

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
FEBRUARY 10, 2005

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

A. ATTENDANCE:

Present: Stephen Ay, Marshall Behr, Elizabeth Bergus, Mary Jean Burgin, Frank Conrad, Ted Klepac, Matthew Unsworth, Paul Casaccio.

Absent: Jeffrey Pierson.

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

B. APPROVAL OF THE JANUARY 13, 2005 MEETING MINUTES:

A motion to adopt the minutes was made by Mr. Unsworth, seconded by Mrs. Bergus, and approved. Abstain: Behr, Klepac, Casaccio.

C. TABLED APPLICATIONS:

The following applications have been tabled until March 10, 2005. The applicants have agreed to waive the time in which the board has to act on the applications. No further notice is required by the applicant.

1. WILLIAM BAILEY – BLOCK 383, LOT 2
2. DONNA DIEFENDERFER – BLOCK 836, LOT 4

D. APPLICATIONS:

1. ALBERT & SUZANNE LORD – BLOCK 862, LOT 6 – BA33-04:

Applicants are requesting a lot coverage variance to add open decks on the rear of a single-family dwelling at 17 E. Seaview Avenue, Strathmere.

Arthur T. Ford, III, Esquire, represented the board. The rear of the subject property faces Corson's Inlet.

Stephen Muse, Senior Principal of Muse Architects, Washington, DC, was sworn in. He testified that renovations are currently being made to the property. The improvements include bringing it into compliance with FEMA regulations, current building codes, improving the floor plan of the existing house, providing off street parking, make it

architecturally compatible with existing homes in the surrounding area and the addition of decks on the rear of the structure for access. The proposed decks would be 10 ft. deep and are in conformance with the setback requirements. The plan shows the proposed decks are similar to decks on existing dwellings within 200 ft. Storage will be located under the decks. The existing outside shower will be relocated. He feels the decks are architecturally compatible with the neighborhood. A 10' x 8' shed exists on the property. The location of the shed meets the current ordinance requirements.

Stephen C. Martinelli, PLS, was sworn in. He testified that the proposal is similar to other properties in the area. The plan he prepared shows the existing decks on structures within 200 ft. The proposed decks meet the bulk requirements for the Resort Residential zone. He does not believe that granting the variance would create any detriments based on the character of the neighborhood and the position of the decks. The property in the rear of the structure is owned by the State of New Jersey.

The meeting was open to the public. Hearing no response the meeting returned to the board for finding of fact.

MR. BEHR – Albert and Suzanne Lord are the owners of Block 862, Lot 6, located at 17 East Seaview Avenue in Strathmere. They are proposing to create 2 open decks on the rear of their single-family dwelling. This one-story structure is being renovated to meet the flood elevation requirements and building codes. The proposed decks would provide access to the structure. This is a resort area and decks are common. The house is compatible with other homes in the area. The decks encourage outdoor living. There is storage under the deck. The relocation of the outside shower is a health dept. issue.

MR. AY – There was no public comment.

MR. UNSWORTH – The proposed decks meet the bulk requirements except for lot coverage. The septic is not impacted by the location of the decks. The renovations and improvements to the home will make it conform to the codes, improve the floor plan and create off street parking. The appearance of the structure will be enhanced and will make it conform more to the existing homes in the neighborhood.

MR. KLEPAC – The decks will be open.

MR. CASACCIO – The addition of the decks will make the dwelling more compatible to the neighborhood. Granting the variance will have no negative impact on the current master plan or zoning ordinance.

A motion was made by Mr. Unsworth and seconded by Mr. Ay, to grant the lot coverage variance with the standard conditions. Those in favor: Ay, Behr, Bergus, Burgin, Klepac, Unsworth, Casaccio.

2. WHELAN, ROSEMARIE – BLOCK 834, LOT 13 – BA31-04:

Application is for a use variance to renovate and relocate an existing duplex, variances for front yard setback, building coverage and driveway width at 33 Sherman Avenue, Strathmere.

Mrs. Bergus did not participate in discussion or voting on this application.

Julius Korschak, Esquire, represented the applicant. He submitted the following exhibits:

- A-1 Tax Assessment (shows structure as 2 family, constructed in 1950)
- A-2 Correspondence from Cape May County Department of Health, dated 5/22/04
- A-3 Permit from NJDEP issued on March 18, 2004
- A-4 Deed dated May 4, 1970
- A-5 Photo (aerial view)
- A-6 Photo (subject property)
- A-7 through A-10 Photos (surrounding properties)

Robert Bachich, Architect, Principal of Bachich Associates and Rosemarie Whelan, 420 Thomas Avenue, Riverton, NJ, were sworn in.

Mr. Korschak stated this a pre-existing duplex and is legal since it existed prior to the applicant purchasing the property in 1970. The applicant plans to retire and occupy one of the dwelling units full time. One of the units has been rented in the past. The applicant proposes to renovate the structure. The Health Dept. has given approval for the construction of a new septic system. The existing cesspool does not meet the requirements. The new septic will take up the entire rear yard. The current lot coverage is 27.6% where 25% is permitted. The proposed renovations will reduce the lot coverage to 27%. The structure will be moved toward the front of the property to allow room for the septic and creating the need for a front yard setback.

