

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
JANUARY 12, 2006

The annual reorganization meeting of the Upper Township Zoning Board of Adjustment was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Petrozza, Casaccio.
Absent: Pierson

Also in attendance was Dean Marcolongo, Board Solicitor; Paul Dietrich, Board Engineer; Shelley Lea, Board Secretary/Zoning Officer.

REORGANIZATION

A nomination was made by Mrs. Bergus and seconded by Mr. Klepac, to nominate Paul Casaccio as Chairman. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Petrozza.

PAUL CASACCIO ELECTED CHAIRMAN FOR 2006

A nomination was made by Mr. Ay and seconded by Mrs. Burgin, to nominate Matthew Unsworth as Vice Chairman. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Petrozza, Casaccio.

MATTHEW UNSWORTH ELECTED VICE CHAIRMAN FOR 2006

A nomination was made by Mr. Klepac and seconded by Mr. Unsworth, to nominate Dean Marcolongo as Board Solicitor. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Petrozza and Casaccio.

DEAN MARCOLONGO ELECTED BOARD SOLICITOR FOR 2006

A motion was made by Mr. Ay and seconded by Mr. Klepac, to nominate Paul Dietrich as Board Engineer. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Petrozza and Casaccio.

PAUL DIETRICH ELECTED BOARD ENGINEER FOR 2006

A nomination was made by Mrs. Burgin and seconded by Mr. Ay, to nominate Shelley Lea as Board Secretary. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Petrozza and Casaccio.

SHELLEY LEA ELECTED BOARD SECRETARY FOR 2006

MEETING DATES FOR 2006

A motion was made by Mr. Unsworth and seconded Mr. Klepac, to approve the dates for 2006. The regular meetings of the board will begin at 7:30 p.m. The approved dates are as follows:

January 12, February 9, March 9, April 13, May 11, June 8, July 13, August 10, September 14, October 12, November 9, December.

OFFICIAL NEWSPAPERS

A motion was made by Mrs. Bergus and seconded by Mrs. Burgin, to appoint The Press, Sunday Press and Ocean City Sentinel Ledger as the official newspapers for publication of legal notices.

APPROVAL OF THE DECEMBER 2005 MEETING MINUTES

A motion to approve the minutes was made by Mrs. Bergus, seconded by Mr. Unsworth, and approved.

TABLED APPLICATIONS

1. ALEXANDER AND SANDRA MAGUIRE – BLOCK 860, LOTS 2 & 3 – BA21-05:

Correspondence from Arthur T. Ford, III, Esquire, requested to table the application until March 9, 2006. The applicants agree to waive the time in which the board has to act on this application. No further notice is required of the applicant.

NEW APPLICATIONS

1. DOLORES CLAYTON & CLAYTON INDUSTRIES, INC. – BLOCK 599, LOTS 26, 27, 28 – BA23-05:

Applicant is requesting a one year extension of site plan approval and variances to construct additional storage units at 215 Route US 9 South, Marmora.

Mr. Casaccio did not participate in discussion and voting on this application.

John Batastini, Esquire, represented the applicant. He stated that the board previously granted an application for site plan approval, use variance and bulk variances to construct additional storage units on this site. This is their third one-year extension. They are completing the improvements in phases.

The meeting was open to the public. Hearing no response the meeting returned to the board for finding of fact.

MR. AY – Dolores Clayton and Clayton Industries are requesting a one-year extension of variances and site plan approval previously granted. There was no public comment. The applicants are represented by John Batastini, Esquire. The application meets the criteria for an extension. This is the last extension the board can approve.

MR. SHAWL – There have been no changes to the plan.

MRS. BURGIN – The project is continuing in phases. The ordinance allows 3 one-year extensions.

A motion to grant the one-year extension was made by Mrs. Burgin, seconded by Mr. Klepac, and approved. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Petrozza and Casaccio.

2. CECELIA S. QUIGLEY T/A THE CHILDREN'S PLACE OF MUSIC AND LEARNING – BLOCK 558, LOT 14 – BA22-05:

Applicant is requesting a use variance to permit the operation of a day care center and side yard setback variance for the existing structure at 3080 Route US 9 South, Seaville.

