

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
MARCH 10, 2022**

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

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: James Burger, Richard Mashura, Karen Mitchell, Lynn Petrozza, Andrew Shawl, Larry Trulli, Thomas Jackson.

Absent: Sherrie Lisa Galderisi, Matthew Unsworth, Christopher Phifer, Paul Casaccio

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

APPROVAL OF THE JANUARY 25, 2022 SPECIAL MEETING MINUTES

A motion to approve the minutes was made by Mr. Trulli and seconded by Mr. Mashura. In favor: Burger, Mashura, Mitchell, Shawl Petrozza, Trulli, Jackson.

APPROVAL OF THE FEBRUARY 10, 2022 MEETING MINUTES

A motion to approve the minutes was made by Mr. Trulli and seconded by Mr. Mashura. In favor: Burger, Mashura, Mitchell, Shawl, Petrozza, Trulli, Jackson.

Paul Dietrich, Township Engineer was sworn. Liz Oaks, Zoning Officer was sworn.

Mr. Jackson testified that he listened to the audio from the January 25, 2022. Containing the Jersey Shore Campground application.

APPLICATIONS

1. **JERSEY SHORE CAMPGROUND, LLC – BLOCK 548 LOTS 15 AND 20 – BA28-2021**

Applicant is requesting a Preliminary & Final Site Plan Approval and use variance for an expansion to the existing non-conforming campground to construct a pool, pavilion, and miniature golf course. And to construct future campers on a permanent foundation at 76 & 84 Tyler Road in Petersburg

This is a continuation of the January 25, 2022 meeting.

Mr. Keith Davis, attorney for the applicant, briefly reviews the previous meeting. The previous meeting had only 6 members and they wanted to have the opportunity to be

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heard by a 7-member board. The stick-built cabins are the concern this evening. Mr. Ott and Mr. Orlando testified that they believe the proposed cabins will be a dramatic upgrade to the existing conditions. Specifically, the park models are classed as motor vehicles and cannot be taxed. Stick-built structures will be inspected by the Township construction office, ensuring each cabin is up to code. Each of the cabins will be taxed as a structure. Mr. Ott testified that he believes the transient tenant will be more financially beneficial to the local businesses in the community. The cabins will be a more aesthetically pleasing than standard park models with skirts. The cabins will not be occupied for more than two weeks at a time. Mr. Burger expressed concern about the number of cabins at the last meeting and Mr. Ott is willing to limit the total number of cabins to 50 units. The balance of sites would be used for traditional recreational vehicle sites. This is a traditional D1 variance for the stick-built structure. Mr. Orlando provided ample special reasons, which is the applicants burden to justify. The purposes of zoning that are there. Light, air and open space. The appropriate location for recreational uses such as this one. Providing for a desire to live in this environment. Advancing general health and safety by adhering to local codes for the cabins. And balancing that with the negative criteria impact to the public good and the zone plan. It was Mr. Orlando's testimony that there is no substantial impact to the zoning plan or public good. The location is set off the road, the impact is on the campground itself. We believe this to be beneficial to the community.

Mr. Orlando, 5 Cambridge Drive, Engineer for the applicant, was sworn.

He describes the location they intend to place the stick-built cabins. The location will eliminate the need to remove trees. To be certain there will not be any year-round use, they are willing to shut the water down and drain the pipes and winterize the units. They will be 448 square feet with heat and air conditioning. There will be no additional porches. There will be an open patio with a fire pit. These units will be permanent structures not permanent residents.

Mr. Dietrich explained that there is no additional burden on the zoning office in regards to the permitting process of a stick-built cabin vs a park model. The concern could be an inspection by code enforcement at the end of the season and perhaps mid-season to confirm units are vacant.

There was a discussion regarding the taxation of the structures.

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

Ms. Petrozza – The applicant, Jersey Shore Campground / Mr. Gary Ott, of 76 and 84 Tyler Road also known as block 548 lots 15 and 20 were before the board for a d1 variance. The last meeting, they had proposed 60 stick-built cabins and they have cut that number down to 50. The rest of the 196 sites will be for RV use. They proposed a declaration of convenience that will assure seasonal only usage. They added that they will winterize the units. The criteria have been met for the variance. There was testimony for

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special reasons. The burden of proof was very much reviewed and supported by our professionals. There was no public comment.

Mr. Jackson – Mr. Ott is proposing 50 stick-built dwellings. He is satisfied with the deed of convenience and has not additional questions.

Mr. Burger – The crux of the matter is the backorder of traditional rv's.

Mr. Trulli – Has no questions regarding this matter.

Mr. Mashura – The testimony has shown the positive and negative criteria have been met. He has nothing else to add.

Ms. Mitchell – Was happy with the presentation. This will create a ratable without affecting the community.

