

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 January 20, 2011 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
Paul St. John
Brian Sullivan

MEMBERS EXCUSED: Michael Beck
Kevin Lare
Chris McDuell
Robert Crompton

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

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated January 19, 2011.

List of Board Engineer vouchers dated January 20, 2011.

The New Jersey Planner: December 2010; January 2011 Vol. 71, No. 6.

Mr. Sullivan made a motion to nominate Jay Dilworth as Chairman and approve Resolution #11-1. The motion was seconded by Mr. Senico. Motion carried.

Mr. Senico made a motion to nominate Charles Hewitt as Vice-Chairman and approve Resolution #11-2. The motion was seconded by Mr. Sullivan. Motion carried.

Mr. Senico made a motion to nominate William Galestok as Board Secretary and approve Resolution #11-3. The motion was seconded by Mr. Hewitt. Motion carried.

Mr. Hewitt made a motion to nominate Lisa Schubert as Recording Secretary and approve Resolution #11-4. The motion was seconded by Mr. Walker. Motion carried.

Mr. Senico made a motion to nominate Avery Teitler, Esq., as Board Solicitor and approve Resolution #11-5. The motion was seconded by Mr. Hewitt. Motion carried.

Mr. St. John made a motion to nominate Hatch Mott MacDonald as Board Engineer and approve Resolution #11-6. The motion was seconded by Mr. Hewitt. Motion carried.

Mr. Senico made a motion to approve Resolution #11-7, 2011 meeting dates. The motion was seconded by Mr. Hewitt. Motion carried.

Mr. St. John made a motion to approve Resolution #11-8, minor subdivision committee. The motion was seconded by Mr. Sullivan. Motion carried.

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

2. Informal discussion of Lower Township MUA proposed Well #8 - Breakwater Road, Matt Ecker, PE.

Mr. Ecker explained to the Board this well would service the Townbank area. He explained the site is across from the airport and is more than two acres. He explained the lot is mostly wooded and they intend to keep most of the trees. He explained that an area must be cleared for the well and pump house. He explained there is a large single family dwelling to the rear of the property and the wooded area will add buffer for them. He explained that for safety reason, they are placing the well to the rear of the lot, but not too close to the single family dwelling.

Mr. Ecker explained that there will be a monitoring well toward Breakwater Road while the well is being drilled. He explained that the well would be 250 feet deep.

Mr. Ecker explained that the building would be a split face building with an asphalt roof. He explained that if the neighbor wants, they would plant more evergreen trees.

Mr. Ecker explained that once a day a two-man crew will visit the well.

5. Extension of filing time for minor subdivision, submitted by LDTD Developers, LLC, for the location known as Block 36, Lots 1-4, 134 West Jacksonville Avenue.

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

Mr. Dwyer explained that this subdivision was approved by the Board conditioned upon removal of the single family dwelling. He explained that the single family dwelling has been demolished and he is seeking an additional 60-day extension for filing.

Mr. St. John made a motion to approve a 60-day extension. The motion was seconded by Mr. Hewitt. 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 newly described lots. Hardship variance needed for lot area, frontage, width, depth and encroaching into the front yard setback, submitted by Paul & Joann Guglielmi for the location known as Block 739, Lots 20-22, 810 Seashore Road.

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

Mr. Paul Guglielmi, applicant, was sworn in by Chairman Dilworth.

Mr. Tourison explained to the Board that Mr. George Davis is selling a portion of his lot to his client. He explained that there is a pre-existing condition with the single family dwelling encroaching into the front yard setback.

Mr. Thornton read Engineer comments dated November 12, 2010.

Mr. Tourison explained that his client is the contract purchaser. He explained that notice was given for both his client's property and Mr. Davis'. Mr. Teitler explained that for filing purposes, both property owners must sign the plans.

Mr. Galestok read Bureau of Fire Safety comments dated November 9, 2010 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated November 17, 2010 in which they deemed the application incomplete.

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

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	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.

- 6. Minor subdivision & hardship variance applications for the creation of two (2) newly described lots, hardship variance needed for side yard setback, submitted by Memphis Avenue, LLC, for the location known as Block 245, Lots 24-27, 214 West Wilde Avenue.

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

Mr. Dwyer explained that the property is 20,000 square feet in lot area. He explained they are proposing one 7,500 square foot lot and one 12,500 square foot lot. He explained that in trying to keep with the lot area requirement for the zone, and the location of the existing single family dwelling, a side yard setback variance is needed. He explained that the garage for the house would be located within two feet of the property line. He explained that they will deed

restrict new lot 24 that there must be a ten-foot setback on that side. He explained by doing this there would be 12 feet between the two. He explained that there have been Court cases supporting the approval of this type of application. He explained that there would not be a deterrent to the zone or zone plan if approved.

