

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

The regular meeting of the Upper Township Zoning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey. The Chairman called the meeting to order at 7:35 p.m. He advised of the meetings compliance with the Open Public Meeting Notice. Everyone saluted the flag.

A. ROLL CALL:

PRESENT: Marshall Behr, Elizabeth Bergus, Mary Jean Burgin, Frank Conrad, Ted Klepac, Jeffrey Pierson, Paul Casaccio.

ABSENT: Stephen Ay, Matthew Unsworth

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

B. APPROVAL OF THE FEBRUARY 10, 2005 MEETING MINUTES:

A motion to approve the minutes was made by Mrs. Bergus, seconded by Mr. Conrad, and approved. Abstain: Pierson

C. APPLICATIONS:

1. BAILEY, WILLIAM E. – BLOCK 383, LOT 2 – BA27-05:

Application to construct a single-family dwelling on a lot without any improved road frontage on Mt. Pleasant Road, Petersburg.

Chairman Casaccio announced the above application has been tabled. The applicant is in the process of receiving approval from The New Jersey Pinelands Commission. He will re-notice prior to returning to the board.

2. DIEFENDERFER, DONNA – BLOCK 836, LOT 4 – BA32-04:

Application is for a use variance to renovate an existing duplex, variances for lot depth, front yard setback, lot coverage and width of curb cut at 401 Bayview Drive, Strathmere.

Arthur T. Ford, III, Esquire, represented the applicant. He reviewed the requested variances. A use variance is needed since duplexes are not a permitted use in the Resort Residential Zone. The lot depth is a pre-existing condition.

Donna Diefenderfer, 106 Berry Lane, Feasterville, PA, was sworn in. She testified that the property has been in her family since 1944. The property was a duplex when her grandfather purchased it. They began renting the 1<sup>st</sup> floor apartment in the 1960's. At the current time the applicant's brother occupies the 1<sup>st</sup> floor. She will move to Strathmere after she retires. She submitted photos of the property which were marked as exhibits.

EXHIBIT A-1: Photo of the property in 1967. They have enclosed the porches since then.

EXHIBIT A-2: Photo of the property in 1967.

EXHIBIT A-3: Photo of the property in 1994. Picture shows the shed is replaced with a new shed.

EXHIBIT A-4: Photo of the property in 2001.

EXHIBIT A-5: Photo of the property in 2005. The picture shows the location of the 1<sup>st</sup> and 2<sup>nd</sup> floor doors.

EXHIBIT A-6: Photo showing flood water after a storm.

EXHIBIT A-7: Photo showing the flood water and ice that came into the 1<sup>st</sup> floor windows and door.

Robert Bachish, Registered Architect, was sworn in. He testified that there is a two-story, two-family dwelling on the property with an elevated shed in the rear yard. The topographic conditions are very low on this section of Bayview Avenue. Once the storm inlet on the corner of Tecumseh and Bayview is full the water keeps rising. The roof, porches, stairs, etc. will be removed. The structure will be taken off its present foundation and moved to the rear of the lot. New pilings and foundation will be installed to lift the building. The renovations will begin after that. There will be parking and storage underneath. The lower level will be block with flow vents so that the water will pass through. They are proposing a dumbwaiter with an automatic recall so it will always sit on the first floor. The mechanical equipment will be located on the lower level above flood elevation. An inclinor will be installed for the applicant's handicapped mother.

Mr. Bachish stated that a front yard setback variance is needed to permit 5 ft. where 15 ft. is required. A variance for principal building coverage is needed to permit 32.67% coverage where 25% is permitted. The septic will be located in the rear yard. The coverage variance is needed mostly because of the 2 sets of stairs inside the building, the wider hallway and dumbwaiter. Two parking spaces per unit will be provided under the building. They will be accessible from both Tecumseh Avenue and Bayview Avenue. He feels the proposed building is compatible with the neighborhood. He feels the application as proposed will not create a negative impact. He believes the benefits of raising the dwelling outweigh any negative impact caused by the slight increase in building coverage.

Mr. Dietrich determined that the average grade in regards to measuring the height is elevation 4.42 where Mr. Bachish used 4.73. The plan will be amended to reflect this change. The elevation of the structure will actually be 37.42 or a building height of 33 ft. He requested that a construction sequence be added to the revised plan.

