

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
 REGULAR MEETING MINUTES  
 NOVEMBER 2, 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	Present
Tom Jackson Alt #2	Present
Richard Mashura	Absent
Lynn Petrozza	Present
Christopher Phifer	Present

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

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

Christopher Phifer left the meeting due to the number of board members in attendance.

**APPROVAL OF THE OCTOBER 5, 2023 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Unsworth and seconded by Ms. Galderisi.  
 In Favor: Burger, Galderisi, Jackson, Shawl, Unsworth, Casaccio  
 Abstain: Petrozza

Greg Schneider and Liz Oaks were sworn.

**TABLED APPLICATIONS**

**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.

This application has been tabled to the December 14, 2023 meeting.

**NEW APPLICATIONS**

**LUCHESE, JOE – BLOCK 639 LOT 8 – BA 16-2023**

Applicant is seeking variance relief for a rear yard setback of 10’ where 40’ is required, accessory building coverage of 0.78% where 0.5% is permitted and a use variance to construct a temporary event tent to use property as event space at 501 Butter Road, Palermo, New Jersey.

Colin Bell, Attorney for the applicant, gives a brief overview of the application. The lot is approximately 14.8 acres located in the Conservation Zone. It currently has the applicants home on the property. It is a sustainable working farm. There are seasonal crops with flowers for sale. The application has two elements first is to gain approvals to authorize small field trips by schools, Boy Scouts, Future Farmers of America, and agricultural educational tours. They have greenhouses, ponds, and sustainable farms. They have a lot of different teaching stations to use to explain how sustainable agriculture works. There would be a limit of 40 students and 5 chaperones/educators and would only be held during the daylight hours. They will be operating consistently with the State Agricultural Development Committees definition of agricultural educational activities. The second aspect of the application is a use variance to allow them to hold up to six special occasion events a year to contribute to the future economic viability of the farm. It would be very limited with a maximum of six events per calendar year, no more than eighty guests and between the hours of 12:00 p.m. and 10:00 p.m. with adequate parking. They are also seeking relief for a rear yard setback for the temporary tent being used for the special events. They believe the benefits of this application outweigh any detriments.

Joseph Luchese, 501 Butter Road, was sworn.

Vincent Orlando, Engineer, Engineering Design Associates, 5 Cambridge Drive, was sworn as an expert.

Mr. Luchese testified they have owned and operated an in-home educational tutoring company since 1999. They tutor all ages and subjects. His wife and himself are college educated but not working teachers. Their daughter is a working teacher and will be the principal in this venture through consulting and developing the curriculum for the day trips. Their son will be developing the website and coordinating the day-to-day operations of the trips. They will develop age-appropriate agricultural related educational activities. Some of the stations include a nursery, ground mount solar, two different ponds that are very different from each other (one is in the shade, one is not, and they have different filtration systems). The bulk of the property is forested and offers marked hiking trails. There is a barn with chickens and pigs. No one would be permitted in the barn for security. The barn was financed through the soil conservation service, and they have a waste management plan offering lessons in composting of waste, both liquid and solid. He confirms there will be a maximum of 40 students with 5 adults and will only be during daylight hours.

The special occasion idea was initiated when they successfully hosted their daughter's wedding. It will be limited in size, and it is a nice setting. It is their home, so they won't let anything get out of control. He confirms that the special events will be limited to six per calendar year with a maximum of 80 guests and to be held between the hours of noon and 10:00 pm. He will apply for a zoning permit for the special event tent.

Mr. Orlando –Referencing the site plan dated 9/14/2023, sheet 1 and various photos. There is an existing chicken coop. There are trails through the forested area with a variety of flora and fauna. It goes from a wetland to an upland environment which allow for many different species. Up in front is the main house, along with the solar panels and greenhouses. The existing infrastructure will remain the same. He shows where the special event parking will be which will include the use of a valet during events. Up in front will be the school bus parking. He described where the special event tent will be. It will be 30' x 80' and 10' from the property line. The lot coverage will be less than 5% for all accessory structures on the property. Even though this is a

temporary tent they seek a variance for the 10' setback. The properties that neighbor the property line where the proposed tent will go are most likely undevelopable because they are owned by the town and the state. He believes these variances could be looked at under the purposes of zoning specifically 40:55D-2 item 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 sustainability of the agriculture allows this property to be unique in nature and allows our purpose in zoning to be advanced. When you look at the negative aspects of it; is there any negative impact on the zoning plan or zoning ordinance. This meets the goal of sustainability. He believes the zone plan and ordinance are advanced with this application. Is there any substantial impact on the neighborhood. He believes this is an island in itself. There aren't any neighbors that will be impacted.

