

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 1, 2010**

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.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Mary Jean Burgin, Ted Klepac, Christopher Phifer, Jeffrey Pierson, Andrew Shawl, Lynn Petrozza, Matthew Unsworth, Paul Casaccio.

Absent: Kenneth Yakopcic.

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

APPROVAL OF THE MARCH 11, 2010 MEETING MINUTES

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

SWEAR IN BOARD PROFESSIONALS

TABLED APPLICATIONS

1. ROBERT BREUNIG – BLOCK 548, LOT 6.01 – BA32-09

The above application was tabled until May 13, 2010. The applicant agreed to waive the tolling of time. There will be no further notice required.

2. RALPH & DEANNA HOLT – BLOCK 652.01, LOT 19 – BA38-09

The above application has been tabled until July 8, 2010. The applicant has agreed to waive the tolling of time. There will be no further notice required.

APPLICATIONS

1. INTEGRITY STAFFING SOLUTIONS INC. – BLOCK 830, LOT 2 – BA36-09

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Applicant is requesting variances for rear yard setback, front yard setback and distance to principal structure to construct a detached garage at 3 E Sherman Avenue, Strathmere.

Arthur T. Ford, III, Esquire, represented the applicant. He testified the applicant was in the process of reconstructing the garage when it was determined there was too much damage and it could not be saved. This is a corner property with frontage on Commonwealth Avenue and Sherman Avenue as shown on the plan by DeVaul Survey, LLC (no date). A variance is needed for the distance from the garage to the existing single-family dwelling since 10 ft. is needed and only 7.6 ft. will be provided. A front yard setback variance is needed on Commonwealth Avenue to allow 11.6 ft. where 15 ft. is needed and also on Sherman Avenue to allow 11.3 ft. A rear yard setback variance is needed to allow 3.2 ft. where 30 ft. is needed.

Mark DeVaul, Licensed Surveyor, was sworn in along with Sean Montgomery, Principal of Integrity Staffing Solutions.

Mr. Montgomery testified they purchased the property in June 2002. The property was in poor condition and so far they have rehabbed the house. The garage was demolished for safety reasons. There is no electric or plumbing proposed. The siding will match the house. The garage will be used for storage only. The proposed garage will be a much safer structure and will be flood proof.

Mr. DeVaul testified the proposed garage would be 6 inches smaller than the previous garage, making it more conforming. There are other properties within 200 ft. with similar accessory setbacks. He believes the variances can be granted without detriment to the neighborhood or the zoning plan.

The meeting was open to the public.

Thomas Rossi, 605 S. Commonwealth Avenue, was sworn. He has lived here for 30 years and is the most affected by the application. As long as he remembers the garage has been in horrible condition. He supports the application.

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

MR. UNSWORTH – The applicant is Integrity Staffing Solutions, Inc., the owners of 2 E. Sherman Avenue in Strathmere known as Block 830, Lot 2. The applicants are requesting several bulk variances to replace a detached garage that was in very poor shape. The applicants tried to refurbish the garage but found it was not salvageable. They were informed that a variance would be needed to rebuild the garage since it does not meet the current setback requirements. The garage will be slightly smaller than it was previously making the setbacks more conforming than before. The applicant purchased the property in 2002. The adjoining property owner testified he is in favor of the new garage. The surveyor testified there are other properties in the area with similar setbacks.

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The new garage will meet the flood requirements. The rear yard setback will be reduced from 3.7 ft. to 3.2 ft. The lot coverage is well under what is permitted.

MR. PIERSON – Testimony was given that the garage would only be used for storage even though the garage doors are being changed. The garage will not be used as living space.

MR. KLEPAC – The garage will be constructed according to the current building codes. The garage will be much more aesthetically pleasing than before. Arthur Ford, Esquire, represented the applicants.

MR. SHAWL – He concurs. This is a corner lot with 2 front yards. Testimony was given that the garage would not be a detriment to the public or zoning plan.

MS. PETROZZA – She concurs.

MRS. BURGIN – She believes the variances can be granted without substantial detriment to the public and will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

MR. CASACCIO – The lot is unique since it has 2 front yards.

