

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
REORGANIZATION MEETING MINUTES
JANUARY 8, 2009

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: Mary Jean Burgin, Ted Klepac, Christopher Phifer, Andrew Shawl, Lynn Petrozza, Kenneth Yakopcic and Paul Casaccio.

Absent: Matthew Unsworth and Jeffrey Pierson.

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

REORGANIZATION

CHAIR

A motion was made by Mrs. Burgin and seconded by Mr. Yakopcic, to nominate Paul Casaccio as Board Chair. A motion to close the nominations was made by Mr. Klepac. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopcic, Casaccio.

PAUL CASACCIO ELECTED CHAIR FOR 2009

VICE CHAIR

A motion was made by Mr. Klepac and seconded by Ms. Petrozza, to nominate Matthew Unsworth as Vice Chair. A motion to close the nominations was made by Mrs. Burgin. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopcic, Casaccio.

MATTHEW UNSWORTH ELECTED VICE CHAIR FOR 2009

SOLICITOR

A motion was made by Mr. Klepac and seconded by Ms. Petrozza, to nominate Dean Marcolongo as Board Solicitor. A motion to close the nominations was made by Mrs. Burgin. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopcic, Casaccio.

DEAN MARCOLONGO ELECTED SOLICITOR FOR 2009

A motion was made by Mr. Klepac and seconded by Mrs. Burgin to nominate Paul Dietrich as Board Engineer. A motion was made by Mr. Klepac to close the nominations. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopczic, Casaccio.

PAUL DIETRICH ELECTED BOARD ENGINEER FOR 2009

SECRETARY

A motion was made by Mr. Klepac and seconded by Mrs. Burgin, to nominate Shelley Lea as Board Secretary. A motion was made by Mr. Klepac to close the nominations. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopczic, Casaccio.

SHELLEY LEA ELECTED BOARD SECRETARY FOR 2009

OFFICIAL NEWSPAPER

A motion was made by Mrs. Burgin and seconded by Mr. Yakopczic, to utilize the AC Press and the Ocean City Sentinel Ledger as the official newspaper. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopczic, Casaccio.

SWEAR IN BOARD PROFESSIONALS

APPLICATIONS

1. CRAIG SCHWEMMER – BLOCK 18, LOTS 1 THROUGH 4 – BA27-08

Applicant is requesting a use variance to permit an existing mother-in-law apartment to continue as a COAH unit at 232 Marshallville Road, Tuckahoe.

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

Julius N. Korschak, Esquire, represented the applicant. He stated that Mr. Schwemmer is the contract purchaser of the property.

Mr. Korschak stated that he represented the Estate of Paul F. Revak and was before the Board in 1993 to convert the upstairs of the detached garage into a Mothers In Laws apartment to be utilized only by Elizabeth Revak until her death. A copy of Resolution BA32-93 was submitted as part of the application. The testimony at that time was that Ms. Revak had lived in the apartment for 15 years until making it legitimate.

Mr. Korschak explained there is a 2 ½ story dwelling and a large garage with a second floor apartment. Mrs. Revak has passed and the family has inherited the property. The applicant would like to purchase the apartment and is willing to use the existing apartment as an affordable housing unit. He is also willing to deed restrict the property and comply with any local affordable housing codes.

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Craig Schwemmer, PO Box 712, Long Valley, New Jersey, was sworn. He testified that he is willing to help the Township with their affordable housing need. He agrees to the appropriate deed restrictions as a condition of approval. His business is buying and renovating houses in South Jersey. He intends to clean up the site and reside the garage and replace the garage doors. He feels the garage can be renovated within a year. The main house is dated and needs to be gutted and rewired. He feels the renovations will be consistent with the neighborhood. He feels this could be done without detriment to the public good and without impairing the intent of the zoning ordinance.

Mr. Schwemmer agreed to store only personal items in the garage and to deed restrict the lots.

The meeting was open to the public.

