



CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated August 27, 2015.

List of Board Engineer vouchers dated September 3, 2015.

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

Mr. Utsch made a motion to approve the minutes from the August 6, 2015 meeting. The motion was seconded by Mr. Brand. Motion carried.

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

Mr. Waterman made a motion to approve the Board Engineer vouchers. The motion was seconded by Mr. DiStefano. Motion carried.

Mr. Brand made a motion to approve the Resolutions from the August 6, 2016 meeting. The motion was seconded by Mr. DiStefano. Motion carried.

1. Use variance & minor site plan applications to reconstruct a building destroyed by fire for an auto parts shop, submitted by Macum Corporation for the location known as Block 749, Lots 6 & 1.07, 1024 Shunpike Road.

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

Mr. Lewis Conley, PP, and Licensed Land Surveyor, was sworn in by Chairman Hanson.

Mr. Stagliano explained to the Board that his clients have owned the property and operated Cape May used auto parts since 1977. He explained a use variance was approved July 1984 and a site plan later in the year for a 3,872 square foot building. He explained in 2013 the building burned down. He explained they would like to reconstruct a 2,400 square foot building in the same location.

Mr. Stagliano explained he is not sure a use variance application is necessary as a use variance has previously been approved. He explained the argument could be the use has existed

for a long time. He explained no new bulk requirements are being sought.

Mr. Conley explained he remembers in 1955 this operation being there. He explained they were doing the same then as they are now.

Marked into evidence was an aerial photo of the area.

Mr. Conley reviewed the photo with the Board. He explained it is heavily landscaped around the property. He explained they would utilize the same slab and foundation. He explained that he feels it predates the zoning ordinance. He explained what is proposed would not intensify the use of the property.

Mr. Joe Fleck was sworn in by Chairman Hanson.

Mr. Fleck explained he has been involved with the property since 1978. He explained the operation has not changed. He explained that it took awhile for the insurance company to settle. He explained what is proposed is 30% smaller than the other building.

Mr. Carr read Engineer comments dated July 30, 2015.

Mr. Conley explained they should add one handicap parking space by the building. Mr. Fleck explained he didn't have a problem adding the handicap space. He explained the walkway is still there. Mr. Conley explained there is concrete already existing in the front of the building. He explained they would just have to add a sign and striping.

Mr. Fleck explained they would put a concrete apron along Shunpike Road if required by the County.

There was a discussion regarding the trailers. Mr. Fleck explained they have removed three other trailers under the 1984 approval. There is one existing trailer left.

Mr. Robert Cummiskey was sworn in by Chairman Hanson.

Mr. Cummiskey explained he thinks the trailer they are referring to is a rental trailer they are using as an office. There is another storage trailer there from 1977.

Mr. Conley explained the six-foot fence has been there for a long time. He explained they may have been replace in kind over the years. He explained slats have been added to some of the fencing.

Mr. Galestok read Bureau of Fire Safety comments dated August 3, 2015 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated August 5, 2015.

Mr. Conley explained there was a wetlands delineation with a previous application. He explained that they would comply with the County comments.

Mr. Stagliano explained they would fully comply with the County and Engineer comments. He explained that they would like to retain the storage trailer.

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.

The Board explained they feel the use variance was needed. They explained there is a use variance already in place for a storage facility. Mr. Harvatt explained that if the Board approves the application before them, the previous use variance would go away.

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

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

Motion carried.

Mr. Armbruster made a motion to conditionally approve the minor site plan application. The motion was seconded by Mr. Brand.

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	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. Interpretation & hardship variance applications to determine if lots have merged and/or hardship variance to construct a single family dwelling on a lot deficient in lot area, frontage & width, submitted by Mister X, LLC, for the location known as Block 525, Lots 11-16, 3-5 Delair Road.

Chairman Hanson excused himself from this application due to a conflict of interest.

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

Mr. Fred Xenidis, applicant and Mr. Harold Noon, Licensed Land Surveyor, was sworn in by Chairman Hanson.

