

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

MEETING MINUTES

MAY 8, 2008

The regular 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: Mary Jean Burgin, Ted Klepac, Christopher Phifer, Jeffrey Pierson, Andrew Shawl, Matthew Unsworth, Kenneth Yakopcic and Chairman Paul Casaccio.

Absent: Lynn Petrozza.

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

APPROVAL OF THE APRIL 10, 2008 MEETING MINUTES

A motion to approve the minutes was made by Mr. Pierson and seconded by Mr. Unsworth. Abstain: Klepac, Petrozza and Casaccio.

TABLED APPLICATIONS

1. **FRANCES LITTLE – BLOCK 2, LOT 7.01 – BA07-08**

The above application was tabled at the request of James Robertson, Esquire, representing the applicant. The application will be rescheduled for June 12, 2008. The applicant agrees to the tolling to time. No further notice is required.

2. **SCOTT BEUHLER – BLOCK 848, LOT 4 – BA08-08**

The above application was tabled at the applicant's request. The application will be rescheduled for June 12, 2008. The applicant agrees to the tolling of time. No further notice is required.

3. **PETER DAVISH – BLOCK 653.02, LOTS 14 & 15 – BA09-08**

The above application was tabled at the request of Dorothy McCrosson, Esquire, representing the applicant. The application will be rescheduled for June 12, 2008. The applicant agrees to the tolling of time. No further notice is required.

4. FRANK DIRENZO – BLOCK 559, LOTS 21.01 & 21.02 – BA12-08

The above application was tabled at the request of Cory Gilman, Esquire, representing the applicant. The application will be rescheduled for June 12, 2008. The applicant agrees to the tolling of time. No further notice is required.

APPLICATIONS

1. JOHN J. McGRATH AND PATRICK FLANAGAN – BLOCK 567, LOT 50.01 – BA11-08

Application is for a one year extension of preliminary site plan approval and variances granted for an age restricted development at 1357 Route US 9 South, Palermo.

Jon Batastini, Esquire, represented the applicants. He stated that the applicants are requesting their second one-year extension of approvals granted to construct a 124 unit age restricted development. The extension would be valid from February 10, 2008 until February 10, 2009.

The first extension was granted on August 9, 2007. Since that time they have submitted an application to CAFRA and have been deemed complete.

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

MR. UNSWORTH – John McGrath and Patrick Flanagan, 1262 Wood Lane, Langhorne, Pennsylvania, are before the Board concerning Block 567, Lot 50.01, located at 1357 Route 9 South in Palermo. The applicants have received one extension and are asking for their second extension. They are entitled to 3 extensions. The applicant has agreed to conform to the previous conditions. They are currently dealing with CAFRA. The zoning of the property has changed since the original approvals were granted. For this reason they may not require a use variance.

A motion was made by Mrs. Burgin and seconded by Mr. Unsworth, to grant a one-year extension of preliminary site plan approval and variances granted from February 10, 2008 until February 10, 2009. In favor: Burgin, Klepac, Phifer, Pierson, Shawl, Unsworth, Casaccio.

2. JOHN AND DAVINA WECHSLER – BLOCK 851, LOT 4 – BA05-08

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Application is for lot depth and front yard setback variance to construct a single-family dwelling at 13 N. Commonwealth Avenue, Strathmere.

Jon Batastini, Esquire, represented the applicants. The applicants own a vacant lot on the corner of Williams Avenue and Commonwealth Avenue. The property is located in the (RR) Resort Residential zoning district. Since this is a corner lot the applicants are requesting 2 front yard setbacks and a lot depth variance.

Joseph Maffei, Professional Engineer, was sworn in. He testified that the applicants would like to construct a single-family dwelling on the lot. They have received approval for the installation of the septic. Since they appeared before the board in April they have moved the house closer to Commonwealth Avenue and made changes to the dimensions of the house. They are now requesting a 9 ft. front yard setback on Commonwealth Avenue and a 12 ft. front yard setback on Williams Avenue. He believes the proposed 12 ft. setback on Williams Avenue is more consistent with the neighborhood. The new plan accommodates as many neighbors as possible. The lot depth is a pre-existing non-conforming condition.

Mr. Maffei stated that the garage has been expanded to allow room to park 2 vehicles. The building coverage has been reduced to meet the requirement. There is a proposed recharge system. The plan also includes curbs and sidewalks on both Commonwealth Avenue and Williams Avenue.

Mr. Batastini stated that buy sell letters were mailed to the adjoining property owners. At the previous meeting Sandra Koenig, owner of lot 5, was present to announce that she is not interested in buying or selling.

