

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 October 18, 2012 at the Lower Township Municipal Building. The meeting was called to order at 7:01 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
Charles Hewitt, Jr.
Johnnie Walker (Mayor's Designee)
Daniel J. Senico
Paul St. John
Brian Sullivan
John McNulty
Chris McDuell
Frank Zeigler

MEMBERS EXCUSED: Michael Beck
Kevin Lare

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

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated October 15, 2012.

List of Board Engineer vouchers dated October 18, 2012.

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

1. Dune review & hardship variance applications to construct a single family dwelling encroaching into the front & side yard setbacks. Hardship variances for lot area, frontage & width was approved 8-16-07, submitted by Victorian Charm Development Company, LLC, for the location known as Block 319, Lot 1.04, 11 Beach Avenue.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicant.

Mr. Donald Ochs, applicant, Mr. William Sweeney, Licensed Land Surveyor and Mr. Peter Lomax, Environmental Planner & Design, were sworn in by Chairman Dilworth.

Mr. Dwyer explained to the Board that in 2007 the Board approved a dune review and hardship variances for lot area, frontage and width. He explained at the time, a front yard setback variance was requested, but the Board denied that and suggested the applicant get DEP approval first.

Mr. Dwyer submitted into evidence the approving resolution, photos of the site, tax map pages and resolutions of the properties on either side of this lot that approved front yard setback variances.

Mr. Dwyer explained the proposed house would be 24' from the paved road.

Mr. Dwyer explained the State denied the application. There was an appeal. Then the State said that because the applicant owns the property across the street to put a garage in this lot. He explained they were told that they would not put a garage on bayfront property and the Lower Township Ordinance does not allow garages on a lot without a house. He explained that then they requested the house be moved to the front property line. He submitted into evidence a draft of settlement with the State.

Mr. Dwyer explained the only way a house can be constructed on this lot is if it is on the front property line. He explained that the street dead ends and no one's view would be impacted. He explained the request is reasonable for this lot.

Mr. Sweeney explained there would be no impact to the zone or zone plan if approved. He explained what is proposed would be consistent with the neighborhood. He explained that even though they are requesting a zero front yard setback, the house would be 24 feet from the paved portion of the street.

Marked into evidence was Mr. Lomax's credentials.

Mr. Lomax explained that the process with the State has been ongoing since 2008. He explained they couldn't come to terms with the State. He explained that this lot is between two developed lots. He explained that whatever dune is there would be preserved. He explained they would be grading a sand berm, installing a dune/sand fence and planting native species to stabilize the dune. He explained that the State denied the request to allow a small front yard setback.

The Board asked if the applicant considered making the house smaller? Mr. Ochs explained the original proposal was for a larger house.

Chairman Dilworth called for a short recess at 7:25 P.M. The meeting was called back to order at 7:33 P.M.

Mr. Dwyer explained they would request the application be amended to a 24-foot deep house with a four-foot front yard setback.

The Board explained that with the original approval, it was mentioned to approach Township Council to try and acquire a portion of the right-of-way. They asked if this was done? Mr. Dwyer explained they did not because of DEP. The Board explained there is 20+ foot of right-of-way and that Council may vacate a portion or all to the applicant. Mr. Dwyer explained they would need the support of the neighbor's. He explained this would probably help everyone. The Board explained a condition of approval could be to attempt to acquire the right-of-way.

Mr. Thornton summarized Engineer's comments dated October 12, 2012.

There was a discussion that the plan of survey and the Engineer plan do not match. It was determined that the Engineer plan was correct.

Mr. Ochs submitted into evidence a floor plan of the proposed house. It was explained that it would be revised to a 24-foot deep house.

Mr. Galestok explained there were no Bureau of Fire Safety or Cape May County Planning Board comments.

This portion of the hearing was opened to the public.

Mr. Robert Marino was sworn in by Chairman Dilworth.

Mr. Marino explained he owns the house to the south of this lot. He explained he doesn't like the idea of a house right on the property line. He explained the right sized house wouldn't bother him. He explained he took pictures from different areas in his house and superimposed the proposed house and objects to the proposed location of the house. He explains what is proposed impacts curb appeal, it's a safety issue with the location of his driveway and he cannot see the neighborhood. He explained he would like to see a 1 ½ story house built. He explained property values would be affected by what is proposed.

Mr. Marino explained the plan does not show any decks and asked if there would be? Mr. Dwyer explained they cannot go any closer to the dune then what is proposed.

Mr. Jerry Hall was sworn in by Chairman Dilworth.

