

# **UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES OCTOBER 14, 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, Richard Mashura, Mark Pancoast, Lynn Petrozza, Christopher Phifer, Matthew Unsworth,

Absent: Sherrie Lisa Galderisi, Karen Mitchell Andrew Shawl, Larry Trulli, Paul Casaccio

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

## **APPROVAL OF THE SEPTEMBER 9, 2021 MEETING MINUTES**

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

## **APPLICATIONS**

No new applications

Paul Dietrich confirms the next meeting will potentially have four applications and that meeting is Thursday November 4, 2021.

## **DISCUSSION**

### **1. OCEAN CITY WINERY, LLC – BLOCK 723 LOT 37**

County request for comments on the Ocean City Winery application to the County Agricultural Board.

Mr. Barnes explains that an application was filed for the old Trop's Tree Farm wherein they want to put a winery/wine tasting facility pursuant to the Right to Farm Act. There are certain qualifications that one could have that would potentially allow them to by-pass going to the Township of Upper for approval. This is a pre-existing, non-conformity in that, although the farm has been there since the 70's, the zoning has changed and only permits single-family residents. Mr. Barnes and Mr. Dietrich attended a hearing in front of the Cape May County Agricultural

Board. There are two issues first do they meet the requirement of having five acres. They clearly have that acreage; however, he and Mr. Dietrich did not believe they met the jurisdictional requirements of having five plus acres. They have been denied farmland assessment in 2009 and 2010 and never filed an appeal. They currently have an application pending that a conflict assessor is going to look to see if they comply. They also have other permits from multiple other acronyms that exist within the state of New Jersey. The second part is that if they meet that criteria can they have that board approve the wine tasting with approximately 80 seats, with 44 of those outside 36 inside. The hours of operation from 10am until 9pm, seven days a week. There are approximately 20 parking spots on gravel, limited lighting, and multiple issues with buffers. There were probably 20 neighbors that attended. Ultimately what happened the board determined that, from a jurisdictional standpoint, they met the five acres. Eventually the attorney for the applicant approached him to suggest they try to work together regarding site issues. Hopefully, they would be able to come to an agreement at which time the applicant would present that to the board.

Ultimately this does not affect the Zoning Board because the use was approved. In the future there may be applications to them if some type of special occasion events were to need approval.

What Mr. Barnes and Mr. Dietrich are requesting is that the board ratify the fact that they, the board, wanted them, Mr. Barnes and Mr. Dietrich, to advocate on behalf of the township and all the neighbors in the community. That what Ocean City Winery was proposing was suspect and needed to be more defined and is still not defined. The hope is that because their engineer is Mr. Orlando, there will be a good working rapport due to his frequent appearances before the boards. Hopefully we can make the best attempt to buffer this place with parking that is more delineated and more appropriate. Have some protocol and conditions in place that will not allow this to become a nightclub. The parking analysis was done as a restaurant however, we think it should be based on tavern regulations, which creates more parking spots. Bayaire Avenue will have more traffic when people miss the turn and naturally use the next street to turn around or even park.

There was then a discussion between board members, Mr. Barnes and Mr. Dietrich.

The meeting was open to the public.

Mr. Brian Edwards, 17 Bayaire Road, Marmora. Spoke without being sworn in. He thanked Mr. Barnes and Mr. Dietrich for their efforts.

The meeting was closed to the public.

Mr. Barnes states the resolution they are to consider would be stating that the board approves the actions taken by himself and Mr. Dietrich are acting in good faith and in the interest of the Board, the Township and the community as it relates to this specific application.

A motion was made by Ms. Petrozza and seconded by Mr. Mashura to approve this resolution. In favor: Burger, Mashura, Pancoast, Petrozza, Phifer, Unsworth.

2. MILDRED'S RESTAURANT – BLOCK 822 LOT 1

Mr. Barnes explained that there was an original resolution with a deed restriction tying together Mildred's and the adjoining parking lot. He is requesting a resolution be approved by this board lifting the deed restriction. He will present a resolution at the next meeting.

**RESOLUTIONS**

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

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

**PUBLIC PORTION**

**BILLS**

A motion to approve the bills was made by Ms. Petrozza, seconded by Mr. Mashura 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 7:18 p.m.

Submitted by,

Liz Oaks