John Batastini, Esquire, represented the applicant. Cecelia Quigley, 1601 Shore Road, Palermo and Matthew Hender, C.L.A. and P.P., were sworn in.

Mr. Batastini stated this is an inherently beneficial use. A side yard setback variance is required for the existing building. There are no variances needed for the proposed building. The applicant is the contract purchaser of the property. If the use variance is approved they will submit an application for preliminary and final site plan approval.

Mrs. Quigley testified that she has been the director and owner of a pre-school in Ocean City since 1979. She provides the children in the community with a social and safe educational facility. There are no pre-school facilities in the immediate area. The facility meets the needs of each individual child including their social and emotional situations. The facility provides a strong background in music. They introduce children to the piano at 4 years of age to prepare them for structured music. The facility in Ocean City currently operates at full capacity. The proposed daycare will be licensed by the State of New Jersey. The hours of operation will be 7 a.m. until 6 p.m. Monday through Friday. There are no televisions in the classroom. The classrooms are monitored with cameras so the parents can view the children interacting. The parents have pick up cards that are

issued each year. She proposes to maintain the historic structure and convert it partially back to its original state along with the root cellar and out building. She plans on using the structure for a library and to teach crafts. She will preserve the historical characteristics. The proposed building will look like a barn.

Mrs. Quigley further testified that she provides day care for children 3 months to 6 years. She also provides after school programs. The day care will accommodate up to approximately 70 children. She proposes to keep as many mature trees on site as possible. She will remove trees that she feels could be a safety hazard.

Mr. Hender testified the property is slightly less than 3 acres. He reviewed the proposed plan. He informed the board that the ordinance permits non-profit schools in this zone. The proposed use is not more intense than a non-profit daycare. Given the size of the lot there will be no impact on the light, air or open space. The building will be setback approximately 200 ft. from Route 9. The neighborhood consists of mix uses including commercial and residential. There will be no detriment to the neighbors. The proposed use fits in with the rural character of the township. The applicant proposes to maintain the historic nature of the property. He believes the site is particularly suited for the proposed use. He believes the proposed size of the building is conservative compared to the size of the lot. He feels this will be an asset to the community since there are no day care facilities in the south portion of the township. He believes the variance can be granted without substantial detriment to the public and will not impair the intent of the zoning plan or zoning ordinance. The purposes of the land use law will be advanced since this is an inherently beneficial use.

He further testified that a traffic study has not been done. He believes there will not be a noticeable increase in traffic on Route 9.

Mr. Batastini stated there is a possibility that the septic could be located on the neighbor's property. The location of the septic will be determined and if it is on the neighbor's property it will be removed. This matter will be discussed further at the time of site plan approval. They will provide adequate buffering to the adjacent property. He briefly reviewed the proposed lighting and landscaping. The applicant has requested only a use variance at this time since the contract to purchase expires the end of January 31, 2006.

Mr. Dietrich stated that the number of parking spaces and the drive aisle meets the ordinance requirements. The proposed stone parking area in the rear requires a waiver or variance.

The meeting was open to the public.

Louis Albrecht, 3097 Shore Road, Seaville, was sworn in. He is opposed to the variance due to the historic nature of the site. He is happy the applicant intends to preserve the historic house. He submitted a Historical Inventory listing the historic sites in Upper Township. This was marked as Exhibit P-1. He does not want any more commercial in

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this part of Seaville. He is concerned about traffic. If approved he would like the applicants to install a fence to hide the play area and toys. He suggested clam shells for the driveway and parking area. He would like the applicant to restore the outbuilding and provide landscaping.

Mr. Batastini stated that the applicant is willing to meet with Mr. Albrecht to discuss his concerns.

James Wright, 15 Nicholas Lane, Seaville, was sworn in. He agrees with Mr. Albrecht. He feels this is not a good location for a daycare. He is concerned about the traffic. He

feels the area should get a tax break due to the amount of commercial development. He wants commercial uses to be located in another part of the township. He moved to Upper Township to get away from this type of development.

John Smith, 14 Nicholas Lane, was sworn in. He also agrees with Mr. Albrecht. He feels the commercial uses are creeping down Route 9. He also moved to Upper Township to get away from this type of development.

Mr. Dietrich stated that the applicant would require NJDOT approval.

