

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 13, 2006**

The regular meeting of the Upper Township Zoning Board was held at 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: Stephen Ay, Mary Jean Burgin, Ted Klepac, Jeffrey Pierson, Andrew Shawl, Matthew Unsworth, Lynne Petrozza, Paul Casaccio.

Absent: Elizabeth Bergus.

Also present were Dean Marcolongo, Board Solicitor; Paul Dietrich, Board Engineer; Shelley Lea, Zoning Officer and Board Secretary.

APPROVAL OF MARCH 9, 2006 MEETING MINUTES

A motion to approve the minutes was made by Mrs. Burgin, seconded by Mr. Unsworth, and approved. Abstain: Ay, Pierson, Unsworth.

TABLED APPLICATIONS

Chairman Casaccio announced that the following applications have been tabled until the special meeting of the board scheduled for April 25, 2006 at 7:30. There will be no further notice required by the applicant.

1. ALEXANDER AND SANDRA MAGUIRE – BLOCK 860, LOTS 2 & 3 – BA21-05:
2. STARDUST DEVELOPMENT, LLC – BLOCK 600, LOT 24.02 – BA02-06

The following applications are tabled and will not be heard until May 11, 2006 at 7:30 p.m. There will be no further notice required by the applicant.

1. ROBERT McALLISTER – BLOCK 549, LOTS 52.04 & 70 – BA05-06:

APPLICATIONS

1. 1292 SOUTH SHORE ROAD, LLC – BLOCK 566, LOT 36.02 – BA11-06:

Applicant is requesting a one-year extension of site plan approval, use variance and bulk variances previously granted for the construction of a mini-storage facility at 1292 South Shore Road, Palermo.

Jon Batastini, Esquire, represented the applicants. Resolution No. BA36-03 adopted by the board on March 11, 2004 grants approval for an accessory structure in the front yard and the development of a non-complying conditional use in a commercial zone, variances for lot frontage, lot width and front yard setback, preliminary and final site plan approval and minor subdivision.

The applicants are requesting to extend the approval from March 11, 2006 until March 11, 2007.

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

MR. UNSWORTH – 1292 Shore Road, LLC is requesting a one-year extension of a previously approved application. The applicant is entitled to 3 one-year extensions. This is their first extension request. Since the time of approval they have also received approvals from N.J.D.O.T., Cape Atlantic Soil Conservation District and Cape May County Health Dept.

MRS. BURGIN – There was no public comment.

A motion to approve the extension was made by Mr. Pierson, seconded by Mr. Klepac, and approved. In favor: Ay, Burgin, Klepac, Pierson, Shawl, Unsworth, Petrozza, Casaccio.

2. JOHN LIBRO – BLOCK 723, LOT 45 – BA08-06:

Applicant is requesting variances for front and rear yard setbacks to construct decks on an existing single-family dwelling located at 14 Bayaire Road in Marmora.

John Libro, 14 Bayaire Road, was sworn in. He testified there is currently a concrete porch on the front of the house. He is proposing to replace the porch with a wood porch that will extend 2 ft. closer to the front property line. He is proposing to construct a ground level lower deck in the rear of the property that will not require a variance. He is also proposing a 10' x 24' upper deck that encroaches into the rear setback and requires a variance to allow a setback of 22.5'.

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Mr. Libro testified there would be no negative impact on the well or septic. The proposed decks are compatible to other decks in the area. The new decks will conform to the existing house.

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

MR. UNSWORTH – John Libro is the owner of 14 Bayaire Road in Marmora also known as Block 723, Lot 45. He is requesting to expand remove the concrete porch in the front and replace it with a wood deck that is 2 ft. larger. He is also proposing a wrap around deck that would be 22.5 ft. from the rear property line. The decks will have vinyl railings and will be in keeping with the neighborhood. There will be no impact on the well or septic. He believes the decks will improve the appearance of the house.

MRS. BURGIN – There was no public comment.

MR. PIERSON – This is a pre-existing non-conforming lot according to 20-5.6(g) of the Land Use Ordinance.