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

2. BRIAN & MARGARET TEENEY – BLOCK 15, LOT 9 – BA02-10

Applicants are requesting a side yard setback variance for an addition to a single-family dwelling at 267 Marshallville Road, Marshallville.

Brian Teeney, 267 Marshallville Road, was sworn. He testified that he is proposing to construct a second floor over the existing garage on the east side of the property. The side yard setback is currently non-conforming. The house is located 18 ft. from the side property line where 35 ft. is needed in the TR zoning district. The lot area is 4.2 acres and is conforming. A family room addition is being constructed in the rear of the house. This addition meets the setbacks and does not require any variances.

Mr. Teeney testified the addition would conform to the existing house and the neighborhood. Dormers are being added to make the house more aesthetically pleasing. The addition would have no negative effect on the well and septic.

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

MR. SHAWL – Brian and Margaret Teeney are the owners of Block 15, Lot 9. A bulk variance is needed to construct a second floor addition to their house. The addition will not increase the footprint. Another addition in the rear of the house conforms to the zoning standards. The lot is irregularly shaped. The addition will conform to the architecture and character of the neighborhood and will not be detrimental.

MS. PETROZZA – She concurs.

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MRS. BURGIN – She concurs. She believes relief can be granted without impairing the intent and purpose of the zoning plan.

MR. PHIFER – He concurs.

MR. UNSWORTH – There is an existing tree buffer between his house and the neighbors. The well and septic will not be impacted. There are wetlands in the rear of the property.

MR. PIERSON – The variance can be granted under 40:55d-7(1) since it is a narrow lot and odd shaped. The lot is densely wooded.

MR. KLEPAC – He concurs.

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

3. R C CAPE HOLDINGS LLC – BLOCK 479, LOTS 74, 76, 94.01, 97, 98, 99 – BA03-10

Applicants are requesting preliminary and final site plan approval to install a solar energy generation system and solar park at 900 N. Shore Road, Beesleys Point.

Andrew Shawl stepped down during discussion and voting on this application.

Solicitor Marcolongo explained that correspondence was received from a property owner within 200 ft. suggesting they did not receive a notice. The certified receipts were checked and confirmed that notice was sent.

Solicitor Marcolongo added that the applicants received a use variance in December 2009 to permit the solar generating system, however the Board required they come back before the Board for site plan approval.

Arthur T. Ford, III, Esquire, represented the applicant. They are requesting approval to locate a solar generating system in the location of the previous golf course. The golf course is approximately 66 acres and roughly 17 acres would be used for the solar panels. He reviewed the variances being requested. They propose 3 ft. berms as part of the buffer areas. They are requesting a variance to allow a larger sign than the 12 sq. ft. permitted in the Residential zone. They propose to locate the sign 10 ft. from the street where 25 ft. is required. A variance is also needed for the irrigation requirements.

Carol Tutelian, Professional Planner, with Waters Edge Environmental, was sworn. She testified that they prepared the CAFRA application currently being reviewed by the NJDEP. She prepared the Environmental Impact Statement and Waters Edge completed the wetland delineations on the site. The wetlands are shown on the plan by Duffield Associates, pages 1 through 16, dated 2/2/10 and revised 3/19/10.

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Ms. Tutelian testified the project is generally being constructed in the area of the vacated golf course. The solar panels will be located mostly in the Center Residential zone. They will also encroach into the Conservation and Utility zoning districts. Most of the area is already cleared. There is a single-family dwelling and abandoned motel on Route 9 that will be demolished to accommodate the solar park.

Ms. Tutelian explained that behind the solar park there is a wooded area with walkways. There are proposed observation areas that over the solar field.

Ms. Tutelian further testified they are requesting a variance from providing a landscape buffer to the conservation zone. They do not feel a buffer is needed since the applicant owns the property and since it is wetlands it will never be developed and will act as a natural buffer. The ordinance requires 4 ft to 8 ft high berms and they are proposing only 3 ft. high since most of the panels are obscured by natural vegetation. A drawing titled Typical Buffer Sections, dated 6/19/09, was marked as Exhibit A-1. She feels that irrigation in the buffer areas is not needed due to the wetlands on the property and since once the plantings are established irrigation will not be needed.

