

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 3, 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
Jeffrey Betz, Acting Board Engineer
William J. Galestok, Board Secretary
Lisa A. Schubert, Recording Secretary

STAFF EXCUSED:

Shawn Carr, Board Engineer

CORRESPONDENCE:

Handouts:

Zoning Board Re-organization resolutions 19-1-ZBA thru 19-7-ZBA.

List of Board Solicitor vouchers dated December 24, 2018.

List of Board Engineer vouchers dated January 3, 2019

Mr. Kennedy made a motion to nominate James Hanson as Chairman and approve Resolution #19-1-ZBA. The motion was seconded by Mr. Waterman. Motion carried.

Mr. Brand made a motion to nominate Michael Kennedy as Vice-Chairman and approve Resolution #19-2-ZBA. The motion was seconded by Mr. Sweeten. Motion carried.

Chairman Hanson made a motion to nominate William Galestok as Board Secretary and approve Resolution #19-3-ZBA. The motion was seconded by Mr. Kennedy. Motion carried.

Mr. Kennedy made a motion to nominate Lisa Schubert as Recording Secretary and approve Resolution #19-4-ZBA. The motion was seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to nominate Anthony Harvatt, II, Esq., as Board Solicitor and approve Resolution #19-5-ZBA. The motion was seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to nominate Mott MacDonald Engineer's as Board Engineer and approve Resolution #19-6-ZBA. The motion was seconded by Mr. Waterman. Motion carried.

Mr. Kennedy made a motion to approve Resolution #19-7-ZBA, approving the meeting dates for 2019. The motion was seconded by Mr. Waterman. Motion carried.

Mr. Utsch made a motion to approve the minutes from the December 6, 2018 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. Waterman 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 resolutions from the December 6, 2018 meeting. The motion was seconded by Mr. Brand. Motion carried.

Chairman Hanson read a statement that this is a quasi-judicial meeting. He explained generally how the meeting would proceed. He explained that everyone would be afforded an opportunity to speak for or against an application. He explained they ask that no redundant testimony be given.

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

2. Technical final major subdivision application for the creation of six (6) newly described lots. Preliminary approval was approved on November 1, 2018. Use variance previously approved for residential use in a General Business zone on September 6, 2018. Submitted by Mark Platzer for the location known as Block 820, Lot 2.05, 8100 Bayview Drive.

Chairman Hanson explained the application was continued until the February 7, 2019 meeting at the applicant's request.

1. Use variance application to allow an office building and public storage facility, submitted by TB Storage, LLC for the location known as Block 499.01, Lots 23.01, 24.01 & 26.03, 669 Townbank Road.

Mr. Ronald Stagliano, Esq., represented the applicant.

Mr. John Kornick, PE, Ms. Tiffany Morrissey, PP and Mr. Marcello Mogavero, applicant, were sworn in by Chairman Hanson.

Mr. Stagliano explained the property is in an R-2 zone and is 2.2 acres with 240' frontage. He explained currently the property has a single family dwelling. He explained they are proposing a self-storage facility with an office building. He explained they are seeking only the use variance tonight and if the Board approves, would come back with the site plan application.

Mr. Kornick explained he had a conceptual site plan with an underlaying aerial photo which was marked into evidence as A-1.

Mr. Kornick explained the proposed office building is 2,000 square feet. He explained the self storage units would be a total of 14,920 square feet. He explained there would be six (6) buildings, three (3) of which would have units on both sides and the other three (3) would have units on the one side away from the neighbors. He explained the storage buildings would be one-story. He explained there would be a stormwater basin to the rear of the property and one behind the office building. He explained there would be a bermed landscaped area in front of the property which would basically shield the office building and the storage from Townbank Road. He explained the proposed setback to the rear building would be 63', a 20' setback to the west property line and a 35' setback to the east property line. He explained there would be a 18' wide stone driveway. He explained they are proposing a 20' side yard setback for the office building and a 30' front yard setback.

Mr. Kornick explained there is a tree line boarding Summer Circle and trees on either side of the property, but not on-site. He explained the trees do overhang the property.

The Board asked if the flooding issue on Townbank Road would be addressed? Mr. Kornick explained the flooding occurs to the east of this property. He explained there have been discussions with the County and they are working with them to resolve the problem.

