

**UPPER TOWNSHIP PLANNING BOARD
REGULAR MEETING MINUTES
SEPTEMBER 15, 2022**

The meeting of the Upper Township Planning Board was held at Township Hall at 2100 Tuckahoe Road, Petersburg. The meeting was called to order at 7:34 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Member	Attendance
Joseph Harney, Chairman	Present
Curtis Corson, Class I	Present
Gary DeMarzo, Class II	Present
Kimberly Hayes, Class III	Absent
Ted Kingston, Class IV	Present
Janet McCrosson, Class IV	Present

Member	Attendance
Gary Riordan, Vice Chair	Present
Chris McGuire, Class IV	Present
Sean Whelan, Class IV	Absent
Robert Young, Sr. Alt	Absent
F. John Klebaur Alt	Absent

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

APPROVAL OF THE AUGUST 18, 2022 MEETING MINUTES

A motion to approve the minutes with minor typos to be fixed was made by Ms. McCrosson and seconded by Mr. Riordan

In favor: McCrosson, McGuire, DeMarzo, Corson, Riordan, Harney, Kingston

NEW BUSINESS

1. **MARMORA ENDCAP, LLC – BLOCK 599 LOT 59 QUAL C5909 AND C5910**

Applicant is seeking a site plan waiver to consolidate two units of the existing multi-unit commercial structure with an interior doorway and convert the existing drive-thru into additional office space with a variance for parking at 22 & 24 Roosevelt Boulevard, Marmora, New Jersey

Mr. John Amenhauser, Esq for the applicant – The subject property, 22 and 24 Roosevelt Boulevard Block 599 Lot 59 QUAL C5909 and C5910, is in the MTC Marmora Town Center District. It is a multi-unit condominium development on a 1.3 acre parcel. The applicant is the owner of two units within that development. This application is seeking a site plan waiver for two of Upper Township codes in section 19-4.3a. They want to consolidate two units into one through the creation of an inner doorway. Convert the existing drive-thru, located on the western end of the building,

Mr. Amenhauser submits Exhibit A, a corrected aerial view of the parking lot area. The only difference is the spots to the rear and west are inverted.

Mr. Vincent Orlando, Professional Engineer and Licensed Landscape Architect, with Engineering Design Associates at 5 Cambridge Drive, Ocean View is sworn as an expert.

Mr. Orlando – He has been commissioned to do a site plan waiver. On sheet 2 of his plan it shows the existing conditions with two changes. The first is the enclosure of the drive-thru, creating an additional 196 square feet. The second is the addition of eight parking spaces to the rear. Referring to the parking chart, this complex in this zone requires 50 spots with only 37 existing. The conversion of the drive-thru adds an additional space. They propose to add eight additional spaces bringing the total to 45, falling short of six spaces. Upon approval of the Condo Association, they propose landscaping along the front for beautification. A plan will be submitted to Mr. Dietrich. The plan will most likely include a series of raised beds along the frontage and ornamental shrubbery.

Mr. Orlando believes the proposed development will enhance the general welfare of the community, that the development is appropriate for the area and the aesthetics will be improved. There is no substantial detriment to the neighborhood, zone plan or zone ordinance. There will be no detriment to safety along this commercial development and will be visually enhanced. He believes the variances requested are de minimis in nature. While they have essentially submitted a site plan, these improvements comply with the criteria for a site plan waiver. The intended use is for the administrative portion of a construction company. The hours will be similar to many offices, 9-5 or 9-6 with the occasional night meeting. This is not where the construction crew will be meeting each morning. They have 3-4 company vehicles on site. Sheet A1.1 shows office spaces.

Paul Dietrich, Township Engineer, was sworn.

Angelo Camano, 25 Deerfield Lane, Achristavest Representative, was sworn. Mr. Camano explains the floorplan detailing who will be in the offices. Occupancy expected would be approximately 21 employees maximum.

Mr. Dietrich - The application complies with a site plan waiver. There are no real physical improvements or changes that would impact the site requiring a full site plan.

Mr. Amenhauser - We had spoken to a member of the association pertaining to parking. On the westerly side where they are seeking to enclose the former drive-thru area, the plan is to have one-way in for ingress and one-way out for egress. The applicant agrees to put a no parking sign on that side of the building to ensure that no one parks there.

Mayor Corson suggests to stripe it as a fire zone.

There was a brief discussion about signage and landscaping.

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.

