

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
FEBRUARY 9, 2023**

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

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

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

Member	Attendance
James Burger, Alt #1	Present
Tom Jackson Alt #2	Absent
Donald Rainear Alt #3	Present
Hobie Young, 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 JANUARY 12, 2023 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Phifer and seconded by Mr. Burger.  
In Favor: Phifer, Galderisi, Burger, Young, Casaccio  
Abstain: Shawl, Mashura, Rainear

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

**OATH OF OFFICE**

New member, Mr. Donald Rainear took the Official Oath of Office.

**APPLICATIONS**

COOPER, TIM – BLOCK 833 LOT 8– BA 25-2022

Applicant is requesting variance relief for Floor Area Ratio (FAR), front yard setback, side yard setbacks and building coverage to construct a single-family dwelling at 5 Sherman Avenue in Strathmere.

Chris Baylinson, Attorney for the applicant, Mr. Cooper. Mr. Baylinson explains that the current home is not salvageable. The applicant would like to add a second floor keeping the same footprint. The variances required are for a front yard setback where 15' is required and 10.4' is existing and proposed. A side yard setback required of 6'/12' where 1.9' and 4.3' are existing; proposed is 2' and 5' which is an improvement. A building coverage variance is being requested where 27% is required, the existing is 1,205 sf and proposed is 1,140 sf. A variance for Floor Area Ratio where .54 is allowed, .65 is proposed. This lot is undersized creating this need. He believes the request is reasonable.

Tim Cooper, 1041 Ricky Drive, Bridgewater Township, was sworn. The home was purchased by his parents in 1965 and was raised sometime in the late 1980's. The raising allowed for parking underneath but is not compliant with today's flood standards. His mother is 88 years old; she likes to sew and craft creating a need for a sewing room. His brother intends to move to Strathmere full time to take care of their mother and would have a need for the separate office. There are two sisters that currently live close to the property.

Kevin Olandt, Licensed Architect Fenwick Architects, 646 Ocean Heights Avenue was sworn as an expert. Mr. Olandt testified that the existing 3-bedroom bungalow was built in the 1940's. It is too small and not current with fire and flood standards. The applicant is looking to make a more suitable home for year-round residence with modern standards: current plumbing, current electrical, flood resistant, and wind resistant. Currently the home is 5' from the property line. The proposed home is two story's and modest in size. The total sf is under 2,000. The room sizes are modest. The new construction will comply with current hurricane standards, plumbing codes, electrical codes, flood, and energy compliant. The design will be adding a front porch with steps facing the street, enhancing the streetscape. The height will be 27.8' where 35' is allowed. They will be raising the house by 3', providing greater flood protection and allowing for more room underneath for the parking. The current home has open pilings, and the new design will include an enclosed garage. The lot is 3,000 sf and current standards require 4,000 sf. A conforming lot allows for a home that would be 2,160 sf, they are proposing only 1,960 sf. The proposed is a two-story home over parking which is common to the neighborhood. The lot is non-conforming with 3,000 sf where 4,000 sf is required. The lot frontage is 30' where 40' is required. The front yard setback requirement is 15'. They will be keeping this at the existing 10.4' but will now be an open porch rather than a wall. The side yard setback existing is 1.9' and 4.3' which will improve to 2' and 5'. The building coverage maximum is 27% which is 810 sf. The existing is 1,205 sf which is being reduced to 1,140 by changing the size of the decks. The rear yard setback is currently 13.9' and proposed is improving to 22.1'. The FAR increase they are requesting is 65% where 54% is permitted. They are asking for an increase of 11% where the lot is 25% smaller. Along with the new structure being compliant with building and fire codes a new septic will be introduced which has a positive impact environmentally. It is consistent with other homes in the neighborhood. The plans show two parking spaces, but it is four parking spaces. He believes the application provides light, air, and open space. He believes the variances can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan or zoning ordinance. They are improving the aesthetics while reducing existing bulk requirements and they are substantially below the allowable height. With regards to the D Variance he believes the property can accommodate the proposed structure. It is currently a single-family dwelling and will continue to be as such. There is no substantial detriment to the neighborhood.