Mr. Dietrich stated that the mounded septic system slopes towards the adjacent property to the east. He recommends that during final site grading the applicant not create any runoff to the adjacent property.

Davina Wechsler, 533 Lombardy Street, Drexel Hill, Pennsylvania, was sworn in. She testified that the TV/media room shown on the plan would not be utilized as a bedroom.

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

MR. SHAWL – John and Davina Wechsler are the owners of Block 851, Lot 4 located at 13 N. Commonwealth Avenue in Strathmere. They are requesting variances for 2 front yard setbacks and lot depth. This is a corner lot with 2 front yards. The last revision to the plans by EDA was 4/25/08. The last revision to the architectural plans by Carmen J. LaRosa was 4/28/08. The plans were modified to address the concerns of the neighbors. This is an irregular shape lot. The applicants propose to construct a 2 bedroom single-

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family dwelling. They will be adding curb and sidewalks to Williams Avenue and Commonwealth Avenue. The runoff will not cause a problem to the neighbors. The

proposed house will conform to others in the area. Previously there were concerns that the house may obstruct views and the design of the house has been changed to address those concerns. There was no public comment.

MRS. BURGIN – The placement of the house is dictated by the septic location. Buy/sell letters were sent to adjoining property owners. The neighbor to the east was not interested in buying or selling. The proposed setback is more conforming to the rest of the houses in the neighborhood.

MR. KLEPAC – The Township Engineer is satisfied with the revisions.

MR. CASACCIO – This is a unique property since there are 2 front yards. The lot depth is a pre-existing non-conforming condition.

A motion was made by Mr. Pierson and seconded by Mr. Unsworth, to approve the variances for lot depth and front yard setback with the standard conditions. In favor: Burgin, Klepac, Phifer, Pierson, Shawl, Unsworth, Casaccio.

3. VINCE FLETCHER – BLOCK 730, LOTS 23 THROUGH 26 – BA03-08

Application is for a use variance, site plan approval and bulk variances to construct a car wash facility at 1 Roosevelt Boulevard, Marmora.

Mr. Unsworth stepped down during this application.

Michael Stanton, Esquire, represented the applicant. He stated that the subject property is located in the (TCC) Town Center Core Zoning District. The lot area is 16,095 sq. ft. The applicant wishes to construct a 28 ft. x 90 ft. car wash facility with an adjacent asphalt vehicle queuing area. Buy / Sell letters were sent to the adjoining properties and the 2 lots behind them. Jacqueline Smith, owner of Block 730, Lots 10 and 11, has offered to sell her property for \$400,000. She paid \$54,000 for her property. It was on the market at \$260,000 for 160 days. Christopher Breunig, owner of Block 730, Lots 21 and 22, has offered to sell his property for \$280,000. He purchased his property for \$140,000. Kirk and Laura Mayer, owners of Block 730, Lots 8 and 9, have offered to sell their property for \$450,000. The owners of lot 19 offered to sell their property for \$500,000. He sent letters to Mr. Breunig and Ms. Smith offering to purchase their properties for \$180,000. This amount was determined to be the fair market value for the lots. He believes this satisfies their burden to acquire the lots. The buy/sell letters were marked as Exhibits A-1, A-2 and A-3. Correspondence from Mr. Stanton to Jacqueline Smith was marked as Exhibit A-4. Correspondence to Christopher Breunig, dated April 14, 2008 was marked as Exhibit A-5 and another letter to Mr. Breunig, dated April 16, 2008 was marked as Exhibit A-6. A conceptual rendering of the proposed facility was marked as Exhibit A-7.

Mr. Stanton stated that a use variance is needed along with several bulk variances. Most of the variances are needed due to the size of the property.

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Joseph Maffei, Professional Engineer, was sworn in. He testified that the property is unique since it is surrounded by a county road, state road and township road. The previous use of the property was a gas station with access on all 3 roads.

The proposal is for the vehicles to enter the site from Route 9. They would then pay for the car wash automatically. The vehicle is automatically moved through the car wash and exits back onto Route 9. The curb line will be extended to block off access to Roosevelt Boulevard. The access on Allendale Road would be for emergency use only.

Mr. Maffei further testified that car wash facilities are a conditional use in the TTC zone. They do not meet the conditions since they do not conform to the bulk standards. The variances needed include lot area, lot width, lot frontage, front yard setback, impervious lot coverage, landscaped buffer, and setback for the sign. They are also requesting 9 ft. x 18 ft. parking spaces. He described the storm water system. They propose a landscape buffer in the rear of the property. The car wash is approximately 20 ft. from the house on lot 22 and about 40 ft. from the house on lots 10 and 11. They propose to construct a sidewalk that would surround the entire site.

