

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
RE-ORGANIZATION MEETING MINUTES  
JANUARY 13, 2005

The annual re-organization meeting 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. ROLL CALL:

PRESENT: Stephen Ay, Elizabeth Bergus, Mary Jean Burgin, Frank Conrad, Jeffrey Pierson, Matthew Unsworth.

ABSENT: Marshall Behr, Ted Klepac, Paul Casaccio.

A. TABLED APPLICATIONS:

The following applications have been tabled. The applicants have agreed to waive the time in which the board has to act on the application.

1. WILLIAM E. BAILEY – BLOCK 383, LOT 2:

This application will be heard on February 10, 2005.

2. ROSEMARIE WHELAN – BLOCK 834, LOT 13:

This application will be heard on February 10, 2005.

3. DONNA DIEFENDERFER – BLOCK 836, LOT 4:

This application will be heard on March 10, 2005.

4. ALBERT AND SUZANNE LORD – BLOCK 862, LOT 6:

This application will be heard on February 10, 2005.

B. RE-ORGANIZATION:

A nomination 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, Pierson, Unsworth.

**PAUL CASACCIO ELECTED CHAIRMAN FOR 2005**

A nomination was made by Mrs. Bergus and seconded by Mr. Ay, to nominate Matthew Unsworth as Vice Chairman. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson.

**MATTHEW UNSWORTH ELECTED VICE CHAIRMAN FOR 2005**

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A nomination was made by Mrs. Bergus and seconded by Mrs. Burgin to nominate Dean Marcolongo as Board Solicitor. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson, Unsworth.

**DEAN MARCOLONGO ELECTED SOLICITOR FOR 2005**

A nomination was made by Mrs. Bergus and seconded by Mrs. Burgin to nominate Paul Dietrich as Board Engineer. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson, Unsworth.

**PAUL DIETRICH ELECTED ENGINEER FOR 2005**

A nomination was made by Mrs. Bergus and seconded by Mrs. Burgin to nominate Shelley Lea as Board Secretary. The nominations were closed. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson, Unsworth.

**SHELLEY LEA SECRETARY FOR 2005**

A motion was made by Mr. Ay and seconded by Mr. Conrad to approve the meeting dates for 2005. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson, Unsworth. January 13, February 10, March 10, April 14, May 12, June 9, July 14, August 11, September 8, October 13, November 10, December 8.

A motion was made by Mrs. Burgin and seconded by Mr. Pierson to appoint The Press and Gazette as the official newspapers of the zoning board. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson, Unsworth.

C. APPLICATIONS:

1. DOLORES CLAYTON / CLAYTON INDUSTRIES – BLOCK 599,  
LOTS 26, 27 & 28 – BA 35-04:

Applicant is requesting a one-year extension of variances previously granted to construct additional storage units at 215 South Shore Road, Marmora.

Jules Konschak, Esquire, represented the applicants. The original application for site plan and variances was granted on 12/13/01. The memorializing resolution is dated 1/10/02. The ordinance indicates that variances are only valid for 2 years. They have taken out permits to construct some of the buildings. They are requesting that the board grant 2 extensions at this time. The first extension is from January 2004 to January 2005 and the second from January 2005 to January 2006.

Solicitor Marcolongo stated that since construction permits have been obtained and the applicants have availed themselves that it is in the intent of the statute to allow them to proceed.

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

MRS. BURGIN – The applicant is requesting an extension of variances previously approved for the construction of storage units. The applicant is Dolores Clayton and Clayton Industries. Jules Konschak, Esquire, is representing the applicants. The subject property is located at 215 South Shore Road in Marmora also known as Block 599, Lots 26, 27 & 28. The resolution memorializing the approval is dated 1/10/02. There have been no changes. Some of the buildings have been built. They have requested 2 one-year extensions from January 2004 to January 2005 and January 2005 to January 2006.  
MRS. BERGUS – The application is in conformance with the intent of the statute.  
MR. CONRAD – There was no public comment.

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

2. MICHAEL O'BRIEN – BLOCK 647, LOT 6.01 – BA 34-04:

Applicant is requesting a one-year extension of a lot frontage variance on Church Road, Marmora.

Michael O'Brien, 325 W. Quail Drive, Marmora, was sworn in. He is requesting a second one-year extension of a lot frontage variance originally granted in 2001. He is having problems with the floor plan and is not ready to construct the single family dwelling on the lot.

Solicitor Marcolongo stated that the application was filed in time. This is the applicants 2<sup>nd</sup> extension. The first extension expired on December 11, 2004. This extension would be good until December 11, 2005.

