

# TOWNSHIP OF LOWER

2600 Bayshore Road  
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 July 20, 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  
Chris McDuell  
Michael Rosenberg (Mayor's Designee)  
Daniel J. Senico  
Andrew Bulakowski

MEMBERS EXCUSED: Erik Simonsen  
Jennifer Dowe  
Brian Sullivan  
Frank Sippel  
Christopher Vassar

MEMBERS ABSENT: John McNulty

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 Engineer vouchers dated July 20, 2017.

The New Jersey Planner: May/June 2017 - Vol. 78, No. 3.

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

1. Minor site plan & hardship variance application 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. Talvacchia explained the zone prohibits outdoor displays unless it is associated with a garden center. He explained there is a roof over the area in which the outdoor displays would be located. He explained in the Ordinance the definition of building is any structure having a roof.

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

Marked into evidence was Mr. Conley's resume as A-1. A-2 was a goggle earth aerial photo from last year.

Mr. Talvacchia and Mr. Conley explained that if the Board approves this application, it applies to the Acme store only. This is not for the other stores in the mall and if they want additional signs or outdoor storage, they would have to apply to the Board for it.

Mr. Conley explained the site is surrounded by landscaping. He explained behind the mall is a wooded lot that under the CAFRA permit is environmentally sensitive and has tiger salamanders. He explained the site is approximately 42 acres.

Mr. Conley explained where the entrances to the mall are located.

Mr. Conley explained the area on either side of the doors is an open roofed area. He explained this would be the area for the outdoor displays. He read the definition of building and structure from the Land Development Ordinance, Section 400-8.

Mr. Conley read section 400-17E(3) from the Land Development Ordinance, pertaining to outdoor displays. He explained he doesn't feel this is an outdoor display because it is under a roofed area.

Mr. Conley explained he feels what is proposed advances zoning and promotes good civil design.

Mr. Conley explained garden centers have grown over the years at different establishments.

Submitted into evidence as A-3 was a book of photos taken by Mr. Conley.

Mr. Christopher Baylinson, Esq., for the objector was present for this application.

Mr. Baylinson objected to the photo book.

Mr. Conley reviewed the photos with the Board.

Mr. Conley explained there is ample turnaround area outside the doors with the outdoor display area.

Mr. Conley explained on the front of the building the two liquor signs, the Acme, pharmacy and Sav-on signs are to remain.

Mr. Conley described the traffic flow. He explained when you come in off of Bayshore Road, there isn't a building sign on the side. He explained there is a lack of visibility for the mall. He explained there is a need for additional signage. He explained the proposed signs would not be visible to the neighbors except for to the rear of McDonald's parking lot.

There was a discussion the proposed building sign is a banner type. Mr. Talvacchia explained they could make the sign permanent if the Board would like.

There was a discussion that there is a free standing sign on Bayshore Road and on Ferry Road.

Mr. Carr summarized Engineer comments dated May 4, 2017.

Mr. Talvacchia explained there is a Court Order for the right to purchase.

Mr. Talvacchia explained the outdoor displays will be seasonal.

This portion of the hearing was opened to the public.

Ms. Gloria Pizza was sworn in.

Ms. Pizza explained she is the owner of the gym. She explained she thinks the signs should be fair for all the tenants. Ms. Pizza was shown the picture where there are signs out in the parking area advertizing her business. Mr. Talvacchia explained they could have additional signage added to the side of the building for all the tenants.

Ms. Pizza explained she doesn't feel there is enough room with the outdoor displays.

Mrs. Penny Becica-Kraus was sworn in.

Mrs. Becica-Kraus explained she has been a resident of the Township since 1990. She explained Acme has had the outdoor displays for as long as she can remember. She explained that she recently had surgery where she was in a wheelchair and then a walker and had no problems maneuvering in the area of the doors and outdoor displays. She explained she is in favor of the outdoor displays.

Ms. Kathy Reeves was sworn in.

Ms. Reeves explained she is in favor of the outdoor displays. She explained she doesn't think there is an obstruction.

Mr. Baylinson explained he wanted to clarify that Bayshore Mall owns the building. Mr. Talvacchia explained the Acme paid to have the building built and they have a 99-year lease.

Mr. Baylinson asked Mr. Conley if the displays were temporary and if the palettes were taken in at night? Mr. Conley explained the displays are changed seasonally and the palettes are not taken in at night.

Mr. Baylinson submitted into evidence three photos of the outdoor displays. Mr. Conley explained a couple of the pictures do show the displays go passed the roof overhang.

Mr. Talvacchia and Mr. Conley explained the additional signs do advertize products.

Mr. Talvacchia explained they would withdraw sign #2 and sign #6. He explained they would keep sign #5 and the side building mounted sign.

Mr. Baylinson asked how much distance there would be between the building columns and carts? Mr. Conley explained there would be six feet.

