

TOWNSHIP OF LOWER

2600 Bayshore Road
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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 January 23, 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

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

- 2. Minor subdivision application for the creation of two (2) newly described lots, submitted by David & Ruth Church for the location known as Block 410.01, Lots 29.03, 24.03 & 27, Seashore Road.

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

Mr. Sweeney explained to the Board this is a two-lot subdivision. He explained that a large portion of Lot 29.03 will be subdivided off and combined to Lot 27. Lot 29.03 would have just the single family dwelling and the remainder will be combined with the garden center. He explained no variances are required. They are all existing conditions on site.

Mr. Curvan read Engineer's comments dated October 23, 2013.

The Board explained the plan is a bit confusing. Mr. Sweeney explained there are no changes to Lot 29.04. He explained the lot line for proposed Lot 29.03 has to been extended some to get the lot area required for that lot.

There was a discussion about the shared driveway and if it remained, an easement would be needed. Mr. Church explained they would continue to use the share driveway. There was a discussion that the County would probably want the plan revised to show it. Mr. Sweeney explained the lot doesn't front on a County Road. The State actually owns a small portion in front of this lot.

Mr. Galestok read Bureau of Fire Safety comments dated August 30, 2013 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated September 20, 2013.

Mr. Sweeney explained the State does not own in front of the garden center.

Mr. Senico 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.

3. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variance needed for front yard setback, submitted by Pacific Diamond Beach, LLC for the location known as Block 708, Lots 17-20, 9701 Pacific Avenue.

Mr. Jeffrey Barnes, Esq., represented the applicant.

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

Mr. Barnes explained there is an existing one story office building on site that was a real estate office. He explained his client is proposing to demolish the building, create two lots and construct two duplexes. He explained that front yard setback variances are needed.

Mr. Peter explained he is proposing two duplexes. He explained one would face Rochester Avenue and the other Memphis Avenue.

Mr. Barnes had marked into evidence a photo board. Mr. Peter reviewed the photos with the Board. He explained what they are proposing is similar to the other setbacks in the area.

Mr. Barnes had marked into evidence an elevation drawing. Mr. Peter reviewed the elevation drawing with the Board.

The Board asked how many parking spaces were proposed per unit? Mr. Peter explained there would be two parking spaces per unit.

Mr. Noon explained that he verified the setbacks of the existing duplexes in the area. He explained what is proposed would be consistent with the area. He explained it would preserve the character of the neighborhood. He explained the application could be granted and there would be no detriment to the area, zone or zone plan.

Mr. Curvan read Engineer comments dated January 16, 2014.

Mr. Galestok read Bureau of Fire Safety comments dated January 10, 2014 in which they found this application acceptable.

This portion of the hearing was opened to the public.

Ms. Colleen Riley was sworn in by Chairman Dilworth.

Ms. Riley explained she is in favor of the application. She explained she would be glad

the real estate business is not there. She explained there was a lot of traffic in the summer with rentals and she is happy that won't be anymore.

Mr. John DiRocco was sworn in by Chairman Dilworth.

Mr. DiRocco explained he is in favor of the application. He explained he would rather have residential use then the business. He explained what is proposed fits the neighborhood better then the business.

This portion of the hearing was closed to the public.

Mr. Galestok explained that if the building is demolished prior to filing the plat, a bond would not be needed. If they want to file the plan prior to demolition, a bond would be required.

Mr. McNulty made a motion to conditionally approve this 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	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.

1. Preliminary & final site plan & hardship variance application 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 & Licensed Architect, were sworn in by Chairman Dilworth.

Mr. Halbruner explained the changes that were made to the site plan. He explained the refrigeration unit was shifted opening the driveway. The fuel tanks will be on top of the refrigeration unit. The turn around has been enhanced and a no parking area. A handicap parking space has been added. The parking spaces have been realigned. He explained 23 parking spaces are proposed and 21 spaces would be available at all time. He explained that spaces 22 and 23 would also be used for the load/unload zone.

Mr. Halbruner reviewed the different uses, hours of those uses and number of parking spaces available.

Mr. Halbruner explained they are proposing four transient boat slips, which were not factored into parking spaces needed.

The Board asked about employee parking? Mr. Halbruner explained the Ordinance allows for employee parking to be included in the number of parking spaces.

There was a discussion that there was previous testimony about whether this was a restaurant. A Board member explained they feel it is a restaurant. Also there was previous testimony that some of the employees park on Ocean Drive, which is unsafe. Mr. Halbruner explained the number of parking spaces includes the employees. He also explained they are proposing parking bumpers to help delineate the parking spaces.

Ms. Hansen explained she had a letter from the Chief of the Erma Fire Department, Warner Muller, that he finds this acceptable. The letter was marked into evidence.

Mr. Halbruner explained that all the uses on this property are desirable uses for the area. He explained that Lower Township Council changed the Zoning District to enhance these uses. He explained that the applicant can't afford to lose even one of the uses.

