

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
 REGULAR MEETING MINUTES
 AUGUST 10, 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
James Burger, Alt #1	Present
Paul Casaccio, Chairman	Present
Sherrie Galderisi	Absent
Tom Jackson Alt #2	Present
Richard Mashura	Present
Lynn Petrozza	Present
Christopher Phifer	Absent

Member	Attendance
Donald Rainear Alt #3	Present
Andrew Shawl	Present
Matthew Unsworth	Absent
Hobie Young, Alt #4	Present

Also, in attendance were Jeffrey Barnes, Board Solicitor, Greg Schneider, Substitute Township Engineer and Liz Oaks, Board Secretary and Zoning Officer.

APPROVAL OF THE JULY 13, 2023 MEETING MINUTES

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

RESOLUTION

Gibson, Harry – Block 563 Lot 26 – BA 13-2023

A motion to approve the resolution was made by Mr. Shawl, seconded by Mr. Jackson
 In Favor: Burger, Jackson, Mashura, Shawl, Young, Casaccio
 Abstain: Petrozza, Rainear

Revised Zoning Board Meeting Dates - PB SP 03-2023

A motion to approve the resolution was made by Mr. Shawl, seconded by Mr. Burger
 In Favor: Burger, Jackson, Mashura, Petrozza, Rainear, Shawl, Young, Casaccio

BILLS

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

Greg Schneider and Liz Oaks were sworn.

NEW APPLICATIONS

HUNTER, W. GARRY – BLOCK 495 LOT 1.01 – BA 10-2023

Applicant is seeking bulk variances for a front yard setback, side yard setback, height of an accessory structure, impervious coverage, building coverage and a use variance to permit a second dwelling where only single-family dwellings are permitted to construct a detached garage with a second floor two-bedroom apartment at 321 Oceanwoods Avenue, Marmora, New Jersey.

Jon Batastini, Attorney for the applicant describes the purpose of the application and who he will present for testimony.

Louis Scheidt, Engineer, Gibson Associates, 522 Sea Isle Boulevard, Sea Isle, was sworn as an expert.

William Hunter IV, 27 Waihili Place, Kihei, Hawaii, was sworn.

Mr. Hunter testified the property was purchased for his parents three years ago with the thought that he would move in with them when they got older to help. Since then, his father has had many surgeries and his mom has a pacemaker. He is currently living in Hawaii but will be coming back for the family. Their uncle has since moved in and occupies the second floor that he had intended using, creating a need for additional living space. They have downsized the original plans due to comments from the neighbors. There is a pitched roof for aesthetic reasons and to match the existing dwelling. This creates attic space they do not intend to use for anything other than storage and are willing to deed restrict the property to prevent any use of habitable space. He intends to move back making this his full-time residence.

Mr. Scheidt – The proposed is a stick-built garage with a garage apartment. It is located on three streets, Elmwood, Ocean, and Mistletoe which creates three front yards and has its limitations. Elmwood is the busier of the three. This is in a residential zone and will continue to be a residential use. They are seeking a use variance, height variance and rear yard setback variance. The height variance is because they want it to blend in with the house. The rear yard setback is to try to tuck the building in the rear and room for septic and well. It is the most appropriate location on the property especially considering there are three front yards, and this is the most isolated corner of the property. They meet coverage requirements. He believes the special reasons include the benefit to the health, safety and general well being of the public due to taking care of seniors in the community. It encourages senior housing. It is aesthetically pleasing architecture and landscaping. It is good civic design to choose Elmwood rather than Mistletoe. This is still a single-family unit with the father, son, and uncle even though there are separate units. There is no negative criteria that he can see. There is no substantial detriment to the master plan or the purpose or intent of the zone plan because it is still a single-family dwelling in a residential zone.

Mr. Young – Who will be living in the garage, and will it be deed restricted?

Mr. Hunter – It will be deed restricted that will allow only family to occupy the space and the attic will not be habitable space.

Mr. Rainear – Was an addition considered?

Mr. Scheidt – The structure is not set up in a way that would allow that. They would like to keep some privacy and they are already downsizing by approximately 70%.

Mr. Batastini – They would still need to come to the board for a variance for coverage.

Mr. Barnes adds that it should be agreed that they do no condo out the units.