Mr. Riordan – The applicant is Marmora Endcap, LLC they are seeking a site plan waiver to consolidate two units of an existing multi-unit commercial structure with an interior doorway and convert the existing drive-thru into additional office space with a variance for parking at 22 & 24 Roosevelt Boulevard, Marmora, also known as Block 559 Lot 59. The applicant was represented by John Amenhauser, Esquire. There was expert testimony by Vincent Orlando, Professional Engineer with EDA. Mr. Orlando testified that the project consists of enclosure of a former drive-thru. There will be eight additional parking spaces in the rear. The applicant has agreed to include additional landscaping, subject to approval of the condo association. The project is an appropriate use of the property with improved aesthetics that will improve the neighborhood. The site plan

was prepared by Engineering Design Associates dated May 19, 2022. A survey prepared by the Martinelli Group originally dated June 23, 2017 and revised March 22, 2022.

Mr. DeMarzo – Appreciates the detail and presentation of the application.

Mr. McGuire – Nothing to add.

Mayor Corson – Nothing to add at this time.

Mr. Kingston – The applicant is converting the drive-thru to office space. They have agreed to put in landscaping along Roosevelt Boulevard. They are required to have 51 parking spaces and they propose 45 but that it is likely they will be using less than 15 spots.

Ms. McCrosson – There will be no detriment to the public good.

Mr. Harney – He believes the community will benefit from the aesthetics and safety. The increase in parking, while it does not meet the full requirements, is being improved by eight spaces. This is a pre-existing, non-conforming condition. He believes this could be easily waived. With overnight parking he hopes they consider security. He does not encourage any additional lighting and concurs with the Mayor pertaining to the fire zone. He is in favor of making a waiver at this point and time.

Mr. Barnes – This is a motion to approve the site plan waiver to consolidate two units of the multi-unit structure with an interior doorway, to convert the existing drive-thru into additional office space with a variance for parking along with the condition that landscaping be installed at the front of the property subject to approval by Mr. Dietrich and the condo association. Additionally, no parking signs and fire zone striping located in the area to ensure the free flow of traffic which is consistent with a site plan waiver.

A motion to approve the application with conditions stated by Mr. Barnes, was made by Ms. McCrosson and seconded by Mr. Riordan

In favor: Kingston, McGuire, DeMarzo, Riordan, McCrosson, Corson, Harney

DISCUSSION

Discussion of recommendations to Township Committee for ordinance revisions.

Mr. Dietrich has not received any comments from any of the Board Members regarding the Ordinance Revisions. He is led to believe that everyone is generally ok with what is suggested. There was a review of the minor changes including commercial landscape and yard power tool usage at residential properties, EV supply, lighting, impervious paving and landscaping stones.

Mayor Corson explained that the sub-committee is still reviewing more options, this is a portion of what is being discussed.

The meeting was open to the public, hearing no one and seeing no one, the meeting was returned to the Board.

A motion to recommend ordinance revisions to the Township Committee was made by Mr. McGuire and seconded by Mayor Corson.

In favor: Kingston, McGuire, DeMarzo, Riordan, McCrosson, Corson, Harney

Mr. Harney stepped down for the next application due to living within the 200' radius. Mr. Riordan will stand in as Chairperson.

NEW BUSINESS cont'd

2. ELMWOOD DEVELOPERS, LLC – BLOCK 597 LOT 34 – SD 04-2022

Applicant is requesting sketch plat classification of a proposed 4 lot Major Subdivision with variances for lot frontage and lot depth at 733 Route 9 South, Marmora, New Jersey

Jon Batastini, Esquire of The Law Firm of Garrett and Batastini, represents the applicant, Elmwood Developers, LLC.

Vincent Orlando, Professional Engineer of Engineering Design Associates was sworn as an expert.

Mr. Orlando – The application has four lots and the continuation of a roadway; this complies with the criteria to be classified as a Major Subdivision.

Mr. Barnes explains that we will keep the Sketch Plat and Preliminary applications separate.

Ms. McCrosson – Confirms the criteria required for a major subdivision.

Mr. Dietrich – Any subdivision that is more than three lots or includes roadway improvement is identified a Major Subdivision.

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.

Mr. McGuire – The applicant is Elmwood Developers, LLC of Marmora in relation to Block 597 Lot 34. The applicant is requesting a sketch plat classification for a four lot Major Subdivision with variances for lot frontage and lot depth at 733 Route 9 South, Marmora, New Jersey. The applicant is represented by Jon Batastini, Esquire and Vincent Orlando, Professional Engineer. The plans referenced and submitted were dated August 11, 2022 and prepared by The Martinelli Group. Mr. Orlando testified there would be four lot subdivision with an extension of a cul-de-sac. Due to the nature of the size of the subdivision being greater than three lots and the roadway improvement that they come before the board for a classification of a Major Subdivision.