Mr. Dwyer explained his client purchased two adjoining properties, 3 and 5 Delair Road. He explained 5 Delair Road has a single family dwelling and 3 Delair Road has a single family dwelling and an accessory use. He explained his client would like to demolish everything on 3 Delair Road and rebuild a single family dwelling. He explained the lots were separately owned at one time before purchased together. He explained merger does not happen when there are two separate dwelling units.

Mr. Harvatt explained it is one block number and six lots. Mr. Dwyer explained one lot has three lots and they other has three lots, but they do not merge because they are both developed lots.

Mr. Noon explained he did a survey analysis of the immediate neighborhood. Marked into evidence was a marked up tax map page with a 250' radius of the subject lot. He explained that 60% of the lots within the 250' are non-conforming. He explained what is proposed is compatible to the area. He explained the buildings are not aesthetically pleasing and the buildings to the rear are in violation of the rear yard setback. He explained there would be parking on the property.

Mr. Harvatt explained there was a previous application for this property. Mr. Dwyer explained there was a prior application with a previous applicant that went before the Planning Board for a subdivision and hardship variance application that was denied.

Mr. Dwyer explained the property was purchased together in 1992 by a previous owner.

Mr. Galestok read lines #15 and #16 from Planning Board resolution #08-25, regarding the number of tax bills received and the structure was an accessory use.

Mr. Xenidis explained there is an accessory use on the property, but the other building has full height ceilings and evidence of a bathroom.

Mr. Galestok explained the plan from 2008 shows there was one accessory building. Now there are two buildings on site.

Marked into evidence was the 2008 subdivision plan. Mr. Harvatt explained the plan indicates the building as a garage. Mr. Xenidis explained the building has drywall and it appears that someone was using it as living space.

The Board asked how the utilities serviced the property? Mr. Xenidis explained there is one sewer lateral. He explained he doesn't know about the electric. He explained there hasn't been electric to the property since he has owned it. Mr. Noon explained there are two water valves. Mr. Dwyer explained the Township must recognize it as two separate properties as it has two separate addresses.

Mr. Dwyer explained that he would like to request a continuance of the application. He explained he would like to research the tax records.

Mr. Harvatt explained to the public that the application would be continued until next month's meeting and the public would have a chance to speak at that meeting. Mr. Galestok explained the meeting date was October 1, 2015. Mr. Dwyer explained he agreed to waive all time constraints.

3. Use & hardship variance & minor subdivision applications to subdivide an existing residential structure and commercial structure so that each is located on a separate lot. Hardship variance needed for lot area, frontage & width, submitted by John McKeon for the location known as Block 132, Lot 17, 18.01, 18.03, 19 & 20, 5 West Atlantic Avenue.

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

Mr. John McKeon, applicant, and Mr. Harold Noon, PP, Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Dwyer explained this is a subdivision application for the corner of Bayshore Road and Atlantic Avenue. He explained the single family dwelling fronts on Atlantic Avenue. He explained there is a small commercial use on Bayshore Road. He explained the single family dwelling is a non-permitted use in this zone. He explained the proposed lot size for the single family dwelling would be 7,649 square feet.

Mr. Dwyer cited a Supreme Court ruling from 1991, Urban vs. Planning Board.

Mr. Dwyer explained there is nothing about the application that increases the use. He explained there is room on the proposed commercial use property to create parking. He explained that if the entire property were sold, a condominium could be created, but this would be cleaner.

Mr. Noon explained this application creates a much better situation than what exists now. He explained no expansion is proposed. He explained there would be no detriment to the neighborhood.

The Board asked Mr. Dwyer about the Supreme Court case. Mr. Dwyer explained the case didn't really matter if it was conforming uses or non-conforming uses. It gives the Board a way to clean up or create a better situation.

The Board explained that they don't know what commercial use would go in there. They explained it could be an intense use and need a lot more parking.

The Board explained the lot line could be moved a couple of feet to make the single family lot 75' giving the commercial use some additional land. Mr. Noon explained he may have

to make it be a bit bigger than 75' to get the 7,500 square foot lot area. Mr. Dwyer explained the shed would be removed.

The Board asked if a buffer could be installed between the single family dwelling and the commercial use? Mr. Dwyer explained they could put up a fence.

Mr. Carr read Engineer comments dated August 27, 2015.

