

**UPPER TOWNSHIP PLANNING BOARD
REGULAR MEETING MINUTES
APRIL 10, 2025**

The regular meeting of the Upper Township Planning Board was held at Township Hall at 2100 Tuckahoe Road, Petersburg. The meeting was called to order at 7:04 p.m.

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

Member	Attendance
Mayor Curtis Class I	Absent
Matthew Davidson, Class IV	Present
Brooke Fisher, Alt	Absent
Joseph Harney, Class IV	Present
Rich Kaczmarski, Class II	Present
Ted Kingston, Class IV Vice Chair	Present

Member	Attendance
Chris McGuire, Class IV	Present
Colby Meloy Alt	Absent
Samuel Palombo, Class III	Present
Gary Riordan, Class IV	Present
Sean Whelan, Chair	Present

Also, in attendance were Jeffrey Barnes, Board Solicitor Liz Oaks, Board Secretary and Paul Kates, Board Engineer.

APPROVAL OF THE FEBRUARY 13, 2025 MEETING MINUTES

A motion to approve the minutes was made by:

Mr. Whelan

Seconded by:

Mr. Riordan

In favor: Harney, Kaczmarski, Kingston, Palombo, Riordan, Whelan

Abstain: Davidson, McGuire

NEW BUSINESS

Flowers/Bock – Block 825 Lots 6 & 6.01 – SD 05-2024

Applicant is seeking preliminary and final approval for minor subdivision that creates two lots where three lots exist at 904 South Bayview Drive, Strathmere, New Jersey.

Attorney:

Avery Teitler

Survey:

DeVaul Survey

10/18/24

Mr. Teitler – The applicants, Barbara Flowers and Thomas Bock, the owners of the lot at 904 South Bayview Ave. This is concerning Lot 6 and 6.01, Block 825. The property is in the RR zone and is an existing 50-foot by 72.35-foot lot. The applicants propose to subdivide the property into two equal portions and then consolidate each portion with the respective adjoining properties. Barbara Flowers owns 900 S. Bayview Ave (Lot 7), and Mr. Bock owns 908 S. Bayview Ave (Lot 5). The result will be each adjoining property gaining approximately 862.5 square feet. No variances are required for this application. It is a by-right subdivision. We’re calling one witness tonight, the project surveyor, Mr. DeVaul.

Mr. DeVaul – The purpose of the subdivision is to take existing Lot 6 and subdivide it equally. And the subdivided portions will be consolidated into the adjoining lots. This will add approximately 862.5 square

feet to both lot 5 and lot 7. This will make each of the lots oversized for the zone. There is no development proposed as part of the subdivision and no variances are being requested. He reviewed the last deed on record and the title report, he did not see any deed restrictions that would prevent the subdivision.

Mr. Harney – Are there any riparian claims or anything like that?

Mr. Teitler – Yes, the lot being subdivided does have a riparian grant, as shown on the subdivision plan. The grant will continue with each portion of the subdivision.

Mr. Harney - Since it has bulkheads, and it is a continuation of one existing bulkhead, does it meet bulkhead requirements?

Mr. Teitler – Only if there is new construction. If it is existing, it is generally allowed to carry through.

Mr. Riordan – There was a non-compliant setback with an existing lot. That will now be resolved with the subdivision, correct?

Mr. Teitler – That is correct. It is all positive. It promotes the overall well-being in the neighborhood. It promotes a lot of the purposes of land use. It is a buy rite subdivision. No variance is required, it reduces density, promotes general welfare. It allows for more light, air and open space because you are increasing the distance between properties. Appropriate population density is also a key purpose of zoning, and many zoning objectives would be satisfied because of this application. There is an easement on the property for Atlantic City Electric.

Mr. Kates – He thinks the only one outstanding concern is our standard note that they need to comply with all the requirements of the Map Filing Law, which we'll verify in the compliance plans. That includes all easements and restrictions they discussed.

The meeting was opened 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 applicants, Barbara Flowers and Thomas Bock come before the board about their property at 904 South Bayview Drive in Strathmere, also known on the tax map as block 825 lots 6 & 6.01. The applicant is seeking preliminary and final approval for minor subdivision that creates two lots where three lots currently exist. They are represented by attorney, Avery Teitler. The survey, provided by Mark DuVall, dated October 24, 2018 and reviewed again October 18, 2024. There are no variances being requested. The subdivision is described as a by-right subdivision of the two lots. One lot will gain a 25'x 167.6' area and the other a 25'x 167' area. So, about half of 1,250 square feet each. There is a little bit of waterfront property. They talked about the bulkhead being pre-existing. There will be no improvements. They will need to comply with the Map Filing Laws. Mr. Teitler stated this would promote light, air and open space and general welfare. There is definitely a reason to approve the subdivision.

Mr. McGuire – This is a division of lots 6 and 6.01 that will be evenly distributed between the existing lots, 5 and 7, adding 862 square feet. No new development is proposed. There are no deed restrictions on the lot. There is an easement for Atlantic City Electric.

Mr. Davidson – Concurs.

Mr. Kaczmarek – Concurs.

Mr. Palombo – Concurs with nothing to add.

Mr. Riordan – Concurs.

Mr. Kingston – Nothing to add.

Mr. Whelan – Concurs with his colleagues.

Mr. Barnes – This is a motion to approve preliminary and final approval for a minor subdivision of three lots into two lots at 904 South Bayview Drive in Strathmere.