Mrs. Whelan testified that the structure was a duplex when she purchased the property in 1970. She has rented the property in the past. Currently she uses the 2nd floor unit. She is not using the 1st floor unit since it needs repairs. Her daughter will live in the 1st floor unit after it is renovated. She has been a teacher for 18 years and will retire soon. She will reside in Strathmere full time after retirement. She proposes to keep the same amount of bedrooms as there are currently.

Mr. Bachich testified that the dwelling has been reduced to allow room for the new septic. He explained the proposed renovation process to the board. The existing non-conforming side yard setback will be made conforming. Allowing the applicant to raise the building would provide better flood protection, recycle an old building, provide better visual environment and provide better security for the occupants. Approximately 90 sq. ft. of living space has been removed to allow room for interior stairs. He feels the board should grant the use variances since renovating the house will bring the dwelling up to building code and flood elevation requirements. He sees no detriment to the public good since the project is consistent with other homes in Strathmere and since parking will be

provided under the structure. There are no accessory structures proposed. He believes that granting the variance would not have a negative impact on the zoning plan or ordinance. He feels the improvements will benefit the applicant and the neighbors. He agreed to add the construction sequence of the renovations to the demolition plan.

Stephen C. Martinelli, previously sworn, concurs with Mr. Bachichs' description of what is existing and proposed. He described each of the submitted photos. He believes the setbacks are compatible with other non-conforming structures in the area.

Mr. Dietrich requested the timber ties shown on the plan be changed to concrete curbing to delineate the driveway and extend the sidewalk to the property line.

The meeting was open to the public.

John Fedeyk, 475 School Road, Blue Bell, PA, was sworn in. He is the owner of Block 834, Lot 14. He is retired and hopes to move to Strathmere next year. He is concerned that the proposed decks will block the view from his property. His property is shown on Exhibit A-7. He feels the applicant should rebuild in the same location and install a septic that would take up less space. He testified that he utilizes his dwelling as a duplex sometimes. He has rented the property in the past.

Hearing no further comment the meeting was closed to the public and returned to the board for finding of fact.

MR. UNSWORTH – Rosemarie Whalen is the owner of 33 Sherman Avenue, Strathmere, also known as Block 834, Lot 13. She is requesting variances for front yard setback, 10 ft. proposed where 15 ft. is required and lot coverage, 27% proposed, where 25% is permitted and a driveway width of 22 ft. where 12 ft. is permitted. She is requesting a use variance to renovate and relocate a duplex that has existed prior to 1970. The septic will take up most of the rear yard therefore causing the structure to move forward on the property. They are proposing renovations using portions of the existing structure. The new structure would meet the FEMA codes, building codes and would improve the aesthetics of the property. The stairs will be located inside the structure for security purposes. Mr. Fedeyk is concerned that moving the structure forward will block his view. The non-conforming side yard setback will be made conforming.

MR. BEHR – The applicant is providing off street parking. He believes the owner of lot 14 will still have a reasonable view from the front of his property. He will gain an extensive view from the rear of his property. He believes that meeting the flood elevations is a significant improvement to the property. The 22 ft. wide driveway opening is needed due to the off street parking under the subject structure.

MRS. BURGIN - She believes the proposed structure meets special reasons NJS 40:55D-2 (b) by raising the building to FEMA standards and (c) since the neighbor will gain open space in the rear of the property. It also meets (i) since the renovations will improve the appearance of the duplex. 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 ordinance.

MR. CONRAD – Not having an accessory structure is a benefit in regards to lot coverage.

MR. KLEPAC – The structure was built in 1950. Approval has been granted for the new septic. The renovations reduce the amount of lot coverage.

MR. CASACCIO – The applicant will add curb and sidewalk.

A motion was made by Mr. Conrad and seconded by Mr. Klepac, to grant the requested variances with the standard conditions and that curb and sidewalk is added and construction sequence will be added to Mr. Bachich's plan. Those in favor: Ay, Behr, Burgin, Conrad, Klepac, Unsworth, Casaccio.

C. RESOLUTIONS:

1. DOLORES CLAYTON / CLAYTON INDUSTRIES – BLOCK 599, LOTS 26, 27, 28 – BA35-04:

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

2. MICHAEL O'BRIEN – BLOCK 647, LOT 6.01 – BA34-04:

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

3. THOMAS ALBERICO – BLOCK 553, LOT 8 – BA30-04:

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

4. JOHN McGRATH AND PATRICK FLANAGAN – BLOCK 567, LOT 50.01 – BA25-04:

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

D. BILLS: A motion to approve the bills as submitted was made by Mrs. Bergus, seconded by Mr. Conrad, and approved.

E. ADJOURNMENT: A motion to adjourn the meeting was made by Mr. Unsworth, seconded by Mr. Ay, and approved. The meeting was adjourned at approximately 9:13 p.m.

Submitted by,