The meeting was open to the public within 200’.

Olena Dmytrenko, 24 Mistletoe Avenue, was sworn. Ms. Dmytrenko stated they do not have any problem with the application. They are in favor of the application.

Howard Necowitz, 27 Elmwood Avenue, was sworn. Mr. Necowitz had been put in a position to care for elderly family members and is in support of the application.

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

Mr. Shawl – The applicant, W. Garry Hunter IV, comes before the Upper Township Zoning Board for his property at 321 Oceanwoods Avenue in Marmora, also known as block 495 lot 1.01. The property consists of a single-family, two-story dwelling with an attached garage. The applicant is proposing to add a single-family apartment with an attached garage. They are requesting a use variance for two dwellings on a single lot. They also need a front yard setback variance of 10’ where 50’ is required and a variance for building height of 29’ where 20’ is required. The applicant’s attorney described the project, and the applicants engineer gave technical reasons. The purpose of the additional single-family dwelling is so that family can move back and care for other family members who would live in the existing dwelling. The design of the proposed structure is keeping in character with the neighborhood as well as the character of the architecture of the existing dwelling. The property is bounded by three roads which creates three front yard setbacks. The location on the property allows for the septic and well. The location is also on the road that is used least and will keep the impervious coverage to a minimum. The pitch on the roof is designed to look like the existing house. The height is 29’ to the peak of the roof which requires a variance, the maximum height allowed is 20’ for an accessory structure. The applicant has agreed to a deed restriction that no habitable space would be allowed in that area. The new dwelling is designed to look like a single-family dwelling that is consistent with the neighborhood and Upper Township. The applicants engineer provided testimony that there would be no detriment to the public health and no detriment to the zone plan and zoning ordinance because of the existing size of the lot and only needing two variances given the irregularity of the lot being surrounded by three public roads. It is a residential zone with a residential use so that won’t be changing. The engineer listed special reasons or positive criteria to provide support for the variance.

- 1- (a.) To encourage municipal action to guide the appropriate use or development of all lands in the state which will promote the public health, safety, morals and general welfare.
- 2- (g.) To provide sufficient space in appropriate locations for a variety of uses.
- 3- (i.) To promote a desirable visual environment through creative development techniques and good civic arrangements.
- 4- (l.) To encourage senior citizen community housing construction.

He agrees with these reasons. Additionally, the applicant has agreed to deed restriction so that only family occupy the dwelling and no habitable space in the attic. He agreed with the testimony

provided by the engineer and believes the variances can be granted without substantial harm to the public or the zone plan.

Ms. Petrozza adds the applicant agreed not to condo the unit and there was positive testimony from the public. She is in favor of this application.

Mr. Jackson is in favor of the application.

Mr. Young – It is in a good location to allow for this. He is happy with the deed restrictions and finds it commendable to help with the family. The senior housing is beneficial. It meets the criteria for a use variance. He is in favor of the application.

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

Mr. Rainear – Nothing to add, he is in favor of the application.

Mr. Mashura – Nothing to add, he is in favor of the application.

Mr. Casaccio – He concurs with the findings and is in favor of the application.

A motion to approve the application with the two deed restrictions was made by Ms. Petrozza, seconded by Mr. Jackson.

In Favor: Burger, Jackson, Mashura, Petrozza, Rainear, Shawl, Casaccio

Mr. Casaccio steps down for the remainder of the meeting due to conflict. Mr. Shawl will serve as chairperson in his absence.

115 ROUTE 50 ASSOCIATES, LLC – BLOCK 549 LOT 3 – BA 12-2023

Applicant is seeking a use variance and preliminary and final site plan approval with variances for impervious coverage of 58.8% where 50% is required, tree preservation of 9.3% where 15% is required, accessory structure in a front yard, a sign of 80 sq ft where 32 sq ft is permitted and a 5 ft setback of a sign where 20 ft is required for an outdoor storage facility at 115 Route 50, Seaville, New Jersey.

Ronald Gelzunas, attorney for applicant describes the application. The property is currently vacant, and the applicant wants to create an outdoor storage facility. They are seeking preliminary and final site plan approval with variance relief for permitted uses in the TC district and some minor variances. There have been some changes to the plan after some public concerns.

