

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
JULY 12, 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.

**CALL TO ORDER**

**SUNSHINE ANNOUNCEMENT**

**FLAG SALUTE**

**ROLL CALL**

Present: Jeffrey Pierson, Joseph Healy, Hobart Young, Alistair Lihou, Susan Adelizzi-Schmidt and Paul Casaccio.

Absent: Ted Klepac, Christopher Phifer, Andrew Shawl, Matthew Unsworth and Lynn Petrozza.

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

**SHELLEY LEA SWORN**

**APPROVAL OF THE JUNE 14, 2012 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Pierson and seconded by Mr. Young. In favor: Pierson, Young. Abstain: Healy, Lihou, Adelizzi-Schmidt, and Casaccio.

**APPLICATIONS**

1. **SUSAN MORGAN – BLOCK 477, LOT 9.02 – BA04-12**

Applicant is requesting a use variance to operate a home occupation in the residential zone at 1986 Tuckahoe Road, Petersburg.

Solicitor Marcolongo stated that although Ms. Morgan did forward her notice to property owners within 200 ft her notice in the newspaper was not filed in time. Under the circumstances this matter cannot be heard at this meeting. The applicant is required to renote in the official newspaper for the August 9, 2012 meeting at 7:30 p.m.

2. **BRIAN COMISKY – BLOCK 661, LOT 29 – BA08-12**

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 12, 2012

PAGE 2 OF 6

Applicant is requesting a variance to allow a 6 ft high fence in the front yard at 28 N. Old Tuckahoe Road, Marmora.

Mr. Pierson stepped down during this application since he is President of the Marmora Volunteer Fire Company, which is located within 200 ft.

Brian Comisky, 28 N. Old Tuckahoe Road, Marmora, was sworn. Mr. Comisky testified that he is asking for a variance to allow a 6 ft high fence in the front yard since a portion of the existing in-ground swimming pool is in his front yard. He submitted a photo of a solid white vinyl fence open at the top. The photo was marked as Exhibit A-1.

There was a short break at this time.

Mr. Comisky testified the property is adjacent to the firehouse. The proposed fence would be located approximately 80 ft from the front property line and 8 ft past the front of the house. There will be landscaping in front of the fence. The fence would not block any site triangles.

The meeting was open to the public. Hearing no response the meeting returned to the Board for findings of fact.

MR. YOUNG – Brian Comisky is requesting a variance to install a 6 ft high fence in the front yard that would surround his existing pool. The property is adjacent to the firehouse property and they need the privacy when they are in the pool when the firehouse is being used. The school is also located nearby so the traffic can be heavy. Only 4 ft high fences are permitted in the front yard. The proposed fence is 5 ft solid vinyl with one ft of spindles on top giving it an open-air effect. He believes the intensity of the area gives him the right to request this variance. He does not believe the fence would block anyone's light, air or open space. He feels the applicant has met the criteria needed to grant the variance.

MR. HEALY – He concurs.

MR. LIHOU – He concurs.

MS. ADELIZZI-SCHMIDT – She concurs.

MR. CASACCIO – Granting the variance would not have an impact on the zoning plan or zoning ordinance.

A motion was made by Mr. Young and seconded by Mr. Healy to grant the application as proposed with the standard conditions. In favor: Healy, Young, Lihou, Adelizzi-Schmidt, and Casaccio.

3. TERRY CZAJA – BLOCK 551, LOT 8 – BA05-12

Applicant is requesting a use variance to allow an above ground swimming pool in the TC zone as an accessory to a single-family dwelling at 91 Route 50, Seaville.

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 12, 2012

PAGE 3 OF 6

Terry Czaja, 91 Route 50, owner of the property, was sworn. Christine Czaja, the applicant's daughter, also residing at 91 Route 50 was sworn in.

Christine Czaja testified they would like to put an above ground pool on the property. They are seeking a variance since the property is zoned commercial. There are other pools in the area.

