

TOWNSHIP OF LOWER

2600 Bayshore Road
Villas, New Jersey 08251



Incorporated 1798

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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 March 5, 2009 at the Lower Township Municipal Building. The meeting was called to order at 7:03 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
Ernest Utsch III
Bruce Waterman
Robert Sweeten
Michael DiStefano
Christopher Kobik
Stephen Komar

MEMBERS EXCUSED: David F. Brand, Jr.
Dianne Kelly
Kristine Trusiak

STAFF PRESENT: Anthony J. Harvatt, II, Board Solicitor
Mark Sray, Board Engineer
William J. Galestok, Board Secretary
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:Handouts:

Resolution #09-15-ZBA & 2008 Zoning Board Variance Report.

List of Board Solicitor vouchers dated February 27, 2009.

List of Board Engineer voucher dated March 5, 2009.

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

4. Use & hardship variance applications to construct 25 residential units on a site containing a restaurant and a marina, hardship variances needed for front & side yard setbacks and location of parking, submitted by Two Mile Associates, LLC for the location known as Block 820, Lots 2.01, 3.02, 4.02, 5.02 & 6, Ocean Drive.

The Board asked if new notice would be given for this application.

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

Mr. Dwyer explained that they would not give new notice unless something changes on the plan. If something changes, they would re-notice the application.

Approval of Annual Variance Report and adoption of Resolution #09-15-ZBA subject to MLUL 40:55D-71.1.

Mr. Galestok reviewed the report with the Board. He explained that he didn't see any patterns that would have to be addressed.

There was a discussion that there was a couple of use variances granted for residential uses in the Schellenger's Landing area. It was explained that not many marine related uses are proposed for the zone.

The Board asked Mr. Galestok if the proper paperwork was submitted to the Planning & Zoning Office for duplexes, could he certify them instead of the applicant coming before the Board? Mr. Galestok explained the MLUL does not allow that. He explained that only the Zoning Board can approve a certification.

Mr. Armbruster made a motion to adopt Resolution #09-15-ZBA. The motion was

seconded by Mr. Utsch.

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | YES |
| | Chairman Hanson | YES | | |

Motion carried.

1. Use & hardship variances & preliminary & final site plan applications to construct a 1st floor addition to expand an existing medical supply building, another 1st floor addition for a two-car garage and a 2nd floor addition for two separate living facilities, relocate sign hardship variance needed for parking within the buffer, submitted by FLCH, LLC for the location known as Block 259, Lots 3-5, 1638 Bayshore Road.

Mr. Glenn Callahan, Esq., represented the applicant.

Mr. Harvatt explained that there were a couple of members that were not present at last month's meeting. He explained that he had signed certifications from Mr. Kobik and Mr. Waterman that they listened to the tape of the meeting. Mr. Callahan explained that he didn't have any problems with that.

Mr. Callahan explained that the plan has been modified according to last month's meeting. He explained that they have changed the configuration of the garage and it would now be a two-car garage. He explained that the second apartment was converted to office space. He explained that they have provided both interior and exterior access to the office space. He explained that they reconfigured the drive and drive aisle and the parking has been moved away from the property line. He explained that instead of having the drive aisle paved and the parking spaces stone or gravel, the entire parking area will be paved. He explained that even with this change, they would still be below the allowed lot coverage.

Mr. Callahan explained that he has a meeting with the Cape May County Planning Board March 17, 2009 for the site triangle easement.

Mr. Callahan explained that they are still one parking spot short, but feel they still have adequate parking.

Mr. Callahan explained that the use variance is no longer before the Board. He explained that by doing away with the second apartment, it eliminated the need for a use variance.

Mr. Steve Ritondo, applicant, Mrs. Cynthia Chemerys, PE, PP, and Mr. Mark Lovell, Licensed Architect, were sworn in by Chairman Hanson.

Mr. Sray explained that a total of 16 parking spaces would be required. Mr. Ritondo

explained that they have very little traffic. He explained that they do a lot of deliveries and provide home service. He explained that what traffic they would have are in and out within ten minutes. He explained that the employees would more then likely use the garage for parking. Mr. Callahan explained that he doesn't think granting a variance for the number of parking spaces would be any harm to the Zone Plan.

Mr. Sray summarized Engineer's comments dated February 26, 2009.