Submitted into evidence as A-2, was a plan showing the existing business within a ½ mile to a mile radius. The businesses were described to the Board.

Ms. Morrissey explained what is proposed is not a permitted use in the zone. She explained what is proposed is a suited use for the site. She explained there is sufficient space and is a desirable visual improvement to the area. She explained there is a trucking business next to the proposed and across the street is a church and senior housing. She explained the use proposed is a low intensity use. She explained not a lot of traffic is associated with this use. She explained what is proposed fits on and with the property. She explained the property is irregularly shaped and because of the configuration of the lot, what is proposed is more suited for the property. She explained there would be sufficient buffering for the neighboring properties. She explained the buildings are not tall and have low level lighting. She explained there is no activity at night time. The site is secured by a fence and security cameras. The office building would have a residential appearance.

Ms. Morrissey explained the application advances the purposes of the zone and zone plan. She explained this is an appropriate location for the proposed use and this is an area in need of this service. She explained the site was designed to meet or exceed the setbacks and buffers. She explained there would be no detriment to the area with one story buildings and low level lighting and adequate landscaping.

The Board asked if the office would be for the storage only? Asked if a doctor's office, other business or a residence was proposed? Mr. Mogavero explained it would be for the storage

business only, but there would be an UPS and FEDEX office.

Mr. Kornick had marked into evidence as A-3 a general elevation of the end of the storage units. He explained the facade would have a residential look to it.

Marked into evidence as A-4 was a photo of what the office building would look like. This also has a residential look to it.

There was a discussion that the office hours would be 8:00 A.M. to 5:00 P.M. and the facility would be fully secured.

The Board asked Mr. Galestok what the zoning was for the storage facility on Bayshore Road? Mr. Galestok explained that was GB (General Business) zoning.

This portion of the hearing was opened to the public.

Mr. Charles Sandman, Esq., represented objectors from Summer Circle.

Mr. Sandman explained the area is mostly residents. He explained there's a reason you don't see storage facilities in residential areas. He explained he was presented with a petition with 51 signatures opposing this application. He explained he doesn't believe there was testimony as to how many units there would be and asked how many units there would be? It was explained there would be approximately 140 units.

Mr. Sandman explained this is not a low intensity use. He explained if you looked at other storage facilities, they are quite unsightly. He explained that it's possible the applicant would seek adjacent property to expand the use.

Mr. Sandman explained what is proposed would change the character of the neighborhood. He read a section from COX about determent and how an application has to be looked at as will it affect the character of a neighborhood.

Mr. David Calvert was sworn in by Chairman Hanson.

Mr. Calvert explained he has owned his property since 1986 and he borders this property. He explained he does not want a commercial use next to him. He explained the area is mostly residential.

Mr. Frank Lovero was sworn in by Chairman Hanson.

Mr. Lovero explained he's opposed to this application. He explained he has concerns with boats and RV's being stored on the property.

Ms. Jennifer Moon was sworn in by Chairman Hanson.

Ms. Moon explained she is opposed to this application. She explained she has safety and security concerns. Mr. Mogavero explained there would be security cameras that would be linked to the police department.

Mr. Karsten Dierk was sworn in by Chairman Hanson.

Mr. Dierk explained he is opposed to this application. He explained he lives on Summer Circle at the rear of this property. He explained there will be a lot of noise from the gravel drive and the lights from the vehicles will shine in his house. He asked what would be stored in the units? He also asked if there would be boat & RV storage? If so, where would they be stored? He explained that he has heard about people renting a unit for parties and bands to rehearse.

Ms. Margaret Bethel was sworn in by Chairman Hanson.

Ms. Bethel explained she was opposed to this application. She explained there's no need for more storage when there are two facilities within two miles of this. She explained what is proposed would be a detriment to the area and devalue the neighborhood.

Mr. John Murray was sworn in by Chairman Hanson.

Mr. Murray opposed the application. He questioned as to what the contents of the units would be.

Mr. Brian McEwing was sworn in by Chairman Hanson.

Mr. McEwing explained the application is wrong. He explained in his opinion the storage is the primary use with the office building being the secondary use.

