

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
RE-ORGANIZATION MEETING MINUTES
JANUARY 8, 2004

The annual re-organization meeting of the Upper Township Zoning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m. The Open Public Meeting Notice was read into the record. Everyone saluted the flag.

A. RE-ORGANIZATION:

A motion was made by Mrs. Bergus and seconded by Mr. Pierson, to nominate Paul Casaccio as Chairman. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth.
PAUL CASACCIO ELECTED CHAIRMAN FOR 2004.

A motion was made by Mrs. Bergus and seconded by Mr. Pierson, to nominate Matthew Unsworth as Vice Chairman. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.
MATTHEW UNSWORTH ELECTED VICE CHAIR FOR 2004.

A motion was made by Mrs. Burgin and seconded by Mr. Unsworth, to nominate Dean Marcolongo as Board Solicitor. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth, Casaccio.
DEAN MARCOLONGO ELECTED BOARD SOLICITOR FOR 2004.

A motion was made by Mrs. Bergus and seconded by Mr. Unsworth, to nominate Paul Dietrich, Sr. as Board Engineer. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth, Casaccio.
PAUL DIETRICH, SR. ELECTED BOARD ENGINEER FOR 2004.

A motion was made by Mrs. Bergus and seconded by Mrs. Burgin, to nominate Anthony Lauriello as Zoning Officer. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth, Casaccio.
ANTHONY LAURIELLO ELECTED ZONING OFFICER FOR 2004.

A motion was made by Mrs. Bergus and seconded by Mr. Unsworth, to nominate Shelley Lea as Board Secretary. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth, Casaccio.
SHELLEY LEA ELECTED BOARD SECRETARY FOR 2004.

A motion was made by Mrs. Burgin and seconded by Mr. Pierson, to utilize the Gazette and The Press as the official newspaper. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth, Casaccio.

A motion was made by Mr. Klepac, seconded by Mrs. Burgin, to adopt the meeting dates for 2004. The motion was approved with all in favor. Thursday, January 8; Wednesday, February 11; Thursday, March 11; Thursday, April 8; Thursday, May 13; Thursday, June 10; Thursday, July 8; Thursday, August 12; Thursday, September 9; Thursday, October 14; Wednesday, November 10; Thursday, December 10.

B. APPROVAL OF THE DECEMBER 11, 2003 MEETING MINUTES:

A motion to approve the minutes was made by Mr. Klepac, seconded by Mr. Pierson, and approved. Those in favor: Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

C. TABLED APPLICATIONS:

The applications listed below have been tabled until February 11, 2004. The applicants have agreed to waive the time in which the board has to act on the application. No further notice is necessary.

1. THOMAS TOWER / ACTION SUPPLY – BLOCK 565.03, LOT 4 – BA 29-03:
2. RDJ ENTERPRISES, LLC – BLOCK 566, LOT 36 – BA 36-03:

D. APPLICATIONS:

1. BRUCE & ARLENE SHAW AND ED GUARNACCIA, JR. – BLOCK 791, LOTS 36 & 37 – BA 39-03:

Application is for a one-year extension of variances granted to renovate an existing dwelling at 2004 S. Commonwealth Avenue, Strathmere.

Arthur T. Ford, III, Esquire, represented the applicant. The resolution was adopted on January 10, 2002. They have filed a deed of consolidation that was made a condition of approval. The extension is needed due to economic reasons. The applicants were granted a height variance to allow the structure to be 33 ft. The height requirement in this zone has been changed since approval was granted.

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

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MATTHEW UNSWORTH – The subject property is located at 2004 S. Commonwealth Avenue, Strathmere, also known as Block 791, Lots 36 & 37. The applicants were granted a height variance in 2002. They are entitled to three – 1-year extensions. A recent zoning change has made the approved height more conforming. There was no public comment. The applicant is entitled to the extension.

A motion was made by Mrs. Bergus and seconded by Mrs. Burgin, to grant the one year extension. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Unsworth, Casaccio.

2. JOHN MIRENDA – BLOCK 707, LOT 1 – BA 23-03:

Applicant is requesting variances for lot area and setbacks to construct a single-family residence at 28 Chelsea Avenue, Beesleys Point.

Mr. Unsworth left the meeting at this time.

Charles Gemmel, Esquire, represented the applicant. The applicant is the contract purchaser of the property. The property is currently owned by Harry and Patricia Purnell. A copy of a deed dated October 5, 1977 was marked as Exhibit A-1. The property is assessed as \$40,000.00. He feels the Purnell's have been paying taxes on a buildable lot.

