

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
 REGULAR MEETING MINUTES
 APRIL 11, 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 6:41 p.m.

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

| Member | Attendance |
|-------------------------|------------|
| James Burger, Alt #1 | Present |
| Paul Casaccio, Chairman | Absent |
| Sherrie Galderisi | Present |
| Tom Jackson Alt #2 | Present |
| Richard Mashura | Absent |
| Lynn Petrozza | Present |
| Christopher Phifer | Absent |

| Member | Attendance |
|----------------------|------------|
| Donald Rinear Alt #3 | Present |
| Andrew Shawl | Present |
| Matthew Unsworth | Present |
| Hobie Young, Alt #4 | Absent |
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Also, in attendance were Jeffrey Barnes, Board Solicitor, Paul Kates, Board Engineer and Liz Oaks, Board Secretary and Zoning Officer.

APPROVAL OF THE MARCH 7, 2024 MEETING MINUTES

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

Paul Kates and Liz Oaks were sworn.

APPLICATIONS

Steelmantown Church – Block 10 Lot 176 – BA 03-2024

Applicant is requesting a use variance to permit the existing horse farm to operate as A&M Equine Therapy Stables where equestrian and trails are not a permitted use within the F25 Zone. Variance relief for existing accessory structures for side yard setback, rear yard setback distance between buildings, building height, building coverage and to permit the existing accessory buildings without a principal structure at 340 Steelmantown Road in Steelmantown, New Jersey.

Brian Huen, attorney, on behalf of the applicant, Steelmantown Church. This is a unique application. The intentions are to allow a charitable operation that is for equine therapy.

Joseph Maffei, Engineer with EDA, 5 Cambridge Drive

Nicole Tanghare, 15 Rita Drive Cape May Court House, was sworn.

Ms. Tanghare – She is currently employed with a community outreach organization where they work hand in hand with existing organizations like Cape Assist and Cara. They facilitate people

who are in need of services. She has worked with horses all of her life. She envisions an equine trauma focus, a therapy through horses. They would provide a safe place for people suffering with trauma to connect with the animals. Give them a sense of security. This area is lacking in mental health opportunities. She has recently gone back to college to study psychology geared towards trauma focused equine therapy. She had been discussing this with local organizations and around the same time Mr. Bixby, Steelmantown Church, came into Cape Assist with his idea and was looking for someone to run a program similar to what she had been looking in to. It is their hope to create a charitable organization to give back to the community where they can facilitate a safe space for mental health. This is not for profit. There are some other programs throughout the country that she has been researching. Some of them are more specific about what clients they will work with, and she does not want to pigeonhole themselves into who they help. There is a program, Stable Minds, that will allow you to use their complete program but not their logo. This would allow her to choose who they want to help. If they would follow the Stable Minds program, we would expect to have one client and one facilitator per hour. They would expect a day to run from 8-10 hours.

Mr. Maffei, the property is located on Steelmantown Road. The location has access to many trails. You can make it from there to Belleplain State Forest without hitting any real traffic areas. The lot size is 229' X 534' or about 2 ¾ acres. It is in the Forest Conservation Zone which is the reason we are here to get the D1 Variance because equestrian trails and facilities are not permitted uses in this zone. He doesn't know if this type of facility is what was intended with the zoning ordinance because this is not for profit. The application and intent are to provide a service for therapy by riding the horses, cleaning up and taking care of the horses. There are multiple smaller buildings such as storage facilities, feed sheds, hay barns, storage for a tractor, saddle sheds and few shelters for the horses. The largest structure is the A frame that was brought in from Wildwood that will require a height variance. There is no principal structure. This is not intended to be a full-time business. This is a positive use and a community effort providing a service to the public. The location is near trails that lead to Belleplain State Forest and is good for this type of facility. None of the traffic will lead out to the main roads. It is located so far back that other than a few neighbors no one will know that it is there. He does not believe there are any negative aspects to the application. He believes it could be considered an inherently beneficial use. It is a non-profit organization. He believes these reasons show it is beneficial to the general health and welfare of the public and open space. This is not heavily developed. They are providing 8 parking spaces that will be stone plus 2 handicapped parking spaces that will be concrete. They are located off Steelmantown Road. There are multiple access roads through the back of the property. They are requesting the following variances: a side yard setback of 47.7 feet where 50 feet is required, a rear yard setback of 44.4 feet where 50 is required, the distance between structures of 8.49 feet where 20 is required and accessory coverage of 1.47% where .5% is allowed. And the accessory use without a principal structure. And a height variance for an accessory structure of 21 feet where 20 is permitted. He believes this application can be granted with out any substantial detriment to the public good.