Mr. Burger – On the floor plan it appears as if the parking would accommodate six vehicles.

Mr. Young – Questioned the width of driveway and curb and sidewalk.

Mr. Olandt – They do not have an exact measurement currently.

Mr. Dietrich – They would need to show curb and sidewalk as part of the proposed improvements. It is permitted to have a 12' wide driveway opening.

Mr. Baylinson requested to amend the application to include a variance for an 18' wide driveway opening.

Mr. Shawl – Clarified that the proposed parking is on site. And confirmed by Mr. Olandt.

Mr. Rainear – Questioned whether there wasn't a way to conform with the FAR requirements by altering the plans.

Mr. Olandt – The applicant testified his intentions for the use of the home. He does not believe the home is extravagant. He believes the rooms are modest in size. The applicant does not want to change the plans they have submitted.

Mr. Mashura – Inquired about the possibility of an elevator and suggested egress windows in the rooms not currently designated as bedrooms.

Mr. Olandt agreed.

Ms. Galderisi – Clarified ground level will be flood compliant and not habitable space.

Mr. Casaccio – Suggested a deed restriction stating home is 3-bedroom.

The meeting was open to the public.

Juliette Schluter, 14 Randolph Way, Strathmere was sworn. Ms. Schluter serves on the Strathmere Improvement Association. She is not in favor of this application and strongly encourages the board to enforce the 54% FAR compliance. Ms. Schluter stated that she believed it wasn't a huge request. She questioned the need of the two exterior staircases. Flooding is a concern with the height of grade.

Mr. Dietrich Stated that he believed there was a calculation error that needed to be addressed. The front porch should be included in the building coverage. The plans show 38% building coverage, but it should be 41.5%, the total square feet should be 1,244 not 1,140. He also added that there were two new ordinances that have been adopted since the submission of this application. All driveways and sidewalks on a property in Strathmere must be a pervious material. This will adjust their impervious figure; however, the application does not have any issues with this. There is now a 3' freeboard which does not change the building structure.

Mr. Baylinson saw no problem with complying with the new ordinances.

There was a brief discussion about how the plans could be altered to come closer to compliant with the FAR requirements. The applicant does not want to alter his application.

Hearing no one and seeing no one else, this portion was closed.

Mr. Olandt addressed the public comment about the need for two staircases is for fire safety.

Mr. Barnes directed the board what they would be considering when rendering a decision with regards to the request for the variance for FAR.

Upon the conclusion of this discussion, the meeting returned to the board for findings of fact.

Mr. Shawl – The applicant, Tim Cooper, comes before the Upper Township Zoning Board regarding the property located at 5 Sherman Avenue in Strathmere known on the municipal tax map as block 833 lot 8. The applicant proposes to demolish the existing one-story home and

replace it with a two-story home. The lot area, lot width, front yard, side yard rear yard and hvac equipment do not currently meet the requirements. It is existing non-conforming. The applicant proposes a design to correct some of the existing non-conformities and make other ones that can't be fully corrected, due to the limitations of the lot, make them better. The applicant looked to salvage the original home, but it is not in good shape. It is not above current flood elevations. It's not up to date with plumbing, wiring or modern conveniences we come to expect. The footprint of the proposed building is slightly smaller than the existing dwelling. The house was first purchased in the 1960's and the family desires to move to this location and spend more time together, requiring a bigger house. We heard testimony regarding the Floor Area Ratio which is a somewhat new requirement in Strathmere. The applicant would be allowed a 1,620-sf house under the FAR requirement where he proposes a 1,960-sf house. It is 65% versus 54%. The other variances required would be building coverage. The showers and hvac equipment are supposed to have a six foot setback, current is 1.9' and the applicant is improving to 2'. The applicant and his professionals have worked out all the considerations to design a comfortable home. In addition to the protection from fire and flood, the new house will be larger than the existing. There are some architectural details that are being provided to keep in character of the neighborhood. The applicant will be installing a driveway apron which will be larger than the 12' required by ordinance. They will be reducing it from 20' to 18'. The parking will be improved with this proposed dwelling. The applicant has agreed that the sewing room and the office they put on the plans will not be bedrooms. The garage will not be habitable space. We heard no testimony inside 200', but we did hear testimony outside 200'. There was some disagreement that this design tried to comply with the ordinance with regard to FAR and the design we are trying to achieve with that requirement. There was some question about the two exterior stairways. The testimony provided was for egress in case of emergency. There was also some concern about drainage. We heard testimony about the building coverage. We heard testimony about the FAR and what the applicant was willing to do. We heard information that there are some additional design standards were adopted by the Planning Board since the application was submitted pertaining to permeable paving for concrete and also the change the finished floor elevation to 3'. The idea with the proposed dwelling is keeping in character with the neighborhood while trying to reduce as many non-conformities as possible and securing the building from flood and fire.