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

MRS. BURGIN – Michael J. O'Brien of 325 W. Quail Drive, Marmora, is the owner of the subject property. He is requesting a one-year extension. The property is located at 313 Church Road, Marmora, also known as Block 647, Lot 6.01. The applicant was granted a lot frontage variance to construct a single-family dwelling. He is currently having problems with floor plans.

MR. CONRAD – There was no public comment.

MR. PIERSON – The applicant is not asking for any changes in the approved application.

MR. UNSWORTH – The approval will be valid until December 2005. The applicant is entitled to one more 1-year extension.

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

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

Application is for a use variance to permit age-restricted development consisting of 124 units and variances for lot width and distance to lot lines at 1357 Route US 9 South, Palermo.

Jules Korschak, Esquire, represented the applicants. They are requesting a use variance, lot width and setback variance. The site plan will be heard at a later date. The use variance is needed to allow 2.5 units per acre where 2 are permitted. The property consists of 51 acres and is currently utilized as a 9 hole golf course. The property is located in a Residential zone. The applicant proposes age-restricted housing in accordance with the Federal Age Restriction Laws. The proposed units are 2 bedrooms and are 4 units to a building. Each unit will have a 2 car garage. Other amenities will be discussed during site plan review.

Mr. Korschak stated that they have tried to eliminate the lot width variance by sending a buy/sell letter to the property owner on the south side. The property is impacted by wetlands. An on site wastewater disposal plant is proposed. Resolution BA17-98 indicates that the board agreed that the standards for density were not in accordance with modern technology. The planning board hired a professional planner to review the age restricted housing ordinance. They believe that the proposal is well in keeping with the technology available for on site wastewater disposal.

Patrick Flannagan, Vice President of McGrath Homes, Paul Callahan, Director of Land Acquisition, Stephen Filipone, PE and David Schropshire, Professional Traffic Engineer, were sworn in.

Mr. Callahan testified that McGrath Homes is the builder and developer of offices, shopping centers and single-family homes. They have constructed 5 active adult communities. Two of the communities have won awards. A copy of their brochure was marked as Exhibit A-1. They are particularly excited about the location of the proposed community. The units are 2 bedroom and 2 bathrooms all on one floor. The ceiling heights are 9 ft. They are approximately 1,800 to 2,300 sq. ft. per units. An area is provided over the garage that can be used for storage or additional living space. An exterior view of the proposed building was marked as Exhibit A-2 and an interior view was marked as Exhibit A-3. A poster showing the community of the year was marked as Exhibit A-4.

Mr. Filipone testified that a 100 ft. side yard setback is required. They are proposing 50 ft. He feels this is a reasonable request due to the wetlands on site. He believes the setback will allow for an adequate buffer to the property on the south. Adequate yard area will be provided for the residents. The variance is needed due to the topographic condition of the wetlands and the configuration of the property. There are 2 existing ponds they would like to keep as part of the project.

Mr. Filipone further testified that they are requesting a variance for lot width to allow 484 ft. where 500 ft. is required. He feels this is a diminimis variance and would not be a

detriment to the master plan or the zoning ordinance. They conform to the lot frontage requirement of 300 ft. The property far exceeds the lot depth requirement. The property is totally self-contained. There is a single access. He believes the requested variances can be granted without substantial detriment to the public due to the wastewater plant. He believes there is a tremendous need for age-restricted housing. The units are handicap accessible and aesthetically pleasing. This would be a benefit to the tax burden since it would generate no school age children. The variances can be granted without impairing the zone plan since this is a permitted use and there are very limited sites that are particularly well suited for this type of development.

Mr. Korschak stated that they are proposing public water. The proposed side yard setback on the north is 75 ft. and the proposed side yard setback on the south is 50 ft. He requested the board grant a 50 ft. rear yard setback. They intend to seek a water main extension to utilize public water. He plans to meet with the fire chief in regards to the location of the fire hydrants. This will be a gated community.

Mr. Filipone testified that the company they are working with developed the wastewater treatment plant for Osprey Point. The building is completely self-contained. It is low in noise and practically odorless.

Mr. Dietrich discussed the proposed ordinance changes in regards to age restricted housing that the planning board is now reviewing. He discussed the technology involved with the wastewater treatment. Trash collection will probably be provided.

Solicitor Marcolongo informed the board that the proposed revisions to the ordinance have not been approved. The board should follow the current ordinance. The board in the past allowed an increase in density of 3.6 at Osprey Point.

