

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 June 21, 2012 at the Lower Township Municipal Building. The meeting was called to order at 7:00 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
John McNulty
Chris McDuell

MEMBERS EXCUSED: Charles Hewitt, Jr.
Michael Beck
Kevin Lare
Brian Sullivan
Frank Zeigler

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

CORRESPONDENCE:Handout:

List of Board Engineer vouchers dated June 21, 2012.

Email:

FROM: Claudia Kammer
TO: William Galestok
DATE: May 23, 2012
RE: Neimann Property - Block 499, Lots 3 & 31

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 & side yard setbacks, submitted by Commercial Services, Inc., for the location known as Block 410.17, Lots 1 & 4, 1640 Star Avenue.

Mr. Timothy Dwyer, Esq., represented the applicant.

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

Mr. Dwyer explained they are seeking a two-lot subdivision. He explained that proposed Lot 1 would require variances for lot area, frontage, width and side yard setback. He explained proposed Lot 4 would require variances for lot area, frontage and width. He explained that this property was never intended to be one lot. He explained that it is an "L" shaped lot, but the previous owner consolidated the lots for tax purposes. He explained the total lot area is 12,350 square feet.

Mr. Sweeney explained he did an analysis of the neighborhood and 80% of the lots are 50 x 100. He explained that the land in the area was owned by Bowman Builders. He explained when it was subdivided the requirement was 50 x 100.

The analysis was submitted into evidence.

Mr. Sweeney explained this application would advance zoning and if denied would be a

hardship to the owner.

Mr. Thornton summarized Engineer comments dated June 15, 2012.

The Board asked if city water and sewer were available? Mr. Dera explained both were available.

Mr. Galestok read Cape May County Planning Board comments dated May 25, 2012 in which they waived this application.

Mr. Galestok read Bureau of Fire Safety comments dated May 3, 2012 in which they found the application acceptable.

This portion of the hearing was opened to the public.

Mr. Michael Kowski was sworn in by Chairman Dilworth.

Mr. Kowski explained he did not believe the lot sizes in the area are what Mr. Sweeney stated.

Mr. Kowski explained if the Ordinance requires a certain size, it should be kept to that size. The Board explained that when the area was built, it was conforming to the area. He explained that if this is allowed, it would be an eyesore if a house is allowed to be built. The Board explained that as a neighborhood, they could purchase it for open space.

Mr. Chris Farnsworth and Ms. Diane Pelli were sworn in by Chairman Dilworth.

Ms. Pelli explained she owns the lot next door and it would be a hardship to them if a house was built. She explained that when she purchased her house, she was told the lot couldn't be built upon. She explained that she has concerns with drainage and that the property values would decrease.

Mr. Farnsworth explained the Ordinance requires 75 x 100 and not 50 x 100. He explained they do not want what is proposed. The Board asked what size property they had? Mr. Farnsworth explained theirs was a 50 x 100 lot.

Mr. Farnsworth and Ms. Pelli explained they did not want a house close to their property. There was a discussion about switching the side yard setback to having a ten-foot setback on their side.

Ms. Pelli asked Mr. Dera what he was planning on building? Mr. Dera explained he would to a rancher style house.

Ms. Rosemary Ruffing was sworn in by Chairman Dilworth.

Ms. Ruffing explained she was against the application. She explained that it would devalue her property. She explained that the existing house was fixed up and it looks very nice, but didn't see a building permit. She explained that she is against this application because it would be a hardship to her if approved.

Mr. Francis Hennessy was sworn in by Chairman Dilworth.

Mr. Hennessy explained that when the area was first built, the allowed building size was 50 x 100. He explained that it has since changed to 75 x 100 so there must have been reasons why the lot sizes were increased. He explained that if the rule is 75 x 100 to build, then that is what should be required.

Mr. Bob Donahue was sworn in by Chairman Dilworth.

Mr. Donahue explained his girlfriend owns property in the area and she asked him to come speak for her because she had surgery and was unable to attend the meeting.

Mr. Donahue explained that his girlfriend had the same concerns as everyone else. He explained that she doesn't want the lot developed.

Mr. Mike Mahon was sworn in by Chairman Dilworth.

Mr. Mahon explained that 50 x 100 lots are not uncommon. He asked why the lot size was increased. He explained that it is hard to see a lot developed, but the owner has a right to develop his property.

Mr. Sweeney explained that the lot size requirement was increased to control population. He explained sewer lines were installed 1970's.

Ms. Pelli explained Wilde Avenue has well water. Mr. Dera explained that there is city water, but if not he wouldn't build. Mr. Galestok explained water and sewer availability are not within the Board jurisdiction. The Board cannot base a decision on whether there is water and sewer availability.

Mr. William Cordes was sworn in by Chairman Dilworth.

Mr. Cordes explained city water is not down Wilde Avenue.

Mr. Dera explained the house on Star Avenue has city water. He explained that he wouldn't build if he couldn't get water.

Ms. Ruffing explained that drainage is an issue. She explained that they get white water and it floods.

Mr. Kowski explained that if the new house was to have city water, it would have to be

provided through the street and not through an easement.

Mr. Galestok asked if a condition was going to be imposed based on something that is not within the Board jurisdiction? Mr. Teitler explained the Board cannot condition water availability. He explained the Board does not have jurisdiction to impose this condition.

Mr. Teitler explained to the Board that the Board has to consider if the proposed lot is conforming to the area. He explained the Municipal Land Use likes to have same to similar lot sizes in an area.

Mr. Dwyer explained most of the interior lots in this area are the same size. He explained the corner lots are bigger. He explained that at one time, this had existed as two lots until a previous owner consolidated them to lower their taxes.

