

CORRESPONDENCE:

Letter:

TO: Avery S. Teitler, Esq.
Planning Board Solicitor

FROM: William J. Galestok, PP,AICP
Director of Planning

DATE: January 23, 2009

RE: Resolutions of the Lower Township
Planning Board; style & substance

TO: Remington, Vernick & Walberg Engineers
ATTN: Marc DeBlasio, PE,PP,CME

FROM: Anthony P. Monzo, Esq.

DATE: February 6, 2009

RE: Township of Lower-Remington, Vernick & Walberg Engineers
File No. 1002-001

Memorandum:

TO: Kathleen McPherson, Township Manager

FROM: Anthony P. Monzo, Esquire

DATE: January 30, 2009

RE: Bottle Creek Estates

FILE NO: 1002-002

Handout:

List of Remington, Vernick & Walberg Engineer vouchers dated February 19, 2009.

Mr. Galestok read the agenda for the benefit of the public.

1. Informal discussion regarding minor subdivision approval, approved by the Planning Board June 21, 2007, for Block 256, Lot 6.02, Maple and Morris Avenues, Villas.

Mrs. Elizabeth Church, applicant, was sworn in by Acting Chairman Senico.

Mrs. Church handed the Board copies of tax map pages for the surrounding neighborhood and explained that the lots in yellow are smaller the 75 x 100. She explained that most corner properties in the area are 50 x 100. She explained that she would like a hardship variance for her property. She explained that there is an inground pool and it is creating a problem trying to sell the property. She explained that when she was approved for the subdivision, one of the conditions of approval was the pool had to be filled. She explained that if she created a 63 x 100 lot, the other lot would be conforming.

Mr. Galestok explained that a condition of approval was the removal of the pool or a demolition bond would have to be posted for the subdivision to be filed. He explained that the variance cannot be discuss tonight and what Mrs. Church would like would require a minor subdivision application with hardship variances.

Mrs. Church explained that in order to comply with the condition, she would have to reconstruct the entire back yard.

The Board explained that by looking at the area, the majority of the lots are undersized. The Board explained to Mrs. Church that they cannot do a straw vote.

7. Minor subdivision & hardship variance applications for the creation of three newly described lots, hardship variance needed for frontage & width, submitted by Roger Smith & Richard Hill for the location known as Block 433, Lots 10.02, 12, 13 & 14.01, Breakwater Road.

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

Mr. Roger Smith and Mr. Richard Hill, applicants, and Mr. William Sweeney, Licensed Land Surveyor, were sworn in by Acting Chairman Senico.

Mr. Dwyer explained that Mr. Smith owns Lot 10.02 which is "L" shaped. He explained that Mr. Smith also owns Lots 12 and 13. He explained that Mr. Hill owns Lot 14.01. He explained that they are proposing to add a portion of Lot 10.02 to New Lot 12 and the rest of the "L" will be added to New Lot 14.01.

Mr. Thornton read Engineer's report dated February 12, 2009.

There was a discussion regarding the encroachment of the shed onto New Lot 12. Mr. Dwyer explained that the encroachment has been there for 50 years. He explained that they would do an encroachment agreement and provide enough of an easement for maintenance of the shed.

Mr. Dwyer explained that New Lot 12 would be the consolidation of existing Lots 12 and 13. He explained that most of the lots in the area are 100'.

Mr. Dwyer explained that he doesn't feel there is a merger issue. He explained that Lots 12 and 13 comply with lot area requirements. Therefore, he doesn't feel merger is an issue. He explained that there was a principal use on the property, which has since be demolished and a hardship variance was granted to construct a single family dwelling on the lot.

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. McDuell made a motion to conditionally approve this application. The motion was seconded by Mr. Sullivan.

VOTE:	Mr. Beck	YES	Mr. Butler	YES
	Mr. Sullivan	YES	Mr. McDuell	YES
	Acting Chairman Senico	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.

8. Dune review site plan application for an above ground pool with raised pool deck, 2nd floor deck and 2nd floor addition, submitted by Richard & Judy Maloney for the location known as Block 283, Lots 1-3, 300 Pinetree Avenue.

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

Mr. Adam Crossland, Licensed Architect, was sworn in by Acting Chairman Senico.

Mr. Tourison explained to the Board that his client would like to have an above ground pool. He explained that the proposed location of the pool is where the gazebo is currently located. He explained that the gazebo would be relocated. He explained that his client is also proposing a second floor addition. He explained that the proposed addition would be located over a portion of the existing single family dwelling.