Mr. Luchese confirmed that there would be portable restrooms brought in during events, they are not adding any permanent structures and the tent would only being up during the events.

Mr. Orlando confirmed the use of valet during events. There will be enough parking that allows for 80 people. The plan shows 12 event spaces to shuttle back and forth. It will be more reliant on manpower. The health department will dictate the restroom requirements.

Mr. Luchese explained that during school events he will have two handicapped facilities and washing stations.

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. Unsworth – The applicant, Joe Luchese, is before the board regarding his property at 501 Butter Road also known as block 639 lot 8. The applicant has a working farm and is seeking a use variance to open it up for educational opportunities to students and educators. He has planned for the traffic required for buses, restroom facilities and washing stations. The property is a unique isolated property with lots of wetlands on it. They will limit where the activities can take place. He is not adding any permanent structures. The one bulk variance he needs is a side yard setback of 10' for the temporary tent being used during special events with a maximum of 6 times within a calendar year and a maximum of 80 guests are permitted. They will bring in temporary restroom facilities for larger events. They discussed traffic and valet parking needs that has been addressed by the 12 sites nearest to the tent and main property. There are additional sites on the other side of the property. There was a discussion of how the valet will shuttle vehicles back and forth. There was no public comment. He likes the application. He believes the existing farm is a wonderful use and opening it up to students is even better. He believes it is well suited for special events. It is an isolated location; it is attractive, and they have ample space. There will be a condition that the applicant will notify the township of events and will obtain a permit for the tent for each use. They have based their design on the state agriculture activities recommendation.

Ms. Galderisi – Concurs with the findings of fact and likes that the applicant will be opening their personal property to share with the community. She believes it is a good use and is in favor of the application.

Mr. Jackson – The maximum of special events is limited to 6 times per year. He is in favor of the application.

Mr. Burger - Concurs.

Ms. Petrozza – Concurs with her colleagues. She concurs with Mr. Orlando with special reason 40:55D-2 item g. – To provide sufficient space in appropriate locations for a variety of agricultural, residential, etc. She is in favor of this application.

Mr. Shawl – Concurs with his colleagues. We heard testimony that the property is 14.87 acres and has been a farm since 1988. They raise livestock, pigs, hens and goats and a perennial nursery. The education trips will be limited to 40 students and 5 educators or chaperones which was outlined in the plan of operation that was submitted with the application. The education that was proposed will be about solar systems, plant nursery, ponds, chicken, pigs, and the forest. The farm was financed through the soil conservation service and there may be some waste management classes. He concurs with his colleagues about the special reason and the testimony they heard. He concurs with Mr. Orlando’s testimony that there is no substantial detriment to the zoning plan or the public health by granting this variance. He agrees it can be granted.

Mr. Casaccio – Concurs with his colleagues.

A motion to approve the application as presented with the restrictions that are currently on the plan was made by Mr. Jackson, seconded by Ms. Petrozza.

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

MILLEVOI, KENNETH AND NANCY – BLOCK 454 LOT 7 – BA 24-2023

Applicant is seeking variance relief for a rear yard setback to construct a screened porch at 7 Nordic Drive in Petersburg, New Jersey.

Shannon Halliday, RA, Halliday Architects, 728 West Avenue, Ocean City, was sworn.

Avery Teitler, Esquire, for the applicant explains the application.

Mr. Teitler – The applicant, Nancy Millevoi, is the owner of 7 Nordic Drive known as block 454 lot 7. The property is a large irregularly shaped lot measuring 56,956 square feet located in the center residential zone. It is a single-family dwelling that is currently being renovated. The applicant is seeking approval to extend a rear screened in porch with an adjacent open deck. There is only a very small portion that encroaches into the rear yard setback. Most of the porch will be conforming. There are no other variances being requested. He believes the variance can be granted under the C2 standard in that multiple uses of zoning will be achieved as a result of the project including providing better aesthetic to the rear yard, provide sufficient space in the appropriate location, providing better light air and open space. The testimony and evidence will indicate the positive aspects of this application outweigh any negative aspects. The testimony will indicate there is no substantial detriment to the public good and granting the variance will not substantially impair the intent and purpose of the zone plan or the zoning ordinance.