MR. KLEPAC – The decks will have no negative impact on the neighborhood.

A motion was made by Mrs. Burgin and seconded by Mr. Pierson, to grant the application with the standard conditions. In favor: Ay, Burgin, Klepac, Pierson, Shawl, Unsworth, Petrozza, Casaccio.

2. CLAYTON DEVELOPMENT ASSOCIATES – BLOCK 573, LOT 26 – BA06-06:

Application is for preliminary approval of a proposed 5 lot major subdivision and a use variance for the pre-existing non-conforming duplex at 1070 Willets Road, Palermo.

Mr. Casaccio stepped down during this application and Mr. Unsworth acted as Chairman.

Arthur T. Ford, III, Esquire, represented the applicant. The applicant is the Contract Purchaser of the property. They are requesting to subdivide the property into 5 residential lots. There is a pre-existing duplex on one of the proposed lots. The applicant requests to contribute \$4,000.00 to the Fire Capital Improvement Fund. They also requests to contribute \$12,500.00 to the Recreation Fund. A copy of a tax assessment card was submitted as proof that the duplex was constructed in 1970 and utilized as a two-family dwelling. The copy was marked as Exhibit A-1.

Joseph Maffei, Professional Engineer and Planner, was sworn in. He described the surrounding area. There are mostly smaller lots on Klain's Lane. The average lot size is approximately 30,000 sq. ft. The existing duplex will remain on site. Off site improvements include the extension of White Oak Drive where a conforming cul-de-sac will be created. They propose to repave Willets Road to Klain's Lane and add stop signs. Approximately 230 ft. of unimproved Klain's Lane will be paved. The proposed lots

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meet all the bulk requirements in the Residential zone. The subdivision will not effect the light, air and open space. The improvements to the road will benefit safety in the area. The subdivision will not have a negative impact on the zoning ordinance or zoning plan. The existing duplex will be rehabbed, however it will not be expanded. Willets Road will be expanded and widened to 20 ft.

Mr. Dietrich stated that the widening of Willets Road to 20 ft. complies with the RSIS requirements. Willets Road will be satisfactory for the number of vehicles that will utilize the road.

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

MR. SHAWL – The applicants are requesting a use variance for the existing non-conforming use. The proposed improvements meet the RSIS standards. A cul-de-sac will be added at the end of White Oak Drive to accommodate the proposed lots. The duplex will not be expanded. Four additional building lots will be created. Willets Road will be expanded to 20 ft. wide. There was no public comment.

MRS. BURGIN – The application is in compliance with 40:55D-2 specifically sections b, c and e. The duplex will be located on proposed lot 26.01 which is 70,000 sq. ft. The proposed use variance can be granted without detriment to the public and will not have a negative effect on the zone plan or zoning ordinance.

MS. PETROZZA – They will be repaving Willets Road up to Klains Lane and adding stop signs.

MR. PIERSON – He believes the proposed subdivision complies with 40:55D-2 I and K. The applicant will contribute \$4,000.00 to the Fire Capital Improvement Fund and \$12,500.00 to the Recreation Fund.

MR. UNSWORTH – The proposed lots meet the standards for the Residential zone.

MR. KLEPAC – The proposed improvements will improve access for emergency vehicles.

A motion was made by Mr. Ay and seconded by Mr. Pierson to grant preliminary major subdivision approval and the requested use variance with the standard conditions. In favor: Ay, Burgin, Klepac, Pierson, Shawl, Petrozza, Unsworth.

3. CECELIA S. QUIGLEY – BLOCK 558, LOT 14 – BA07-06:

Application is for preliminary and final site plan approval to operate The Children's Place of Music and Learning at 3080 Route 9 in Seaville.

Jon Batastini, Esquire, represented the applicant. He stated that the applicant was previously granted a use variance and bulk variances to operate a day care facility at this site. The applicant is the sole owner of HOTEPE, LLC, owner of the property. The

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applicant will contribute seventy-five cents per square foot to the Fire Capital Improvement Fund for a total of 3,200 sq. ft. for Phase I.

