

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
SEPTEMBER 8, 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 6:33 p.m.

**SUNSHINE ANNOUNCEMENT**  
**SALUTE TO THE FLAG**  
**ROLL CALL**

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

Member	Attendance
Sherrie Galderisi, Alt #1	Present
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.

**APPROVAL OF THE AUGUST 11, 2022 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Unsworth and seconded by Mr. Trulli  
In Favor: Shawl, Trulli, Burger, Casaccio  
Abstained: Jackson, Galderisi, Mashura, Unsworth

**APPLICATIONS**

**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.

Mr. Jon Batastini, Esq. for the applicant, Shore Shine Car Wash, LLC regarding block 600 lot 48 the address is 452 Route US 9 South in Marmora, New Jersey. The applicant is seeking a D Variance and a couple of other variances related to a rear yard setback to sell used cars. In addition to another mechanical garage for the auto business he has.

Mr. Jim Chadwick, Professional Engineer, 13 Killdeer Road Petersburg, was sworn as an expert.

Paul Dietrich, Township Engineer and Liz Oaks, Board Secretary were sworn.

Mr. Chadwick – The lot is long and narrow, about halfway down the lot is widens and at the back part of the lot is where the main functions of this lot occur. There is a one and a half story building that is the first building you come to. It now contains auto service facilities. There is still a carwash bay. The second floor is storage for supplies for the business. Behind the building is a frame garage about 24' by 24' and next to that is a small shed. There are a few small sheds along

the rear property line. Mr. Baker has an auto detailing portion of the business that occupies the existing 24' by 24' garage type building that is there now. We seek to construct a new building next that and would be slightly larger in size. The perimeter of the entire site are vegetated with scrub pine, scrub oak, various shrubbery and some grasses. The front part of the property has the main driveway. What they are proposing is to construct a similar size building in the rear that would serve as an auto service facility. There is a greater need for auto services with a rise in used autos, people are keeping cars longer. The second phase of what they are proposing is the construction of a small used car sales building in the front part of the lot. That building is about 16' by 20', a simple rancher type building that will have a stone area in front of it for various cars for sale. In front of the building there will be parking dedicated for customers. The plan shows six cars for sale at any point. The site is about two acres. The allowable building coverage is 45% and they are proposing 4.7% total. And the allowable impervious coverage is 70% and they are proposing 38%. The variance being requested for the rear yard setback backs up to a wooded lot. The required rear yard setback is 50' and they are proposing 47' and 44', which is di minimis. There is some stone paving and two small sheds. The property is located in the MTCDD Zone that recently created, about 5-6 years ago. They are asking for a D2 Variance for the expansion of the existing non-conforming use of the auto service, that was previously granted a use variance. They are seeking a D1 Variance for auto sales which they consider to be minor compared to the primary use already on the property. They believe the auto sales to be a natural fit with the existing use that has been operating since 1996/97. It has acclimated to this site as the neighbors have acclimated. They are seeking a C2 Variance for a rear yard setback. There were additional signs that had been added without approval and has since been removed and are now within the area permitted for signage. There is no expansion of the car wash. On the site plan submitted, sheet one shows the depth of the lot and allows for any queuing of cars for any of the services existing and proposed. This will not affect any traffic on Route 9. The building in the rear is a holding area for vehicles, there will not be any work being performed in that location. This zone requires affordable housing to be provided in conjunction with improvement. He does not believe this applies due to the provision in the MTCDD Standards that discusses residential uses. The statement is that you are not required to provide residential for properties that are on Route 9. It says you have the option to provide housing on the second floor. This property has one structure that has a second floor but is used for storage and there is no other location. Standalone residential is not appropriate when fronting Route 9. The additional 1,075 square feet being proposed does not comply with the required minimum improvement. The traffic flow being proposed is appropriate for the business on this site. To include residential is unsafe and would create a hazard that isn't necessary. They are also seeking Preliminary and Final Amended Site Plan Approval. He believes they have met the criteria. They have provided a site plan with drainage calculations to accomplish this goal. When seeking a D Variance we are required to provide special reasons. He has identified two. The first one is: 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. The site is already existing with multiple uses and is suitable for the expansion. The small used car sales is a benefit, not a detriment. And the second is: 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 the land. This is a developed site. Combining this site for multiple uses is conserving valuable natural resources. The auto sales business is limited in size. It is a small building, 16' by 20', there will be no additional signage other than a small building mounted sign. They are proposing a single parking space for customer use and six spaces for the display of vehicles for sale. The variances can be granted without substantial detriment to the public because this is an existing business. They do

not expect any expansion of hours of operation. This does not substantially impair the intent of the zone plan or zoning ordinance.

