

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
APRIL 5, 2012**

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.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Ted Klepac, Christopher Phifer, Andrew Shawl, Matthew Unsworth, Lynn Petrozza, Hobart Young, Susan Adelizzi-Schmidt and Jeffrey Pierson.

Absent: Joseph Healy, Alistair Lihou and Paul Casaccio.

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

SWEAR IN BOARD PROFESSIONALS

APPROVAL OF THE MARCH 8, 2012 MEETING MINUTES

A motion to approve the minutes was made by Mr. Unsworth and seconded by Mr. Young. In favor: Klepac, Phifer, Shawl, Unsworth, Young, Adelizi, Pierson.

TABLED APPLICATIONS

The following application has been tabled until May 10, 2012. No further notice will be required.

1. DARRYL & ANNE MARIE CILLI – BLOCK 791, LOT 26 – BA01-12

APPLICATIONS

1. T & R HOLDINGS, LLC – BLOCK 348, LOT 1.01 – BA01-11

Continuation of an application for amended preliminary and final site plan approval, use variance since the TR zoning district does not specifically allow the marina use or multiple residential units, a use variance to allow two principal uses on the property, bulk variances and variances for providing storm water calculations and asphalt parking area, to renovate an existing tri-plex at 2 Meadowview Lane, Tuckahoe.

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Solicitor Marcolongo stated this is the 6th hearing on this matter. He gave a brief summary of the previous hearings regarding the proposed 10-slip marina with three apartments and an office. He stated that modifications were made to the site plan and additional time was given to review these plans. He stated that revised plans prepared by EDA, consisting of seven sheets, two of the sheets last revised on February 1, 2012, along with revised building plans prepared by Howard Davis, consisting of three sheets, last revised March 6, 2012.

John Scott Abbott, Esquire, appearing on behalf of Mr. Breunig, feels there have been substantial changes that warrant a new application. Solicitor Marcolongo stated the revised plans were submitted at least 10 days prior to the meeting date and the variance relief remains the same. He does not believe the changes are substantial enough to warrant re-noticing.

Ms. Adelizzi-Schmidt stepped down during this application.

Joseph Maffei, Professional Engineer, was previously sworn. Mr. Maffei testified that the applicant has received CAFRA approval. The revised plans reflect the plans that were approved by CAFRA. He reviewed a color rendering of sheet 4 of 7. He stated that DEP and CAFRA required minor modifications. The plan continues to include three apartments with three bedrooms along a 905 sq ft office and 10-slip marina. The 10 slips would be for two personal watercraft and eight 20 ft outboard boats. The plan now includes the septic that was part of their CAFRA approval and a re-vegetation area in front of the septic system. The original plan had second floor living space over the existing patio. However this has been removed since CAFRA will not allow them to build over the therefore reducing the size of the building. He stated that another condition of their approval is that every floor has to be one foot above flood elevation. The new plans calls for two apartments on the top floor and one apartment on the first floor. The storage units have been moved from the ground level floor and are now incorporated within each of the apartments. The size of the stone parking area has been reduced, however it still meets the Township standards. The size of the drive aisle has been reduced from 45 ft to 25 ft to reduce the amount of stone on site.

During questions by the Board Mr. Maffei testified that the submitted architectural plans reflect the changes. The height of the structure would be 32 ft. There would be 13 parking spaces including one handicap space. No variance relief is needed for the parking. He stated there would not be any commercial storage of boat trailers. There would be a maximum of six boats/trailers parked on site at one time. There would no stacking of boats/trailers. The 32 ft height would be in keeping with the neighborhood.

Mr. Dietrich commented that the proposed DOT improvements include widening the pavement on Meadowview Lane to 18 ft where it is currently 12 ft wide. The curb ratios would be increased to 15 ft at the intersection where there currently is none.

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At this time Mr. Abbott asked Mr. Maffei questions. Mr. Maffei confirmed that he represented to the DEP that this is an existing marina. He stated that the former owners had approvals for ten slips. In the applicants approval they requested the same ten slips with a different configuration and newer docks since the old docks had fallen into disrepair. They received a land use environmental permit from DEP. He stated that the management office would be 930.5 sq ft, the first floor apartment is 1,145.5 sq ft, the second floor north apartment would be 1,086 sq ft and the second floor south apartment would be 1,166.5 sq ft. The septic is designed for three one-bedroom apartments and an office. He stated that the septic system is 75 ft from the bulkhead. He stated that a maximum of six boats could be stored on the property. When asked about the size of the boats Mr. Maffei testified that the boats would fit within the parking spaces.

