

TOWNSHIP OF LOWER

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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 ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on March 7, 2019 at the Lower Township Municipal Building. The meeting was called to order at 7:00 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
Bruce Waterman
Robert Sweeten
George Doherty
Robert Basco, Sr.

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

CORRESPONDENCE:Handout:

List of Board Solicitor vouchers dated February 28, 2019.

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

Mr. Utsch made a motion to approve the minutes from the February 7, 2019 meeting. The motion was seconded by Mr. Brand. Motion carried.

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

Mr. Brand made a motion to approve the Resolutions from the February 7, 2019 meeting. The motion was seconded by Mr. Kennedy. Motion carried.

1. Use variance application to allow 21 single family dwellings in the Conservation and R-3 Zone, submitted by Marcello Mogavero for the location known as Block 494.01, Lot 28, 10 Shawmount Avenue.

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

Chairman Hanson explained at the conclusion of last month's meeting, the hearing was to the public portion. He explained the Board will hear from the people who received notice within the 200' radius first.

Mr. Terrence Bennett, Esq., represented George & Martha Coleman, objectors from Edna Avenue.

Mr. Bennett explained zoning is to be managed by Ordinance not variance. He explained when a variance is requested, it should be minimal request. He explained this application is about obliterating the zone. He explained it was testified to that if not approved it would be an economic inutility. He explained that is not the case with this zone. He explained there is more than enough room for one house on Shawmount Avenue. He explained this is the R-3 zone. He explained there is plenty of use for this land. He explained as far as the positive and negative criteria, he doesn't feel there was adequate testimony. He explained there is plenty of housing and additional housing is not needed. He explained he feels this land was zoned expertly.

Ms. Joanne Prentice was sworn in by Chairman Hanson.

Ms. Prentice explained she purchased her home in 2005. She explained she has concerns with flooding. She explained Edna and Fourth Avenues flood and McKinley Avenue gets the run-off. She explained there is a development being constructed on Breakwater Road and when it rains, it floods and only one lane is passable and she has concerns the same will happen here. She explained it will be a mud pit with the basin and there will be standing water. She explained she doesn't see a benefit to the community if this is approved. She explained there's already a problem with traffic and this will just add to the problem. She explained she has concerns with the trees being removed and the wildlife this will disturb. She explained she has seen Bald Eagles, hawks, red-headed woodpecker and box turtles on this land. She explained it should be kept the way it is.

Mr. Michael Erb was sworn in by Chairman Hanson.

Mr. Erb explained he opposes this application. He explained he lives across the street from where the majority of the houses would have access. He explained he has two children and is worried about the added traffic this will create. He explained they have watched the Bald Eagles and use Ponder Lodge quite often. He explained he has concerns with the basin. He explained if the Board approves this, the residents of the area have to live with that decision.

Mr. Murdock McDonald was sworn in by Chairman Hanson.

Mr. McDonald explained his opposes this application. He explained there used to be a lot of open space and farmland around here. He explained once the trees are removed, it takes a long time for new forested areas to grow.

Mr. Brian Williamson was sworn in by Chairman Hanson.

Mr. Williamson explained he was opposed to this application. He read a statement into the record. He explained the application should not be granted because of the loss of habitat and wildlife.

Ms. Lisa Brown was sworn in by Chairman Hanson.

Ms. Brown explained she opposed this application. She explained she doesn't think it's right to disturb the wildlife and area with this. She explained she has concerns with drainage. She explained she would like to see this area left the way it is.

Mr. Jim Galloway was sworn in by Chairman Hanson.

Mr. Galloway explained he opposes this application. He explained he has concerns with the added demand for water and sewer. He explained there is a Lot 16 behind his house that is a drainage basin for the lots on Edna Avenue. He explained the Lot was deeded over to the Township. He explained there are now large trees in the basin and is silt filled and not working properly. He explained the Township doesn't maintain the basin. He explained with what is proposed the Homeowner's Association would have to maintain the new basin, but questioned if

that doesn't happen, what happens and now it causes more flooding. He explained if the property is left undeveloped, the land can absorb the water.

Ms. Julie Cressman was sworn in by Chairman Hanson.

Ms. Cressman explained she moved here in 2014 because she was attracted to the area because of the natural land and the benefits of having this land. She explained development contributes to a lot of the crises these days.

