

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
NOVEMBER 13, 2014**

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

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

Present: Sherrie Lisa Galderisi, Joseph Healy, Christopher Phifer, Jeffrey Pierson, Andrew Shawl, Matthew Unsworth, Chairman Paul Casaccio.

Absent: Thaddeus Klepac, Alistair Lihou, Lynn Petrozza and Susan Adelizzi-Schmidt.

Also in attendance were Dean Marcolongo, Board Solicitor and Paul Dietrich, Board Engineer.

APPROVAL OF THE OCTOBER 9, 2014 MEETING MINUTES

A motion to approve the minutes was made by Mr. Unsworth, seconded by Mr. Healy, and approved. Abstain: Pierson,

SWEAR IN SHERRIE LISA GALDERISI AS BOARD MEMBER

SWEAR IN PAUL DIETRICH

TABLED APPLICATIONS

The applications listed below have been tabled until December 11, 2014. The applicants have agreed to waive the time in which the applications must be heard. No further notice is necessary.

1. New Jersey American Water Company – Block 650, Lot 9 – BA23-14

APPLICATIONS

1. BENJAMIN HABERMAN – BLOCK 551, LOT 1 – BA18-14

Application is for a use variance to allow two principal uses on one lot, a use variance to allow two principal structures, a site plan waiver and a waiver to allow a stone parking area for a single family dwelling and a 40'x40' pole barn to be used as part of a landscaping business at 57 W. Katherine Avenue, Seaville.

Benjamin Haberman, 57 W. Katherine Avenue, Seaville, NJ, was sworn. Mr. Haberman testified that the property is split zoned and is located in both the TC and R zones. The proposed structure would be located in the TC portion of the lot. He testified this structure would not cause damage to the character of the neighborhood and would remain consistent with the existing uses along Route 50. He is the owner of Blue Quality Lawn Care and proposes to use the structure for storage of his lawn maintenance equipment and supplies. There would not be any customers

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coming to this location. He will have an office inside the structure. He intends to have a maximum of three employees. His main business is run from South Seaville but he is running out of space at that location. He intends to store topsoil and mulch in addition to the equipment. He stated that the season ends December 31st and begins March 1st.

Mr. Haberman agreed to a condition that all employees must park on site and not on Katherine Avenue. He also agreed to maintain the buffer as shown on the site plan dated 9-1-2014 and revised 9-26-2014. He asked if a sign could be put up and the board informed him that it would have to meet the criteria for the size and location.

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

Findings included that Mr. Haberman is the owner of 57 W. Katherine Avenue also known as Block 551, Lot 1. He is requesting a use variances to allow two principal uses and two principal buildings on the same lot. This lot is located in the R and TC zoning districts. The lot fronts on Route 50 and Katherine Avenue. There is currently a two story house on the property. The applicant proposes to construct a 40' x 40' pole barn for storage of equipment and vehicles used in his landscaping business. There will be some deliveries made to the property. There would be a maximum of three employees. The employees will park their vehicles on site. The applicant will maintain a vegetated buffer. There was no public comment. Special reasons exist for granting the variances. The variances can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan.

A motion was made by Mr. Pierson and seconded by Mr. Shawl to grant the application as proposed with the conditions there will be no equipment stored outside the building, no trees will be removed within the designated buffer and no employees shall be permitted to park on Katherine Avenue. In favor: Casaccio, Healy, Phifer, Pierson, Shawl, Unsworth, Galderisi.

2. BONNER & BONNER PARTNERSHIP – BLOCK 791, LOTS 22 & 23 – BA19-14

Applicants are requesting a use variance to replace a two family dwelling with a new townhouse style structure at 2214 and 2214 Commonwealth Avenue in Strathmere.

Mr. Unsworth did not participate in discussion or voting on this application.

Jeffrey Barnes, Esquire, represented the applicants. The subject property is 60'x95'. There is currently a two and a half story multifamily duplex on the property that was constructed in 1950. Tax records confirm it has been used as a duplex since that time. The first floor contains two bedrooms, three on the second floor and a third bedroom on the third floor.

Mr. Barnes explained the applicants propose to demolish the existing building and build a new duplex and a new septic.

John Halbruner, Professional Engineer, was sworn. He submitted five photographs that were marked as A-1. A rendering of the proposed building was marked A-2. The proposed structure would meet all the setback requirements. Mr. Dietrich stated that a variance is needed to allow a 24 ft. wide road opening where 12 ft. is permitted.

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Mr. Halbruner testified the existing building could be raised leaving the non-conforming setbacks. Currently the front yard setback to the house and to the first floor deck, number of stories and minimum gross floor area do not conform to the ordinance. If the building were raised it would be taller than the other homes on this section of Commonwealth Avenue. He feels that constructing a new building would be a far better alternative for the neighborhood. The proposed plan shows onsite parking where currently there is none.