Mr. Maffei testified there has been no contact with DOT since they are not intensifying the use of the property. The applicants have had contact with DOT about the design phase they are going through. They have not done a traffic impact study. He stated there were several environmental impact studies done as part of their CAFRA, waterfront development approval and Army Corp of Engineer approvals. Mr. Dietrich verified that he was forwarded a copy of the environmental study. There have been no changes to the setbacks. Mr. Maffei testified that one of the first things they looked into was moving the building farther from the neighbor; unfortunately their only option was to build within the same footprint.

Mr. Maffei further testified that the permit for the dock allows boats up to 20 ft in length. He stated that records for the marina would be kept in the office as well as a first aid kit and oil booms that are required to be stored on site. A sewer pump out will be located in the front of the site.

James Chadwick, Professional Engineer, was previously sworn. Mr. Chadwick testified that he has reviewed the revised plans. He referred to Chapter 7:9a Septic System Design Regulations of the State of New Jersey. There was lengthy conversation pertaining to calculations, gallons, etc. It is his opinion that the calculations are higher for three units than for three single-family homes. Mr. Maffei testified the applicant is approved up to 1,150 gallons. They are over the approved limit by 46 gallons. They could very easily make modifications to the office space so they would not be over. Mr. Dietrich agreed the office area would have to be reduced to meet their approval.

Solicitor Marcolongo suggested that since the Township does not regulate septic permits a condition of any approval should be that the applicant resubmits the septic plans to the Cape May County Health Department for their approval prior to the issuance of a construction permit.

Mr. Chadwick stated that the applicants have made no attempt to rebuild the structure in conformance with the ordinance requirements. He feels that leaving the building in this location maximizes their potential to provide a 10-slip marina and three dwelling units.

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Mr. Chadwick stated that although he believes the apartment use is abandoned, the proposed dwelling units are 3 times larger than what is currently there. Mr. Abbott added that if approved there is nothing to stop them from making the units into condos.

There was a short break at this time.

Mr. Chadwick referred to International Building Code 2009 New Jersey edition. It is his opinion that the structure must be provided with a fire protection sprinkler system since there is not public water. There is nothing on the site plan that addresses this. Mr. Maffei stated this is a building code issue and not a site plan issue. The Construction Official will address this issue.

Mr. Chadwick reviewed the proposed and permitted setbacks for the building. He stated that a second floor is proposed to be added within the front yard setback area. He submitted a marked up copy of the plan by Howard Leroy Davis, Architect, showing the north end of the building. He has included the required setback area. This was marked as Exhibit A-33.

Mr. Chadwick submitted 2 photos taken by Mr. Breunig on 3/22/12. Bruce E. Breunig, Sr., 21 Glory Road, Marmora, was sworn. He testified that he took the pictures of the subject property from the bridge. Mr. Chadwick stated that the current configuration of the docks is not what was approved by DEP. Mr. Dietrich testified that the applicants explained to him that these are modular docks and once they are done will be in the proper configuration. The site is under construction and the applicants would have to contact DEP when they are finished for an inspection. The Board tried to explain the configuration of the docks is the jurisdiction of the DEP.

Mr. Chadwick addressed the above ground sewage waste holding tank. He stated the tank is not screened. He asked if the tank is anchored and vented. He has concerns with the proposed lighting and does not feel that it is adequate.

Mr. Chadwick does not understand how this can be considered a public access since it would be difficult to fish on this dock. He referred to Mr. Dietrich's report in regards to his inspection of the property. A submitted a copy of the ordinance definition of a dwelling unit that was marked P-35. He stated that two of the units couldn't be classified as a dwelling unit since there are no cabinets, kitchen sink or cooking appliances. He does not agree with Mr. Dietrich's report. There was conversation regarding the intent to abandon.

Mr. Facenda stated that in 2007 the Graisers obtained a waterfront development permit that permitted 10 slips. According to correspondence dated October 7, 2008, the Graiser's obtained a 7-year marina license from the Bureau of Tidelands Management effective October 1, 2008. A copy of the DEP Tideland License was marked A-20 (previously marked A-4) and the DEP waterfront development permit dated January 22, 2007 was marked A-21. A copy of a memorandum prepared by Andrew Heyel,

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Environmental Consultant working for the objectors, indicating that a property has been used as a marina for many decades along with correspondence from Mr. Abbott addressed to the US Army Corp of Engineers, dated March 11, 2011 was marked A-22.