Ms. Tutelian testified that the solar park is for educational purposes. The sign will be located in the Center Residential zone where only a 12 sq. ft. sign is permitted and 21 sq. ft. is proposed. They also propose a 10 ft. setback where 25 ft. is required. She believes 3 purposes of zoning are advanced under the C2 criteria. She feels the benefits include the natural vegetation, a proposed passive use and that the park will be used for educational purposes. She believes the variances can be granted without impairing the intent and propose of the Master Plan and zoning law. She stated that this is an inherently beneficial use. There is no noise associated with the solar panels.

Mr. Dietrich testified that he is satisfied with the drainage plan. He stated that the plan must be revised to show the site dimensions. Grading details need to be added to the parking area and sidewalk area for handicap accessibility. The location of the loading zone needs to be changed. The edge of paving from the driveway should be 22 ft. from the centerline.

Peter G. Kearney, P.E., with Duffield Associates, was sworn. He testified that the bottom of the solar panels couldn't be located below the 100-year flood line. Behind Heritage Drive the panels would be 6 to 8 ft. high. Others in the low-lying areas will be higher.

Mr. Ford explained the applicants estimate having everything complete within 8 to 12 months after approval.

The meeting was open to the public.

Robert Mills, 604 Route US 9 North, Beesleys Point, was sworn. He asked if the applicant had an interest in selling a portion of the property adjacent to his home. He was asked to contact Mr. Ford directly in regards to this matter. He has concerns about the

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fence and netting that belong to the applicant. Mr. Ford stated the netting is no longer needed and will be removed.

A large color rendering of the proposed solar park prepared by Melillo & Bauer Associates, was marked as Exhibit A-2.

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

MR. UNSWORTH – RC Cape Holdings is the owner of 900 North Shore Road in Beesleys Point also known as Block 479, Lots 74, 76, 94.01, 97, 98 and 99. The applicant is requesting several variances and waivers to install solar panels on 16.4 acres of a 66-acre site that was previously a golf course. The variances requested include a zero setback to a Conservation zone, waiver for underground irrigation in some of the buffer areas, request for a berm height reduction to allow 3 ft. where 4 ft to 8 ft is customary, additional underground irrigation relief and a setback for the proposed sign on Route 9. The buffering proposed should be sufficient to prevent negative visual impact to the neighbors. In December the applicant was granted a use variance. The proposed landscaping is indigenous to the area. Testimony was given that the landscaping should not need irrigation. The applicant would be required to maintain the buffer as required in the ordinance. There are proposed observation areas in the park along with walking trails. The solar panels will not create any noise or visual impact. Construction is anticipated to be complete within 8 to 12 months. No substantial noise or traffic will be generated other than routine maintenance. An existing motel and home will be demolished as part of the application. The applicant has filed for CAFRA approval. The applicant has agreed to remove the poles and netting left from the golf course and replace fencing along Route 9. The applicant has agreed to the engineering requests by Mr. Dietrich.

MR. PIERSON – He agrees with Mr. Unsworth. The access will be through the old golf course and will have no impact on the public.

MR. KLEPAC – Mr. Mills had concerns regarding the netting and poles.

MS. PETROZZA – She concurs.

MRS. BURGIN – There will continue to be public access to the waterway. She believes the variances can be granted under special reason 40:55D-2, c g and n. She believes the application can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

MR. PHIFER – Nothing to add.

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

BILLS

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

RESOLUTIONS

1. ARTHUR CHILDS – BLOCK 453.08, LOT 290 – BA37-09

A motion to adopt the resolution was made by Mr. Unsworth and seconded by Mrs. Burgin. Abstain: Petrozza.

2. ANNUAL REPORT – 2009

A motion to forward the report to the Planning Board and Township Committee was made by Mr. Unsworth, seconded by Mr. Phifer, and approved.

EXECUTIVE SESSION

A motion to enter into Executive Session to discuss pending litigation was made by Mr. Unsworth, seconded by Ms. Petrozza, and approved. (9:06) The Board went back on the record at 9:12 p.m.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Shawl, seconded by Mr. Unsworth, and approved. The meeting was adjourned at 9:16 p.m.

Submitted by,

Shelley Lea