

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
 REGULAR MEETING MINUTES
 FEBRUARY 1, 2024

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	Present
Lynn Petrozza	Present
Christopher Phifer	Present

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

Also, in attendance were Jeffrey Barnes, Board Solicitor, Joseph Iudica, Substitute Board Engineer and Liz Oaks, Board Secretary and Zoning Officer.

OATH OF OFFICE

Matthew Unsworth, Richard Mashura, Thomas Jackson, and Donald Rinear take the official oath of office.

Due to the number of members in attendance Mr. Mashura left the meeting at this time.

Greg Schneider and Liz Oaks were sworn.

APPROVAL OF THE JANUARY 11, 2023 MEETING MINUTES

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

TABLED APPLICATIONS

John Federico – Block 560 Lot 2 & 3 – BA 25-2023

Applicant is seeking a use variance to allow for a 100-room hotel with 24 residential units at 2069 and 2071 Route US 9 South in Seaville, New Jersey.

This application is tabled until the March 7, 2024 meeting at 6:30 pm. Pending any possible changes to the application.

Schroder, Schroder and Delmonico – Block 453 Lots 249.05 & 255 – BA 01-2024

Applicant is seeking a minor subdivision with a use variance to expand the existing campground at 98 Corson Tavern Road in Seaville, New Jersey

This application is tabled until the March 7, 2024 meeting at 6:30 pm.

NEW APPLICATIONS

Bruenig, Robert – Block 453 Lot 171.02 – BA 17-2023

Applicant is seeking site plan approval to construct a 2,250 square foot garage where former approval was for a 20,000 square foot building. Proposed storage yard use is to be continued as the previous use variance was granted at 170 Route 50 in Petersburg.

Mr. Amenhauser, attorney with the DeWeese Law Firm, representing the applicant, Robert Bruenig. This application is a continuation from the December meeting. Mr. Amenhauser was not at that meeting. He has had a discussion with Mr. Barnes, the board solicitor, regarding an objector and their position related to the approvals they are seeking. They had applied for a conditional use in the CM2 Zone. It is their position that this meets the conditional use requirements for a repair shop, service station as is identified in the ordinance. This is how the application was noticed. There is an objection this is more than a conditional use, rather this is a D2 expansion of a pre-existing, non-conforming use since a use variance was granted for this lot 20 years ago. Before he presents the application, he would like a discussion about what they are asking for. If it is a conditional use, they would like to proceed. If it is decided by the board, it is not, they would need to re-notice.

Mr. Barnes – When the applicant was originally approved for a use variance, it was for specific uses. Now they have come back to ask to do other uses. The question is, in fact, does the applicant fit into the conditional uses of that zone or do they need to come back to seek a use variance to be able to do the proposed use rather than what was originally approved. Another issue is the relocation of the building. He isn't even sure if all the board members are aware of this change.

Mr. Casaccio – We can't hear the application based on this.

Mr. Barnes – You can't hear it if you believe they need a use variance. If you believe it is a conditional use based on what was originally approved, you can. He continues to point out there is an objector, Mr. Baldini, in the audience that he has had a discussion with. He believes Mr. Baldini will advance the argument that the applicant needs a use variance that was not advertised and that the board may not have jurisdiction. If the board decides to hear the application Mr. Baldini will likely file an appeal on the basis that they should not have heard it.

Mr. Phifer – We want to make sure everything is done correctly, and it would be best to err on the side of caution.

Mr. Shawl – When the applicant advertisement has verbiage that says, “and any other variances the board requires”. Does that not cover it?

Mr. Barnes – That wording is more for the bulk requirements. But a use variance would not necessarily be covered under that catch-all phrase if there is an appeal specifically.

Mr. Casaccio questioned whether there is a change in the plans themselves.

Mr. Amenhauser – There are revised plans, but they do not trigger any variance relief. The applicant made a change due to a complaint by a neighboring business, Bill Bailey. He has proposed moving the structure 79.6' toward the center in an effort to alleviate the noise.

Robert Bruenig, 4 Meadowview, was sworn.

Mr. Bruenig testified that he had met with the neighbor after the last meeting in the lobby. He got some feedback which he addressed by moving the building off the property line and making sure the air compressor was inside the building. He also removed four old trucks that were on the lot and implemented a driver program where the trucks back in so that when they leave in the morning, they can pull straight out avoiding the back up beeping. The board members signaled that some trees had made it in the 2002 approval but never made it to the plan have since been planted.

Mr. Amenhauser believes that the application is accurate requesting a conditional use, however, if the board believes a D2 variance is required they will re-notice for that.

There was a brief discussion with the board members. It was decided that it would be better to err on the side of caution.

Mr. Amenhauser – Given the way the board is leaning; they would like to request an adjournment to the March 7th meeting in order to re-notice and make the revised plans available for the public to review.

Mr. Barnes suggests they advertise for both a D1 and a D2 variance.

The meeting is open to the public.

Paul J. Baldini, Attorney on behalf of William Bailey. He stated his opposition to the application. He agrees with the comments from both council that this application needs to be re-noticed for the change in site plan and he believes this is a D1 variance. It is a separate use from the previously approved use.

Mr. Casaccio – Encourages communication between both parties.

Mr. Baldini explained he and Mr. Amenhauser have been in contact and expect to continue.

Seeing and hearing no one else, this portion was closed.

Mr. Casaccio - The Bruenig application will be adjourned to the March 7, 2024 meeting.

