

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
DECEMBER 16, 2021**

The meeting of the Upper Township Planning Board was held at the Township Hall, 2100 Tuckahoe Road in Petersburg, New Jersey. The meeting was called to order at 6:30 p.m.

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

Present: Georgette Costello, Ted Kingston, Curtis Corson, Janet McCrosson, Gary Riordan, Robert Young, Christopher McGuire, Joseph Harney

Absent: Mayor Palombo, Craig Reeves, John Klebaaur

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

APPROVAL OF THE NOVEMBER 23, 2021 DEAUVILLE SPECIAL MEETING MINUTES

A motion was made by Mr. Harney, seconded by Ms. McCrosson and approved. Abstain: Costello, Kingston, Corson, McGuire, Riordan

APPROVAL OF THE OCTOBER 21, 2021 MEETING MINUTES

A motion was made by Ms. J. McCrosson and seconded by Mayor Palombo and approved.

APPLICATIONS

1. **ESTATE OF RITA SCHIAVO – BLOCK 821 LOTS 8 & 9 – PB 07-2021**

Applicant is requesting a lot line realignment of two existing lots at 104 Prescott Avenue in Strathmere, New Jersey.

Mr. Jules Konschak, Esq. – This application was originally approved by this board June 2020. Due to a clerical error, they did not file the sketch plat within the allotted 90 days. They have started over with the original plans, with a letter from the county planning board waiving their review. They have two lots, one is tiny. The movement of the lot line will create two conforming lots. The only difference is the revision date. Originally 5/26/20 is not 11/18/21.

Mr. Bruce Riordan – 37 N. Bayview Drive, Strathmere was sworn. Mr. Riordan testifies this application has not changed since the original that was approved in June of 2020. He confirms the letter, dated December 7th, from the county planning board waiving their review as was also received with the prior application. Currently lot 8 is 3,000 sq ft and is proposed to become 10,000 sq ft, and lot 9 is currently 18,000 sq ft and will become 10,000 sq ft. Both lots will be conforming lots.

Paul Dietrich – He confirmed the lots will meet with zoning requirements for a subdivision with the township.

The meeting was open to the public. Hearing no response this portion was closed and was returned to the board for findings of fact.

Mr. McGuire – The applicant, Rita Schaivo of 104 Prescott Avenue in Strathmere, also known as Block 821 and Lots 8 and 9, is here for the realignment of lot lines. The previous application was originally approved by this board in 2020 but the plat was not filed in the appropriate amount of time. It is in the RR Zone. Mr. B Riordan was sworn as the executor of the will. Both lots will become conforming with no variances being requested. No notice is required. Lot 8 will go from 3k to 11k and lot 9 will go from 18k to 10k. The lot frontage and setbacks will be in compliance. The septic and house will be on lot 8.

Ms. Costello – The applicant was represented by Jules Konschak, Esq. The only change to this application is the date from June of 2020 to November 18, 2021. The lot and plat requirements are met and there was no public comment.

Mr. Kingston – The application is exactly the same as the original in 2020.

Mr. Corson – Concurs with his colleagues.

Ms. McCrosson – Concurs.

Mr. Young – Concurs.

Mr. Harney – Note that our board member, Mr. Gary Riordan, will be stepping down for this application. The Township Engineer has confirmed this application is as stated.

Mr. Barnes – This resolution is requesting for a lot realignment for two existing lots located at 104 Prescott Avenue.

A motion was made by Mr. Kingston and seconded by Mr. McCrosson to accept the application with standard conditions. In favor: Costello, Kingston, Corson, Young, McCrosson, Harney. Abstain: G. Riordan.

2. OCEAN CITY WINERY – BLOCK 723 LOT 37

Applicant is requesting a recommendation for their application for a Site-Specific Agricultural Management Plan (SSAMP) to the Cape May County Agricultural Development Board for a winery with 80 seats and 28 parking spaces at 8 Bayaire Road in Marmora, New Jersey.

