

**ZONING BOARD OF ADJUSTMENT
MINUTES
MEETING OF JULY 24, 2006**

Meeting was called to order at 7:35 P.M.

Meeting properly advertised according to the Sunshine Law.

ROLL CALL:

Attending: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks, Mr. Berrios,
Mr. Halberstam, Mr. Sernotti

Absent: Mr. Gonzalez, Mr. Lieberman

Also present: Glenn Harrison, Attorney
Jim Priolo, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary

SALUTE TO THE FLAG.

MOTION TO APPROVE MINUTES OF JULY 10, 2006 with a waiver to read – Mr. Naftali
Second – Mr. Halberstam

Roll call vote: affirmative: Ms. Goralski, Mr. Naftali, Mr. Zaks, Mr. Berrios,
Mr. Halberstam, Mr. Sernotti

APPEAL # 3609 – SOMERSET DEVELOPMENT,

Pine Street & Vine Avenue, Blocks 778.02, 779, 780, 781 lots 21, 1 ... A-1 & R-12 zones,
Use variance in order to subdivide the existing properties into 14-2 family buildable lots.

Secretary read reports.

From: James Priolo, Engineer/Planner - March 8, 2006

1. The subject property is located on the corner of Pine Street and Vine Avenue and is within the A-1 (Agricultural) Zone. The site contains an existing single-family dwelling. The applicant has provided a variance map showing a future subdivision that would subdivide existing site into fourteen (14) lots and construct fourteen (14) two-family dwellings. Thirteen (13) lots will have frontage on a cul-de-sac and one (1) lot will have frontage on Pine Street. The existing dwelling will be razed.
2. Special reasons variances will be required as follows:
 - a. To permit a use in a district restricted against such use. In accordance with Section 902 A. of the Ordinance, the proposed two-family residential use is not a permitted use within the A-1 Zone. The only permitted residential use in this Zone is single-family detached.

- b. To allow an increase in permitted maximum gross density. The maximum gross density in the A-1 Zone based on single-family detached use and minimum lot area is approximately 0.5 units/acres. The applicant is proposing 28 dwelling units and a density of 3 units/acres. Therefore, a density variance is required.

The applicant must provide testimony to the Board detailing the special reasons which would allow the Board to grant a variance to depart from the zoning regulations to permit a use in a district restricted against such use (two-family use) and an increase in permitted density. In order to achieve this, the applicant should explain why the two-family use with the requested density is a better planning and zoning alternative than the traditional single-family residential concept.

- 3. In addition to the special reasons variance, the applicant is seeking bulk variances for dimensional relief for a future subdivision as follows:
 - a. The following bulk variances for the dimensional relief will be a condition of this approval for the future subdivision as follows:

	Required A-1	Required R-12	Proposed
Minimum Lot Area	20,000 s.f.	12,000 s.f.	10,020 s.f. (min.)
Minimum Lot Width	200 ft.	90 ft.	60 ft.
Minimum Front Setback	50 ft.	30 ft.	10 ft.
Side Setback (One)	15 ft.	10 ft.	8 ft.
Side Setback (Combined)	40 ft.	25 ft.	16 ft.

The applicant must demonstrate to the Board these requested variances can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance.

- 4. Roefield Street and Houston Street are shown to be vacated. Additionally, Township owned Lot 2 will become landlocked as a result of these vacations. Any Board approval should be conditioned upon approval of the street vacations by the Township.
- 5. The applicant should provide the useable (developable) area calculations for proposed Lots 1.07 – 1.14. The plan shows a different concept with shared driveways and parking in the rear yards, which leaves limited yard areas for recreation.
- 6. The applicant is proposing (3-story) dwellings that are approximately 5,400 s.f. in size. The applicant should discuss how the purposes of the zone plan and master plan are enhanced by constructing oversized dwellings on undersized lots.
- 7. It is recommended that the 50-foot setback along Pine Street be maintained as a condition of any approval.
- 8. A C-1 designated stream corridor which requires a 300-foot buffer crosses the subject property. The entire 300 foot buffer area should be protected within an open space, conservation and drainage easement.
- 9. The applicant should discuss how stormwater management will be addressed during the subdivision phase of this project. It does not appear that any area has been reserved for stormwater management.