Atlantic Cape Builders, LLC Block 348 Lot 83.01 – BA 28-2023

Applicant is seeking variance relief for lot area and lot frontage with a use variance to permit residential use in the CM4 zoning district to construct a one story, single-family dwelling at 1611 Route 50 in Tuckahoe, New Jersey.

John Amenhauser, Attorney on behalf of the applicant, Atlantic Cape Builders. Explained the property located at 1611 Route 50 in Tuckahoe, also known on the tax map as block 348 lot 83.01 in the CM4 zoning district. The applicant is seeking approval to demo an existing single-family dwelling to re-construct a new single-family dwelling. They seek a D1 use variance as single-family dwellings are not permitted in the CM4 Zone.

Vince Orlando, Professional Planner with EDA at 5 Cambridge Drive, was sworn.

Mr. Orlando – The property has an existing single-family dwelling on site. The applicant, Mr. Tower, would like to demolish the existing single-family home and replace with a 1,400 square foot single-family home. The proposed will meet the bulk requirements for the CM4 zone. There is a common driveway off Route 50 already existing. As part of the application, they also noticed people within 200’ of this lot as well as people within 200’ feet of lot 83.06 which is a larger flag lot. It is located just south of the subdivision done about 30 years ago. All of the development in the immediate area is residential in nature. He believes the board can find that certain purposes of zoning are advanced. That the general welfare of the community is advanced. Having this as a single-family dwelling makes sense. It improves the aesthetics because the house there is much older. A newer home would have a better curb appeal. He believes it is an appropriate use for this particular location. For these reason under statute 40:55D-2 he believes the board can grant the variance. In addition, they must look at the negative criteria. He does not believe there is any substantial detriment to the public good, zone plan or zoning ordinance. The property is being used as a single-family dwelling now and does not believe the neighborhood will be impacted at all. And given this particular location, he does not believe there is any impact on the zone plan or zoning ordinance. In addition to the D Variance, they need variance relief for lot area, lot frontage and lot width. The CM4 Zone requires 2 acres and 200’ of frontage. This property has 159’ of frontage and 1 acre. This had been done as a 3-lot subdivision about 20 years ago and back then everything was zoned residential. They will abandon existing well and septic and provide new.

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, Atlantic Cape Builders, LLC, are here regarding the property located at 1611 Route 50, also known on the tax map as lot 83.01 block 348. They have an existing 1-acre lot that was subdivided about 20 years ago and at that time it was zoned residential and was subdivided as a conforming lot. There is an existing older single-family home on the lot. The applicant is proposing to remove that home and construct a new home in its place. They are asking for a use variance because this is in a commercial zone. They are asking for variance relief for lot area, lot frontage and lot width. They heard testimony from the engineer that the use is consistent with the use in the area. The lot size of 1-acre does not meet current zoning standards of 2-acres in the commercial zone. There is no change of the use of the property. There is no change of the lot lines. It will improve the aesthetics of the property with a new structure. The new structure will be up to code, enhancing safety and welfare of the public. They will be replacing the well and septic which will environmentally improve the site. There was no public comment. He is in favor of this application as presented and it improves the site and is a good use for the lot.

Mr. Young - He concurs.

Ms. Galderisi – Concurs.

Ms. Petrozza – Concurs

Mr. Jackson – Nothing to add.

Mr. Burger – Nothing to add.

Mr. Shawl – Agrees with the testimony we heard that the proposed development is a better aesthetic and an appropriate use because it has been a house for so long. There would be no

detriment to the zone plan and zoning ordinance. And no detriment to the public good by granting the variances.

Mr. Rainear – Concurs.

Mr. Phifer – Agrees with his colleagues.

Mr. Casaccio – Adds that even if had been commercial, variances would have been needed.

Mr. Barnes – With the condition that the house complies with the engineer’s report and the house does not exceed the size on the plan.

Mr. Orlando – They agree to not exceed the allowed 5% coverage but will amend the plan to include front steps and a deck. He will submit revised plans to the board engineer for approval.

A motion to approve the application with modified plans and conditions was made by Mr. Unsworth and seconded by Ms. Petrozza.

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

RESOLUTIONS

Michael Butterfield Block 559 Lot 21.06 and 21.09 – BA 29-2023

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

In favor: Burger, Galderisi, Jackson, Petrozza, Phifer, Shawl, Young, Casaccio

Abstain: Rainear, Unsworth

Modder, Adam Block 453 Lot 240.08 – BA 30-2023

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

In favor: Burger, Galderisi, Jackson, Petrozza, Phifer, Shawl, Young, Casaccio

Abstain: Rainear, Unsworth

Agreement with Kates Schneider as Interim Board Engineer

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

In favor: Burger, Galderisi, Jackson, Petrozza, Phifer, Rainear, Shawl, Young, Casaccio

Favor: Unsworth

Agreement with Kates Schneider as full time Board Engineer

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

In favor: Burger, Galderisi, Jackson, Petrozza, Phifer, Rainear, Shawl, Unsworth, Young,

Casaccio

Resolution Naming Official Newspapers for the Zoning Board

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

In favor: Burger, Galderisi, Jackson, Petrozza, Phifer, Rainear, Shawl, Unsworth, Young,

Casaccio

Recommendations to the Planning Board

A motion to forward the summary of recommendations to the planning board was made by Ms. Petrozza and seconded by Ms. Galderisi.

All in favor.

BILLS

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

PUBLIC PORTION

The meeting was open to the public. Hearing no one and seeing no one this portion was closed.

ADJOURNMENT

A motion to adjourn the meeting was made by: Mr. Phifer, seconded by Ms. Galderisi.
All in favor. The meeting ended at 7:19 pm.

Submitted by,
Liz Oaks