

**UPPER TOWNSHIP PLANNING BOARD
REGULAR MEETING MINUTES
JUNE 13, 2024**

The meeting of the Upper Township Planning Board was held at Township Hall at 2100 Tuckahoe Road, Petersburg. The meeting was called to order at 7:00 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Member	Attendance
Matthew Davidson, Class IV	Absent
Gary DeMarzo, Class II	Absent
Brooke Handley Alt	Absent
Joseph Harney, Class IV	Present
Kimberly Hayes, Class III	Absent
Ted Kingston, Class IV	Present

Member	Attendance
Chris McGuire, Class IV	Absent
Colby Meloy Alt	Present
Jay Newman, Class I	Absent
Gary Riordan, Vice Chair	Present
Sean Whelan, Chair	Present

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

Robert Smith was sworn.

APPROVAL OF THE MAY 9, 2024 MEETING MINUTES

A motion to approve the minutes was made by Mr. Riordan and seconded by Mr. Harney.

In favor: Harney, Kingston, Meloy, Riordan

Abstain: Whelan

NEW BUSINESS

CAMPBELL, JOHN WILLIAM, JR.– BLOCK 14 LOTS 3 & 4 – SD 02-2024

Applicant is seeking minor subdivision to create new lot lines between lots 3 & 4 at 326 Marshallville Road, Tuckahoe, New Jersey.

Avery Teitler, on behalf of the applicant, John Campbell. The application is for a minor subdivision to create a new lot line between lots 3 & 4 block 14 at 326 Marshallville Road. The lot line adjustment would increase the size of lot 3 by 57,493 square feet which will become conforming lot size for the zone. Both lots will be rectangular in shape. The eastern border will be adjacent to Mill Creek. They both require variance relief for lot depth. Neither of the lots conform with lot depth currently. No development is proposed. The request for variances can be granted under the C2 standards. The subdivision will bring lot 3 into conformity for lot area. It will produce more harmonious lot sizes for the zone. Which is a recognized purpose of zoning under the Municipal Land Use Law. The proposed development would also put the land in more conformity with the community development plan which also advances the purpose of zoning. The positive aspects of approving this application outweigh any negative aspects. As a result, the testimony and evidence will indicate there is no substantial detriment to the public good in granting the variance. And will not substantially impair the intent or purpose of zone plan and zoning ordinance.

Mr. Smith – As stated lot 3 would become conforming, however the plans submitted reflect that it would be undersize by approximately 300 square feet. Has the plans changed.

Mr. Teitler explained that the plans have been changed and Mr. Kates would testify to the change.

Paul Kates, Engineer with Kates Schneider, he has a Bachelor of Science in Mechanical Engineering with 20 years of municipal engineering experience. He was licensed as a professional engineer in 2011 and a professional planner in 2019. He currently represents three boards, two in Atlantic County and one in Cape May County and has testified on many occasions. Mr. Kates was sworn as an expert.

Mr. Kates – The site is located between Route 49 and Marshallville Road. It is west of Mill Creek and east of Woodbine Road. They are proposing a lot line adjustment between the two lots owned by the applicant, Mr. Campbell. Lot 4 is vacant and larger with frontage on Route 49 and Marshallville Road. Lot 3 has a single-family dwelling is on .6 acres and is currently non-conforming with respect to lot size, lot frontage, lot depth, lot width and building coverage. The lots are in the Tuckahoe Riverfront (TR) Zone which requires a lot to have 2 acres to be developed. They propose to eliminate some of the non-conformities on lot 3 and bring into conformance all but the lot depth of 210' where 250' is required. They are proposing to add 57,720 sf to lot 3. Lot 4 will also conform with the exception of lot depth. This will make the lots more harmonious and uniform with the area. The variances requested are both C Variances. He believes this request is di minimis in nature due to eliminating some variances and not creating any new. As a professional planner he believes the following special reasons per 40:55D-2 purposes of zoning apply.

(e.) To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions a preservation of the environment.

(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.

He believes the proposed to be a better zoning alternative to both lots by creating an easier pathway for development. He believes the variances can be granted under the C2 or flexible standard. He does not see any detriment to the application. There is no impairment to the intent and purpose of the zone plan and zoning ordinance. He believes the negative criteria has been satisfied.

Mr. Harney – The proposed will create two waterfront properties. How does that affect the application.

Mr. Teitler – If there is a tidelands claim on the property the owner will need to be careful what he does in the future.

John Campbell, 326 Marshallville Road, applicant, was sworn.

Mr. Campbell – His family has owned this property since the 1700's. They are one of the oldest families in the township. The reason they are proposing the lot line adjustment is for their children. The house was built in 1976. He has never been notified by the state that the riparian rights had been taken from them.