Ms. Ruffing explained that she is against this application. She explained that this is something that she would have to look at.

This section of the meeting was closed to the public.

Mr. Dwyer explained it would be up to the Township to address a drainage issue.

Mr. Dera explained that prior to him purchasing the property, there were violations for overgrown lot. He explained that he has cleaned up the property.

Mr. Avery explained to the Board that the applicant has applied for a hardship variance, and read the section of the MLUL for the C.1 criteria.

Mr. Dwyer explained they are also seeking approval for the C.2 variance. He read the section pertaining to C.2 from the MLUL.

Mr. Teitler explained they can seek approval for both the C.1 and C.2.

Mr. McDuell made a motion to conditionally approve the hardship variance application. The motion was seconded by Mr. Walker.

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

Motion carried.

Mr. St. John made a motion to conditionally approve the minor subdivision application. The motion was seconded by Mr. McNulty.

VOTE:	Mr. Walker	YES	Mr. McNulty	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. McDuell	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. Discussion of outdoor wood furnace installations; permitted zones, setbacks, minimum lot area, etc. request being made by Township Council for Planning Board review.

Mr. Galestok gave the Board the minutes from the Environmental Commission meeting and 'Areas of concerns that need to be addressed' that was also supplied by the Commission.

Mr. Galestok read the consensus and non-consensus items.

Mr. Maurice Hight, from the Environmental Commission, explained to the Board that this was talked about at two different meetings. He explained the consensus with the Commission is they don't want a ban on outdoor wood boilers, but there should be regulations.

Mr. Hight explained he spoke with the DEP. He explained that enforcement would be an issue that would have to be worked out. He explained there is equipment that could be added to help with smoke.

Mr. Michael Mahon explained he did some research after the last meeting when it was said that the State of Vermont has banned outdoor wood furnaces. He explained that is not the case. He explained they have an Ordinance with regulations. He explained the setback there is 100 feet.

There was a discussion that in general these are a problem. It was discussed that there isn't the ability to approach this from a scientific manner. Weather conditions are also a factor.

The Board asked Mr. Hight if the Commission contacted the Board of Health? Mr. Hight explained they did not contact them.

Mr. John Meade explained the DEP has a publication that the smoke from an outdoor wood furnace is more toxic and less tolerable than fireplaces and camp fires. He explained that his neighbor has installed a catalytic converter to his stack. He explained this has reduced smoke. He explained an Ordinance should be established that protects the residents of the Township.

Mr. Pawel Banach explained he has installed a converter and the unit burns cleaner. He explained that he has changed the whole unit. He explained that if this were attached to the back

of his house, no one would know he had it.

Mr. George Doherty explained he is against them. He explained the ban should have stayed in place until regulations were determined. He feels if there was a 200' setback, it would be less likely to be installed.

Mr. John Fleming explained there are articles and findings throughout the Country that speak to the deterrent of outdoor wood furnaces to people. He explained that if approved, the location of wood storage should be addressed. He explained the one on Andrielle Lane has wood laying all over the place. He explained that maybe the Bureau of Fire Safety could be involved in some way. He explained maybe they could perform yearly inspections. He explained this may be not the answer, but it is something to think about.

Mr. Doherty explained that he feels if one is going to be installed, the neighbor's should be notified.

Mr. Mahon explained open fires are not permitted, except with campfires in campgrounds and residential chimineas. He explained that outdoor wood furnaces should not be banned.

Mr. Hight explained the paperwork that was attached to the Environmental Commission minutes does mention something about the American Lung Association.

Mr. Doug Schultz explained that you can tell every time it is lit. He explained that a 200-foot setback is not enough.

Mr. Galestok explained weather is a factor. He explained they should not be permitted in the R-3 zone. It should be seasonal use only. He explained that maybe Council can contact the Health Department, DEP and legislators to have them look into outdoor wood furnaces.

The Board discussed that maybe for the time being have a variance process. There was a discussion their recommendation was to ban them and if someone wanted one, they could have gone for the variance. They discussed that they don't feel they are qualified to make a decision.

Mr. St. John made a motion to forward the consensus items to Township Council. The motion was seconded by Mr. McNulty. Motion carried.

2. Discussion of the purchase of Block 499.01, Lots 3 & 31, Mimosa Drive, North Cape May, for County Open Space/recreation.

Mr. Galestok explained that Mr. Neimann had a four-lot subdivision off of Sunnyside Drive. He explained that there are a lot of wetlands on the property.

There was a discussion that they only way the County will purchase this property is if the Township maintains it.

Mr. Hight explained the Environmental Commission discussed this and they are not in favor of the purchase because there is very little space to have recreation because of the wetlands. He explained they feel it would become a hangout. He explained that some infrastructure has already been installed that would have to be removed at the Township's expense. He explained that they have spoken with some of the neighbors and they are not interested in having a park on this property.

Mr. McDuell made a motion to not recommend the purchase of Block 499.01, Lots 3 & 31 to Township Council. The motion was seconded by Mr. St. John. Motion carried.

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

Mr. St. John made a motion to approve the minutes from the May 17, 2012 meeting. The motion was seconded by Mr. McNulty. Motion carried.

Mr. Galestok read Resolution 2012-20 to enter into Closed Session.

Mr. St. John made a motion to approve Resolution 2012-20 and enter into Closed Session. The motion was seconded by Mr. McDuell.

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

Motion carried.

The meeting was adjourned at 9:38 P.M. to enter into Closed Session.

The meeting was called back to order at 9:44 P.M.

Mr. Senico made a motion to adjourn at 9:44 P.M. The motion was seconded by Mr. Walker. 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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