

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
MAY 12, 2005

The regular meeting of the Upper Township Zoning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Stephen Ay	Present
Marshall Behr	Present
Elizabeth Bergus	Present
Mary Jean Burgin	Present
Frank Conrad	Present
Ted Klepac	Present
Jeffrey Pierson	Present
Matthew Unsworth	Present
Paul Casaccio	Present

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

APPROVAL OF MINUTES

The minutes were amended to show that Mr. Klepac was present at the April 14, 2005 meeting.

A motion to approve the amended minutes was made by Mr. Conrad, seconded by Mrs. Burgin, and approved. Abstain: Ay, Behr, Casaccio.

RESIGNATION OF MARY JEAN BURGIN

Chairman Casaccio announced that Mrs. Burgin has resigned and that this will be her last meeting. He thanked her for her time and dedication to the board.

APPLICATIONS

1. WILLIAM BAILEY – BLOCK 383, LOT 2 - BA27-04

Applicant is requesting a variance to construct a single family dwelling on a property without any road frontage and a height variance at Mt. Pleasant Road in Petersburg.

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William E. Bailey, 1000 Upper Bridge Road, Petersburg, New Jersey, was sworn in. He testified that the subject property is 16.8 acres and is located off of Mt. Pleasant Road. The property has frontage on unimproved streets only. There is no improved road frontage. Township Committee has granted a driveway access easement to obtain access to the property. They have received a Certificate of Filing from the New Jersey Pinelands Commission. They are also requesting a variance to allow the height of the building to be 38 ft. He is proposing to construct a Victorian style home with a basement. The seasonal high water is 5 ft. creating the need for a height variance. The driveway will be 1,800 ft. long. The house will not be seen from the road since the lot is densely wooded.

Mr. Dietrich stated that the access easement is in place. The applicant is utilizing part of an existing woods road to eliminate further impact on freshwater wetlands. The Tuckahoe Volunteer Fire Chief has indicated that there is no problem with the driveway as long as it meets the township standards. He confirmed that the driveway does meet the standards. A Statewide General Permit is still needed to cross over the wetlands. Mr. Bailey stated that this permit is currently being processed.

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

MR. BEHR – William Bailey is the owner of Block 383, lot 2, located off of Mt. Pleasant Road in Petersburg. The lot is 16.8 acres located within the Pinelands. The property is surrounded by freshwater wetlands. He proposes to construct a single-family Victorian style dwelling on the lot. He has received approval from the New Jersey Pineland Commission. The applicant will use part of a woods road to access the property. The Township Committee has granted an easement for access to the property. The property has a high water table. The applicant proposes to install a basement and therefore needs a 3 ft. height variance. The structure will not be visible from the road. This is a densely wooded area. There is one outstanding permit that the applicant must obtain. He feels the basement is a reasonable request and would be in favor of granting the variances.

MR. CONRAD – There was no public comment.

MRS. BURGIN – Chief William Chatten, Tuckahoe Volunteer Fire Company, has indicated that they have no problem with the proposal.

A motion was made by Mrs. Burgin and seconded by Mr. Behr, to approve the application with the standard conditions. In favor: Behr, Bergus, Burgin, Klepac, Pierson, Unsworth, Casaccio. Abstain: Ay, Conrad. (Alternates).

2. RANDALL P. LEISER – BLOCK 453.10, LOTS 13 & 14 – BA03-05:

Applicant is requesting a variance to construct a detached garage in the front yard at 22 Laurel Ridge Road, Seaville.

Chairman Casaccio stepped down during this application and Mr. Unsworth acted as Chair.

Paul Randall Leiser, 22 Laurel Ridge Road, Seaville, was sworn in. He testified that he would like to construct a detached garage in what is considered to be a front yard. He utilizes this part of the property as his side yard. This is now a corner lot due to the recent development of Winchester Court. It was an interior lot when he purchased the property. A road was installed using the vacant lot next to his property making his property a corner lot. He believes this is the best location for the garage. The location of the proposed garage will not have a negative impact on the neighborhood since there are no homes on the first 286 ft. of Winchester Court. The garage will be setback 50 ft. from the property line. It will be 90 ft. from the nearest house. The mature trees and laurel bushes will remain as a buffer on 3 sides of the garage. The well and septic will not be impacted. The garage will be consistent with the character of the neighborhood. The applicant proposes an outside water spigot on the garage.

Mr. Dietrich has informed the applicant previously that the proposed concrete driveway apron will cross a township drainage easement. If the applicant were to damage infrastructure it would be replaced and charged to him. If the driveway apron is damaged it will also be his responsibility to replace it.