Debra Ann Young, 230 Marshallville Road, Tuckahoe, was sworn along with Antonio Castagna, 19 Route 610, Petersburg. Mr. Castagna read a statement prepared by Ms. Young, which states that she is the owner of the adjacent property. She is opposed to the application since the original approval was necessary for Mrs. Revak to live in the apartment as a life estate. The original approval stated specifically that when Mrs. Revak either moved or passed the unit would be converted back into a storage unit and the kitchen removed. The apartment overlooks her bedroom windows and creates a safety and privacy concern. She is concerned about the septic due to the proximity of the river and adjacent wells. Most of the surrounding lots are undersized and developed with single-family dwellings. She feels that granting the variance would change the nature of the neighborhood and lower property values. She feels there is no benefit to the neighborhood only negative. The Township has not designated this area for affordable housing. She feels the apartment will not enhance the zoning in the area. Photographs of the subject property were submitted and marked as Exhibits P-1, P-2, P-3 and P-4.

Mr. Schwemmer testified that he resides in Ocean City for at least 6 months out of the year. He has other properties in the area that he rents. His real estate agent is also available to help make sure the property is being maintained.

Jeff Hutchinson, 222 Marshallville Road, was sworn. He testified that he had no objection to Mrs. Revak using the mother in law apartment. He stated the apartment is now non-conforming and should be eliminated. He feels the only one that will benefit from the apartment is the applicant. There are no other rental units in the neighborhood.

Robert Young and Barbara Young, 224 Marshallville Road, were sworn.

Mr. Young had questions in regards to the COAH rules. He objects to the application.

Mrs. Young had concerns about the septic. She is concerned about noise since the apartment is only 50 ft. from her home. . She asked about buffer requirements. She purchased her property over 30 years ago because of the location. She feels the

apartment does not conform to the quaint historic community on the riverfront. Mr. Korschak agreed to a condition that a new septic would be installed.

Patricia Link, 237 Marshallville Road, Tuckahoe, was sworn. She objects to the application for environmental reasons and for privacy reasons.

Hearing no further comment the meeting was closed to the public.

Mr. Korschak stated that it makes sense to utilize an already existing apartment to help the Township fulfill its COAH requirements. The applicant will clean and upgrade the site and install a new septic which will benefit the area. If the application is not approved the property could sit like it is for a long time.

The Board gave their Findings of Fact.

MRS. BURGIN – Craig Schwemmer of Long Valley, New Jersey is the contract purchaser of 223 Marshallville Road in Tuckahoe, Block 18, Lots 1, 2, 3 and 4. The property is zoned residential. The application is for a use variance to allow a mother in law apartment to continue. The apartment has been there for 30 years. Mrs. Revak lived in the apartment for 15 years before obtaining a use variance for a life estate as show in Resolution BA32-93. Photos of the garage and principal structure were submitted. Testimony was given that adding this apartment to the COAH list would be a benefit. The applicant has agreed to a 30-year deed restriction. The improvements to the garage would be complete within 1 year. Renovations to the principal structure would be done after the garage. The applicant testified that the setbacks are consistent with the neighborhood and there would be no detriment to the public. Both the house and garage would be rented. The lots would be consolidated. The applicant agreed the property would not be used for a business. The former use variance was granted for the life of Mrs. Revak and is now expired. That approval indicated that the garage reverts back to storage and the kitchen removed after Mrs. Revak has passed away. Several neighbors expressed their concerns, which included privacy, environmental, safety and noise, and the fact that the rest of the neighborhood is single-family homes on undersized lots. The owner's son now lives in the apartment with his child.

MS. PETROZZA – She finds no special reasons to grant the use variance since there was substantial testimony the apartment is a detriment to the public. This is a residential area and the privacy of the neighbors will be affected. The use variance is now expired. The apartment does not conform to the area. The proposed use does not conform to NJSJ40:55-7c. She feels the COAH unit would be a detriment to the area.

MR PHIFER – If approved the applicant agrees to address structural damage on the garage.

MR. KLEPAC – The applicant plans to improve the appearance of the structures.