Mr. Richard Carter, PE, PP, was sworn in.

Mr. Carter explained he reviewed the original plan and worked as the Township Engineer and Board Engineer from 1991 to 1996. Mr. Teitler questioned Mr. Carter.

Mr. Carter explained the Board has to decide if they want banner signs. He explained banner signs are not advertizing the business but products.

Mr. Carter explained there should be a plan for what would be sold at the outdoor displays. Explaining there may be a need for a sprinkler system.

Mr. Talvacchia explained the application and plan was reviewed by the Bureau of Fire Safety, Cape May County Planning Board and the Board Engineer and they didn't have an issue with what is sold. He explained they don't have a problem presenting a plan to Bureau of Fire Safety and the Building department and if they say it has to be sprinklered, they will.

Mr. Scott Homel, principal of Bayshore Mall was sworn in.

Mr. Homel explained he is trying to control the center with the amount of signs. He explained he doesn't think it is in the best interest of the mall to have outdoor displays.

Mr. Galestok explained at the original approval and in the resolution the mall owner was to regulate the signs. He read a section from resolution #89-18. He explained a flexible sign criteria was approved.

There was a discussion about whether Acme owns their building. Mr. Talvacchia explained it was in the title when it was purchased. Mr. Baylinson explained there was a prepaid lease and there is no subdivision yet. Mr. Talvacchia explained it is the intent of Acme to purchase.

Mr. Talvacchia explained they would withdraw sign #2 & #6. He explained there would be no banner signs. He explained they would have the area for tenants, but they would have to make application before the Board for the sign. He explained the outdoor display would be limited to the pillar and not beyond and the walkway would be maintained to ADA requirements.

Mr. Talvacchia explained they will withdraw the site plan portion of the application until they have a specific design.

Mr. Bulakowski made a motion to conditionally approve the additional signs and outdoor display. The motion was seconded by Mr. Young.

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

Motion denied.

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

Mr. Talvacchia requested there be a re-vote, explaining he had requested a separate vote for the signs and outdoor display.

There was a discussion regarding this request. Mr. Talvacchia explained there is case law that would allow a re-vote. Mr. Baylinson explained there was no case law to allow this. Mr. Teitler explained he would have to research this.

Chairman Crompton called for a short recess at 9:00 P.M. The meeting was called back to order at 9:10 P.M.

3. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots. Hardship variances needed for lot area, frontage & width, submitted by Michael DiStefano for the location known as Block 237, Lots 23-25, 28 & 30 France Avenue.

Mr. William Kaufmann, Esq., represented the applicant.

Mr. Kaufmann explained that the Board probably would not hear his client's application tonight due to the hour and there is another application before his client's. Therefore, he would like to continue the application until next month waiving time constraints.

An announcement was made the application would be continued to the August 17, 2017 meeting and there would be no new notice.

1. Minor site plan & hardship variance application 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. Teitler explained he researched case law and did not find anything that would allow for a reconsideration after the Board has voted. Mr. Talvacchia explained he had requested the Board take two separate votes.

There was a discussion regarding a rehearing or a new application for the outdoor storage. Mr. Baylinson objected to a rehearing. He explained the Board voted and there is nothing in the MLUL to allow for this. Mr. Teitler explained there is nothing in the MLUL for a reconsideration vote. He explained he doesn't know of an authority that would allow a re-vote. He explained the applicant could make another application.

Mr. Talvacchia explained he thinks the signs would have been approved.

2. 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 Scott Peter for the location known as Block 535, Lots 54-60, 14-16 Racetrack Drive.

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

Mr. Gelzunas explained the meeting was continued from last month to this month because a couple of addresses were no notices. He explained the Board allowed that only those two notices were required to be sent. He explained that they sent new notice everyone for this meeting.

Mr. Scott Peter, applicant and Mr. Hal Noon, Licensed Land Surveyor & PP, were sworn in.

Mr. Gelzunas had marked into evidence as A-1 a marked up a tax map page.

Mr. Noon explained the property is 140 x 90 irregular. He explained there is an existing house and shed on the lot. He explained the total lot area is 12,926 square feet with 140' along Racetrack Drive, 91' along Fairview Drive and 101' along the side line. He explained the area is developed. He explained he did an analysis of the immediate area. He explained there were 89 lots in his analysis, with 44 being undersized and 45 conforming. He explained what is proposed would fit in with the neighborhood. He explained the proposed house would meet the setback and lot coverage requirements.

Mr. Noon explained there would be more light, air and open space with the subdivision with two smaller houses than one big house. He explained the benefits outweigh the deterrents for the proposed two houses.

Mr. Gelzunas questioned Mr. Peter. Mr. Peter explained he has built in the area. He explained the houses he has built are approximately 2,200 square feet. He explained the proposed house for this property would be slightly smaller because the lot size would be smaller.