Mr. Dietrich testified that even under the previous CM zoning the lot area and depth would not be sufficient and would require a variance.

Solicitor Marcolongo discussed the D3 conditional use variance and advised the Board that they must determine if the use is compatible with the neighborhood.

Mr. Maffei testified that he believes this is not a detriment to the zone plan since car washes are encouraged in the zone and are a conditional use. They have narrowed the project down to compensate for the lot area. He feels this is an appropriate location due to the traffic.

David Shropshire, professional engineer and planner specializing in traffic, 662 Main Street, Lumberton, New Jersey, was sworn in. He described the permitting required from the NJDOT. He feels from an engineering perspective that there would be improvements in safety by eliminating the access points on Roosevelt Boulevard. He reviewed queuing on Route 9 and the stacking on site. He does not see any detriment to the public good. The traffic would be less intense than the previous gas station. There is no traffic related detriment to the zoning ordinance or master plan based on this being a conditional use on the site.

There was a short break at this time.

Vincent Fletcher, 16 Arkansas Avenue, Ocean City, was sworn in. He testified that he is the contract purchaser of the property. He has been in the car wash business for over 20 years. The proposed hours of operation are 8 a.m. until 8 p.m. In the winter he

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anticipates closing at 6 p.m. The winter is the busiest time of the year because of the salt that is put on the roads. He describes how the car wash works. A document created by

Mr. Fletcher was marked as Exhibit A-8. The document indicates that a car would exit the car wash every 1.44 minutes. The car wash would utilize recycled water and would use a closed loop system. The car wash would be closed about 65 days a year. There would be one employee at the entrance and a manager. The shifts would overlap for the busier times in the afternoon. There would be emergency buttons to shut the facility down and an electronic beam that shuts the machine down if the traffic backs up. There will be no retail on site and no outside vacuums.

Mr. Fletcher testified that the proposed car wash would have a completely positive impact on the environment.

Mr. Shropshire testified that he is also qualified for noise and air quality assessments. The fans at the end of the car wash generate the noise. The noise dissipates greatly once you get to the sides. Other noise measures that he has done show that the ambient noises of the roadway in and of themselves are greater than the noise from the car wash. During the daytime hours he expects that the roadway noise will probably exceed 65 decibels. He suggested that there could be a need for fencing along the property line to protect the public.

Solicitor Marcolongo indicated that the resolution would say that the applicant must comply with the growth share ordinance. The applicant agreed to limit the hours of operation specifically in the morning. The hours would be limited to 8 a.m. until 8 p.m.

The meeting was open to the public.

Christopher Breunig, 8 Allendale Road, Marmora, was sworn in. He is the owner of lots 21 & 22. His bedroom is 16 ft. from the property line. He is concerned about the noise level and the traffic. He doesn't see the building as being aesthetically pleasing. He is concerned about the property value. He is asking for \$280,000 from the applicant to purchase his property. His recent assessment was \$287,000. Ranchers in the neighborhood have sold in excess of \$280,000. He doesn't feel the proposed use is compatible to the neighborhood. He discussed the previous uses on the site.

John Mirallegro, 52 Linda Lane, Seaville, was sworn in. He would like to see more ratables come into the Township, however he is concerned about the traffic at this location and the quality of life. He feels this lot is too small for a commercial use.

Hearing no further comment the meeting returned to the Board for findings of fact.

MR. PIERSON – Vincent Fletcher, 16 Arkansas Avenue, Ocean City, is the contract purchaser of Block 730, Lots 23 through 26. The property is located at 1 Roosevelt Boulevard in Marmora. The applicant is requesting preliminary and final site plan approval to open a car wash. He is also requesting a D3 use variance and several bulk

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variances. There has been testimony from various individuals. There were concerns about the church located across the street. They have made every effort to buy adjacent

properties for what they perceive as fair market value. They sent 4 buy sell letters to the neighbors. The prices range from \$280,000 to \$500,000. There was no formal property appraisal done to determine the assessments. There was testimony given in regard to the NJDEP requirements in regards to permits. Mr. Shropshire feels that a minor access permit is needed for 30 vehicles in and 30 out of the site. The previous gas station averaged 500 trips a day. It was indicated that the safety would be improved by eliminating the access on Roosevelt Boulevard. An emergency safety access would be on Allendale Road. There was testimony that the traffic would not be adversely affected. Safety devices are provided at the end of the building to shut down the equipment and to control the traffic on site. There will be no retail. There will be no more than 2 employees on site at one time. There will be heated concrete so that the water will not freeze in the winter. There is exterior lighting for security. They are willing to install fencing and additional vegetation if approved. A competent authority should read the decibels to determine if they are within the limits. The applicant must comply with the Township Growth Share Ordinance. Approximately 1.5 cars per minutes will travel out of the facility. It would take approximately 3 minutes to go through the facility. All the water would be recycled except for the 1.2 gallons disposed of by each vehicle.