10. A copy of the New Jersey Department of Environmental Protection (NJDEP) Letter of Interpretation, must be submitted for review.
11. If the variances are granted, the Board should defer the approval of site layout and dwelling unit count to the subdivisions plan review phase of this application. Environmental constraints, buffers, traffic/circulation, drainage, and topography may alter or affect the usability of certain areas and the overall layout of the project.
12. Any approval should be subject to Preliminary and Final Major Subdivision approval.

From: Ed Mack, Zoning Officer

With the amount of wetlands and the irregular shape of the remaining upland area it would be impractical to require conformance to this zone. However, I think that even given the need for some relief that these lots are too non-conforming.

Mr. Harrison – this application is for a special reasons variance and requires 5 affirmative votes.

Ray Shea represented applicant. Application for special reasons variance and requires 5 affirmative votes.

A-1 color rendering

A-2 aerial exhibit

A-3 two architectural renderings – front elevations

A-4 floor plans

Mr. Shea – Application for special reasons variance and requires 5 affirmative votes. Asking for a use that is not permitted and they are asking for two-family homes that are not permitted. This proposal is appropriate.

Nicholas Graviano, sworn.

Board accepted him as an expert in planning.

Mr. Graviano – this property is located at the intersection of Pine Street & Vine Avenue. They are proposing 14 duplex dwelling units on 9.3 acres at a density of 3 dwelling units per acre which is consistent with the area. The site is located within the Category 1 buffer. There is a stream that traverses through the property. Development is clustered is on the northwestern corner because that section of the property is not under the C1 buffer regulations. Described A-2. Parking is adequately shielded from the street. No detriment to the public. All units proposed have a yard and buffer spaces. All parking is on site. The smallest lot is a little over 10,000 square feet. The use is particularly suited for the site. Each duplex appears from the street like a single family dwelling. On the first level there is a two bedroom apartment; on the second level would be the main unit which consists of 4 or 5 bedrooms. All parking is at the rear of the dwelling. Described A-1. There will no substantial detriment to the public. There is a need for two-family units in Lakewood. This proposal will require street vacations. All the dimensional relief requested would be needed if the proposal was single family homes. All fronts will have a 30 – 35 foot setback.

Ralph Zucker, 52 Cabinfield Circle, affirmed. This project was specifically designed for this site. Very little impact on anything surrounding this. Described A-2. These are legitimate two-family homes that looks like a single family home, there are no basements, ground level walk up. All parking is off-street.

John Rea, 1431 Lakewood Road, Manasquan, NJ. sworn. Expert in the field of traffic. Reviewed traffic conditions in the area. Evaluated traffic conditions in and around the area. Conducted peak hour traffic counts. Pine Street is a 35 mph collector Road. The proposal can be approved without any detriment to the traffic flow.

Mr. Harrison - The use would be conditioned upon the streets being vacated.

Mr. Graviano - None of the streets are necessary to access other parcels on the site. There are homes planned on top of the vacated street. They are all within the applicants property. A condition of the approval would stipulate that the streets would be vacated prior to receiving subdivision approval.

Mr. Priolo – the A1 zone requires a 50 foot front setback.

Mr. Graviano – The lots bordering Pine Street have a 30 foot front setback. The lots size is approximately 18,000 – 19,000 square feet even though only the majority of the lot is not useable in terms of development and that area is permitted by law to be included in the lot size.

Mr. Priolo – useable area can be taken into consideration. You can be concerned that the house may be too big for the amount of useable area.

Mr. Sernotti - These houses are much larger than the ones on Marc Drive.

Mr. Zucker – the first floor is raised out of the ground. They have an excessive amount of parking on the site. If the Board proffered they could eliminate some of the parking on site and have some off-site parking.

Mr. Zaks – would rather not see off-site parking - suggested that lot 106 be a communal playground and the parking remain on site.

Mr. Zucker agreed.

Open to Public.

William Hovday, 30 Schoolhouse Lane, sworn. A fire would be disastrous. There is only one entrance and exit and there are 3 floors.

Edward C. Lynch, 1390 Laura Court, sworn. Concerned about the density and Lakewood's ability to provide sewer and water.

Joanne LaRocca, 22 Brian Street, sworn. These should be one single family home.

Noreen Gill, 192 Coventry Drive, sworn. Asked about the height of the homes and an area for the children be proposed.

