

**UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
SEPTEMBER 10, 2015**

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: Joseph Healy, Ted Klepac, Christopher Phifer, Susan Adelizzi-Schmidt, Andrew Shawl, Carol Tutelian, Matthew Unsworth and Paul Casaccio.

Absent: Alistair Lihou, Sherri Lisa Galderisi and Lynn Petrozza and Paul Casacc

Also in attendance were Nathan VanEmbden, Acting Board Solicitor; Paul Dietrich, Board Engineer; Shelley Lea, Board Secretary and Zoning Officer.

**APPROVAL OF THE AUGUST13, 2015 MEETING MINUTES**

A motion to adopt the minutes was made by Mr. Shawl, seconded by Mr. Phifer, and approved.

**SWEAR IN PAUL DIETRICH AND SHELLEY LEA**

**APPLICATIONS**

1. **MONICA RAAB – BLOCK 597 LOT 28 – BA18-15**

Applicant is requesting a variance to allow a 6 ft. high fence in the front yard where 4 ft. is permitted at 811 Oceancrest Avenue in Marmora.

Monica Raab, 811 Oceancrest Avenue, Marmora and Gary Raab, Ocean City, were sworn.

Ms. Raab testified she purchased the house one year ago. She removed a few trees from the property, removed an old shed and installed a fence. She was told by the contractor that permits were obtained for the fence. This is a corner lot with two front yards. The fence comes off the rear corner of the house. There are other vinyl fences in the neighborhood that are the same height. The fence is needed to keep her dogs in the yard and coyotes out of the yard.

Ms. Raab stated that a violation notice was issued for the fence. Mr. Dietrich stated that the fence does not obstruct the site triangle.

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

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MR. UNSWORTH – Monica Raab is the owner of 811 Oceancrest Avenue in Marmora, known as Block 597 Lot 28. She is asking for a variance to allow a 6 ft. high fence in the front yard. The property has two front yards since this is a corner lot. The fence has been up for about one year. The contractor hired to install the fence did not acquire the proper permits and she was issued a violation. The lot is consistent with other lots in the neighborhood. The fence is consistent with other fences in the neighborhood. Paul Dietrich testified the fence is not in the site triangle. There was no public comment for or against the application. He does not feel the height of the fence has any detriment to the public good.

MR. HEALY – He concurs.

MR. PHIFER – Nothing to add. He concurs.

MR. SHAWL – He concurs.

MS. ADELIZZI-SCHMIDT – She concurs.

MRS. TUTELIAN– She concurs.

MR. KLEPAC – He concurs.

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

2. YANK BOAT WORKS INC. – BLOCK 348 LOTS 10, 11 & 14 – BA17-15

Michael Fusco, Esquire, represented the applicants. He stated the application is to modify the site plan approved in 1976, a D variance for lot 11 containing the boat works since the location and size of the buildings on the approved plan are different than they are now, a D variance to allow parking on lot 10 containing a house and a D variance on lot 14 to allow parking on this lot located across the street from the boat works. Several bulk variances are also needed.

John Halbruner, Professional Engineer with Hyland Design Group, was sworn. He stated that Yanks Boat Works received site plan approval and a use variance in 1976. The approval included two large buildings totaling over 36,000 sq. ft. Since that time other buildings have emerged on the site. They are before the board to formalize a parking scheme that would add parking on adjacent lot 10 and across the street on lot 14. In 1976 lots 10 and 11 were one parcel. In 1982 a subdivision was granted creating two lots. There are currently six principal structures totaling over 26,000 sq. ft. There are five accessory structures totaling 1,500 sq. ft. Lot 10 contains a single family home and lot 14 is vacant. There are sixty four parking spaces proposed. Parking spaces on Mosquito Landing Road will be removed. The construction activity associated with this proposal is very limited. They plan to relocate a fence to facilitate parking on lot 10 and the delineation of parking spaces for employees. A use variance is needed for the expansion of a non-conforming use on lot 11 since the building orientation and size are not what was approved. A use variance is needed for lot 14, a vacant parcel across the road that is located in the Conservation zone. He stated that the area of the existing buildings is less than originally approved. He also commented that Yanks Boat Works has acquired another property in Cumberland County and some of the work is being sent there so the intensity is being reduced.

Mr. Halbruner testified that removing the parking on the road and creating parking on site is making the use more harmonious with the neighborhood. This will allow a better flow of traffic on Mosquito Landing Road. The site is particularly well suited for this use since there is upland access. He reviewed the requested bulk variances that include a front yard setback and height of the fence. The fence height is important for the safety and protection of the equipment in the yard

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and to prevent theft. He stated that a variance for parking on a non-paved area could be granted since the vehicles are parked here all day so there is not a lot of traffic. It is also better for the environment and enhances the water quality to the adjacent water bodies. Lighting is not needed since this is a daytime operation. Screening and buffering is not needed since there are no adjacent uses. There are special reasons that would be advanced by granting the application such as light, air and open space and the preservation of the environment. The operation has existed for many years and there is no substantial detriment to the public good since the operation has existed since the 1970's. He feels the benefits would outweigh any detriments and there would be no adverse effect on the zoning plan.

