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 January 18, 2018 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 Chris McDuell Michael Rosenberg (Mayor's Designee) Roland Roy John McNulty Christopher Vassar
MEMBERS EXCUSED:	Erik Simonsen Andrew Bulakowski Daniel J. Senico Brian Sullivan 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 January 2, 2018.

List of Board Engineer vouchers dated January 18, 2018.

The New Jersey Planner - November/December 2017; Vol. 78. No. 6.

Mr. Rosenberg made a motion to nominate Robert Crompton, Jr., as Chairman and approve Resolution #18-1. The motion was seconded by Mr. Vassar. Motion carried.

Mr. McDuell made a motion to nominate Andrew Bulakowski as Vice-Chairman and approve Resolution #18-2. The motion was seconded by Mr. Vassar. Motion carried.

Mr. Rosenberg made a motion to nominate William Galestok as Board Secretary and approve Resolution #18-3. The motion was seconded by Mr. McDuell. Motion carried.

Mr. Vassar made a motion to nominate Lisa Schubert as Recording Secretary and approve Resolution #18-4. The motion was seconded by Mr. Rosenberg. Motion carried.

Mr. Rosenberg made a motion to nominate Avery Teitler as Board Solicitor and approve Resolution #18-5. The motion was seconded by Mr. McDuell. Motion carried.

Mr. McDuell made a motion to nominate Mott MacDonald as Board Engineer and approve Resolution #18-6. The motion was seconded by Mr. Vassar. Motion carried.

Mr. Rosenberg made a motion to approve Resolution #18-7, meeting dates for 2018. The motion was seconded by Mr. Vassar. Motion carried.

Mr. Vassar made a motion to approve Resolution #18-8, approving the minor subdivision committee. The motion was seconded by Mr. Rosenberg. Motion carried.

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

6. Preliminary & final site plan & hardship variance applications to construct a 35-unit condominium apartments and spa. Hardship variance needed for lot frontage & encroaching into the side yard setback, submitted by Achristavest, LLC for the location known as Block 699, Lots 3-15.01, 9600 Atlantic Avenue.

Mr. Teitler explained the applicant has requested a continuance and the plans will be revised.

Mr. Teitler explained the applicant has requested no new notice be required.

Mr. Teitler explained the application will be continued until the February 15, 2018 meeting with no new notice needed.

3. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variances needed for lot area, frontage, width & depth, submitted by Bernard Dera for the location known as Block 101, Lots 4-7, 108 East Bates Avenue.

Mr. Bernard Dera, applicant, and Mr. William Sweeney, Licensed Land Surveyor, were sworn in.

Mr. Sweeney explained there are four 30' lots totally 120' x 75'. He explained the applicant would like to subdivide the lot into to 60' x 75' lots. He explained variances are needed for lot area, frontage, width and depth. He explained what is proposed conforms to the neighborhood. He explained most of the neighborhood is non-conforming.

Marked into evidence as A-1 was a marked up tax map page of the area.

Mr. Dera explained the red lot on the tax map page is the only lot that conforms.

Mr. Sweeney explained the majority of the lots have 60' frontage.

Marked into evidence as A-2 was a photo of the house on the only conforming lot in the area.

Mr. Sweeney explained the existing single family dwelling and shed would be demolished.

Marked into evidence A-3 & A-4 was two photos of the property in question.

Mr. Sweeney explained all the lots have 75' depth and most have 60' frontage. There are

24 lots in the area with 65' or less wide lots.

Submitted into evidence as A-5 was a list of all the properties in the general area and the lot sizes.

Mr. Dera explained all but one of the lots are built upon.

Submitted into evidence as A- 6 was a photo of the proposed house that will be built.

Mr. Dera explained one of the undersized lots in the area has a duplex.

Mr. Jim Hanson was sworn in.

Mr. Hanson stated he is familiar with the area. He explained what is proposed would not be inconsistent with the area.

Mr. Teitler explained that certain proofs are need to be provided to the Board. He explained a layperson cannot give professional testimony like an attorney questioning an engineer, planner, surveyor, etc. If Mr. Hanson would like to speak at the public portion, he could do so.

The Board asked if the lot behind was subdivided? Mr. Sweeney explained he is not sure, but it must have been based on the lot numbers.

The Board asked if the proposed houses would be single story? Mr. Dera explained they would be single story houses.

Mr. Carr summarized Engineer comments dated January 9, 2018.

This portion of the hearing was opened to the public.

Mr. Jim Hanson was previously sworn in.

Mr. Hanson explained he is a realtor, appraiser and builder. He explained that what is proposed is not inconsistent with the area or the neighborhood. He explained that what is proposed would be an improvement to the area.

Mr. Jamie Nardelli was sworn in.

Mr. Nardelli explained he lives in the area and he is in favor of this application.

This portion of the hearing was closed to the public.

Mr. Galestok read Cape May County Planning Board comments dated January 9, 2018 in which they waived this application.

Mr. Galestok read Bureau of Fire Safety comments dated December 28, 2017 in which they found this application acceptable.

Mr. Vassar made a motion to conditionally approve this application. The motion was seconded by Mr. McDuell.

VOTE:	Mr. Rosenberg	YES	Mr. McNulty	YES
	Mr. McDuell	YES	Mr. Roy	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.

4. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variances needed for lot frontage & width, submitted by Rustin & Karen Cassway for the location known as Block 751, Lots 2.02 & 2.06, 708 & 710A New England Road.

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

Mr. Ron Gelzunas, Esq., represented the applicants.

Mr. Scott Brown, PE & Licensed Land Surveyor was sworn in.

Mr. Gelzunas explained a subdivision was approved for this lot last year. He explained this application is to subdivide a portion of Lot 2.02 and add it to Lot 2.06.

Mr. Brown explained the zoning is R-1. He explained Lot 2.02 has 115' frontage & width which would remain the same with this application. He explained the proposed subdivision would not create any new lots. He explained a portion of land will be subdivided off Lot 2.02 and added to Lot 2.06. He explained what is proposed would cause no determent to the zone or zone plan and provide for light, air and open space.

This portion of the hearing was opened to the public.

Mr. Edward Russell was sworn in.

Mr. Russell asked what the purpose of this subdivision was? He explained he lives next door. He explained this area to be subdivided is a nice wooded area. Mr. Gelzunas explained there was zoning approval for the garage. He explained they also received approval to enlarge the house and have another living unit semi attached. He explained they would be constructing a pool in the future in the area of the subdivision, but no development is proposed. Mr. Galestok

explained he wanted to clarify that in the future there could be something constructed in this area.

Mr. Dennis Amos was sworn in.

Mr. Amos explained he owns Lot 2.02. He explained Mr. Cassway was interested in purchasing this portion of land from him. He explained he doesn't use it, so he agreed to the subdivision.

Mr. Galestok read Bureau of Fire Safety comments dated December 28, 2017 in which they found this application acceptable.

Mr. Galestok explained there were no Cape May County Planning Board comments.

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

VOTE:	Mr. Rosenberg	YES	Mr. McNulty	YES
	Mr. Roy	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.

5. Revised preliminary & final site plan & hardship variance applications to construct an addition for a 32-seat dining room to an existing restaurant. Hardship variances needed for front yard setback, parking setback, parking buffer, number of parking spaces and driveway setback from the intersection, submitted by Chewies, LLC for the location known as Block 18, Lots 27.01, 28.01, 29.01 & 30-32, 301 Bayshore Road.

Mr. Ron Gelzunas, Esq., represented the applicant.

Mr. Joe Maffei, PE, was sworn in.

Mr. Gelzunas explained his client is seeking to amend the previously approved site plan. He explained the cost to construct the previous site plan was prohibitive to his client.

Mr. Maffei explained they are adding an extra freezer to the rear of the building, they will open the driveways so they are in and outs, they will maintain the parking on the side, the islands in the parking area that were previously approved would be eliminated. He explained the drive aisles would be increased to 24' wide. He explained landscaping would be installed in front. He explained there would be an underground stormwater trench to the rear of the property and overflow would go toward Miami Avenue to the drainage outfall.

Mr. Gelzunas explained the total seats would be 33, the exterior would be renovated and the parking area would have a better flow and would be safer.

The Board asked why the handicap parking space was in the larger parking area away from the door? Mr. Maffei explained if they put the handicap parking space by the door, they would have to add put in a sidewalk and by doing this, it pushes cars parking there into Florida Avenue. He explained not having the handicap space on Florida Avenue avoids someone backing out and makes it easier to leave the parking lot area.

Mr. Carr summarized Engineer's comments dated January 12, 2018.

This portion of the hearing was opened to the public. There were no public comments. This portion of the hearing was closed to the public.

Mr. Galestok explained there were no Bureau of Fire Safety or Cape May County Planning Board comments.

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

VOTE:	Mr. Rosenberg	YES	Mr. McNulty	YES
	Mr. McDuell	YES	Mr. Roy	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. Rosenberg made a motion to approve the minutes from the December 14, 2017 meeting. The motion was seconded by Mr. McDuell. Motion carried.

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

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

Mr. McDuell made a motion to approve the resolution from the December 14, 2017 meeting. The motion was seconded by Mr. Vassar. Motion carried.

1. Discussion of Annual Variance Report.

Mr. Galestok explained he has reviewed the report. He explained he is looking at the Residential-Business (RB) zone. He explained he is preparing a report for this zone. He explained this is an owner-occupied zone. He explained he has looked at the majority of the businesses in the RB zone and only about 30% are owner-occupied. He explained the Zoning Board has granted a use variances to allow the owner not to live there. He explained they may want to look into smaller projects for site plans and whether a maintenance bond would be needed for those projects.

2. Discussion of Walsh v City of Cape May. Provision of competent evidence by applicant's before the Board; Nash v Board of Adjustment, applicant bears the burden of providing the positive and negative criteria; Branhburg II LLC v Branchburg Township Zoning Board of Adjustment, the "Zoning Boards decision is entitled to deference."

Mr. Teitler explained there have been Court cases where proper proofs have not been placed on the record and applicant's providing zoning information. He explained Board's need competent evidence when making decisions on applications. He explained applicants' should have Professional Planners, Professional Engineers and/or Land Surveyors to provide proofs for approval of applications.

There was a discussion that there was a previous application where the applicant/owner did not have any professional's present and really no proofs were put on the record. There was another where the attorney was asking the applicant for professional opinions.

Mr. Galestok explained the Board should be depending on professional testimony when making decisions on applications.

Mr. McDuell made a motion to adjourn at 8:24 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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