Mr. Shawl – Questions the location of the existing sheds to the rear property line and the distance between structures.

Mr. Batastini – It is belief that the sheds were previously granted approval, however, if that is not correct, they agree to move the sheds or come back to the board and seek a variance and if that variance is denied they will move them.

Mr. Dietrich – Explained that the required distance between buildings is 15'. He recommends that they units are small enough that they connect the buildings.

Mr. Chadwick – Agrees with Mr. Dietrich's recommendation and will comply.

Mr. Shawl – The drainage calculations show the existing basin will be expanding.

Mr. Chadwick – They are expanding by approximately four feet to the south so accommodate the necessary additional runoff.

Mr. Unsworth – Would like to clarify the landscape buffer and how the two sheds affect this. And asked Mr. Dietrich for his input on the affordable housing.

Mr. Dietrich – Does not believe the most recent time the applicant came before the board was to seek a variance for the sheds. They may have been on the plans, but they were not the focus. He believes they came for the oil change and the bays for auto repair. As for the affordable housing, he both agrees and disagrees with Mr. Chadwick. He disagrees with the interpretation of standalone residential. He does agree that the amount of development is di minimis in nature and does not meet the requirement for affordable housing.

Mr. Unsworth – Suggests a defined line in which the vehicles do not go past.

Mr. Chadwick - They applicant agrees to include parking stops.

Mr. Mashura – Is the septic adequate for the proposed changes.

Mr. Chadwick – Yes, the employees will be using the restrooms in the existing building.

Mr. Dietrich – There is an increase in impervious coverage for the stormwater calculations of 4,840 square feet which is less than the minimum requirement to do a full stormwater calculation. In addition, to the signage that was removed, the applicant has put out additional flag signage that is not permitted under the ordinance. The applicant is permitted to have only one banner sign/display flag and one a-frame sign per location.

The meeting was open to the public.

Robin Schwartz, 516 Rt 9 A-6, Marmora was sworn. Ms. Schwartz has owned Unit A-6 in Oak Ridge since 1981. It is a perimeter property abutting the car wash. She testified that the car exhaust is excessive both smell and fog. It goes into her house. There are arguments between employees, noise from radios, the lighting is on all night. One night there was a grinder going at

1:30 am. She did call and they were very apologetic. She is concerned about her property value and considers it an eyesore.

Shirley Cortese, 516 Rt 9 A-3, Marmora was sworn. Ms. Cortese lives along the border and is concerned about privacy. There is no fencing, no shrubbery, no trees. Her husband bought material to put up for some sense of privacy. When the employees come in the lights shine in there home. The language of employees is bad. She has called the owner to complain, and he has been proactive. But while it gets better, it always turns around and gets worse again. She is concerned that with the addition of car sales it will increase the number of employees which will increase the noise with the radios. More lights for security. She is concerned about her property value. She understands she can't stop what will happen but would like some of these issues to be resolved.

Melissa Camp, 516 Rt 9 A-7, Marmora was sworn. Ms. Camp lives back by the shed in the back. The employees will park back there and sometimes leave their cars idling, sometimes for a half hour and sometimes an hour. There are radios blaring and bad language. She has had to call the police about fighting and banging on metal. She is concerned about her property value.

Hearing no one else and seeing no one else, the public portion was closed. Prior to returning to the board for findings of fact the applicant addressed the comments from the public.

Mr. Batastini asked that the applicant be sworn to respond.

Mr. Charles Baker, 114 Roosevelt Boulevard, Ocean City, Owner of Shore Shine Car Wash, LLC was sworn. Mr. Baker addresses each of the employee issues, however, they do go through employees. He is concerned about working with the neighbors and thought he had a good relationship with them. He is willing to investigate landscaping options to increase the buffer. The hours of operation are generally 8am - 5pm, Monday through Saturday and 9am – 5pm on Sundays. The manager is generally on site around 7am preparing to open. He does not expect the hours to increase with additional business. Mr. Baker agrees to a condition in this resolution to resolve the location of the two sheds. And to comply with the buffering requirements of fifteen feet.

