

TOWNSHIP OF LOWER

2600 Bayshore Road
Villas, New Jersey 08251



Incorporated 1798

(609) 886-2005

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE PUBLIC BODY AT ITS NEXT MEETING. THIS BOARD WILL NOT BE RESPONSIBLE FOR ANY MIS-STATEMENTS, ERRORS OR OMISSIONS OF THESE MINUTES, AND CAUTIONS ANYONE REVIEWING THESE MINUTES TO RELY UPON THEM ONLY AT THEIR OWN RISK.

LOWER TOWNSHIP PLANNING BOARD

A regularly scheduled meeting of the Lower Township Planning Board was held on February 20, 2014 at the Lower Township Municipal Building. The meeting was called to order at 7:03 P.M. by Chairman Jay Dilworth. The Recording Secretary stated that adequate notice of said meeting was given in compliance with the Open Public Meetings Act of 1975.

MEMBERS PRESENT: Chairman Jay Dilworth
Johnnie Walker (Mayor's Designee)
Daniel J. Senico
Paul St. John
Brian Sullivan
John McNulty
Fred Long

MEMBERS EXCUSED: Charles Hewitt, Jr.
Michael Beck
Norris Clark
Chris McDuell

STAFF PRESENT: Avery S. Teitler, Board Solicitor
George A. Curvan, Board Engineer
William J. Galestok, Board Secretary
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated February 14, 2014.

List of Hatch Mott MacDonald voucher dated February 20, 2014.

List of Board Engineer vouchers dated February 20, 2014.

Chairman Dilworth read the agenda for the benefit of the public.

3. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variances needed for lot area, frontage & width, submitted by Martin Wilson Trust, Karen Wilson Trust, Sharon Wilson, Trustee for the location known as Block 529, Lots 1.02 & 9, 501 Clubhouse Drive & 505 Clubhouse Drive.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicants.

Mr. Martin Wilson, applicant, and Mr. William Sweeney, Licensed Land Surveyor, were sworn in by Chairman Dilworth.

Mr. Dwyer explained the two lots are separately owned. He explained the 40' lot was acquired by the trust. He explained the corner lot is conforming and they are going to enlarge the 40-foot lot.

Mr. Sweeney explained there are six conforming lots that are 80 x 100 and six non-conforming lots, three that are 60 x 100 and three that are 40 x 100. He explained the lot being subdivided is one of the largest lots in the area. He explained this subdivision would greatly improve the area.

Mr. Curvan summarized Engineer comments dated February 13, 2014.

This portion of the hearing was opened to the public.

Mr. Lee Marcovitz was sworn in by Chairman Dilworth.

Mr. Marcovitz explained he has no objection to the subdivision. He explained there has been a lot of clearing of trees in the area and it is losing appeal to the area. He explained there are a lot of solar panels being installed too. The Board asked if he thinks the reason the trees are being removed is because of the solar? Mr. Marcovitz explained it could be. Mr. Dwyer

explained Mr. Wilson would be happy to plant four trees.

Mr. Marcovitz asked if there was anything in the Ordinance about trees? It was explained to him there isn't.

This portion of the hearing was closed to the public.

Mr. St. John made a motion to conditionally approve this application. The motion was seconded by Mr. Sullivan.

VOTE:	Mr. Walker	YES	Mr. McNulty	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	YES	Mr. Long	YES
	Chairman Dilworth	YES		

Motion carried.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

4. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variance needed for lot area, depth & rear yard setback, submitted by Robert Salasin for the location known as Block 386, Lots 47, 49 & 52, 400 2nd Avenue.

Mr. Senico excused himself from this application due to a conflict of interest.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicant.

Mr. Robert Salasin, applicant and Mr. Harold Noon, Licensed Land Surveyor, were sworn in by Chairman Dilworth.

Mr. Noon explained the property is 177 x 75 and they are proposing two 88 x 75 lots. He had marked into evidence a tax map page of the area. He explained with the 20 lots around this property, nine are non-conforming at 50 x 100. He explained there are 86 non-conforming lots in a five-block radius.

Mr. Noon explained there would be no detriment to the zone or zone plan if approved.

The Board explained there is a very large tree on the property and asked what would happen with that? Mr. Salasin explained the tree would be in between the lots. He explained they would try to save as many trees as possible or plant new trees.

Mr. Curvan summarized Engineer comments dated February 13, 2014.

This portion of the hearing was opened to the public.

Mrs. Theresa Jelcic was sworn in by Chairman Dilworth.

Mrs. Jelcic explained the house is proposed ten feet from her property and feels it is to close to the property line. She explained she doesn't feel this is a hardship. She explained the applicant purchased the property December 2013 and must have known the requirements when he purchased it.