The Board explained a future business would need a site plan application. Mr. Galestok explained there could be a condition the applicant come back next month with a parking area, fence and showing the relocation of the lot line.

Mr. Galestok read Cape May County Planning Board comments dated August 5, 2015.

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

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

Motion carried.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	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 variance application to convert an existing building into a single family dwelling and construct a covered deck, submitted by John McKeon for the location known as Block 109, Lots 1.01, 1.02, 2 & 3, 1224 Bayshore Road.

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

Mr. John McKeon, applicant, and Mr. Harold Noon, PP & Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Dwyer explained this building was a church at one time. He explained they would like to convert this building into a single family dwelling. He explained it is a large lot. He explained they would also like to add a porch on the 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.

There was a discussion that Bayshore Road has a lot of spread out commercial uses. It was explained there is no demand for commercial uses. Also, the Board has approved a number of residential uses along Bayshore Road.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	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. Hardship variance application to construct a 12 x 24 rear addition encroaching into the rear yard setback and exceeding the allowed building coverage, submitted by Rosalie Cesarini for the location known as Block 496.26, Lot 9, 4 Thistle Lane.

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

Ms. Cesarini, applicant, was sworn in by Chairman Hanson.

Mr. Dwyer explained this is a one story single family dwelling with an existing deck in the rear yard. He explained they would like to replace the deck with an addition. He explained there are others in the neighborhood built out this far. He explained the addition would be used for year round use. He explained it would be the only spot on the house to construction the addition with the configuration of the house.

The Board asked Mr. Dwyer how big the addition would be? Mr. Dwyer explained the addition would be 12 x 24. The Board asked Mr. Galestok if the applicant would be able to square off the house without approval? Mr. Galestok explained they could.

Mr. Galestok explained they don't need approval for building coverage. Only a setback variance.

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. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	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.

- 6. Hardship variance application to construct a detached garage taller and closer to the house then permitted, submitted by David Perry for the location known as Block 512.05, Lot 2969, 410 Baywyn Road.

Mr. David Perry and Mrs. Janet Perry, applicants, were sworn in by Chairman Hanson.

Mr. Perry explained to the Board that he would like to construct a 16 x 20 detached garage with a second story for storage. He explained it would be four feet above the house line.

There was a discussion about the setback from the house. Zoning allows for an accessory use to be six feet from the house, but construction requires ten feet. It was explained it would be four feet from the deck, but more than ten feet to the house.

Mr. Galestok explained he did receive a letter about this application that was marked inadmissible. Mr. Harvatt explained the letter cannot be read into to the record. He explained further the reasoning is because the Board and/or applicant could not cross examine.

The Board questioned about the second floor becoming living space. Mr. Perry explained the reason they are requesting the second floor on the garage is because of health reasons, they can't crawl around in the attic anymore. So the second floor on the garage is for storage of attic stuff. Mr. Perry agreed to deed restrict the second floor portion storage only.

This portion of the hearing was closed to the public. There were no public comments. This portion of the hearing was closed to the public.

Mr. Armbruster made a motion to conditionally approve this application. The motion

was seconded by Mr. Brand.

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	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.

- 7. Hardship variance application to construct a screen porch encroaching into the front yard setback and exceeding allowed building coverage, submitted by Robert Condo for the location known as Block 361, Lot 12, 8 Poplarwood Avenue.

Mr. Robert Condo, applicant, was sworn in by Chairman Hanson.

Mr. Condo explained to the Board that he would like to construct a screened in porch on the front of his house. He explained there is an existing deck that would be made bigger.

The Board explained they had received a follow up survey. It was explained the survey the Board recently received was an updated survey. The Board explained the survey is inaccurate. They explained that one survey shows there were two sheds. Also, the survey has the wrong address.

The Board explained the proposed setback is 12'. They asked what the distance from the property line to the edge of pavement was? Mr. Condo explained he wasn't sure but it was probably four feet from the property line to the edge of payment to the property line.

Mr. Galestok explained there is a house on the southwest corner that has a porch out to what the applicant is proposing.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	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. Armbruster made a motion to adjourn at 8:45 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.