

# 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 ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on January 9, 2020 at the Lower Township Municipal Building. The meeting was called to order at 6:00 P.M. by Chairman James Hanson. 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 James Hanson  
Michael Kennedy  
David F. Brand, Jr.  
Ernest Utsch III  
Robert Sweeten  
Robert Basco, Sr.

MEMBERS EXCUSED: Bruce Waterman  
George Doherty

STAFF PRESENT: Anthony J. Harvatt, II, Board Solicitor  
Scott MacPherson, Board Engineer  
William J. Galestok, Board Secretary  
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:

Handouts:

Zoning Board of Adjustment Re-organization Resolutions #20-1-ZBA thru #20-7-ZBA.

2019 Variance report and Resolution #20-8-ZBA.

List of Board Solicitor voucher dated January 7, 2020.

List of Board Engineer voucher dated January 9, 2020.

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

Mr. Kennedy made a motion to nominate James Hanson as Chairman. The motion was seconded by Mr. Brand.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Basco	YES	Chairman Hanson	ABSTAIN

Motion carried.

Mr. Kennedy made a motion to approve Resolution #20-1-ZBA. The motion was seconded by Mr. Brand. Motion carried.

Mr. Sweeten made a motion to nominate Michael Kennedy as Vice-Chairman and approve Resolution #20-2-ZBA. The motion was seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to nominate William Galestok as Board Secretary and approve Resolution #20-3-ZBA. The motion was seconded by Mr. Utsch. Motion carried.

Mr. Brand made a motion to nominate Lisa Schubert as Recording Secretary and approve Resolution #20-4-ZBA. The motion was seconded by Mr. Kennedy. Motion carried.

Mr. Brand made a motion to nominate Anthony Harvatt, Esq., as Board Solicitor and approve Resolution #20-5-ZBA. The motion was seconded by Mr. Kennedy. Motion carried.

Mr. Brand made a motion to nominate Mott MacDonald as Board Engineer and approve Resolution #20-6-ZBA. The motion was seconded by Mr. Kennedy. Motion carried.

Mr. Kennedy made a motion to approve Resolution #20-7-ZBA, meeting dates for the 2020 calendar year. The motion was seconded by Mr. Brand. Motion carried.

Mr. Utsch made a motion to approve the minutes from the December 5, 2019 meeting. The motion was seconded by Mr. Brand. Motion carried.

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

Mr. Kennedy made a motion to approve Board Solicitor vouchers. The motion was seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to approve the Resolution from the December 5, 2019 meeting. The motion was seconded by Mr. Sweeten. Motion carried.

1. Informal discussion submitted by Mid-Atlantic Center for the Arts and Humanities, for the location known as Block 752.01, Lots 40 & 41, 1017 & 1019 Batts Lane.

Mr. Frank Corrado, Esq., was present for this application.

Mr. Corrado explained to the Board they were here last month, but because of a lengthy application that was on the agenda, they asked to be continued until this month. He explained he did give the Board members a magazine with an article of this property. He explained this is a historic site. He explained at one time the property was owned by an African American whaler.

Mr. Corrado explained the property was purchased and restored by the Clemanses. He explained a trolley from MAC comes to do a tour of the property. He explained the trolley pulls onto the property so it's not parked on the street. He explained they have occasionally had fund raisers. He explained the Clemanses have donated the property to MAC. He explained they have been using this property for tours for the past 10-15 years.

Ms. Sue Burke explained she has researched this property and the house was moved to

this location in 1846. She explained this is very important for architecture. She explained this property is on the national register.

Mrs. Christine Clemans explained her and her husband purchased the property and restored them to original as much as they could. She explained non-profits have used this property. She explained they have gifted the property to MAC to preserve. She explained they have done tours of the property for many years.

Mr. Dave Clemans explained he is on the County Open Space Board. He explained they have purchased the Foster house in the Villas. He explained they would love to add this to Lower Township.

Mr. Tom Carroll, President of the MAC Board, explained he has been with MAC for 50 years. He explained the season has extended in Cape May and they have been very successful. He explained they have raised two million dollars for the lighthouse renovation. He explained these cottages are very important and show how the average person lived. He explained the tours have been done for the past 15 years, three times a week in the summer season and once a week in the shoulder season. He explained they did hold a neighborhood meeting when MAC took over the cottages and about 40% of the neighbors showed up. He explained the trolleys park on the property, but they do not want to disturb the grounds with a parking lot area.

Mr. Corrado explained that ideally, they would like the Board to say to continue to use the property as it has been used for the past 15 years.

