

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 August 4, 2011 at the Lower Township Municipal Building. The meeting was called to order at 7:02 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
John Armbruster
David F. Brand, Jr.
Ernest Utsch III
Robert Sweeten
Michael DiStefano
Kristine Trusiak

MEMBERS EXCUSED: Bruce Waterman
Christopher Kobik
Dianne Kelly
Stephen Komar

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

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

Mr. Utsch made a motion to approve the minutes from the July 7, 2011 meeting. The motion was seconded by Mr. DiStefano. Motion carried.

1. Use & hardship variance & minor subdivision applications for the creation fo two newly described lots. Use variance needed to allow residential use in GB-II zone. Hardship variances needed for lot area, frontage & width, submitted by Bernard Dera for the location known as Block 334.14, Lots 1.02 & 2.01, 2304 Bayshore Road.

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

Mr. Bernard Dera, applicant, and Mr. William Sweeney, Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Sweeney explained that there are small residential lots behind the property in question. He explained that both proposed lots would be more than 7,000 square feet. He explained that the property as a whole is not large enough to accommodate an intense commercial development. He explained that there is no demand for commercial use along Bayshore Road. Mr. Sweeney explained that the driveways would be on Vermont Avenue.

Mr. Galestok read Bureau of Fire Safety comments dated June 28, 2011 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated July 20, 2011 in which they deemed the application incomplete.

Mr. Dwyer explained that they property has been listed for sale for several years.

The Board explained that there is no demand for commercial use on Bayshore Road and they have approved several similar applications.

Mr. Sray summarized Engineer comments dated July 25, 2011.

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. Armbruster made a motion to conditionally approve the use variance application. The motion was seconded by Mr. Sweeten.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	YES	Mrs. Trusiak	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Armbruster made a motion to conditionally approve the hardship variance and minor subdivision application. The motion was seconded by Mr. Utsch.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	YES	Mrs. Trusiak	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.

2. Hardship variance application to construct an addition encroaching into the front yard setback, submitted by Tom & Judy Meier for the location known as Block 592, Lot 7, 1400 Washington Blvd.

Mr. Tom Meier and Mrs. Judy Meier, applicants were sworn in by Chairman Hanson.

Mr. Meier explained to the Board that they would like to construct an addition to have a three bedroom-two bath house. He explained that the lot is very unusually shaped. Mrs. Meier explained that if approved, the addition would be at least 17 feet to the sidewalk. She explained that they did look into going up, but that was very expensive.

The Board asked if the houses on either side extended further then their home? Mrs. Meier explained that she was unsure of exactly where their houses are. She explained that the one neighbor did receive a variance. She explained the other neighbor is close to the line. Mr. Meier explained that their addition would not extend past the neighbors.

Mr. Galestok explained that Conectiv was not noticed with the original mailing. He read the fax cover sheet to Conectiv from the applicant and explained that he had an original sign notice that was marked into evidence. Mr. Harvatt explained there was not a problem with this.

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. Brand made a motion to conditionally approve this application. The motion was

seconded by Mr. Armbruster.

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	YES	Mrs. Trusiak	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.

- 3. Interpretation that Lots 22 & 23 are not merged, submitted by Elizabeth O’Neil, Mary Ann Boudreau & Patty Hull for the location known as Block 747.02, Lots 22 & 23, 704 Foster Avenue.

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

Ms. Elizabeth O’Neil and Ms. Patty Hull, applicants and Mr. William Sweeney, Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Dwyer explained that prior to 1953, there was no Planning Board. He explained that subdivisions were filed by developers, property owners, etc. He reviewed case law pertaining to merger. He explained that this area was created by subdivision. He had marked into evidence a filed subdivision dated December 26, 1956 called canal beach creating 28 lots. He explained that 21 of the lots are 7,200 square foot or less. The remaining lots were 12,600 square feet.

Mr. Dwyer explained that the lots in question have been family owned for 48 years. He explained they were purchased separately in August 1963. He submitted into evidence two deeds of the purchases.