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

MR. BEHR – Paul Randall Leiser is the owner of Block 453.10, lots 13 & 14 located at 22 Laurel Ridge Road in Seaville. The lot was an interior lot when it was purchased. The adjoining vacant lot was made into an access to the rear of the subject property. This is now a corner lot. The applicant proposes to construct a garage and a driveway. The driveway will be constructed over a township drainage easement. The applicant is responsible for the replacement of any infrastructure that is damaged due to the applicant accessing the garage. The garage conform to other garages in the area.

MR. CONRAD – There was no public comment.

MRS. BERGUS – He may add electric to the garage and the only water will be an outside spicket.

MR. UNSWORTH – The well and septic will not be effected by the garage.

A motion was made by Mr. Ay and seconded by Mr. Pierson, to grant the variance with the standard conditions. In favor: Ay, Behr, Bergus, Burgin, Klepac, Pierson, Unsworth. Abstain: Conrad (Alternate).

3. CHARLES DALLAQUA – BLOCK 835, LOT 17 – BA04-05:

Applicant is requesting an interpretation and/or height variance to construct covered stairs and cupola at 33 Sumner Avenue in Strathmere.

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Mrs. Bergus stepped down during this application.

Arthur T. Ford, III, Esquire, represented the applicant. He submitted a copy of Section 20-6.3 Height limits, from the Upper Township Land Use Ordinances. He stated that an interpretation is needed as to whether the cupola that covers an enclosed staircase requires a height variance. He feels the request falls under this section of the ordinance and does not require a height variance.

Robert Bachich, Professional Architect, was sworn in. He testified that the purpose of the cupola is to provide interior access to the roof deck by circular stairs and for aesthetics. He believes the proposal is permitted in section 20-6.3 of the ordinance. There is no additional living space under the cupola.

Mr. Dietrich stated that this looks and appears to be a cupola but it houses livable space. The space will be heated and air-conditioned. The cupola is calculated in the volume of the structure.

Mr. Schultz interprets that the roof structure for the housing of stairways is strictly to address equipment on the roof to maintain the building. He does not believe that what they are proposing is actually a cupola but rather a stair tower to gain access to the deck.

Mr. Ford stated that the purpose of the cupola is to access the roof deck that is part of the structure and is permitted under the ordinance.

The meeting was open to the public.

Elaine Holsomback, 20 Black Oak Drive, Palermo, was sworn in. She is the owner of Block 835, Lot 18, adjacent to the subject property. She believes this is part of the roof structure and not a cupola. She feels that allowing this would set a precedent.

Edmund Bamford, 1912 Commonwealth Avenue, was sworn in. He stated that the board turned down a similar application in Strathmere. He does not feel the board should allow the applicant to exceed the height limit. He feels the cupola has no benefits and he objects to the proposal.

Edward Eisle, 26 Tecumseh Road, Strathmere, was sworn in. He has no objections to the applicant's proposal.

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

MR. UNSWORTH – Charles Dall'Acqua is the owner of Block 835, Lot 17, also known as 33 Sumner Avenue. He is requesting an interpretation of the township ordinance in regards to roof structures. It is the applicant's position that the structure on the house plan is a cupola covering a staircase and that it is permitted without a variance. The board must determine if a variance is needed.

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MR. BEHR – He believes that a cupola is more of an ornamental structure rather than a functional structure. The proposed cupola is a means for gaining access to the deck. He does not believe the proposed use meets the ordinance. He feels that a variance is needed.

MRS. BURGIN – Presently there are no structures of this type in Upper Township. She feels the proposed use is not the intent found in the ordinance. Public comment was given.

MR. CASACCIO – He does not feel this is a cupola since it houses a stairway.

A motion was made by Mrs. Burgin and seconded by Mr. Unsworth, to interpret that the proposal meets the ordinance requirements contained in 20-6.3(b) of the land use ordinance and a variance is not needed. In favor: None. Opposed: Ay, Behr, Burgin, Klepac, Pierson, Unsworth, Casaccio.

Mr. Ford proceeded with the variance application.

Charles Dall'Aqua, 785 Sonne Drive, Annapolis, Maryland and Stephen Martinelli, Professional Land Surveyor, were sworn in.

Mr. Dall'Aqua testified that he is the owner of 33 Sumner Avenue. He has vacationed in Sea Isle for 47 years and has owned property there for the past 10 years. He has sold his property in Sea Isle and has purchased a property here since it is more peaceful. He submitted photos of the original concrete structure that was located on the property. The house was built in the 1920's. They had problems with moisture and the walls were decaying. It was determined that the house was not structurally sound and was demolished. They plan to make this their primary residence in 2007. He feels the dwelling is aesthetically pleasing and will enhance the neighborhood. The proposed house is less than 2,000 sq. ft. The roof deck is needed for exterior living space since this is a small lot and there is not any room. He does not believe an exterior metal staircase would be aesthetically pleasing.