A motion to approve the application was made by: Mr. Whelan
Seconded by: Mr. Harney
In favor: Davidson, Harney, Kaczmarek, Kingston, McGuire, Palombo, Riordan, Whelan

Delaney, Morgan

Application for vacation of the northwest street end of Fillmore Avenue in Strathmere, New Jersey.

Morgan Delaney, 2608 S. Bayview Drive, was sworn.

Mr. Delaney testified that he lives right on top of the marina and is looking to get the end of Fillmore Avenue vacated. He has always used the property and wants to make it official. He bought the property about 18 years ago and the previous owner had put a gas tank on the property. So, they kept the gas tank there and it is part of their parking lot. There is no impact to the public. The public access the boats through the marina. Down their walkway. They do not use Fillmore Avenue. The street end is a paper street. He owns both properties on either side, block 758 lot 2, block 761 lot 1, block 757 lot 6 and block 762 lot 1. And the other side is the bay which would be the marsh and docks. There are no other owners involved. There are two sheds about 5'x3', where they keep their life jackets. They are by the gas tank. They have no intentions of changing anything. He is here to clean up a property they have already been using. There is a shell parking lot. There are no lines or bumpers delineating spaces.

Mr. Riordan – Are there any public access issues?

Mr. Delaney - That was one of my concerns. There currently isn't formal public access, but with New Jersey's strong focus on public access and the state always pushing towns to provide more of it, vacating this land could limit future development or public access opportunities.

Mr. Harney – Development doesn't seem too likely due to the marsh.

Mr. Kingston – There had been a street vacation in the center of town they denied due to the concern about public access.

Mr. Barnes - You are the Planning Board, not the Zoning Board. The Zoning Board sees more applications than you do. Their job is to look at every application based on its merits and the facts. There are some situations where the facts just scream, "*You can't let this happen. It just doesn't make sense.*" There are other situations where the facts scream the opposite—like in this case. This guy has owned the

property for 18 years. Quite frankly, I don't think anyone in their right mind would think there's public access to anything there. It looks like dirt in a parking lot.

He's been there 18 years. Yes, technically there is access to the water at some point, obviously—but you must weigh all of that when making your decision. It's not one-size-fits-all. Just because you make a

recommendation to the committee doesn't mean you're saying yes or no in all similar cases. Maybe the recommendation is, *"Hey, we're okay with this. The facts seem to support it, with the exception of this public access issue—you might want to consider that."* After that, you kind of wash your hands of it and say, *"Here you go."*

It's very fact-sensitive in my mind. And considering where it's located—it's not a huge area where the public is hanging out, as opposed to the middle of town, like you said. So I think when you take all those things into consideration, you still have to do a balancing act as to what makes the most sense.

And, there's a municipal issue in it too—they talk about liability. Again, the municipality is susceptible to things that may occur there that they don't even control. It's not like there's asphalt curbing and a proper guttering system—it's dirt.

Mr. McGuire – There is also public access at the end of Bayview, at the boat ramp. So, this would be a variance cluster if there were future development anyway. So as a board, it doesn't seem that by vacating the street, we're forfeiting any real means of asserting control.

Mr. Barnes - I did look up some of the zoning standards. It's in the Conservation Area Z district, which requires 400 feet of frontage and, I think, 10 acres to develop. And I believe 400 feet of lot depth too. So even a single-family home would have to come before us for one or more variances.

Mr. McGuire – The vacated areas wouldn't be conducive to a full lot anyway.

Mr. Delaney – There is no development proposed. He has been using it and should be responsible.

Mr. Barnes framed a motion.

This is a recommendation to submit to the Upper Township Committee an approval to move forward with the vacation of the street, conditioned upon the above. That includes taking into consideration the public access issue, potentially putting some kind of signage there, requiring the applicant to indicate where public access could be located, and adding some form of restriction that requires the applicant to return before the Planning Board—or whoever has jurisdiction—in the event that there's any future development they seek approvals for.

A motion was made to recommend to the Township Committee to vacate Fillmore Avenue as stated in the motion framed by Mr. Barnes. Motion:

Mr. Kingston

And seconded by:

Mr. Riordan

In favor: Davidson, Harney, Kaczmarek, Kingston, McGuire, Palombo, Riordan, Whelan

DISCUSSION

Review and Possible Revisions to the Revised General Ordinance Chapter 20

- Review of the 2024 Zoning Board of Adjustments Annual Report.

After a brief discussion the board proposed the following:

- In cases where a property has more than one front yard, as defined by a property abutting more than one street, the restriction of having accessory structures in the front yard be lifted. And in these cases that a front yard setback be used rather than an accessory structure setback.
- Septic walls no longer need a fence permit from the zoning office due to the fact that any septic that has been approved by the county is not only the septic design, but the wall height required by the design.
- The pool ordinance be revisited and restructured.

A motion was made to recommend to the Township Committee to consider the recommendation as stated above.

Motion:

Mr. McGuire

And seconded by:

Mr. Davidson

In favor: Davidson, Harney, Kaczmarek, McGuire, Palombo, Riordan, Whelan

Opposed: Kingston

PUBLIC PORTION

The meeting was open to the public.

Hearing no one and seeing no one, this portion was closed, and the meeting returned to the board.

RESOLUTIONS

None

BILLS

A motion to approve the bills was made by Mr. Harney and seconded by Mr. Riordan, with all board members present voting in the affirmative.

ADJOURNMENT

A motion was made by Mr. Whelan and seconded by Mr. Kaczmarek to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 8:14 p.m.

Submitted by,
Liz Oaks