

# 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 October 20, 2011 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  
Charles Hewitt, Jr.  
Johnnie Walker (Mayor's Designee)  
Daniel J. Senico  
Paul St. John  
Frank Zeigler

**MEMBERS EXCUSED:** Michael Beck  
Kevin Lare  
John McNulty  
Brian Sullivan  
Chris McDuell

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

**STAFF EXCUSED:** Thomas Thornton, Board Engineer

CORRESPONDENCE:

Memorandum:

TO: Bill Galestok, PP, AICP  
Director of Planning

FROM: Mike Voll,  
Township Manager

DATE: September 26, 2011

RE: NJDEP proposed Public Access  
Rules April 14, 2011. Municipal Public  
Access Plan

Handouts:

List of Board Solicitor vouchers dated October 12, 2011.

List of Board Engineer vouchers dated October 20, 2011.

Planning Board Worksheet: Outdoor Woodburning Boilers.

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

4. Minor subdivision & hardship variance applications for the creation of three (3) newly described lots. Hardship variance needed for lot frontage and driveway location, submitted by Thomas Brodesser, Jr., for the location known as Block 500.01, Lot 45.01, 748 Tabernacle Road.

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

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

Mr. Dwyer explained that this property was previously approved for a four-lot subdivision with a road. He explained that his client is now looking for a three-lot minor subdivision without a road.

Mr. Sweeney described to the Board the lots and the sizes of the lots. He explained that proposed Lot 45.01 requires a variance for frontage, but conforms to lot width.

Mr. Dwyer explained they are proposing a share drive for proposed Lots 45.01 and 45.16. Mr. Sweeney explained they are proposing the share drive for wetland buffer reasons.

Mr. Sweeney explained that there would be no detriment to the zone or zone plan if approved. He also explained this application advances the purposes of the zoning.

Mr. Carr read Engineer comments dated October 14, 2011.

Mr. Dwyer explained there is an existing driveway that will remain for the flaglot, (proposed Lot 45.15). He explained the portion of the driveway will be removed from Lot 45.09.

Mr. Carr explained there is a basin along Brynwood Avenue. Mr. Dwyer explained they will put a culvert under the driveway. Mr. Carr explained they will need Engineering calculation on that. Mr. Dwyer explained they would have their Engineer submit the calculations to Hatch Mott MacDonald.

Mr. Galestok read Cape May County Planning Board comments in which they deemed the application incomplete.

Mr. Galestok read Bureau of Fire Safety comments dated September 20, 2011 in which they found the application acceptable.

This portion of the hearing was opened to the public.

Mr. Keith Maund was sworn in by Chairman Dilworth.

Mr. Maund explained he was present at the February 21, 2008 meeting. He explained he has the same concerns. He explained that behind this property on Shunpike Road is his business. He explained there will be trucks coming and going. He explained there will be noise and odor. He explained that he would like the buyers of Mr. Brodesser's lots to know there is a business. The Board explained this was addressed at the previous meeting. Mr. Galestok explained that some wording was supposed to be put in the deed to let buyers know about the business. Mr. Brodesser explained he didn't have a problem with that. Mr. Teitler explained he could take a look at the old resolution and incorporate some of the same language. Mr. Dwyer read the section from the previous resolution regarding the wording in the deeds.

Mr. Maund explained his other concern is flooding. Mr. Sweeney explained the lots are large. He explained that there would be no need for the property owner to raise the elevation of the property. He explained that there is no need for drainage with the proposed lot sizes. Mr. Dwyer explained that a property owner cannot grade a property so that it drains onto neighboring properties. He also explained that a drainage plan must be submitted with the building permit. Mr. Galestok explained a drainage plan is not required for a single family dwelling when a

building permit is submitted. He explained that it would be a civil matter if someone were to have run-off from their property to an adjacent property. The Board suggested a note be added to the plan that there will be no draining onto other properties.

Mr. Douglas Schultz was sworn in by Chairman Dilworth.

Mr. Schultz explained he lives in the Brynwood development. He explained that those catch basins have saved his property.

Mr. Nick Thompson was sworn in by Chairman Dilworth.

Mr. Thompson explained that the road flooded last year. He explained that there is no place for the water to go. He explained that there have been flooding problems in the area.

There was a discussion who was responsible for the maintenance of the basin.

Mr. Sweeney explained that the driveway could be moved out of the drainage area by moving it forward approximately 75 feet. Mr. Dwyer explained that anyone has the right to access a Township Street. He explained that they would move the driveway.

Mrs. Carole Goss was sworn in by Chairman Dilworth.

Mrs. Goss explained she was previously contacted about subdividing a portion of her property. Mr. Dwyer explained they no longer need a portion of her property. He explained the other application had provided a road next to her lot. He explained a road is no longer needed.

Mrs. Goss explained that there is a drainage problem in the area.

This portion of the hearing was closed to the public.

Mr. Dwyer had marked into evidence a plan marked by Mr. Sweeney with the proposed new location of the driveway. The Board explained that they would have to make sure this area is not an area of the Association for Brynwood Estates.

Mr. Dwyer explained he would provide copies of the deed wording to Mr. Teitler for his approval.

There was a discussion as to who would review the grading plans for the proposed houses. Mr. Carr explained that they would need the plans to review.

Mr. Hewitt made a motion to conditionally approve this application. The motion was seconded by Mr. St. John.

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. St. John	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.

5. Extension of filing time for major subdivision, submitted by Thomas Hartle for the location known as Block 501, Lot 11.01, 738 Seashore Road.