Larry Simons, 70 Schoolhouse Court, sworn. Asked what will be on the 3rd floor of the units.

Gerri Ballwanz, Governors Road, sworn. Number of units has to be reduced. A playground should be considered. The 50 foot buffer for Pine Street should be maintained. Can the unused portions of the lot be deed restricted so the trees are not removed?

Closed to Public.

Mr. Graviano – this is a two-story over a flat. First floor will be one two bedroom single dwelling unit, 1200 - 1400 square feet. Second level is main living area for the second unit, third floor bedrooms and bathrooms. There are exits in the rear of the units.

Ed Mack – all walls will be fire rated.

Mr. Graviano – The wetlands will be deed restricted.

Mr. Priolo - Site is about 9 acres, approximately 2/3 of the proposal has environmental constraints.

Ray Shea summarized.

Glenn Harrison – voting on use only and density

Mr. Sernotti - the product is far better than duplexes –

Mr. Halberstam - agree with the Chairman

Ms. Goralski – this duplex is a lot better than the side by side.

Mr. Gelley – This is a beautiful project.

Mr. Berrios – concerned about where the kids will have their place to play. This type of development is suitable for the area.

Motion to approve subject to a two-family dwelling being up and down with a maximum of 14 lots 50 foot setback from Pine Street and recreation area subject to the Township vacating the streets - Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks, Mr. Berrios, Mr. Halberstam, Mr. Sernotti

Recess.

APPEAL # 3616, MICHELLE INZELBUCH – Motion to table until 9/11/06 – Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks, Mr. Berrios,
Mr. Halberstam, Mr. Sernotti

Applicant agreed to waive time.

No further notice.

APPEAL # 3625, FARADAY ASSOC. – Motion to table until 9/11/06 – Mr. Halberstam

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks, Mr. Berrios,
Mr. Halberstam, Mr. Sernotti

Applicant agreed to waive time.

No further notice.

APPEAL # 3618 – TUXEDO PROPERTY PARTNERS, Forest Drive, Block 12 Lot 206,
R-12 zone, Single family home on an undersized lot.

Mr. Flannery was sworn in by Kimberly Ford, license #849 in the State of Nevada.

Secretary read reports.

From: Jim Priolo, Engineer/Planner - May 1, 2006

1. The subject property is located on Forest Drive and is within the R-12 (Single-Family Residential) Zone. The existing lot is vacant. The applicant proposes to construct a new 2-1/2-story single-family dwelling on the existing undersized lot.

2. In accordance with Section 902 E. of the Ordinance, bulk variances will be required for the construction of the proposed single-family addition as follows:

	Required	Proposed
Minimum Lot Area	12,000 s.f.	8,124.7 s.f.
Minimum Lot Width	90 ft.	50 ft.
Minimum Side Setback (One)	10 ft.	8 ft.
Minimum Side Setback (Both)	25 ft.	18 ft.

The applicant must demonstrate to the Board that the requested variances can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance.

3. The applicant should provide testimony on the proposed use of the basement level. The drawings indicate a separate outside entrance to the basement level.

4. Any approval should include a condition that all curb and sidewalk shall be replaced as directed by the Township Engineer.

5. It appears the applicant is proposing a septic field for the sanitary system. The applicant should consider connecting into an existing sewer main, if one is present in Forest Drive.

6. Any approval should include a condition that the maximum elevation difference between finished floor and outside grade is 30 inches.

From: Ed Mack, Zoning Officer

I feel a house could be designed that would be more conforming to these narrow sidelines.

Mr. Harrison announced that this application is for bulk variances only and requires 4 affirmative votes.

Mark Williams, attorney representing applicant. Variance application for the approval of a single family dwelling on an undersized lot.

Mr. Flannery – asking to construct a single family home on an existing 50 foot wide lot. Reviewed Mr. Priolo's report. Applicant was unable to acquire additional property. The property is between A Country Place, a retirement community and single family homes. The basement level will be for storage and typical basement uses in a residential development. If feasible they will connect to public sewer. Agreed to the 30 inches from finished floor.

Mr. Williams – the house will be 30 foot wide and will be cantilevered so that the footprint will be 30 feet wide. There are houses on both side and Country Place in the rear. They have offered to sell and have received no answers.