Shari Parsons, 16 Corson Tavern Road, Seaville, was sworn in. Her son attends the applicant's daycare in Ocean City. She believes this is a great place to take children. She believes there is a need for daycare in Upper Township. The facility has a flawless reputation. There is nothing in the area like what the applicant provides.

Edward Plant, 1451 South Shore Road, was sworn in. He is a resident of Linwood and owns the property adjacent to the applicant. He stated that you cannot hold back progress and is in favor of the application.

Shelly Wurtz, 34 Hilltop Drive, was sworn in. She has two children in the applicant's daycare. The facility in Ocean City is beautiful and she feels this will be an asset to the community.

David Wurtz, 34 Hilltop Drive, was sworn in. He is in favor of the application. He stated that Route 9 is a busy road and the best location for the school. He feels this will benefit the area.

Joan Berkey, 1003 Bartlett Avenue, Linwood, was sworn in. She is in favor of the application. She is a historic preservation consultant. She estimates the house was built in 1708. There are less than thirty 1st period buildings in the country. She is happy the applicant is proposing to preserve the house. She is in favor of the proposed use since it could be used for something more intense.

Alvin Argoe, 26 Argoe Drive, Seaville, was sworn in. He is the owner of the property. He is in favor of the application.

Hearing no further response the meeting returned to the board.

Mr. Batastini informed the board there is case law indicating the board cannot discriminate between profit and non-profit. Mr. Marcolongo agreed with Mr. Batastini. He also confirmed that daycare centers are an inherently beneficial use. The house was built prior to the zoning ordinance.

The board gave finding of fact.

MR. UNSWORTH – Cecelia Quigley is requesting to operate a daycare called Children’s Place of Music and Learning. Mrs. Quigley is the contract purchaser of the property. The property is located at 3080 Route US 9 South in Seaville. Also known as Block 558, Lot 14. The applicant requires a use variance to operate a daycare center in a Residential zone. The existing side yard setback is 3 ft. where 25 ft. is required. The applicant will require preliminary and final site plan approval. She proposes to construct a 60 ft. x 40 ft. barn style building. She intends to maintain the historic building. The house was built approximately 1700. She plans to use the existing building for an office and possible learning center. Concerns have been brought up about landscaping, buffering, lights and traffic. Public comments have been given for and against the application. She agrees to obtain all necessary licenses.

MRS. BURGIN – Case Law exists that boards cannot discriminate in regards to profit and non-profit. She feels this is an inherently beneficial use to the community. There are no daycare facilities in this part of the township. The children will be ages 3 months to 6 years. There will be approximately 75 children. The area is a mixture of uses including residential and commercial. She feels the application can be granted without substantial detriment to the public good and zoning ordinance.

MR. KLEPAC – The applicant is willing to work with Mr. Albrecht to address his concerns.

MRS. BERGUS – The existing structure will be maintained as a historic landmark. If this is not possible the applicant will return to the board.

MR. CASACCIO – The side yard setback is a pre-existing condition. The septic will be relocated if it is on the adjacent property. The proposed use is inherently beneficial. The application can be granted without substantial detriment to the zone plan.

A motion to grant the application with the standard conditions was made by Mrs. Burgin, seconded by Mr. Klepac, and approved. Those in favor: Ay, Bergus, Burgin, Klepac, Shawl, Unsworth, Casaccio.

RESOLUTIONS

- 1.
2. RESOLUTION AUTHORIZING CONTRACT WITH DEAN R. MARCOLONGO, ATTORNEY AT LAW, FOR PROFESSIONAL SERVICES:

A motion to adopt the resolution was made by Mrs. Bergus, seconded by Mrs. Burgin, and approved.

BILLS

A motion approve the bills for payment was made by Mr. Klepac, seconded by Mrs. Bergus, and approved.

NJPO CLASSES FOR BOARD MEMBERS:

The dates for the classes have been announced and are in the NJPO newsletter. Registrations are now being taken. Please call the board secretary as soon as possible to schedule. The township pays the cost of the class. The closest is at Cape May County Votech, March 11, 2006.

ADJOURNMENT

A motion to adjourn the meeting was made by Mrs. Bergus, seconded by Mr. Ay, and approved.

The meeting was adjourned at 9:40 p.m.

Submitted by,

Shelley Lea
Board Secretary