There was a discussion regarding the side yard setback. Mr. Dwyer explained they would agree to move the setback line over to 20', but would need some room to the rear.

Mr. Galestok explained he has a problem with this. He explained years from now no one would remember that a 20' setback must be maintained. He explained the other problem with moving the rear yard setback is now that neighbor may be affected and they could have seen the plan already and not been here tonight.

There was a discussion to leave the rear yard setback alone. Mr. Dwyer explained they agree to have a 20' side yard setback. Mr. Galestok explained this is just for the house, not any future additions.

Mr. Walter Gabriel was sworn in by Chairman Dilworth.

Mr. Gabriel explained he lives next to the proposed. He explained that he is not happy with the way the current house faces. He explained that for some privacy he would like a white vinyl fence installed. There was a discussion of the allowed fence height. Mr. Dwyer explained his client will take into consideration installing the fence.

This portion of the hearing was closed to the public.

Mr. McNulty made a motion to conditionally approve this application. The motion was seconded by Mr. Sullivan.

VOTE:	Mr. Walker	YES	Mr. McNulty	YES
	Mr. St. John	YES	Mr. Sullivan	YES
	Mr. Long	YES	Chairman Dilworth	YES

Motion carried.

A memorializing resolution will be prepared by Board Solicitor for the Board to review and approve at the next scheduled meeting.

2. Preliminary & final site plan & hardship variance applications for a commercial marina, seafood sales & kayak rentals (approval of existing site conditions.) Hardship variances needed for lot area, lot width & frontage, minimum storage; signage, maximum number, area, height and location & front yard setback, submitted by H & H Fisheries, LLC, for the location known as Block 822.03, Lot 7.02, 956A Ocean Drive.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicants.

Ms. Rachel Hansen, applicant, and Mr. John Halbruner, PE, were sworn in by Chairman Dilworth.

Mr. Halbruner reviewed the revised plan with the Board. He reviewed the uses and the hours of operation for the uses. He explained they are proposing paving the parking area only and the parking spots would be painted. He explained the fuel tank will now be along the side the freeze. He reviewed the hours of operation for each use and the number of parking required for each use. He explained the applicant is eliminating the boat slips after this season, so less parking would be required.

Mr. Halbruner went through the Bureau of Fire Safety comments.

Mr. Halbruner explained all the proposed uses are permitted and the Master Plan encourages these type uses. He explained there would be no detriment to the zone, zone plan or adjoining properties.

Mr. Halbruner explained that if the property were totally vacant a fire truck could not turn around. He explained that if this were a requirement, this site would not be usable at all. He explained that fire access has been provided.

The Board asked Mr. Halbruner if he feels the existing is satisfactory with customers backing out of the property? Mr. Halbruner explained he has been able to leave the property by not backing out. He explained he was able to do a six-point turn.

The Board asked who would control the hours of operation for the kayaks to make sure there's no rental after 12:00 P.M.? Mr. Dwyer explained that it would be in the resolution and it would be enforceable. He explained the Master Plan encourages these uses in this zone. He explained the Ordinance builds the seating and employee parking into it. The Board asked what happens when the number of tables increase? Mr. Dwyer explained the approval has the number of tables allowed and it would be on the mercantile license. He explained if the number increases, it is enforceable.

Mr. Chief Warner Muller, from the Erma Fire Department, was sworn in by Chairman Dilworth.

Mr. Dwyer questioned Chief Muller. Chief Muller explained he doesn't have a problem with the drafting hydrants being moved closer toward the entrance.

Mr. Corrado asked Chief Muller about the letter he wrote for the original plan. Chief Muller explained it was for the hydrant only. He explained the letter had no intent for anything else on the site.

Mr. Dave Perry, Fire Official, was sworn in by Chairman Dilworth.

Mr. Dwyer questioned Mr. Perry. Mr. Perry explained his interpretation of the code is a turn around is needed. He read from the fire code. Mr. Dwyer asked if he could grant a variance for the turn around? Mr. Perry explained he could.

Mr. Corrado questioned Mr. Perry. Mr. Perry explained they would like the truck at the end of the drive aisle. He explained he doesn't know if a truck could turn around in the area of the crab tanks.

The Board asked Mr. Perry if the area remains no parking, could a fire truck turn around. Mr. Perry explained it could be possible depending upon what piece of equipment it is.

Mr. Corrado asked Mr. Halbruner if a fire truck could turn around in this area? Mr. Halbruner explained he didn't think a truck could.

The Board asked if the boat slips would be labeled transient slips? Mr. Halbruner explained they would label them transient only slips.