Mr. Shawl – Will one of these structures be for an office? Will there be any utilities?

Mr. Maffei – There will only be electric to the large structure and nothing else.

Ms. Tanghare – There will be no office. There will be some intake process once, in the beginning. But after that they would just come in. There will be no employees on site. There will be no nighttime activity.

Mr. Jackson – Are there restroom facilities?

Mr. Maffei – There is a port-a-pot on site.

Mr. Unsworth asked Mr. Maffei for a description of the properties surrounding the applicant.

Mr. Maffei – The properties surrounding are residential and similar size.

Mr. Kates questioned the drive aisle and parking in the rear in conjunction with safety.

Mr. Maffei – They may still use the area in the rear. They wanted to avoid putting a hard surface in the rear. There won't be that much traffic. As special reasons he cites 40:55D-2

(a) To encourage municipal action to guide the appropriate use of development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare.

(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 property is located in the conservation zone, it will be maintained as open space plus the trails that lead to Belleplain.

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 applicant, Steelmantown Church, has come before the board regarding the property located at 340 Steelmantown Road also know as block 10 lot 176 on the tax map. The applicant is proposing to use an existing piece of property as Equine Therapy Stables to provide an opportunity for people suffering trauma to interact with horses. There are several programs throughout the state with different setups that provide this service. A Use Variance is required because the existing property is being used as a farm. The F25 Forest Conservation Zone does not allow for equestrian services. The applicant requires setback variances for some existing structures; a 47.7' side yard setback where 50' is required, a 44.4' rear yard setback where 50' is required, an 8.9' distance between structures where 20' is required and a 21.83' height where 20' is allowed for an accessory structure. The applicant proposes 10 parking spaces, two of which would be handicapped, adjacent to Steelmantown Road. We heard testimony from the applicant's engineer stating special reasons that include: the application would be an appropriate use and location for proposed development because the existing farm is a horse farm and located near a state park where there are existing horse trails. This particular property is well suited for this particular use. The benefits of the general welfare as people have access to this type of therapy improving their lives and the lives of the community. There is no reason why the bulk variances being requested for 8.9' between structures would hinder fire protection. This would be daytime activity only. The accessory structures are not heated and are for storage. He believes the bulk variances can be granted. He also believes the use variance can be granted. We heard testimony there was no detriment to the zone plan for allowing this in the Forest Conservation Zone. The area is relatively clear compared to the surrounding area. There is no additional clearing anticipated. The horses are there already. There was no comment from the public. There is no detriment to the public health, and, in fact, it is inherently beneficial to the public.

Mr. Jackson – Concurr.

Ms. Galderisi – Nothing to add.

Ms. Petrozza – Concurs with Mr. Shawl. There was testimony that there would be no additional traffic because there should only be about 8 visitors per day and one employee.

Mr. Burger – Concurs with Mr. Shawl.

Mr. Rainear – Nothing to add.

Mr. Unsworth – Concurs with Mr. Shawl. The lot size is consistent with the area. It is already non-profit as a church entity and that status will not change. He is in favor of the application as presented.

Mr. Barnes – Frames a motion, the application is for a use variance. They need to have provided special reasons, there is no substantial detriment to the public good and it won't impair the intent and purpose of the zone plan and zoning ordinance. They are seeking a variance for lot area where 25 acres is required, 2.75 exists. In addition, a side yard setback where 50' is required, 47.7' exists. A rear yard setback where 50' is required, 44.4' exists. Distance between buildings requires 20', where 8.9 exists. Accessory building coverage where .05% is required, 1.46% exists. Accessory building height 20' is required, where 21.83' exists. Ten parking spots are on the plan, including two handicapped spaces.

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

Tyszka, Stephen – Tuckahoe Cheesecake – Block 348 Lot 52 – BA 04-2024

Applicant is seeking variance relief for lot area, side yard setback, off-street parking and a use variance to construct a second principal structure at 2177 Route 50 in Tuckahoe, New Jersey

Stephen Tyszka, 2177 Route 50, was sworn.

Patricia Tyszka, 2177 Route 50, was sworn.

Joseph Maffei, previously sworn.

