

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES DECEMBER 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, Richard Mashura, Lynn Petrozza, Christopher Phifer
Andrew Shawl, Matthew Unsworth, Paul Casaccio

Absent: Sherrie Lisa Galderisi, Mark Pancoast, Karen Mitchell, Larry Trulli

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

APPROVAL OF THE NOVEMBER 4, 2021 MEETING MINUTES

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

Paul Dietrich and Liz Oaks were sworn.

Review of the 2022 meeting dates

APPLICATIONS

1. TERRENCE MILLER BLOCK 548 LOTS 3.01 AND 3.02 - BA25-2021

Applicant is requesting a variance for the construction of an accessory structure greater in area than the principal structure. Relief is also requested for front yard and side yard setbacks of accessory structures at 8 Tyler Road and 149 Route 50 in Greenfield.

Jon Batastini, attorney for the applicant summarized the application and requested Mr. Orlando to detail the site.

Vincent Orlando, Engineer with EDA at 5 Cambridge Court in Greenfield was sworn.
Mr. Orlando – Mr. Miller contacted EDA to do a site plan for his property, about 850 feet north of the Tyler Road intersection. Property is located in the CM2 Commercial Zoning District. It is a unique site that had come before the board several years ago for a landscape contractor using it for an office and a storage yard. North of the site is commercial development and both east and west of route 50. There is a single-family

dwelling on Tyler Road in the back section. There are 2 lots, one fronting Route 50 and one fronting Tyler. If successful tonight the plan is to consolidate the two lots with no access to the property from Tyler Road they will use the property fronting route 50. Mr. Orlando has entered exhibit A-1, 3 photos of the property. The photos were taken today. The first photo is of the front, the second photo is the rear of the existing trailer and the third is of one of two existing sheds, sitting in the back, to be relocated as part of the application. This application is two-fold, the first is the owner intends to rehab the existing building with adding front, rear and side deck where there is currently a raised patio. He is going to reface the front of the building using a log cabin method. Similar to the third photo. This is siding but he will be using real logs. He will put on a sloped roof and new windows and doors. The second portion, there are two existing sheds on the south east corner of the property. The relocation will conform to side yard setback of 10 feet for one and 15 feet for the other. The third portion of this application is the construction of 35 x 40 garage sitting behind the existing office. Access will be off existing driveway. He would like to put a lean to covering some of his equipment. Mr. Miller has a small business as a well driller. He has one or two employees mostly going directly to work site, but on occasion they will come to this site. He would like to store a personal boat or car on the property that does not pertain to the business. The applicant is requesting variance relief for a front yard setback where 50 feet is required, currently is 36.4 to the house and proposed to the new front deck 30.57. We have existing non-conforming setbacks on the property 21.3 feet currently exist and 35.7 feet. That 21.3 feet, because of the wood deck, goes to 20.4 feet which requires a variance. And the side yard total again, pre-existing, non-conforming, will be 46.2 feet where 50 feet is required. The accessory buildings are not permitted in the front yard. While there is no access on Tyler Road, it is considered a front yard. They sit 5 feet off that front yard and propose moving it to 20 feet minimum. In addition, the side yard minimums are 30 feet, there is a pre-existing non-conforming condition as relates to an existing trailer. Requesting the 10 feet where 25 is required. The site does not have a rear, it has two sides and two fronts. Maximum building coverage for accessory structure is 5%, they are at 16.1% because of the garage. Requesting consideration to eliminate the landscape buffer, they essentially have no buffer but will have a completely fenced in yard. The board could consider the variance under the C2 criteria, where the benefits outweigh the detriments. It wouldn't be a C1 because there is no hardship, therefore it would be a C2. He believes the following special reasons:

e. to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment. In this case the uses are permitted. The reason we are before the board is due to the accessory structure being larger than the principal structure. While the accessory structure is a permitted use, the principal structure is very small.

g. To provide sufficient space in appropriate locations for a variety of uses including commercial, both public and private procedures, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement. This building needs help, it has been there a long time. Mr. Miller has intentions of giving it a facelift, enhancing the visual environment.

m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land. Mr. Miller has a unique business and a unique property. This is a more efficient use of the land.