The Board questioned Mr. Halbruner regarding the retail portion and parking? Mr. Dwyer explained the parking is based on the number of seats, not for the take-out portion too, as allowed by the Ordinance.

Mr. Corrado questioned Mr. Halbruner. Mr. Halbruner explained the parking was based as if a restaurant. The marketing was not included. He explained the buildings are remaining in the area they say is a turn around with a proposed trash enclosure.

Chairman Dilworth called for a short recess at 8:58 P.M. The meeting was called back to order at 9:13 P.M.

Ms. Hansen explained Mr. Murphy's calculations regarding traffic and the number of cars entering and leaving was inaccurate. She explained that not everything that comes into H & H is for H & H. She explained that half the crabs that come in are taken to Two Mile.

Mr. Corrado questioned Mr. Curvan regarding the deed and covenants that were submitted into evidence.

The Board asked Mr. Halbruner about the proposed drainage. Mr. Halbruner explained they are proposing popcorn paving that allows water to drain through. He explained there is stone under and the recharge with this system has less pollutants.

Mr. Brian Murphy, PE, PP, was sworn in by Chairman Dilworth.

Mr. Murphy explained a turn around is required and there cannot be one with all the buildings in that area. He read the section from the fire code regarding the turn around.

Mr. Corrado had marked into evidence a plan for a turn around. He explained he doesn't believe phased parking has been approved in the Township. He explained that the requested variances are self created and feels there would be a deterrent if the variances are granted.

Mr. Dwyer asked Mr. Murphy if a parking variance was approved for his clients property? Mr. Murphy explained he didn't recall if one was approved or not.

Mr. Dwyer had marked into evidence a DEP permit application for Mr. Ascoli's property to remedy the violations on his property.

Mr. Dwyer explained the opposition has argued his client has a restaurant. He read a portion of Mr. Ascoli's DEP permit application that states the tiki bar on the deck is not a restaurant. He said the application was prepared by MV Engineering.

Mr. Dwyer asked Mr. Murphy if this site were vacant, wouldn't the owner be entitled to relief of some sort? Mr. Murphy explained it would depend on the turning radius.

Mr. Fred Ascoli, objector, was sworn in by Chairman Dilworth.

Mr. Ascoli explained his intension is not to put them out of business. He explained he just wants them held to the same standards he was and other similar uses in the area were.

This portion of the hearing was opened to the public.

Mr. Tom Fols was sworn in by Chairman Dilworth.

Mr. Fols explained he had overheard a conversation with the Electrical Inspector and Mr. Hansen. The Electrical Inspector had told Mr. Hansen that he needed an electrician because it was a business. He explained Mr. Hansen had approached him and he installed a 200-amp service for him. He explained that after he completed the work, more wires were added and he has concerns with the added wires. He explained there were no buildings on the property and every time a building was added, he contacted the Construction Office.

Mr. Dwyer asked Mr. Fols if he had any connection to Mr. Ascoli? Mr. Fols explained he does maintenance work for Mr. Ascoli.

This portion of the hearing was closed to the public.

Mr. Corrado explained he doesn't feel this site works with all the uses they have. He explained he feels a turn around is needed. He explained the site is not safe. He explained there

isn't enough parking for all the uses. He explained the buildings were placed without approvals. He explained the application should be denied.

Mr. Dwyer explained the adjoining property has more uses than what his client's have. He explained they could have all live in harmony. He explained that if the Board denies this application, his clients are out of business. He explained that it is impossible to do anything on this site without variances. He explained the drafting hydrant adds to the safety of property. He explained all the uses on the property have been there for years even with the previous owners.

Mr. McNulty made a motion to conditionally approve the variances. The motion was seconded by Mr. Walker.

VOTE:	Mr. Walker	YES	Mr. McNulty	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	YES	Mr. Long	NO
	Chairman Dilworth	YES		

Motion carried.

Mr. Walker made a motion to conditionally approve the site plan application. The motion was seconded by Mr. St. John.

VOTE:	Mr. Walker	YES	Mr. McNulty	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	YES	Mr. Long	NO
	Chairman Dilworth	YES		

Motion carried.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

Mr. McNulty made a motion to approve the resolutions from the January 23, 2014 meeting. The motion was seconded by Mr. Walker. Motion carried.

Mr. St. John made a motion to approve Board Solicitor, Board Engineer and Hatch Mott MacDonald vouchers. The motion was seconded by Mr. Walker. Motion carried.

Mr. Senico made a motion to adjourn at 10:55 P.M. The motion was seconded by Mr. St. John. Motion carried.

Respectfully submitted,

Lisa A. Schubert,
Recording Secretary

A verbatim recording of said meeting is on file in Township Hall.

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