

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 September 4, 2014 at the Lower Township Municipal Building. The meeting was called to order at 7:01 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
Michael DiStefano
Dianne Kelly
Erik Collins

STAFF PRESENT:

Anthony J. Harvatt, II, Board Solicitor
Joseph Maffei, Board Engineer
William J. Galestok, Board Secretary
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:

Memorandum:

TO: Mark Sray, PE, CME
Hatch Mott MacDonald

FROM: Bill Galestok, PP, AICP
Director of Planning

DATE: August 12, 2014

RE: Amusement Partnership USA
705 Route 9
Cape May, NJ 08204
Block 510, Lots 18 & 8.01

Letter:

TO: Charles T. Catanoso
Amusement Partnership

FROM: Mark Sray, PE, CME
Hatch Mott MacDonald

DATE: August 25, 2014

RE: Amusement Partnership USA
Block 510, Lots 8.01 & 18
Township of Lower, Cape May County

Handout:

List of Board Solicitor vouchers dated September 2, 2014.

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

5. Use & hardship variance & minor site plan applications for a single family dwelling and a 60 x 60 pole barn facility for construction equipment. Hardship variances needed for lot frontage and accessory use larger than principal use, submitted by Jeffrey Van Mourik for the location known as Block 416, Lot 1.01, 151 Fishing Creek Road.

Mr. Harvatt explained an email was received from the attorney for this application asking that an announcement be made no new notice would be given. He explained he thinks new notice has to be given.

Mr. Tourison, Esq., for the applicant explained he would renote the application.

Mr. Brand made a motion to approve the minutes from the August 7, 2014 meeting. The motion was seconded by Mr. DiStefano. Motion carried.

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

Mr. Armbruster made a motion to approve the resolutions from the August 7, 2014 meeting. The motion was seconded by Mr. Utsch. Motion carried.

2. Hardship variance application to construct an addition encroaching into the side yard setback, submitted by Kristin Hill for the location known as Block 41, Lot 3-6, 312 East Jacksonville Avenue.

Ms. Kristin Hill, applicant and Mr. Tom Archibald, builder, were sworn in by Chairman Hanson.

Ms. Hill explained that she would like to construct an addition encroaching into the side yard setback.

Mr. Archibald explained the proposed addition would be 22 x 25 and encroach into the side yard setback. He explained they would also like to square off the front portion of the house.

Mr. Galestok explained the application has a building coverage of 49% and it is really 12.4%.

Mr. Archibald explained the house would meet the rear yard setback and would not encroach any further into the side yard setback than the existing house.

The Board asked why the addition couldn't be placed on the side of the house? Mr. Archibald explained with the layout of the existing house, the rear is the best place for the addition.

Mr. Archibald submitted a floor plan into evidence.

Ms. Hill explained there is also a garage and they didn't want to get close to the garage.

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	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.

4. Hardship variance application to enclose an existing deck encroaching into the side yard setback and exceeding allowed building coverage, submitted by Delton & Diane Brooks for the location known as Block 752.03, Lot 5, 707 San Fernando Road.

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

Mr. Delton Brooks, applicant, was sworn in by Chairman Hanson.

Mr. Tourison explained this is an existing single family dwelling. He explained there is an existing deck that they would like to put a roof over and screen it in. He explained the setback will not change.

The Board asked if there would be electric? Mr. Brooks explained there is currently a knee wall and they may have some outlets and put a fan in.

The Board explained there is less of an encroachment with what is proposed than the existing house.

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	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.

6. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, and encroaching into the front yard setback, submitted by Susan Robert for the location known as Block 527, Lots 36-39, 609 Lawnside Road.

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

Ms. Susan Robert, applicant, was sworn in by Chairman Hanson.

Mr. Dwyer explained this is an odd shaped undersized lot. He explained it had a single family dwelling on it that was demolished years ago. He explained his client would like to construct a new house on the existing foundation that encroaches into the front yard setback. He explained the lots are both built upon on either side of this lot.

