

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
JULY 10, 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, Andrew Shawl, Matthew Unsworth, Kenneth Yakopcic, Chair Paul Casaccio.

Absent: Jeffrey Pierson and Lynn Petrozza.

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

SWEAR IN BOARD PROFESSIONALS

APPROVAL OF THE JUNE 12, 2008 MEETING MINUTES

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

TABLED APPLICATIONS

The following applications were tabled until the August 14, 2008 meeting. The applicants have agreed to waive the tolling of time. No further notice is required.

1. PETER DAVISH – BLOCK 653.02, LOTS 14 & 14 – BA09-08
2. FRANK DIRENZO – BLOCK 559, LOTS 21.01 & 21.02 – BA12-08
3. BLOCK 567 LOT 27 ASSOCIATES – BLOCK 567, LOT 27 – BA15-08

APPLICATIONS

1. ROBERT WHITELAW AND PAMELA LAWS – BLOCK 857, LOT 1 – BA10-08

Applicants requested variances for lot depth and height of the proposed single-family dwelling at 201 N. Commonwealth Avenue, Strathmere.

James Pickering, Esquire, represented the applicants.

Mr. Casaccio swore in William A. Haryslak, 2819 Dune Drive, Avalon and Maxwell Peters, 1256 No. Church Street, Morristown.

Mr. Peters, Professional Engineer testified that the property is located on the corner of Commonwealth Avenue and Winthrop Avenue. The area consists of single-family residences and some vacant lots. There are 2 lots in the area with less depth. He prepared the site plan last revised 6/26/08. The plan meets all the setback requirements. A lot width variance is needed to allow 91.72 ft. where 95 ft. is required. He believes that the lot depth variance can be granted without any detriment to the public or the zoning plan since this is a permitted use in the zone and because there are other lots in the area developed with single-family residences that are similar or smaller in size.

Mr. Haryslak, testified that he has been a Registered Architect since 1993. The proposed structure is 30.5 ft. in height where only 28 ft. The height is needed to comply with the flood elevation requirement of 10.0 ft. The average crown of the road is 6.70 ft. The maximum roof pitch he could achieve while staying within the height limit was 4 / 12 slope. He is proposing a 6 / 12 slope that is better for wind and the asphalt roof shingles. The ordinance permits the structure to be 33 ft. high if parking is provided underneath. The applicants would rather not have parking under the structure since there is plenty of room on site for parking. Raising the house to providing parking underneath would allow them to have only a 4 / 12 slope in order to meet the standard. They are requesting to be 2-½ ft. less than what would be permitted if parking were provided. He believes that the benefits of the deviation would substantially outweigh any detriment in regards to safety and aesthetics. He believes the variance can be granted without substantial detriment to the public good since a larger building could be built and since the house would be protected from flooding. He believes the variance could be granted without impairing the zoning plan or zoning ordinance since this is a permitted use in the Resort Residential Zoning District.

Mr. Haryslak testified the plan of the proposed 2,370 sq. ft. dwelling last revised 6/26/08 shows 3 bedrooms and 2 bathrooms. The septic design is for a 4-bedroom house. He will amend the plan to change the family room on the first floor to a bedroom.

Mr. Haryslak testified that the lot is graded so the storm water from the house and the paved area is pitched toward the street and not the neighbor's property.

Mr. Peters will amend the plan to show the current zoning requirements and the exact amount of coverage. He estimates that the impervious coverage will be approximately

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41%.

