

# 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 May 4, 2017 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  
David F. Brand, Jr.  
Ernest Utsch III  
Bruce Waterman  
Robert Sweeten  
Michael DiStefano  
Michael Kennedy  
George Doherty

MEMBERS EXCUSED: John Armbruster

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

CORRESPONDENCE:Handouts:

List of Acting Board Engineer voucher dated April 27, 2017.

List of Board Solicitor vouchers dated May 1, 2017.

List of Board Engineer vouchers dated May 4, 2017.

The New Jersey Planner: March/April 2017, Vol. 78, No. 2.

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

Mr. Utsch made a motion to approve the minutes from the April 6, 2017 meeting. The motion was seconded by Mr. Brand. Motion carried.

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

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

Mr. Utsch made a motion to approve the resolutions from the April 6, 2017 meeting. The motion was seconded by Mr. Brand. Motion carried.

1. Use & hardship variance and minor subdivision applications for the creation of three (3) newly described lots. Use variance to allow residential use in the GB-II zone. Hardship variances needed for lot area, frontage & width, submitted by Maurice DiFelice for the location known as Block 137, Lots 10 & 25-29, 1201 Bayshore Road.

Mr. Christopher Gillin-Schwartz, Esq., represented the applicant.

Ms. Hannah Loper, girlfriend of applicant, and Mr. Vincent Orlando, PE & Licensed Architects were sworn in by Chairman Hanson.

Ms. Loper explained she is engaged to the applicant and they have a blended family. She explained that they currently reside above the business. She explained that they would like to stay close to the business, but it is not feasible to stay above the business anymore.

Mr. Orlando explained Lot 10 is a long skinny lot in the R-3 zone. He explained there is an existing house and garage that have tenants and the business. He explained they are proposing a three-lot subdivision. One lot would be for the business, the other for the existing house and garage and the third lot for Mr. DiFelice and Ms. Loper to build their home.

Submitted into evidence were photos of the site and a colorized site plan.

Mr. Orlando explained the existing tenants park along side the house and this subdivision would provide parking for that house.

Submitted into evidence was a photo of the proposed house.

Mr. Orlando explained the proposed new vacant lot would have 7,570 square foot lot area, but would need variances for lot frontage & width because it would have 30' frontage. He explained the proposed new house would maintain the R-3 requirements and light, air and open space would be maintained.

Mr. Orlando explained the other structures are existing encroachments and would not change with the application.

Mr. Orlando explained this is an efficient use of the land. He explained he doesn't feel the neighborhood is negatively affected with this application. There is no impact to the neighboring properties. Also, there are a lot of undersized lots in the area.

Mr. Orlando explained there would be no detriment to the zone or zone plan if this application were approved.

Mr. Carr summarized Engineer comments dated February 24, 2017.

There was a discussion that there is a curb cut used for the business on proposed Lot 10.03. It was asked if this would be removed? Mr. Orlando explained the curb cut would remain because it is an ingress and egress for the restaurant. He further explained there would be a cross easement between Lots 10.02 and 10.03.

There was a discussion about the existing fence. Mr. Orlando explained the lots are common ownership so they are going to leave the fence. If the ownership changes and/or there is a sale of one of the lots, they would relocate the fence.

The Board asked Mr. Carr what the area in the flag portion of the lot was? Explaining the pole of the lot is not supposed to be calculated in the lot area. Mr. Carr explained in the flag portion the lot area is 5,033 square feet. Mr. Galestok explained flag lots are not permitted in the

GB-II and R-3 zones, so the pole portion would be included in the lot area with the use variance. He explained in the areas that flag lots are permitted, the Planning Board excluded the pole portion from the total lot area because they didn't want a 700' pole to a tiny area for a house.

There was a discussion about whether notice was proper for this? Mr. Gillin-Schwartz read the notice that was sent out. It was determined notice was proper.

Mr. Galestok read Bureau of Fire Safety comments dated February 21, 2017 in which they approved this application.

Mr. Galestok indicated there were no Cape May County Planning Board comments.

