

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
JULY 8, 2004

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. The Chair advised of the meetings compliance with the Open Public Meeting Notice. Everyone saluted the flag.

A. ROLL CALL: Roll call was taken with the following members present:

| | |
|------------------|------------------|
| Marshall Behr | Frank Conrad |
| Elizabeth Bergus | Jeffrey Pierson |
| Mary Jean Burgin | Matthew Unsworth |
| | Paul Casaccio |

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

B. APPROVAL OF THE JUNE 10, 2004 MEETING MINUTES:

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

C. APPLICATIONS:

1. ALL ACTION WATER SPORTS, INC. – BLOCK 558, LOT 27
BA 13-04:

Application is for a use variance for the storage and display of goods on non-paved area and lot size requirement to operate a business for the sale of recreational vehicles at 3030 Route US 9 South, Seaville.

Eric S. Goldstein, Esquire, represented the applicants.

Raymond Leps, 1150 Route 50, Petersburg and Joseph Maffei, PE, were sworn in.

Mr. Maffei described the surrounding area. He testified that the intent of the applicant is to have a showroom and repair garage on this site. A paved parking area will be in the front of the building. A stone display area will also be in front for the display of items for sale. The items in the display area will be brought out daily and put back in the building after hours. There will also be a stone area for storage. Landscaping is proposed. A chainlink fence is proposed from the front of the building to the back of the property. The property is located in the CM zone and is a permitted use. The subject lot is 1.85 acres where 3 acres are required. The applicant proposes to open a Yamaha dealership.

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 8, 2004

PAGE 2 OF 5

He also proposes to sell watercraft. Automobiles will not be sold on site. The operation is smaller than a car dealership. The vehicles are smaller and fewer will be sold than a dealership. Items will not be displayed in the right of way. He feels this is similar to retail sales rather than automobile sales.

Mr. Dietrich requested that the board make it a condition that the items in the display area are brought in after business hours. He would also like the stone area delineated with curbing. A variance is needed for the landscape buffer to the property line. The applicant will add the buffer detail on the site plan. Architectural plans will be submitted for next meeting.

Mr. Leps testified that he is the owner of Tuckahoe Motor Sports. He agreed to remove the items in the display area after hours. Nothing will be left outside in the display area. This is not a car dealership. He proposes to sell motorcycles, watercraft and ATV's. He agrees to display items in designated area only. He agrees not to sell any type of automobile. He will display 10 to 15 items at a time. Repairs will be done inside the building. He agreed to a condition that no maintenance will be done outside.

The meeting was open to the public.

William Roth, 3053 Route US 9, was sworn in. He is the owner of lots 31 and 33. He feels the area is primarily residential. His concerns include noise, pollution and people test driving the motorcycles. He feels that no display should be visible from Route 9. The proposed sign should be in keeping with the residential neighborhood. He objects to the application. He doesn't believe this serves the public. He feels this would be a detriment to the area and his way of life.

Mary Pfeifle, 3035 Route US 9, was sworn in. She is concerned about the traffic the business will generate and the speed limit in front of the property. There are existing houses even though this is a commercial zone. The school bus stop located across the street is a safety concern. She has concerns about environmental issues. She doesn't want motorcycles turning around in front of her home. She is opposed to an outside intercom system. She feels the property will be ugly and the proposed sign is too large. She feels that granting the variance will start a precedent. She doesn't feel that a hardship exists. She feels there is a problem with the notice that was sent the property owners within 200 ft. She feels this is a detriment to the community. She doesn't believe this fits in with the Master Plan. She also believes that a conflict exists since the zoning board secretary is related to the owner of the property. She was informed by the board solicitor that no such conflict exists since the board secretary has no input or vote on the application.

Mr. Dietrich stated that traffic off the site is regulated by the DOT. The DOT requires the applicant to obtain a minor driveway access permit for this use. They will not require a traffic study since it is not a high volume traffic generator based on the size of the facility.

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 8, 2004

PAGE 3 OF 5

Mr. Leps stated that the hours of operation would be similar to his other business hours, 10 a.m. until 8 p.m. Saturdays and Sundays they are closed earlier. He agrees not to have an exterior intercom system. Used oil and gas are stored in plastic drums and are picked up and disposed of by a recycling company. There are no underground storage tanks.

Linda Kelly, owner of lot 28, was sworn in. She owns the home next door and has concerns about the proposed buffering. She is not sure if the property is big enough for his business.