Solicitor Marcolongo informed the board this is a use variance for the expansion of a non-conforming use, specifically a single-family dwelling in the Town Center zone.

Ms. Czaja further testified the house was built in the late 1800's. The adjoining properties are also residences.

The meeting was open to the public. Hearing no comment the meeting returned to the Board for findings of fact.

MR. PIERSON – Terry Czaja owner of 91 Route 50 is requesting a variance to allow an above ground swimming pool in the commercial zone. Pools are not permitted in this zone. The house was built in the 1800's and is surrounded by other homes. He believes the variance can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zoning ordinance.

MR. LIHOU – He concurs.

MS. ADELIZZI-SCHMIDT – She concurs.

MR. HEALY – He concurs.

MR. YOUNG – The surrounding area is made up of commercial and residential uses. The zoning changes have created a non-conforming situation. He likes the fact that this is an above ground pool since it could be taken down. He does not see any detriment in granting the application.

MR. CASACCIO – He concurs.

A motion was made by Mr. Pierson and seconded by Mr. Healy to grant the use variance for expansion of a non-conforming use to install an above ground pool along with the standard conditions. In favor: Pierson, Healy, Young, Lihou, Adelizzi-Schmidt and Casaccio.

4. RICHARD MASSEY – BLOCK 841, LOTS 6 & 6.01 – BA07-12

Applicant is requesting variances for a side yard setback, distance between buildings and building coverage for a second dwelling at 312 Bayview Drive, Strathmere.

Christopher Baylinson, Esquire, represented the applicant. Mr. Baylinson stated that the property contains two principal structures. There is the primary house and an old fishing cottage named the Minnow Box, which is a seasonal cottage. In 2011 Mr. Massey retained a bulkhead contractor to redo the bulkhead. The cottage was picked up and moved toward the street in order to access the bulkhead on the north side. The bulkhead

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 12, 2012

PAGE 4 OF 6

has been replaced. Zoning board approval is required since the cottage is being elevated. The issue in regards to whether or not the structure has to be raised to meet the flood requirement is still ongoing with the Township. They are requesting the necessary relief to put the cottage back where it was and comply with the Townships flood hazard ordinance. The structure would be brought from elevation 7 to elevation 10 to comply with the ordinance. A variance is needed since this is the second principal structure on the property and since the structure will be vertically expanded. The front and rear porches will be replaced. A variance is also needed for the distance between the two structures.

Solicitor Marcolongo stated that the a variance for the distance between buildings may not be needed since the ordinance requires a certain distance between principal and accessory structures and this is not an accessory but a second principal use on the site.

Joseph Maffei, Professional Engineer, was sworn. Mr. Maffei testified the applicant proposes to raise the structure 3 ft. requiring a side yard setback variance. The structure would be located in the same location as it was previously. The structure has been on this property since 1928. The structure is shown in a book published by the Strathmere Volunteer Fire Company as a fundraiser. The building is characteristic of what we like to see in Strathmere. He believes the positive criteria have been met since raising the building will protect it from flooding as well as protecting the neighbors. He does not see any detriment to the public. He feels it would be more appropriate to leave it on site.

Mr. Baylinson explained there is an outstanding violation for not obtaining a permit to move the structure. He stated that the cottage is shown on the tax records as a second dwelling. He agreed to move the cottage slightly so that the entire length of the building was 8.50 ft from the house.

The meeting was open to the public.

Walter McCormac, 309 S. Bayview Drive, was sworn. His property is directly across the street. He stated that the cottage has been in the front yard for almost three years. The cottage was well maintained. He supports the application.

Denise Riordan, 236 Bayview Avenue, Strathmere. She operates a business a few doors down. She understands the chanllanges involved in renovating an older structure. She commends the Massey's for replacing the bulkhead. They are great neighbors. It would be nice to have another older structure back on its foundation. She is in favor of the application.

Michael Mazzio, 308 Bayview Drive, was sworn. He purchased his property 18 years ago and the Minnow Box was there. The owners take great care of the structure. It is sad to see it sitting where it is now and he would like to see it put back where it was.

UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT

JULY 12, 2012

PAGE 5 OF 6

Toni Hilson, 13 E. Winthrop Road, was sworn. The structure in its current location is a detriment to the community. It looks like an eyesore. She would like the structure put back so that the homeowner can enjoy it.

Bob Roland, E. Seacliff Avenue, was sworn. He has lived in Strathmere for 35 years. The Massey's Minnow Box has been a landmark. He hopes the Board allows him to put it back where it was.

Bill Garrity, 104 Sherman Avenue, was sworn. He supports the application.

Joe Simino, 38 Fairway Drive, Langhorne, PA, was sworn. He lives in the Minnow Box during the summer. He last 3 years they have not been able stay here. He supports the application.

Hearing no further comment the meeting returned to the Board for findings of fact.

MR. PIERSON – Richard Massey of 312 Bayview Drive, Block 841, Lots 6 & 6.01 is requesting a use variance to expand a non-conforming use by raising the existing cottage. A side yard setback is needed and the distance between another structure on the site. The structure has been on site since 1928. In 2011 the bulkhead was replaced and in the process the cottage had to be moved. When applying for building permits it was brought to their attention that there was an ordinance issue and they felt coming before the Board would move the project along faster. The front porch will be reattached. The cottage will be raised from elevation 7 to elevation 10 to meet the ordinance requirement. The cottage will be squared up with the house resulting in 8.5 ft distance between the structures. Two property owners within 200 ft and four outside of 200 ft support the project. He feels the raising the structure would advance items a and b as indicated in the purpose of the act.

MR. HEALY – He concurs.

MR. YOUNG – He does not believe that raising the house would effect the adjoining property or the light, air or open space. He is in favor of the application.

MR. LIHOU – He concurs.

MS. ADELIZZI-SCHMIDT – She concurs.

MR. CASACCIO – The Board explored the possibility of a deed of consolidation but it was determined that lot 6.01 is in the water.

A motion was made by Mr. Lihou and seconded by Mr. Healy to grant the use variance for expansion of a non-conforming use along with variances for side yard setback and distance between building with the condition that the plans are revised to square up the building with an 8.5 ft setback between the other primary structure and the standard conditions. In favor: Pierson, Healy, Young, Lihou, Adelizzi-Schmidt and Casaccio.

**RESOLUTIONS**

1. MARILYN ROLAND – BLOCK 855, LOTS 2 & 2.01 – BA06-12

A motion to adopt the Resolution was made by Mr. Pierson and seconded by Mr. Young. In favor: Healy, Young, and Casaccio. Abstain: Pierson, Lihou, Adelizzi-Schmidt.

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

A motion was made by Mr. Pierson and seconded by Mr. Young. In favor: Pierson, Young, Abstain: Healy, Lihou, Adelizzi-Schmidt and Casaccio. 8 25

**BILLS**

A motion to approve the bills was made by Mr. Healy, seconded by Mr. Young, and approved.

**ANNUAL REPORT (2011)**

In order to comply with requirements in N.J.S. 40:55D-70.1 the Board reviewed its decisions on applications and appeals for variance requests and its recommendations.

The Board discussed whether or not board approval is needed to raise a structure to meet flood elevation that doesn't meet the setbacks. Solicitor Marcolongo will research whether this can be done legally.

The Board also discussed possibly limiting the number of dogs/cats that a property owner can have and expanding the grandfather clause to permit an accessory use in the commercial zone as long as the dwelling existed prior to the zone change. There was discussion regarding lots with more than one frontage and determining what is the front yard. Mr. Young raised concerns regarding the construction of COAH homes on small lots and how easy it is to do. He believes this could hurt the Township in the future. He is not in favor of including COAH homes in age restricted mobile home parks.

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Pierson, seconded by Mr. Healy, and approved. The meeting was adjourned at 7:52 p.m.

Submitted by,

Shelley Lea