

# 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 PLANNING BOARD

A regularly scheduled meeting of the Lower Township Planning Board was held on May 21, 2009 at the Lower Township Municipal Building. The meeting was called to order at 7:05 P.M. by Chairman Jay Dilworth. 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 Jay Dilworth  
Charles Hewitt, Jr.  
Johnnie Walker (Mayor's Designee)  
Daniel J. Senico  
Brian Sullivan  
Chris McDuell  
Robert Crompton

MEMBERS EXCUSED: Michael Beck  
Kevin Lare  
Gary Playford  
Robert C. Imler  
Edward Butler

STAFF PRESENT: Avery S. Teitler, Board Solicitor  
Thomas Thornton, Board Engineer  
William J. Galestok, Board Secretary  
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:Handouts:

Township of Lower, County of Cape May, State of New Jersey  
Ordinance No. DRAFT VERSION #3

List of Board Engineer vouchers dated May 19, 2009.

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

Mr. Galestok explained that changes were made to the Draft Windmill Ordinance as per the Board's comments.

Mr. Crompton made a motion to approve the Draft Windmill Ordinance and forward to Township Council. The motion was seconded by Mr. Hewitt. Motion carried.

1. Dune review & hardship variance applications to construct a pool and pool enclosure, residential driveway and sewer lateral, submitted Dennis & Marie Hanson for the location known as Block 390, Lot 1, 2687 Bay Drive.

Mrs. Doreen Corino, Esq., represented the applicants.

Mrs. Marie Hanson, applicant, and Mr. Joseph Maffei, PE, were sworn in by Chairman Dilworth.

Mrs. Corino explained that Mr. & Mrs. Hanson had received subdivision approval for this lot. She explained that her client's are now requesting a dune review application for a pool, pool building, to install a sewer line and driveway. She explained that a variance is needed for the pool and pool building in the front yard. She explained that this is a technical variance because once the subdivision is filed, there will be a lot in front of her client's house.

Mr. Maffei explained that the proposed pool house is 49 x 26. He explained that the structure would have retractable awnings. He explained that a fence will be provided for when the awnings are retracted because of the open areas. He explained that this would be the best location for the pool. He explained that they cannot put the pool behind the house because that is the bay side.

Mr. Maffei explained that the sewer line will be installed and will be tied into the sewer lateral on Bay Drive.

Mr. Maffei had marked into evidence the specifications on the enclosure.

Mr. Maffei explained that enclosure is made of clear glass. He explained that the proposed location of the pool and pool enclosure is the current location of the septic system. He explained that there wouldn't be much sand disturbance in this area.

Mr. Thornton summarized Engineer's comments dated May 15, 2009.

Mr. Maffei explained that they have submitted an application to the Township MUA and they are waiting to hear back from them.

Mr. Maffei reviewed the property elevations with the Board. He explained that the property is almost flat.

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. Hewitt made a motion to conditionally approve this application. The motion was seconded by Mr. Crompton.

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. Senico	YES	Mr. Sullivan	YES
	Mr. McDuell	YES	Mr. Crompton	YES
	Chairman Dilworth	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. Dune review application to construct an addition and deck, submitted by Annette Tobia for the location known as Block 512.14, Lot 29, 2801 Shore Drive.

Mrs. Doreen Corino, Esq., represented the applicant.

Ms. Annette Tobia, applicant and Mr. Joseph Maffei, PE, were sworn in by Chairman Dilworth.

Mrs. Corino explained to the Board that her client is seeking approval to construct an addition. She explained that no variances are required. She explained that most of the addition is above the second floor.

Mr. Maffei explained to the Board that Mr. Steve Martinelli prepared the plan. He submitted into evidence aerial photographs for the area.

Mr. Maffei explained that the additions are mostly second floor additions. He explained that there would be no dune disturbance except for a small amount in the front of the house.

Mr. Thornton summarized Engineer's comments dated May 15, 2009.

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. Hewitt made a motion to conditionally approve this application. The motion was seconded by Mr. Crompton.

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. Senico	YES	Mr. Sullivan	YES
	Mr. McDuell	YES	Mr. Crompton	YES
	Chairman Dilworth	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. Preliminary subdivision application for the creation of 18 newly described lots, submitted by Robert Lepor for the location known as block 510, Lot 11.01, Route 9.

Mr. Galestok excused himself from this application due to a conflict of interest.

Mr. Maffei explained to the Board that one mailing notice is missing. He explained that he was unable to find the white receipt or green card. Mr. Teitler explained to the Board that he would like to take a short recess to review the case law for noticing. He explained that it has been his experience that in cases like this, notice is defective.

Chairman Dilworth called for a short recess at 7:27 P.M. The meeting was called back to order at 7:39 P.M.

Mr. Teitler explained that it is his legal opinion that the Board cannot proceed with the application tonight. He read a section from COX pertaining to defective notice.

Mr. Maffei explained that he understands that the application cannot proceed tonight, but he would still like to proceed as if this were a Work Session. The Board explained that because there are no variances, they do not have a problem proceeding as if this were a Work Session.

Mr. Maffei explained that the application is protecting Mr. Lepor's rights at the State level. He explained that if construction proceeds, they would proceed with the wetland's delineation. He explained that they have used an old wetlands line and applied a 150-foot buffer.

The Board explained that they really haven't proceeded with an application that didn't have the delineation.

Mr. Thornton read Engineer comment's dated May 15, 2009.

Mr. Thornton explained that when the wetlands are delineated, it will probably be different and the application would have to be reheard. He explained that the street is more appropriate as a residential access street not a rural street. He explained that there doesn't seem to be enough height on the basin.

Ms. Schubert read Bureau of Fire Safety comments dated May 1, 2009.

Mr. Maffei explained that they are proposing a wet pond and a lot of the comments may go away.

Mr. Maffei explained that they proposed a rural street because of the lot sizes. He explained that even though they are ½ acre lots, the average is over three acres. He explained that no parking will be on the street. He explained that they are not proposing curbing, but will have curbing at the intersection of this street and Route 9. He explained that in the past, they have proposed no parking signs for the street and then went to Council to allow the signs.

There was a discussion if there would be a problem to increase the width of the street to 30 feet. Mr. Maffei explained that there would be no problem with the increase.

There was a discussion about whether or not this street was rural or a residential access street. Mr. Thornton explained that RSIS definition would be for a residential access street. He explained that his opinion is parking is going to be needed on the street.

There was a discussion about whether or not there is a commitment with the MUA for sewer. Mr. Maffei explained that they have applied for "Form B."

Mr. Hewitt made a motion to approve Board Engineer vouchers. The motion was seconded by Mr. Sullivan. Motion carried.

Mr. Hewitt made a motion to approve the minutes from the April 9, 2009 and April 16, 2009 meeting. The motion was seconded by Mr. Crompton. Motion carried.

Mr. Hewitt made a motion to adjourn at 8:08 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.