Mr. Phifer – Concurred with Mr. Shawl and added that he believes the applicant has shown relief can be granted without substantial detriment to the public good and with no substantial detriment to the intent and purpose of the zone plan or zoning ordinance. With regards to FAR he believes in this specific case, the footprint of the building is smaller than the existing structure and because of the size of the lot. The size of the new home is 1,960 sf which is not a large house, he does not believe the FAR is a problem in this case. He is in favor of the application.

Mr. Burger – They show six off-street parking spaces which is an improvement. The two means of egress. The stone recharge trench says it will collect 90% of the rainfall. The new septic and new building codes are all positive criteria that make him in favor of the application.

Mr. Young – The applicant has owned the property since 1965. He has always been under the impression that existing structures play a part when considering FAR. If this were a vacant property, then you would be purchasing an undersized lot. The fact that they have owned this since 1965 and paying taxes on this property, maintaining the property, making improvements, adding the sidewalk, reducing the driveway apron and six parking spaces. The above ground septic limit quite a bit of construction and building coverage. Looking at the size of the rooms and the overall size of the house, none of the rooms are too large. What they are requesting is the minimum that can fit on this lot to make the property equitable and habitable for them.

Mr. Rainear – The project has a lot to offer in terms of the aesthetics. He does not see a problem with the size, as a whole. He does not see a problem with the bulk variances. He is concerned with the FAR. He is unable to support this application.

Mr. Mashura – When the applicant was asked to consider reducing the size or improve some of the extent of these variances, they declined to make any adjustments to the plans submitted. The applicant is asking for a lot. They were unwilling to make any concessions. For that reason, he is having difficulty.

Ms. Galderisi – The resident from Strathmere that spoke made it clear that they were trying to protect their town. On the other hand, the homeowner has owned their home since 1965. The lot is non-conforming. Even if they were to move 5', it would still be a non-conforming lot. If they were proposing something larger, she might be concerned. The quality of life for the 88-year-old mother. Improvements to fire and flood. Updated septic and off-street parking. Each application is reviewed on a case-by-case basis. Looking at everything, evidence was provided that the criteria is enough to move forward.

Mr. Casaccio – He concurs. The FAR is a struggle with undersized lots. This application is to keep this house in reasonable living condition as far as size and shape. He is in favor of the application.

Mr. Barnes explained to the applicant that the board could vote on the application in its entirety or would they prefer to vote on the bulk variances and the use variance separately.

Mr. Baylinson stated that they would like the application to be voted on in its entirety.

A motion to approve the application was made by Mr. Shawl and seconded by Mr. Phifer with the following conditions:

- There would be a deed restriction that the sewing room and office were not to be used as bedrooms.
- The first level would not be habitable space.
- The application is being amended to include a variance for the driveway apron width of 18'.
- A revised zoning schedule to be submitted and attached to the resolution.

In favor: Shawl, Phifer, Galderisi, Burger, Casaccio.