Rami Nassar, Engineer, Schaeffer Nassar and Scheidegg, 1425 Cantillon Boulevard, Mays Landing, was sworn as an expert.

Robert Bruenig, Applicant, 4 Meadowview Lane, Tuckahoe, was sworn.

Mr. Nassar introduces exhibit A-1, an aerial site plan. The site is a V-shaped lot with 150' frontage. It is located along a bend on Route 50. There is low visibility due to billboards. It is between residential and commercial. They propose to clear a portion of the site and create an outdoor storage facility. There will be no structure other than a shed for some equipment with solar panels for security lights. There will be no gas or electric on site. Without utilities there will

not be people coming in and using the site for perhaps working on their stored car. They expect to store RV's and boats, so homeowners don't have to leave them on their property. Some local contractors need space to store materials. There will be specific hours they will be able to access stored items. There will be security lights and cameras. The access is along Route 50 that they have already received approval for the opening. The proposed use is much less intensive than other allowable uses allowed for this zone.

Mr. Nassar introduces exhibit A-2, a site plan showing an alternate location for a utility shed that would meet the 50' setback requirement, eliminating the need for a front yard variance. The exhibit shows keeping natural wooded area along the front of the property with only an opening for the driveway. There is no need to try to show the people where it is as you would a traditional self-storage facility. There will be a rack for wave runners. RV's and boats will be seasonal, not daily. There will be minimal traffic generated. Maybe 5-6 trips per day. The shape of the lot and the location limit use. What is proposed is the best use. The stormwater management plan is compliant. The buffer will be increased from 10' to 15'. The wooded coverage had been 9.3%, but by moving the shed and keeping the wooded area they are now just over 15% and will now be compliant. This eliminates the need for that variance. They were asking for a variance for the sign area, but they can reduce that to be compliant. Also, these changes allow for the sign to be setback 20' rather than 5'. This site is particularly suited for this use. There will be no asphalt or concrete so it will be less impactful. The proposed impervious coverage is 53% of crushed stone, where 50% is required. There is no infrastructure other than the stormwater management. The TC zone is a mixed-use zone with self-storage being a conditional use. It will be beneficial to both commercial businesses and the residents in the community. These factors make this site particularly suitable for this use. There is no substantial detriment to the zone plan or zoning ordinance. There is no substantial detriment to the public good. It is a low intensity use. There is access from a main road and won't disrupt any neighborhoods and it will be obscured from the public. There is a nuisance buffer and there are no structures.

Mr. Bruenig – It is unique in concept because there will be no one on site. They will contact him, and he will meet them on the site and discuss their needs and what they want to use the site for. There will be rules and regulations, such as no explosive devices. Keeping it clean. There will be a gate that is powered by solar panels. The camera system will also be powered by the solar panels. There are two proposed lights for security that will have the cameras on them. There is no well, no water, no electricity. No work will be allowed on site.

Mr. Young has various concerns about visibility, site triangles and buffers. Will the property be deed restricted. Is this essentially a dump? Natural vegetation. Crushed concrete or shells? Shells can be loud and should be a condition they agree not to use crushed shells. He is also concerned about no restroom facilities and the proximity of the Custard Hut and neighbors. He doesn't believe the lack of restrooms itself will deter people from working on site and is believes there is a likelihood that there may be men urinating in areas that may be visible.

Mr. Bruenig – Assured the board there will be no dumpster and no trash. There will be no businesses run out of the site. They will not be using crushed shells, but crushed concrete.

Mr. Nassar – The site triangle is in accordance with DOT requirements bit it could be pulled back to get more visibility, possibly. There may be new plantings, but they would be in the nuisance buffer not in the site triangle.

Mr. Jackson doesn't believe the lack of available electric will deter working on-site. There are many battery-operated tools. He doesn't see how you will be able to prevent working on-site. If you have diesel powered vehicles such as backhoes, they will be very noisy. He would like to see a more specific list of what can and can not be stored there.

Mr. Shawl would like to see some type of operation plan and more detail about the stormwater management.

Mr. Barnes – Believes the board is looking for more detail. What is happening on-site. A deed restriction is not easily applied to this application. He suggests a list of what is permitted, and anything not listed is prohibited.

