

TOWNSHIP OF LOWER

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Villas, New Jersey 08251



Incorporated 1798

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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 October 19, 2017 at the Lower Township Municipal Building. The meeting was called to order at 7:00 P.M. by Chairman Robert Crompton. 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 Robert Crompton
Jay Young
Michael Rosenberg (Mayor's Designee)
Daniel J. Senico
John McNulty
Andrew Bulakowski
Christopher Vassar

MEMBERS EXCUSED: Erik Simonsen
Brian Sullivan
Chris McDuell
Frank Sippel

MEMBERS ABSENT: Jennifer Dowe

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

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated October 10, 2017.

List of Board Engineer vouchers dated October 19, 2017.

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

2. Discussion of the Frederick Boyle Airplane Hanger minor site plan application. The DRBA has required a minor change to the building location.

Mr. Frederick Boyle, applicant, was sworn in by Chairman Crompton.

Mr. Boyle explained he was before the Board for approval at last month's meeting. He explained that the DRBA is requiring he move the building 5' to the east and 2' to the south.

Mr. Galestok explained he recommended that Mr. Boyle come back to the Board to explain what the DRBA is requesting. He explained there was another hanger that the Board had approved and the DRBA made them move that one three times. He explained they didn't make the applicant come back to the Board.

Mr. Carr explained he doesn't see a problem with this move. He explained it doesn't change the drainage in any way.

Mr. Boyle explained he has an email from Cape Atlantic Soil that they don't require anything from them as the proposed building is under 5,000 square feet.

There was a discussion the request is diminimus and no new application or resolution would be required. Mr. Boyle will have to have the Board Engineer's approval.

Mr. Senico made a motion that only Board Engineer approval would be needed. The motion was seconded by Mr. Bulakowski. Motion carried.

3. Minor site plan & hardship variance applications for additional signage and two (2) outdoor display areas, hardship variances needed for number of signs and sign area, submitted by Acme Markets, Inc., for the location known as Block 741.01, Lot 28.01, 3845 Bayshore Road.

Mr. Nicholas Talvacchia, Esq., represented the applicant.

Mr. Lewis Conley, PP, Licensed Land Surveyor, was sworn in.

Mr. Christopher Baylinson, Esq., represented the objectors.

Mr. Baylinson explained there is an issue with whether the applicant has jurisdiction to present the application and a res judicata issue.

Mr. Talvacchia explained the amount of signage has been reduced dramatically. Mr. Baylinson explained this is the same application as before except the signage is reduced in size. He explained just because they are smaller does not mean they are substantially different enough that res judicata doesn't come into play. Mr. Teitler explained that the application would have to proceed for the Board to make a determination if res judicata is a factor.

Mr. Baylinson explained they still maintain their objection about Acme being a tenant and not having landlord approval to proceed with the application. Mr. Talvacchia explained they have a Court Order to be here tonight. He explained they also have an agreement of sale for the property.

Mr. Talvacchia explained they have more detail for the outdoor display. He explained they have listed on the plan items that will be displayed outside.

Marked into evidence as A-1, was a letter from the Bureau of Fire Safety dated September 19, 2017 where they found the application acceptable.

Mr. Conley explained the display would be 12 ½' from the wall. The prior plan was marked into evidence as A-2. He explained the display area goes to the curb to the edge of the pillars, there are two rows of shopping carts and there would be a minimum of a 3' wide aisle. He explained they are proposing 4 x 4 boxes for some of the items. He explained some of the products would be set on palettes. He explained there will be ADA compliant access. He explained the height of the displays would not exceed 6' in height, except for hanging baskets in the spring and summer months. He read some of the items that would be displayed.

Marked into evidence as A-3 was a packet of 54 photos. Mr. Conley reviewed some of the pictures. He reviewed the photos pertaining to the measurements between the proposed outdoor display area and the carts, explaining there would be adequate space between the two.

Mr. Conley explained the outdoor displays make the area presentable and brings life to the area.

Marked into evidence as A-4 was an aerial photo of the mall area. Mr. Conley reviewed the photo explaining the property is basically surrounded by tall landscaping making it especially hard in the summer months to see the mall.

The Board asked if the ADA requirements would be met between the shopping carts and the displays? Mr. Talvacchia explained the ADA requirements would be met.

Mr. Conley explained there is approximately 20' from the door to the shopping carts. He explained no palettes are left outside if nothing is on them.

The Board asked about the bike rack and how that would work with the outdoor displays and ADA requirements? Mr. Conley explained they are not bike racks, but a safety rail.

The Board asked about the maintenance in the area. Explaining there would be hoses to water the plants and it would get slippery. Mr. Talvacchia explained they use watering tanks, so there would be no hose laying on the ground.

