

TOWNSHIP OF LOWER

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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 July 7, 2016 at the Lower Township Municipal Building. The meeting was called to order at 7:08 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
Bruce Waterman
Robert Sweeten

MEMBERS EXCUSED: Michael DiStefano

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 Board Solicitor vouchers dated July 6, 2016.

List of Board Engineer vouchers dated July 7, 2016.

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

4. Extension of use variance & preliminary subdivision approval, submitted by Carol Murray-Negron & B. Craig Living Trust for the location known as Block 410.01, Lots 82 & 84, 342 & 344 Fulling Mill Road.

There was a discussion that the Permit Extension Act has been extended until June 30, 2017. A letter was received from the applicant's attorney requesting this extension not proceed tonight. He also has requested the return of the application and escrow fees.

Mr. Utsch made a motion to approve the minutes from the June 2, 2016 meeting. The motion was seconded by Mr. Waterman. Motion carried.

Mr. Waterman made a motion to approve Board Engineer's vouchers. The motion was seconded by Mr. Sweeten. Motion carried.

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

Mr. Waterman made a motion to approve the Resolutions from the June 2, 2016 meeting. The motion was seconded by Mr. Sweeten. Motion carried.

1. Hardship variance application to demolish the existing single family dwelling and construct a new single family dwelling exceeding the allowed height, submitted by Jay Sutcliffe for the location known as Block 639, Lot 12, 500 Atlantic Avenue.

Mr. Jay Sutcliffe and Mrs. Susan Sutcliffe, applicants, were sworn in by Chairman Hanson.

Mr. Sutcliffe explained to the Board that they would like to demolish the existing single family dwelling and construct a new single family that would meet all setbacks, but would exceed the allowed height.

Mr. Sutcliffe explained the house would be three stories. The Board asked what actual height would be? Mr. Sutcliffe explained it would be 38 ½ feet. There was a discussion that a use variance would be needed if the height is exceeded by 10%. What is proposed would be just at the 10% and would not need a use variance.

There was a discussion this property is not in a flood zone.

The Board asked the Sutcliffe why the height variance was needed. It was explained the way the architect designed the new house.

There was a discussion the mid level ceilings are 10'. If they were reduced, a height variance may not be needed. Mr. Sutcliffe explained he is not sure why they are 10'. He explained the architect designed the house and said the allowed height in other municipalities is 38 ½ feet.

The Board explained they don't understand why the architect designed the house at this height. The house could be designed to meet the allowed height.

Mr. Harvatt explained the burden is on the applicant to prove why a hardship is needed. He explained the applicant may want to continue the application and have the architect at the next meeting.

The Board explained the problem is setting a precedence.

There was a discussion if the applicants decide to continue the application and come back with the architect he may be able to provide some testimony to the positive and negative criteria for the application. It was also explained if the building height was lowered, a hardship variance would not be needed.

Mr. Sutcliffe explained that he would like to continue the application until the August 4, 2016 meeting agreeing to waive time constraints.

3. Hardship variance application to construct an accessory use exceeding the square footage and taller than the principal use, submitted by Thomas & Kaitlin O'Hara for the location known as Block 740, Lot 7, 545 New England Road.

Mr. Kyle Weinberg, Esq., represented the applicants.

Mr. Thomas O'Hara, applicant was sworn in by Chairman Hanson.

Mr. Weinberg explained to the Board that his clients would like to construct a garage that would be larger and taller than the house. He explained the building would be 40 x 80. He explained his clients have three boats which would be stored in this building. He explained his client's also own restaurants and would use the building for storage for those also.

Mr. Weinberg explained the building coverage would be 2%. He explained the proposed placement would not obstruct anyone's views. He explained aside from the building being bigger and taller than the house, all other requirements for the zone are met.

Mr. Galestok explained this is a big property and this would be well off the road.