Mr. Shawl – The applicant, Shore Shine Car Wash, LLC has come before the Upper Township Zoning Board concerning 452 Route US 9 South in Marmora, also known as block 600 lot 48. The applicant has come before the board for a D Variance and a rear yard setback for adding service bays to an existing car wash and service center and additional building to serve as an office to sell used cars, a maximum of six vehicles. The applicant has been before this Board regarding this property numerous times over the years as it has evolved. It is located on Route 9 in a special zone that was created for CAFRA rules. We heard testimony from the applicant's architect that the lot is long and narrow. It fronts Route 9 and is irregular in shape because it is wider in the rear. There is an existing car wash and auto service facility with second floor storage and some existing sheds. The owner proposes to add a frame garage to provide service for cars and a small used car sales area in the front with a small building. The lot is roughly two acres. It is an unconventional shape. The garage for the service bays would not be a new use on the site. The variance is for the expansion of a pre-existing non-conforming use. The auto sales are a new use but is related to the existing activity. There was testimony provided about the signs that were, or will, be adjusted to conform with the zone plan and the zone ordinance. We heard testimony from the applicant's attorney regarding affordable housing along with the Board Engineer. The proposed development is not sizable enough to be required to provide a residential unit for affordable housing. The Board will be able to waive this criteria for this particular application.

We heard testimony from the applicant's architect for special reasons. The first is; 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. And the second is: 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 the land. The applicant's architect indicated that the variances could be granted without damage to the zone plan and zoning ordinance or the public health. We heard testimony from the owner about hours of operation. We heard the applicant is willing to modify his application so that the additional service bays will connect with the existing service bays on site so that the distance between buildings is not relevant. Existing sheds will be moved. The zoning schedule the applicant is saying there are fifteen-foot buffers on the front, northside and southside. There is a previous approval that will be consulted, and the Township Engineer will work out appropriate buffers to address some of the privacy concerns expressed by the neighbors. The drainage basin will be slightly enlarged to address the additional impervious area. Still way less than what is in the ordinance. The amount of proposed impervious coverage is less than the criteria that would require a full formal stormwater analysis. The applicant completed a modified stormwater analysis to address the additional impervious area and manage the run-off on site. We heard some testimony from the public concerning their privacy concerns. We heard testimony that there is only a chain link fence between the existing car wash the residents' seasonal properties that abut the car wash. There were multiple complaints of noise, there are arguments, car engines and loud radios. There are security lights that are impacting the ability of the residents behind the property to enjoy their homes. There has been work after hours that has been addressed. The applicant has agreed to fifteen-foot vegetative buffers. The applicant testified about addressing his concerns routinely with his employees and he is amenable to the board to prevent a continuation of the situation as it is now. He believes with the amendments to the plan and the additional agreements from the applicant, that the use variance for the expansion of an existing non-conforming use can be granted without substantial detriment to the zone plan. And we are trying to address the concerns of the public that provided testimony. He believes in this zone it is an appropriate use. Also, the fact they are using an existing property to expand rather than develop a new property with the same services is a benefit.

Mr. Burger – He thinks Mr. Baker runs a good business and is glad he is compromising with the neighbors and hope he goes above and beyond.

Mr. Jackson – Nothing to add.

Ms. Galderisi – It means a lot that Mr. Baker is working with the community.

Mr. Trulli – Confirms the location of the sheds will be moved if a prior variance was not approved.

Mr. Unsworth – He concurs with Mr. Shawl's findings and is in favor of the application with the items addressed.

Mr. Mashura – He concurs.

Mr. Casaccio – He concurs.

Mr. Barnes lists the following conditions.

1. A maximum of six vehicles for sale.
2. The zoning schedule to be attached to the resolution.
3. The sheds in the rear are to comply with the zoning requirements of a ten-foot setback.
4. The buildings in the rear have to be connected.
  
5. There will be parking bumpers installed for the six vehicles that are for sale.
6. Mr. Dietrich is to approve the plan of the fifteen-foot buffer prior to the C/O being issued.
7. An as-built survey prior to C/O to memorialize all the changes to the property.