Mr. Halbruner explained the applicant's property does not front on Ocean Drive. He explained there is an easement to their property. He explained they don't own this property, but would be happy to help pay toward the paving.

Mr. Corrado asked to see the letter from Mr. Muller. He asked if it was submitted to the Bureau of Fire Safety? The Board explained they haven't gotten to that yet. They explained there is an order in which the meeting is conducted.

Mr. Curvan summarized Engineer comments dated January 15, 2014.

Mr. Galestok explained Cape May County Planning Board comments dated March 25, 2013 and Bureau of Fire Safety comments dated March 12, 2013 were previously read into the record.

Mr. Galestok explained the revised plan was not submitted to the Bureau of Fire Safety as per the Fire Official.

Mr. Dwyer explained he doesn't think the revised plan was submitted to the County either. Mr. Corrado asked why the revised plan wasn't submitted to the Fire Bureau? Mr. Dwyer explained they were in such a rush to submit the revised plan, they forgot to submit the County and Fire Safety. He said there was no intent to not submit they just forgot.

Mr. Corrado asked Mr. Halbruner if the fuel tanks on top of the walk-in refrigeration

were a fire hazard? He explained that he doesn't know the fire codes, but would think it was okay.

Mr. Halbruner explained there are 10 picnic tables that are not shown on the plan. He showed on the plan where they would be located.

Mr. Halbruner explained the semi-circle is to remain as it. He explained that a fire truck cannot turn around on site nor could a semi-tractor trailer.

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

Mr. Murphy explained that he reviewed the revised plan. He explained the changes to the plan do not remedy anything. He explained relocating the fuel tanks on top of the freezers is a hazard. He explained the plan doesn't show the doors and how they swing. He explained parking bumpers could be moved. He explained he doesn't know how the tanks would be fueled or how boats would be fueled with the location of the tanks. He explained that as for the letter from the Fire Chief, he doesn't know what plans were reviewed. He explained he feels there is insufficient parking even with the staggered time for the uses. He explained there is a lack of detail on the plan. He explained no lights are shown and they testified that crabs were sold until midnight.

Mr. Dwyer asked Mr. Murphy if the site plan requirements require a fire truck be able to turn around on site? Mr. Murphy explained he is not aware of that requirement.

Ms. Hansen explained they will close the kayak business at 3:00 P.M. She explained the food starts at 12:00 P.M. She explained they would like to leave two of the parking bumpers out for the fork lift.

The Board explained most deliveries are in the morning. They expressed they don't feel there is sufficient parking for all the uses. They explained they don't feel the site is large enough for all the uses. Ms. Hansen explained the kayaks, crabs and bait & tackle where there. She explained that if the Board wants them to black top, they would.

Mr. Halbruner explained they could offer installing 4 x 4 or 6 x 6 ties to delineate the parking, but would be reluctant to do so for the tripping hazard.

Chairman Dilworth called for a short recess at 8:45 P.M. The meeting was called back to order at 9:04 P.M.

Mr. Dwyer explained they would have some paving to delineate the parking. He explained they would stop the kayaking at 12:00 P.M. The food starts are 12:00 P.M. so there would be no overlap with the kayaking. He explained his clients would be willing to eliminate the boat slips after this season. He explained they have commitments for the season with the slips.

A Board member explained they would like to see a turn around for any vehicle. Also, they didn't accept the time of day uses for parking.

Mr. Dwyer explained there are many sites in the Township where a fire truck can't turn around.

Mr. Dwyer explained that he would like to continue the application to revise the plan. Mr. Corrado explained that the application has been going on for long enough. He explained the Board either deny the application or the applicant should withdraw the application and submit a new application. Mr. Teitler explained he doesn't feel there is a difference if the application is continued, tabled or withdrawn. Mr. Corrado explained that if the application is continued or withdrawn by the applicant, they shouldn't be able to continue to operate the businesses. A Board member explained there was previous testimony that the objectors didn't want to shut down the applicant, but that's not what they're hearing tonight. He explained the applicant has worked with the Board and doesn't think it is fair to put that burden on the Board.

It was asked of the applicant what business is being operating currently? Mr. Dwyer explained they are only operating the commercial fishing now.

Mr. Teitler explained the application has been going on for a long time. He explained that if the Board does grant a continuance, this should be the last one.

Mr. Corrado explained he would like Mr. Perry, the Fire Official, to discuss the process of submitting the application.

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

Mr. Perry explained there is a Township Ordinance from 1991 that requires all site plan and subdivision applications be submitted to his office for review. He explained that his office represents the fire districts.

He explained that if a Fire Chief wrote a letter, it's on his own and not through the fire commissioners.

The Board explained they were not opposed to a continuance, but this would be the last one.

Chairman Dilworth made an announcement that the application would be continued until the February 20, 2014 meeting.

Mr. St. John made a motion to adjourn at 9:37 P.M. The motion was seconded by Mr. Long. 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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