A motion to approve the application was made by Mayor Corson and seconded by Mr. McGuire In favor: Kingston, McGuire, DeMarzo, McCrosson, Corson, Riordan

3. ELMWOOD DEVELOPERS, LLC – BLOCK 597 LOT 34 – SD 05-2022

Applicant is requesting preliminary approval of a proposed 4 lot Major Subdivision with variances for lot frontage and lot depth at 733 Route 9 South, Marmora, New Jersey

Jon Batastini, Esquire of The Law Firm of Garrett and Batastini, represents the applicant, Elmwood Developers, LLC.

Vincent Orlando, Professional Engineer of Engineering Design Associates previously sworn as an expert.

Mr. Orlando - The location of this parcel is between Timber Lane and Dolores Avenue. The development to the north has two access points, Ocean Crest and at the end of Timber. The

original thought when these subdivisions were created was to provide access to future developments. Proposed is the best way to develop it with limited disturbance. Originally the plan was to create a dead end at Ocean Crest and the end of Timber. The Ocean Crest section has been modified to a cul-de-sac which will include curb and sidewalk. At the end of the cul-de-sac there will be drainage inlet to a swale located on proposed lot 34.03. Lot 34.04 has wetlands with a 150' buffer on the southeast. Putting a new cul-de-sac would be difficult with the wetlands, however, there is already a cul-de-sac. This is the best configuration of this lot for the neighbors to the north and south. There was discussion about connecting Ocean Crest rather than doing a cul-de-sac. The properties touch in a way that there is no right of way but touches at a point of tangency. The original subdivision in 1987 is similar to what is being proposed today. A copy of the site plan and resolution from 1987 for the subdivision to the south is submitted as Exhibit A. They have considered the slope characteristics and the way the lots are created. There is a pretty good differential from this piece of property and to the property to the south. The elevation difference is elevation 29 to elevation 21 creating a strong slope. Coupled with the fact the town does not own a right of way to get to that property. They believe this alternative is the best solution for the neighbor to the south and this proposed development. They have heard from the public that this area has drainage problems. The runoff from Crest Road is collecting at the northern side of the cul-de-sac. To eliminate or improve this, they are proposing curb and sidewalk and a drainage swale. The development of this cul-de-sac will improve this drainage issue. The drainage swale will be privately maintained with a deed restriction by the property owner, rather than the public works department of the Township taking that responsibility. The swale would be restricted from any development.

Mr. Dietrich - There will be a bond, giving the Township funds if they should need to take responsibility.

Mr. Orlando – The applicant has agreed to a 20' landscape buffer on lots 34.03 and 34.04 along the south side. The exception would relate to the removal of a tree or trees for fencing. The zone only requires a 10' landscape buffer. They will be maintaining the tree preservation with deed restriction.

Mr. Kingston – The best remedy for drainage is removing less trees. Can you consider higher than the 35% required for that zone.

Mr. Orlando – Many people that would consider buying in this location do so for the environment. He wouldn't want to constrict the future owner. The reason to increase the buffer was in response to the existing homeowners' concerns.

There was a brief discussion about tree preservation and what could have been developed years ago.

Mr. Orlando agrees to consider increasing the tree preservation on the rear lot due to the size.

Mr. Dietrich – Suggested that Mr. Orlando investigate the tree preservation and present that to the board when applying for the Final Site Plan approval.

Mr. Orlando – They intend to plant an evergreen buffer, 10' on center along the swale. Possibly some fencing if the applicant wants to do that. The area where the property line stops by the Ocean Crest cul-de-sac has a 2.5' to 3' drop. Some neighbors were concerned with erosion. One of the things they will do is maintain the trees on the property line. If they do get erosion, they will come in and stabilize with rip rap. They are willing to put in a condition that if it doesn't

stabilize with the vegetation, they will come in and rip rap outside of the sidewalk in that area. They will keep the vegetation right up to the sidewalk. They agree to bond a year after construction. As a condition they will bond for 2 years. If it is stabilized after 2 years, the bond will be released. If it has not stabilized, they will come in with rip rap. Typically rip rap doesn't need to be maintained. He suggests a deed notice to alert the owner of lot 34.02 is responsible for maintaining this area. The only variances being requested are for lot 34.04 for lot frontage and lot depth. There is 80' of frontage on the cul-de-sac, which is ample. There would be no advantage to enlarging the cul-de-sac to increase the frontage. There are no traffic safety issues. There is no detriment to the traffic circulation.

There was a brief discussion about driveway options for lot 34.04 and whether it should be pervious or impervious.

Mr. Orlando believes the variances can be granted under general provisions:

e. – To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of person, neighborhoods, communities and regions and preservation of the environment.

