

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
 REGULAR MEETING MINUTES
 MAY 2, 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	Absent
Christopher Phifer	Present

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

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

Greg Schneider and Liz Oaks were sworn.

APPROVAL OF THE APRIL 11, 2024 MEETING MINUTES

A motion to approve the minutes was made by Mr. Unsworth and seconded by Mr. Jackson.

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

Abstain: Mashura, Phifer, Young, Casaccio

BILLS

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

All in favor.

RESOLUTIONS

Steelmantown Church - Block 10 Lot 1 – BA 03-2024

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

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

Abstain: Mashura, Phifer, Young, Casaccio

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

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

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

Abstain: Mashura, Phifer, Young, Casaccio

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 June 6, 2024 meeting.

APPLICATIONS

D.V. Tower – Block 453 Lot 181 – BA 05-2024

Applicant is seeking variance relief for impervious coverage of 64% where 50% is permitted and a use variance to permit two principal uses on one lot to replace an existing single-family dwelling at 100 Route 50 in Seaville, New Jersey.

John Amenhauser with DeWeese Law Firm on behalf of the applicant, D.V. Tower. The property is located at 100 Route 50 identified on the tax map as block 453 lot 181 in the Town Center District The TC Zone. The intention of the application is to request a D1 Use Variance to allow two principal uses on a single lot and bulk variance for lot coverage of 64% where 50% is permitted.

Vince Orlando, Engineer Design Associates, Licensed Engineer, 5 Cambridge Drive, was sworn as an expert.

Mr. Orlando explained that there is an existing single-family dwelling. The house currently has a driveway on Route 50 and has a small stone area. They would like to replace the existing structure with a single-story single-family dwelling, create a driveway with two parking spaces. They would like to set the house further off the road at 60', which will meet the front yard setback and a conforming side yard setback of 25'. The current location of the single-family dwelling encroaches both the front yard and side yard setbacks. The applicant runs many businesses in the community. Housing is very difficult in this area, and this will most likely be used for one of the employees. They currently employ about 100 members within the community. Under the purposes of zoning outlined in 40:55D-2 he believes 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 residents. He believes that purpose of zoning would be advanced by this application. In addition, special reason (c.) to provide adequate light, air, and open space. He believes by moving the structure to meet the setback requirements this would apply. There is a slight increase in lot coverage to provide identifiable parking area in front of the building. The current spaces have to back out on to Route 50. The proposed driveway scheme allows vehicles to park parallel to Route 50, allowing them to leave the property going forward. He believes there is no substantial detriment to the zone plan as the property is large enough that there is no impact on the use of the property. There is no increase in intensity of use or density. And there is no substantial detriment to the neighborhood because they are replacing a single-family dwelling with a single-family dwelling. He believes the application can be granted as presented.

Mr. Schneider confirmed the side yard setback will conform.

Mr. Casaccio added the improvement of the driveway was a benefit and questioned the location of any other single-family dwellings in the area.

Mr. Orlando confirmed there were some across the street and down the road as well.

The meeting was open to the public. Hearing no one and seeing no one, the public portion was closed, and the meeting returned to the board for findings of fact.

Mr. Unsworth – The applicant, D.V. Tower, LLC, come before the board regarding their property at 100 Route 50 in the Seaville section of Upper Township, also known as block 453 lot 181 on the tax map. The applicant is proposing to replace an existing single-family dwelling with a single-family dwelling. The current use of the property contains two principal uses; one is a retail business and the other is the single-family dwelling. The applicant is not proposing to change the uses. There will be no change in the intensity of the use. They are looking for one bulk variance for lot coverage. Where 50% is permitted, they currently have 63% and propose 64% to improve parking allowing access to Route 50. The new home location improves the front yard setback and the side yard setback. It improves fire safety and building codes. The applicant mentioned there is a housing shortage in Upper Township and a rental property is valuable at this time. If the application were to be denied, there would still be a single-family dwelling that could be renovated and remain in perpetuity. The proposed plan improves parking and highway access. He sees no detriment to the public good and is in favor of the application as presented.

Mr. Rainear – Concurr.

Ms. Galderisi – Concurr. The proposed parking and the proposed setbacks are improvements.