A motion was made to approve the application with conditions added by Mr. Barnes, was made by: Mr. Shawl seconded by: Mr. Unsworth

In Favor: Shawl, Trulli, Burger, Casaccio, Galderisi, Mashura, Unsworth, Jackson

Mr. Trulli has stepped down for the following application due to the proximity of his residence.

**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.

Mr. Jon Batastini on behalf of the applicant, Foglio Family, LLC, the property is located at 342 Rt US 9 South in the Marmora section.

Matthew Hender, Licensed Landscape Architect and Professional Planner in the State of New Jersey with Engineering Design Associates at 5 Cambridge Drive, Seaville was sworn as an expert.

Mr. Hender explains the property is located on Route 9 in the Marmora section. It is 3.9 acres and currently contains three buildings. On the southside is Foglio Flooring. The second building is the Freshlook Home Improvement, which is a two-story building located on the north side of the property and behind that is the third building which is a small metal building being used by Foglio Flooring for storage. Access is from Route 9 and parking is in front of each of the buildings and along the side and rear as well. The applicant is seeking to construct two separate 5,000 square foot storage buildings. To be used as storage for Foglio Flooring which could be leased out or sublet by anyone else to be used by the Foglio Family. Each of the buildings will include parking and a stone drainage trench to accommodate the run-off created by the development. These buildings will be accessed by an existing stone driveway that goes all the way to the rear of the lot. Based on the MTCD Standards the additional 10,000 square feet would generate a 15,000 square foot component. Which would be twelve units 1,250 square feet each. What they propose is two COAH units to be constructed on the second floor of the Freshlook Building at this time. They will consist of two bedrooms, kitchen, living area and a bath. Down the road if sewer and water became available, they would build the additional ten units on site. We would be asking for relief of constructing the ten units at this time. This is not considered a major development under the DEP standards. The back area of the property is clear with a road and some stone paving with less than one acre of new disturbance and less than ¼ acre of impervious runoff. They are providing some stormwater infiltration trenches around the parking areas. They require a D2 Variance for the expansion of a pre-existing non-conforming use and multiple primary uses on the property to include the construction of warehouses. Some C

Variations are required for existing non-conforming conditions. Lot frontage and lot width, 250 feet is required and the existing is 187.26 feet. They require a C Variance for a front yard setback where zero feet is required, and 60.1 feet exists. There are two pre-existing signs on site which require variance relief. Only one is permitted and the setback of the sign does not meet the requirement. There are no new signs proposed with the development. The warehouses meet the bulk requirements. They meet all the setbacks and the coverage. They are also seeking preliminary and final site plan approval in which they believe they meet the criteria. The special reasons for the D2 Variance: 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. The site is already developed with a mixed-use including warehousing and it is suitable for the proposed uses of additional warehousing which is a low intensity which fits in the site. There will be no additional traffic and will not have a negative impact to the area. Additionally special reason 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 the land. The site is already developed to an extent, there are stone driveways leading back to the area. And finally, i. – To promote a desirable visual environment through creative development techniques and good civic design and arrangement. The warehouses are located deep on the lot so that they are not seen from Route 9. The variations can be granted without substantial detriment to the public good because the site is already developed. These uses will co-exist with the uses that are already on the site. The proposed uses will further benefit the owner by providing them with on site storage. There is no detriment to the public good. He believes that there would be no substantial detriment to the intent and purpose of the zone plan or zoning ordinance. The proposed use is low intensity. They are providing two of the affordable housing units, therefore it is an enhancement of the zone.

Mr. Shawl questioned parking for the residential units.

Mr. Hender – They will make certain there is enough parking on site for the COAH units. They will do the calculation and if needed they will add two more spaces.

There was a brief discussion about COAH requirements.

Mr. Dietrich – The prior application that was approved by the Board proposed a landscape buffer to the south. There is some vinyl fencing, but they have not complied with the buffer. There is a portion of fencing that is vinyl and a portion that is chain link.

Mr. Casaccio – The applicant will have to either comply with the buffer, install vinyl fencing along the full length or put vinyl slats in the existing chain link.

Mr. Batastini – They will comply with the vinyl slats.