Mr. Williams – asking for 10 foot side yard setbacks for a total of 20 feet where 25 combined is required.

Mr. Flannery – that would be consistent with the neighborhood.

Mr. Williams – the positives outweigh the negatives.

Mr. Flannery - applicant will be putting in curbs and sidewalks. They will design the recharge system which will be underground along the property line. This home is approximately 3,760 square feet.

Ms. Goralski – when it rains that road is flooded out.

Mr. Flannery – the drainage is because there are not any curbs – they will be putting curbs in and will design a recharge system. Forest Drive is a low point. Recharge system would be underground along the side line of the property. There is public sewer on Forest Drive – proposing to connect into the public sewer if feasible to make that connection. If a septic system is needed the depth of the house would need to be smaller. A 30 foot wide house would be comfortable for the applicant.

Open to Public.

Roberta Burcz, attorney representing Linda Kelley who lives within 200 feet of the property. She cross-examined Mr. Flannery. There are 3 out of 17 lots in the neighborhood with 50 foot wide lots.

Mr. Williams objected to Ms. Burcz questions about titles on either side of this lot.

Ms. Burcz - cited a case that the negotiations among prior owners created their own hardship.

Mr. Harrison – witnesses must be here to testify, affidavits are not permissible. Submitted deeds. She is trying to prove that the applicant created their own hardship. She has the right to bring up her own witnesses but the board has the right to decide how much weight they give the testimony.

Michael Manno, 52 Forest Drive, sworn. Testified that he knew the owner of the subject property and he confided in him that he was going to buy the property also at lot 2.03.

Mr. Williams objected.

Mr. Harrison – Mr. Waxman is not here to be questioned.

Ms. Burcz - The applicant is not here and she can't cross examine them.

Mr. Williams - Any hardship was created before they purchased the lot, they bought the lot knowing that it was a 50 foot width and they are here asking to construct a single family house on that lot.

Mr. Williams asked that the matter be tabled so that they can confer and try to work this out.

Motion to table Appeal # 3618, Tuxedo Properties, until September 11, 2006 –

Mr. Halberstam

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks,
Mr. Berrios, Mr. Halberstam, Mr. Sernotti

Applicant agreed to waive time.

No further notice.

MOTION TO TABLE APPEAL # 3619, CHARLES PARNES, until September 11, 2006 – Mr. Zaks

Second – Ms. Goralski

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks,
Mr. Berrios, Mr. Halberstam, Mr. Sernotti

Applicant agreed to waive time.

No further notice.

MOTION TO TABLE APPEAL # 3620, JOE PARKER ASSOCIATES, until September 11, 2006 –

Ms. Goralski

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks,
Mr. Berrios, Mr. Halberstam, Mr. Sernotti

Applicant agreed to waive time.

No further notice.

MOTION TO CARRY APPEAL # 3617, 294 DEWEY, until September 11, 2006 – Mr. Halberstam
Second – Ms. Goralski

Roll call vote: affirmative: Mr. Gelley, Ms. Goralski, Mr. Naftali, Mr. Zaks,
Mr. Berrios, Mr. Halberstam, Mr. SERNOTTI

Applicant agreed to waive time.

No further notice.

RESOLUTIONS

Appeal # 3605 – Cong. Bais Yisroel, 325 7th Street, Block 96 Lot 8, R-OP zone.
Resolution to deny use variance for a school and multi-family use.

Motion to approve – Ms. Goralski

Second – Mr. Zaks

Roll call vote: affirmative: Ms. Goralski, Mr. Zaks, Mr. Berrios, Mr. Sernotti

Appeal # 3568A – Israel Kaluszyner, 422 Monmouth Avenue, Block 128 Lot 21, RM
Zone. Resolution to approve an amended application to allow outside stairs to basement.

Motion to approve: Mr. Zaks

Second – Mr. Halberstam

Roll call vote: affirmative: Mr. Naftali, Mr. Zaks, Mr. Berrios, Mr. Halberstam,
Mr. Sernotti

MOTION TO PAY BILLS – Mr. Halberstam

All in favor.

MOTION TO ADJOURN – Mr. Zaks

All in favor.

Meeting adjourned at 11:00 P.M.

Respectfully submitted,
Fran Siegel, Secretary