

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 ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on October 3, 2013 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
 John Armbruster
 Ernest Utsch III
 Bruce Waterman
 Robert Sweeten
 Michael DiStefano
 Dianne Kelly
 Erik Collins
 Stephen Komar

MEMBERS EXCUSED: David F. Brand, Jr.

STAFF PRESENT: Peter Tourison, Acting Board Solicitor
 Louis C. Dwyer, Jr., Acting Board Solicitor
 George A. Curvan, Board Engineer
 William J. Galestok, Board Secretary
 Lisa A. Schubert, Recording Secretary

STAFF EXCUSED: Anthony J. Harvatt, II, Board Solicitor

CORRESPONDENCE:

Handouts:

The New Jersey Planner: July/August 2013, Vol. 74, No. 4.

List of Board Solicitor vouchers dated September 23, 2013.

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

Mr. Utsch made a motion to approve the September 5, 2013 minutes. The motion was seconded by Mr. Armbruster. Motion carried.

Mr. Waterman made a motion to approve Board Solicitor voucher. The motion was seconded by Mr. DiStefano. Motion carried.

Mr. Sweeten made a motion to approve the resolution from the September 5, 2013 meeting. The motion was seconded by Mr. DiStefano. Motion carried.

1. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage & width, submitted by Steven & Mary Scott for the location known as Block 512.12, Lot 2949, 3702 Shore Drive.

Mr. Louis C. Dwyer, Jr., Esq., acted at Board Solicitor for this application.

Mr. Peter Tourison, Esq., represented the applicants.

Ms. Cindy Chemerys, PE, was sworn in by Chairman Hanson.

Mr. Tourison explained his clients would like to construct a single family dwelling on a lot deficient in lot area, frontage and width. He explained all setbacks, building coverage and building height would be met.

Ms. Chemerys explained she helped prepared the variance application and CAFRA application. She explained the property is across the street from the Delaware Bay.

Marked into evidence was an aerial photograph of the area.

Ms. Chemerys explained there are three vacant parcels on this block. She explained the

lot in question is larger than most of the lots in the area. She explained this neighborhood has been established for quite some time. She explained what is proposed is keeping with the character of the neighborhood and there is no detriment to the public or public good.

The Board asked if a dune review application was needed? Mr. Tourison explained no dune review application is needed because the lot is across the street from the bay. Mr. Galestok explained that Mr. Tourison is correct. He explained that from Cox Hall Creek to North Cape May does not need a dune review unless the property is on the bay side of the street.

This portion of the hearing was opened to the public.

Mr. Gerald Levin was sworn in by Chairman Hanson.

Mr. Levin explained he lives next door to this property. He explained that he is not adverse to development. He explained his house is 35' front Shore Drive. He explained that if the house is allowed at a setback of 20', it would greatly reduce his view. He requested that there be a setback greater than 20'. The Board explained they cannot change an allowed setback. They explained the applicant is not requesting variances for setbacks. Mr. Levin explained he feels if the house is allowed to be at the 20' setback, it would greatly reduce the value of his property. There was a discussion about the placement of the house. Mr. Tourison explained his client's don't know yet where they will place the house.

This portion of the hearing was closed to the public.

Mr. Tourison explained they are proposing a building envelope and the house would be constructed within the envelope. He explained that his client's are entitled under the law to construct a single family dwelling with the allowed setbacks. He explained that if the house were placed further back on the lot, this may cause a rear yard setback variance which they did not apply for.

The Board explained they feel it would be imposing a greater hardship on the applicant to make a request to move the house back. They explained that maybe the applicants and neighbor can work something out. They explained if they denied the application, it would be inverse condemnation and the Township would have to purchase the property.

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

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mrs. Kelly	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. Approval granted by the Zoning Board of Adjustment September 2, 2010, submitted by Edward & Carole English for the location known as Block 140, Lots 7 & 8, 243 Pennsylvania Avenue.

Mr. Tourison, Esq., acted as Board Solicitor for this application.

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

Mr. Dwyer explained the Board approved a hardship variance in 2010 for an undersized lot. He explained that because of the economy, a house was never built. He explained they would like a two-year extension of the approval.

