

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
OCTOBER 13, 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	Absent
Matthew Unsworth	Present
Sherrie Galderisi	Present
Christopher Phifer	Present
Lynn Petrozza	Present
Andrew Shawl	Present
Richard Mashura	Present

Member	Attendance
Larry Trulli, Alt #1	Absent
James Burger, Alt #2	Present
Tom Jackson Alt #3	Absent
Donald Rainear, 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 SEPTEMBER 8, 2022 MEETING MINUTES

A motion to approve the minutes was made by Ms. Galderisi and seconded by Mr. Shawl.
In Favor: Mashura, Galderisi, Burger, Shawl, Unsworth
Abstained: Phifer, Petrozza, Rainear

New Board Member

New Board Member Donald Rainear took the oath.

Paul Dietrich, Township Engineer and Liz Oaks, Zoning Officer were sworn.

APPLICATIONS

SEAVILLE VILLAGE CONDOMINIUM- BLOCK 559 LOT 21.06 – BA23-2022

Applicant is seeking an extension of a Minor Subdivision BA 08-15 at 3075 us Route 9 in Seaville.

Corey Gilman, Attorney for the applicant, Seaville Village Condominium Association. The applicants are the owner of the subject property located at 3075 US Route 9 south in Upper Township. The property is located in the R2 Zone. They are requesting an extension for an application that had been previously approved in August of 2019. The approval was for preliminary and final site plan and a minor subdivision with variances. The intentions were to eliminate the condo association and create three separate lots. This would be beneficial to the Township by eliminating a non-conforming situation where you had three principal structures on one lot. Subsequently September 12, 2019 the Board adopted the ordinance BA 08-15, memorializing those approvals. There were conditions that required the cooperation of multiple

unit owners. The applicant had difficulties getting the conditions resolved and then Covid hit and further delayed them. The county waiver was not even dated until 2022. They were unable to comply with the original deadline to file the plat. These are the reasons they are seeking a 90-day extension to allow them time to comply.

Mr. Dietrich – It has taken years to get some of the conditions resolved. One structure still has issues. He believes filing the subdivision will help separate the two condo units that want to make further improvements, allowing them to come to the Board. It has been a detriment to that business owner by not having a separate lot and being tied to the condo association.

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

Mr. Shawl – The applicant, Seaville Village Condominium, has come before the Upper Township Zoning Board this evening for their property located at 3075 US Route 9 in Ocean View, also known as block 559 lot 21.06. The applicant is requesting a 90-day extension to the minor subdivision resolution that was granted preliminary and final site plan with variances, resolution BA 08-15. The applicant stated that there was some difficulty completing the necessary items required to get to the finish line with this project. There is very little left to do except filing the final plat and finally dissolve the condo association. The applicant did request certain variances and has made improvements to the subject property in line with what was requested previously. He believes there are still some outstanding issues that would be met. It is the belief that this resolution will allow the Township to better target enforcement action where it is needed; one particular owner rather than the condo association itself. The benefits of the resolution, which was previously approved, are listed in the resolution itself. He is in support of granting a 90-day extension as requested by the applicant.

Mr. Burger – Nothing to add

Mr. Phifer – Nothing to add

Ms. Petrozza – Concurs with Mr. Shawl. There was no public comment. She is in favor of granting the extension

Ms. Galderisi – Concurs

Mr. Rainear – Nothing to add

Mr. Mashura – Nothing to add

Mr. Unsworth – Concurs with Mr. Shawl and Ms. Petrozza

A motion to approve the application as presented was made by: Ms. Petrozza, seconded by Mr. Shawl.

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

RANDALL & KATHLEEN ZAKRESKI – BLOCK 791 LOT 17 – BA21-2022

Applicant is requesting variances for front yard setback, side yard setback, aggregate side yard and floor area ratio to renovate a single-family dwelling at 2300 Commonwealth Avenue in Strathmere.

Avery Teitler, Attorney for the applicants, Randall and Kathleen Zakreski. The property located at 2300 Commonwealth Avenue in Strathmere also known as block 791 lot 17. The property is located in the Residential Resort District. It is a narrow undersized lot. We are here today to seek bulk variance relief, to renovate the existing building that is on the property, front yard setback, side yard setback, aggregate side yard setback, building coverage and floor area ratio. As testimony and evidence will indicate all these variances, including the floor area ratio variance, are a direct result of the undersized lot. The required lots size is 4,000 square feet with 40 feet frontage and this lot is only 2,850 square feet with 30 feet of lot width with no adjacent properties available to purchase. The inferior lot size creates undo hardship on the applicants making a conforming renovation very difficult. As a result, we request the variances be granted under C1 or hardship standard due to the undersized lot. They believe the relief can also be granted under the C2 or flexible criteria. Several purposes can be achieved because of this project including making the property safer. By providing a significant aesthetic improvement, providing a more desirable visual environment. Creating additional light, air, and open space. Providing a building that would be more compatible with other renovated homes in the area. And finally, the testimony and evidence will indicate the site can accommodate the proposed floor area ratio and there are no associated problems to prevent the approval of these variances. The positive aspects of granting this application outweigh the negative aspects. There is no substantial detriment to the public good. Granting the variances will not substantially impair the intent or purpose of the zone plan and zoning ordinance. The applicants intend to call one witness, Architect James Chadwick.