Mr. Shawl – The existing house would be replaced with a house that would meet all safety codes. We heard testimony about 40:55D-2 special reason (g.) and (c.) He concurs with his colleagues and there was no public comment.

Mr. Jackson – The improvement with parking is a big improvement. He is in favor of the application.

Mr. Burger – In favor of the application.

Mr. Phifer – Nothing to add.

Mr. Young – Nothing to add. He supports the application.

Mr. Casaccio – The lot is a unique shape.

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

Mr. Unsworth, Mr. Phifer and Mr. Casaccio left the meeting at this time due to a conflict. Mr. Shawl will step in as chairperson.

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

Mr. Amenhauser, DeWeese Law Firm, on behalf of the applicant, James and Bridget Schroder, and Robert DelMonico. The subject properties pertaining to this application are 31 Luke Court block 453 lot 249.05 and 98 Corson Tavern Road lock 453 lot 255. The application is a 2-lot subdivision where they are seeking to re-designate the lot line that

presently exists along the rear of 31 Luke Court. Currently 31 Luke Court includes the pond behind the property. They propose to square off the lot for 31 Luke Court, while then providing the neighboring lot, 98 Corson Tavern Road with that rear pond area. The purpose of doing this is for fire safety. And to reduce potential liability to 31 Luke Court which is a residential address.

Mr. Amenhauser distributed two exhibits:

- #1) a diagram of the proposed standpipe designed by Vincent Orlando
- #2) a letter from the Seaville Fire Department in support of the application.

Robert Delmonico, 31 Luke Court, was sworn.

Mr. Delmonico owns 31 Luke Court with his wife Brittany. They have owned it for about 8 years. The pond area is kind of open. There are portions of dilapidated fencing which appears to be contractor fencing from when the development was put in. There are many young kids and people that are sneaking on to the property and fishing. There have been some they have given permission, but the problem are local kids sneaking on. Sometimes his yard, sometimes his neighbors. There is trash left. There is some swimming, which is a huge liability. They are accessing the pond from all areas, not just his yard. It is unmanageable to control. He is the administrator and operations manager at the neighboring Seaville Shores. The reason for this is largely due to fire safety. There had been a recent fire that was one of the largest in the area in the past 30 years. Had they had better access to water he believes the fire would not have been as bad. They have no intention of adding campsites or even changing the use in the area at all. They would like to fence it in to secure it.

Mr. Young – Will this remain open space or will there be any structures?

Mr. Delmonico – There will be no structures.

Mr. Mashura – Will the campers have access to this area?

Mr. Delmonico – We don't currently advertise it or use it in any way that would promote campers using it beyond allowing them to fish there occasionally.

Mr. Amenhauser – Asked Mr. Delmonico if the application were approved, would they indicate to the campers they are not permitted to use the area for any recreational activities.

Mr. Delmonico – Yes, they would agree to indicate to the campers they are not permitted to use the area for recreational activities.

Vince Orlando, Engineer Design Associates, Licensed Engineer, 5 Cambridge Drive, was sworn as an expert.

Mr. Orlando – Any time a campground wants to make any changes they have to come to the zoning board of adjustments for the expansion of a non-conforming use. This is simple

application. The use isn't changing. After the fire last year, he and Mr. Schroder decided to meet with the Seaville Fire Department for suggestions to help them if a fire were to happen in the future. They suggested a standpipe that would draw from the lake. This, combined with the liability to the property owners at 31 Luke Court, seemed a natural solution. This would allow the campground, with the funds, to secure the property as it should be. Where Robert Delmonico and his wife Brittany do not have the funds. They agree, as a stipulation to the resolution, that there will not be any building and no use. There are occasions that a camper may sneak into fish, that are far and few between. It will not be promoted. It is not an area to swim. It is their intention, if approved, to not make any changes other than a lot line re-alignment. No new lots will be created.