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 approve a two-year extension. The motion was seconded by Mr. Sweeten.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mrs. Kelly	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. Hardship variance application to allow a detached garage encroaching into the side yard setback, submitted by Supreme Modular for the location known as Block 635, Lot 2, 401 Arctic Avenue.

Mr. Tourison, Esq., acted as Board Solicitor for this application.

Mr. Matthew Stanger, Esq., represented the applicant.

Mr. Stanger explained that with the property owner's consent, his client Supreme Modular is the applicant. He explained that his client was the contractor for the property owners. He explained his client applied for a building permit and the plan showed a modular and detached garage. He explained the permit was issued and now they are asking that the garage be

allowed to stay where it is.

Mr. Doug Whitson, General Manager of Supreme Modular, was sworn in by Chairman Hanson.

Mr. Whitson explained that the majority of the garage was constructed when they were notified of the nonconformity. He explained if the garage was moved over, it would be more difficult for a car to get into the garage. He explained he feels it adds more value to keep the garage in the current location.

The Board questioned issuance of the building permit. Mr. Whitson explained all the applications, plans and survey were submitted to the building department and the building permit was issued.

Mr. Galestok explained no zoning permit was issued. A neighbor came into the office about the setback for a garage. When it was realized the plan showed the location of the garage and that no permit was issued for the garage, Rose from the Construction Office, contacted Supreme Modular. The garage was framed up. He explained he spoke with the Building Inspector and he does not remember the garage foundation being there or an inspection being done. He remembers performing the inspections on the house. Mr. Galestok explained the garage was shown on the plan, but the permit was issued for the modular only.

The Board asked what the overhang of the garage was? Mr. Whitson explained it was probably 12'. He explained that they would be willing to cut the overhang back.

The Board explained that maintenance cannot be done on that side of the garage without some type of agreement from the neighbor.

The Board asked Mr. Galestok if someone from the Construction Office should be present so the Board could hear both sides of the story? Mr. Galestok explained the Board could request a continuance and request someone from the Construction Department be present at the next meeting.

Mr. Stanger explained he feels the Board could make a decision based on the application. He explained that it is important a decision be made.

The Board explained they didn't know of any place in New Jersey that would allow a setback like this and feels the contractor should have known better.

This portion of the hearing was opened to the public.

Ms. Doreen Corino, Esq., represented the property owners, Charles & Nancy McGivern's.

Ms. Corino submitted photographs that her client took this day. The photograph's were submitted into evidence.

Ms. Corino explained that access to the garage is already hindered by the location of the landing and steps.

Ms. Corino explained there is a temporary certificate of occupancy issued for the house only. She explained that the issue with the garage needs to be resolved so they can move into the house.

Ms. Corino explained the neighbor is here and doesn't object to the location of the garage. She explained they have spoke about an encroachment agreement.

Mr. Dave Powers was sworn in by Chairman Hanson.

Mr. Powers explained he has no problems with where the garage is located. He explained that things happen and he doesn't feel the location is going to affect him. He explained he just found out about an encroachment agreement tonight and he would like to look into this first.

There was a discussion about whether the overhang encroaches or not. Mr. Galestok explained Supreme Modular has offered to cut the overhang back.

Mr. Powers explained Supreme Modular has given him a letter that if his property is damaged, they would fix the damage.

This portion of the hearing was closed to the public.

Mr. Galestok explained he doesn't feel the variance for the 6' distance to the neighbor's shed is required.

The Board explained that anyone who has been building for any length of time knows there's no place that would allow a one foot setback for an accessory use. Also, they have a good neighbor not to be complaining about this.

The Board discussed whether or not they should proceed with a vote or request a Township Official be present at a meeting.

Mr. Stanger explained they also relied on their own professionals for drawing up the plans. He explained he feels the location of the garage is not a substantial deterrent to the area.

Mr. Waterman made a motion to conditionally approve this application. The motion was seconded by Mr. DiStefano.

VOTE:	Mr. DiStefano	NO	Mr. Utsch	NO
	Mr. Waterman	YES	Mr. Sweeten	NO
	Mrs. Kelly	NO	Chairman Hanson	ABSTAIN

Motion denied.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

Mr. Armbruster made a motion to adjourn at 8:00 P.M. The motion was seconded by Mr. Waterman. 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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