There was a discussion that the survey is incorrect. It says 10 foot side yard setback for the six foot side and vice-versa. Mr. Dwyer explained they would get that corrected.

This portion of the hearing was opened to the public.

Ms. Geraldine Fridmann was sworn in by Chairman Hanson.

Ms. Fridmann explained she has no problems with this application. She explained it would be an improvement to the area.

Ms. Fridmann explained that she owns property in this area and has been trying to sell it. She explained she has had several people interested in her property, but have backed out because they have been told they would need CAFRA approval. She asked why this house could be built without a CAFRA permit? The Board explained to Ms. Fridmann that if the applicant needed a CAFRA permit, she would have to have one. They explained if this application is approved, it is conditioned upon any other approval that maybe needed.

This portion of the hearing was closed to the public.

The Board asked if the foundation was good to use? Ms. Robert explained it is. She explained they had an Engineer look at it and it is good.

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

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

7. Certification of non-conforming use application to certify living unit above the existing detached garage, submitted by Frank & Elizabeth Simonsen for the location known as Block 752.01, Lot 5.04, 1010 Seashore Road.

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

Mr. Frank Simonsen, applicant, was sworn in by Chairman Hanson.

Mr. Tourison explained his clients have owned this property for a long time. He explained there is a detached garage with an apartment over that has been there for many years.

Mr. Tourison submitted into evidence a 1979 survey that states a two-story building with a garage apartment above.

Mr. Simonsen explained he purchased the property in 1979 and they have kept the property as it was.

Mr. Tourison submitted into evidence photos of the primary house and the garage/apartment.

The Board asked if there were separate utilities to the apartment? Mr. Simonsen explained they are not separate. Mr. Tourison explained the assessor has the property assessed as two units.

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 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	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.

1. Minor site plan & hardship variance applications to enclose an existing 2nd floor deck for expansion of office space. Hardship variance needed for number of parking spaces, submitted by FLCH, LLC for the location known as Block 259, Lots 3-5, 1638 Bayshore Road.

Mr. Paul Baldini, Esq., represented the applicant.

Mr. Steve Ritondo and Mr. Rich Ritondo, applicants and Mr. Richard Carter, PE, were sworn in by Chairman Hanson.

Mr. Baldini explained to the Board the medical supply business is on the first floor. There is an unfinished office area upstairs along with an apartment. He explained there is an open deck that they would like to enclose for the applicants offices.

Mr. S. Ritondo explained that he and his brother are working out of small cubicles. He explained they do not have private office space and that's what they would like the deck area to be. He explained they also have been having some water issues with where the deck was attached to the building.

There was a discussion regarding the existing office space upstairs. It was explained that area may be rented in the future, but the proposed office space would not be rented and used for the business. There was a discussion that the Board remembers from the previous approval, the apartment and office space was for their use. Mr. Baldini explained the apartment was for their use, but the office could be rented out.

Mr. Baldini had marked into evidence the previously approved resolution. Mr. Harvatt read portions of the resolution into the record. There was no reference in the resolution that the upstairs office couldn't be rented.

There was a discussion that a parking variance was needed. The Board explained that if the existing office space were rented, some of the parking would be lost to that. Mr. Baldini explained there really isn't a lot of cars there at one time.

Mr. S. Ritondo explained the roof line would continue and it would look like part of the building and not look like an addition.

Mr. Maffei read Engineer's comments dated August 25, 2014.

The Board asked if the apartment would be rented? Mr. Ritondo explained the apartment

would not be rented. He explained it would be for their use. He explained the new office would not be rented, but for their use. He explained the existing office space would probably be rented, but for an office for hospice care. There was a discussion about the applicant coming back to the Board when the existing office space is rented. There was a discussion that this was taken care of at the previous application.

Mr. Galestok read Bureau of Fire Safety comments dated August 7, 2014 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated September 3, 2014.

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 hardship 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	Mr. Sweeten	YES
	Chairman Hanson	YES		

Motion carried.

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

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

3. Use & hardship variance & preliminary & final site plan applications to demolish the existing garage & construct a new garage & parking area, submitted by Charles Matthews for the location known as Block 500.01, Lots 38 & 39, 650 Seashore Road.