Opposed: Mashura, Rainear

MELOY, COLBY & ASHLEY – BLOCK 642 LOT 13 – BA 03-2023

Applicant is requesting variance relief for a rear yard setback at 748 Stagecoach Road in Marmora, New Jersey.

Joe Maffei, Licensed Engineer with Engineer Design Associates, 5 Cambridge Drive, Ocean View was sworn as an expert.

Colby Meloy, 748 Stagecoach Road, Marmora was sworn.

Mr. Maffei testified block 642 lot 13 is located on Stagecoach Road. The lot size is 43,444 sf. They are here seeking a rear yard setback variance. The property is a unique shape. There is only about 74' on Stagecoach and in the back about 159'. Creating a unique shape that is narrow in the

front and wider in the back. The house is placed further in the back. The rear yard setback requirement is 50'. They have 47.6' to the corner of the house. The house is not parallel to the rear property line. On the bottom side you have more than 50'. There is also a deck that is 38.3' from the rear property line. They are seeking a C variance. There was an aerial of the neighborhood provided as part of the application showing that it is mostly residential with woods surrounding most of the properties. The home to the rear that is affected by this is about 300' from that property line. There access is Chestnut Avenue. There is still plenty of vegetation. There is no negative impact on the neighborhood. This could either qualify for the C1 due to the unique shape of the property or the C2 because the benefits outweigh the detriments in this case.

Mr. Young requested details about the deck and clarified if they were seeking a variance for both the home and the deck.

Mr. Maffei – Does not have a specific measurement but there are four steps. They are seeking a variance for both the house and deck.

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. Shawl – The applicants, Colby and Ashley Meloy, come before the Upper Township Zoning Board regarding 748 Stagecoach Road in the Marmora section of the township known as block 642 lot 13 on the municipal tax map. The applicant is asking for a rear yard setback variance where 50' is required. The deck is at 38.3' and the house is 47.6'. The lot is a trapezoid shape, and the house is not parallel to the rear property line. The majority of the home meets the 50' setback. It is one corner that does not. He believes the variance can be granted because the benefits outweigh the detriments. It is a single-family use with one home on the property.

There are plenty of woods around everybody. There was no comment from the public.

The remaining members of the board had nothing to add.

A motion to approve the application as presented was made by Ms. Galderisi and seconded by Mr. Shawl. In favor: Burger, Galderisi, Mashura, Phifer, Rainear, Shawl, Casaccio

**SCHULTHEIS, CRAIG & CAROL – BLOCK 453 LOT 177.03 – BA 02-2023**

Applicant is requesting preliminary site plan approval for a proposed 18 lot Major Subdivision with a D Variance at 118 Route 50 in Seaville, New Jersey.

David Stefankiewicz, Attorney, representing the applicant. The parcel is undeveloped with 39 acres running along Route 50. They propose an 18-lot subdivision of single-family dwellings. All the proposed lots will comply with the bulk standards of the residential zone. There is no proposed construction currently. Of the 18 lots, 17 are in the TC Zone (Town Center) and one is in the C Zone (Conservation). Single-family dwellings are not permitted in the TC Zone, requiring a Use Variance. There is another variance specific to lot 18 because it does not abut a roadway. They have a solution that will allow for access including emergency vehicles.

Joe Maffei, EDA, previously sworn. Mr. Maffei testified that the parcel is approximately 39 acres running along Route 50. The 17 houses in the front are in the TC Zone which runs back to the Atlantic City Electric easement which is the dividing line between the TC and Conservation zone. The 1 house is in the Conservation Zone. The idea is to subdivide into 18 lots with all the lots in the front coming off Route 50 with a new road. All of the lots are designed to meet the residential

standards of the normal R Zone. The 18<sup>th</sup> lot in the Conservation Zone is a larger lot than required.