Mr. Fusco will prepare an easement for lot 10 and a lease for lot 14. The board discussed a deed of consolidation; however it was not made a requirement. Mr. Dietrich testified the road is severely eroded because of the high volume of traffic and the size of the vehicles utilizing the road. He feels that a driveway apron would be appropriate for edge stabilization when the township paves the road. Mr. Halbruner stated that it would make more sense to install the apron during construction of the road. Mr. Dietrich stated that a cost estimate could be prepared and an escrow payment could be made so that the township would construct the apron as part of the roadway improvements. Mr. Dietrich requested the applicant write a letter to Township Committee requesting the required no parking ordinance along this section of the road and that the applicant supply four no parking signs to be installed by the Township once the ordinance is passed.

Mr. Halbruner testified the driveway has crossed over lot 15 since before 1976. He stated that if this is an issue the driveway could be relocated on lot 10. He testified that the stated that the total area of all principal buildings currently on site is 26,639 sq. ft. and the original approval was 36,639 sq. ft. and they are proposing 26,075 sq. ft. Any additional buildings would require the applicant to come back to the board for approval.

The Zoning Officer commented that there have been complaints from the resident on the street as well as the Township Public Works Department since it is difficult to get their larger vehicles down the narrow road when the vehicles are parked there.

Mr. Halbruner testified the NJDEP Freshwater Wetland Act began in 1989. The 1987 aerial photographs of the site show the property was cleared and filled prior to 1989 so the freshwater wetlands are grandfathered. In regards to the drainage, Mr. Dietrich testified the site was approved in 1976 and there is actually less impervious coverage than approved.

The meeting was open to the public. Hearing no response the public portion was closed and the board gave their findings of fact.

MR. SHAWL – Yank Marine is before the board regarding lots 10, 11 and 14 in block 348 along Mosquito Landing Road in Tuckahoe. The applicant is asking for modification of a site plan originally approved in 1976, D variances to legalize buildings and their location on lot 11, and parking on lot 10 and to allow parking on lot 14 located in a conservation zone. Bulk variances are also being requested. The parking spaces will not be paved and there will not be any lighting in the parking area and no screening is proposed. Mr. Halbruner testified that previous approvals allowed 36,639 sq. ft. of building area allowed. There is only 26,075 sq. ft. of building space existing on lot 11. There is a residence on lot 10. Lot 14 was previously used for the storage of scrap materials. The scrap materials have been removed and parking spaces will be created on

this lot. Screening is not needed since there are no adjacent neighbors or uses. Lighting is not needed since the business operates only in the day time. Paving on lot 14 would add impervious coverage and the applicant is trying to avoid this because of the water. The variance for the distance between buildings is appropriate for the type of buildings and use. The front yard setback could be granted since there are no detriments to adjacent uses. Testimony has been given that the benefits outweigh any detriments. The parking has been adequately addressed. Testimony was given that the benefits of allowing the uses and buildings outweigh any detriments. The applicants are before the board because of complaints about the vehicles parking on the sides of Mosquito Landing Road. The newly created parking spaces addresses this issue. In regards to the D variances requested he finds special reasons A, G and I can be used. There was no public comment. He finds the variances can be granted without any detriment to the zone plan or the municipal land use law.

MS. ADELIZZI-SCHMIDT – She concurs.

MRS. TUTELIAN – She concurs.

MR. KLEPAC – He concurs.

MR. PHIFER – He concurs.

MR. UNSWORTH – He concurs. He finds the proposed use is less intense than what was approved in 1976. Access to the site will be improved. The new vehicle parking spaces and no parking along Mosquito Landing Road will improve public safety and welfare. The applicants attorney agreed that if an issue arose on lot 15 the driveway would be moved to lot 10, if the apron is not constructed now an escrow would be provided for the township to install it when the road is paved, a parking lease will be created for lots 10 and 14 or a deed of consolidation will be filed, the request of the no parking ordinance from township committee and four no parking signs with posts will be supplied, He concurs with Mr. Shawl's findings.

MR. HEALY – He concurs with his colleagues. He finds the applicants requests can be granted without detriment to the public good and will not substantially impair the intent and purpose of the zoning plan or zoning ordinance.

A motion was made by Mr. Unsworth and seconded by Mr. Healy, to grant the application as requested with the following conditions; the 6 ft. high fence being relocated, lot 14 would be dedicated to just parking, there would be no further storage of scrap material on lot 14, the easement must be submitted within 30 days, the applicant must notify Mr. Dietrich in regards to whether they will post a bond or install the apron within 30 days, if the applicant choses to install the apron then it must be complete within 30 days of this approval, the no parking signs and posts must be given to Mr. Dietrich within 30 days of this approval and the conditions stated in Mr. Unsworth findings. In favor: Healy, Phifer, Adelizzi-Schmidt, Shawl, Tutelian, Unsworth, Casaccio.

## **BILLS**

A motion to pay the bills was made by Mr. Shawl, seconded by Mr. Healy, and approved.

## **RESOLUTIONS**

1. CLERMONT HOMES – BLOCK 838 LOT 2 – BA16-15

A motion to adopt the resolution was made by Mr. Phifer and seconded by Mr. Shawl, and approved.

**COAH**

Mr. Dietrich gave short update on COAH.

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Shawl and seconded by Ms. Schmidt. The meeting was adjourned at 8:42 p.m.

Submitted by,

Shelley Lea