

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, September 17, 2018 at 7:01 pm in the Municipal Building, Seabrook, N.J.

Chairman: Ed Overdevest called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The Daily Journal and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

Present:

Chairman Ed Overdevest,

Vice Chairman Russell Vanella,

Members: Robert Comer, Joseph Spoltore, Jack Waselik, Anthony Buono, Terry O'Neill, Wayne Sabota alt

Staff: Solicitor Theodore H Ritter, Esq. Engineer J Michael Fralinger, Jr. PE, CME, Planner Randy Scheule, PP, AIC, Secretary Vicki Vagnarelli

Absent: Solicitor Matthew. Ritter, Esq., Scott Smith, Laura Hayes alt 1, Kenneth Jackson alt 2,

On motion of Wayne Sabota, seconded by Robert Comer, Minutes of September 10, 2018 Approved.

On motion of Russ Vanella seconded by Robert Comer Resolution 15-2018 was memorialized.

RESOLUTION OF THE PLANNING BOARD UPPER DEERFIELD TOWNSHIP

RESOLUTION NO. 15-2018

This Resolution is adopted to memorialize the findings, conclusions and decisions of the Upper Deerfield Planning Board ("Board") on the application of Russell G. Nelson for the property located at 80 Lebanon Road, Upper Deerfield Township, Cumberland County, New Jersey, also being known as Block 2706, Lot 14.02 on the Upper Deerfield Township Tax Map (the "Property"). The application was heard by the Board on September 10, 2018.

THE APPLICATION

The application seeks variance relief to permit the continued use of the Property as a private residence and to construct a 2,520 sq. ft. pole building on the Property to be used as an accessory structure to the principal residential use.

The application was reviewed by the Board by the board planner who rendered his report dated September 4, 2018. A copy of that report is attached.

The application was also reviewed by the board engineer who rendered his report dated September 4, 2018. A copy of that report is also attached.

The applicant is the contract purchaser for the Property and makes this application in that capacity.

COMPLETENESS

The application requested a waiver from the submission checklist items noted in the Planner and Board Engineer's review report. The Planner and Engineer had no objection to granting the waivers and recommended that the application be deemed complete.

The Board Secretary confirmed that all fees have been paid and all notices have been mailed and published as required by law.

Whereupon motion duly made and seconded, the Board deemed the application complete and the application proceeded to hearing on the requested relief.

THE PROPERTY

The Property has frontage on Lebanon Road of 176.53 feet, more or less, and a depth of 472.26 feet more or less, comprising 1.8 acres more or less.

The Property is located in the agricultural zoning district. Residential uses are permitted in the A zone only as accessory to the principal farming use, or as a "Rural Residence". A Rural Residence is a Conditional Use whereby residential use is permitted provided that the use meets the conditional use specific standards. Those standards include the requirement that the property is to be occupied by a family member of the owner of the farmland from which the residential lot was created.

The Property was the subject of an application by Marcy Peterson (sometimes incorrectly referred to as Mary) in 2007 and was approved as satisfying the Conditional Use standards for a Rural Residence pursuant to section 405-53 of the Upper Deerfield Township Land Use Ordinance. The approval was memorialized by Resolution #38-2007 adopted October 10, 2007. In particular, the Board found at that time that the then applicant, Marcy Peterson, (sometimes incorrectly referred to as Mary) established the requisite familial relationship required by Ordinance 405-53.

Pursuant to the approval granted in 2007, the existing residential structure was constructed.

PRESENTATION OF APPLICANT

The applicant, Russell Nelson was duly sworn and testified that he is contract purchaser of the Property. He seeks approval of the Board to continue to occupy the residential structure for residential purposes and also seeks approval of the Board to construct the above described pole building.

Mr. Nelson testified that the proposed use of the building is to house three antique vehicles, a boat, a camper, and other personal property customarily incidental to residential uses. Applicant confirmed that the structure was not to be used for any business purposes. He testified that the height of the structure would not exceed 20'.

Neither Mr. Nelson nor his spouse bears any familial relationship to the owner of the adjacent farmland from which the subject residential lot was created.

Mr. Nelson testified that there is no surviving family member of the farm owner who created the residential lot and therefore that conditional use specific standard cannot be met.

BOARD PROFESSIONALS REVIEW

The Board Planner and Engineer reviewed their respective reports with the board. Notably it was found by both of them that the proposed pole building met all bulk requirements for accessory structures. The Board Planner and Engineer recommended that if the Board was inclined to grant the application, the approval should be subject to the conditions contained in their respective reports.

The Board Solicitor offered the opinion that the application for continued use of the residential structure by the Nelsons who did not satisfy the familial relationship use specific standard of Ordinance 405-53 required the granting of relief pursuant to N.J.S.A. 40:55D-70d(3) and was therefore controlled by the the New Jersey Supreme Court decision in Coventry Square v. Westwood Zoning Board of Adjustment 138 N.J. 285 (1994). The Board Planner agreed.

The solicitor and planner further advised the board that should the Board grant the d(3) variance relief the proposed pole building could be approved as a permitted accessory structure if the Board determined that its use was incidental, subordinate and customary to the principal residential use.