Mr. Jesse Rynkiewicz was sworn in by Chairman Hanson.

Mr. Rynkiewicz explained he wrote a paper for college on losing too many trees and the deterrents. He explained lands are being clear cut and not being replaced. He explained deforestation is becoming an issue.

Ms. Kathleen Horn was sworn in by Chairman Hanson.

Ms. Horn explained she opposes this application. She explained she doesn't think the reasons given are true. She explained traffic will be an issue. She explained this is established habitat and large established trees will be destroyed.

Ms. Karen Thompson was sworn in by Chairman Hanson.

Ms. Thompson explained she opposes this application. She explained she was happy when the State purchased Ponder Lodge. She explained she leads walks for the NJ Audubon. She explained what is proposed will devalue the area. She submitted a photo of a bird into evidence which was marked as OKT-1. She explained she saw this bird in this area and it's becoming a threatened bird.

Ms. Karen McGarrity was sworn in by Chairman Hanson.

Ms. McGarrity explained she moved here 34 years ago and one of the reasons she moved here was because of wooded areas like this. She explained she walks in Ponder Lodge a lot and she sees a lot of kids in there, not looking at their phone, but at the wildlife. She explained she had spoken to someone who had told her his trees saved his home during Super Storm Sandy because they absorbed a lot of water. She explained this area is invaluable. She explained the trees absorb pollutants and carbon dioxide and give oxygen.

Ms. Cathy Healy was sworn in by Chairman Hanson.

Ms. Healy explained she opposes this application. She explained she moved here in 2011. She explained she walks in Ponder Lodge and has noticed a rise of the water level in the ponds.

Mr. Brett Ewald was sworn in by Chairman Hanson.

Mr. Ewald explained he moved to this area because of the large trees. He explained Cape May County is one of the largest areas for birding. He explained people come from all over for birding. He explained this is an economic benefit to the community.

Mr. William Frith was sworn in by Chairman Hanson.

Mr. Frith explained he moved here two years ago. He explained when he was young he spent summers in Laurel Springs where he would explore the creeks and woods. He explained this is an area to explore, but once it's gone it's gone forever. He explained he did live in the city and all the trees were removed from near the train tracks. He explained now they are dealing with mud. He questioned how the added homes would benefit their lives.

Ms. Lyn Mason was sworn in by Chairman Hanson.

Ms. Mason explained she opposes this application. She asked who would maintain the basin. She explained the basin would be a breeding ground for mosquitos.

Mr. Augustine Lodise was sworn in by Chairman Hanson.

Mr. Lodise explained this would have a devastating effect on the surrounding area. He explained someone needs to look at the short and long term effects this would cause.

Ms. Denise Jones was sworn in by Chairman Hanson.

Ms. Jones explained she walks in Ponder Lodge a lot. She explained she opposes this application and the area should be kept as is.

Ms. Linda Haug was sworn in by Chairman Hanson.

Ms. Haug explained she has concerns with traffic. She explained there are a lot of box turtles on this land. She explained if what is proposed is approved it would be a huge loss.

Mr. Karl Fowler was sworn in by Chairman Hanson.

Mr. Fowler asked how much open space there was left in Lower Township? He explained this is a decent sized forested area that should remain.

Mr. Earl Fetter was sworn in by Chairman Hanson.

Mr. Fetter explained he used to commute to work and he would pass areas with apple and peach trees and corn fields, but through the years those areas were removed for development. He explained there is a lot of wildlife in Ponder Lodge that will be disturbed if this is approved.

Ms. Melissa O'Donnell was sworn in by Chairman Hanson.

Ms. O'Donnell explained her son Lennon would like to say something. Lennon explained he did a report for school on President Roosevelt and he was for saving nature.

Ms. O'Donnell explained the Board should look into saving nature. She explained we need to be looking into the future and should not be cutting every tree down. She explained urban sprawl is bad. She explained coyotes have been spotted in the Mickel's Run area and there a new development going in across the street. With the destruction of habitat, it pushes wildlife into residential areas.

Chairman Hanson called for a short recess at 8:25 P.M. The meeting was called back to order at 8:36 P.M.

Ms. Teri Hislop was sworn in by Chairman Hanson.