David Schropshire testified that he has not submitted a traffic report. He has performed a trip generation comparison of the existing golf course and the proposed age restricted community. The Department of Transportation criteria suggests that the 124 attached units will generate 10 to 15 peak hour trips. Most of the traffic is generated during off hours. There will be less trips are generated by the proposed use than the present use. He concludes that there will be no detriment to the public good in regards to traffic. The increase in density is a nominal difference in regards to trip generation. He feels the density will not be a significant detriment. He believes they meet the negative criteria for the requested variances since the use will not generate a lot of traffic. He believes the underbrush near the access should be cleared to insure the appropriate site distance.

Mr. Filipone reviewed the necessary approvals needed for the project. They will need a wetlands delineation and will have to examine the access with the N.J.D.E.P. He believes permits can be obtained from the D.E.P to widen the driveway to meet the residential site improvement standards.

The meeting was open to the public.

Kathy Breckley, 1340 South Shore Road, Seaville, was sworn in. She lives directly across Route 9. She expressed concerns about a drainage culvert near her driveway. She also has concerns about the speed limit and the visibility of the applicant's access. She would like the trees in the front of the property to remain.

Mr. Dietrich stated that any improvements must be approved by the N.J.D.E.P. The board requires that the application does not create any off site drainage problems. The ground is sloped so that it flows toward the Garden State Parkway. He explained how the water treatment plant functions.

Steve Altomari, 703 Route 50, was sworn in. He had questions about the density and the useable acreage. He asked if the developer was making any contributions to the township.

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

MRS. BERGUS – John McGrath and Patrick Flanagan are the contract purchasers of 1357 Route 9 in Seaville. They are requesting a use variance to construct an age-restricted community. The use variance is to increase the density to 2.5 units per acre. They are also requesting variances for lot width and setbacks. The proposed setbacks are 50 ft. south, 75 north and 50 ft rear. She believes the variance can be granted without detriment to the public good. There is a need for age restricted housing in the township. The applicants have won awards for their communities and have a good reputation. They propose an on site waste water disposal system. Kathy Breckley, a resident within 200 ft., expressed concerns about the project. Mr. Altomari asked questions in regards to the application. The property is currently used as a golf course. The property is located in the Residential zone.

MR. PIERSON – The applicant proposes to extend the public water to the site for the residents and for fire emergencies. The planning board is currently reviewing the existing age restricted housing ordinance and changes and additions are likely. The board has previously granted a variance to increase the density at Osprey Point to 3.6 units per acre. He believes the application as proposed conforms to Section 40:55D-2 paragraphs (L), (E), (I) and (K). He believes that constructing an excellent facility benefits the township.

MR. CONRAD – The owners of the units will be 55 and older with no one under 18 years of age. The community would not be a burden on the school district. They sent buy/sell letters.

MRS. BURGIN – The current density standards were created prior to the on site wastewater facility as mentioned in BA17-90. The project is dictated by wetlands and ponds on site. The ordinance requires 500 ft. lot width. The applicant is asking for a variance to allow 484 ft. The variance can be granted without substantial impairment to the master plan or zoning ordinance.

MR. AY – The applicants have to satisfy the other governmental agencies. They will be back before the board for site plan approval.

MR. UNSWORTH – Work on the site would not begin until after the other approvals are obtained. The applicant's experts have testified that this will be a less intense use than single-family homes. The applicant will clear the underbrush near the access.

A motion was made by Mr. Pierson and seconded by Mr. Conrad, to grant the use variance, lot width and setback variances to allow an age restricted community for 55 years and older with no one under the age of 18 allowed, the setbacks will be 50 ft. on the south side, 75 ft. on the north side and 50 ft. in the rear, additional landscaping will be added on the south side, all other permits and governmental approvals must be obtained and the standard conditions. Those in favor: Ay, Bergus, Burgin, Conrad, Pierson, Unsworth.

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

Application is for preliminary and final site plan approval for a 3,300 sq. ft. commercial building with 3 units, variance for landscape buffer and a use variance to allow an existing billboard sign to remain at Route 50, Seaville.

William Kaufmann, Esquire, represented the applicant. He stated that the proposed use is permitted in the CM zone. There is an existing billboard on site that is classified as a principal use. A use variance is needed to allow 2 principal uses on the same lot. The applicant purchased the property in 1981 with the billboard already on site.