Mr. Thornton read Engineer comments dated January 14, 2011.

Mr. Dwyer explained that the pool was removed.

Mr. Galestok read Bureau of Fire Safety comments dated December 15, 2010 in which they found this application acceptable.

Mr. Galestok read Cape May County Planning Board comments dated January 12, 2011 in which they waived this application.

Mr. Galestok explained that administratively it is not easy to enforce this deed restriction. He also explained that if the neighbor wants to put up a fence, an easement is needed for Lot 25 so they would be able to work on their side. He explained that these types of easements do not work. He explained that he would rather new lot 24 be a 71' wide lot, giving new lot 25 a six foot setback. There was a discussion that moving the lot line creates the need for variances for lot area, frontage and width. There was a discussion regarding notice. Mr. Dwyer explained that the law does allow for this, but if the Board wants, he would re-notice the application.

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 discussed that in the past they had a problem with creating undersized lots. They discussed that because of the circumstances of this particular property, it seems reasonable.

Mr. Hewitt made a motion to conditionally approved this application. The motion was seconded by Mr. St. John.

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	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. Minor site plan application for an auto repair shop in addition to an auto dealership, submitted by Louis Altobelli, Jr., for the location known as Block 92, Lots 1-6 & 61, 1100 Bayshore Road.

Mr. Louis C. Dwyer, Jr., Esq., represented objector's to this application.

Mr. Dwyer explained that there may be a procedural problem with this application. He explained that he went to the Planning & Zoning office to view the application. He explained that the Engineer's comments listed five variances needed as does the applicant's site plan. He explained that no variances were listed in the notice.

Mr. Charles Sandman, Esq., represented the applicant.

Mr. Sandman explained that they feel no variances are required. He explained that only variances that may be needed are existing conditions. He explained that what his client proposes are permitted uses. He explained that if the second floor will create a variance for parking, they would remove the second floor. He explained that there will not be any outside sales of vehicles. He explained that they are willing to do whatever this Board would like them to do.

Mr. Dwyer explained that it is unfair to change an application once submitted.

Mr. Sandman explained that the plans have been revised three times. That there are only three bays proposed. He explained that only 12 parking spaces are required.

Mr. Teitler explained that he reviewed the notice and case law. He explained that he feels notice is sufficient at this point.

Mr. Dwyer read case law that stated variances must be listed in notice. He explained that if a layman read the notice and looked at the plans, they wouldn't know what variances were needed.

Mr. Galestok explained that a minor site plan is needed for the auto repair. He explained that the Board Solicitor feels notice is sufficient at this point.

Mr. Sandman explained that the second floor does not have any impact on parking. He explained that this area would be used for storage only. He explained that what his client is proposing are permitted uses. He explained that he does not believe any variances are needed unless the Board requires.

Mr. Louis Altobelli, applicant, was sworn in by Chairman Dilworth.

Mr. Altobeilli explained that he owns an auto body shop in Middle Township. He explained that he would not be doing any auto body at this location. He explained that this site would be used for auto repair only. He explained that there would be three bay with a drive thru tunnel. He explained that customers would not be using the tunnel. He explained that his employee's would drive the car into the building and to the bay where work is to be performed. He explained that there would be no need for two way traffic in this tunnel.

Mr. Altobelli explained that there would be two display windows. He explained that he

would have a classic car in each window and no more than two classic cars for sale at one time on site. He explained that he has no problem with the Board limiting only two cars for sale at a time. He explained he has no use for a used car lot.

Mr. Altobelli explained that he would like to have the second floor. He explained that his shop in Middle Township has a flat roof and he has had a lot of problems with that last year. He explained that if the Board would like he would keep the existing flat roof on the building, but would prefer the "A" roof. He explained that he has no intentions of having office space on the second floor. He explained that the area would be used for storage of supplies only.

Mr. Altobelli explained that there would be three lifts and the normal material needed for auto repair.

Mr. Altobelli explained that the building was previously used as a gym. He explained that there were 120-130 members. He explained that the property was then sold to Roman Osadchuk who received approval for an auto sales lot.

Mr. Dwyer asked Mr. Altobelli how many employees' he would have at this facility? Mr. Altobelli explained that he would have three mechanics, secretary and office manager. He explained that he would not have any tow trucks on site right now. He explained that if in the future he has to have a tow truck on site, he would.