At this time Mr. Facenda questioned Mr. Chadwick.

Mr. Maffei testified that the cinder block and foundation would remain and everything would be built up from there. The septic was rebuilt in order to meet all current rules and was approved by the health department and CAFRA. They have a raised septic system. He testified that the DEP requires that a marina facility have a sewage holding tank on site, although most have carry on portable toilets. The tank is located near the front of the property so that a septic truck has access to pump it out if needed. Mr. Dietrich suggested the applicant expand the trash enclosure so that the tank would fit and to have it serviced weekly and Mr. Maffei agreed.

During questioning Mr. Abbott asked Mr. Chadwick if he recognized a letter dated November 29, 1993 produced by Hobart Young, Jr., Zoning Officer, addressed to Mr. Graiser indicating that he is in violation of Chapter IX of the Revised General Ordinances and indicates that he has ten days to remove all illegal docks at the facility and cease all marina operations.

Joseph Raday, Professional Engineer, 2 Aquarium Drive, Camden, NJ, was sworn. He has been conducting traffic studies for 15 years. He is the Principal of ABR Consultants, LLC. He has been the Municipal Traffic Engineer for several Municipalities. Mr. Breunig requested that he do a traffic analysis of the subject property. He prepared a report dated 2/29/12 and revised 3/28/12 that was marked P-37.

Mr. Raday testified the report was prepared after reviewing the revised plans. He has visited the site and looked at the conditions on Route 50 and on Meadowview Lane. He reviewed page 3 of 10, paragraph 5 which indicated that Meadowview Lane is not adequate for two-way traffic and exceeds the slopes required in the RSIS standards. He has spoken to the Project Manager for the NJDOT who provided him with a copy of the plans for minor improvements to Meadowview Lane including widening it to 18 ft with 15 ft curb radius on both sides. He references the site as a single-family home based on documents provided by the objector. He stated that the DOT has verified that the applicants have not applied for an access permit from DOT. He used documents from the Institute of Traffic Engineers to determine that a turning radius equivalent to a 17.5 ft is needed. He believes this creates an unsafe condition. He stated that the curvature of the road would be increased 5.5 ft from existing elevation.

Mr. Raday has concerns about the location of the trash enclosure because of the grass strip on the property. Mr. Dietrich stated that pick up is curbside and the trash truck already goes down Meadowview Lane.

Mr. Raday testified the reduced drive aisle on the revised plan would make it impossible for trailers to access the site. He likes the previous design better since more room was provided to make a turn with a trailer. There is no room to get out if you are parked in the space adjacent to the bulkhead.

Mr. Raday testified that lighting is important and that at least 0.45 candles are needed along the entire site. His analysis of the parking requirements results in 17 spaces needed. Using the CAFRA analysis for parking 28 spaces would be needed. He believes that widening the road to 18 ft still would not be safe for two-way traffic. He stated that the radius is inadequate to have a trailer come on site unless you encroach into the opposite lane.

Ms. Petrozza asked about limiting the amount of times a boat could be put in/out of the water. Mr. Maffei informed her that boats could not be put in the water at this location since there is no ramp associated with the facility. The boats would be put in the water at another location and driven to the facility to be stored.

Mr. Raday stated that having to go into another lane to access the site is a safety hazard. He stated that even a small trailer would need a radius of 20 ft. He reviewed the trips for each use as shown on page 7 of 10. He believes this is an unsafe condition, as it currently exists.

Mr. Pierson announced the application would be continued to May 10, 2012 at 7:30 p.m.

RESOLUTIONS

1. **BA27-11 COMCAST CABLE COMMUNICATIONS – BLOCK LOT**

A motion to adopt the Resolution was made by Mr. Shawl, seconded by Mr. Phifer, and approved. Abstain: Pierson.

2. **BA02-12 JOHN & DAVINA WECHSLER – BLOCK 851, LOT 4**

A motion to adopt the Resolution was made by Mr. Shawl, seconded by Mr. Unsworth, and approved. Abstain: Pierson.

BILLS

A motion to approve the bills was made by Ms. Petrozza, seconded by Mr. Unsworth, and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Shawl, seconded by Ms. Petrozza, and approved. The meeting was adjourned at 10:45 p.m.