Mr. Shawl – Agrees with his colleagues. The last meeting did have a member of the public step forward with concerns for the wooded nature of the lot and was content as long as the buffers were maintained. There was a lot of testimony in the last meeting from the public who had resided in the campground for generations and were no longer able to stay. We heard there would be minimal clearing. The nature of the campground will be maintained. Currently the campground exists in wooded, secluded area with frontage on a state highway as well as a county road. The applicant does not intend to make the Tyler Road entrance the primary entrance. The application for improvements would provide a desirable visual environment for the campers as well as those driving by. There will be added lighting and landscaping. We heard special reasons from Mr. Orlando that this was a better alternative than having the traditional rv. They cabins will be limited to 448 square feet. The total number of sites is 196 of which 50 stick-built cabins. The location of the cabins is noted on exhibit B-1. He believes that the variance can be granted without substantial detriment to the zone plan.

Mr. Barnes stated that in the convenience the size of the cabins will be 14 x 32 with outside patio. He asked that a plan, similar to what was shown at the meeting, to be attached to the convenience. Similarly, we will take Mr. Orlando's plan (exhibit B-1,) and attach. To be clear there will be 146 regular sites and 50 stick-built units. Lastly, regarding enforcement, in the event the municipality should need to enforce the convenience that the township be reimbursed for legal fees.

Mr. Ott would like the possible infraction to be quantified.

Mr. Barnes believes they will be able to craft language that would be agreeable to all parties.

Mr. Barnes continues with the following - No person should occupy a site for no more than 14 consecutive days. No site shall be used as a domicile. The dates of operation are to be April 1 through November 1 each year. A log will be kept with all of the people that stay there and the township will have access. The campground is to be under the supervision of a caretaker. In the event of a sale of the property, this will follow through to future owners.

Mr. Davis would like to clarify this would also include site plan approval.

Mr. Shawl confirms this would be included.

A motion to approve the application as presented was made by Mr. Mashura and seconded by Ms. Mitchell. In favor: Mashura, Mitchell, Petrozza, Shawl, Trulli, Jackson. Opposed: Burger

2. MARK AND RENEE McKINNEY – BLOCK 600 LOT 62 – BA04-2022

Applicant is requesting variance relief for side yard setback of 10' where 15' is required for a new park model and Florida room at 516 Rt US 9 in Marmora.

Mark McKinney and Renee McKinney of 516 Rt US 9 were sworn.

Mr. McKinney – They are requesting a variance for a side yard setback of 10 feet where 15 feet is required. So that they can include a Florida room on their park model. They are located in Oakridge Campground. They have purchased a new camper that they have been unable to use due to this process. They will actually be 2 feet narrower than the previous model. The site is of average size for the campground. They have spoken to their neighbors on either side and they each are happy to have the improvement to the existing site.

Ms. McKinney briefly describes photos showing what is currently there and what they propose. They have included photos of existing trailers with similar ideas. They have included letters from the neighbors on either side in favor of what is proposed. The campground association has approved their application.

Mr. Dietrich explained that the 15 feet distance between structures has been a zoning requirement for years. The prior construction official was approving construction permits without requiring zoning approval and followed the 10 feet rule according to building codes. Most of the campgrounds were built many years ago and trailers were smaller. If a campground were to be designed today, they would require much larger sites.

Ms. McKinney testified that the Florida room is custom and will be around 400 square feet. Stick-built and comply with fire codes. They have been residents of Oakridge since 1998, both her family and her husband's family also have trailers in the campground.

The meeting was opened to the public. Hearing no one and seeing no one this portion was closed and returned to the meeting for findings of fact.

Ms. Petrozza – The applicants of 516 US Rt 9 are before the board requesting variance relief for a side yard setback of 10 feet where 15 is required to set a new park model with a Florida room. The lot size is average and comparable to others in the campground. The Florida room is custom and will be slightly narrower and longer than previous. The same plans have been submitted to the campground association and they have approved the plans. It is obvious with items submitted that this is consistent with the campground and is in character with other trailers. It is a visual improvement on the existing conditions.

There was no comment from the public. She believes this is an improvement. There is no detriment to the public good. She is in favor.

Mr. Jackson – The previous trailer on site was likely not compliant with today’s safety standards and believes that with the new codes it is safer even if it is closer. He is in favor.

Mr. Burger – He is in favor.

Mr. Trulli – He concurs.

Mr. Mashura – No comment.

Ms. Mitchell – Nothing to add.

Mr. Shawl – Adds that there was no public comment and that the applicants represented themselves.

A motion to approve the application as presented was made by Ms. Petrozza and seconded by Mr. Trulli. In favor: Burger, Mashura, Mitchell, Petrozza Shawl, Trulli, Jackson.