The Board asked Mr. Altobelli if there would be interior stairs to the second floor? Mr. Altobelli explained that there may be. He explained no bathroom would be upstairs. Mr. Dwyer asked Mr. Altobelli why the second floor showed rooms with doors? Explaining that if the area was being used for storage only, there wouldn't be a need. Mr. Altobelli explained that the area would be storage only. He explained that the drawings were drawn a while ago and at that time, he was concerning office space there. But the area would be storage only.

Mr. Dwyer asked Mr. Altobelli if customers drive into the tunnel? Mr. Altobelli explained they would not. He explained that the employees would bring the cars into the building.

Mr. Dwyer asked Mr. Altobelli where the load/unload zone was located? Mr. Altobelli explained there isn't a designated load/unload zone for deliveries. He explained that the delivery truck is usually a panel van and would park in front of the bay and unload the parts. He explained that they could park in a parking spot and walk across to the building, but they are not there for long periods of time and it is easier to park in front of the bay and unload.

Mr. Sandman asked Mr. Altobelli who would use the rear parking area? Mr. Altobelli explained that area would be used by the employees.

Mr. Brian Murphy, PE, PP, was sworn in by Chairman Dilworth.

Mr. Murphy explained the building has been there since the 1950's. He explained that

there has been parking on both sides of the building. He explained that parking was discussed at the previous meeting for the auto sales. He explained that currently parking is right to the property line. He explained that they are proposing to increase the buffer.

Mr. Murphy explained that a variance would be needed to have two building mounted signs. He explained that they will amend the application to have only one building-mounted sign.

Mr. Murphy explained that 12 parking spaces are required by the Ordinance. He explained that the type of vehicle is not required by the Ordinance. He explained that it would not matter if the parking is used for employee, customer or tow truck. He explained that the building has been previously used as a liquor store, gym and auto sales facility.

Mr. Murphy reviewed the previous site plan for the auto sales facility. He explained that the only changes Mr. Altobelli proposes are to landscape the perimeter of the building, improve the drainage, asphalt the parking area, and lighting. He explained that there will be a realignment of Bayshore Road and Delaware Avenue. He explained that area will be realigned and striped. He explained that the trash enclosure will be fully enclosed with fencing and a fence along the property line of the VFW and residential.

Mr. Murphy explained that he doesn't feel that additional parking would be needed for the second floor that it is storage only. He explained that the previous application was approved with 17 parking spaces when 23 were required.

Marked into evidence were the auto sales site plan and the resolution for that application.

Mr. Murphy reviewed section 400-35 explaining there would be proper ventilation, no vibration beyond the building, odors would be contained to the building and noise would be within the Township standards.

Chairman Dilworth called for a short recess at 8:38 P.M. The meeting was called back to order at 8:49 P.M.

Mr. Dwyer asked Mr. Murphy if the second floor would be constructed within the footprint of the first floor? Mr. Murphy explained it would. Mr. Dwyer explained that a variance would be required. Mr. Murphy explained that the footprint of the building is not changing. He explained that the building already exists with non-conforming front, side and rear yard setbacks.

Mr. Dwyer asked Mr. Murphy if the exterior stairs encroached into the setback? Mr. Murphy explained that he didn't believe they did.

Mr. Dwyer and Mr. Murphy discussed the parking area. Mr. Murphy explained the parking on the Delaware Avenue side of the property does not meet the setback. He explained that they are going to redefine the parking and therefore a variance was not needed, explaining

that the parking area was previously approved. He explained that the paved parking area would be less than 44.5%. He explained that they are not providing landscaping toward the intersection because of the sight triangle.

Mr. Dwyer asked Mr. Murphy what the square footage of the building was and what was the area for the auto sales? Mr. Murphy explained that the square of the building would be 4,500 square feet. He explained that he was unsure of the square footage for the auto sales, but there would be not exterior sales of automobiles.

Mr. Dwyer asked what the width of the tunnel would be? Mr. Murphy explained that width would be 12 feet.

Mr. Thornton read Engineer comments dated January 14, 2011.

Mr. Murphy explained that they could meet the setback for the free standing sign.

There was a discussion that the entire parcel is within the GB-II zone. It was explained that this was addressed at the previous approval.

Mr. Murphy explained that the trash enclosure could be moved. He explained that they would also be willing to move the trash enclosure to the interior of the building. The Board explained that it would have to be placed where it could be assessed for removal.

Mr. Murphy explained that the sink hole issue has been resolved.

Mr. Murphy explained that they would like a six-foot fence from the front corner of the building around the back.

Mr. Altobelli explained that he will replace and install new sidewalks along Delaware Avenue.

Mr. Lewis Conley, Jr., PP, for the objectors, was sworn in by Chairman Dilworth.