Mr. Halbruner testified the benefits of granting the variances far outweigh any detriments. He feels that special reason (b) would apply since they are removing a non-conforming structure and replacing it with a structure that would meet all setback requirements. The use is not a detriment since it already exists. Special reasons (c), (h) and (I) also apply.

Mr. Dietrich agreed that the proposed structure would meet the existing flood hazard ordinance regulations and the proposed preliminary base flood elevation requirements.

The meeting was open to the public.

Harry Bailey, 2220 Commonwealth Avenue, was sworn. Mr. Bailey asked if the property would be a rental since he has concerns about traffic and the septic.

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

MR. SHAWL – Bonner & Bonner Partnership are the owners of 2212 and 2214 Commonwealth Avenue in Strathmere, known as Lots 22 and 23 in Block 791. Currently there is an existing duplex on the two lots. The applicants propose to tear down the existing structure and replace it with a new townhome style duplex. John Halbruner, Professional Engineer, with Hyland Design Group gave testimony regarding the pre-existing non-conforming issues with the current structure. The proposed structure will meet all the setback requirements and would have fewer bedrooms. The habitable floor elevation would be raised to secure the property from flood. The new septic system has been approved by the health department. Mr. Bailey expressed concerns about the property being a rental. He agrees with the testimony given by Mr. Halbruner.

MR. PHIFER – He finds the variances can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zoning ordinance or zoning plan. He finds that special reasons (a), (b), (c), (h) and (I) apply.

MS. GALDERISI – Nothing to add.

MR. PIERSON – There is no requirement for curb or sidewalk in this area. He concurs with the hardships presented by Mr. Halbruner.

MR. HEALY – He is in favor of the application since there would be no detriment to the public.

MR. CASACCIO – He concurs with the testimony given by Mr. Halbruner regarding the curb width.

A motion was made by Mr. Shawl and seconded by Mr. Pierson to grant the use variance and variance for the width of curb cut with the standard conditions. In favor: Healy, Galderisi, Phifer, Pierson, Shawl, Casaccio.

3. JOHN & DONNA YOUNG – BLOCK 476, LOT 2 – BA20-14

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Applicants are requesting a variance for expansion of a non-conforming use, a use variance to allow two flag lots, minor subdivision approval and a variance for lot frontage at 390 S. Old Tuckahoe Road in Petersburg.

Steven Fillipone, Certified Engineer and Planner, was sworn. James Young and Donna Young, 211 Woodbine Road, Steelmantown, New Jersey, were sworn.

Mr. Fillipone testified the applicants are the owners of the subject property consisting of 9.52 acres in the R zone. There is a single family dwelling on the property occupied by Mrs. Young's sister and her family and a detached garage apartment that is occupied by the applicant's son. The applicants propose to create two building lots. Both lots require a frontage variance and a use variance to allow a flag lot. A use variance is also requested for expansion of a non-conforming use to allow the existing house and existing garage apartment on the lot.

Mr. Fillipone testified that it is his opinion that granting the variance would not have a detriment on the zone plan or zoning ordinance. He referred to the aerial map showing two other flag lots within 500 ft. of the property. He believes the proposed lots are consistent with the neighborhood. The proposed lots exceed the lot area requirement and contain no wetlands. He stated that the planning board has made a recommendation to township committee to remove all indications of flag lots from the ordinance making it necessary to obtain only a lot frontage variance. He testified the variance could be granted using special reasons (c), (e) and (g).

Mr. Fillipone testified the plan dated 1-7-14 proposes a 20 ft. wide shared driveway. The applicant agreed to maintain the existing vegetation between the old chicken coop and the existing property line.

Mr. Dietrich stated that the state plane coordinates must be added to the plan prior to filing and add a note regarding the setbacks shown on the plat are the current zoning restrictions and not to be deemed as deed restrictions.

The meeting was open to the public.

Ed Carter, Chief, Tuckahoe Fire Company, was sworn. Mr. Carter referred to section 20-5.16 requiring that driveways shall be clear of vegetation for the full width and maintains a clear height of 12 ft. He is requesting the height be 20 ft. for emergency access.

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

MR. SHAWL – Jim and Donna Young are the owners of 390 S. Old Tuckahoe Road in Petersburg known as lot 2 in block 476. The applicants are requesting a use variance to allow two flags lots in the R zone and to allow less than required lot frontage and a use variance to continue to allow two buildings on one lot. Mr. Fillipone has advised the board that the applicant could create a road and additional lots rather than ask for the flag lots. An aerial was used to show other flag lots in the area to prove the proposed lots are in keeping with the neighborhood. The fire chief requested the foliage over the driveway be maintained at 20 ft. high so they can access the property with their trucks.

MR. PHIFER – He feels the variances can be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan or zoning

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ordinance. He feels the variances can be granted using special reason (I) since the property could be subdivided into many more lots than is being requested.

MS. GALDERISI – She concurs. She finds it is better to have two flag lots than a larger subdivision.

MR. UNSWORTH – He concurs.

MR. PIERSON – He concurs.

MR. HEALY – He concurs.