Mr. Conley reviewed the signage that is proposed. It was explained in the original approval in 1989, Acme was approved for 110 square footage of signs that was not used. He explained they had originally proposed a banner sign that was changed to a channel letter sign. They agreed to allow the other businesses to have a sign on the side wall as long as they received the proper approval and they pay for it.

Mr. Conley explained when the interior of the building was rearranged, they relocated the office to the front. In this area, money is counted so for privacy, a wall was built along the front window. They don't want an ugly studded wall in the front of the building so they are proposing a decorative sign that would be of seasonal fruits or vegetables, but not to advertise merchandise.

Mr. Conley explained on the side of the building, they are proposing a 58.8 square foot Acme sign, a 6.8 square foot liquor sign and 9.7 square foot pharmacy sign totaling 75 square feet. He explained the proposed signs would take up 1.7% of the wall which is over 5,000 square feet in size.

Mr. Conley explained it is important to have the signage to draw people to the mall. He explained all the businesses in the mall have extra signs, so they must feel more signage is needed. He explained the side parking area is under utilized and they are hoping the added sign will encourage people to park there.

Mr. Conley explained there would be no deterrent to have a sign on the side of the building.

It was explained the signs on the front of the building would be 62 square feet and 75 square feet on the side of the building. It was explained no liquor would be advertised on the front of the building or in the window on the front of the building.

The proposed sign on the side of the building would be a non-moving - non flashing LED sign.

The Board asked if there was a cart corral in the side parking lot? Also, if there is a cross walk on that side? Mr. Conley explained there is a cart corral on that side of the building. He explained there would be a cross walk to the side lot.

The Board asked about the other tenants in the building and if the applicant would allow them to have a sign on the side wall? Mr. Talvacchia explained they could subject to landlord and Board consent and they would do it at their own expense.

Mr. Baylinson asked Mr. Conley where the cart corral was located in the side lot? Also, if there was striping existing for the cross walk? Mr. Conley explained the cart corral is located in the vicinity of the corner of the building and he is not aware of any striping there now.

There was a discussion about the flexible sign criteria from the original approval. Mr. Galestok explained this was requested by the owner at that time. He explained it has basically been left up to the mall to do just that. Mr. Conley explained he did not look at the flexible sign criteria.

There was a discussion that the palettes would not be there without something on top of them and if something is displayed without a palette, it would only utilize the size area of a palette.

Mr. Baylinson asked Mr. Conley where he took his measurements from? Mr. Conley explained he took the measurement from footing to footing.

Mr. Baylinson had marked into evidence as O-1 a photo of the shopping carts taken by Mr. Hommel or a representative of Mr. Hommel.

There was a discussion if the ADA walkway requirement would be met if the shopping carts were stored askewed.

Mr. Baylinson questioned Mr. Conley if the outdoor display area would go toward the gross floor area and if the number of parking spaces were taken into the consideration.

There was a discussion about the display height and if additional lighting were proposed. It was explained additional lighting is not proposed and the maximum height of the displays would be six feet with the exception of the hanging flower baskets.

Mr. Baylinson had marked into evidence as O-2, which was a superimposed photo of the outdoor display.

Mr. Baylinson asked how the palettes were brought out? It was explained they are brought out using a palette mover.

Mr. William Crosby, Vice-President of Operations for Acme was sworn in.

Mr. Crosby explained the palettes are not built on site.

It was explained the cart storage was approved inside, but they have moved them to the outside.

Mr. Talvacchia explained he does have an objection to the objector's photo of the outdoor display. Explaining there is no indication of the height that was superimposed in the photo.

A short recess was called at 8:33 P.M. The meeting was called back to order at 8:44 P.M.

Mr. Carr explained the number of parking spaces is not an issue. He explained number of parking is determined only within the walls of the structure.

Mr. Conley explained there is sufficient cart storage on site. He explained there are 260 shopping carts. There is a double row on both sides of the entrances doors. The corrals hold at least 30 shopping carts each. Mr. Baylinson explained if the corrals hold 30 shopping carts each and there are four corrals, why not store the shopping carts in them? Mr. Crosby explained they do not want the corrals loaded with shopping carts. He explained the corrals are emptied and brought to the building for the customers convenience.

Mr. Bryan Proska, PE, Mr. Edward Eimer, Licensed Architect and Mr. Richard Carter, PE, were sworn in.

Mr. Proska explained he was a traffic engineer. Marked into evidence as O-3 was a google earth photo. Mr. Proska reviewed the photo with the Board explaining the location of the proposed sign does not enhance the site. He explained with the proposed location of the sign, by the time you can see the sign, you have already passed the loop road.

