

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JULY 14, 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 6:35 p.m.

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

Member	Attendance
Paul Casaccio, Chairman	Present
Matthew Unsworth	Absent
Karen Mitchell	Absent
Christopher Phifer	Absent
Lynn Petrozza	Absent
Andrew Shawl	Present
Richard Mashura	Absent

Member	Attendance
Sherrie Lisa Galderisi, Alt #1	Absent
Larry Trulli, Alt #2	Present
James Burger, Alt #3	Present
Tom Jackson, Alt #4	Present

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

Paul Dietrich and Liz Oaks were sworn.

APPROVAL OF THE JUNE 9, 2022 MEETING MINUTES

A motion to approve the minutes was made by Mr. Trulli and seconded by Mr. Burger.

In favor: Shawl, Trulli, Burger, Jackson

Opposed: None

Abstained: Casaccio

APPLICATIONS

OCEAN ISLE CAMPING RESORT – BLOCK 453.10 LOTS 360, 361, 363.03 – BA09-2022

Applicant is seeking a site plan waiver, and a use variance for expansion of a non-conforming use, side yard setback variance of 3’ where 100’ is required and a buffer setback variance of 3’ where 35’ is required to construct a pavilion at 64 Route 50 in Ocean View.

This application was tabled to the August 11, 2022 meeting.

SHORE SHINE CAR WASH, LLC – BLOCK 600 LOT 48 – BA10-2022

Applicant is seeking a use variance for expansion of a non-conforming use, variance for a rear yard setback and a variance for minimum lot size for auto sales to construct a sales office for used car sales an auto repair garage in rear of property and a display pad for used cars at 452 Route US 9 South in Marmora.

This application was tabled to the August 11, 2022 meeting

FOGLIO FAMILY, LLC – BLOCK 600 LOT 40 – BA13-2022

Applicant is requesting a variance for the expansion of a non-conforming use for not providing a residential use where mixed-use development is required. There are pre-existing signs, 1 permitted and 2 existing with a setback of 8.6’/17.0’ where 20’ is required. A variance for

existing lot frontage and front yard setback to construct two 50'x100' storage buildings and extend the existing stone drive to each of the new buildings at 342 Rt US 9 South in Marmora. **This application was tabled to the August 11, 2022 meeting at the request of Jon Batastini, Attorney for the applicant.**

ACOS Energy – BLOCK 558 LOT 14 – BA18-2022

Applicant is requesting Preliminary/ Final Site Plan Approval for expansion of existing non-conforming use of a Preschool and variances for distance to other buildings and side yard setback to allow pavilion for solar at 3080 Rt US 9 in Seaville.

Dottie McCrosson, Attorney for the owner of the property at 3080 Rt US 9 South in Seaville, operating as Children's Country Place, LLC. The application was filed by ACOS Energy, they will be putting solar panels on the pavilion. Both the owner and Acos are present. They are seeking preliminary and final site plan approval with variances. Side yard setback of 11 feet where 15 feet is required. And a distance between buildings of 5 feet. Both childcare and Solar are inherently beneficial.

Cecelia Quigley, 1601 Shore Road was sworn. Ms. Quigley is the owner of the LLC that owns this property. The proposed pavilion will have open sides with the intention to provide shade for the children in an existing play area. There is no way to attach the structure with the current layout of different play areas for different age groups. The proximity of the pavilion to the existing structure should pose no operational issues, especially with no walls. There will be no substantial detriment to the public good or zone plan.

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

Mr. Shawl – The applicant, Acos Energy, LLC has come before the board on behalf of the owner, Cecelia Quigley located at 3080 Rt US 9 South, Seaville also known as block 558 lot 14. The applicant proposes to build a pavilion with a roof but no sides to support a solar energy installation and to provide shade to an infant play lot that is currently existing on the property. The pavilion will be located next to an adjacent building within 5 feet for the purpose of transitioning the kids from inside to outside. The location works for the particular characteristics of the site. There is an existing frame dwelling plenty of distance away that would partially shield the pavilion from the view of RT 9. The Children's Place location here at 3080 RT 9, Seaville has been in existence for a number of years. The adjacent property is owned by a different LLC but with a similar owner. The applicant requires a variance for the location of the pavilion for the side yard setback, it is in line with the existing building which shields it. Solar panels are an inherently beneficial use. And the childcare facility that provides a place for younger than school age children to go during the day while their parents are at work. We heard testimony that the variance can be granted without substantial detriment to the zoning plan or zoning ordinance. There is no negative impact to the public health and welfare. He agrees and believes the variance can be granted.

Mr. Jackson – Nothing to add.

Mr. Trulli – Nothing to add.

Mr. Burger – He believes they keep the property nice and is in favor of the application.

Mr. Casaccio – The solar panels are inherently beneficial and is in favor of the application.

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

MSGBM LLC – BLOCK 587 LOT 16 – BA19-2022

Applicant is requesting Preliminary/ Final Site Plan Approval for expansion of existing non-conforming use of a Preschool and variances for to allow new accessory structure and expansion of parking area at 901 Rt-US9 in Palermo.