Mr. Hall submitted two photos of flooding in the area. He explained there is a storm drain, but under a house. The Board asked if he has approached the Governing Body regarding the flooding issue? Mr. Hall explained they are in the process with the Governing Body. Mr. Sweeney explained this is the lowest part of the street. He also explained this was the parking lot for the old Cloverdale Inn Restaurant.

Mr. John Kuzepski was sworn in by Chairman Dilworth.

Mr. Kuzepski explained he is speaking on behalf of his mother who is ill. He explained she is not happy with what is proposed. He read a letter from his mother. He explained that in 1931 there was a pavilion on the property. He explained that his mother was told that the lot was too small to build on except for the pavilion.

Ms. Edith Strimel was sworn in by Chairman Dilworth.

Ms. Strimel explained flooding is a concern in the neighborhood. She explained that she walks on the beach and uses the access. She explained there are a lot of ghost crabs and has watched them go on the applicant's lot. Mr. Lomax explained the ghost crab would continue to reside on the lot. He explained the neighbor's would still have full access to the beach. He explained the access to the beach is not on the applicant's property.

Ms. Bernadette Garretson was sworn in by Chairman Dilworth.

Ms. Garretson explained her concern is access to the beach. It was explained to her the access to the beach would remain. The beach access is not on this property.

Mr. Ray Richardson was sworn in by Chairman Dilworth.

Mr. Richardson explained there is a flooding problem. The Board explained what has been used as beach access is a 10' drainage easement. Mr. Richardson explained the easement is not 10 feet. He explained he is worried this access would be lost. The Board explained the access is not on this lot.

This portion of the hearing was closed to the public.

Mr. Dwyer explained what is proposed would not negatively impact the neighborhood. He explained they would have a drainage design done by an Engineer. The Board asked if the property would drain toward the street? Mr. Dwyer explained that they have to retain some of the drainage on this property. The Board explained that once a house is built there would be plantings around the house. Mr. Lomax explained the majority of the lot would not drain toward the street. He explained this lot is mostly sand and water would soak into the sand. Mr. Thornton asked if the Engineer's drawings were correct with the planting plan? It was explained that this is the plan that was sent to DEP and what is on the plan is expected to be planted.

Mr. Lomax explained a berm will be constructed across the bayfront side of the property. He explained there will be a dune fence and plantings to stabilize the dune.

The Board asked about architectural drawings. Mr. Dwyer explained they would come back before the Board with the plans.

There was a discussion about posting a Performance Bond.

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

VOTE:	Mr. Hewitt	NO	Mr. Walker	YES
	Mr. McNulty	NO	Mr. Senico	YES
	Mr. St. John	YES	Mr. Sullivan	YES
	Mr. McDuell	YES	Mr. Zeigler	NO
	Chairman Dilworth	NO		

Motion carried.

Mr. Hewitt made a motion to conditionally approve the dune review application. The motion was seconded by Mr. Senico.

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. McNulty	YES	Mr. Senico	YES
	Mr. St. John	YES	Mr. Sullivan	YES
	Mr. McDuell	YES	Mr. Zeigler	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.

2. Minor site plan application for a brewery production facility and tasting room, submitted by Cape May Brewing, LLC, for the location known as Block 410.01, Lot 36.12, 1288 Hornet Road.

Mr. Louis C. Dwyer, Jr., Esq., represented the applicant.

Mr. Ryan Krill, applicant and Mr. John Halbruner, PE and Licensed Architect, were sworn in by Chairman Dilworth.

Mr. Krill explained they would like to expand their business. He explained they have acquired more space from the DRBA. He explained that they would like to do tours and tasting. He explained the tasting room would allow people to sample four four-ounces of product. He explained one could purchase a case of beer, a six pack or a keg. He explained they are not a bar. He explained they do sell to local restaurants and public.

Mr. Halbruner explained the brewing is within an existing building. He explained there would be no site improvements except installing a handicap parking space.

Mr. Galestok read Bureau of Fire Safety comments dated October 2, 2012 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated October 17, 2012 in which they approved this application.

Mr. Galestok explained there is a remote parking area for overflow parking.

There was a discussion regarding hours of operation. Mr. Dwyer explained they would like daylight hours. He explained there would not be nighttime hours. Mr. Krill explained they would like to be open until 8:00 P.M.

Mr. St. John 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 scheduled meeting.

Mr. Hewitt made a motion to approve the Board Engineer and Board Solicitor vouchers. The motion was seconded by Mr. McNulty. Motion carried.

Mr. St. John made a motion to approve the Resolution from the September 20, 2012 meeting. The motion was seconded by Mr. Hewitt. Motion carried.

Mr. Hewitt made a motion to adjourn at 8:51 P.M. The motion was seconded by Mr. Sullivan. 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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