The Board asked when the zoning changed in the area? Mr. Sweeney explained the zoning was changed in the mid 80's.

Mr. Galestok explained that there was a proposed subdivision that had been denied.

This portion of the hearing was opened to the public.

(The public that was sworn in for the interpretation remained sworn in for the entire meeting)

Mr. James Parker was sworn in by Chairman Hanson.

Mr. Parker explained that no one knew about the variances. He explained the notice he

received did not say anything about variances. He also questioned how many tax bills were received? Mr. Dwyer explained for 15 years they received two separate bills and then the assessor added the second lot so now they received only one bill.

Mr. John Powers was sworn in by Chairman Hanson.

Mr. Powers explained that this issue has come up before with a neighbor. He explained that the neighbor had applied to build two houses and was denied. He explained that another neighbor had two adjacent lots and was merged for zoning purposes. He explained that he is worried about the added density and two additional wells and septic systems.

Mr. John Burke was sworn in by Chairman Hanson.

Mr. Burke explained he is against the application. He explained that he had concerns about the added septic systems and density. He explained that he also had concerns with the added wells, explained most well in the area are shallow.

The Board explained that the applicant is not before for a subdivision. This is an interpretation as to whether the lots have merged.

Ms Debra Smeltzer was sworn in by Chairman Hanson.

Ms. Smeltzer explained to the Board that she was told she wasn't allowed to build a second house on her property and if she did build a second building, it would have to be used for storage only.

Mrs. Carol Parker was sworn in by Chairman Hanson.

Mrs. Parker explained that she has been told by realtor's that small lots could not be built upon because of the laws.

Mr. Tom Groff was sworn in by Chairman Hanson.

Mr. Groff explained that the lots are too small for more septic systems.

Ms. Evelyn Todd was sworn in by Chairman Hanson.

Ms. Todd explained her concerns are with density and how the added wells would affect the water. Mr. Dwyer asked Ms. Todd how big her property was? Ms. Todd explained her property was 60 x 100.

This portion of the hearing was closed to the public.

Mr. Dwyer explained that these lots are totally consistent with the area. He explained that they would have to obtain permits for the well and septic systems from a different agency.

Mr. Harvatt explained the applicants are not here for a subdivision. He explained that an application was brought before the Planning Board in 1956 and approved. He explained that the Board has to determine whether or not the lots have merged.

Mr. Armbruster made a motion that Lots 22 & 23 have not merged. The motion was seconded by Mr. DiStefano.

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	YES	Mrs. Trusiak	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 a single family dwelling on a lot deficient in lot area, frontage, width & depth, encroaching into the front, side & rear yard setbacks and exceeding allowed building coverage, submitted by Elizabeth O'Neil, Mary Ann Boudreau & Patty Hull for the location known as Block 747.02, Lot 22, 704 Foster Avenue.

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

Mr. Dwyer explained this is an undersized lot that is not adverse to the neighborhood.

Mr. Sweeney explained that he has been a Land Surveyor for 38 years. He explained that there are similar lot sizes in the area. He explained there would be no detriment to the zone or zone plan if approved. He explained that he used the R-3 unsewered setbacks. He explained that these setbacks are similar to the other setbacks in the area.

There was a discussion that the six-foot side yard setback could be increased to ten feet. The side where 30 feet is proposed could be reduced to 20 feet.

There was a discussion that the area requires one acre. When an applicant comes before the Board they always asked if vacant adjacent land is available. Mr. Galestok asked Mr. Dwyer if vacant land was available? Mr. Dwyer explained no vacant land is available.

There was a discussion about moving lot line to increase the lot size of Lot 23. Mr. Dwyer explained that this was not in the Board's jurisdiction to alter lot lines. He explained that the lots are large enough to accommodate single family dwelling with the setbacks proposed.

This portion of the hearing was opened to the public.

Mr. Powers explained that his neighbor had purchased two lots that were merged and couldn't sell as two separate lots.