Mr. McEwing explained in regards to the exhibit A-2, the existing uses in the area, he explained they are permitted uses or inherently better uses. He explained there is nothing unique about the property. He explained it was testified to that the property can't be used for a permitted use, but that's how it is being used today. He explained flooding is a concern. He explained there are no other 6' fences on Townbank Road.

Ms. Vickie Banks was sworn in by Chairman Hanson.

Ms. Banks explained she has concerns about the clientele, noise and upkeep of the facility. She explained the zoning is residential not commercial.

This portion of the hearing was closed to the public.

Mr. Stagliano explained they have had their experts testimony tonight. He explained the objectors supplied no facts to support their objections.

Mr. Stagliano questioned Mr. Kornick regarding the traffic. Mr. Kornick explained

traffic would be minimum. He explained there would be significant security measures in place. He explained no outside storage is proposed. He explained there would be significant buffers and there would be little to no noise with the buffers and there would be a 6' fence so no lights would shine off-site.

Mr. Stagliano questioned Mr. Mogavero about if he requested information about any incidents that happened at the Bayshore Road facility. Mr. Mogavero explained he did and there were two incidents in 2017. Mr. Sandman objected to this information explaining it's hearsay.

Mr. Stagliano had marked into evidence at A-5 the police activity for the Bayshore Road facility. He read a letter from the Police Department about the OPRA request.

Mr. Harvatt explained letters are not admissible because they cannot be cross-examined.

Chairman Hanson called for a short recess at 8:36 P.M. The meeting was called back to order at 8:45 P.M.

Mr. Sandman explained he continues his objection of hearsay of the latest information.

Mr. Stagliano explained the Board should make their decision based on the presentations from the experts.

Mr. Sandman explained the public should be allowed to speak on the new evidence of the applicant after the public portion was closed.

The Board explained metal buildings are indicative to an industrial use. The storage facilities they know of are not in a residential area and if this was approved and the applicant wants to expand, how could the Board say no. There were discussions pertaining to the possibility of changing the character of the area. Some of the existing uses were there prior to zoning or of a lesser use. The possibility of water being pushed into other areas. If the application was approved, the Board has control over everything the public had concerns about.

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

VOTE:	Mr. Kennedy	NO	Mr. Brand	YES
	Mr. Utsch	NO	Mr. Waterman	NO
	Mr. Sweeten	NO	Mr. Doherty	NO
	Chairman Hanson	NO		

Motion denied.

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

3. Use & hardship variance applications to convert the 2nd floor of a detached garage into a bedroom and bathroom. Variances needed for front & side yard setbacks, submitted by Lawrence & Barbara Wind for the location known as Block 115, Lot 3, 97 Millman Lane.

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

Mr. Lawrence Wind, applicant, and Mr. Hal Noon, Licensed Land Surveyor and PP, were sworn in by Chairman Hanson.

Mr. Gelzunas had marked into evidence as A-1 floor plans.

Mr. Gelzunas explained the property is located on the bay. He explained there is an existing detached garage. He explained they are requesting a variance to have a bedroom and bathroom on the 2nd floor of the garage. He explained there would not be a kitchen. He explained they have requested variances for front & side yard setbacks. He explained the house is on the bay side of the lot and the garage is on the street side of the lot. He explained he is not sure a use variance is needed because it really wouldn't be a living unit because a kitchen would not be in the garage.

Mr. Noon explained the property is 4,085 square feet. He explained the house is approximately 2,000 square feet. He explained the house was rebuilt after Superstorm Sandy destroyed the house. He explained what they are asking for is fair and fits in with the character of area. He explained there is existing water and sewer. He explained they are proposing the bed and bathroom upstairs for flood zone reasons. He explained because no one knows what the final elevation number from FEMA will be, it's smart to put everything upstairs. He explained what is proposed would not be a detriment to the area if allowed.

Mr. Galestok explained in 2011, Dune #11-5, photos were submitted into evidence of the existing garage and asked how did we get to a bedroom? He explained another application was submitted for the new single family dwelling, Dune #11-5-A and there was no mention of the garage and that the garage would remain the same. He asked Mr. Wind if building permits were ever issued for the garage? Mr. Wind explained there was a set of stairs on the garage and the driveway couldn't be accessed. The roof sagged because of the layers of roofing and you couldn't stand up there. He explained the previous architect had inquired about the garage and was told they could take it down and rebuild it as long as it wasn't taller than the house.