Mr. Gelzunas – It is an outside storage facility enforced by zoning and what is permitted.

Mr. Barnes – Outdoor storage isn't like self-storage which is contained in a structure. Without guidelines it could include materials such as scrap creating more of a junkyard.

Ms. Petrozza – What types of vehicles? Will there be tractors, school busses?

Mr. Burger – There are no parking areas, no trash area, no signage. It looks like an incomplete site plan.

Mr. Barnes – Without knowing what is going on it is difficult to determine what is required. Such as the dark sky lighting that is a concern in the township. You mentioned lighting would be minimal but what specifically. How high, what is the candle. The buffering is a concern, it will be substantially different in the summer than the winter.

Mr. Nassar stated that this information is on the plans. They did not include a trash enclosure because they don't expect or want people to create any trash. They come in and either pick up or drop off items being stored only.

Mr. Shawl – Would there be open bulk.

Mr. Bruenig – They would not permit any open bulk.

Mr. Young – What if there were landscapers. Maybe they have four trucks and their employees meet there. Now we are talking about trailers.

Mr. Jackson – The solar powered gate are the time restrictions?

Mr. Bruenig – 7:00 am to 7:00 pm.

Mr. Gelzunas – They can come up with a list of items to be approved by the board.

Mr. Barnes – The deed restriction would be attached to the resolution.

Mr. Gelzunas – He does not like the deed restriction.

Mr. Burger – Do you have a list in your head?

Mr. Bruenig – He has had contractors approach him because he has other commercial properties on Route 50 already. They want to store their trailers because these smaller businesses can't afford to buy property and open a yard. They don't want to be a nuisance in their neighborhood. This location lends itself to do this. If someone wants a 50'x 50' area they would find an area that suits them and put a stake in the ground.

Ms. Petrozza – Someone may be storing a dump truck and may come in park in the spot that the truck occupied, use it, come back, and switch it out. She would request a specific list of what is permitted.

Mr. Shawl is concerned about open bulk or tanks.

Mr. Young – At what point would this type of storage facility become an industrial park with landscapers coming and going. We need specifics or it can't be enforced by zoning.

Mr. Barnes – There really isn't anything to compare this to.

Mr. Burger – Maybe they should increase the landscape buffer.

Mr. Jackson is concerned with the height of the rack that would store boats and wave runners.

Mr. Mashura – The perimeter is more than half residential and abuts the ice cream stand and the vet behind that. He is concerned about restroom facilities. Would there be a maximum amount of time someone is restricted to being on-site?

Mr. Shawl – Suggests moving forward by coming up with a list.

Mr. Gelzunas – Believes the discussion has helped to understand what they are looking for.

Mr. Shawl called for a five-minute break at 7:58pm.

The meeting is back in session at 8:05pm.

Mr. Shawl – We have a lot of questions from what has been presented. He does not believe the likelihood of proceeding at this time will be a productive use of time.

Mr. Gelzunas would like to ask for an adjournment to allow the applicant time to address the concerns that were raised by the board. Namely, the applicant will come back with a definitive list of things he is asking to do and items he is asking to store. That would be what will be before the board to vote on to approve. He could do less than that but not in addition to that.

Mr. Shawl – We would also like to see a list of items restricted, items permitted, hours of operation, how it will be accessed.

Mr. Barnes emphasized the importance of a list.

Mr. Nassar – Could include defined areas on the plan. Maybe high intensity in the front.

Mr. Young suggest a scrub area for tires.

Ms. Petrozza – Would like to see the traffic flow.

Mr. Shawl questions the buffer requirements.

Mr. Schneider – They are leaving the buffer but may need to add supplemental where needed. To be verified by site inspection.

Mr. Mashura questions fencing.

Mr. Bruenig - There is a 6' vinyl in the front and 6' chain-link on the remainder.

Mr. Schneider requests drainage calculations.

Mr. Young explains he will not be available for the October meeting if it gets to that date.

There was a brief discussion about who might be available and who might not be available for the future meeting.

ADJOURNMENT

A motion to adjourn the meeting was made by: Ms. Petrozza, seconded by Mr. Shawl.
All in favor. The meeting ended at 8:15 pm.

Submitted by,
Liz Oaks