There was a discussion about buffering. Mr. Orlando explained there will be some landscaping, but they do not want to run the landscaping the entire length. He explained some buffering will be provided.

The Board asked about curbing on the Atlantic Avenue side parking. Ms. Loper explained the area is already asphalt. Submitted into evidence were photos of the parking area on the Atlantic Avenue side. No curbing is there now and they are not planning on installing any curb.

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 the use variance application. The motion was seconded by Mr. Kennedy.

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

Motion carried.

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

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

Motion carried.

Mr. Waterman made a motion to approve the minor subdivision application. The motion was seconded by Mr. Kennedy.

VOTE:	Mr. Brand	NO	Mr. DiStefano	NO
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Kennedy	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.

- Use & hardship variance applications to construct a single family dwelling and detached garage in the General Business Zone. Hardship variance needed for encroaching into the front yard setback, submitted by Jesse Matsinger for the location known as Block 59, Lot 27, 711 Bayshore Road.

Mr. Jesse Matsinger, applicant, was sworn in by Chairman Hanson.

Mr. Matsinger explained to the Board the lot is in the General Business zone. He explained there were two lots there that were combined. He explained he would like to construct approximately a 1,250 square foot house with a 24 x 28 detached garage. He is seeking the use variance for a residential use and a hardship variance for front yard setback.

The Board asked why the garage is proposed in front of the house? Mr. Matsinger explained the house is facing Schellenger Avenue and the garage location offers a sound buffer for Bayshore Road. He explained there is a County right-of-way about 15' wide so the garage would be approximately 35' from Bayshore Road.

The Board explained if the house was pushed back, the front yard setback could be met. Mr. Matsinger explained he would like to have some yard. Also, there is a tree there that he would like to save. Mr. Galestok asked what the diameter of the tree was? Mr. Matsinger explained it has to be at least 20" in diameter. Mr. Galestok explained he learned at a class he attended that for every inch in diameter, the root system is one foot. So if the tree is 20", the house should be at least 20' from the tree.

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. Utsch made a motion to conditionally approve the use variance. The motion was seconded by Mr. Brand.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Kennedy	YES
	Chairman Hanson	YES		

Motion carried.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Kennedy	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.

5. Use & hardship variance applications to construct a single family dwelling in the General Business zone. Hardship variances needed for lot area, frontage & width, submitted by Bruce & Eliza Waterman for the location known as Block 773, Lots 1-3, 830 Onondago Avenue.

Mr. Waterman excused himself from this application.

Mr. Bruce Waterman, applicant, was sworn in by Chairman Hanson.

Mr. Waterman explained the property is in the General Business zone. He submitted into evidence an aerial photo of the area and a photo of the proximity to the Parkway.

Mr. Waterman explained there are residential homes on the same block and the property is adjacent to Tranquility Park. He explained the proposed house would meet the R-3 setbacks.

Mr. Galestok explained the setbacks for General Business are 25' front yard and 6' side yards. He explained the property is basically all front yard. Mr. Waterman explained he would like R-3 setbacks and had noticed for all variances that may be needed. He explained the property does have sewer and water available.

Mr. Galestok explained the setbacks for General Business are 25' front yard and 6' side yards. If Mr. Waterman wanted R-3 setbacks, it would be a 20' front yard and the side yard would have to be 10'. Mr. Waterman explained that a 10' side yard setback is fine.

Mr. Waterman explained the house would be two-story. He explained this is a flood zone so it has to be elevated.

This portion of the hearing was opened to the public.

Mrs. Janice Lardani was sworn in by Chairman Hanson.

Mrs. Lardani explained her and her husband would request that they keep their view of the canal. She also explained the area floods.

This portion of the hearing was closed to the public.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Kennedy	YES	Mr. Doherty	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Brand made a motion to approve the hardship variance application. The motion was seconded by Mr. DiStefano.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Kennedy	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. Brand made a motion to adjourn at 7:50 P.M. The motion was seconded by Mr. DiStefano. 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.