Mr. Orlando – At the location by the driveway to enter the campground there will be a hydrant. There would be an underground pipe going to the lake. They will be able to draw with the pumpers. The fire company looked at the design and helped with the location. They submitted a letter of support. The burden will be on the campground. This helps the community because the water source would be available to them as well. It will not be only for the campground. This is a true benefit to the surrounding neighborhood. You will only see the fire hydrant; the rest of the system is underground. There is no noise and no visual impact. Under the purposes of zoning outlined in 40:55D-2 he believes special reasons (b.) To secure safety from fire, flood, panic, and other natural and man-made disasters. And (a.) To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare. He believes both are met head on. It is providing the community with a water source to protect for fire safety for not only this property but for other adjacent properties. There is no substantial detriment to the zoning plan and zone ordinance because there is not change of use. They are adding six acres to the campground. They aren't building anything, there won't be any tents, they aren't adding any recreation, there won't be a fishing pier and they aren't allowing people to have boats. There is no substantial detriment to the public good. With an applicant willing to invest in fire safety and to secure the facility, in its entirety, he sees each of these as positives.

Mr. Amenhauser – Through research we found the deed restriction for 31 Luke Court that shows that they shall be responsible for maintenance of the pond, located on the same lot, that is an integral part of the stormwater maintenance program. The restriction and condition shall pass through with the land.

Mr. Orlando – If this is approved tonight there will be no problem with the deed restriction being transferred to the campground with the same responsibilities to maintain the pond.

Mr. Amenhauser – They would get a legal description for that subdivided parcel, do a deed transferring that between the properties with the restriction included. They agree to include the resolution with the deed.

Mr. Barnes – There was a mention of securing the property. How do you intend to do that? Will there be fencing, video surveillance, signage?

Mr. Orlando – They will be evaluating the perimeter fence and that will be repaired or added to, whatever needs to be done. There are no plans for video surveillance currently.

Mr. Delmonico – There are no trespassing signs that he believes state no swimming. They are willing to add more if needed.

Mr. Orlando – They would be happy to walk the perimeter with the board engineer to discuss number of signs and the placement of signs.

Mr. Barnes – Other than signage how will you inform guests that the area is off limits?

Mr. Orlando – The campers have leases, and the policy will be that there will be no fishing or use of the pond. However, the problem is, maybe there is a visitor that goes out there without permission. They won't go out and tackle them. Bottom line is the policy will be that this is not an active recreation facility for the campground.

Mr. Barnes – He suspects that there are some neighbors that have a great concern that this location will become a problem. He thinks the neighbors will feel better if the campground is active in trying to discourage any use of the area.

Mr. Orlando – They are willing to work with the board with any recommendations they may have.

Mr. Amenhauser – The signage and a clause in the lease are what they agree to, but he is open to hear suggestions.

Mr. Delmonico explained the existing fencing and gates. He admitted much of it was in disrepair.

Mr. Rainear questioned whether there were any state regulations that would affect this.

Mr. Orlando – He is not aware of any state regulations. There is a better chance of liability with the campground versus a homeowner.

The meeting was open to the public.

Lance Bowman, 38 Luke Court, was sworn. Mr. Bowman has lived there with his wife, Kelly, and two sons for 13 years. He adamantly opposes this application. The pond abuts numerous residential properties. When the current owner took possession of the property, they began to take down branches and trees. They contacted the township engineer at the time, Paul Dietrich. He came to the site and stopped the removal of the buffer. Nothing has happened since. He has been told the pond was purchased specifically with the intention to be used recreationally. They already suffer with the seasonal impact of campers from surrounding campgrounds such as ringing doorbells at night, trespassing, vulgarity, and excessive noise. He believes there would be a negative impact if the application is approved. The buffer has not been maintained. He does not believe the application offers anything to the township or its residents. He does not believe the reason of accessing the pond for fire safety drives the need for the subdivision. There are other options that could be investigated that would not require a transfer of property. There are area pools they can access for water. The property owner of 31 Luke Court is responsible for the maintenance by deed restriction. He thinks it is important that a person within the subdivision should be responsible rather than an outside entity.

Mr. Orlando – Off-site basins are allowed. Under the new regulations a basin cannot be maintained by an individual, it must be some type of H.O.A. He sees no problem with the transfer of the deed restriction. The subdivision is more than a water source. It also relieves the liability from the homeowner and transfers it to a more substantial property owner that has the means to maintain. They are willing to deed restrict it. As for the other sources of water that can be used,

such as local pools, every second matters when fighting a fire and a hydrant fed by the standpipe is more efficient.

