

# 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 May 15, 2014 at the Lower Township Municipal Building. The meeting was called to order at 7:04 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)  
Norris Clark  
Daniel J. Senico  
Paul St. John  
Brian Sullivan  
John McNulty  
Chris McDuell  
Fred Long

MEMBERS EXCUSED: Charles Hewitt, Jr.  
Michael Beck

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

CORRESPONDENCE:

Handouts:

List of Board Solicitor voucher dated April 15, 2014.

List of Board Engineer voucher dated May 15, 2014.

List of Hatch Mott MacDonald voucher dated May 15, 2014.

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

1. Discussion of general re-examination of the Master Plan, April 14, 2011, R-4 District, page 9, "Most of the land area west of Park Blvd. is environmentally sensitive and should be re-zoned to Conservation." Discussion of removal of this language from the Master Plan. Re-examination Report.

Mr. Galestok explained he was contacted by the Township Solicitor regarding the section of the Master Plan pertaining to the R-4 Zoning District. They have asked that a recommendation be made to remove that wording from the Master Plan.

There was a discussion that if the area in Diamond Beach was rezoned to Conservation, it could result in an inverse condemnation lawsuit that could cost the Township millions.

There was a discussion as to whether a recommendation could be undone. Mr. Galestok read the section from the Master Plan and it states 'should be considered'. Mr. Teitler explained it is Township Council's job to actually make the change. It was explained that the Township Solicitor has asked for the removal of the language.

There was a discussion with a previous lawsuit in which some wetlands were being filled. The owner was fined and had to restore the wetlands.

Mr. Galestok explained the Township Solicitor had asked him to contact the DEP. He explained he did and found out the Army Corp. of Engineers and DEP has jurisdiction and would fight to have the area restored and the person would be fined.

There was a discussion regarding the stormwater standards and it was adopted by DEP.

Mr. St. John made a motion to recommend the language be removed from the Master Plan. The motion was seconded by Mr. Sullivan.

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

Motion carried.

3. Minor subdivision application for the creation of two (2) newly described lots, submitted by Nickolay Iliev for the location known as Block 44, Lots 6-10, 612 East Jacksonville Avenue.

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

Mr. Nickolay Iliev, applicant, and Mr. Gary Thomas, Licensed Land Surveyor, were sworn in by Chairman Dilworth.

Mr. Thomas explained there is one lot that Mr. Iliev would like to divide into two conforming lots. He explained there is an existing single family dwelling on the lot that encroaches into the front yard setback which is a pre-existing condition. He explained that aside from the existing encroachment, there are no variances needed.

Mr. Maffei read Engineer comments dated May 6, 2014.

Mr. Galestok read Bureau of Fire Safety comments dated April 1, 2014.

Mr. Galestok read Cape May County Planning Board comments dated April 24, 2014.

Mr. Galestok explained the two proposed lots exceeded the required lot area requirement.

Mr. Iliev explained what is proposed is consistent with the area.

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 the existing concrete pad would have to be removed prior to filing the plat or a bond would be required. Mr. Iliev explained he was willing to post a bond. It was determined that a \$1,000.00 bond would be required.

Mr. McDuell made a motion to conditionally approve this application. The motion was seconded by Mr. Walker. Motion carried.

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

5. Minor subdivision & hardship variance application for the creation of three (3) newly described lots. Hardship variances needed for lot area, frontage & width, submitted by Scott Peter for the location known as Block 535, Lots 36-42, 2, 2A & 4 Racetrack Drive.

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

Mr. Barnes explained the property is located in the R-3 with sewer zone. He explained they would like to create three single family dwelling lots. He explained hardship variances are needed for lot area, frontage, width & depth. He explained the lots would be 46 x 98. He explained they are not asking for any other variances. He explained there are currently three lots in separate ownership.

Mr. Peter explained the property is 144' wide by 96' deep. He explained there are three separate owners. He explained he has observed the area and there are a lot of undersized lots in the area.

The Board asked Mr. Peter if he is the owner of the property? Mr. Peter explained he is not. The Board explained the records show the property was purchased. Mr. Peter explained they were supposed to go to settlement several months ago, but he didn't until he had approval from the Board. The Board explained there are a lot of lots larger than this in the area. They explained they don't feel what is proposed is conforming to the area. Mr. Peter explained there is a 40' lot across the street. He explained this is a beach community and what is being proposed would fit. The Board explained two lots could be proposed that would still be less than the requirements, but would fit into the neighborhood more. Mr. Peter explained it wouldn't be financially worth it for two lots.

Mr. Galestok explained that according to the agreement of sale it is an LLC. He explained the other deeds would have to be looked at to see if there was a merger. He suggested a title search be done to see chain of title.

Mr. Peter explained 46' lots would not hurt the neighborhood. He explained this area is in dire need of something.