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

MR. SHAWL – Robert Whitelaw and Pamela Laws are requesting variances for property located at 201 N. Commonwealth Avenue in Strathmere, Block 857, Lot 1. They are requesting a variance for lot depth to allow 91.72 ft. where 95 ft. is required. They are also requesting a height variance to allow the structure to be 30.5 ft. in height where 28 ft. is permitted. The adjacent lots contain single-family dwellings. This is a corner lot with 2 front yards. The plan meets the setback standards. The applicants engineer provided testimony that there would be no detriment to the public or zoning plan or zoning ordinance. There are similar size lots in the area with the same lot depth. The applicant has agreed to verify the impervious surface calculations and meet the standard of less than 45%. They will also calculate the building coverage to verify that it meets the ordinance requirements. The zoning schedule will be amended to show the current zoning requirements. The storm water runoff would be directed toward the road and not the adjacent properties. The applicants architect provided information in regards to wind speed and flood elevations. He testified that the height variance could be granted since the benefits outweigh the detriments. The height of the roof is for safety and aesthetic reasons. There are multiple rooflines proposed and some are lower than 28 ft. The plan provides 2 on site parking spaces. The septic was designed for 4 bedrooms.

MRS. BURGIN – The proposal is within keeping of the area and complies with 40:55D-2(1). They are proposing a 6 /12 pitch rather than a 4 / 12 slope that would comply with the ordinance. There was no public comment.

MR. CASACCIO – The applicant has agreed to revise the zoning schedule and change the plan to show 4 bedrooms and remove the family room on the first floor.

A motion was made by Mr. Shawl and seconded by Mr. Unsworth, to grant the requested variances with the standard conditions and that the zoning schedule is amended to show the current zoning and the coverage and revise the floor plan to show 4 bedrooms. In favor: Burgin, Klepac, Shawl, Unsworth, Yakopic, Casaccio.

2. WARREN NORTH – BLOCK 657, LOT 9 – BA13-08

Applicant requested a use variance for the expansion of a non-conforming use to construct an addition to an existing duplex at 8 St. Andrews Place, Marmora.

Warren North, 810 Asbury Avenue, Ocean City, NJ, was sworn. He testified that he recently purchased this pre-existing non-conforming duplex. He would like to construct a bathroom addition on the 2nd floor unit. There are currently 2 bedrooms and only 1 bathroom. He feels 2 baths are needed. The addition would be over the existing first floor and would not change the footprint of the building. He submitted photos showing the property that were marked as exhibits A-1, A-2 and A-3.

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Mr. North testified that the addition would improve the roof structure and the appearance of the structure. The addition will not affect the setbacks or building coverage. The roof and the siding will match the existing house.

Mr. North agreed to use the first floor unit as a COAH unit when it becomes vacant. He purchased the property with it already being rented.

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

MR. SHAWL – Warren North, 810 Asbury Avenue, Ocean City, has presented an application for a use variance at 8 St. Andrews Place in Marmora. The property is known as Block 657, Lot 9 on the tax map. The duplex is a pre-existing non-conforming use in a neighborhood with single-family homes. The applicant is proposing to add a small addition to the second floor to be used for a bathroom. There will be no changes to setbacks or building coverage. There will be no change to the use of the structure. The addition will provide a more functional floor layout. The applicant has agreed to use one unit for affordable housing. He believes the variance can be granted since the addition would promote public health, safety and general welfare and provide adequate light, air and open space since the addition doesn't increase the height or the setbacks. There was no public comment.

MRS. BURGIN – The building has been a duplex. The new roof structure will be more aesthetically pleasing than the existing flat roof. She believes the application can be granted without substantial detriment to the public good and will not impair the intent and purpose of the zoning plan.

MR. UNSWORTH – He thanked Mr. North for helping the Township meet their COAH obligation.

A motion was made by Mr. Unsworth and seconded by Mr. Shawl, to grant the use variance with the standard conditions and that the 1st floor unit will be added to the COAH Bank when it becomes vacant or if the renter is eligible for COAH. In favor: Burgin, Klepac, Phifer, Shawl, Unsworth, Yakopcic, Casaccio.

3. JOSEPH McCANN BUILDERS, LLC – BLOCK 829, LOT 4.01 – BA14-08

Applicant requested variances for front and side yard setbacks and lot coverage for a single-family dwelling currently under construction at 10 Randolph Avenue, Strathmere.