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

j. – To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land.

There is no substantial detriment to the zone plan and zone ordinance. There is no substantial detriment to the neighborhood. The frontage variance has no impact, the lot depth is di minimis. They have made efforts to work with the neighbors to lessen the impact.

Ms. McCrosson – Confirms they have agreed to a renewable one-year bond on the maintenance of the swale. Questions the applicant as to what type of housing is proposed.

Mr. Tim Tower, 840 North Shore Road, is sworn.

Mr. Tower testified that he would use a combination. He would probably build two and list two. He is considering one lot for himself. The idea is to build the front lot with a "spec home" and similar on lot two.

Mr. DeMarzo confirms that there is not a public walkway on any of these properties.

Mr. Dietrich explains that there is no right of way.

Mr. Orlando testified that the plans show as an easement for potential future development.

There was discussion about the benefits and detriments of connecting Ocean Crest versus a cul-de-sac. It is made clear that the neighborhood does not want them connected. It would be impossible to do because there is no right of way.

Mr. Barnes explained that the Board can only look at what they can do, not what could possibly happen.

Mr. Dietrich testified that the roadway improvements as proposed, do meet the design standard for the Township ordinance.

The meeting was open to the public.

Bill DeBell, 746 Ocean Crest Avenue, Marmora was sworn. Mr. DeBell does not support the connection of the cul-de-sac. He does not want the large trucks such as trash trucks to drive by due to the vibrations they would cause. It serves as a nice play area for young children. The area is good for families, they walk dogs in the area. He doesn't believe the current roadway has any problems with fire trucks or emergency vehicles. He likes it the way it is.

Joan Lovette, 809 Seasounds Avenue, Marmora was sworn. Ms. Lovette owns two properties (809 Seasounds Avenue and 741 Ocean Crest Avenue) on the southside. Ms. Lovette is extremely concerned about the drainage. They already have a problem and wants to make sure that this project does not make it worse. She is concerned that the drainage basin will not be properly maintained. She questions the timeline of when the cul-de-sac would be completed.

Mr. Dietrich - The cul-de-sac would have to be constructed before the C/O would be issued on either lot 34.02 or 34.03, so they wouldn't have to build that cul-de-sac until either of those homes were constructed.

Mayor Corson - They could build the front lot and back lot without the cul-de-sac but a bond would need to be in place so that the Township would have funds if the applicant did not complete it.

Mr. DeMarzo – Questions whether Ms. Lovette is for or against the project.

Ms. McCrosson – Ms. Lovette does not want the road to connect.

Mayor Corson – She wants the drainage swale built as soon as possible to alleviate the flooding.

Ms. Lovette testified that her concern is not the project itself as much as the drainage.

Mr. Orlando testified that the applicant's goal is to move swiftly. He predicts the cul-de-sac would be built within a year to eighteen months.

Mr. Joe Harney, 19 Dolores Avenue, Marmora was sworn. Mr. Harney is concerned about the swale. It looks like it is approximately 266 feet long and about fifteen inches in height. It is right up against the neighbor's property. The biggest concern is the drainage. Dolores Avenue and Timber Avenue are on a hill, and everything slopes down to the wetlands. He believes the stormwater calculation was done at the top but would like to see the stormwater plan on the backend, where there is flood water. He is concerned that there are existing wells and septic on Dolores and Timber that are not identified on the plans and believes the proposed should be identified on the plans as well. Another concern he has is public safety. The property has been used as a thruway between Timber and Dolores and without that option he suggests that they consider putting curb and sidewalk along Route 9 for public safety.

Mr. McGuire understands the safety issues; however, you must consider the benefits to the community. He believes this is a great improvement to the area. The area was being trespassed on. You can't get upset about the trespassing being taken away and then ask someone else to pay for sidewalk. You must consider both sides.

Mr. Harney is concerned the size of the drainage swale will not be adequate.

Mr. Orlando – If or when the swale overflows it will flow naturally to the Parkway; it will not have a negative impact on the neighborhood. With regards to the septic and well locations, it does not impact Dolores because it is 150' away. The lots are sizable and when they go to position the septic and well they will maintain the proper distance from any existing septic and wells on the properties along Timber.

Mr. DeMarzo – Addressing the safety issue. If he were to be the property owner, he would not want anyone walking along his property.

Mr. Tower testifies that his goal is to work with the neighbors. He does not want to have a negative impact. The cul-de-sac is at a great expense to his company, but this is what they want.

Hearing and seeing no one else the meeting was returned to the Board for findings of fact.