Corey Gilman, Attorney for the applicant MSGBM, LLC. The LLC is the owner of the subject property and the operator of Sea The Future daycare facility. The applicant would like to expand the existing daycare center by adding an additional building and parking area to the rear of the property. Even though site plan and use variance approvals were previously obtained for this use in the residential zone by a prior owner, they intend to expand upon that. The expansion of use requires a new preliminary and final site plan and a new use variance, bulk variances for building and impervious coverage, parking and setbacks for existing accessory buildings.

Gary Thomas, Licensed Surveyor and Professional Planner, 2900 Dune Drive, Avalon was sworn.

Michelle Powell, 109 S Shore Road was sworn.

Ms. Powell is the principal and member of the LLC that owns the property. They have operated for five years. It was a daycare prior to 1997 and a schoolhouse years before that. The summer hours are 8am-3pm and winter are 7am-5:30pm. In the summer on the weekends, they do birthday parties for children. The average number of children on site are 40-55 and there are 2 teachers per classroom. The employees park in the lot closer to RT 9. This lot is used for trash pick up and any deliveries. Not much traffic coming off RT 9 and no one backing into RT 9. Pick up and drop off of children is off of Pacific to the rear parking lot. The students are outside on a rotation basis and in the summer, they are outside about 80% of the time. All entrances are locked during class. The gate is open for drop off and pick up only. They have ring cameras that they can view and speak with visitors. The proposed new building will be used for the classes and reuse the front building as the art, technology, and media room. The middle building would be a multi-purpose room / gym that would be used on a rotation. They expect 10 classrooms with a maximum of 155 students, but they anticipate an average of 60-75 students. She does not believe this change will negatively impact the neighborhood other than the pick-up and drop off which is already an occurrence. The property is buffered with landscaping or municipal properties and the impact would be minimal to the neighborhood. The lighting on the driveway will be solar. There are no school bus's being utilized. The ages range from 2.5-8 in the summer and 2.5-5 in winter.

Mr. Gilman – We are requesting a variance for parking. They are offering 34 spaces where 49 spaces are required.

Mr. Thomas – His firm prepared the plans that were submitted with the application and dated 5/13/22. Sheets 1 thru 4 and the aerial photos that are less than 30 days old and reflect the current site. The location is on the corner of US RT 9 and Pacific. He did the original application in 1997 and not much has changed. He briefly describes the existing conditions. The length of the property is mostly along Pacific which is residential. East Ocean has only one single family dwelling. Much of the surrounding property is wooded and owned by the Township.

Mr. Dietrich explained the property owned by the Township is from the rest of the property beyond the school heading down Pacific.

Mr. Thomas – Parking on Ocean and Pacific offer a lot of parking. The homes that are there have driveways. There is a stone driveway on site. The drop of and pick up will enter on Pacific to the rear in a one-way entrance and exit out to the front Pacific, improving the current plan. The new building is proposed to be 50x100. They have provided complete stormwater management. He points out on the plans the swales behind the building. The plan will hold all run off. They are maintaining 100% of the stormwater.

Mr. Dietrich clarified that under the Township Ordinance if you construct over 10,00 square feet, you are required to provide stormwater calculations. What the applicant is proposing is under 10,000 square feet. None of the original development had required stormwater calculations. But they are providing some, not to the level that would be required if it were a larger project. They are providing some stormwater runoff to account for their proposed development.

Mr. Thomas – The existing lighting is limited solar. Because of the hours of the operation they want less intense lighting. They will have lighting on the building. They will face the parking lot and be on timers, so they won't be lit at night. The goal is to be less invasive to the neighbors. The parking lot is proposed to be stone at this time, but the stormwater calculations are based on the lot being asphalt and may change to that. The application will reflect either stone or asphalt. There is an existing shed (labeled #1) that is within the setback is not being touched. This is a pre-existing shed.

Mr. Dietrich explains the location of this shed is in a wooded area well behind the existing Friendship School.

Mr. Thomas testified that they are required to have 49 parking spaces but are proposing 34 spaces.

Mr. Dietrich suggested we hear more information about what type of events they expect through the year that would justify the parking variance.

Ms. Powell testified that graduation is now held off site. The Halloween Parade and the Spring Fling. There may be events that are limited to a classroom such as birthdays. It will be a rare occasion for a whole school event.

Mr. Burger questioned the fencing, the accumulation of water and children climbing.

Mr. Thomas stated they would revise the plans to show a chain link fence.

Mr. Thomas believes the variances requested can be granted without any substantial detriment to the public good, without any substantial impairment of the intent and purpose of the zoning plan or the ordinance. The expansion of the school is inherently beneficial. It does not prove to be detrimental to the neighborhood, it is a heavily wooded lot creating a buffer. There are limited residences. The building is setback off the road as far as possible. It promotes public welfare by providing additional daycare. There are some commercial properties along RT 9. This property is particularly suited for daycare. It is his belief that they have met the criteria and can be granted the D1 Variance and the bulk variances.