Ms. Halliday testified the property is an irregularly shaped lot with an existing single-family dwelling. Their design includes an interior remodel as well as an exterior facelift. The renovation includes new front and rear decks capturing the existing garage and bedroom for interior space and constructing a new dew detached garage. They are requesting relief for the encroachment of a screened in porch into the rear yard setback. They want to have the screened in porch align with the uncovered portion of the deck which are both adjacent to the existing kitchen and dining

rooms. Due to the position of the home on the lot; the corner of the screened in porch projects 4'2" into the rear yard setback. Only one variance is being requested and that is for the rear yard, a "C" variance. They are not exacerbating any other conditions. It is only a small portion of the porch, only about 21 square feet which she considers a de minimis request. It would look odd if they were to cut off that portion or not line it up with the other portion. A smaller screened in porch would not be functional. There are two neighbors, their homes are well over 150' away. The area is heavily wooded. She believes the variance can be granted under the "C"2 standard. Several purposes of zoning are being met under the MLUL. The screened in porch provides more light, air, and open space. It provides for better aesthetic, sufficient space in appropriate locations. She believes the application to be de minimis in nature. The building and impervious coverage are below what is allowed. She believes there is no substantial detriment to the public good. There is no impairment to the intent or purpose to the zone plan or zoning ordinance. She believes the negative criteria has been satisfied.

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. Unsworth – The applicant, Kenneth and Nancy Millevoi are here for their property at 7 Nordic Drive in Woodbine known as block 454 lot 7. The applicant is seeking variance relief for a rear yard setback to construct a screened porch. The lot is irregularly shaped and the house is set on an angle exacerbating the issue. The coverage is well under so they could be doing more. They could also alter the size or shape of the porch but it would not be functional or aesthetically pleasing. There is substantial buffering and distance to the neighbors to the rear that could be an impact, but he does not believe the project will have any effect on them and doesn't think they will be able to see it. He agrees with the discussion that the request is de minimis. He doesn't feel there is any detriment to the public good. There was no public comment. He doesn't see any harm in granting the variance.

Ms. Galderisi – Concurs and agrees that the request is de minimis.

Mr. Jackson – Nothing to add.

Mr. Burger – Nothing to add.

Ms. Petrozza – In favor of the application.

Mr. Shawl – Concurs with his colleagues that this is de minimis. Granting the variance would maintain the character with the neighborhood. The design of the porch does promote light, air, and open space.

Mr. Casaccio – Nothing to add.

A motion to approve the application, was made by Ms. Galderisi, seconded by Mr. Unsworth. In Favor: Burger, Galderisi, Jackson, Petrozza, Shawl, Unsworth, Casaccio

### **RESOLUTION**

DeMarcantonio, Ed and Beth – Block 829 Lot 12 – BA 15-2023

A motion to approve the resolution was made by Mr. Unsworth, seconded by Ms. Galderisi.

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

## **DISCUSSION**

### **Amendment of Rihl Resolution BA 08-2023**

Ms. Oaks, the board secretary, explained this applicant had misspoken during her presentation. The minutes and the audio recording prove that Ms. Rihl had verbally stated they were seeking a front yard setback of 15'. However, her plans and application stated the need for a set back of 11.9'. This error was discovered when Ms. Rihl submitted her zoning permit application. The applicant is seeking an amended resolution to reflect the correct setback request of 11.9'.

A motion to amend resolution BA 08-2023 to reflect the 11.9' setback was made by Mr. Jackson, seconded by Ms. Galderisi.

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

### **2024 Calendar Dates**

The following dates are proposed for 2024:

January 11	July 11
February 1	August 1
March 7	September 5
April 11	October 3
May 2	November 14
June 6	December 5

A motion to approve the 2024 meeting dates was made by Ms. Petrozza, seconded by Ms. Galderisi.

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

### **Board Engineer Position**

Mr. Casaccio explained that Mr. Schneider is with the board on a temporary basis, and they will need to select a permanent engineer. The planning board is placing an ad for RFQ's and suggests the zoning board follow their lead. He suggests a sub-committee of three board members be established to move forward with a search for a permanent engineer.

The sub-committee will consist of Mr. Unsworth, Ms. Galderisi, and Ms. Petrozza.

## **BILLS**

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

## **ADJOURNMENT**

A motion to adjourn the meeting was made by: Ms. Galderisi, seconded by Mr. Unsworth. All in favor. The meeting ended at 7:48 pm.

Submitted by,  
Liz Oaks