There is no substantial detriment to the zone plan. It is not affected because the uses are permitted. The variance relief is due to the two front yards. Many properties existing do not meet the setbacks. There is no substantial detriment to the neighborhood, the use has been there, and the moving of the sheds will be beneficial. The office will be in front of the existing trailer. Mr. Miller's business uses larger equipment, he will be using it for storage including a personal boat or car. Confirms the office will be in the existing trailer and used mostly to do his bookkeeping, not for customers to come to. Mr. Dietrich confirms that lean-to's count in coverage, anything that extends out further than 18 inches is then counted. The garage will be 18.5 feet, the lean-tos wouldn't be any higher than 12 feet. The lean-to will be open with shingle roof. Mr. Orlando testifies the applicant is willing to modify the plans to include landscape buffering along Tyler Road. There is no impact to any neighboring properties. There will be a new 6-foot-high fence and starting behind the trailer. It will not encroach any site triangle. Well and septic are remaining and unaffected. The property is less than a ¼ acre increase in impervious coverage. Mr. Dietrich asked them to provide some relief. They calculated the volume associated with the garage and the lean-to and provided an underground infiltration system for that construction.

Mr. Dietrich confirmed this is satisfactory. He requests more discussion regarding the trailer due to mobile homes not being allowed in the township as a standalone structure.

Mr. Orlando explains the structure will be completely refurbished and a permanent structure.

Terrence Miller, 900 Palen Avenue, Ocean City was sworn. He testified that the trailer has a steel frame underneath. He will be leaving the chassis in place and rebuilding from there.

The meeting was then opened to the public. There were no speakers, and the meeting returned to the board for finding of fact.

Mr. Shawl – The applicant, Terrence Miller has come before the board for his location at 149 Route 50 in the Greenfield section of Upper Township also known as Block 548 Lots 3.01 and 3.02. The applicant is proposing to erect an accessory building, renovate and move existing sheds. He is asking for a variance where the accessory structure is larger than the primary structure. He intends to use the existing structure as an office. Reconstructing the

roof and walls, add some porches and change the aesthetics of the site. Existing sheds will be rearranged to better comply with the zoning requirements with larger side yard setbacks. The lot is narrow and between two streets with Route 50 as the address. The property is not accessible by vehicle from Tyler Road. There will be a landscape buffer along Tyler. The applicant has provided testimony that there would be no impact on the farmstead. That because of the frontage along two streets it creates a hardship. The siding will be a log cabin design. The garage proposed with a height of 18.5 feet and the lean-to's would have no walls and be about 12 feet high. The applicant is a well driller, this site will serve as a commercial operation to store his equipment. He will store his boat along with other personal items, such as a vehicle. The applicant agreed to add some evergreens along Tyler Road. The variance relief requested qualifies for the C2 variance where the benefits outweigh the detriment. We heard testimony from the applicants engineer that special reasons, g. i. and m., apply to this project. There was no comment from the public. He believes this variance can be granted without detriment to the public or zoning plan.

Ms. Petrozza – She concurs
Mr. Burger – He concurs
Mr. Mashura – He concurs
Mr. Phifer – He concurs
Mr. Unsworth – He concurs
Mr. Casaccio – He concurs

A motion was made by Mr. Unsworth seconded by Mr. Shawl to grant the application as presented with the following conditions:

1. He has agreed to the deed of consolidation for the two lots.
2. The addition of landscape buffering along Tyler Road.
3. The office is going to be a permanent structure.
4. The boat is to remain in the garage or under cover unless being used.

Mr. Orlando will provide an electronic version of the zoning chart. In favor: Burger, Mashura, Petrozza, Phifer, Shawl, Unsworth, Casaccio

2 TRISTAN SYLK BLOCK 826 LOT 8.01 – BA26-2021

Applicant is requesting the following variances; floor area ratio, lot coverage, building coverage, side yard setback and aggregate side yard setback to construct a new single-family dwelling at 512 Bayview Drive in Strathmere.

Mr. Chris Baylinson represents Mr. Sylk and his wife. The purpose of the application is to build a new single-family dwelling. Currently the home on the site is 200 years old and the original intention was to refurbish the home but there were too many obstacles to overcome. They have chosen a home that is as similar to the original as possible. They increase the lot coverage by 2%, the rest either stays the same or is an improvement. Under the new FAR requirements is a D variance. The current home is over the allowed FAR. The smaller lot is difficult to comply. He believes they have come up with a plan that mimics what is currently there. There are four variances requested aside from the FAR. A coverage, that improves by 2% but is still over by 2% and requires a variance. Side yard setback which stays the same incorporating first level landscape steps. The aggregate side yard because both are deficient now. The front yard setback

improves the conforming. And the rear yard setback the house is pulled away from the high water line.

Tom Wagner, Licensed NJ Architect, 645 Washington Avenue in Haddonfield was sworn.
Tristan Sylk, 1015 Mt Laurel Road, Hainesport Township was sworn.