Julius N. Korschak, Esquire, represented the applicant. The applicant purchased the property in January 2008. The building permits and construction on the property began in 2005. Mr. McCann discovered that the house did not meet the setbacks after submitting an As Built Survey to the zoning office.

He submitted several exhibits that were pre-marked. Exhibit A-1 is a copy of the plan by DeVaul Surveying, LLC dated April 15, 2008; A-2 is a copy of the subject property; A-3

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is a photo of 8 Randolph Avenue; A-4 is a photo of a house under construction on the corner of Randolph and the beach; A-5 is 17 Randolph Avenue; A-6 is a dwelling at the northeast corner of Commonwealth and Randolph Avenue; A-7 is 5 Randolph Avenue directly across the street; A-8 is a copy of the zoning permit applied for by Albert Bauer the former owner and approved on 4/30/03; A-9 is a copy of the application made by Mr. Bauer for a wetland transition from the NJDEP; A-10 is the permit from NJDEP for a transition waiver; A-11 is a letter written by Mr. Bauer ,dated June 2, 2005 to Edward Kenney, Construction Official; A-12 is a copy of the Certificate of Compliance from the Cape May County Dept. of Health for a sewage disposal system; A-13 is a copy of the construction permit approved 6/3/05; A-14 is a copy of a letter to Mr. McCann dated 4/3/08 from Shelley Lea, Zoning Officer; A-15 is a the architectural plan; A-16 is a copy of the deed proving that Mr. McCann bought the property on 1/14/08.

Mr. Korschak stated that the front wall of the building is actually 15 ft. but there are 2 small bump outs that encroach into the setbacks. There are other properties within 200 ft. that do not meet the front yard setback. He believes the impact is diminimus. The architect that prepared the plans did not include all the decks as lot coverage. The applicant requires a variance to allow 32% lot coverage. He believes the benefits of granting the lot coverage variance outweigh any detriments since the applicant would actually have to demolish or move a building that is set on pilings. He sees no detriment to the public good or impairment to the zoning ordinance.

Joseph D. McCann, 4111 Landis Avenue, Sea Isle City, was sworn. He testified that he was not aware that the building didn't meet the setbacks and lot coverage requirements until the As Built Survey was done. When he bought the property the house was almost built. The house will have gutters and will be graded. He testified that in 36 years of building homes this has never happened to him.

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

MR. SHAWL – Joseph McCann is requesting variances for front and rear yard setbacks and lot coverage at 10 Randolph Avenue in Strathmere, Block 829, Lot 4.01. The applicant purchased the property with the building under construction in January 2008 not aware that the building encroached into the setbacks and exceeded the lot coverage. There are other homes in the area with similar front yard setbacks. Jules Korschak represented the applicant. There was no public testimony.

MRS. BURGIN – The setbacks are similar to others in the neighborhood. She believes the benefits of granting the variances would outweigh any detriment.

MR. PHIFER – The house will have gutters. The driveway opening is 12 ft. The storm water runoff will not affect adjoining properties.

MR. UNSWORTH – The structure meets all the other bulk requirements. The front yard setbacks of the houses in the area are consistently less than 15 ft. This is an attractive home and an asset to the community.

MR. KLEPAC – The applicant acted in good faith by bring the application to the Board.

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

RESOLUTIONS

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

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mr. Yakopcic, and approved. Abstain: Unsworth.

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

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mr. Yakopcic, and approved. Abstain: Unsworth.

BILLS

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

EXECUTIVE SESSION

A motion to go into Executive Session was made by Mr. Unsworth, seconded by Mr. Yakopcic, and approved. 9:07 p.m.

The Board returned to the record at 9:10 p.m.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Unsworth, seconded by Mr. Shawl, and approved. The meeting was adjourned at 9:10 p.m.

Submitted by,

Shelley Lea