

# TOWNSHIP OF LOWER

2600 Bayshore Road  
Villas, New Jersey 08251



Incorporated 1798

(609) 886-2005

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## LOWER TOWNSHIP PLANNING BOARD

A regularly scheduled meeting of the Lower Township Planning Board was held on August 20, 2015 at the Lower Township Municipal Building. The meeting was called to order at 7:01 P.M. by Vice-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: Vice-Chairman Jay Dilworth  
Johnnie Walker (Mayor's Designee)  
Daniel J. Senico  
Jay Young  
Robert Crompton

MEMBERS EXCUSED: Chris McDuell  
Michael Beck  
Brian Sullivan  
John McNulty

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

STAFF EXCUSED: Shawn Carr, Board Engineer

CORRESPONDENCE:Handouts:

List of Acting Board (MV Engineering) vouchers dated July 24, 2015.

List of Engineering Design Associates vouchers dated August 20, 2015.

List of Board Engineer vouchers dated August 20, 2015.

List of New Jersey Planner: May/June 2015, Vol. 76., No. 3.

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

1. Preliminary & final site plan & hardship variance applications for Phase I - to modify approved site plan for an existing marina and restaurant, to clarify the approved outside "service" bar and to add more seating and update the site plan approval to be consistent with as-built conditions regarding previous approval. Phase II - modification to dock configuration only. Hardship variances needed for more than one (1) enterprise sign and larger than permitted informational sign greater than two (2) sq. ft., submitted by Cape Harbor Enterprises, Inc., for the location known as Block 822.03, Lot 8, 954 Ocean Drive.

Mr. Frank Corrado, Esq., represented the applicant.

Mr. Corrado explained Mr. Mosley was at the site additional times since the last meeting.

Mr. Corrado explained at the previous meeting it was asked of the applicant whether there were building permits for service bar/kitchen. He had marked into evidence the building permits.

Mr. Nathan Mosley, PE, Traffic Engineer, was sworn in by Chairman Dilworth.

Mr. Mosley explained he has visited the site three additional times on July 25, 2015, July 31, 2015 and August 1, 2015 for 2 ½ hours each time. He explained on the 25<sup>th</sup> there were no attendants and there were 217 vehicles. On the 31<sup>st</sup> and 1<sup>st</sup>, there were parking attendants and cones. On the 31<sup>st</sup>, there were 215 vehicles and 196 vehicles on the 1<sup>st</sup>. He explained there was some overflow from the H & H Seafood site. Marked into evidence were eight photographs taken by Mr. Mosley which he reviewed with the Board.

Mr. Mosley explained he doesn't feel there is a need to pave and/or stripe the site. He explained he didn't see anyone not find a place to park. He explained the bait and tackle shop is complimentary & ancillary.

Mr. Dwyer questioned Mr. Mosley. Mr. Mosley explained he did not know the hours of operation for the bait and tackle.

The Board asked Mr. Mosley how a fire truck would get through to the building and/or dock. Explaining from the photos Mr. Mosley took, there would be no way for a fire truck to fit the way the cars are parked. Mr. Mosley explained a truck could access the area.

Mr. Peter Lomax, PP and Mr. Vincent Orlando, PE, were sworn in by Chairman Dilworth.

Mr. Lomax explained he reviewed the regulatory history of the Cape Harbor site along with past approvals and transcripts. He explained in 2000 the Board had approved the construction of a coffee shop, bulkhead and boat slips. He explained there are violations from the State on this property. Mr. Corrado objected to Mr. Lomax's testimony. Mr. Teitler agreed with Mr. Corrado. Mr. Dwyer disagreed with Mr. Teitler. He explained the 2005 approval was conditioned upon DEP approval, which has not been received. Mr. Teitler allowed Mr. Lomax to testify to the 2005 Planning Board approval. Mr. Lomax explained the difference in the 2005 approval is an increase of operation. He explained the bulkhead was moved and fill was added to create more upland for parking that was not approved by DEP and what is before the Board tonight. He explained this created upland is being used and calculated for the parking for this application.

The Board asked Mr. Lomax what would hypothetically happen if DEP disallowed something? Mr. Lomax explained the Board is making decisions based on the site today that wasn't this way before. The Board explained that if the DEP denies, the applicant would have to come back before the Board. Mr. Dwyer explained he understood that and just wanted on the record that basically what's there is illegal.

Mr. Corrado asked Mr. Orlando if he has ever worked for the Hansen's? Mr. Orlando explained he has not personally worked for the Hansen's, but his firm has.

Mr. Dwyer had submitted into evidence sheet 4 of 9 of the previous approval into evidence. Mr. Orlando explained the number of boat slips went from 154 to 197 slips, two fishing boats, a two-story coffee shop with conditions of landscaping, lighting, etc. He explained it went from the coffee shop to a restaurant with an indoor bar. Then in 2005 a Tiki bar with 50 tables and a service bar.

Submitted into evidence were aerial photos of the deck. Mr. Orlando explained the structure has doubled in size from the 2005 approval to now. He explained a 8 x 10 cooler area and 5 x 7 ice maker was also added to the deck that was not approved by the Board.