and is an allowable use in that zone. The lots in the TC Zone require a Use Variance. This stretch of Route 50 is commercial and has been quite stagnant recently. In that regards the property is suited for this particular use. It is appropriate for the area. They are providing all light, air, and open space. It is sufficient space in a suitable location. Lot 18 is well oversized in the Conservation Zone. The only issue is the access to lot 18. They must cross the Atlantic City Electric easement which is about 300'. What they propose is a 20' wide easement suitable for emergency vehicles between lots 11 and 12. Wide enough for two vehicles to pass, with a hardpack drive. The ownership still becomes an easement, so it always has to be maintained. They do need a variance for a lot not abutting a street. The purposes of zoning are the following special reasons: a – To encourage municipal action to guide the appropriate use; c - light air and open space, g – to provide sufficient space in appropriate locations, e – to provide property density and m – an efficient use of land. The business and commercial in this area is stagnant and there is already a mix of commercial and residential. Most of the commercial that is there was developed a while ago. He believes there is no substantial detriment to the public good and no substantial detriment to the purpose or intent of the zone plan or zoning ordinance. The purposes advance substantially outweighing any perceived detriment. They have already obtained the freshwater wetlands approval and are working with Atlantic City Electric with regards to the easement. There are streets across the proposed subdivision that are residential. They are behind the commercial directly on Route 50.

Mr. Casaccio – Suggested the resolution include wording that the proposed lots are subject to the residential zone standards so that future owners do not need to seek use variances if they want sheds, decks, accessory structures, and similar items that would normally be require in the TC Zone. He would also be concerned that future homeowners are fully aware that these homes are in a commercial zone.

Mr. Stefankiewicz – They propose a deed restriction with language on every sale that indicates that this was approved by way of a use variance, and it is in a commercial zone. The first concern should be simple enough that the lots are based on residential standards.

Mr. Barnes – The resolution can include that while the lots are not in the R Zone, they comply with the residential standards.

Mr. Dietrich – The road comes over and touches and runs along the side of the property to the south. That property is a commercial property. He thinks it would be appropriate between now and final. If they could rearrange the lots to slide the road over by 5' or 10' so that property does not have frontage on this street. With that property having frontage on that street, a commercially zoned property, they could put a driveway on to this proposed residential street. This would potentially allow commercial trucks down this residential neighborhood.

Mr. Maffei agreed to investigate making an adjustment.

Mr. Dietrich - We have not heard back from the Seaville Fire Chief regarding the fire safety facility. We need to carry a condition from this until final. There is no public water at this facility. Another note, the road does line up perpendicular at Route 50 to Canterbury. From a traffic circulation standpoint this is the appropriate location. The final comment is the Township would ask, as part of the final plat, for an easement for a potential future bike path. They are planning a bike route from Beesley's Point to try to connect to the Cape May County Path south into Dennis

Township. The preliminary route is along this easement. He has spoken to the Schultheis about it in the past. It would be preferable to deal with a single owner at this time.

The meeting was open to the public.

Nathalie Neiss, 759 Route 50, was sworn. Ms. Neiss does not support this application. She does not see why they would not comply with the zone as it is intended to be. She does not think anything should happen without input from the public. Maybe it should be used for affordable housing. Or the Township really could use more commercial properties.

Mr. Dietrich – This zone does not require affordable housing to be built as part of the development. It would have to pay a development fee for affordable housing for each house that is built. This project will meet the affordable housing obligation that is required under the ordinance.

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

Mr. Barnes reminded the board members when voting on a D1 Variance they are tasked with whether the applicant has proven the proposed use will promote the general welfare and whether the development of the properties is particularly suited for the very use proposed.

Mr. Shawl inquires about stormwater calculations.

Mr. Maffei – The stormwater does meet the current municipal standards. All plans for stormwater maintenance were submitted with the application.

Mr. Stefankiewicz – We had originally requested a waiver, which we withdraw.