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

Mr. Dwyer explained that he believes this approval is still covered by the Governor's permit extension act, but to be on the safe side, they are requesting an extension. He explained that there have been delays because of DEP. He explained that the previous Board Engineer had reviewed the application. He explained that the current Engineer has the plans.

There was a discussion about extending filing time until April 30, 2012.

Mr. St. John made a motion to approve an extension to expire April 30, 2012. The motion was seconded by Mr. Senico. Motion carried.

Chairman Dilworth called for a short recess at 7:38 P.M. The meeting was called back to order at 7:43 P.M.

1. Discussion of request to vacate the end of Mulberry Street; dead-end street adjacent to Ponder Lodge. Request being made by Township Council for Planning Board review.

Mr. Mike Houck was sworn in by Chairman Dilworth.

Mr. Galestok explained that at last month's meeting, the Board requested Mr. Houck approach the Fire Safety and MUA about underground utilities.

Mr. Galestok read a letter from the Bureau of Fire Safety dated September 19, 2011 and a letter from the MUA dated October 12, 2011.

Mr. Houck explained that he contacted the Electric Company and got a letter of no interest from them. He submitted that letter to the Board.

The Board asked Mr. Houck if the neighbor was present? Mr. Houck explained she was

not. He explained he did contact her, but she did not respond. He explained that he also offered to pay her the value of her portion and keep the entire street.

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.

There was a discussion about whether the recommendation should be for a partial or full vacation. Mr. Galestok explained the wording of the letter could be for either a partial or full vacation.

Mr. Senico made a motion to recommend the street vacation to Township Council. The motion was seconded by Mr. St. John. Motion carried.

2. Discussion of NJDEP "mandatory" public access plan: struck down by the NJ Appellate Division, NJDEP "formally proposed new common sense rules" to deal with public access to beaches and waterways.

Mr. Galestok handed the Board a memorandum dated July 5, 2011 regarding Municipal public access plans. He explained that NJDEP wants public access to beaches and waterways 24 hours a day. He explained that they want mandated parking spaces and restroom facilities. He explained that this is all tied to grant funds. He explained that a plan was not needed before because we didn't have any paid beaches.

Mr. Galestok explained there are municipal sanctions if the plan is not complete. He explained the good part is there is five million dollars available to help with the plan. He explained that there were rules that were withdrawn. He explained there are supposed to be new rules coming out by April.

There was a discussion that there could be an issue with ownership as some of the beaches are privately owned.

Mr. Galestok explained he may need some mapping assistance from Hatch Mott MacDonald.

3. Discussion of outdoor wood furnace installation; permitted zones, setbacks minimum lot area, etc. request being made by Township Council for Planning Board review.

Mr. Galestok explained to the Board the Township Solicitor was quoted by saying the DEP has jurisdiction over the smoke generated from outdoor wood furnaces.

There was a discussion that outdoor wood furnaces are used to heat a home, pool, etc. insulated underground piping is used much like oil and gas lines.

The Board explained that they would address the zone permitted, lot sizes and setbacks. They explained that they do not get involved with smoke.

There was a discussion that this discussion could open up a can of worms for any wood burning device.

Mrs. Diane Martin was sworn in by Chairman Dilworth.

Mrs. Martin gave the Board literature on the outdoor wood boilers. She explained that she wants them banned from all residential areas.

Mr. John Meade was sworn in by Chairman Dilworth.

Mr. Meade explained they are not concerned with fireplaces, grills, etc., just these outdoor boilers. He explained they have been banned in Washington state. He explained that NJDEP has stated outdoor boilers are a deterrent to people with health issues.

Mr. John Fleming was sworn in by Chairman Dilworth.

Mr. Fleming explained that NJDEP does not recognize fireplaces, grills, chim-a-nea's, etc. as a health hazard. But they do with these outdoor boilers. He explained that other municipalities have strict area and setback requirements.

Mr. Mark Hight was sworn in by Chairman Dilworth.

Mr. Hight explained that he is a member of the environmental commission. He explained that they have not received any formal application, but have concerns about how the smoke affects the environment.

Ms. Kim Allen was sworn in by Chairman Dilworth.

Ms. Allen explained she doesn't live in this neighborhood. She explained that her brother has one. He does not live in this State, but he has a very large open property. She explained that this area is wooded and has concerns with possible health issues for these people.

Mr. Fleming explained that according to NJDEP, there must be 25' clearance around the unit.

Mr. Meade gave the Board a memo from NJDEP.

Mrs. Martin explained it is very smokey for a short period of time, but there are fumes that linger. She explained that the smoke detectors were being set off in the neighbor's house.

Mr. Galestok explained to the Board that if the Board was considering banning outdoor wood boilers in the Land Use Ordinance under 40:55D-62.1, notice would be required to most

residents in the Township unless the Board considered this under re-examination of the Master Plan. He explained that if wood boilers were in the Land Use Ordinance, a property owner could go for a variance. He explained that the Board could consider making a recommendation to ban wood boilers in the General Ordinance. Mr. Teitler explained that they may not want a ban in the General Ordinance. He explained that if someone had 20 acres they shouldn't be prevented from having one. There was a discussion about if there was a constitution issue banning them.

Mr. Walker made a motion to recommend to Township Council a complete ban of outdoor wood furnaces. The motion was seconded by Mr. Hewitt. Motion carried.

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

Mr. Hewitt made a motion to approve the resolutions from the September 15, 2011 meeting. The motion was seconded by Mr. Senico. Motion carried.

Mr. Hewitt made a motion to adjourn at 8:36 P.M. The motion was seconded by Mr. St. John. 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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