Mr. Maffei, representing the applicants Stephen and Patricia Tyszka, come before the board regarding the Tuckahoe Cheesecake in Tuckahoe. The property is located across from the fire department on Route 50. It is in the TV Tuckahoe Village Zone. The property is 50' X 210' or about 10,584 square feet. The property currently has multiple sheds and structures in the rear of the property. They would like to remove these structures and build one new building. This will create a more aesthetically pleasing appearance than what is currently on site. They are calling this a second principal structure. They will be using this structure for prep and other baking needs including storage and a refrigerator. This is why it would be considered a second principal structure, therefore, needing the variance. The proposed structure is 42' X 28' pole style barn. There will be a new septic system. They have submitted the application to the health department and are waiting to hear back. There will be no changes to the front of the existing building, so you won't be seeing any changes there. They are lacking in the number of parking spaces, but that is existing and not changing as a part of the application. There have never been any parking problems in the past and that will not change. The lot area is an existing non-conforming condition. Where 15,000 square feet is required, 10,584 is existing. The side yard setback, 10' required, 6' is requested. They have 16' on the other side that allows access to the overhead

doors. There are 4 existing parking spaces where 7 is required, although there are 2 on-site parking spaces along Route 50 shown on the plans.

Special reasons:

(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. This facility has been around since about 1981.

(i) To promote a desirable visual environment through creative development techniques and good civic design and arrangements. By removing the existing structures and consolidating into one will be aesthetically improved.

Mr. Maffei – There is no detriment to the public good. There is no detriment to the intent or purpose of the zone plan and zoning ordinance. This has been existing for some time and the use is a permitted use. The new structure will include plumbing and electric. There will be no retail or residential. Putting the new septic is a positive environmental impact on the lot. The structure will be metal and will be safer regarding fire protection.

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. Barnes – Adds the following conditions: No retail, no residential and for ancillary use only. To be deed restricted.

Mr. Shawl – The applicant, Stephen Tyszka, comes before the board regarding their property located at 2177 Route 50 in Tuckahoe, also know as block 348 lot 52 on the tax map. The property is the Tuckahoe Cheesecake Factory. The applicant is proposing some existing ancillary sheds and a freezer and replace it with a new building that would be 42' X 28' metal building. The lot area is a pre-existing, non-conforming that requires a variance. They require a side yard setback variance of 6' where 10' is required, there is no development on the adjacent lot currently. They require a variance for off-street parking, because of the narrowness of the site. There are four existing spaces plus a few spaces along Route 50. The building has been in operation as Tuckahoe Cheesecake since 1981. It is keeping in character with the neighborhood with the front porch being maintained. The new building will not be seen from the road because it will be behind the existing structure. We heard testimony that the new building will be more fire retardant than the sheds that are currently there. There would be no detriment to the public good and no detriment to the zone plan because the use isn't changing. There will be a new septic system. There will be no retail in the proposed building, all retail will be in the existing structure. We heard special reasons:

(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. This facility has been in use many years.

(i) To promote a desirable visual environment through creative development techniques and good civic design and arrangements. By removing the existing structures and consolidating into one will be aesthetically improved with a cleaner look with a second principal structure. He has heard enough testimony that he agrees with the special reasons to support granting the use variance and the bulk variances required for this proposed development. There was no comment from the public.

Mr. Jackson – Nothing to add.

Ms. Galderisi – She likes that the place will be cleaned up and the safety that comes with the structure being metal. There are many older structures in the area that would benefit from this. She sees no reason why this application could not be approved.

Ms. Petrozza – She concurs with her colleagues and is in favor of the application.

Mr. Burger – Concurs and is very happy with the proposed improvements.

Mr. Rainear – Concurs and thinks this is a good idea.

Mr. Unsworth – Concurs with his colleagues and adds the conditions to be included of no retail out of the new structure and no residential in the new structure.

Mr. Barnes added the use of the proposed structure shall only be ancillary to the existing proposed structure and the report from the board engineer dated March 18, 2024 be incorporated as fact. A deed restriction to include no retail and no residential.

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

RESOLUTIONS

Professional Services Agreement with Tiffany Morrissey

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

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

Bruenig, Robert – Block 453 Lot 170.02 BA 17-2023

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

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

Ralph and Deanna Holt – Block 652.01 Lot 19 BA-05-2023(A) Revised

This resolution was not completed in time for the meeting and has been tabled until the May 2, 2024 meeting.

BILLS

A motion to pay the bills as presented was made by: Mr. Shawl seconded by Ms. Petrozza.

All in favor.

ADJOURNMENT

A motion to adjourn the meeting was made by: Mr. Shawl, seconded by Mr. Jackson.

All in favor. The meeting ended at 7:38pm.

Submitted by,
Liz Oaks