A motion was made by Mrs. Burgin and seconded by Mr. Phifer, to grant the use variance with the condition the unit be placed in the COAH housing stock for low to moderate income persons in accordance with COAH eligibility standards and in

compliance with the Upper Township rental program with a deed restriction of 30 years, the applicant complete the renovations set forth on record including upgrading the septic system and the improvements be done within 1 year and prior to occupancy the lots must be consolidation. In favor: Klepac, Phifer, Shawl, Yakopcic. Opposed: Burgin, Petrozza.

2. LEONARD & CAROL LEE ECKMAN – BLOCK 824, LOT 5 – BA28-08

Application is for front, side and rear yard setbacks, maximum building and impervious surface coverage to add a front porch and renovations to the 2nd floor of a single-family dwelling located at 110 Putnam Avenue, Strathmere.

Leonard Eckman, 525 Crafton Avenue, Pitman, New Jersey, was sworn. Joseph Grimshaw, 127 Richwood Road, Mullica Hill, New Jersey, was sworn.

Mr. Eckman testified the walls in the house would be raised to make the ceilings on the 2nd floor higher. They also propose to add a front porch.

Mr. Grimshaw testified that he is the builder that will be making the improvements. The existing ceiling in the 2nd floor is only 6'6" in the center as shown in the photograph included as part of the application. The applicant wants to raise the ceiling height to 8' with a 5/12-pitch roof. A powder room will be added on the 2nd floor. They are asking for a front yard setback to allow 8' where 15' is required. The side yard setback requirement is 6 ft. and the applicant is requesting 4.6 ft. and 4.17 ft. The maximum building coverage allowed is 27% and the applicant is requesting 43%. The maximum impervious coverage allowed is 45% and the applicant is requesting 79% where currently the coverage is 75%.

Mr. Grimshaw testified the proposed front and side yard setbacks are similar to others in the area.

The meeting was open to the public. Hearing no response the meeting returned to the Board for Findings of Fact.

MR. SHAWL – Leonard and Carol Lee Eckman are the owners of 110 Putnam Avenue in Strathmere, New Jersey, Block 824, Lot 5. The applicants are proposing a 2nd floor partial addition to their home along with a front porch. A powder room will be added on the 2nd floor. The vertical addition further exasperates the already non-conforming setbacks. The proposed front porch requires coverage variances.

MS. PETROZZA – She finds the improvements will be a positive and no detriment to the public good in accordance with special reason c.

MRS. BURGIN – The setbacks will be compatible to others in the neighborhood. She believes relief can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zoning plan. There was no public comment.

MR. CASACCIO – The porch will remain open and provide light, air and open space.

A motion to grant the variances requested with the standard conditions was made by Mr. Shawl, seconded by Ms. Petrozza, and approved. In favor: Burgin, Klepac, Phifer, Shawl, Petrozza, Yakopcic, Casaccio.

3. SHORE KIDS LTD T/A TWISTIES TAVERN – BLOCK 841, LOT 9 – BA20-08

Christopher Baylinson, Esquire, represented the applicants. He requested to table the application due to the time and proceed on the next meeting scheduled for February 5, 2009 at 7:30 p.m. He agreed to waive the tolling of time. There will be no further notice.

MEETING DATES 2009

Meetings are typically held on the 2nd Thursday of the month at 7:30 p.m. except where there is an *.

January 8, **February 5***, March 12, **April 2***, May 12, June 11, July 9, August 13, September 10, October 8, November 12, December 10.

APPROVAL OF THE DECEMBER 8, 2008 MEETING MINUTES

A motion to approve the minutes was made by Mrs. Burgin, seconded by Ms. Petrozza, and approved.

RESOLUTIONS

1. JEFFREY GOUZA – BLOCK 559, LOT 29 - BA01-08

A motion to adopt the resolution was made by Mr. Shawl, seconded by Mr. Klepac, and approved.

BILLS

A motion to pay the bills was made by Mrs. Burgin, seconded by Mr. Klepac, and approved.

DISCUSSION

Solicitor Marcolongo has received a letter from the appellate division. They are scheduling oral argument in regards to the Thomas Tower / Action Supply, Inc. matter sometimes in February.

AJOURNMENT

A motion to adjourn the meeting was made Mrs. Burgin. The meeting was adjourned at 9:15 p.m.

Submitted by,

Shelley Lea