Mr. Weinberg explained eventually his client's will be constructing an addition to the home and it would be bigger than what's proposed. He also explained what is proposed would not be out of character for the area.

The Board asked if there would be any business use at this location? It was explained no business use is proposed.

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. O'Hara explained no business would be conducted at this location.

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

VOTE:	Mr. Brand	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	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. Use & hardship variance applications to construct a second dwelling connected to the existing house via a balcony and accessory use location, submitted by Rustin & Karen Cassway for the location known as Block 751, Lot 2.06, 710A New England Road.

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

Mr. Rustin Cassway & Mrs. Karen Cassway, applicants and Ms. Catherine Lorentz, Licensed Architect, were sworn in by Chairman Hanson.

Mr. Gelzunas explained his client and the neighbor did a subdivision in which more land was added to his clients property. He explained the total acreage is just under two acres. He explained it is a flag lot and wooded. He explained there is currently a single family dwelling on the lot. He explained the location of the proposed accessory use would not be seen.

Ms. Lorentz explained they are proposing to build a main house and a pool. She explained the proposed main house and the existing house would be connected via a second floor balcony. She explained the accessory building would be a workshop, home gym and storage area.

Marked into evidence was A-1 - site plan with photo. A-2 enlarged site plan and elevation of the accessory building.

Ms. Lorentz explained the proposed setback for the accessory use would be 15' on one side and 20' from the other line. She explained there would be a path from the accessory use to the houses and a circular driveway. She explained the balcony would connect the two houses on the second floor.

Ms. Lorentz explained both houses would be family occupied.

Ms. Lorentz explained all setbacks would be met with the proposed new house.

There was a discussion of where the front yard is measured. Mr. Galestok explained the front yard is measured to the setback line. He explained where the accessory use is proposed, is a side yard.

Marked into evidence was A-3 - floor plan which was reviewed by Ms. Lorentz.

Ms. Lorentz explained nothing would be visible from the street. She explained what is proposed is under the allowed building coverage. She explained this area can handle two living quarters. She explained there is no detriment to the zone, zone plan or community.

Mr. Gelzunas explained the Board has to determine if the connection via the deck is a connection and not needing a use variance. The Board discussed this and determined this was not a connection and the use variance was needed.

The Board explained the accessory use is big enough for another house and asked if there would be a bathroom and kitchen? Ms. Lorentz explained there would not be a kitchen, but there would be a full bath. She explained vehicles can be parked inside. She said it would be slab on grade and wood construction.

Mr. Galestok explained a mother-in-law quarters is a single unit with a common unobstructed access from one to the other.

There was a discussion between the Board and Mr. Galestok and it was determined these

would be two separate structures.

Ms. Lorentz explained the architectural design will be compatible and the design is to allow both structures to maintain the views.

Mr. Cassway explained he would have no problem deed restricting the property not be used as a rental.

Mr. Galestok explained this area has quite a few detached mother-in-law apartments.

This portion of the hearing was opened to the public.

Mr. Darrell Kopp was sworn in by Chairman Hanson.

Mr. Kopp questioned the well and septic. It was explained the County Health Department approves well and septic permits.

Mr. Kopp asked the distance between his property and what is proposed. It was explained there would be approximately 83'.

Mr. Kopp questioned the location of a fence. It was explained a fence can be right on the property line.

Mr. Kopp explained he has no objection to what is proposed.

This portion of the hearing was closed to the public.

Mr. Gelzunas explained the site can easily accommodate what is proposed. He explained he believes they have presented the special reasons for granting the variances.

There was a question and a discussion that having two separate structures on the property, what would prevent one from being sold.

Mr. Gelzunas explained that they have no problem deed restricting the units not be used as a rental.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Chairman Hanson	YES

Motion carried.

There was a discussion that the accessory use could not be used as a rental, living unit or used for commercial use.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	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. Waterman made a motion to adjourn at 8:23 P.M. The motion was seconded by Mr. Armbruster. 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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