Mr. Sylk testified that he has done many historical rehabilitations, and this was his intention to do with this property for his personal use. The structure of the home is not close to code, walls they can't insulate, the studs are not close to 16 on center. There are no mechanicals, and the hot water heater is in the middle of the kitchen. The bedrooms are approximately 8x9. The mechanicals would have to be raised due to flood requirements. During the assessment they realized it would become a money pit. The best decision would be to build new, trying to come up with a design similar to the existing. The south side has a current setback of zero and the new build would improve that. They did a study of the neighborhood and have come up with something that will fit in with the neighborhood. The goal was to maintain or improve the current situation.

Mr. Wagner is a Licensed NJ Architect for over 30 years. The home was designed with the neighborhood, the site and existing home in mind. The lot is extremely small which makes it difficult to design something that will work with this site. The design is aesthetically similar to the neighborhood. There is a 2-foot overhang that we will be amended to 18 inches.

Mr. Dietrich – There are some discrepancies on the zoning chart. All the setbacks were measured to the main structure. However, the setback is measured from the stairs.

Mr. Baylinson testifies the stairs are considered landscape stairs and should not be considered in the setback.

Mr. Dietrich would like more details in order to make a determination.

There is discussion about landscape steps.

Mr. Baylinson agrees to amend the application to include a variance relief for the setback for the steps.

Mr. Wagner – Explains his calculation for the FAR is based on the existing home. It is agreed that they will provide a floor plan with details to confirm FAR. They agree to not exceed the existing FAR with a maximum of 62%

Mr. Barnes explains to the board that this is the first application requesting FAR variance relief since the new ordinance.

Mr. Dietrich explains the purpose and reasoning of FAR. The inclusion of usable living space. The exclusion of open decks. And how this affects a smaller lot. The existing home on this site currently exceeds the allowable FAR.

Mr. Baylinson – His client will provide a floor plan of the existing home which will clarify the FAR and agrees they will not exceed the existing FAR or 62% whichever is smaller. They will amend the plans to move the steps, referred to as landscape steps, to comply with setbacks.

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Mr. Dietrich – The bulkhead is above elevation 8. The garage header is showing elevation 7. Due to the narrowness of the lot there are stormwater management requirements that French drains would answer.

Mr. Baylinson – The applicant will comply with the 12 foot driveway opening.

The meeting is open the public.

Ms. Carr of 33 E. Webster in Strathmere was sworn. A longtime resident of Strathmere. Ms. Carr has participated in the lengthy process of developing ordinances in a collaborative way. She has concerns about the lot coverage and FAR. To ensure that they maintain the quality of life and the type of community we are happy with. She understands the discussion mainly focused on the standard lot size of 4,000 8,000 and 10,000. While the focus was not on the smaller lots, they were considered. She believes the ordinance should still be complied with regardless of lot size. Along with FAR there are lot coverages, building coverages and setbacks all of which can get variances for each of these. It was her belief that if a property were not conforming currently, then once changes were made they would

Mr. Shawl – The purpose of the board is to weigh the positive criteria versus the negative criteria in each individual application. It is always valuable to have the public speak.

Janice Connell of 1808 S Commonwealth Avenue in Strathmere was sworn. Ms. Connell concurs with all that Ms. Carr expressed. She served on the sub-committee working on the revised ordinances including the FAR. She believes the goal was to build according to the size of the lot. This is new construction and doesn't see why they should not comply. Much thought and deliberation took place when deciding on the FAR regulations.

Hearing nothing more from the public the meeting returned to the board.

Mr. Phifer – Confirms the difference the proposed plan is over in the FAR. Which is approximately 200 square feet per floor.

There is a discussion about the size of the lot and the options that the applicant may or may not be able to do. If the applicant were to comply with all zoning requirements, they would be left with a 13 foot wide structure. The proposed structure is more to the style of the neighborhood.

Mr. Baylinson – The design of the proposed structure is keeping in character with the existing neighborhood. The dimensions are designed to be pleasing aesthetically. Form follows function and the interior is functional.

MR. SHAWL – The applicant, Tristan Sylk, comes before the board for his property at 512 Bayview Drive, Strathmere, aka, block 826 lot 8.01. The existing home is a 100 year old, 2-story dwelling in need of repair. The home needs to be raised a minimum of 2 feet to comply with today's flood requirements. It is an undersized lot. Mr. Sylk has a background in historical restoration. The applicant evaluated the existing dwelling to try to raise, however, it is too far gone to save. The applicant engaged an architect to design a structure keeping with the character of the neighborhood with a seashore, beachy feel. The new structure that would be elevated above the flood requirements. To meet as many or improve on pre-existing non-conforming uaws/variances of the house. The applicant is maintaining the front yard setback, matching the