On motion of Jack Waselik seconded by Joseph Spoltore the application was found to be Complete.

Roll Call

Ed Overdevest – Aye

Robert Comer, Aye

Scott Smith – no vote

Joseph Spoltore — Aye

Laura Hayes, Alt #1 — Aye

Wayne Sabota, Alt #3

Russell Vanella- Aye

Terry O'Neill- no vote

Anthony Buono Sr.- Aye

Jack Waselik- Aye,

Kenneth Jackson, alt #2

Vacant seat, Alt #

PUBLIC HEARING

The hearing was opened to the public for comment. No persons appeared to speak in favor of or against the application.

BOARD DECISION

The Board finds that the Property had previously been developed pursuant to the conditional use approval granted in 2007 and that situated on the Property is a residential structure of recent origin. The Board further finds that there is no surviving family member of the farm owner from whose property the subject lot was created and therefore the requisite conditional use specific standard requiring that familial relationship cannot be met.

The Board further finds and determines that the continued use of the Property as proposed by the applicant as his principal residential use implicates the variance relief set forth in N.J.S.A. 40:55d-70d(3), since he does not meet the familial relationship conditional use specific

standard required by Section 405-53 of the Upper Deerfield Township code. The Board also finds and determines that the application is to be governed by the New Jersey Supreme Court decision in Coventry Square v. Westwood Zoning Board of Adjustment 138-NJ, 285(1994) and further finds that pursuant to that standard that the fact that applicant is not a family member of the farmer owning the lot from which the subject property was created, does not make the Property any less suitable for residential purposes. The Board further finds that the denial of the requested relief would cause the

relatively new residential structure to be un-occupiable since there is no surviving family member and would therefore result in waste of the structure and undue hardship.

Accordingly, the Board finds and determined that there are sufficient special reasons for the granting of the application, that the application can be granted without substantial detriment to the general public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Board further finds that the proposed pole building and use as described by the applicant, is customarily incident and subordinate to the principal permitted residential use and as such constitutes a permitted accessory use and structure.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of Upper Deerfield Township, that the applicant's application for continued conditional use of the Property for residential purposes be and the same is hereby granted.

Be it further resolved that construction of the proposed pole building be in the same hereby approved. The Board notes and attaches as a condition of this approval that the use of the pole building is to be limited to that which is customary and incidental to the principal residential use and is not permitted to be used for any business or other non-residential purposes. Any use of the pole building for purposes other than that which is customary, incidental and subordinate to residential uses shall constitute a violation of the Upper Deerfield Township zoning ordinance.

The foregoing approvals are subject to all conditions set forth in the planners review report and the engineer review report.

On motion of Jack Waselik seconded by Robert Comer the application was Approved

Roll Call

Ed Overdevest- Aye
Robert Comer, Aye
Scott Smith – no vote
Joseph Spoltore – Aye
Laura Hayes, Alt #1 – Aye
Wayne Sabota, Alt #3

Russell Vanella – Aye
Terry O'Neill – no vote
Jack Waselik – Aye
Anthony Buono, Sr. - Aye
Kenneth Jackson, alt #2-

Attest: 
VICKI VAGNARELLI, Secretary


EDWARD OVERDEVEST, Chairman

On motion of Anthony Buono seconded by Jack Waselik the following resolution was memorialized

RESOLUTION 16-2018

Township of Upper Deerfield Planning Board

Applicant's Name: Bruce and Debra Riley

Application No.: P-6-18

Property: Block 1201, Lots 1 & 1.01

Application For: Minor Subdivision / Lot Line Adjustment

Public Hearing: September 10, 2018

Findings of Fact:

1. Applicant Debra Riley appeared before the Board and was represented by Howard Melnicove, Esq., who presented the application on Applicants' behalf.
2. Mr. and Mrs. Riley are the owners of Block 1201, Lot 1.01 in the Agricultural-Business Zone and Eco-Agricultural Overlay District / Redevelopment Zone.
3. Applicants operate Ultraclean Technologies at the location, and the use meets all bulk requirements for the zone.
4. Lot 1.01 was created by Board Resolution 16-2011. Prior to subdividing lot 1.01, Applicants appeared before the Redevelopment Entity of the Township of Upper Deerfield on June 7, 2011, which deemed the proposed (now current) use, agricultural services, to be consistent with the Redevelopment Plan, per Resolution 11-3.
5. Lot 1, which is farmland, is owned by DuBois Farm Properties, LLC. It presently contains 118.37 acres.

6. Applicants propose a lot line adjustment (minor subdivision) which would transfer 3.46 acres from Lot 1 to their Lot 1.01. Lot 1 would decrease in size from 118.37 to 114.54 acres, and Lot 1.01 would increase from 5 to 8.83 acres.

7. No new development is proposed, at this time, on either lot. No variances are required and therefore no public hearing was necessary.