Ms. Hislop explained she is not in favor of the variance for more housing. She explained she is of the Lenape Indians. She explained the Lenape Indians come here year round walking the area. She explained that through the years they've watched the open spaces getting smaller and smaller. She explained that for our spiritual and physical well-being this area should be kept the way that it is.

Ms. Theresa Logan was sworn in by Chairman Hanson.

Ms. Logan explained her parents were part of the committee to form Cox Hall Creek. She explained there is a need of a place to go for solace and peace. She explained on Cedardale Avenue there is a lot of foreclosures.

Ms. Cathy Healy was sworn in by Chairman Hanson.

Ms. Healy explained the State is trying to impose a rain tax because we can't handle the run-off anymore.

This portion of the hearing was closed to the public.

Mr. Justin Turner, Esq., explained the applicant is not entitled to the request. He explained they are asking for a use variance, but two homes could be built in the R-3 zone portion of the lot without variances. He explained he doesn't feel the applicant has fulfilled the negative criteria required for approval. He explained there have been a couple of re-examinations of the Master Plan since the owner received the use variance approval and the Township didn't change the zoning. He explained there hasn't been testimony that what is proposed is suited for this site. He explained there was testimony from their experts as to why it should remain zoned Conservation.

Mr. Barnes explained they are seeking the use variance only tonight and if approved, would come back with the subdivision application. He explained no uses are permitted in the Conservation Zone for private use. He explained this lot was rezoned via a re-examination of the

Master Plan. He explained Mr. Galestok had stated the lot would not have been rezoned had they known it was privately owned. He explained the Board had previously approved a use variance for 22 lots. He explained being privately owned and Zone Conservation is an economic inutility. He explained the property is now in a sewer service area. At the previous application, it was not and was conditioned upon obtaining sewer. He explained the use variance expired before this was obtained. He explained that if approved and at subdivision application, the proposed lot sizes would be similar to the R-3 standards because it would be a natural extension of the R-3 zone. He explained the lots on Shawmount Avenue have septic systems, but the other surrounding lots have city water and sewer.

The Board explained that everyone loves Ponder Lodge, but this property slipped through the cracks. The State should have purchased the property when they purchased Ponder Lodge. It was explained the environmental impact is the jurisdiction of the DEP. The property should never have been zoned Conservation, but at that time it was thought the property was owned by Ponder Lodge and later found out that the property was part of a bankruptcy settlement and the Judge gave this lot to private owners in the settlement. They understand that this is a very emotional application for everyone, but if the Board were to deny the application, there would be a lawsuit costing the Township a lot of money and the Township would lose. The property will be serviced by city water and sewer.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Doherty	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. Extension of hardship variance approval, submitted by James Bratten, IV for the location known as Block 468, Lots 1, 2 & 16, 948 Fay Avenue.

Mr. James Bratten, IV, applicant was sworn in by Chairman Hanson.

Mr. Bratten explained he is seeking a three-year extension of the variance approval. He explained he believes it has been extended twice and this would be the third time. He explained he understands sewer is going to be in the area in the next several years.

Mr. Galestok explained if sewer were to come to the area it could be subdivided into two 75 x 100 lots, but DEP may say no.

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 approve a three-year extension. The motion was approved by Mr. Kennedy.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Doherty	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. Use variance application to install a pool, submitted by Kathleen Hayes for the location known as Block 770, Lots 42-48, 1101 Wissahickon Avenue.

Mr. Thomas Keywood, Esq., represented the applicant.

Ms. Kathleen Hayes, applicant, was sworn in by Chairman Hanson.

Mr. Keywood explained this property is a residential use in the MGB Zone. He explained his client purchased the single family dwelling and has purchased additional lots over the years. He explained there is a total of seven lots and his client would like to have a pool on four of the lots. He explained there are eight single family dwellings in the general area. He explained what is proposed would not be out of character for the area.

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. Waterman 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. Waterman	YES
	Mr. Sweeten	YES	Mr. Doherty	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. Harvatt read into the record the certification Mr. Waterman signed for the Mogavero application. The certification stated he listened to the meeting of February 7, 2019.

Mr. Brand made a motion to adjourn at 9:27 P.M. The motion was seconded by Mr. Kennedy. 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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