Mr. Thomas Keywood, Esq., represented the applicant.

Mr. Charles Matthews, applicant, and Mr. Stan Tasey, Licensed Architect, were sworn in by Chairman Hanson.

Mr. Keywood explained his client has been in the business for 30 years and at this location since 1990. He explained there are safety concerns at this location. He explained his client's wants to stay at this location. He explained four families are supported by this business.

Mr. Tasey explained they are proposing a new building 50' from the property line. He explained there would be one entrance/exit from Seashore Road that would be placed further away from the curve. He explained there would be 18 delineated parking spaces. He explained the new building would be less than 24' in height. He explained what is proposed is a tremendous improvement to what is currently happening.

The Board asked Mr. Matthews about the access and parking to the house. Mr. Matthews explained he does not own the access for the house. He explained he has an agreement with the property owners that the house can use the access and park behind the house.

Mr. Tasey explained there is a 15' wide access for the cell tower.

Mr. Keywood explained a fence was erected along the easement. He explained Mr. Matthews gave an easement to the Wallace's for access to their property. He explained they have purchased adjacent property and they now have their own access.

Mr. Maffei read Engineer's comments dated August 27, 2014.

There was a discussion that there is a lot going on on the property. There was a discussion about a deed of consolidation. Mr. Keywood explained they didn't have a problem with that.

The Board explained the access for the house is on someone else's property and what if the property is sold and the new owners won't allow this. Mr. Keywood explained there is parking on site. Mr. Tasey explained they are over two parking spaces and they could dedicate the two spaces closest to the house for their use. There was a discussion that the two parking spaces behind the house would remain and if in the future something happens with the parking behind the house, the two spaces on site closest to the house would be delineated for the rental. Mr. Matthews explained that he has an agreement with that property owner to allow the access to the parking. He explained he put the driveway in for that property owner.

There was a discussion about using the easement for the entrance and exit for this site. Mr. Tasey explained they think the proposed access to this property is the best location.

Mr. Galestok read Bureau of Fire Safety comments dated August 14, 2014 in which they found this application acceptance.

Mr. Galestok explained they do not have Cape May County Planning Board comments.

This portion of the hearing was opened to the public.

Mr. Robert Wallace, Jr., was sworn in by Chairman Hanson.

Mr. Wallace explained they don't have a problem with upgrading the property. He explained they have purchased the property next to this property for a business of their own.

Mr. Wallace submitted photos into evidence.

Mr. Wallace explained they depend on the easement for access to their property. He explained they park cars right up to the easement and sometimes on it.

Chairman Hanson called for a short recess at 8:25 P.M. The meeting was called back to order at 8:32 P.M.

Mr. Keywood explained during the recess, they discussed the easement and explained that is not a discussion for here.

Mr. Wallace asked about the 18 parking spaces and the cars would be limited to 18. The Board explained in this type of business, you can't control the number of cars. They explained that sometimes parts are needed so the cars have to stay there until the parts are received. Mr. Wallace submitted photos of vehicles that have been on the property for a long long time. Mr. Harvatt explained that if parked cars become an issue, code enforcement would have to be contacted.

There was a discussion regarding construction time. Mr. Tasey explained the business would remain in operation until the new building is built. He explained the new building is a pole barn and goes up fairly quickly. He explained probably within a month. Mr. Wallace explained he has safety concerns with construction going and the business operating.

This portion of the hearing was closed to the public.

Mr. Galestok explained a demolish bond would be required.

The Board explained what is proposed is a big improvement and it will clean the property up.

Mr. Brand 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. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	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. Armbruster	YES	Mr. Brand	YES
	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	YES
	Chairman Hanson	YES		

Motion carried.

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

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

There was a discussion regarding Amusement Partnership USA. Mr. Galestok explained they haven't done what they were supposed to do yet. Mr. Sray sent them a letter which Mr. Galestok read into the record. He explained they are awaiting a response from them.

Mr. Brand made a motion to adjourn at 8:45 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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