existing frontage. The lot line for the northern side is over the property line. He will correct that and provide 2.9 feet side yard setback on one side and 2.6 feet on the other side. It will be elevated and supported in such manner it will create 2 off street parking spaces. The lot coverage increases due to moving the portion that was not on the lot, to now sitting fully on the lot. He has provided testimony that the existing FAR of the house is 62% and the proposed plan will stay the same. The aggregate side yard setback will improve the pre-existing, non-conforming. He is trying to improve the structure while keeping a functional house that meets the character of the neighborhood. He has gone through an extensive process with calculations and working with the architect. The proposed structure protects against fire and flood. The north side of the property has the structure very close, and the south side is further according to the satellite page in the plans. We heard testimony from the professional that there would be no detriment to the public good by approving the variances required for this new structure. The existing lot had a house that didn't meet the FAR as it was constructed 100 years ago and is doing his best so that it doesn't increase. If the existing house and lot accommodated the FAR, he doesn't see why a new upgraded house with a modern septic system and reduced building coverage couldn't accommodate the same FAR as now. The applicant did agree that the building overhangs would be adjusted to 18 inches or less. He will try to work with the idea of landscape stair in a design aspect and if that is not possible and the steps need to move forward, they are asking for the 13.2 foot front yard setback instead of the 18 foot in his application just to make sure that the primary means of egress does not affect the house or obscure the sidewalk. The design creates two off-street parking spots versus one. We did hear from the public that participated in the FAR discussions. They believed it was a fair process and intended to be good for the community. The public was generally did not want the FAR on the new structure above what is in the ordinance. Which would significantly reduce the covered floor space inside the proposed structure. The applicant design of this structure with a modern septic system that does not impede the view for the neighbor to the north by keeping a certain distance away from the dock, keeping the porches and chimney away from the back property line. His primary reason is to comply with FEMA flood rules. He is looking for a variance for the FAR, where 54% is permitted they are requesting 62%. Lot coverage where 45% is permitted, 50.27% is proposed. Building coverage, where 27% is permitted, existing is 35.7% and they are reducing that to 33.6% requiring a variance. Side yard setbacks, where 6 feet is required, would be increasing from zero to 2.6 feet on the northside and maintaining 2.9 feet on the southside. The proposed aggregate side yard setback would be less than 12 feet, where 5.5 feet is proposed. We heard testimony from the architect about the design process and why this application is different from others that might come across the board. And he believes from the testimony they heard and the process the applicant went through, the variances can be granted.

MS. PETROZZA – Concurs with Mr. Shawl.

MR. BURGER – He agrees.

MR. MASHURA – He agrees with Mr. Shawl but has concerns about the steps. He thinks there shouldn't be any issue to move them. He is in favor of the application.

MR. UNSWORTH = He agrees with his colleagues findings. He would like to add a general comment that the lot is 25 feet wide. The applicant is doing a good job finding a compromise, taking into account the neighboring properties. The septic system requirements. The existing structure, the existing setbacks. Adding parking. And improving flood. He thinks they could've

found a conforming design, meeting all the bulk requirements but he doesn't think it is a better solution than what they are proposing. He is in favor of the application.

MR. PHIFER – He doesn't know if it was mentioned but the bulkhead is at flood elevation 8. More importantly, because we had public comment on the FAR, he thinks they need to know the Zoning Board does listen to every application in its own uniqueness. He thinks the FAR will come under the same evaluation along with setbacks on a case by case basis. He thinks the unique situation. The difference with the FAR is minimal and because of that he has no problem with the application.

MR. CASACCIO – The only thing he wants to add is applicant has agreed to the 12 foot driveway opening along with curb and sidewalk.

A motion was made by Mr. Shawl seconded by Mr. Mashura to grant the application with the following conditions.

- 1- The applicant agrees to amend plans to reflect an overhang of no more than 18 inches.
- 2- They will provide us with an updated zoning chart.
- 3- There will be a deed restriction that no living space will be below flood.
- 4- Provide the Township with plans reflecting the FAR in existing structure. They agree to not exceed that figure or 62%, whichever is smaller.
- 5- They will amend plans to include a French drain.
- 6- They agree to a 12-foot-wide driveway opening.
- 7- They agree to the 2.6 foot setback for the stairs.

In favor: Burger, Mashura, Petrozza, Phifer, Shawl, Unsworth, Casaccio

BILLS

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

RESOLUTIONS

DAVID GETZ – BLOCK 723 LOT 1 – BA 23-2021

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

JEFFREY & CATHERINE MULLANEY – BLOCK 661 LOT 80.10 – BA24-2021

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

A & S PARTNERSHIP AKA MILDREDS – SP 01-2021

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

PUBLIC PORTION

ADJOURNMENT

A motion to adjourn the meeting was made by Ms. Petrozza, seconded by Mr. Mashura,
and approved. The meeting was adjourned at 8:44 p.m.

Submitted by,

Liz Oaks