Mr. Eimer explained to the Board that he feels a sprinkler system in the outdoor display area is needed, especially with combustible materials there. He explained there isn't much wiggle room to play with for the ADA required width between the displays and shopping carts. He explained under the building code, a six foot high display needs 48" width between the displays and shopping carts.

Mr. Carter explained Acme is a tenant of the mall. He explained that the additional signage is a deterrent to the area and does not enhance the zone or zone plan.

Mr. Talvacchia explained what Acme proposes for the display will not look like what is depicted in the objector's picture. He explained the landlord complained about the displays, but Acme thought they were legal. He explained outdoor displays are all over the place.

Mr. Scott Hommel, partial owner of the mall, was sworn.

Mr. Hommel explained he cannot overstate safety enough.

Mr. Victor Fabietti was sworn in.

Mr. Fabietti explained his wife owns Gorman Liquor store. He explained they are against having retail items displayed outside. He explained if this is allowed, they could take empty beer cases and display them outside. He explained they have shopping carts, but they are kept in the

store. He explained he also has concerns with safety.

This portion of the hearing was closed to the public.

Mr. Patrick Malia, Licensed Code Official for the Borough of Wildwood Crest and the City of North Wildwood was sworn in.

Mr. Malia explained he reviewed the rehab codes for existing structures, reviewed the site plans, visited the site and reviewed the building codes. He explained the doors need to be 42" in width, which they are. He explained there is 14' from the railing outside the door to the first column. He explained there is no limitation for egress travel with the application. He explained this is an open air situation. He explained what is proposed is compliant with the code.

Mr. Malia explained NFPA 13 is the code used to determine if sprinklers are needed. He explained the outdoor display area is not required to have sprinklers.

Mr. Malia explained ADA requirements require a flat surface with 36" wide access.

Mr. Baylinson questioned Mr. Malia regarding the required ADA aisle width. Mr. Malia explained 36" is required. He explained he took measurements from the base of the wall to the base of the column. He explained that he calculated that with two rows of shopping carts and the displays, 36" would be provided.

Mr. Baylinson explained the proposed signs do nothing but promote Acme's business and he feels the reasons for the request have not been justified. He explained he does not feel the outdoor displays are appropriate here.

Mr. Talvacchia explained it's an odd situation to have access to a mall from the side. He explained with the amount of vegetation around the mall, it's hard to see the mall. He explained the picture the objectors submitted of the display are inaccurate. He explained the picture does not show at what height the display is shown. He explained outdoor displays at shopping centers are common today.

Mr. Teitler explained the Board now has to make a decision if this is res judicata. He explained the Board has to make a decision if the changes are substantially different from the previous application.

The following vote by the Board is that there is a substantial difference from the previous application.

VOTE:	Mr. Young	YES	Mr. Rosenberg	YES
	Mr. McNulty	NO	Mr. Senico	YES
	Mr. Bulakowski	YES	Mr. Vassar	YES
	Chairman Crompton	YES		

Motion carried.

Mr. Bulakowski made a motion to conditionally approve the variances for the signs. The motion was seconded by Mr. Senico.

VOTE:	Mr. Young	YES	Mr. Rosenberg	YES
	Mr. McNulty	NO	Mr. Senico	YES
	Mr. Bulakowski	YES	Mr. Vassar	YES
	Chairman Crompton	YES		

Motion carried.

Mr. Vassar made a motion to conditionally approve the outdoor displays. The motion was seconded by Mr. Bulakowski.

VOTE:	Mr. Young	YES	Mr. Rosenberg	NO
	Mr. McNulty	NO	Mr. Senico	NO
	Mr. Bulakowski	YES	Mr. Vassar	YES
	Chairman Crompton	YES		

Motion carried.

Mr. Bulakowski made a motion to conditionally approve the minor site plan application. The motion was seconded by Mr. Young.

VOTE:	Mr. Young	YES	Mr. Rosenberg	NO
	Mr. McNulty	NO	Mr. Senico	NO
	Mr. Bulakowski	YES	Mr. Vassar	YES
	Chairman Crompton	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. Teitler explained the Board does not hear new applications after 10:00 P.M. He explained the applications for Cape Real Estate Developers, Inc., 500 Village Road and Snyder, 210 Breakwater Road will be continued until next month. The applicants have agreed to waived time constraints and the applications will be heard at the November 9, 2017 meeting.

Mr. Young made a motion to approve the Board Engineer vouchers. The motion was seconded by Mr. Senico. Motion carried.

Mr. Senico made a motion to approve the Board Solicitor vouchers. The motion was seconded by Mr. Rosenberg. Motion carried.

Mr. Senico made a motion to approve the resolutions from the September 21, 2017 meeting. The motion was seconded by Mr. Rosenberg. Motion carried.

Mr. Senico made a motion to adjourn at 10:19 P.M. The motion was seconded by Mr. Vassar. 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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