Mr. Teitler agreed to research this information and provide if Mr. King thinks it is relevant.

Mr. Campbell – The map shows a flood zone; however, the water has never broken the bank in any past storm. Lot 4 is all woods, it used to be an apple orchard. They don't have any plans currently to develop lot 4.

Mr. Smith – The applicant would need to get DEP approval to build anything.

Mr. Teitler – Mr. Campbell is actively working with the county planner.

Mr. Smith – Any approval tonight is contingent upon county approval as well as any DOT approval.

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. Harney – The applicant, John Campbell, comes to the board regarding his property at 326 Marshallville Road in Tuckahoe also known on the tax map as block 14 lots 3 and 4 located in the Tuckahoe Riverfront Zone. The applicant is proposing minor subdivision for a lot line adjustment. Plans prepared by Paul Kates from Kates Schneider dated 4/16/2024. The applicant was represented by Avery Teitler of Teitler and Teitler. Proposed lot 3 is 2 acres and proposed lot 4 is 3.43 acres. They heard from Mr. Kates that there are positive aspects with this application that meet the criteria for a C2 variance. This will create two waterfront lots. There are no plans to develop at this point, however, if or when they

do develop, they will be required to seek DOT for access off of Route 49 and a letter of interpretation from the DEP. He believes this application can move forward.

Mr. Riordan – Mr. Kates stated that based on his professional opinion the benefits outweigh any detriment. Minor subdivision plan prepared by Kates Schneider dated 4/16/2024.

Mr. Meloy – Nothing to add.

Mr. Kingston – Nothing to add.

Mr. Whelan – Nothing to add.

Mr. Smith – Comments from his report dated March 25, 2024. Will the applicant be filing by deed or plat?

Mr. Teitler – They will be filing by plat.

Mr. Smith – The applicant will be required to comply with the map filing law. And one of the things required would be showing the water courses along Mill Creek Road on the plan. Including any certifications that are required by that law. They were required to show ownership in the form of a deed.

Ms. Oaks – Confirmed deed is in the file.

Mr. Smith – Questioned whether there were or will there be any deed restrictions on the property. They had asked if the original deed had any easements that may be for dedicated public use, however, that would be dealt with at the county level. There are existing, non-conforming conditions that variances are being requested for lot depth. There are no design waivers. Lot depth is shown on lot 4 as 141', however, lot depth is defined as the distance from the front lot line to the midpoint, so you are actually 180' to 190'.

Mr. Teitler – That was measured to 184' prior to the meeting.

Mr. Smith – The variance is for 184' where 250' is required. The original plan had lot 3 as undersized but the applicant modified the plans to correct that.

Mr. King – The motion is to grant a minor subdivision along with a variance for lot depth and subject to conditions outlined in the board engineer report page 6 items 1 through 5 and page 2 items 1 through 13 with no waivers requested by the applicant.

A motion to approve the application with the conditions was made by Mr. Harney, seconded by Mr. Riordan.
In favor: Harney, Kingston, Meloy, Riordan, Whelan

REVIEW AND POSSIBLE REVISIONS TO THE REVISED GENERAL ORDINANCE CHAPTER 20

Consistency Review of Township Ordinance No. 010-2024 Performance Guarantee and MSO

Mr. Whelan read the description of the ordinance.

There was a brief discussion among the board members of what the ordinance contained.

A motion was made by Mr. Harney, seconded by Mr. Kingston to recommend the township committee move forward with Ord. # 010-2024.

In favor: Harney, Kingston, Meloy, Riordan, Whelan

PUBLIC PORTION

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

RESOLUTIONS

MOJAVE MATERIALS, LLC – BLOCK 414 LOTS 45 & 52 – SD 01-2024

A motion was made to approve the resolution by Mr. Harney, seconded by Mr. Whelan.

In favor: Harney, Kingston, Meloy, Riordan, Whelan

Professional Services Contract with Remington Vernick Engineers - PB SP 08-2024

A motion was made to approve the resolution by Mr. Harney, seconded by Mr. Riordan.

In favor: Harney, Kingston, Meloy, Riordan, Whelan

Pinelands Comprehensive Management Plan Ord. # 009-2024 - PB SP 05-2024

A motion was made to approve the resolution by Mr. Harney, seconded by Mr. Whelan.

In favor: Harney, Kingston, Meloy, Riordan, Whelan

BILLS

A motion was made by Mr. Harney, seconded by Mr. Riordan to pay the bills as presented.

In favor: Harney, Kingston, Meloy, Riordan, Whelan

ADJOURNMENT

A motion was made by Mr. Whelan and seconded by Mr. Riordan to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 7:46 p.m.

Submitted by,

Liz Oaks