Joseph Maffei, Professional Engineer and Planner, was sworn in. He testified the subject property is located on the west side of Route 9 in Seaville. There is access onto Route 9 by a paved driveway. They are proposing 35 parking spaces. The spaces in the rear will be stone and the spaces in front will be paved. A trash enclosure is proposed in the rear of the property. Landscaping will be added along the north and south property lines. A

retention basin will be located along the southern property line to accommodate the storm water runoff. The stone parking area will help to reduce some of the storm water runoff. Phase I of the project is the day care facility. Phase II is a 40 ft. x 40 ft. addition to the rear of the building which will be utilized as the daycare/childhood development center. The applicant is requesting preliminary and final approval for Phase I at this time and preliminary approval for Phase II. They will return to the board for final approval of Phase II. The existing structure in the front will be converted into an office for the school personnel. They are proposing a 20,000 sq. ft. identification sign.

Cecelia Quigley, 1601 South Shore Road, Palermo, was sworn in. She testified they are not proposing any changes to the exterior of the building. The historical building will be preserved. They have pulled the soil away from the building to prevent any further erosion. They have also added rain gutters. They have met with Mr. Albrecht of the Historical Society in regards to the landscaping. Mr. Albrecht has indicated the landscaping meets his approval. The existing outbuildings on site will remain. She feels this is a needed use in the township.

Mr. Dietrich stated the application meets the site plan requirements in the ordinance. The application complies with the technical items on his letter dated March 7, 2006.

The meeting was open to the public.

John Smith, adjacent property owner, was sworn in. He has concerns about runoff from the paved parking lot. He has concerns about his well since it is located close to the property line.

Mr. Dietrich stated the overflow parking will be stone and will help with the runoff.

Hearing no further comments the meeting returned to the board for findings of fact.

MR. UNSWORTH – Cecilia Quigley is the sole owner of HOTEPE, LLC, owner of the property. The property is located at 3080 Route US 9 in Seaville, also known as Block 558, Lot 14. She is requesting preliminary and final site plan approval for Phase I and preliminary approval of Phase II. The board previously granted a use variance and bulk variance. They are requesting a waiver for the stone parking area in the rear. The

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maximum number of students is 75. Chief Spiegel of the Seaville Volunteer Fire Company has agreed to a contribution of seventy-five cents per square foot to go into the Fire Capital Improvement Fund. The contribution will be for 3,200 sq. ft. for Phase I. He feels this is a nice addition to the community. There was public comment from John Smith the adjacent property owner.

MR. AY – There was public comment from within 200 ft. The applicant is requesting a waiver for the stone parking in the rear which will be used by the staff. They have received approval from N.J.D.O.T. and are waiting for septic approval.

MR. PIERSON – He believes the application can be granted without substantial detriment to the public good.

MRS. BURGIN – The stone parking area in the rear will be used for employee parking and will help with the runoff. They currently have D.O.T. approval. The Cape May County Health Dept. is currently reviewing their application for a septic permit.

MR. KLEPAC – The fire company has agreed to accept a contribution in lieu of the fire safety requirements

MR. CASACCIO – The applicants are requesting a waiver for the stone parking in the rear.

A motion was made by Mr. Pierson and seconded by Mr. Ay, to grant preliminary and final site plan approval and the waiver to allow a stone parking area in the rear of the property with the standard conditions and a condition that there will be a maximum of 75 students. In favor: Ay, Burgin, Klepac, Pierson, Shawl, Unsworth, Petrozza, Casaccio.

RESOLUTION

GEORGE & CAROLE SWENSON – BLOCK 558, LOT 10 – BA04-06

A motion to approve the resolution was made by Mrs. Burgin, seconded by Mr. Klepac, and approved. Abstain: Ay, Pierson, Unsworth.

BILLS

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

SPECIAL MEETING DATE

A special meeting will be held on April 25, 2006 at 7:30 p.m.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Unsworth, seconded by Mr. Klepac, and approved. The meeting was adjourned at 8:35 p.m.