Mr. Tourison had marked into evidence an 'evaluation of dune conditions at 300 Pinetree Drive' prepared by J. Richard Weggell, Ph.D., PE.

Mr. Crossland explained to the Board that the pool would be above ground with a raised deck. He explained that there would be no dune disturbance. He explained the property is basically flat.

Mr. Thornton read Engineer's comments dated February 12, 2009.

Mr. Tourison submitted plans that were revised as per the Board Engineer's comments.

Mr. Tourison also submitted into evidence three aerial photographs of the property.

Mr. Galestok asked if the applicant has received CAFRA approval? Mr. Tourison explained that Mrs. Maloney has an e-mail from the State, but not the actual CAFRA permit as of yet.

Mr. Galestok explained that it has been past policy that a line of disturbance be added to the plan. Mr. Crossland explained that the line of disturbance would be added to the surveyor's plan along with a landscaping plan listing the species to be planted.

There was a discussion that there will be no construction waterward of the pool and gazebo.

Mr. Sullivan made a motion to conditionally approve this application. The motion was seconded by Mr. Beck.

VOTE:	Mr. Beck	YES	Mr. Butler	YES
	Mr. Sullivan	YES	Mr. McDuell	YES
	Acting Chairman Senico	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. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots, hardship variances needed for lot area, frontage, width, rear yard setback and exceeding the allowed lot coverage, submitted by Joanne Carrocino for the location known as Block 517, Lots 44-51, Shore Drive.

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

Mr. Brian Murphy, PE, and Ms. Joanne Carrocino, applicant, were sworn in by Acting Chairman Senico.

Mr. Dwyer submitted Mr. Murphy credentials for the Board to review.

Mr. Dwyer submitted into evidence a filed map of the area from 1948. He explained that five lots front on Shore Drive and three lots front on Fernwood Road. He also submitted into evidence three recorded deeds. He explained that at that time, the lots were in separate ownership up until Mr. Boyle purchased the lots.

Mr. Dwyer explained that the three lots on Fernwood Road do not merge with the lots on Shore Drive. He explained that there is case law regarding street to street and "L" shaped lots not merging. He explained that the total lot area is 15,831 square feet. He explained that they could have a duplex on this size lot or two single family dwelling, but the applicant doesn't want to demolish the existing single family dwelling. He explained that they are willing to deed restrict the new vacant lot to a lot coverage of 20% for a combined lot coverage of 60% for the two lots.

Mr. Murphy explained that he performed a neighborhood analysis. He explained that he used an aerial photograph and overlaid the current tax map page. He explained that of the 26 individual parcels, 11 are 60-foot wide, three are less than 60 feet wide and 12 are more than 60 feet wide. He explained that what is proposed would fit into the area. He explained that all the negative criteria has been met. He explained that there would be no detriment to the neighborhood. He explained that what is proposed would be appropriate for population density. He explained that the positive criteria has also been met.

Mr. Thornton asked how the garage on the current house would be accessed? Mr. Dwyer explained that the garage would be altered so the garage door would face Fernwood Road. Parking for the new lot would be in the garage, in the driveway or both.

Mr. Murphy explained that the shed has already been removed.

The Board asked that the neighborhood analysis be explained again. Mr. Dwyer explained that three lots are 40 feet wide. Eleven lots are 60 feet wide and 12 lots are more than 60 feet wide to conforming.

Mr. Galestok explained that a letter from Mr. & Mrs. McGinnis was mailed, but was marked as inadmissible because they were not in attendance tonight.

Mr. Galestok read Bureau of Fire Safety comments dated March 26, 2008 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated April 8, 2008 in which they waived this application.

Mr. Dwyer explained that the proposed lot would be for a single family dwelling. He explained that it would conform to the requirements.

This portion of the hearing was opened to the public.

Mrs. Cynthia Henry was sworn in by Acting Chairman Senico.

Mrs. Henry explained to the Board that she is the next door neighbor. She explained that she and her husband purchased their lot from the Boyle estate.

Mrs. Henry explained that most of the houses in the area were built prior to the current zoning rules and don't feel the neighborhood analysis is correct.

Mrs. Henry explained to the Board that she and her husband had applied for a variance for a garage and was denied because they didn't meet the requirements.

Mr. Bernard Henry was sworn in by Acting Chairman Senico.

