raised and placed back on the original footprint. The garage is proposed at grade and two vehicles would be parked side by side inside the garage. A front vestibule is proposed on Seacliff Avenue that would house an elevator. The proposed addition requires a front yard setback variance since there will be 11' to the first-floor deck and 12.9' to the elevator, where 15' is required. The proposed curb cut on Commonwealth Avenue is 22' where 12' is permitted. The proposed parking spaces are 10' x 15' where 10' x 20' is required.

Todd Allen Miller, Architect, was sworn. He was asked by the applicant to prepare plans to elevate their home since they had 12" of water in their crawl space during Hurricane Sandy. The plans by QMA Architects are dated 9-4-19 and last revised 11-19-19. The property owners would like to be better protected from flood in the future. They are full time residents of Strathmere and have lived here since 1983. An 8' ceiling height is proposed in the ground level which would be totally FEMA compliant with two habitable floors above. The house would comply to the height limits in the ordinance. The requested variances are needed to access the house. He designed the elevator to be an architectural feature. The proposed emergency generator in the front yard is located 13.6' from the front property line where 15' is required. The variance for the width of the curb cut is needed since the existing one car garage will be increased to a side by side two car garage as part of the renovation.

Mr. Miller testified that special reason b, to secure safety from flood is advanced creating a fully conforming structure. He believes they have designed an aesthetically appealing structure with a two-car garage. He finds the variances can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and zoning ordinance. He stated the proposed front yard setback is more conforming than most of the other homes on Seacliff Avenue. He confirmed there will not be any habitable space in the area where the cars are parked.

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

MR. SHAWL – Gary and Denise Riordan are the owners of 1 E. Seacliff Avenue in Strathmere. The applicants plan to raise their house to make it flood compliant. A variance is needed for the proposed front vestibule to be 12.9' from the front property line where 15' is required. The proposed first floor would be a side by side two car garage which makes it necessary to have a wider curb cut. This is a corner lot with two front yards. The board heard testimony from Todd Miller, Architect, regarding the nature of the renovations and the additions to the home. When renovated the home will be fully secured from flood and fire. The first level will be fully FEMA compliant. The height will meet the existing code. The addition was designed to blend in with the character of the seashore community. He finds the variances can be granted without detriment to the zoning plan and ordinance and without detriment to the public health.

MR. MASHURA – He concurs. He finds it is a benefit to raise the home to meet the FEMA standards.

MR. PHIFER – Nothing to add.

MR. UNSWORTH – If this was not a corner lot there would be only one front yard and two side yard setbacks requiring 6' setbacks. The house with the addition is under the permitted coverage. The encroachment into the setback is for an emergency generator and elevator. He concurs with his colleagues' findings. He finds this is a nice design.

MR. HEALY – He concurs.

MS. MITCHELL – She concurs. She finds this is a very thorough application and tremendously descriptive. The proposed renovations will be an asset to the neighborhood and the village of Strathmere and serves as a role model as to what should be done.

MR. CASACCIO – He concurs.

A motion was made by Ms. Mitchell and seconded by Mr. Unsworth to grant the application as proposed with the standard conditions. In favor: Healy, Mashura, Mitchell, Phifer, Shawl, Unsworth and Casaccio.

2. CHRISTOPHER GEIB – BLOCK 348 LOT 84.02 – BA 12-19

Applicant is requesting a variance for accessory coverage to construct a 46' x 40' pole barn with a 12' x 40' lean to at 5 McDaniels Court in Tuckahoe.

Christopher Geib, 5 McDaniels Court, Tuckahoe, was sworn. He testified the proposed structure would cover 2.26% of the property where only 1% accessory coverage is permitted. The total coverage including the house and the garage is 4.74%. He would like the barn to store his boat, camper and other items he does not want out in the weather. The barn would not be used for a business or any type of commercial use. He does not have any problem with drainage and there is a drainage swale across the street. He has lived here for 18 months. There are woods on his property and a field next door. There is a boat trailer repair shop adjacent to his property.

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

MR. SHAWL – Christopher Geib is the owner of 5 McDaniels Court in Tuckahoe, New Jersey. Mr. Geib proposes to construct a pole barn on his property that would exceed the 1% accessory coverage permitted. The proposed accessory coverage is 2.26%. The accessory structure and proposed barn would be 4.74% total coverage. There is a single-family home on this property. The property is 2.3 acres. The proposed pole barn is not out of character for this neighborhood. There was no public comment.

MR. MASHURA – He concurs.

MR. PHIFER – He concurs.

MR. UNSWORTH – He concurs. The two yards adjacent to the pole barn are a large wooded lot and a commercial lot.

MR. HEALY – Nothing to add.
MS. MITCHELL – She concurs.
MR. CASACCIO – He concurs.

A motion was made by Mr. Unsworth and seconded by Mr. Healy to grant the application with the condition the structure will not be used for any type of commercial use. In favor: Healy, Mashura, Mitchell, Phifer, Shawl, Unsworth, Casaccio.

3. FRANK & LAUREN DEMARCO – BLOCK 707 LOT 5 – BA 18-19

Applicants are requesting a front yard setback variance to expand and enclose a porch and variances for a pre-existing non-conforming storage shed in the front yard and the distance between the shed and the house, and an existing non-conforming deck at 412 Second Avenue in Beesleys Point.