Approximately 2 to 5 gallons are lost through the wash process. There was public testimony from Christopher Breunig, property owner within 200 ft. He has concerns about the noise and traffic. He feels it is not beneficial to his area and that it is not compatible to the neighborhood. He is not sure if the fence is beneficial at this time since it will make it claustrophobic. His property was appraised recently at \$280,000. The Township has assessed his property at \$260,000. Mr. Mirallegro, outside of 200 ft., feels a car wash is not the appropriate venue for the site. The applicant agreed not to open the facility any earlier than 8 a.m. and to close by 8 p.m. The facility would clean up the environment and cut back on the average person washing their car at home.

MR. SHAWL – The applicant is requesting variances for lot area, lot frontage, lot width and depth, front yard setback, side yard setback, impervious lot coverage, landscape buffer, sign setback and the size of the parking spaces. The building was designed to look nice and fit in with the neighborhood. The driveway will be blocked during heavy traffic. The traffic study took into account the opening of the Beesleys Point Bridge. There are 18 spaces for queuing. A left hand turn is preferable for going into the car wash. Acquiring additional property would not make the traffic less intense and would not necessarily be a better design. The applicant has operated car washes for 20 years. The hours of operation are from 8 a.m. until 8 p.m. Typically there will be 1 manager and 1 employee. The winter is the busiest time. Mr. Shropshire has testified the noise will meet State standards at the property line.

MR. PHIFER – The Board had concerns about how the additional traffic from the car wash would impact Route 9 and Roosevelt Boulevard. Consideration was also expressed about the schools and churches in the area. The cost of the car wash will range from \$4.00 to \$10.00.

MR. KLEPAC –The applicant has explained the operation thoroughly.

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MR. PIERSON – The applicant agreed not to open the facility any earlier than 8 a.m. and to close by 8 p.m. The facility would clean up the environment and cut back on the average person washing their car at home.

MR. CASACCIO – Mr. Breunig testified that the car wash would have more of an impact on him than the previous repair shop. The applicant addressed the on site circulation. Larger vehicles would have to make a K-turn to get into the car wash. He feels this could cause problems on site. The neighborhood is mostly residential and offices. The applicant agreed to the growth share and to put up a fence if needed. Acquiring additional land would not alleviate the variances but would reduce the intensity.

The Board was polled to determine if the applicant has sustained his burden of proof regarding the D3 variance and the negative criteria.

MR. SHAWL – Joseph Maffei testified that the proposed use does not impact the neighborhood. He indicated that the car wash is a conditional use and allowed in this zone. The lot does not meet the bulk requirements.

MRS. BURGIN – She believes that the variance could not be granted without substantial detriment to the public good. Granting the variance would impair the intent and purpose of the zoning plan. The project is a conditional use in the TCC zone but is permitted only if they meet the bulk standards in the zone. Since there are so many bulk variances needed she believes there was no testimony to prove any benefits to the public.

MR. PIERSON – The applicant made an effort to buy the adjoining properties although he hasn't done anything else to make the board approve the bulk variances.

MR. YAKOPCIC – He concurs. He doesn't believe that the traffic issues were addressed in depth.

A motion was made by Mrs. Burgin and seconded by Mr. Pierson, to grant site plan, conditional use variance and bulk variances. Opposed: Burgin, Klepac, Phifer, Pierson, Shawl, Yakopcic, Casaccio.

RESOLUTIONS

1. BRIAN AND BRIGITTE TURNER – BLOCK 836, LOT 3 – BA04-08

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

2. JERSEY COAST SPAS – BLOCK 453, LOT 182.03 – BA06-08

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

BILLS

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

EXECUTIVE SESSION

A motion to go into Executive Session was made by Mr. Klepac, seconded by Mr. Pierson, and approved. The Board entered Executive Session at 11:10 p.m.

The Board went back on the record at 11:13 p.m. The meeting was adjourned at 11:14 p.m.

Submitted by,

Shelley Lea