3. JAMES AND JENIFER WYRES – BLOCK 13 LOT 3.02 – BA02-2022

Applicant is requesting variance relief for front yard setback and building coverage for additional front porch area at 356 Marshallville Road in Woodbine.

Mr. James Wyres, 356 Marshallville Road was sworn.

Mr. Wyres testified that he purchased the property about two years ago. The insurance company informed them that the porch needed a railing, and the steps were not to code. They researched some ideas and decided to increase the size of the porch. At that time, they found out the idea did not comply with zoning requirements. He is asking for front yard setback relief and lot coverage relief. Pictures presented show that the proposed plans are consistent with the neighboring properties. The plans are for an open porch that may be screened in.

There is a discussion about the measurement of the setback to the steps not the porch. The design and intentions of the project.

The meeting was open to the public. Seeing no one and hearing no one this portion is closed. The meeting returned to the board for findings of fact.

Ms. Petrozza – The applicants, James and Jenifer Wyres of 356 Marshallville Road, come before the board seeking variance relief for a front yard setback of 34 feet where 50 is required and building coverage of 3.5% to 4% for a new front porch. His insurance company expressed a need for repairs and they have decided to increase the size of the porch to be in character with the neighborhood and be more aesthetically pleasing. The applicants represented themselves. There was no comment from the public. She believes the relief can be granted because there is no detriment to the public good. It will alter or substantially impair the intent and purpose of the zone plan.

Mr. Jackson – Is fully understanding of the location being close to Rt 49 and making a safe space for his family.

Mr. Mashura – Nothing to add.

Ms. Mitchell – Nothing to add.

Mr. Burger – The houses are pretty far apart. He concurs.

Mr. Trulli – Nothing to add

Mr. Shawl – The applicant represented himself and there was no public comment

A motion to approve the application as presented was made by Ms. Petrozza and seconded by Mr. Trulli. In favor: Burger, Mashura, Mitchell, Petrozza, Shawl, Trulli, Jackson.

4. **LIBERTY 519 S SHORE RD, LLC – BLOCK 599 LOT 11 & 12 – BA03-2022**

Applicant is requesting a use variance for the expansion of a non-conforming use to replace an existing temporary tent structure and construct a 24' x 80' pavilion, variances for the distance between buildings and architectural standards for the existing building and site plan waiver at 519 South Shore Road in Marmora.

Jon Batastini, attorney for the applicant, explains they are there for the expansion of a non-conforming use to replace an existing temporary structure with a pavilion.

Joe Maffei of 5 Cambridge Drive, Engineer for the applicant, was sworn as an expert.

Mr. Maffei describes the property location and description. It sits back of the road, with about ½ of it wooded. There are two driveways. The intend to take a temporary fabric tent structure and replace it with a permanent pavilion. This location is used for packing and loading of product. The goal is to create a safe environment for employees and product. The location is already paved. The structure will be a 80 x 24 metal structure. This is located in the MTCZ Zone, there was a hardship created when there was a zone change. The variances required is the expansion of a non-conforming use. The structure will be 5 feet from the building. There is no substantial harm to the neighbors. It is well off the road and will not affect neighboring properties. It will not substantially impair the intent and purpose of the municipal zoning ordinance. It will not be any residential impact. There will potentially be some lighting in the canopy. It will be compliant with all construction codes for safety.

The meeting was open to the public, hearing no one and seeing no one this portion was closed. The meeting returned to the board for findings of fact.

Ms. Petrozza – The applicant, Liberty, LLC of 519 Shore Road, is before the board seeking variance relief of the expansion of a non-conforming use to add an 80 x 24 metal pavilion. There was no public comment.

Mr. Mashura – The structure will be of a non-combustible nature. Complying with safety codes.

Mr. Shawl – The applicant was represented by council and there will be no additional asphalt added. They are asking for a use variance, the special reasons cited by the

engineer were location for a perfect development, they are going to preserve light, air and open space because the existing accessory building is in the shadow of the primary building and were increasing the safety by providing a permanent structure that will have tie downs for wind safety.

A motion to approve the application as presented was made by Ms. Mitchell and seconded by Ms. Petrozza. In favor: Burger, Mashura, Mitchell, Petrozza, Shawl, Trulli, Jackson.

5. MOKEV, LLC – BLOCK 794 LOT 1 – BA05-2022

Applicant is requesting variance relief for a front yard setback on an unimproved street of 9'2" where 15" is required at 1612 S Commonwealth Avenue in Strathmere.