Mr. Noon marked into evidence a tax map page showing the undersized lots in the area which he reviewed with the Board. He explained in a five-block radius there are 18-40' lots.

Mr. Peter explained there has been no new construction on this block. He explained he has built on 40' lots before. He explained what is proposed wouldn't look out of place. Submitted into evidence was an elevation drawing of the proposed houses. Submitted into evidence were photos of houses he has constructed on 55' lots and under. He explained he feels this would be great for the community.

Mr. Noon explained this would have a positive effect on the area. He feels the variances can be granted without substantial detriment to the zone, zone plan and area. He explained what

is proposed is suited for the neighborhood. He explained he has no problem with Mr. Maffei's comment letter.

The Board asked Mr. Peter if he was aware of any subdivisions of 50' or less in the area? Mr. Peter explained he knows of one subdivision of 60' lots.

The Board again asked about doing two lots? Mr. Peter explained he didn't know if it was financially worth it with just two lots.

Mr. Maffei read Engineer comments dated May 6, 2014.

Mr. Galestok explained he didn't have any Bureau of Fire Safety or Cape May County Planning Board comments. Mr. Barnes explained they did submit to the Bureau of Fire Safety, but they wait until the outcome of this application before they submit to the County Planning Board.

This portion of the hearing was opened to the public.

Ms. Eileen Armato, from Wildwood, was sworn in by Chairman Dilworth.

Ms. Armato explained Mr. Peter built her home on a 30' lot and she is very happy with the house.

Ms. Barbara Colgan was sworn in by Chairman Dilworth.

Ms. Colgan explained she lives on Adelpia Road and her property is 100' wide. She explained the property next to her is also 100' wide. She explained that the 40' wide lots in the area are grandfathered. She explained they have been handed down through generations.

Ms. Becky Chamberlain was sworn in by Chairman Dilworth.

Ms. Chamberlain explained she owns property on Shore Drive that is 40 x 94. She explained the extra 6 ½' makes a difference. She explained that everyone wants to be near the water. She explained what is proposed is good for the area.

Mr. Charles Foulkrod was sworn in by Chairman Dilworth.

Mr. Foulkrod explained he owns the property next to this one. He explained he has lived there for more than 60 years and it hurt him by Mr. Peter saying the area is in need of helping. He explained he likes the privacy of the area. Also, the personality of the area. He feels that if this were approved, it would set a precedent in the whole area. He explained he has no problem with two houses, but not three. He explained his understanding was this entire property was owned by an attorney from North Jersey.

Ms. Rose Rallo was sworn in by Chairman Dilworth.

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Ms. Rallo explained she likes the idea of new development of three houses.

Mr. Robert McShaffry was sworn in by Chairman Dilworth.

Mr. McShaffry explained his parents lived in the area. He explained that Mr. Peter builds nice houses and feels it would be an improvement to the area.

Mr. Will Sadowniczak was sworn in by Chairman Dilworth.

Mr. Sadowniczak explained he lives on Hughes Avenue. He explained he walks dog in the area and the area could use some freshening up. He explained he feels what is proposed is a good idea.

Mr. Jim Katz was sworn in by Chairman Dilworth.

Mr. Katz explained he feels what is proposed is a great idea.

Mr. Irvin Shoemaker was sworn in by Chairman Dilworth.

Mr. Shoemaker explained he lives directly across the street. He explained all the property he owns there. He explained in 2005 he came before the Board for a two-lot subdivision. He explained he withdrew the application because of all the negativity from the neighborhood. He explained that he thinks what is proposed is a great idea. He explained that if this application is approved, he will have a bulldozer at his property and be coming before the Board. He explained that he could have a least nine house on his property.

This portion of the hearing was closed to the public.

The Board discussed that two lots may not work for Mr. Peter, but it could for someone. They explained if this were approved, it could start an avalanche.

Mr. Barnes explained it is obvious the neighbors do not like the proposed density, so his client would like to amend the application for two equally sized lots.

The application was continued until the June 19, 2014 meeting. No new notice would be required.

4. Amended site plan & hardship variance application to close driveway between the subject property and Lot 11.01 as per Court Order & delineate 29 on-site parking spaces, to create an outdoor storage area. Hardship variance needed for landscape buffer - State Highway right-of-way and to adjoining property, submitted by C & J, LLC & Ware Partnership for the location known as Block 793, Lot 11.02, 795 Route 109.

Mr. Teitler explained the Judge has ruled at this time that he doesn't think the Board has jurisdiction to hear the application at this time. He explained that it may be heard at next months meeting.

An announcement was made that this application was continued until the June 19, 2014 meeting and no new notice would be required.

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

Mr. St. John made a motion to approve Board Engineer & Hatch Mott MacDonald vouchers. The motion was seconded by Mr. McNulty. Motion carried.

Mr. St. John made a motion to adjourn at 8:39 P.M. The motion was seconded by Mr. McDuell. 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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