8. The Board received and considered the following:

a. Upper Deerfield Township Application form and checklist dated August 3, 2018

b. Legal description for Block 1201, Lot 1.01, from Bernard Surveying, LLC, dated March 9, 2018 and last revised July 23, 2018

c. Contract for Sale of Real Estate, dated June 28, 2018

d. Minor Subdivision plan by Bernard Surveying, LLC, dated March 3, 2018 and last revised July 23, 2018

e. Correspondence from Attorney Melnicove dated August 3, and September 7, 2018.

9. Applicant Debra Riley was sworn and testified in favor of the application.

10. The Board received and considered the September 5, 2018 Report of Board Planner Randall Scheule, PP/AICP, who was present and who participated in the public hearing.

11. The Board also received and considered the September 6, 2018 Report of Board Engineer J. Michael Fralinger, Jr., PE, CME, who was present and who participated in the public hearing.

12. The Board granted waivers for the items identified in the Planner and Engineer's respective Reports, and deemed the Application complete.

13. The Board found that compliance was had with each of the various requirements of the Open Public Meetings Law, P.L. 1975 c. 231.

14. The Planning Board has carefully considered this matter and, based upon the representations and testimony presented on the Applicants' behalf, as well as the information set forth in the application

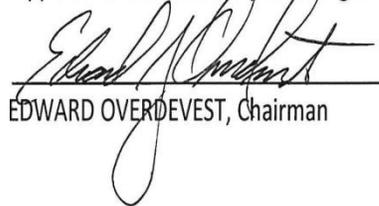
materials, and the input from the Board's professionals, finds that good cause exists for the granting of minor subdivision approval.

NOW THEREFORE BE IT RESOLVED that the Board does hereby grant minor subdivision approval to Applicants, provided that the following conditions are met:

- A. Applicants must pay any and all required fees that are due, or become due to the Township, and replenish any outstanding review escrow accounts as directed, within seven (7) days notice thereof.
- B. That Applicants must comply with all representations made through any representative during the course of applicant's presentation to the Board, and in all documents filed with the application.
- C. The Applicants shall obtain approvals and permits as may be required by any other agency having jurisdiction.
- D. The Applicants must submit to the Planning Board Engineer, for his review and approval, the metes and bounds descriptions to be included in the Deeds which will effectuate the subdivision.
- E. The Applicant must submit to the Board Solicitor, for review and approval as to form, the Deeds that will effectuate the subdivision. The minor subdivision deeds should contain the statement "Minor subdivision approval of the premises described herein was granted by the Upper Deerfield Township Planning Board at its September 10, 2018 regular meeting, and memorialized on [insert Resolution date] in Resolution [insert Resolution number]." This text should be followed by signature lines for the Planning Board Chairman and Secretary.
- F. Once approved by the Board Solicitor, the Applicants must submit the minor subdivision Deeds to the Planning Board for signature by the Chairman and Secretary. The Applicants must comply with all above conditions, prior to the Board Chairman and Secretary signing the Deeds.
- G. Applicant must record the minor subdivision Deeds in the Cumberland County Clerk's Office, and file the Deeds with the Township Engineer and Tax Assessor, within 190 days of the date of adoption of this Resolution.
- H. That compliance be had with all other requirements of the Upper Deerfield Township Development Ordinance and building code.
- I. The Planning Board Engineer and Planning Board Planner are hereby delegated the authorization to approve minor changes, as requested by Applicants or Applicants' professionals, provided that any such minor change is consistent with the Planning Board's approval. Any such changes will be reported to the Planning Board at its next regular meeting.

BE IT FURTHER RESOLVED that a Certified copy of this Resolution be furnished to Applicants and Notice of this action be advertised as required by Law.

The undersigned, Chairman of the Upper Deerfield Township Planning Board, hereby certifies that the above is a true copy of a Resolution adopted by said Board on September 17, 2018, to memorialize action taken on September 10, 2018. <

Upper Deerfield Township Planning Board

EDWARD OVERDEVEST, Chairman

:VICKI VAGNARELLI, Secretary

Memorialized: September 17, 2018

Applicants:

Earl & Janice Marino 173 Rosenhayn Avenue Block 2602 Lots 36 & 37 Minor Subdivision Lot line adjustment application. Mr. Marino owns lot 36 and his son Michael owns lot 37. He gave testimony on behalf of application with regard to the professional reviews and questions from the Board members. On motion of Robert Comer seconded by Anthony Buono the Board found the application to be complete. With regard to the technical portion the professionals reviews showed application needed a lot area/size variance and lot coverage variance on Lot 37. Applicant will need to send notices to property owners within 200' of property lines and to advertise/notice in the newspaper. On motion of Robert Comer seconded by Joseph Spoltore the Board with all approving Tabled the application until Oct. 10.

Public portion of the meeting was opened on motion of Anthony Buono seconded by Jack Waselik. Nancy Ridgway thanked the staff and board members and is very appreciative that the Board follows the law regarding applications. On motion of Russ Vanella seconded by Anthony Buono the public portion of the meeting was closed.

Being no further business on motion of Jack Waselik seconded by Robert Comer the meeting was adjourned.

Respectfully Submitted

Vicki Vagnarelli