Mr. Bachish testified that the cupola meets the intent of the ordinance. He feels this is a clever way of disguising the access to the roof deck. The cupola will protect the metal stairs from eroding and water from getting into the house. He feels that better flood protection for the subject building and the surrounding area. The existing non-conforming rear yard setback has been brought into compliance. The lot coverage has been reduced to 26 percent. The applicant is constructing a dutch colonial that meets the intent of the master plan and zoning ordinance. There is a porch on the front of the building and the proposed roof deck.

It was determined that a "D" variance is required since the applicant exceeds 10% of the permitted height by 5 ft. 6 inches. The proposed building would be 38 ft. 6 inches high. There was discussion in regards to lowering the roof structure.

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Mr. Martinelli testified this is a minimal request and that the structure looks better with the cupola. The lot coverage has been decreased and the rear yard setback now complies. The house located on lot 12 is 39.3' ft. high.

The meeting was open to the public.

Elaine Holsomback, 22 Black Oak Drive, Palermo, was sworn in. She feels that granting the variance will set a precedent in Strathmere. She fears Strathmere will become overbuilt. She submitted a photo of the dwelling that her husband took today. The photo was marked Exhibit P-1.

Edmund Bamford, 1912 Commonwealth Avenue, was sworn in. He objects to the application.

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

MR. BEHR - The applicant is the owner of lot 17, block 835, also known as 33 Sumner Avenue. He is requesting a height variance. The one-story concrete dwelling that previously existed on the lot was built in the 1920's and was not structurally sound. The proposed structure is smaller than the previous house. The lot area is reduced and the structure meets all the setback requirements. The first floor is being utilized as a garage. The lot is small and there is limited building space. The deck would provide access for light, air and open space. The structure is aesthetically pleasing and provides access to the deck. He feels this is a benefit to the community since it is a tax ratable. This will be an upscale structure rather than a typical bungalow structure.

MR. AY – There was negative public comment given.

MRS. BURGIN – The proposed height is over 10% of what is permitted. The structure will give access to an outside roof deck. There are no other structures that give access to an outside deck in Strathmere.

MR. CONRAD – There was extensive comment from the public in regards to the structure.

MR. PIERSON – Approximately 5.8 percent of the house is above the height limit. They have proven special reasons by providing light, air and open space.

MR. CASACCIO – The house on lot 12 is taller than the applicant proposes. The structure would be compatible with the style architecture in Strathmere.

A motion was made by Mr. Pierson and seconded by Mr. Klepac, to grant the use variance for the height of the structure with the standard conditions. In favor: Ay, Behr, Burgin, Klepac, Pierson, Unsworth, Casaccio. Abstain: Conrad (Alternate).

a. LAURA CONE – BLOCK 649, LOT 1 – BA05-05:

Applicant is requesting a front yard setback variance to construct an attached garage at 312 W. Quail Drive, Marmora.

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Laura Cone, 312 W. Quail Drive, Marmora, was sworn in. She is proposing to construct a 3-car garage. This is a corner lot and is on a dead end street. The existing garage was converted into living space for her Mother. This is the best location on the property for the garage. She feels safer parking in the garage instead of the driveway. Her children drive now so there are 3 vehicles. There will be electric in the garage but not water. Storage area will be included in the garage.

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

MR. UNSWORTH – Laura Cone is the owner of Block 649, Lot 1, also known as 312 W. Quail Drive. She requires a variance to construct a 3 car garage in the front yard area. The garage is for parking and to provide a safer access to the dwelling for the applicant and her children. The property is located on a dead end street. This is a corner lot and has 2 front yards. Other homes in the neighborhood have similar setbacks. There will be no impact to the neighbors. There was no public comment.

MR. BEHR – The garage will have one small and one large door. There will be room in the garage for storage. The rear of the property abuts the railroad track. There will be access to the house through the garage.

MRS. BURGIN – There was no public comment.

MRS. BERGUS – The applicant has agreed not to install water in the garage. The garage will not be used for living space.

A motion was made by Mr. Unsworth and seconded by Mr. Pierson, to grant the front yard setback variance with the standard conditions. In favor: Behr, Bergus, Burgin, Klepac, Pierson, Unsworth, Casaccio. Abstain: Ay, Conrad (Alternates).

APPROVAL OF BILLS

A motion to submit the bills for payment was made by Mr. Behr, seconded by Mrs. Burgin, and approved.

DISCUSSION

Solicitor Marcolongo discussed the boards recommendation to Township Committee in regards to front yards that will be included in the resolution to go with the report showing the 2004 applications.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Klepac, seconded by Mr. Pierson, and approved. The meeting was adjourned at 9:58 p.m.

Submitted by,