Chris Baylinson, attorney for the applicant, explained his client is requesting a front yard setback on an unimproved street of 9'2" where 15' is required, for a new single-family dwelling where there is currently a cottage. The proposed home complies with all requirements except for a front yard set back on an unimproved street. This is a corner lot that creates two front yard setbacks. The current structure is non-conforming at 5'10", therefore improving by about 4'. The rear yard setback at 45', where 30' is required, remains the same. The setbacks on Commonwealth and Fulton improve over the current conditions. The house is 2,000 square feet with 1st floor storage. The parking is improved to 3, where 2 are required. There will be no improvement to the south of the house.

Christina Amey, 761 Asbury Avenue, Ocean City, Architect was sworn as an expert.

Ms. Amey testified that there was a calculation error on the zoning chart submitted and proceeded to distribute an updated chart. It is not increasing the variance requested. They are reducing the size of the rear deck. The existing house has a front yard setback of 8'10" from existing deck on the Commonwealth side. They are proposing a compliant front yard setback. The north side of the property is a proposed compliant side yard setback. The Fulton side has existing paving that is being used by the cottage as a driveway. This is side they are requesting a setback of 9'2" where 15' is required. The back portion of the lot has a wetlands portion therefore creating a need to push the septic further from the rear property line. This is in the Pacific Coastal A Zone, so that means the bottom floor of the structure has to be at the flood elevation. They have an extra foot of space. It is at base flood plus 2. The existing frame dwelling is below flood. The proposed structure is compliant with coverage, floor area ratio and building height. They are providing 3 parking spaces where 2 are required and currently has no on-site parking. The proposed structure creates separation from neighboring structure providing fire safety. Making the home now flood compliant helps to protect from flood and fire damage. And with all the utilities in the house and new systems also advances the purposes of the land use act. There will be no substantial detriment to the public good as

they are improving 3 setbacks. And also, the undevelopable southern property and the wetlands to the rear of the property. She believes the variance can be granted without substantially impairing the intent and purpose of the zone plan and zoning board.

The elevator does not go to the roof deck and does not create a problem with building height. It will have a 16" pit.

Mr. Shawl questioned the floor plan layout of 3 bedrooms and an exercise room on the 1st floor due to septic compliance.

Mr. Baylinson stated that there was no closet in the exercise room and that prevents it from being a bedroom.

Mr. Barnes suggested that it be a condition in the resolution that it not be used as a bedroom.

The meeting was opened to the public, hearing no one and seeing no one, this portion of the meeting was closed and returned for findings of fact.

Ms. Petrozza – The applicants name is Mokev, LLC also known as Kevin Sheridan. The subject address is 1612 Commonwealth Avenue located in Strathmere, block 794 lot 1. The applicant proposes a two-story dwelling and the only variance requested is a front yard setback. They are requesting 9'2" where 15' is required. The property is surrounded by wetlands, there will be no new development to the south. The proposed construction will provide open light, air and space. They have agreed to a condition in the resolution that the exercise room will not be used as a bedroom. She believes that there was enough testimony from the professionals that this will not be detriment to the public good or not to substantially impair the intent and purpose of the zone plan or zoning ordinance.

Mr. Jackson – Nothing to add.

Mr. Burger – Confirms with Mr. Dietrich that the curb cut of 12'.

Mr. Trulli – Nothing to add.

Mr. Mashura – Nothing to add.

Ms. Mitchell – Questioned the concrete driveway on the Township's Right-of-Way and recommended that it be removed. The applicant agreed to rectify.

Mr. Shawl – There was no comment from the public. The property is located on a corner with two front yards creating a hardship.

A motion to approve the application was made with the discussed condition Ms. Petrozza and seconded by Mr. Trulli. In favor: Burger, Mashura, Mitchell, Petrozza, Shawl, Trulli, Jackson.

RESOLUTIONS

CHANNING PERONE – BLOCK 723 LOT 10 – BA01-2022

A motion was made by Ms. Mashura and seconded by Ms. Petrozza to approve the resolution as presented. In Favor: Burger, Mashura, Mitchell, Petrozza, Shawl, Trulli, Jackson

ANNETTE CALVARESE – BLOCK – 453.10 LOT 356 QUAL 56 – BA29-2021

A motion was made by Mr. Trulli and seconded by Ms. Petrozza to approve the resolution as presented. In Favor: Burger, Mashura, Mitchell, Petrozza, Shawl, Trulli, Jackson

JERSEY SHORE CAMPGROUND, LLC – BLOCK 548 LOTS 15 AND 20 – BA28-2021

A motion was made by Ms. Mitchell and seconded by Mr. Trulli to approve the resolution to approve the amenities. In Favor: Burger, Mashura, Mitchell, Petrozza, Shawl, Trulli. Abstain: Jackson

INVOICES

A motion to pay the bills was made by Ms. Petrozza and seconded by Mr. Jackson. All in favor.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Trulli and seconded by Mr. Mashura, all in favor. The meeting ended at 8:34 pm.

Submitted by,

Liz Oaks