Mr. Henry questioned what the side yard setbacks and building coverage would be.

Mr. Henry explained that he objects to this application.

Mr. Mark DeFelice was sworn in by Acting Chairman Senico.

Mr. DeFelice explained that he has a 60 x 100 lot. He explained that he purchased the lot this way.

Mr. DeFelice explained that he doesn't see a hardship with this application. He explained that the property has no slope or wetlands. He explained that the hardship is self inflicted. He explained that many homes in that area were there prior to zoning.

Mr. Thornton explained that he did the calculations for the building coverage and only a 13.8% house could be built on the vacant lot. He explained his calculations.

Mr. Paul Scheffler was sworn in by Acting Chairman Senico.

Mr. Scheffler explained that he is concerned with the increase density and the property values decreasing.

Mr. Henry explained that he understood that duplexes weren't allowed. The Board explained that duplexes were permitted on a lot that had 15,000 square feet or more lot area. Mr. Galestok read section 400-15D from the Lower Township Land Use Ordinance, where duplexes are permitted on 15,000 square foot lots.

Mr. George Collier was sworn in by Acting Chairman Senico.

Mr. Collier explained to the Board that he objects to this application. He explained that he feels the applicant is proposing this subdivision for economic gain. He explained that this isn't a reason to grant a variance. He explained that the applicant is requesting four variances when currently none are needed. He explained that it doesn't make sense to violate the Zoning

Codes.

Mr. Robert Lambert was sworn in by Acting Chairman Senico.

Mr. Lambert explained that he objects to increase density. Also, adding another well.

This portion of the hearing was closed to the public.

The Board asked that with the neighbor's concerns against this application, would the applicant be willing to withdraw the application? Mr. Dwyer explained that his client was not willing to withdraw the application.

Mr. Dwyer explained that they are presenting the application for C.2 variance relief. He explained that they feel the application is improving the population density, they don't feel that what is proposed is a deterrent and the majority of the area is 60 foot lots.

Acting Chairman Senico called for a short recess at 8:27 P.M. The meeting was called back to order at 8:37 P.M.

Mr. Dwyer explained that his client would be agreeable to Mr. Thornton's calculations for the new lot. It was discussed that an 826 square foot, first floor house could be built.

This portion of the hearing was reopened to the public.

Mr. George Collier explained that the house would be very small and narrow and the owner would have to go up. This would ruin the views.

This portion of the hearing was closed to the public.

Mr. Galestok explained that the Estate of Bud Boyle subdivided Lots 52-55 off the larger parcel. He explained that Mr. Boyle's house was demolished and a new house was built. Mr. Dwyer explained that the Cape May Beach plan had these three lots fronting on Fernwood Road. He explained that if the house wasn't existing a case could be made for an isolated undersized lot. He explained that his client did not have the house constructed.

Mr. McDuell made a motion to conditionally approve this application. The motion was seconded by Mr. Beck.

VOTE:	Mr. Beck	NO	Mr. Butler	NO
	Mr. Sullivan	NO	Mr. McDuell	NO
	Acting Chairman Senico	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.

6. Revised preliminary and final site plan application to construct a CVS Pharmacy, submitted by Feinberg & McBurney/Realty Development, LLC for the location known as Block 216, Lots 32-34, Bayshore Road & Weber Avenue.

Mr. Stephen Nehmad, Esq., represented the applicant.

Mr. Nehmad explained to the Board that his client received preliminary site plan and hardship variance approval's October 2008. He explained that the site is 2+ acres.

Mr. Nehmad explained to the Board that after this Board gave preliminary approval, they went before Cape May County Planning Board. He explained that the County Planning Board wanted the Bayshore Road entrance moved. He explained that they have amended the plan and are requested amended preliminary and final site plan approval.

Mr. Allen Stein, Principal for CVS, Mr. Brett Skapinetz, Civil Engineer, and Mr. Joseph Staigar, PE, PP & Traffic Engineer, were sworn in by Acting Chairman Senico.

Marked into evidence was a colored version of the revised site plan. Mr. Skapinetz explained to the Board that the plans were revised as per Remington & Vernick Engineer comments. He explained that a sign was added for no left turns onto Weber Avenue for delivery trucks. The fence was added to the plan as well and landscaping. They have a total of four handicap parking spaces. Deliveries will be between the hours of 8:00 A.M. and 6:00 P.M. He explained that because the County requested the entrance shifted, those parking spaces were eliminated, but placed where the entrance was originally approved. He explained that it is the same number of spaces.