Mr. Wind reviewed the photos of where the floor drains for the shower, etc. were located. He explained the space above the garage would be used for family.

The Board asked Mr. Galestok if he got an answer to his question? Mr. Galestok explained he did not. Mr. Gelzunas explained Mr. Wind relied on his architect to get the answers. Mr. Wind explained he left it up to the architect to make sure everything was in place.

The Board asked about the sewer to the property. It was explained there is a main sewer line going to the house and it is pieced over to the garage. Mr. Wind explained the garage had

water from the adjacent property. He explained there is no electric to the garage.

Mr. Galestok explained he doesn't have a problem with a bathroom in a garage, but not a living unit.

This portion of the hearing was opened to the public.

Mr. Anthony Carino was sworn in by Chairman Hanson.

Mr. Carino explained he was here last month for a two-story garage and was asked by the Board if the upstairs would be used for living, which would not be used as living. He said to the Board to keep in mind if this is allowed for living, he would be back for living and so would others. He asked where it starts and stops.

Mr. Carino also said it looked like the applicant's house was taller than 35'. It was explained to Mr. Carino it was and the applicant was giving a variance for height. It was further explained the height variance was given because of the flood zone.

This portion of the hearing was closed to the public.

Mr. Gelzunas explained his client is willing to eliminate both the shower and have only storage.

There was a discussion if the approval for a unit is abandon, this application was not needed.

Mr. Gelzunas withdrew the application.

6. Use variance application to operate a small linen cleaning business within the residence, submitted by Irene Hober for the location known as Block 505, Lot 18.03, 837 Seashore Road.

Mr. Sandman explained he would like to ask for a continuance until the February 7, 2019 meeting. He explained he waived time constraints.

5. Minor site plan application to construct a 36 x 48 pole barn with a 10 x 48 overhang for a landscape business, submitted by Ryan Douglass for the location known as Block 741.01, Lots 13.01 & 13.02, 682 Petticoat Creek Lane.

Chairman Hanson explained this application would have to be continued until next month's meeting.

Mr. Douglass waived time constraints.

4. 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. Corrado, Esq., representing objectors asked how the procedure would be for the application. He explained they had their own experts to testify and asked if cross examination would be done as the application was presented or after? It was explained that the cross examination would be done after the presentation.

Mr. Barnes explained that he had a lot of experts and testimony and because of the hour, he would like to continue the application until the February meeting and agreed to waive time constraints.

5. Minor site plan application to construct a 36 x 48 pole barn with a 10 x 48 overhang for a landscape business, submitted by Ryan Douglass for the location known as Block 741.01, Lots 13.01 & 13.02, 682 Petticoat Creek Lane.

Mr. Ryan Douglass, applicant and Mr. John Helbig, PP, were sworn in by Chairman Hanson.

Mr. Galestok read Cape May County Planning Board comments dated December 13, 2018.

Mr. Galestok read Bureau of Fire Safety comments dated December 12, 2018 in which they found this application acceptable.

Mr. Helbig explained Mr. Douglass has a landscaping business that he would like to have on his property. He explained several years ago, Mr. Douglass came before the Board for approval of a single family dwelling in the General Business Zone. He explained moving his landscape business to this lot is a permitted use in the zone.

Marked into evidence as A-1 was a tax map page, google maps of the area, adjacent uses in the area and elevation drawings.

Mr. Helbig explained this would be used to store and work on equipment. He explained the property is 2.26 acres. He explained the Nature Conservancy owns the property to the North. He explained there would be no signage or retail sales at this location. He explained the only lighting would be security lighting.

Mr. Betz summarized Engineer comments dated December 19, 2018.

Mr. Helbig explained they would like to keep the container. He explained they would like to remove the shed in the rear of the property, move the other shed to the rear of the property, move the container by the house and add more landscaping. He explained they could

flip the parking to the other side.

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. 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.

Mr. Kennedy made a motion to adjourn at 10:00 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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