Mr. Conley explained if a nonconformity is removed, and what is installed does not meet the requirements for the zone, a variance is needed. He explained that drive aisle width of the tunnel needs to be 25 feet for two-way traffic. He explained that he feels the parking is inadequate for what is proposed. He explained that he feels what is proposed would be a deterrent to the neighborhood by not having enough parking. He explained that he feels what is proposed is a too intense use for the site.

Mr. Sandman and Mr. Conley if the parking area was left the way it is today, would a variance be needed? Mr. Conley explained a variance would not be needed.

This portion of the hearing was opened to the public.

Mr. Jim Kershaw was sworn in by Chairman Dilworth

Mr. Kershaw explained that he owns Jake's Restaurant. He explained that this property has been vacant for a long time. He explained that businesses are needed along Bayshore Road. He explained that he is in favor of this application.

Mr. Anthony Gray was sworn in by Chairman Dilworth.

Mr. Gray explained that he is in favor of this application. He explained that he feels this would help bring the area back.

Mr. Peter LaBar was sworn in by Chairman Dilworth.

Mr. LaBar explained that he has heard a lot about beautifying Bayshore Road. He explained that it is about time that this happens. He explained he was in favor of this application.

Mr. Daniel Scull was sworn in by Chairman Dilworth.

Mr. Scull explained he lives in Cape May Court House, but has recently purchased a property on Bayshore Road. He explained that Bayshore Road needs something good. He explained that maybe jobs could be created if this application were approved.

Mr. Anthony Becica was sworn in by Chairman Dilworth.

Mr. Becica explained that Bayshore Road needs improvement. He explained that he is in favor of this application.

Mrs. Helen Gray was sworn in by Chairman Dilworth.

Mrs. Gray explained that she has heard testimony tonight about inadequate parking for this application. She explained that if anyone comes to this location at night time, there are cars parked all over and along the streets with people going to the VFW.

Mr. Robert Donaghy was sworn in by Chairman Dilworth.

Mr. Donaghy explained he was a member of the VFW. He explained that he feels the VFW will lose parking if this is approved.

This portion of the hearing was closed to the public.

Mr. Sandman explained they are proposing the second floor for aesthetic value. He explained that they do not need approval for auto sales because that was previously approved.

Mr. Galestok asked if the applicant would be willing to deed restrict the second floor to storage only? Mr. Sandman explained he would. Mr. Galestok read the definition of gross floor

area. He explained that he did not know if it was feasible to construct the second floor with less than seven foot ceiling height? He explained that if it was, this area would not have to be included in calculating the gross floor for parking. There was a discussion that this would not be possible.

Mr. Galestok read Bureau of Fire Safety comments dated August 13, 2010.

There was a discussion about the application. The Board asked Mr. Conley what a good use for the property would be? Mr. Conley explained that a by appointment doctor's office would be a good use.

There was a discussion regarding the location of the free standing sign. Mr. Murphy explained the sign could be moved to meet the setback. It was discussed that would place the sign further away from Bayshore Road. The Board explained that they did not have a problem with the proposed location.

There was a discussion that variances would be needed for the sign setback, landscape buffer, location of trash enclosure and number of signs.

Mr. Galestok explained that a variance for the second floor was not needed.

Mr. Hewitt made a motion to conditionally approve the variances. The motion was seconded by Mr. Walker.

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	YES	Chairman Dilworth	YES

Motion carried.

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

VOTE:	Mr. Hewitt	YES	Mr. Walker	YES
	Mr. Senico	YES	Mr. St. John	YES
	Mr. Sullivan	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.

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

Mr. Hewitt made a motion to approve the December 9, 2010 minutes. The motion was seconded by Mr. St. John. Motion carried.

Mr. Hewitt made a motion to approve the resolution from the December 9, 2010 meeting. The motion was seconded by Mr. Walker. Motion carried.

1. Discussion of modifications to Chapter 400, Land Development Ordinance, sight triangle 'easements' proposed by Mark Sray, PE, CME, Hatch Mott MacDonald.

Mr. Galestok handed the Board a copy of the sight triangle easement from the Land Use Ordinance. He explained the sight triangle easement is different in the General Ordinance. He explained that they conflict with one another. He had asked Mr. Sray to redraft page 400:A1. Mr. Sray had explained to him that he could not find any reference as to where the Land Use sight triangle originated. He suggested the AASSTO requirements replace the Land Use sight triangle requirements. Mr. Galestok explained that the General Ordinance should not be affected in any way by this change.

Mr. Hewitt made a motion to recommend to Council the new Ordinance. The motion was seconded by Mr. Senico. Motion carried.

Mr. Hewitt made a motion to adjourn at 10:32 P.M. The motion was seconded by Mr. Senico. 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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