There was a discussion about making sure there was a mechanism in place to ensure the maintenance of the pond.

Mr. Amenhauser – There has been discussion about deeding the pond to a third party, however, by transferring the deed the third party becomes part of the subdivision. It isn't a company out in another state, but this is a local business.

Mr. Orlando – This original subdivision and basin was created about 35 years ago. He suggested that he meet with the board engineer to walk the site to see what work needs to be done. Evaluating the perimeter and the functionality of the basin. They agree to post a bond and once the work is completed the bond will be released.

Rachel Mammele, 9 Walden Pond, was sworn. Ms. Mammele testified that her and her family have lived at the property for 20 years. She does not support the application. She does not believe the applicant has met the positive criteria. She believes this will have a negative impact on the neighborhood. She is concerned about the deed restriction and wetlands buffer. She understands the idea behind the fire safety, but suggested an easement to allow access was all that was needed.

Vinny Galati, 29 Luke Court, was sworn. Mr. Galati is concerned about how long these restrictions will be on the property due to the location near residential properties.

Mr. Amenhauser – In perpetuity.

Mr. Orlando explained that the lot topography and wetlands buffer would limit development.

Mr. Barnes – Any changes would have to come back before the board.

Katherine Bender, 10 Walden Pond, was sworn. Ms. Bender does not support the application. There is existing fencing but have had troubles with people trespassing to go fishing. They have put up no trespassing signs that have helped. She wants to be sure that there is no recreation ever permitted.

Bill Mammele, 9 Walden Pond, was sworn. Mr. Mammele is in agreement with the fire safety aspect; however, he believes the standpipe would be the last line of defense. He also understands the point being made about the liability, however, the property owner that purchased 31 Luke Court would have been aware of the deed restriction when he purchased the property and the responsibility it would entail. Most of the property is surrounded by a 4' chain link fence that any kid can get over. The drainpipe coming out at the Walden Pond side is not functioning. There is a manhole that the lid is off and regularly clogs up. There is currently a 4' chain link fence between the campground and the pond. Will that be removed?

Mr. Orlando – No, the chain link fence will remain.

Mr. Mammele – He is concerned about safety, and will there be additional campsites?

Mr. Amenhauser – As stated in the presentation, there are no additional sites proposed and they agree to a deed restriction.

Mr. Orlando – There is no plan to develop the 6 acres.

Mr. Barnes – The additional land does not equate to additional sites. They are licensed to a specific number of sites.

Mr. Mammele – Inquired about the 100' buffer required, and the fire hydrant required for every 50 sites.

Mr. Orlando explained that both of those are for new campgrounds. This property is pre-existing.

Mr. Mammele – Having a well and pump would be way more beneficial to the fire department.

Kelly Bowman, 38 Luke Court, was sworn. Ms. Bowman does not support the application. The property at 31 Luke Court is occupied by a renter. Prior to that it was vacant a year. The fact that they are not living there makes it more of a liability.

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

Mr. Orlando responded to some of the comments by reading the letter from the fire department. This input from someone, with the experience and knowledge, is stating it is his opinion that this would enhance and protect lives, which is an important aspect of this application.

The meeting returned to the board for findings of fact.

Mr. Shawl – The applicants, James Schroeder, Brittany Schroeder, and Robert Delmonico, come before the board for the properties located at 31 Luke Court and 98 Corson Tavern Road also known as block 453 lots 249.05 and 255. They propose a lot line re-alignment. No new lots are being created. The applicant is requesting a D2 variance for the expansion of a pre-existing non-conforming use on lot 255 because campgrounds are not a permitted use in the R2 Zone. They propose to expand the size of the existing campground facility. The area of the entire tract is 7.466 acres and the portion being subdivided is 6.325 acres leaving 1.41 acres for the other parcel. Shifting the lot line will create one parcel with a single-family dwelling and the larger portion with the campground. The pond is part of the stormwater management plan for the original Luke Court subdivision. The applicant provided testimony that the pond is a nuisance as it is today, and it is difficult to monitor and maintain. There is trespassing and trash. It is a liability for the property owner. The applicant plans to install a standpipe that would go from the pond to the campground. We received a letter from the fire chief, Perry Coker, from Seaville Fire Rescue indicating his support of the project. We heard testimony about the deed restriction for 31 Luke Court from the original subdivision outlining the responsibility to maintain the pond as a part of the storm water management plan. The applicant is willing to take that responsibility with the new division. The Seaville Shores Campground wishes to add fire safety due to a fire in 2023. They stipulated that there would be no campsites added to this area. There would be no expansion of the existing campground into this area of the property as a result of any approval they receive tonight. They agreed to add signs and there would be no camper use of this area for recreation. This applicant has stated there will be no change in use. We heard testimony from the engineer that the standpipe would provide, under special reasons, 40:55D-2 (b.) To secure safety from fire, flood, panic, and other natural and man-made disasters. Also, special reason (a.) To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare, as we have a letter from the Seaville Fire Department stating that adding this draft point would help them protect from fire in their territory on the southern end. The standpipe would not only be for the