Mr. Unsworth – Would like to see the applicant comply with the prior resolution. Unless there is some reason they are unable to comply at this time.

Mr. Casaccio – Does not think the fencing should be removed, he believes the fencing is a better solution.

Mr. Dietrich – There have been no complaints received in the zoning office about the existing conditions of the Foglio property. There have been complaints about fencing in the rear of the

property that borders Run Creek that are in disrepair, however, that was the responsibility of the developers of Run Creek not Foglio.

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

Mr. Shawl – The applicant, Foglio Family, LLC, have come before the Upper Township Zoning Board concerning 342 Route US 9 South in Marmora, also known as block 600 lot 40. Currently the lot has three buildings, one is a commercial facility to sell flooring, one is a commercial facility that is for home improvement, and one is an existing storage building. The applicant is proposing two additional feet storage buildings along an existing stone road that will remain. The buildings are 50' X 100', one-story metal buildings. Primarily used for storage for the flooring business in the front of the property. The existing frontage on Route 9 and existing asphalt access drive will remain and provide access along the paved parking area and the existing stone driveway to the new proposed buildings. The area of building development requires that 12 COAH units be constructed. The applicant is proposing two residential units on site in one of the existing buildings on the second floor. The amount of development does not meet the criteria for the NJ DEP Stormwater Calculations. Although there are some stormwater facilities, stone trenches to handle any stormwater runoff. This is an existing site with an existing use. The addition of the warehouse is the expansion of a non-conforming use. Adding the COAH units makes it two principal uses on one property. The testimony provided is that special reasons: 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 the land. The site is already developed to an extent, there are stone driveways leading back to the area. We heard testimony from the planner that the variance relief can be granted without substantial detriment to the public good and without substantial detriment or impairment to the intent and purposes of the zoning plan and zoning ordinance. There are some pre-existing non-conforming items. The applicant agrees to repair an existing fence to comply with buffer requirements. There was no comment from the public. He believes that the variances can be granted because the conditions the applicant has agreed to, by providing additional COAH units and using the existing stone pathway. The applicant has agreed to analyze the parking and provide sufficient parking for residential and commercial. There will be no noticeable changes to the existing building where the COAH units will be added. He believes these measures will make it more functional for the existing uses and supporting local business. He believes the variances can be approved based on the special reasons and the testimony we heard from the planner.

Mr. Burger – No comment.

Mr. Jackson – He thinks it is commendable that they are trying to comply with the affordable housing.

Ms. Galderisi – Is in support of the application as long as they can comply with the conditions and she supports the addition of the affordable housing as it alleviates some of the burden of our Township. And concurs with the findings of fact.

Mr. Unsworth – Concurs with Mr. Shawl and is in favor of the application.



Mr. Mashura – Concurs with his colleagues.

Mr. Casaccio – The two additional buildings are strictly for the use that is currently going on which is the carpet and flooring store in the front.

A motion was made to approve the application with the condition of repairing the fence was made by: Mr. Unsworth seconded by: Mr. Jackson

In Favor: Shawl, Burger, Casaccio, Jackson, Galderisi, Mashura, Unsworth

Mr. Trulli has returned to the board.

Mr. Jackson has stepped down for the following application.

MARY ROSE & DAN SHERMAN – BLOCK 687 LOT 34 – BA22-2022

Applicant is requesting variances for front yard setback, rear yard setback and building coverage to construct an attached garage at 803 East Drive in Marmora.

Mary Rose Sherman, 803 East Drive, was sworn.

William Swiderski, Professional Planner, was sworn.

Ms. Sherman – The property was purchased in 2009 as a summer home. They recently moved there in October as a primary residence. They would like to add an garage for storage and for their boat.

Mr. Swiderski – The property is located on East Drive and North Street in Marmora. This zone requires 40,000 square feet and this lot is 21,520 square feet which pre-existing non-conforming. There is an existing 1,970 square foot, one-story single-family dwelling centrally located on the lot. The lot is unusually configured. It fronts East Drive and is along North Street. A portion of North Street is unimproved. The proposed garage is 30' X 50' on the north side. They believe the location of the garage is best suited due to it not being adjacent to the neighbors and it is already cleared. They propose two new driveways for access. They proposed garage and driveway will not exceed the impervious coverage. There are two front yard variances required, one for East Drive and one for North Street. The justification of seeking a C Variance: The positive criteria would be the enhancement of visual environment. What they are proposing is providing a structure that would enclose the boat. The other specification for the variance is the hardship. The irregular shape of the property and location of the property adheres to each one of those criteria. He does not believe there is any substantial impairment to the land use ordinance. It will not impact the adjacent property. All of the lots in the neighborhood are similar.