Mr. Burke explained that looking at the survey, it was a very big footprint for a single family dwelling. There was a discussion that what was shown on the survey was a building envelope and not a house footprint. It was explained that a single family dwelling could be placed anywhere within the envelope, but not the entire envelope.

Ms. Smeltzer explained that she had applied for a front yard setback of 20 foot and was told she had to have 25 feet. She explained that if she had to have 25 feet, then so should these applicants.

The Board asked Mr. Dwyer if the house would face Shunpike Road? Mr. Dwyer explained it probably would. He explained he didn't have a problem with a 25-foot front yard setback on the Shunpike Road side.

Mrs. Alice Burke was sworn in by Chairman Hanson.

Mrs. Burke explained that they had to get a variance for a two-foot encroachment. She explained that she was against this application.

Mrs. Parker explained that she had to get a new drain field and water filtration system. She explained that adding another septic system and well will be a burden to the surrounding area.

Mr. Groff explained that he has concerns with adding two more wells and septic systems. He explained that he doesn't object to one house being built.

This portion of the hearing was closed to the public.

Mr. Dwyer explained the front yard setback on the Shunpike Road would be increased to 25 feet. The side yard setback would be changed from six feet to ten feet.

Mr. Galestok explained that a 3,780 square foot house could be built at 30% coverage. He explained that the percentage could be reduced. Mr. Dwyer explained that the coverage would be self-controlling with the well and septic system.

Mr. Utsch made a motion to conditionally approve this application. The motion was seconded by Mr. Armbruster.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	YES	Mrs. Trusiak	NO
	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.

- 5. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage, width & depth, encroaching into the front, side & rear yard setbacks and exceeding allowed building coverage, submitted by Elizabeth O'Neil, Mary Ann Boudreau & Patty Hull for the location known as Block 747.02, Lot 23, 704 Foster Avenue.

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

Mr. Dwyer explained that all his comments from the previous application apply to this application. He explained the one exception is he would like to amend the application for both side yard setbacks to be ten feet.

This portion of the hearing was opened to the public.

Mr. Burke asked that if the R-3 setback were being applied, would the taxes go down? He explained that he didn't like what was going on with these applications.

Mr. Parker questioned the building coverage requirement.

Mr. Burke explained that these two lots are being considered as R-3 and using those setbacks as opposed to what is required in the zone. The Board explained that the applications are here for a hardship variance. They explained that they are also looking at what is going on in the neighborhood. Mr. Sweeney explained that he used the setbacks that were comparable to the lot size. He explained that when those houses were built, six foot and ten foot setbacks were allowed.

This portion of the hearing was closed to the public.

Mr. Utsch made a motion to conditionally approve the application. The motion was seconded by Mr. Armbruster.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	YES	Mrs. Trusiak	NO
	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.

- 6. Hardship variance application to construct an addition encroaching into the rear yard setback, submitted by Paul A. & Linda M. Dressic for the location known as Block 31, Lots 25 & 26, 323 East Jacksonville Avenue.

Mr. Armbruster excused himself from this application due to a conflict of interest.

Mr. Jeffrey Barnes, Esq., represented the applicants.

Mr. Paul Dressic, applicant, and Ms. Barbara Wooley-Dillon, PP, were sworn in by Chairman Hanson.

Mr. Barnes explained this is a corner property. He explained that Mr. Dressic would like to construct an addition, but the addition would encroach into the rear yard setback.

Mr. Barnes submitted into evidence an aerial photograph of the area.

Mr. Dressic explained that he and his wife have retired and they would like to construct a family room addition.

Mr. Galestok asked what the distance from the shed to the addition would be? Mr. Dressic explained the shed would be removed.

Mrs. Wooley-Dillon explained that the use is permitted but the proposed addition would not meet the setback. She explained that there is also a section in the Ordinance pertaining to on-site parking, which would not be met with this application. She explained that there are none now and there would be none if the addition was approved.

Mrs. Wooley-Dillon explained that there would be no detriment to the zone or zone plan if approved. She explained that no vacant land is available.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mrs. Trusiak	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.

Mr. Brand made a motion to adjourn at 9:17 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.

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