Mr. Orlando testified that he spoke to the Cape May County Dept. of Health and they indicated that there is no required distance between septic and irrigation wells since the properties are serviced by public water.

The meeting was open to the public.

Pam Whitman, 31 Ventnor Avenue, submitted correspondence from the Cape May County Dept. of Health in regards to the distance required between wells and septic. This was marked as Exhibit P-1. She feels that a 3,080 sq. ft. home does not conform to other homes in the area. The proposed house does not conform to the size and character of the neighborhood. A three story home will not fit in with the dwellings in this neighborhood. She wants the property to remain wooded. She is not interested in purchasing the property for \$65,000.00.

John Streckenbein, 29 Chelsea Avenue, feels that anyone building on an undersized lot should build the minimum for that lot. A three story building is hardly minimum. The average height of the 16 existing dwellings within 200 ft. is 16 ft. 10 inches. The proposed house does not fit in with the neighborhood. He feels this is a detriment to the neighborhood. He has concerns about the distance from the applicants septic since he may use his well again for water. He stated that the floor plan would allow the home to be utilized as 3 or 4 bedrooms. He referred to a letter to the editor, written by Mr. Mirenda, in regards to septic in Strathmere. He is opposed to the house being built for profit. This is not a hardship for the applicant.

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Joan Banchi, 37 Ventnor Avenue, was sworn in. She agrees with her neighbors.

Diane Bradley, 38 Chelsea Avenue, agrees with her neighbors. She does not believe the house will fit in with the neighborhood.

Conrad Lea, 25 Chelsea Avenue, was sworn in. He agrees with his neighbors. He feels the house is too big for an undersized lot in this neighborhood.

Charla Lea, 25 Chelsea Avenue, was sworn in. She agrees with what has been said by her neighbors. She does not feel a house should be built on this lot. She objects to more houses being built in the neighborhood.

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

MRS. BERGUS – John Mirenda is the contract purchaser of Block 707, Lot1. The property is currently owned by Harry and Patricia Purnell. The lot has been in their family for at least 45 years. The property is undersized and requires several variances. Buy/sell letters have been sent to everyone within 200 ft. The property is serviced by city water. The first floor shower will be eliminated. Six neighbors were present to object to the application. They feel that the proposed dwelling is too large for the neighborhood and will not conform.

MR. PIERSON – The proposed height of the structure is 30 ft. 4 inches. The applicant has demonstrated that this is a hardship.

MRS. BURGIN – The applicant has attempted to comply with the setbacks of the surrounding homes. Taxes have been paid on the property for several years. The neighbors can buy the property. The township is not interested in purchasing the property. She feels that the owners of the property should be able develop their property. She believes the applicant has met the criteria for granting the variance.

MR. CONRAD – He feels the lot is developable since the owners have paid taxes. They have proven a hardship.

MR. CASACCIO – Several residents within 200 ft. have spoke against the application. Mr. Dietrich has stated that the setbacks for the proposed dwelling are compatible to other homes in the neighborhood. The Cape May County Dept. of Health has jurisdiction in regards to wells and septics. He agrees the proposed residence will be taller than other homes in the area, however it conforms to the ordinance. Variances would not be required if the lot fell within the grandfather clause.

A motion was made by Mrs. Bergus and seconded by Mr. Conrad, to grant the application with the standard conditions and that a deed restriction to allow only 2 bedrooms is filed with the county, a height certification and as built survey at the completion of framing, eliminate the shower in the first floor bathroom, the offer to purchase the property will continue until May 30, 2004, applicant will meet all required setbacks for the irrigation wells. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

3. GEORGETTI INVESTMENTS, LLC – BLOCK 567, LOT 55 – BA 28-03:

Application is for preliminary approval of a proposed 17 lot major subdivision and a use variance to permit 7 age restricted duplex dwellings; 9 single family residential lots and one commercial lot and setbacks for existing structures at 1289 Route US 9 South, Palermo.

Jules Korschak, Esquire, represented the applicants. Vincent Orlando, W. Scott Georgetti, Andrew Feranda and Stephen Martinelli, were sworn in.

Mr. Korschak stated that the applicant is the contract purchaser of the property. Richard Smith, the current owner of the property, has used the rear portion as an airport since the 1970's. The front of the property is zoned commercial. The airport use would be abandoned if the application is approved. The applicant is proposing to create 16 lots. Nine of the lots would be for single family and the remaining lots would be for 2-unit age restricted dwellings.

Scott Georgetti, contract purchaser, testified that Mr. Smith has been utilizing the property as a private airport. Mr. Smith has been making arrangements to store his plane at another location since it is no longer feasible to store the plane on site. He proposes to construct large Victorian type homes. The duplexes will also be designed to look like Victorian homes. An architectural plan showing the proposed duplex was submitted and marked as Exhibit A-1. An architectural plan showing a single-family dwelling was marked as Exhibit A-2.