Mr. McGuire – The applicant, Elmwood Developers, LLC has come before the board regarding 733 Route 9 South in the Marmora section of the Township, also known as Block 597 Lot 34. They are requesting preliminary site plan approval of a proposed 4 lot Major Subdivision with variances for lot frontage and lot depth. The applicant referenced plans from EDA dated August 10, 2022 revised August 29, 2022. The applicant was represented by Jon Batastini, Esq. and expert witness Vincent Orlando of Engineering Design Associates. Mr. Orlando testified that the nature of the development raised and addressed concerns pertaining to access and drainage. Mr. Batastini asked that a map and resolution be approved by the Board for exhibits, Mr. Barnes denoted the exhibits. Mr. Orlando testified that the drainage areas are to be privately owned and maintained in addition to deed restricted from any further development. He proposed a 24-month bond be held to protect the drainage easement. He noted the property owner is willing to make adjustments on lots 34.03 and 34.04; they will maintain a 20-foot landscape buffer where no trees should be cut with the exception of any remaining trees that need to be removed for the construction of a fence. In addition, the property owner has offered to plant arborvitae or thuja box vitalis along the full length of the drainage basin at 10' on center as depicted on sheet 2.. He proposed a condition to keep the vegetative land at the end of the cul-de-sac and put a 24-month bond to curb any erosion risk along the cul-de-sacs between Ocean Crest and Ocean Crest. The agreed to retain the drainage for 34.04 to the upland part of that lot. The lots to be created are all conforming with the exception of lot 34.04, which is in front of the Board this evening seeking variance relief for lot frontage and lot depth. The property frontage is approximately 80' and the depth proposed is 157' in relation to the required 175'. The variance request is being made under the C2 criteria subsections e, c, and j. there was significant discourse between the Board and public testimony but thinks we have come to a good spot.

Ms. McCrosson – Concurs with Mr. McGuire. Mr. Orlando pointed out eh positive criteria necessary has been met on several levels and variances for lot frontage and depth are negligible considering the size and shape of the lots.

Mr. Kingston – This is a unique scenario given the existing lots. This is a strip of land that runs down the middle of two existing subdivisions. He believes it is a detriment, however, the applicant has offered some solutions. The resolution is to put a basin in. They are increasing the landscape buffer. He is in favor of this application based on the promise that it is going to be followed up on the tree preservation. He would like to see something on that. The applicant has addressed some issues, hopefully it is sufficient. The frontage variance is needed because of a landlocked condition.

Mr. DeMarzo – He believes there was a lot of communication and a lot of positive feedback for the project. Mr. Tower understands how serious the neighbors take this project. He believes the neighbors are happy with the cul-de-sacs. He is in favor of the application based on the comments from the public and the promises from the builder.

Mayor Corson – Concurs with his fellow Board Members.

Mr. Riordan – Several members of the public had concerns. All of the neighbors agree that they don't want the road to go through and drainage is the biggest concern. The applicant has agreed to address many of those concerns. Mr. Orlando highlighted the potential benefits of this project and that is the increased tree preservation, the size of the lots, erosion control, and planting of additional vegetation. Mr. Orlando also noted that the upland acreage of proposed lot 34.04 is approximately double the required 40,000 square feet. The overall size of the property mitigates the lesser lot frontage and the lot depth. He is in favor of this application based on what the applicant is agreeing to at this point.

Mr. Barnes – this is a motion to approve a preliminary approval for a four-lot major subdivision with variances for lot frontage and lot depth. Along with conditions that relate to the installation of a drainage basin with a one-year renewable bond for the maintenance of that basin for the adjacent owner. Deed restriction on the drainage basin for lots 34.03 and 34.04 with a 20-foot buffer north to southside with no tree cuts unless there is a fence that is installed, and the tree would impact the fence. This is going to be a preliminary approval that is sought this evening, not final. From this point forward until final is sought Mr. Orlando and the applicant are going to do their best to figure out a plan to take away the least number of trees and provide a presentation at final. There is going to be arborvitae planted around the drainage basin that will be maintained potentially by lot 34.02 in a maintenance deed. There will also be some rip rap sidewalk if erosion occurs with a 2-year maintenance bond.

A motion to approve the application as presented by Mr. Barnes, was made by Ms. McCrosson and seconded by Mr. Riordan

In favor: Kingston, McGuire, DeMarzo, McCrosson, Corson, Riordan

RESOLUTIONS

None

Mr. Harney has returned to the Board.

BILLS

A motion to pay the bills as submitted was made by Mr. Riordan and seconded by Mr. McGuire with all board members present voting in the affirmative.

ADJOURNMENT

A motion was made by Ms. McCrosson and seconded by Mr. Riordan to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 10:19 p.m.

Submitted by,
Liz Oaks