Robert Roth, 3041 Route 9, was sworn in. He is also part owner of lot 33. He does not believe the proposed use is in keeping with the residences that exist in the area. He sees no benefit to the Township.

Sandra Bauer, 3027 Route 9, was sworn in. She agrees with her neighbors. She is concerned about the 2 bus stops and the traffic.

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

MR. BEHR – All Action Water Sports, Inc. is requesting a use variance for lot 27, block 558 also known as 3030 Route US 9 South, Seaville. The applicant is the contract purchaser of the property. A use variance is needed to operate the proposed business on a lot smaller than 3 acres. A use variance is also needed to allow storage on a non-paved area and display of goods on a non-paved area. The items that will be sold include watercraft (jet ski's and boats), ATV's and motorcycles. The type of vehicles being sold would be smaller than automobiles. The outside display area is proposed to be 1,975 sq. ft. and will be delineated with curbing. Any storage would be within the fenced area. Sales will take place inside the showroom. Repairs will be done indoors. Storage and display area will be a stone surface. A hard surface in these areas would allow less percolation than the stones.

MRS. BURGIN – Any outside promotions will be within the display area. There will be no test drives on site. The business will not open until 10 a.m. after the buses have picked up the children.

MR. UNSWORTH – If approved the conditions of such approval would be that items in the display area will be removed during non-operating hours, no automobiles or maintenance on automobiles will occur on site, repairs will be done inside the building, 75 cents per square foot will be paid to the Fire Capital Improvement Fund, no exterior intercom system is permitted, unloading of vehicles must be done in the rear, business hours are 10 a.m. until 8 p.m., no other displays are permitted except in the approved display area, the lights on the sign will go off automatically at 10 p.m.

MR. PIERSON – They conform to statute 40:55D2(a) since they have taken extraordinary efforts in regards to public health and safety by limiting the operation to repairs inside the building. They also comply with statute 40:55D2(b) since the basin

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 8, 2004

PAGE 4 OF 5

area and stone provide a safer situation in case of a spill. They comply with statute 40:55D2(g). He feels they have met the negative criteria needed for granting the use

variances. He sees no substantial detriment to the public good. The proposed use will substantially impair the intent and purpose of the zone plan or zoning ordinance.

MR. CASACCIO – There was testimony from the public within 200 ft. and outside of 200 ft. Mr. Maffei's testimony met the positive and negative criteria for the granting of the variances.

A motion was made by Mr. Unsworth and seconded by Mr. Pierson, to grant the requested use variances with the standard conditions and that all repairs are done inside the building, any display will be done within the 1,976 sq. ft. area, the display area will be delineated with curbing, all storage will be in the rear of the property and enclosed by a six ft. high fence and approved buffer, any outside promotions will be done within the display area, no test drives will be done on site, all displays will be removed after business hours, there will be no sale of automobiles or service on site, there will be no exterior sound system, all deliveries will occur in the rear, maximum business hours are 10 a.m. until 8 p.m. Any lit signs will be turned off automatically by 10 p.m., any delivery of merchandise will be made by the applicant to the purchaser, the submitted plans are being incorporated into the approval. Those in favor: Behr, Bergus, Burgin, Conrad, Pierson, Unsworth, Casaccio.

D. RESOLUTIONS:

1. R. CHIORAZZO PROPERTIES, LLC – BLOCK 600, LOT 26, 31, 32 – BA09-04:

A motion to adopt the above resolution was made by Mrs. Bergus, seconded by, Mr. Conrad, and approved.

2. THOMAS TOWER / ADVANTAGE RENTAL – BLOCK 453, LOT 180.01 – BA10-04:

A motion to adopt the above resolution was made by Mrs. Bergus, seconded by Mr. Conrad, and approved.

3. THOMAS TOWER / ACTION SUPPLY – BLOCK 549, LOT 131 – BA11-04:

A motion to adopt the resolution was made by Mrs. Bergus, seconded by Mr. Conrad, and approved.

- E. BILLS: A motion to approve the submitted bills was made by Mr. Pierson, seconded by Mr. Unsworth, and approved.

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 8, 2004

PAGE 5 OF 5

- F. ADJOURNMENT: A motion to adjourn the meeting was made by Mr. Pierson, seconded by Mrs. Bergus, and approved. The meeting was adjourned at 9:55 p.m.

Submitted by,

Shelley Lea
Board Secretary