Mr. Schultz stated that the front yard setback on Bayview Drive is 5 ft. from the building with an 18 inch overhang creating a 3.6 ft. setback.

Mr. Bachich indicated that overhang is elevated. The proposed columns are decorative and not structural.

Stephen Martinelli, Professional Land Survey, was sworn in. He agrees with the testimony given by Mr. Bachich.

The meeting was open to the public.

Thomas Rossi, 605 S. Commonwealth Avenue, was sworn in. He has lived in Strathmere since 1980. He has questions in regards to the size of the septic. He objects to the application. He does not object to raising the building, however he feels the applicant should stay within the setbacks. He feels the proposed structure is massive and will look like a box. He is not in favor of the box type houses that are currently the trend in Strathmere. He feels that more control is needed before the character of Strathmere is lost. He does not believe that any special reasons for granting the variance have been given.

Richard Shetler, 6 W. Tecumseh Road, was sworn in. He has lived in Strathmere since 1962. He has no problem with the application as proposed.

Hearing no further response the public portion of the application was closed. The meeting returned to the board for finding of fact.

MR. BEHR – Donna Diefenderfer, is the owner of 836, Lot 4, also known as 401 Bayview Drive. She is requesting to renovate an existing duplex. The property has been in her family since 1944. Photos showing different changes of the property were submitted and marked into evidence. Two of the photos show the structure in flood waters and ice. He feels the applicant is improving the building by raising it to meet the flood elevation. The applicant plans to move to Strathmere after she retires. Her handicapped mother will access the building using the interior stairs. The mechanical equipment will be located above flood elevation. The house will increase in size by approximately 360 sq. ft. The house as proposed will have 5 bedrooms the same as it did previously. The septic will meet current standards. The septic has been approved by the Cape May County Health Dept.

MRS. BERGUS – The access on Tecumseh will be reduced from 16 ft. to 12 ft. wide. A special reason for granting the variance is that the house will meet the flood elevation requirement.

MR. PIERSON – He feels the application promotes a desirable, visual environment. He feels this is a good design created for a unique parcel.

MR. KLEPAC – This plan provides better security in regards to the flooding problem. The septic system will be upgraded.

MR. CASACCIO – This is a unique lot since it has 2 front yards. The decorative columns are located in the setback area. Public comment from inside and outside of 200 ft. was given.

A motion was made by Mrs. Bergus and seconded by Mr. Pierson, to grant the application with the standard conditions and that the curb cut on Tecumseh Avenue is reduced to 12 ft., the height elevation is amended to 37.42, and the construction sequence is added to the plan. Those in favor: Behr, Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

3. SMITH, JOHN R. – BLOCK 559, LOT 14.07 – BA01-05:

Application is for a front yard setback variance to construct an addition to an existing dwelling at 14 Nicholas Lane, Seaville.

John R. Smith, 14 Nicholas Lane, was sworn in. He would like to construct a first floor addition so he and his wife can utilize the first floor only as living space. This is a wooded lot. The house was constructed in this particular location in order to save the holly trees on the lot. He submitted photos of the property that were marked as Exhibits A-1 through A-7. He feels this is the best location for the addition.

Mr. Dietrich informed the board that the property actually fronts on the Garden State Parkway creating the need for a front yard setback variance. He has scaled the survey and determines that the setback will actually be about 40 ft.

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

MR. BEHR – John Smith is the owner of Block 559, Lot 14.07 also known as 14 Nicholas Lane. There is an existing 2 story residence on the property. The applicants are getting older and would like to utilize only the first floor of the home. The property is located on a cul-de-sac and has frontage on the Garden State Parkway. There are 2 front yards. This is a wooded lot and the applicant wishes to save the trees.

MRS. BURGIN – There was no public comment.

MR. CONRAD – He believes the variance is minimal. The applicant does not want to clear the trees.

MR. PIERSON – There will be no additional bathroom facilities.

A motion was made by Mr. Conrad and seconded by Mrs. Burgin, to grant the front yard setback variance with the standard conditions. Those in favor: Behr, Bergus, Burgin, Conrad, Klepac, Pierson, Casaccio.