MR. CASACCIO – Testimony was given in regards to the soil borings and the septic. The lots exceed the 40,000 sq. ft. requirement. An agreement was made regarding the vegetation on the property line shared with lot 3.

A motion was made by Mr. Pierson and seconded by Mr. Healy to grant the application as presented with the condition the applicant provide proof to the board secretary via property records that the apartment was previously existing, the applicant will create a cross access easement to the satisfaction of the board solicitor, the applicant will maintain the existing vegetation near the existing chicken coop, revise the plans to add a note indicating that the setback line evidences the current ordinance requirements and is not a deed restriction, include the state plane coordinates, a concrete apron will be developed on Old Tuckahoe Road. In favor: Healy, Galderisi, Phifer, Pierson, Shawl, Unsworth, Casaccio.

4. STEFAN POWELL – BLOCK 549, LOT 52.02 – BA21-14

Applicant is requesting variances for building coverage, impervious coverage and for the distance between buildings and tree preservation variance, to construct a single family dwelling, in-ground swimming pool and cabana at 7 Magnolia Court in Palermo.

Stefan Powell and Michelle Powell, 128 Cedar Lane East, Dennis Township, were sworn.

Mr. Powell testified that a variance is needed to allow the setback between the stairs to the house and the cabana to be 10 ft. where 15 ft. is required. He stated they would like to have 25 ft. of grass on the side and rear of the property that is why they are requesting a variance from the 10 ft. landscape buffer.

Mr. Dietrich stated that the plan by Studio One Architects, dated 9-24-14 shows a 50 ft. setback from the house to the front property line and the zoning schedule shows 61'8". Mr. Powell testified they propose a 50 ft. front yard setback. Solicitor Marcolongo stated that they would have to revise the zoning schedule on the plan.

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

MR. SHAWL – Stefan and Michelle Powell are the owners of 7 Magnolia Court known as lot 52.02 in block 549. The applicants are requesting several bulk variances to construct a single family dwelling, cabana and an in-ground swimming pool. The applicant has clarified the front yard setback would be 50 ft. A variance is needed since the stairs are only 10 ft. from the cabana. He finds the plan is very tastefully designed. The lot is 44,000 sq. ft. so he does not believe there would be a problem with density. There was no comment from the public.

MR. PHIFER – He feels the variances can be granted using special reasons c and g.

MR. GALDERISI – She concurs.

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MR. UNSWORTH – The applicant agreed to amend the plans to show a 50 ft. setback.
MR. PIERSON – He concurs.
MR. HEALY – He concurs.
MR. CASACCIO – He concurs.

A motion was made by Mr. Unsworth and seconded by Mr. Shawl; to grant the application as proposed with the condition the applicant revise the plan to evidence the front yard setback is 50 ft. and the standard conditions. In favor: Healy, Galderisi, Phifer, Pierson, Shawl, Unsworth, Casaccio.

5. ANDREW AND CLARA LANNI – BLOCK 561.01, LOT 32.51 – BA22-14

Applicants are requesting a rear yard setback variance to construct an addition to their single family dwelling at 1501 Stagecoach Road in Seaville.

Andrew and Clara Lanni, 1501 Stagecoach Road, Seaville, were sworn. Mr. Lanni testified their family room is currently 10 ft. x 10 ft. and they would like to construct an addition to make it 20 ft. x 20 ft.

Mr. Dietrich testified this is an undersized lot and the rear yard setback can be reduced to 25 ft. The addition would meet all other lot coverage and setback requirements.

Mr. Lanni testified the addition could not be seen from the front of the house. The existing concrete patio will be removed.

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

MR. SHAWL – Andrew and Clara Lanni are the owners of lot 32.51 in block 561.01 located at 1501 Stagecoach Road in Seaville. This is an undersized lot. The living room is small and they propose to make it larger for year round use and comfort. The existing fence will be maintained. There was no public comment.

MR. PHIFER – He concurs.

MR. GALDERISI – She concurs.

MR. UNSWORTH – He concurs.

MR. PIERSON – The proposed use would not violation light, air and open space.

MR. HEALY – Nothing to add.

MR. CASACCIO – He concurs.

A motion was made by Mr. Shawl and seconded by Mr. Healy to grant the application with the standard conditions. In favor: Galderisi, Healy, Phifer, Pierson, Shawl, Unsworth, Casaccio.

RESOLUTIONS

JAMES SCHRODER – BLOCK 453, LOT 255 – BA12-14

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Mr. Pierson, and approved.

JASMAR INVESTMENTS – BLOCK 599, LOT 13 – BA13-14

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Mr. Pierson, and approved.

ROY & ELLA DIAMOND – BLOCK 833, LOT 2 – BA15-14

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Mr. Pierson, and approved.

BILLS

A motion to pay the bills was made by Mr. Unsworth, seconded by Mr. Pierson, and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Shawl, seconded by Mr. Unsworth, and approved. The meeting was adjourned at 10:56 p.m.

Submitted by,

Shelley Lea