Mr. Hanson read a memorandum from Walter Fiore, Code Enforcement Officer.

The Board explained MAC has been operating at this location for the past 15 years and they're here now because they caught. Mr. Corrado explained the tours have been happening without zoning approval and was done without protest by the neighbors.

A Board member explained they lived on Batts Lane in 1979 and the street is narrow and when a trolley is on the street, it's hard to get down the street.

The Board explained when the property was purchased, they had to have known it was a residential zone.

There was a discussion as to whether the tours were continuing to the last day? Mr. Corrado explained that once MAC received the notice from Code Enforcement, they ceased any activity. He explained they never intended to fly under the radar.

Mr. Corrado explained this informal discussion is to see if the Board wants a formal application. He explained the idea for this property is to maintain the cottages and be available on a limited basis. He explained this also benefits Lower Township.

The Board explained they are not concerned with just Batts Lane, but the entire zone.

Mr. Carroll explained in the summer there is three regular tours a month. He explained the trolley pulls into the drive and is roughly there for ½ an hour and both houses are toured. He explained the cottages are offered to school children for tours too. He explained he doesn't think what they are doing is a major disruption to the area.

The Board explained that Socs Lane, Batts Lane and Stimpson Lane were wagon trails and they are not wide streets now.

The Board explained this isn't any different then any other commercial use. A use variance, maybe hardship variances and a least a minor site plan would be required.

3. Hardship variance application to demolish and rebuild a side portion of the house and construct a 4 x 5 front roof, encroaching into the front & side yard setbacks and exceeding allowed building coverage, submitted by David DeTorre for the location known as Block 737, Lot 13, 804 Westfield Avenue.

Mr. David DeTorre, applicant, was sworn in by Chairman Hanson.

Mr. DeTorre explained to the Board the left side of the house is deteriorated and he would like to tear that down and reconstruct but would be encroaching into the side yard setback. He explained it would be rebuilt in the same location, but a bit longer.

This portion of the hearing was opened to the public.

Mrs. Kimberly Perez was sworn in by Chairman Hanson.

Mrs. Perez explained she has concerns the house will encroach further toward the street.

Mr. Hernando Perez was sworn in by Chairman Hanson.

Mr. Perez explained their house has been in the family since 1973 and has concerns with what is proposed would look like.

This portion of the hearing was closed to the public.

Mr. Kennedy made a motion to conditionally approve this application. The motion was seconded by Mr. Sweeten.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Basco	YES	Chairman Hanson	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.

4. Hardship variance application to construct an addition encroaching into the front yard setback, submitted by William Martin & Patricia Bachert for the location known as Block 214, Lots 1 & 2, 103 Maryland Avenue.

Mr. Ron Gelzunas, Esq., represented the applicants.

Mr. William Martin, applicant, and Mr. Hal Noon, Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Gelzunas explained to the Board there is an existing deck that the applicant's would like to remove and construct a 15 x 18 addition. He explained this is a corner lot and the proposed addition would encroach into the front yard setback. He explained the existing deck encroaches further into the front yard setback than the proposed addition.

Mr. Noon explained the property is on the corner of Maryland Avenue and Rutgers Street. He explained the proposed addition would be a bit further away from the front property line. He explained they had an enclosed back porch and reviewed the photos that were submitted with the application. He explained what is proposed would have no detriment to the surrounding area and there is a sufficient setback from the neighbor. He explained what is proposed has no detriment to the zone or zone plan. He explained the inside configuration of the house doesn't lend itself to placing the addition in a different location. He explained they would have to gut the whole interior of the property to do a conforming addition.

Mr. Martin explained him and his wife would like to move here permanently once they retire. He explained they need more room for them and also when they have company.

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. Kennedy made a motion to conditionally approve this application. The motion was seconded by Mr. Brand.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Basco	YES	Chairman Hanson	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.

Approval of Annual Variance Report and adoption of Resolution #20-8-ZBA subject to MLUL 40:55D-71.1

Mr. Galestok reviewed the report with the Board. He explained a use variance and subdivision was granted in the GB area along the Route 109 curve. He explained the Planning Board has recommended to Township Council a zone change in this area.

Mr. Sweeten made a motion to adopt Resolution #20-8-ZBA. The motion was seconded by Mr. Kennedy. Motion carried.

Mr. Brand made a motion to adjourn at 6:59 P.M. The motion was seconded by Mr. Sweeten. Motion carried.

Respectfully submitted,

Lisa A. Schubert,  
Recording Secretary

A verbatim recording of said meeting is on file in Township Hall.

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.