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

Mr. Shawl – The applicants, Mary Rose and Dan Sherman, have come before the Upper Township Zoning Board concerning 803 East Drive in Marmora, also known as block 687 lot 34. We heard testimony from the applicant that they propose to add an attached garage to an existing home for additional storage and a boat. The lot is irregular and the house is not parallel to the

road. The only other location to put a garage that would have access to East Drive is in the corner where two setback variances would be required. There is a paper street that is not vacated that

apparently has some drainage facilities on it. The access to the neighborhood is on East Drive. The applicant also proposes a new driveway. The property is located in the R Zone which requires 40,000 square feet. The lot was developed prior to that. The applicant is requesting a C Variance and the positive criteria are enhanced visual environment and it is a hardship variance because of the shape of the lot and the house is not parallel to East Drive. He believes the variance can be granted because the proposed addition to the house is in character with the neighborhood and the lot is similar to others in the neighborhood. There was no comment from the public.

Mr. Burger – Nothing to add.

Ms. Galderisi – She concurs.

Mr. Trulli – Concurs and agrees with the attorney’s criteria. He is in favor of the application.

Mr. Unsworth – Concurs. The building and lot coverage are still under and the septic in the rear prevents the garage from going there. He is in favor of this application.

Mr. Mashura – He concurs with his colleagues and is in favor of the application.

A motion was made to approve the application as presented was made by: Ms. Galderisi seconded by: Mr. Trulli.

In favor: Mashura, Trulli, Galderisi, Burger, Shawl, Unsworth, Casaccio

Mr. Jackson has returned to the Board.

Mr. Casaccio and Mr. Unsworth have stepped down for the next application. Mr. Shawl will serve as Chairperson.

**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.

Chris Baylinson, Attorney representing Ocean Isle Camping Resort. The application originally included a request for an open pavilion and that portion has been withdrawn. What remains are some existing conditions on the site to legitimize these items even though they have been there ten years. The property is 64 Route 50 in Ocean View, block 453.10 lots 360, 361, 363.03. The application is for a d(2) variance for the expansion of a non-conforming use, however, this application tonight does not include any new development. They are asking for approval for an existing dog run that has been converted to a dog park, a shed and a propane filling station. These items have been here a minimum of ten years. Other than the conversion of the dog run being converted to a dog park, which is more recent. He submits the justification is to look at the project as a whole rather than individually and the advantages of it being there. It provides for an appropriate mix of uses of residential and commercial uses in the area. The campground attracts people to the area and helps the economy. And since these conditions have been there at least ten years. there is not detriment to the zone plan or zoning ordinance. And no substantial impact to the zone plan or master plan. The amenities include the propane filling station and dog park are

items that keep people off the roadway. The goal is to clean up the site plan and have it on record with the Township.

Matthew Hender, Licensed Landscape Architect and Professional Planner in the State of New Jersey with Engineering Design Associates at 5 Cambridge Drive, Seaville, previously sworn as an expert.

Mr. Hender testifies that his office prepared the plan. Originally it included the addition of a pavilion, however, the plan has been modified and that portion removed. The application tonight is to legitimize existing conditions of the dog park, propane filling station and shed. He believes the application can be approved without substantial detriment to the zone plan and zoning ordinance. And with no substantial detriment to the public good.

Mr. Baylinson – They meet all the site plan waiver requirements.

Mr. Dietrich questions when and how did the dog run change.

Paul Casaccio, 5 Cedar Hollow Court, Beesley's Point, was sworn. Mr. Casaccio – When they bought the campground there was a dog walk area in the rear near the basketball court. They decided to put up a four-foot chain link fence. One section for larger dogs and one section for smaller dogs. The propane filling station and the shed was there. The propane station is for campground guests only. The shed is used for maintenance and yard supplies.