Stephen Filipone, PE, testified that the lot is triangular shape and is very irregular in shape. He described the surrounding area. The building is located on an angle to meet the setbacks and provide adequate parking in front. An aerial photograph showing the site was marked as Exhibit A-1. Exhibits A-2, A-3, A-4, A-5 are photographs showing the subject site and the double billboard sign. The photos were taken today. They conform to the building and lot coverage requirements. The project will maintain light, air and open space. They propose 27 parking spaces on site. He does not believe the billboard is a detriment to the neighborhood. He feels this is an appropriate use for the CM zone. The proposal is not detrimental to the master plan or zoning ordinance. He feels the proposed building and existing billboard sign can coexist without any detriment. The sign has been on site for more than 25 years and appears to be well maintained. They are requesting a variance for landscape buffer to a non-residential district so they can meet the setback requirements and fit in the parking.

Mr. Dietrich stated that the plan has been revised to address most of the items in his review letter. There are 2 items in regards to the drainage that need to be addressed. The size of the drainage facility must be increased. He recommends the concrete curb be extended to eliminate the gap. Mr. Filipone testified they are in agreement with Mr. Dietrich's report. They will connect the curbing to avoid any gaps. There was discussion in regards to connecting the parking area with the adjacent commercial use. Mr. Dietrich does not believe that a CAFRA permit will be required to connect the parking areas. He stated that two of the parking stalls could be eliminated to meet the buffer requirements.

Mr. Filipone stated that there would be a second floor for storage. He will add some evergreens in the rear for a denser buffer between the subject property and the existing residences. They will move the septic to maintain a 20 ft. buffer. A copy of the Certified List was submitted and marked as Exhibit A-6.

The meeting was open to the public.

Cindy Petrella, 41 New Bridge Road, Seaville, was sworn in. She has concerns in regards to the buffer in the rear. She is also concerned about the glare of the lights in the rear of the building.

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

MRS. BURGIN – Thomas Alberico is the owner of the subject property located on Route 50 in Seaville, also known as Block 553, Lot 8. They are requesting a use variance to allow 2 principal uses on the property and 2 structures. The applicant proposes to construct a 3,300 sq. ft. commercial building and maintain an existing billboard sign. The billboard generates no traffic. The dual use will satisfy the special reasons pursuant to 40:55D-2(g) & (e). The property is irregular shaped. There is a pre-existing non-conforming use on the property. The property is located in a CM zone. The proposed use is appropriate for this zone. The variances can be granted without substantial detriment to the public good and will not substantially impair the intent or purpose of the zone plan and ordinance. The second floor will be used for storage only. The applicant has agreed to bring the drainage into compliance. The parking area will be connected to the adjacent property to the north. This will erase some of the traffic problems. There was testimony from a property owner within 200 ft. The applicant agrees to have a house shield on the light in the parking lot. The other lights will be box lights. They agree to install a buffer from the end of the parking lot to the north. They also agree to contribute seventy-five cents per square foot to the fire fund. The amount is to be determined.

MR. CONRAD – A variance is requested for a landscape buffer to allow 7.7 ft.

MR. PIERSON – The concrete curbing will be connected.

MR. UNSWORTH – The applicant is also requesting preliminary and final site plan approval. There was public comment from Cindy Petrella. The applicant made some concessions in buffering and lighting. The building coverage is substantially less than what the ordinance allows.

A motion was made by Mr. Ay and seconded by Mr. Pierson, to grant the use variance, landscape variance and preliminary and final site plan approval with the condition that evergreen trees be planted from end of parking lot to the northern most property, house shield on parking lot lighting, only box lighting will be used in the rear of the property, compliance with engineers letter specifically items #10 and #11, the second floor is to used for storage only, the parking area will connect to the adjacent parking area, seventy-five cents per square foot will be paid to the fire fund at issuance of a Certificate of Occupancy and the standard conditions.

D. BILLS:

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

E. RESOLUTIONS:

1. ANTHONY LAURIELLO – BLOCK 633, LOT 33:

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

2. THOMAS BREAZEALE – BLOCK 636, lots 1 – 4 AND 34 – 37:

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

3. DEAN MARCOLONGO – AUTHORIZING CONTRACT FOR PROFESSIONAL SERVICES:

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

F. DISCUSSION:

The board discussed the fee for recording and transcribing services for the completeness and regular hearings. The pay for these services has not been increased in over 14 years. A motion was approved to recommend township committee increase pay for regular meetings from \$70.00 to \$100.00 per meeting to be effective January 1, 2005. Solicitor Marcolongo will write a letter of recommendation to township committee for their review and approval.

G. ADJOURNMENT: A motion to adjourn the meeting was made by Mrs. Bergus, seconded by Mr. Pierson, and approved. The meeting was adjourned at 10:40 p.m.

Submitted by,

Shelley Lea  
Secretary