campground but for the area. We heard testimony from the engineer there is no substantial detriment to the zone plan and zoning ordinance from shifting this lot line and providing this subdivision. There is no substantial detriment to the public health and conversely it helps the public health by having a standpipe to help the firefighters. The engineer and applicant agreed to do an assessment in areas of need of repair, fencing, signage and maintenance. They will also check a drainpipe being clogged that a neighbor complained about. They will establish a bond to ensure that any repairs that need to be made will be completed. All that would be subject to approval of the township engineer. There were comments from the public concerned about their quality of life with trespassing and trash. We heard testimony that the existing buffers do not comply with the current code as it is pre-existing. The seasonal influx of campers is already a nuisance to the neighbors, and they do not want any expansion of the campground. As a response the applicant has stated there would be no recreational development and no camp sites on the pond. It will remain as it is with a 100' water quality buffer, the wetlands and the pond surface area. We heard testimony from the public they also put up no trespassing signs. He concurs with the testimony from the engineer with the special reasons to protect from fire and flood. He thinks having a standpipe and the letter from the Seaville Fire and Rescue satisfies the special reasons for the public health. He believes the subdivision can be granted without substantial detriment to the zone plan and zoning ordinance. And no substantial detriment to the public health.

Mr. Jackson – Nothing to add.

Mr. Burger – Concur.

Mr. Young – He concurs. He thinks it is better to take the liability from the residential property and put it on a larger entity. The standpipe was approved by the Fire Chief and minutes matter in the case of fire. There is no change of use.

Mr. Mashura – He took a look around the area and was concerned with the current conditions. He can empathize with the neighbors. He thinks this is an opportunity for improvement. By the engineer walking the property and securing a bond. The deed restriction is in place. He is in favor of the application.

Mr. Rainear – He thinks the restrictions answer the concerns of the neighbors. The applicant will give access to not only the campground but the immediate vicinity.

Ms. Galderisi – Everything happens so quickly with fires. She thinks going to the Fire Chief for direction was a good idea. As a resident herself, she stressed it is important to alert municipality when problems arise. She agrees with the special reasons 40:55 D2 (a.) and (b.)

Mr. Barnes – The motion to approve a minor subdivision/lot line readjustment and use variance for the expansion of a non-conforming use with the following conditions:

- 1- No new camp sites are included in this application.
- 2- The owner/management will make efforts to alert campers that the pond is off limits by way of hopefully the website, fencing, and signage.
- 3- The deed restriction dated April 30, 1996 that contains restrictions to the maintenance of the pond. The applicant will incorporate that language into the deed restriction.
- 4- Also included in the deed restriction will be language that there will be no recreation usage or development in the pond area.
- 5- Existing fencing in disrepair will be repaired.
- 6- There will signage posted stating no swimming, no fishing, no boating.

- 7- There will be a temporary bond in place. The engineers for the applicant and the township will walk the property and develop a mutual plan for required improvements. Once improvements have been completed to the satisfaction of the township engineer the bond will be released.
- 8- The standpipe is to be available to the surrounding area.

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

ADJOURNMENT

A motion to adjourn the meeting was made by: Mr. Mashura, seconded by Ms. Galderisi.
All in favor. The meeting ended at 8:23pm.

Submitted by,
Liz Oaks