James Chadwick, Chadwick Architecture, 1348 Asbury Avenue was sworn as an expert.

Mr. Chadwick – Describes the property as a 30' X 95' parcel fronting Commonwealth Avenue in Strathmere. It is not located in the heart of town, it is in the Whale Beach section of town. It is a developed lot with a single-family dwelling. The lot is undersized by approximately a quarter at 2,850 square feet, presenting a hardship. The existing residence has been there many years and he believes it was lifted sometime after hurricane Sandy. The prior owner obtained a permit for a new septic system and the new owner has built the new system in the rear of the property. The Health Department has no objections to the proposed renovation project as long as they comply with a maximum of three bedrooms. Photos on the plans show the existing home. It can best be described as odd. There is a front door and porch with no access from outside. You must enter through the rear. There is currently an enclosed first floor with no flood vents. The enclosed area will be eliminated, and they will create a garage with necessary flood vents. Lot area, width and frontage are all pre-existing. Adjacent lots are not available. A front yard setback is actually being improved. Presently the front yard setback is 4.75 feet and the proposed is 7.75 feet. They propose to remove the existing front "bump out" and change that to an open deck creating light, air, and open space. Side yard setbacks remain the same. The building coverage is currently 34.5% and the proposed is a modest 38.6%. Most of the proposed expansion is on the second floor off the back of the structure and will not be perceptible to the general public looking at it from the street. The rear addition does not breach that of the neighbors to the north or south. They also seek a floor area ratio variance. He believes the design is a modest expansion, He believes it is a reasonable application. The total habitable floor area is 1,839 square feet. The impervious coverage and building height are in compliance. The proposed building height is 32.9' and the elevator shaft is 35'. The third floor is purposely not habitable, it is a walkway only to access

decks. It was redesigned at the advice of the board engineer. The structure only has two habitable floors.

Mr. Dietrich confirms they made extensive revisions to comply. It is 3.5' at its widest point. He believes they did a good job creating a space that is only possible to be a walkway.

Mr. Chadwick testified that he believes the variances can be granted under the C1 criteria. It is an undersized lot creating a hardship. He believes the variances can be granted under the C2 criteria. They are creating a safer structure including ingress and egress. Emergency personnel will be able to identify the entrance. The renovation allows for fire rated components. They are creating a significantly improved desirable visual environment. It will be consistent architecturally and aesthetically with the neighborhood. He believes this site can accommodate the design. This will be more energy efficient with the addition of insulation. They are creating light, air, and open space with the front deck and rooftop decks. They are not increasing bedrooms and the addition is off the rear of the property. The goal was to create living space but not increase occupancy by adding bedrooms. They are creating a larger buffer from Commonwealth by removing the current "bump out" in the front of the structure. He believes the variances can be granted without substantial detriment to the public good and without substantial detriment to the intent and purpose of the zone plan and zoning ordinance. He believes the negative criteria has been satisfied.

Mr. Shawl questions the rear neighbor and height of structure.

Mr. Chadwick – The rear property is owned by the DEP. The height of the structure is similar to any other neighboring structures.

Mr. Mashura questions the compliance to current building code in its entirety.

Mr. Chadwick testified that all the roof rafters that are exposed will be replaced, and he believes that will be nearly all of them.

Mr. Dietrich requests that a zoning schedule be included and to show the rooftop deck area calculations. Is the property in the Coastal A Zone. They must provide the required stormwater requirements under the ordinance. Include the garage floor elevation on the revised plans.

Mr. Chadwick testifies that it is compliant in area for the rooftop deck. The property is not in the Coastal A Zone. They will revise plans as requested.

The meeting was open to the public.

Ms. Joan Yamrich, 2304 Commonwealth Avenue, was sworn. Ms. Yamrich is in favor of the application due to the safety issues that will be addressed.

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

Mr. Shawl – The applicants, Randall and Kathleen Zakreski, come before the Zoning Board regarding 2300 Commonwealth Avenue also known as block 791 lot 17. The applicant proposes renovations to their property. There are some pre-existing, non-conforming aspects to the property such as lot area, lot width and lot depth that cannot be corrected. There is an existing