Frank DeMarco and Lauren DeMarco, owners of 412 Second Avenue, were sworn. Mr. DeMarco testified they are asking for a rear yard setback to construct an enclosed porch on the back of their house. This is a unique property since it is a corner lot and the back yard is small. They have received several estimates from roofers and siders that have come to the house but none of them indicated a permit would be needed for what they were doing. There was a dilapidated enclosed porch on the back of the house when they bought it. The roof was holding water, the windows were broken, there was no footings and the porch was not structurally sound. They decided to demolish the porch and make it larger. Correspondence from the construction official required them to cease and desist. This was 4 months ago and now half the roof on their first floor is exposed. The porch would only have electric. There would not be any heat or ac. The previous roof was a shed roof and now it is an A frame roof. The new porch will be in keeping with the character of the existing house and the neighborhood. He stated that after the improvements are done to the house it will be compatible to other homes in the area. The original room was 10' from the property line.

Mrs. DeMarco testified the room is now framed and has windows and a sliding door. She does not believe that granting the variances would cause a substantial detriment to the zoning plan or zoning ordinance and would not negatively affect the public good.

Ms. Lea explained the variances requested for the shed and the rear deck are pre-existing conditions that should be included in the application. These variances have nothing to do with the proposed porch. This is a corner lot with two front yards, one side and one rear yard.

The meeting was open to the public.

Stephen Dennison, 42 Chelsea Avenue, Beesleys Point, was sworn. He submitted two photos that were marked O-1 and O-2 showing the porch before it was demolished and what it looks like today. He is the author of the photos. One photo was taken yesterday

and accurately depicts how the property looks today. The other photo was taken in 2018. He is concerned about his property value since the structure is close to his property. He is concerned about privacy since the top of the windows are above the fence.

Anna Dennison, 42 Chelsea Avenue, was sworn. She wished the applicants had told her what they intended to do before they demolished the room and started construction. They have no clue what is going on. They have lived here since 1996 and they have obtained permits for everything they have done. She feels the new room is an eyesore.

Ms. Lea testified the new room can be as tall as 35'. Since the property is grandfathered the permitted side yard setback is 10'. If this lot was not grandfathered the setback would be 25'. The setback is reduced because of the smaller lot size. If a new house was built on this property a 10' side yard setback would be required.

Mrs. Dennison testified the fencing between the properties has been in disrepair for years. She confirmed the existing wood fence is surrounding her pool. Ms. Lea stated that if the applicants remove the fence the Dennison's would be responsible for installing a new fence around their swimming pool. Mrs. Dennison agreed to discuss the fence issue with the applicants.

Mr. DeMarco testified that he wants to remove the fence since it is not safe, but he keeps it up because of their neighbor's pool and safety concerns since he has two children. There was an above ground pool on their property when they moved in but they removed it because of their kids safety. He did not want to cause an issue with the neighbors by removing the fence.

Hearing no further comment the meeting was closed to the public and returned to the board.

Mr. DeMarco testified that it took about 3 weeks to construct the new room. His neighbors are full time residents. During the time the room was demolished, and a new room constructed he did not receive any correspondence or phone calls from anyone stating they did not like the new room.

The board gave their finding of fact.

MR. SHAWL – Frank and Lauren DeMarco are the owners of 412 Second Avenue in Beesleys Point, New Jersey. When the applicants purchased the home, it had a dilapidated porch in the back which was structurally deficient and needed to be replaced. The applicants began to replace the porch without any permits. The size of the new room is larger than what was there before and provides for an 8' rear yard setback. The flat roof was replaced with a peak roof. The property is located on the corner of Second Avenue and Chelsea Avenue. This is a corner lot which is grandfathered because of the lot area. A 10' side setback would be required. The applicants provided testimony that the house is similar to other homes in the area and the new room would be compatible to

the existing house and the neighborhood. The neighbors are concerned about privacy and property values. They believe the addition is too close to their property and would impact the enjoyment of the pool area. The applicants received a stop work order from the construction code official. The applicant owns the fence that separates the two properties. The survey and photos presented prove the property is similar to others in the area. The addition improves the aesthetics of the applicant's house. The applicants represented themselves.

MR. MASHURA – He assumes that permits would be obtained to reflect what they are doing and that the structure would be built to the current codes.

MR. PHIFER – He understands the concerns of the neighbors. He finds the size of the lots to be unique and the closeness between houses. He doesn't feel the issue is the 2' variance but that the house can be 35' tall.

MR. UNSWORTH – He concurs. The applicants could build a larger addition which would have a greater impact on the neighbors and limit light, air and open space. The house is pushed back since it is a corner lot. The applicant now knows that permits are necessary for these types of projects.

MR. HEALY – Nothing to add.

MS. MITCHELL – She has not heard any evidence to justify why the setback should be changed from 10' to 8'.

MR. CASACCIO – He does not see where the 2' variance would be detrimental due to the septic location and the two front yards. The area of the lots and the setbacks in this neighborhood are very small. He finds there would not be any detriment to the zoning plan.

A motion was made by Mr. Unsworth and seconded by Mr. Healy to grant the application as proposed with the standard conditions. In favor: Healy, Mashura, Phifer, Shawl, Unsworth, Casaccio. Opposed: Mitchell.

INVOICES

A motion to pay the bills was made by Mr. Shawl, seconded by Mr. Unsworth, and approved.

MEETING DATES 2020

A motion was made by Ms. Mitchell and seconded by Mr. Healy to approve the dates with the changes made. In favor: Healy, Mashura, Mitchell, Phifer, Shawl, Unsworth, Casaccio.

Below is a list of approved meeting dates for the year 2020. The zoning board meetings are held on the second Thursday of the month at 7:30 p.m. unless otherwise noted. Meetings are held at the township hall.

January

RESOLUTIONS

1. JIG NJ LP – BLOCK 836 LOTS 1, 2 & 5.05 – BA 13-19

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Mr. Healy, and approved.

2. MOKEV LLC – BLOCK 758 LOT 12 – BA 14-19

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Ms. Mitchell, and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Ms. Mitchell, seconded by Mr. Phifer, and approved. The meeting was adjourned at 8:40 p.m.

Submitted by,

Shelley Lea