D. RESOLUTIONS:

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

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

2. LORD, ALBERT AND SUZANNE – BLOCK 862, LOT 6 – BA33-04:

A motion to adopt the above resolution was made by Mr. Conrad, seconded by Mr. Klepac, and approved. Abstain: Pierson.

Mr. Casaccio left the meeting at this time and Mr. Behr acted as Chairman.

E. BILLS:

A motion to approve the bills for payment was made by Mr. Conrad, seconded by Mr. Klepac, and approved.

CONTINUATION OF APPLICATIONS

4. VALLESE, MATTHEW AND DIANNE – BLOCK 721, LOTS 1 THROUGH 4 – BA02-05:

Applicants are requesting variances for lot area, less than 140 ft. of improved road frontage and front, rear and side yard setback variances, to construct a single-family dwelling at the corner of Seaview Avenue and Second Avenue, Beesleys Point.

Julius Korschak, Esquire, represented the applicants. The applicants are the contract purchasers of the property. They propose to consolidate the lots to create one lot approximately 15,814 sq. ft. The property has 3 front yards and 1 side yard. A buy/sell letter was sent to the owners of Block 723, Lot 61.04. A letter was sent to the board to verify that James and Sandra McAfee were not interested in buying the applicants property or selling their property. In addition the correspondence also indicates they object to paving 45 ft. of Second Avenue since they do not wish to have a paved road end at the rear of their property.

Mr. Korschak stated that when the plan was designed there was the assumption that the township would vacate the end of Seaview Avenue. It has been brought to their attention that there are drainage issues on Seaview Avenue and it would be unlikely to vacate. They are now requesting to pave a portion of Seaview Avenue and not Second Avenue. The applicants propose to construct a 4 bedroom home that will conform with the newer homes on Homestead Road. The driveway would be off of Seaview Avenue.

Stephen Filipone, Professional Engineer and Planner, was sworn in. He believes that paving a portion of Seaview Avenue would provide adequate access for emergency vehicles and trash trucks. He feels the proposed setbacks are adequate. They will utilize public water. He believes the construction of a residence on this property will not be a detriment to the public. The house will be in keeping with the neighborhood. He

believes the benefits of granting the application outweigh any detriments. The paving will be in compliance with the township engineer's recommendations.

Matthew Vallese, 15 Ortlieb Lane, Seaville, was sworn in. He described the proposed dwelling.

Mr. Pierson does not believe that 45 ft. is satisfactory for fire protection. Mr. Korschak stated that if Seaview Avenue were improved approximately 70 ft. would be paved.

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

MR. BEHR – Matthew and Dianne Vallese are the contract purchasers of Block 721, Lots 1 through 4, located on the corner of Seaview Avenue and Second Avenue. They are requesting several variances. They are proposing to construct a 2 story, single-family residence. The property has 3 front yards.

MR. CONRAD – The applicants are willing to work with drainage issues on Seaview Avenue and pave 70 ft. past Second Avenue for access to the property. They are hoping to vacate Second Avenue and increase the lot area. They are willing to consolidate the lots. This is a unique situation since there are 3 front yards and 1 side yard. A buy/sell letter was sent to the owner of lot 61.04. The owners of that lot requested that Second Avenue not be paved to their rear property line. There was no public comment. There were concerns in regards to fighting fires.

MRS. BERGUS – The house will have 4 bedrooms.

MR. PIERSON – He feels the applicants have proved the negative criteria and that the application can be granted without substantial detriment to the public good. He feels that paving 70 ft. of Seaview Avenue proves they are concerned about fire safety.

MR. BEHR – The paving of Seaview Avenue will be coordinated with Mr. Dietrich. The lot has access to public water.

A motion was made by Mr. Klepac and seconded by Mr. Pierson, to grant the requested variances, with the standard conditions and that a revised plan showing the paving on Seaview Avenue and the position of the dwelling and that the lots are consolidated. Those in favor: Behr, Bergus, Burgin, Conrad, Klepac, Pierson.

#### D. BILLS:

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

#### E. ADJOURNMENT:

A motion to adjourn the meeting was made by Mr. Pierson, seconded by Mrs. Bergus, and approved. The meeting was adjourned at approximately 9:30 p.m.

Submitted by