Marked into evidence was a letter from the Cape May County Planning Board dated December 17, 2008. Also, marked into evidence was an aerial photograph.

Mr. Skapinetz explained that they would revise the plans as per Mr. Thornton's comments.

Mr. Staigar explained that the County was concerned with stacking during peak hours. He explained that the concern was blocking of the drive aisle. He explained that the access point to the site is control by the County.

Mr. Galestok explained that with the original application, the stacking was acceptable. Mr. Staigar explained that there was a bypass and also Weber Avenue. He explained that the County wants to allow for less stacking.

Mr. Galestok explained that the plan shows an eight-foot dedication to the County. Mr. Staigar explained that would be for future road widening. Mr. Galestok asked if there would be

enough room for an accel/decel lane? Mr. Staigar explained that wasn't.

Mr. Nehmad explained that they tried very hard to not have the driveway moved.

Mr. Galestok explained that it appears that truck traffic had a better circulation with the other plan. Mr. Staigar explained that changes were made to the circulation to accommodate trucks.

Mr. Thornton read Engineer's comments dated February 13, 2009.

Mr. Skapinetz explained the contour line shown on Weber Avenue and Bayshore Road is incorrect. He explained that water will not pond at the corner.

There was discussion that a minor adjustment can be made changing the curb closer to the building and widening the drive aisle to 32 feet. This should eliminate any problem that may occur at the pharmacy drop-off and pick-up.

The site triangle was accepted by the County.

The stormwater test did vary. Additional samples will be taken.

Mr. Galestok read Bureau of Fire Safety comments dated December 11, 2008.

This portion of the hearing was opened to the public.

Mr. Walter Miller was sworn in by Chairman Senico.

Mr. Miller questioned the number of parking spaces. It was explained to him that the number of parking spaces remain the same. Mr. Skapinetz explained that ADA guidelines would only require two handicap parking spaces. They have provided four spaces.

Mr. Miller asked about the Title 39 powers. Mr. Nehmad explained what Title 39 powers were.

Mrs. Carolyn Darhun was sworn in by Acting Chairman Senico.

Mrs. Darhun explained that the proposed access would align with her driveway. She explained that this is on a curve and it is hard to pass. She read her statement into the record.

This portion of the hearing was closed to the public.

Mr. Nehmad explained that they have addressed all conditions of approval. He explained that a lot of landscaping has been added to try to accommodate the neighbors. He explained that they had no choice but to move the entrance as per the County.

The Board asked about traffic on Weber Avenue. Mr. Skapinetz explained that there would still be local traffic, but signs will be installed that no trucks would be permitted to make a left onto Weber Avenue when leaving the site.

Mr. Nehmad explained that maybe adding shrubbery on the neighbor's property would be more appealing. Mr. Galestok explained that a fence is protection right away. It would take time for shrubs to grow tall enough. He suggested that maybe both could be installed.

Mr. Galestok explained that the County does have jurisdiction regarding the entrance, but it appeared that there was move room to pass vehicles with the entrance lined up with Langs Avenue. Mr. Nehmad explained that if the Board can get the County to move the entrance back, they would change the plan back. The only thing they request is that the applicant wouldn't have to come back before the Board. There was a discussion about have two plans. One with the original location of the entrance and one with the location the County requested.

Mr. Nehmad explained that he would like to receive preliminary and final approval on the plan submitted tonight, contingent upon a decision from the County. If the County will allow the entrance to be moved, they would construct that plan. If not, they would proceed with this plan.

Mr. Nehmad explained that they would propose a 50' fence on the Darhun's property.

The Board asked if this would be a 24-hour CVS? Mr. Nehmad explained that right now they are not proposing 24 hours. He explained the hours would be 8:00 A.M. to 10:00 P.M.

Mr. Butler made a motion to conditionally approve this application. The motion was seconded by Mr. McDuell.

VOTE:	Mr. Beck	YES	Mr. Butler	YES
	Mr. Sullivan	YES	Mr. McDuell	YES
	Acting Chairman Senico	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. Butler made a motion to approve Remington, Vernick & Walberg Engineer vouchers. The motion was seconded by Mr. McDuell. Motion carried.

Mr. Sullivan made a motion to adjourn at 10:00 P.M. The motion was seconded by Mr. McDuell. 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.