The meeting was open to the public.

Katherine Shaw, 6 Peach Orchard Road, was sworn. Ms. Shaw is unhappy with the lack of privacy. Some of the sites are right at the fence. Site one, an older trailer, that they had never noticed before this year. It was torn down and replaced with a new one. She submitted two photos entered as exhibit A. Two color photos taken by Ms. Shaw in Spring of 2022. These photos accurately depict how they look today. The purpose of taking the photos was because she walked out on her front porch and saw windows that she had never seen before, looking back at her house. She testified that Mr. Phifer told her they tore down one and replaced it with another. She doesn't know if it is larger or higher. She strongly objects to any setback variances being granted to Ocean Isle Campground, especially to those that abut her property. She believes the setbacks being ignored are encroaching on her property.

Mr. Casaccio testified that the shed in question is a maintenance shed, no one lives in it. Campsite one was removed and replaced. It meets all setbacks on the site and is an existing site. There is a fence and when possible, they use the privacy slats. He cannot control the elevation of the camper.

Ms. Shaw added there is a problem with tents or gazebos against their property with no setbacks.

Mr. Casaccio agreed that there are some pop-up gazebos, temporary tents that are occasionally used and taken down at the end of the season and some are taken down when not in use.

Hearing no one else and seeing no one else the public portion was closed, and the meeting returned to the board for findings of fact.

Mr. Shawl questions whether any adjustments need to be made considering the application has been modified.

Mr. Barnes – The applicant testified himself that a portion of the application has been withdrawn and are only seeking relief for the conversion of the dog park, the existing maintenance shed, and the propane filling stations. The result of the application they had previously submitted with the pavilion revealed some anomalies that existed. They are now attempting to memorialize them, akin to a Certificate of Non-Conformity. They are trying to put in the resolution that the pre-existing non-conformities exist. They put forth proof as to why they believe the D2 Variance should be granted as well as a site plan waiver. They indicated that none of the things that currently exist would exacerbate any type of issues that would exist in a typical site plan, thereby having a site plan waiver appropriate.

Ms. Galderisi – The applicant, Ocean Isle Campground, have come before the Upper Township Zoning Board concerning 64 Route US 50 in Ocean View, also known as block 453 lots 360, 361, 363.03. The applicant is seeking a waiver for non-conforming use for issues that were picked up when a prior plan that had included a pavilion. The pavilion has since been withdrawn from the application. They are seeking to memorialize three existing conditions. The conversion of a dog run to a dog park, a maintenance shed and a propane filling station, for campers only. The dog park has a section for large dogs and a section for small dogs for safety and is located in the same area. She sees no issue with keeping things the way they are. We heard testimony from the public within the 200' with concerns about privacy. All the setbacks are being followed. There are certain coverings being used by campers that are temporary and seasonal. The applicant was represented by Mr. Baylinson and Mr. Hender. Their testimony indicated there would be no deterrent to the area by approving the application.

Mr. Trulli – Concurs

Mr. Mashura – He thinks its obvious that the conditions have been pre-existing for sometime and believes it is best to have a clean slate. He supports the application.

Mr. Jackson – Agrees with keeping the dogs in a separate area for safety, leading to a more enjoyable experience.

Mr. Burger – The Township has been trying for years to better police the campgrounds. It is a hot button topic, and we are trying to get better.

Mr. Shawl – Concurs and that the pre-existing non-conforming conditions can be granted with the resolution and the zoning schedule will be added to the resolution.

A motion was made to approve the application as presented was made by: Mr. Mashura, seconded by: Mr. Trulli.

Mashura, Trulli, Galderisi, Burger, Jackson, Shawl

## **RESOLUTIONS**

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

A motion to approve the resolution was made by Mr. Burger and seconded by Mr. Jackson.

In Favor: Shawl, Trulli, Burger, Casaccio

Abstained: Jackson, Galderisi, Mashura, Unsworth

**BILLS**

A motion to pay the bills as presented was made by: Mr. Jackson and seconded by Ms. Galderisi.  
All in favor.

**ADJOURNMENT**

A motion to adjourn the meeting was made by: Mr. Mashura and seconded by Ms. Galderisi.  
All in favor. The meeting ended at 9:09 pm.

Submitted by,  
Liz Oaks