Mr. Shawl – The applicant, Craig and Carol Schultheis, come before the Upper Township Zoning Board regarding the property at 118 Route 50 also known as block 453 lot 177.03. The entire tract is 38.9 acres. The variance requested is a Use Variance to permit single-family dwellings in a commercial zone. The applicant presented testimony through their engineer that the property, as it exists today, is in an undeveloped state. It is adjacent to a couple of commercial developments both sides of Route 50. It has been commercial and undeveloped as long as anyone can remember. The subdivision has been designed to meet all the requirements and design standards of the R Zone. There have been no commercial opportunities since the owners have owned the property. The owner and engineer feel this is a better use of the property given the size and location adjacent to other residential areas along the commercial Route 50. The design of the 18 subdivided lots and provides for sufficient light, air, and open space. The Use Variance can be supported because the Township, under their zone plan and master plan provides areas for suitable development for residential and commercial uses. Looking at the allowable uses for a commercial zone in the TC Zone for this property all these things that are permitted in this use are already developed elsewhere in the Township. There is no commercial demand for this property. The testimony we heard was that the proposed use of single-family homes is appropriate because it provides that use for the Township. The applicant will meet all stormwater standards that apply to this zone for affordable housing. We heard testimony that there would be no detriment to the public good with adding these homes because the lot sizes are sufficient and meet our zone plan for residential development. The streets and amenities will line up on to the commercial highway giving access to Route 50. There is appropriate density because the lot sizes are all conforming. There is one other variance required because lot 18 does not have frontage on a street and a



variance is required to permit development of a lot not having access to an improved street. The applicant is going to provide an easement through two lots so that lot 18 can be developed also as a single-family home. We heard testimony from the Township Engineer asking that the alignment of the road in the vicinity of lots 4, 5, and 6 be altered slightly to provide a buffer between the lots and the adjacent commercial property that is currently unimproved but may not always be that way. We heard comment outside of 200' talking about exchanging commercially zoned property with residentially zoned property, but the engineer's testimony was that this could occur without substantial harm to the zone plan or detriment to the public health. There are single-family homes across the street along Canterbury and Cambridge. We heard no testimony from people within 200'. He believes the variances can be granted because there is sufficient light, air, and open space in the proposed development.

Mr. Phifer – He believes the proposed use would promote general welfare for the simplistic reason that what is there now and has been for some time is offering nothing to the general welfare. And that the site is suited for the proposed use, which is residential, for the simple fact that right across the street Cambridge and Canterbury are a whole neighborhood. Those homes pose no problem with traffic in the area, and they are directly across from the proposed subdivision.

Mr. Burger – He believes the Township has a higher demand for families to get in rather than commercial businesses. He is in favor of the application.

Mr. Young – He believes the positive outweigh the negative, especially with regards to traffic. This is located near a corner that has had a lot of accidents. Commercial vehicles and tractor trailers pulling out there, would be a nightmare. He likes the deed restrictions informing future owners the property that while they follow the requirements of the R Zone, they are surrounded by commercial.

Mr. Rainear – Nothing to add.

Mr. Mashura – Nothing to add.

Ms. Galderisi – She thinks it is a great idea to develop the site. There is a high demand for residential in our area. It does promote a desirable visual environment as well by lining up across from an existing residential neighborhood. She is in favor to promote the welfare and help with lower income and COAH.

Mr. Casaccio – He concurs.

A motion to approve the application as presented, with the deed restrictions, for preliminary approval was made by Ms. Galderisi and seconded by Mr. Shawl. In favor: Burger, Galderisi, Mashura, Phifer, Rainear, Shawl, Casaccio

## **PUBLIC PORTION**

## **RESOLUTIONS**

Schultheis, Craig & Carol – Block 453 Lot 177.03 – BA 01-2023

A motion to approve the resolution was made by Mr. Shawl and seconded by Ms. Galderisi.

In Favor: Phifer, Galderisi, Burger, Young, Casaccio  
Abstain: Shawl, Mashura, Rainear

Summary of 2022 Zoning Board of Adjustment Applications  
Tabled until March 9, 2023

**BILLS**

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

**ADJOURNMENT**

A motion to adjourn the meeting was made by: Ms. Galderisi and seconded by Mr. Shawl. All in favor. The meeting ended at 8:48 pm.

Submitted by,

Liz Oaks