The Board asked if the existing house would be demolished? Mr. Peter explained it would be up to the neighborhood. He explained if the house remains, he would remodel it. If the house is demolished, the proposed house would be smaller. He explained he is proposing an approximately 2,000-2,100 square foot two story house. He explained he has no intension to max out the building coverage. He explained he would go on record for a certain square footage of the house.

Mr. Carr summarized Engineer comments dated May 31, 2017.

Mr. Galestok read Cape May County Planning Board comments dated November 16, 2016.

Mr. Galestok read Bureau of Fire Safety comments dated May 30, 2017.

Mr. Galestok explained that it is nice to offer a limit on a size house to be built, but recommends against it. Explaining it is hard to enforce if it's within what the Ordinance allows. There was a discussion about deed restricting the size. Again it was discussed this is hard to

enforce.

This portion of the hearing was opened to the public.

Mr. Mike Uhler was sworn in.

Mr. Uhler explained he purchased a house from Mr. Peter. He explained the house sits beautifully on the lot. He explained he would like to see revitalization of the Townbank area.

Mr. Richard Kraus was sworn in.

Mr. Kraus explained 49% of the lots in the area are undersized, but they were built under the old code where they could have been conforming. He explained both proposed lots would be undersized under the current code. He explained he is opposed to the subdivision and two houses. However, he is not opposed to one house. He explained what is proposed would add additional traffic and parking on the street and if approved, a firetruck probably would not be able to get down the street.

Mr. Jim Neville was sworn in.

Mr. Neville explained he has an "L" shaped lot that could possibly be developed. He explained it would be an undersized lot. He explained years ago a 40 x 100 lot was required to build on. He explained the houses then were what was called flop houses. He explained in the 1980's, the Planners did not want flop houses and the Ordinance was changed to a 75 x 100 lot to build a single family dwelling. He explained he was opposed to the proposed subdivision.

Mr. James Penzi was sworn in.

Mr. Penzi explained the other subdivision by Mr. Peter has produced four large houses that are not in line with the area. He explained all the trees were taken out and even though some have been replanted, how long will it take them to grow. He explained those new houses did not change Townbank for the better.

Ms. Nancy Cook was sworn in.

Ms. Cook read the definition of hardship variance that she googled. She explained what is proposed is not progress to the area.

Mr. Joe McMenamin was sworn in.

Mr. McMenamin explained he feels if this is approved, it will allow for more development and just pack the houses in and soon it will look like Wildwood.

Ms. Harriet O'Neill was sworn in.

Ms. O'Neill explained she doesn't like the big houses. She explained by allowing this, the quaintness of the area is being lost. She explained this is bringing crime and traffic to the area.

Ms. Sylvia Kisielewski was sworn in.

Ms. Kisielewski explained the applicant/builder has not reached out to anyone in the area. She explained she is opposed to this application.

Ms. Carol Stanton was sworn in.

Ms. Stanton explained she is opposed to this application.

Ms. Kathy Reeves was sworn in.

Ms. Reeves explained she is opposed to this application. She explained the houses will not fit into the neighborhood. She explained this will add more traffic to the area and a loss of parking for the neighbors. She explained even though there would be a driveway, only one car can fit in the driveway and the rest park on the street. She explained this is not harmonious to the neighborhood. She explained that 200-year-old trees have been taken down.

Mr. Ed Williamson was sworn in.

Mr. Williamson explained he lives on Beverly Road and has seen changes. Some good. Some bad. He explained good planning is to give space and create visually pleasing homes.

Ms. Kimberly Edwards was sworn in.

Ms. Edwards explained she doesn't live here, but is here as a guest. She explained that big houses do not fit in the area.

Mrs. Penny Becica-Kraus was sworn in.

Mrs. Becica-Kraus explained she hopes the Board hears the concerns of the neighbors and takes into consideration why the Planners changed the Ordinance in the 80's to 75 x 90.

This portion of the hearing was closed to the public.

Mr. Peter explained he realizes this is an old neighborhood. He explained he could build one big house. He explained he doesn't know about any crime happening in the neighborhood. He explained adequate parking has been provided with the new construction houses.

Mr. Gelzunas explained what is proposed is consistent with the area. He explained his client could build one large home that would not fit in the area. He explained people do not like change, but change is coming.

Mr. Peter explained his intent for these lots is to keep as many trees as possible. He explained there is no view of the bay from here. He explained the others he was trying to sell a house with a view and that's why he removed a lot of trees. He explained he would be acceptable to a condition of approval to keep as many existing trees as possible except those within the building envelope.

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

VOTE:	Mr. Young	YES	Mr. Rosenberg	YES
	Mr. McDuell	YES	Mr. Senico	YES
	Mr. Bulakowski	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. Senico made a motion to approve Board Engineer vouchers. The motion was seconded by Mr. Bulakowski. Motion carried.

Mr. Bulakowski made a motion to adjourn at 10:28 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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