Mr. Burger – Believes the neighbors will appreciate the use of timers.

Mr. Dietrich stated that he believes the proposed flow of traffic will improve the circulation for the neighborhood.

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

Mr. Shawl – The applicant, MSGBM, LLC has come before the board about the property located at 901 RT US 9 in the Palermo section also known as block 587 lot 16. The property has been an existing daycare since 1997 and prior to that it was the Marmora Schoolhouse. The current hours of operation are 7am to 5:30pm and the winter hours are 8am to 3pm. There are some special occasion birthday parties that can occur outside of that. Currently there are 40-55 kids enrolled as students and there are 2 teachers per class. The employee parking lot is in the front with access from RT 9. The pick-up and drop off is located on Pacific Avenue. Currently kids at from 2.5 – 8 years old. They are inside and outside. There are several security measures to keep track of the kids. The maximum number of students is 155 with the proposed new building. The design of the new facilities includes stormwater calculations and includes swales to maintain the runoff. The design of the proposed building is keeping in character of the neighborhood and the existing school. There are some site design features that minimize impact to the adjacent properties. Lights on the building that light the parking lot are on timers that go off at 8pm. There are wooded buffer areas that are to remain, the area will include such fencing to increase the attractiveness and aesthetics of the building and also control the people on site. We heard testimony from the surveyor regarding the existing parking conditions and the proposed number of parking spaces; the applicant is proposing 34 where 49 would be required by the ordinance specifically and the higher number is to address special events which are time limited based on the age of the students at the school and the operation of the facility. The applicant is proposing either stone or asphalt parking surface. Typically the Township ordinance would require an asphalt surface, however, the calculation for the drainage was based on asphalt rather than the slightly less impervious stone surface. The property is situated with frontage on both RT 9 and Pacific Avenue, The rear of the property is wooded. It extends down the entire north side of Pacific Avenue and off RT 9 where there is existing Township owned property. The proposed building was sited on the property to keep it the greatest distance from the residences on Pacific Avenue to limit the impact from this pre-existing non-conforming use. The applicant is increasing the non-conforming use and that is why a use variance is required. It is the expansion of a pre-existing non-conforming use that is inherently beneficial according to the planning ordinance that schools and daycares are inherently beneficial. The new construction will promote an improved visual environment by design. The location is also centrally located in a commercial area and residential area along RT 9. We heard testimony from the surveyor that the variances can be granted without substantial detriment to the public good because it is an inherently beneficial use and because of the design features of the site. Without substantial impairment to the intent

purpose of the zone plan or zone ordinance. It was a historic schoolhouse that was remodeled with a historic schoolhouse next door that is similar. The residential homes closest to the property will not be impacted as they do not have direct site line. There was no public comment. He believes the variances can be granted without substantial detriment to the public welfare.

Mr. Jackson – He and his wife moved to this area due to the schools, and the quality of preschool and daycare. He hopes this will bring a new influx of younger families by giving them an alternative to leave the Township to get childcare.

Mr. Trulli – Concurs

Mr. Burger – Is in favor of the application.

Mr. Casaccio – The school has been here a very long time and is inherently beneficial to the Township.

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

LAUREN AND LOGAN BIRD – BLOCK 15 LOT 3 & 4 – BA20-2022

Applicant is requesting variances for Front Yard setback of 42' where 50' is required, Total Side Yard setback of 69' where 70' is required, Side Yard setback of 22.6' where 35' is required and Building Coverage of 3.8% where 3% is required, Impervious Coverage of 8% where 5% is required and Accessory Building Coverage of 2.6% where 1.5% is required for a addition to an existing residential structure and construction of a swimming pool at 283 Marshallville Road, Marshallville.

This application was tabled to the August 11, 2022 meeting.

RESOLUTIONS

JARROD PIERCE – BLOCK 12 LOT 2 – BA14-2022

A motion was made by: Mr. Shawl, seconded by: Mr. Trulli to approve the resolution as presented. In favor: Shawl, Trulli, Burger, Jackson, Casaccio

BURNS, BILL – BLOCK 414.01 LOT 38 – BA16-2022

A motion was made by: Mr. Shawl, seconded by: Mr. Trulli to approve the resolution as presented. In favor: Shawl, Trulli, Burger, Jackson, Casaccio

DEL DUCA, MELINDA AND JOSEPH – BLOCK 825 LOT 9 – BA17-2022

A motion was made by: Mr. Shawl, seconded by: Mr. Trulli to approve the resolution as presented. In favor: Shawl, Trulli, Burger, Jackson, Casaccio

BILLS

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

ADJOURNMENT

A motion to adjourn the meeting was made by: Mr. Jackson, seconded by: Mr. Trulli. All in favor. The meeting ended at 7:42 pm.

Submitted by,
Liz Oaks