

**Upper Pittsgrove Township  
Land Use Board Minutes  
May 18, 2023**

**TO:** Township Committee  
Land Use Board Members

Linda R. Stephens, Twp. Clerk  
L. Andrew Hoglen, Zoning Officer

A regular meeting of the Upper Pittsgrove Township Land Use Board was held in the Township Hall on the above date. The meeting was called to order at 7:30 P.M. by the Board Vice-Chairman reading the public announcement stating that adequate notice had been given provided under the “Open Public Meetings Act” and a flag salute.

**Members present were:** Edward Meschi, William Gantz, Thomas Buzby, Ralph Sickler, David Zeck, Jr., Benjamin Wilson, Kevin Bishop, Tyler Bill, and Linda Stephens.

**Also present were:** Adam Telsey, Esquire, Charles Fralinger, Carlton Harvey, Ray Went, Esquire, Greg Simmond, and Township Visitors.

**Business to come before the Board:**

1. Minutes from April 20, 2023
2. Carlton Harvey
3. Resolutions -  
Arlene Hamilton

**1. Minutes –**

A motion to approve the minutes from the Aril 20, 2023 meeting was made by Thomas Buzby. This motion was seconded by David Zeck and adopted unanimously.

**2. Carlton Harvey – Block 61 Lot 36 – 20 Fox’s Mill Road**

The Board Chairman opened the hearing for Carlton Harvey. Mr. Harvey was represented by Ray Went, Esquire. Exhibits were labeled as follows: AA-A1 Plan, A2-3 ariel photos, A3-4 pool photos, A4-Drainage photos, A5 ariel photos pool, A6 Pool/Fire Pit photos taken 5-12-23 and A7A – Pool Order. Ralph Sickler made a motion to deem the application complete. This motion was seconded by Thomas Buzby and adopted unanimously. Mr. Went outlined the C1 and C2 criteria for the granting of a Bulk Variance as it pertained to Mr. Harvey’s application. For a C1 – the Board can consider peculiar/practical difficulties, the shape of the lot, or physical, unique, existing conditions. To grant a C2 Variance it would have to promote the Purpose of the Law and outweigh any detriment. He continued that the 14’ x 27’ pool fit within the existing

backyard, the neighbors have pools, showing that it was suitable to the neighborhood and visits no detriment to the neighboring properties, the Master Plan, and the Zoning Code.

Greg Simmonds, Engineer for the applicant was questioned by Mr. Went regarding the requirements for a single-family dwelling in the Agricultural Zone. Mr. Simmond responded that the pool encroached into the one side yard setback: 30' required, 17' provided. Total impervious Lot Coverage is 15%, the pool and cemented area proved 21.6% impervious coverage. There was corrugated pipe and stones placed around the perimeter of the pool to provide drainage directed towards the road. He continued that there was an 8-foot fence and cypress trees to provide buffer between the applicant and the neighbor. The neighbor also had a 6' wooden fence. There was a brief discussion as to whether the concrete surrounding the pool would be considered when determining setback. It was determined that it should be used to calculate the setback.

Carlton Harvey gave testimony as to how the project evolved. It started as a fishpond project and snowballed into an in-ground pool for his children. This project was completed in late 2019, early 2020. At that time the neighbors did not have an issue with him installing the pool. They did object to a wood stove he had utilized to heat the pool, which has since been shut down and uses an electric heater for the pool. He has a smokeless fire pit in the pool area. The Board Chairman asked Mr. Harvey why he chose that particular area for the pool. Mr. Harvey responded that if he moved the pool over it would be too close to his existing well and impede traffic to the garage. It would have also interfered with an existing 200amp underground service line. If the pool had been placed behind the garage he would not have had a clear line of vision. Thomas Buzby asked Mr. Harvey if the driveway was paved. The answer was yes.

The Board Chairman opened the hearing to the public for comment. Diane Robbins voiced her objection to the application. She stated that Mr. Harvey knew permits were referencing a text he sent to her in 2019. Bill Robbins read a letter he had written stating his disapproval of allowing the pool to continue. He raised some issues that were outside the scope of the application before the Board that he felt were problematic because of the pool. Catherine Caltabiano stated that her opinions were the same as Mr. Robbins and she did not approve the application. Dorothy Harvey spoke about her son, being a single parent and creating a fun, outdoor area for his children. Lastly, Marjorie Harvey Tomlinson voiced her support of the application. There being no one else present speaking either for or against this application, the Board Chairman closed the hearing to the public for comment.

Mr. Went reiterated that the smoke issue had been resolved. The fire pit in the pool area was smokeless, and removeable from a structure built into the patio. The two remaining were small, removeable pits. Ralph Sickler asked Mr. Harvey how long the smokeless pit had been in place. Mr. Harvey responded that it was installed early 2020.

Thomas Buzby made a motion to grant the Bulk Variance to permit the pool stating that the uniqueness of the lot and other site limitations that would make it difficult to locate the pool in a conforming area. The motion continued to grant a side setback of 17' instead of the 30' required, an impervious coverage of 21.9% where 15% was the limit and the conditions in Stephen Nardelli, Board Engineer's review letter dated May 18, 2023. The motion included acknowledging all other pre-existing, non-conforming

conditions. This motion was seconded by Kevin Bishop and adopted upon a call of the roll. Ayes: Sickler, Wilson, Bishop, Zeck, Buzby, Gantz, Meschi, Stephens. Nays: None

**3. Resolutions –**

David Zeck made a motion to adopt the Resolution for Arlene Hamilton that was emailed to all Board members eligible to vote on it. This motion was seconded by Benjamin Wilson and adopted unanimously.

There being no further comment and business before the Board, Thomas Buzby made a motion to adjourn the meeting. This motion was seconded by Kevin Bishop and adopted unanimously.

Respectfully submitted,

Linda Stephens, Secretary  
Upper Pittsgrove Township  
Land Use Board