Mr. Jeffrey Barnes – The law firm of Richard King submitted a letter expressing that they will be representing multiple residents of the adjoining properties. He recommends the board go into a closed session to discuss possible litigation.

Mr. TJ Mooney – Attorney with the Law Offices of Richard King. He is representing a number of concerned neighbors about the proposed winery that is going to be essentially in their back yards. He would like to address the site plan submitted to the board. He suggests that it is too early for the board to make a decision on the site plan. The winery is a large expansion of a pre-existing, non-conforming. He believes the residents should have more time to be able to research and come up with a response. The tax accessor and conflict tax accessor have denied farmland assessment. The township engineer believes the property may not meet the size requirements. He thinks it would be premature to come to an answer. He would like the board to refuse any action that would give the site plan a stamp of approval, giving it any legitimacy.

Mr. Harney motions and is seconded by Mr. McGuire to go into closed session to discuss potential litigation matters of the OC Winery. All in favor.

Mr. Harney motions and is seconded by Ms. McCrosson to return from the closed session. All in favor.

Mr. Barnes – After discussing the plan that was submitted to the Agriculture Board, what occurred at the Agricultural Board meeting, what has occurred subsequently and the different documentation that has been supplied coupled with the fact that the King Law Firm is now involved. It is still unclear whether the Planning Board has jurisdiction over this application, or the Township has it. Based upon that, this board is going to make a motion to have himself speak with the Township attorney to determine whether we can participate in potential litigation as it relates to the application as it is filed. In the form of an appeal, form a motion that this Board is in favor participating in litigation however it will be dealt with by the Township Committee. To make sure that they are ok with that concept and would be handling that.

Mr. Harney – Agrees and asks for a motion.

A motion is made by Mr. McGuire and seconded by Mr. Kingston to participate in litigation in conjunction with The King Law Firm if confirmed by Township Committee. In favor: Costello, Kingston, Corson, Young, McGuire, Riordan and McCrosson.

3. Plan Endorsement Petition Certification

Review of the Planning and Implementation Agenda (PIA) as part of the State's Office of Planning Advocacy review of the Township's recertification for Plan Endorsement.
Discussion of the State's request to modify the Planning Area changes in Beesley's Pt.

There was a general discussion about Plan Endorsement.

Mr. Corson brought up the possibility of introducing a Dark Sky Lighting plan for both commercial and residential.

Mr. Dietrich agreed with the benefits but that would be discussed with the Master Plan, not through the State.

Mr. McGuire inquired about the Environmental Energy and updating lighting to LED.

Mr. Dietrich explained that the replacement only occurred when a pole was damaged or fixture was damaged, not during bulb replacement.

Mr. McGuire asked about the progress of the Beesley's Point boat ramp. Mr. Dietrich confirmed this was moving forward and slated to begin in February 2022.

Mr. Kingston opened a discussion about sidewalks as referred to in the Residential Site Improvement. After some discussion, Mr. Kingston requested the Mr. Barnes review the ordinance and give his legal opinion. Mr. Barnes agreed.

PUBLIC PORTION

The meeting was opened to the public. Hearing no response, the public portion was closed.

RESOLUTIONS

THREE'S COMPANY, LLC – BLOCK 565.03 LOT 55.04 – SD 04-2021

A motion was made to adopt the resolution by Mr. McGuire and seconded by Mr. Corson. All in favor.

THREE'S COMPANY, LLC – BLOCK 585.03 LOTS 55.04 SD 05-2021

A motion was made to adopt the resolution by Mr. McGuire and seconded by Mr. Corson. All in favor.

BILLS

A motion to approve the bills, as submitted, was made by Mr. Kingston, seconded by Mr. McGuire, and approved.

ADJOURNMENT

Motion by Mr. McGuire, and seconded by Ms. McCrosson, to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 9:55 p.m.

Submitted by,

Liz Oaks