Mr. Orlando explained 232 parking spaces are required and 221 spaces are provided. He explained there are 120 seats in the restaurant and 211 seats on the deck. He explained the number of parking spaces is based on the number of seats.

Mr. Orlando explained from personal experience people don't park the way the plan shows. He explained there are spaces on the plan that are not of legal size. He explained the first nine parking spaces are not legal. He explained that in his opinion 34 spaces would have to be eliminated to have legal spaces.

Mr. Orlando explained there isn't enough turn around by the restaurant or bait & tackle shop.

Mr. Orlando explained no new lighting or landscaping is proposed. He explained they would like the Board to approve the present configuration. He explained they are asking the Board to allow him not to pave, but he feels paving is warranted to delineate the parking. He explained delineating the parking is the only way to have parking according to this plan.

Submitted into evidence were photos of parking area.

Mr. Orlando explained there are other restaurants in the area that have delineated parking. He explained this site does have charter boats and jet ski's. He also explained there are five boat slips that are not shown on the plan.

Mr. Lomax explained there were other inconsistencies with the 2005 plan and the current plan. He explained there is approximately 8,000 square foot of additional land that was filled. He explained the coverage in 2005 was 45.6% and now the coverage is 49.96%.

Mr. Orlando explained he doesn't believe the handicap parking complies and the plan would have to be revised. He explained waivers cannot be granted for parking. He explained this plan doesn't comply with ADA requirements.

Mr. Orlando explained there are two trash enclosures and one is not accessible or enclosed.

Mr. Orlando explained the drafting hydrant is to be relocated, but there's no indication on the plan where it will be relocated to. He explained there's a fuel dock, but no stand pipe.

Mr. Dwyer asked Mr. Orlando if there was anything in the Ordinance about self policing parking? Mr. Orlando explained there was not. There was a discussion the bar was set with the H & H Fisheries application when they had to pave their lot when parking was easily delineated on that site. There have been commercial uses that have clamshell or stone, but the parking area is delineated. Mr. Orlando explained Lobster House has clamshell, but there are also bumper stops to delineate the parking.

Submitted into evidence was a photo of unorganized parking on the Cape Harbor

property.

Mr. Orlando explained all the improvements from the previous approval that were to be installed were not. He feels this plan is incomplete and has no details and has to be modified. He explained it is unfair to the Board to act on a plan that is incomplete with a condition subject to Board Engineer's approval. He explained he feels the site should be asphalted.

The Board asked Mr. Thornton what he thought about the parking? Mr. Thornton explained they would recommend the parking be delineated. He explained in his opinion Mr. Orlando made some valid points.

Mr. Dwyer explained he disagrees that the Board could approve this application based on revised plans being sent to the Engineer for approval.

Mr. Orlando explained the handicap spaces to not meet the ADA size requirements. He explained to comply, there would have to be access to the deck and the drive aisle width would have to be reduced. He explained an ADA parking space must be 11' for a van.

Chairman Dilworth called for a short recess at 9:05 P.M. The meeting was called back to order at 9:19 P.M.

Mr. Corrado questioned Mr. Orlando. Mr. Orlando explained he was not a traffic engineer. He explained that the pictures depicted the conditions when taken. He explained the proper thing to do was to build according to what was approved. Mr. Corrado explained that's why his client is before the Board now to do the right thing. Mr. Orlando explained there is no seating plan for the deck or restaurant so he is unsure how the number of required parking spaces was determined. He explained transient boat slips are not considered a parking space, but were used for this application toward the parking. He explained parking cones and attendants are not enforceable and the parking should be delineated.

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. Brian Murhpy, PE, PP, was sworn in by Chairman Dilworth.

Mr. Murphy explained the lighting on site is adequate. He explained the present plan works for parking and the spaces are 9 x 18 and the drive aisle is 25' wide. He explained the building is sprinkler and a fire truck would not need to pull up close to the building and can use the standpipe. He explained the ADA parking spaces comply. He explained parking is not based on the building size, but on the number of seats and boat slips. He explained the landscaping on the previous plan was required by DEP and there is a pending application with them requesting no landscaping be required. He explained that parking cones and attendant's work.

The Board asked if Mill Creek marina has similar parking? Mr. Murphy explained he was not sure if 200 cars could be parked on the property and some of the areas are paved.

Mr. Galestok read Bureau of Fire Safety comments dated July 13, 2015.

Mr. Dwyer explained he had a lot of questions for Mr. Murphy and the time was 10:00 P.M. and knows the Boards policy on no new testimony after 10:00 P.M.

The meeting was adjourned until the September 17, 2015 meeting with no new notice being required.

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

Mr. Walker made a motion to approve MV Engineering and Engineering Design Associate vouchers. The motion was seconded by Mr. Crompton. Motion carried.

Mr. Crompton made a motion to approve the July 16, 2015 minutes. The motion was seconded by Mr. Young. Motion carried.

Mr. Walker made a motion to adjourn at 10:03 P.M. The motion was seconded by Mr. Senico. 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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