Stephen Martinelli, Licensed Land Surveyor, submitted a copy of the filed subdivision plan for Stephen Drive dated 7-18-85. He stated that a right of way was created for future access.

Andrew Feranda, Professional Engineer, with 15 years in traffic and transportation engineering, is an employee of Shropshire Associates. A copy of Mr. Feranda's resume was marked as Exhibit A-4. He reviewed the Traffic Engineering Assessment dated December 9, 2003. They have collected data at the end of Stephen Drive and have observed the existing conditions. The impact on the existing intersection of Stephen Drive and Route 9 is considered minimal. It is better to have fewer accesses along major highways to reduce conflict points. Data shows that age restricted traffic is typically less in the peak hours because they tend to get on the roadway at different times. The Seaville Volunteer Fire Company has recorded 5 total accidents in a 3 year period. Seasonal adjustments lessen the impact since the volume of traffic from the site is less compared to the volume on Route 9.

Vincent Orlando, Professional Engineer and Planner, testified that the airport zone was established for Mr. Smith for his limited use. This is a classic spot zoning. He feels an

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airport at this location is unsafe due to the residential uses on either side. The surrounding area is zoned residential. He believes the airport zone is unsuitable given the present day zoning and the development that has occurred over the years. Duplexes are not permitted within the township. The proposed duplexes will have little or no effect on the school system. He feels the plan advances the purpose of zoning since it encourages senior citizen housing. The right of way to this property was to provide limited access onto Route 9. They believe this site is particularly well suited for residential development and that a mixed use on the site is the best thing for the township. He believes the airport has a negative impact on the surrounding area. It would also be a detriment if the site were developed commercially. They do not believe the proposed residential use would have any impairment to the zone plan or ordinance. There is no detriment to the public good. Mr. Smith's FAA approval allows for 40 small aircraft. He believes that 40 aircraft on this particular site would be a tremendous negative impact on the adjacent residences. They are requesting to exceed the requirements for paved cartway. Minor relief in regards to the drainage system may be needed. A Letter of Interpretation from the NJDEP dated November 24, 2003 was marked as Exhibit A-5. He has moved the system further to the south to preserve the tree line as requested by the residents of Harry's Lane. The township currently does not have COAH certification. The proposed duplexes would probably have 2 wells and 2 septic.

Mr. Korschak stated that the property was zoned Residential before changing it to Airport. He does not believe permits from the FAA will be needed to convert the property from an airport back to residential. There would be 7 master deeds for the duplexes. There will not be a homeowners association. There will be no common facilities.

Mr. Georgetti testified that the duplexes would each have 2 bedrooms. They would be sold as two separate units.

Chairman Casaccio that due to the late hour the meeting will be continued on February 11, 2004 at 7:00 p.m. There will be no further notice of this application. The applicant agreed to waive the time in which the board has to act on the application.

Open to the public.

Bill Felton, 18 Harry's Lane, Palermo, was sworn in. He wants assurance that the 20 ft. tree line will be preserved.

E. RESOLUTIONS:

1. TECUMSEH ROAD PARTNERSHIP – BLOCK 838, LOTS 1 & 21 – BA 14-03:

A motion to adopt the resolution was made by Mrs. Bergus, seconded by Mr. Klepac. Those in favor: Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

2. ROGER RINCK – BLOCK 565.02, LOT 49.10 – BA 35-03:

A motion was made by Mrs. Bergus and seconded by Mr. Pierson, to adopt the resolution. Those in favor: Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

3. MICHAEL O'BRIEN – BLOCK 647, LOT 6.01 – BA 37-03:

A motion to adopt the resolution was made by Mrs. Bergus, seconded by Mr. Pierson, and approved. Those in favor: Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

4. CONTRACT WITH DEAN R. MARCOLONGO, ATTORNEY AT LAW, FOR PROFESSIONAL SERVICES:

A motion to adopt the resolution was made by Mrs. Bergus, seconded by Mr. Pierson, and approved. Those in favor: Ay, Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

F. BILLS:

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

G. EXECUTIVE SESSION:

A motion to go into executive session to discuss pending litigation was made by Mrs. Burgin, seconded by Mr. Klepac, and approved.

H. ADJOURNMENT:

A motion to adjourn the meeting was made by Mr. Ay, seconded by Mrs. Burgin, and approved. The meeting was adjourned at 11:05 p.m.

Submitted by,

Shelley Lea
Secretary