dwelling on the property that we heard testimony that was lifted some time after hurricane Sandy. And renovated at that time but it needs additional renovations. The applicant is seeking side yard setback, aggregate side yard setback, front yard setback, building coverage and floor area ratio. The building is already above flood elevation; however, the applicant proposes additional improvements that would protect against fire and flood. We heard testimony about the exterior walls and some flame retardance. We also heard testimony about the compliance with the high wind zone. And the appropriate measures they will be taking during the renovation, which are so important in coastal areas. The applicants are proposing expanding the building slightly. It will remain a three bedroom with only two habitable floors. There is a third floor that contains only access to the roof top deck. The proposed changes are keeping in character with the neighborhood. The front yard setback is improving, providing more light, air and open space at the front of the building. The addition is primarily in the back. We heard testimony that measures were taken that the view would not negatively impact the neighboring homes. The volume of the house on the lot would not be substantially more than it is. Reasonable changes are proposed. This is a pre-existing undersized lot and the C variances that are being requested are under hardship conditions. There are no additional adjacent properties to acquire to create a conforming lot. The floor area ratio is a modest request. The residence is intended to be a full-time residence. The basic concept with the three bedrooms and open floor plan is being preserved with the proposed changes. We heard testimony that the proposed changes, while they are more than the required floor area ratio and also because it is an existing lot with an existing structure, do not pose any substantial detriment to the public good and no substantial detriment to the intent and purpose of the zone plan and zoning ordinance. We heard one comment from the public within 200 feet that was in support of the application.

Mr. Burger – He is in favor of the application.

Mr. Phifer – The site is located in the RR Zone. It is a narrow undersized lot. The minimum lot size is 4,000 square feet and this lot is only 2,850 square feet. It is 30' X 95' in the Whale Beach section. The existing septic is county approved already if it remains a three bedroom, which is proposed. The front yard setback will be changed from 4.75 to 7.75 and the side yard setbacks will stay the same. The building coverage increases approximately 4%.

Ms. Petrozza – We heard significant testimony for the special reasons that she feels have been satisfied. There was testimony that the negative criteria has been satisfied. There was testimony that the County has no issue with the proposed renovations as long as it remains a three-bedroom home. There was positive public comment within 200'. This renovation will provide enhanced visual environment similar to the seashore aesthetic. The structure will provide safer ingress and egress for emergency personnel. She concurs with her colleagues and is in favor of the application.

Ms. Galderisi – Concurs with her colleagues. Confirms that we need the measurements of the rooftop deck, the trenches on the side and the garage elevation. She is in favor.

Mr. Rainear – Nothing to add.

Mr. Mashura – There was testimony that the property is in an A zone not a Coastal A zone. We heard testimony that the existing and proposed structure will comply with all local building codes.

Mr. Unsworth – He concurs with his colleagues. Aesthetically, he believes the architect has done a nice job redesigning a unique existing structure and that it is an enhancement to the neighborhood.

Mr. Tietler confirms that the plans are correct at the 1,776 square feet, therefore, the floor area ratio is correct at 62.3%.

Mr. Unsworth confirms they can rely on the floor area ratio figures. The plans will be revised to show rooftop area dimensions, stormwater system, and garage elevation.

Mr. Barnes reviews the requirements for the floor area ratio variance and the bulk variances being requested.

Mr. Dietrich adds that this is a true three bedroom. There are no rooms that could be changed into bedrooms, there are no offices, gyms etc.

A motion was made to approve the “D” Variance portion of the application, as presented, was made by: Mr. Shawl seconded by: Ms. Galderisi.

In favor: Mr. Shawl – Yes, the structure is similar in size, the addition is in the rear, it is a long a narrow property, there is expansive wetlands behind the property, there is expansive dune and ocean in front of the property, the floor area ratio being requested is reasonable for this size lot.

Mr. Phifer – Yes, he is in favor of the floor area ratio variance for special reasons pursuant to NJS40-55d-2 items b, c, and i.

Ms. Petrozza – Yes, she concurs.

Mr. Mashura – Yes, he concurs with his colleagues.

Ms. Galderisi – Yes, she concurs. They are keeping it as a three bedroom with no rooms that can be converted into additional bedrooms.

Mr. Burger – Yes, he concurs with the previous statements.

Mr. Unsworth – Yes, he concurs and adds the architect and Mr. Dietrich had extensive discussions on the third floor and keeping it as minimal as possible.

A motion was made by Ms. Petrozza to approve the “C” Variance portion of the application, with the following conditions: a revised zoning schedule be submitted and attached to the resolution.

And plans will include stormwater requirements. The motion was seconded by Mr. Shawl.

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

RESOLUTIONS

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

A motion was made to approve the resolution as presented was made by: Ms. Galderisi, seconded by: Ms. Petrozza.

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

Abstain: Phifer, Petrozza, Rainear

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

A motion was made to approve the resolution as presented was made by: Ms. Galderisi, seconded by: Mr. Phifer

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

Abstain: Phifer, Petrozza, Rainear

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

A motion was made to approve the resolution as presented was made by: Ms. Galderisi, seconded by: Ms. Petrozza.

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

Abstain: Phifer, Petrozza, Rainear

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

A motion was made to approve the resolution as presented was made by: Ms. Galderisi, seconded by: Ms. Petrozza.

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

Abstain: Phifer, Rainear

BILLS

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

ADJOURNMENT

A motion to adjourn the meeting was made by: Ms. Galderisi and seconded by Ms. Petrozza
All in favor. The meeting ended at 7:50 pm.

Submitted by,
Liz Oaks