The Board asked what the upstairs office would be used for? Mr. Callahan explained that it would be used by ABBA. Mr. Ritondo explained that in the future, he may want to use that area for business space. He explained that his girlfriend is a home aid and she may use the space for her business. He explained that this business would not generate traffic. He explained that if that didn't work, he may want the space for an attorney or something. The Board explained that they have concerns that a high density type office could be there. They explained that there may be enough parking now, but maybe not in the future. Mr. Callahan explained that the size of the space really limits the type of use. Mr. Galestok explained that two more parking spaces could be provided behind spot #13. He read section 400-32D(2) of the Lower Township Ordinance, which would allow for stacked parking.

This portion of the hearing was opened to the public.

Mrs. Marian Raff was sworn in by Chairman Hanson.

Mrs. Raff explained that she needed their service several years ago. She explained that she was unable to drive and called this facility and they came to her house. She explained that she does drive-by this business and has observed very little traffic.

This portion of the hearing was closed to the public.

The Board explained that the intensity of the current use maybe low, but they have to anticipate for a future use that maybe more intense. There was a discussion about shifting the trash enclosure and being able to get another parking space in this location. Mr. Ritondo explained that they have changed the style of dumpster. He explained that it is the type that the trash truck would have to line up to it. He explained that they could not shift the trash enclosure because of this. Mr. Galestok explained that if the trash enclosure was shifted, it would be within the buffer.

There was a discussion that the applicant was deficient four parking spaces and now they are only deficient one space. There was also a discussion that if parking is too far away from the building, people would end up parking in the street.

There was a discussion that the only variances now needed are for the buffer requirements and site triangle.

Mr. Waterman made a motion to conditionally approve the hardship variances. The

motion was seconded by Mr. Utsch.

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | YES |
| | Chairman Hanson | YES | | |

Motion carried.

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

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | 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 that Lots 26 & 27 are not merged with Lots 53 & 54 and hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage and width, submitted by Daniel. B. Harris, Jr., for the location known as Block 21, Lots 26, 27, 53 & 54, 237 East Florida Avenue.

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

Mr. Daniel Harris, Jr., applicant, was sworn in by Chairman Hanson.

Mr. Dwyer explained that the lot on Florida Avenue would need hardship variances for lot area, frontage and width. He explained that the proposed single family dwelling would meet all the requirements of the zone.

Mr. Dwyer explained that are seeking an interpretation that the lots have not merged. He explained that there is case law that back to back and "L" shaped lots do not merge. He explained that houses front on both sides of the street.

Mr. Galestok explained that previously any back to back lot had to receive subdivision approval. He explained a previous Planning Board Solicitor ruled that because of case law, back to back lots did not need a subdivision, unless the house was straddling the lot line. He

explained that when a third street became a factor, the Solicitor didn't want to go that far with the interpretation of whether it merged or not and said a subdivision was required.

After some discussion the Board determined that it was an isolated lot and did not merge.

Mr. Dwyer explained that the lot is 6,500 square feet and is probably larger than most lots in the area.

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 that the Board's interpretation is that the lots have not merged. The motion was seconded by Mr. Waterman.

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | YES |
| | Chairman Hanson | YES | | |

Motion carried.

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

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | YES |
| | Chairman Hanson | YES | | |

Motion carried.

Mr. Armbruster made a motion to approve policy number 2009-1. The motion was seconded by Mr. Waterman.

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | 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. Hardship variance application to construct an addition to the existing single family dwelling connecting to the existing garage encroaching into the side & rear yard setback, submitted by William & Jean Young for the location known as Block 62, Lot 14, 109 DeSoto Avenue.

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

Mr. William Young, applicant, was sworn in by Chairman Hanson.

Mr. Tourison explained that this Board approved a hardship variance in 2002. He explained that the foundation for both the house and garage were there at the time of the variance application. He explained that they were installed by the previous owner. He submitted into evidence the approving Resolution for that variance.

Mr. Tourison explained that his client would like to construct an addition that would join the house and garage together. He explained that the garage would remain a garage and not be living space.

The Board asked what the side yard setback would be? Mr. Tourison explained it would be four feet. He explained that it is currently four feet. He explained that they are requesting variances for side and rear yard setbacks.

The Board asked if lot coverage would be met? Mr. Tourison explained that what is proposed would be well under 30%.

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. Waterman.

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|-------|-----------------|-----|---------------|-----|
| VOTE: | Mr. Armbruster | YES | Mr. DiStefano | YES |
| | Mr. Utsch | YES | Mr. Waterman | YES |
| | Mr. Sweeten | YES | Mr. Kobik | 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. Informal discussion regarding two detached single family dwellings as opposed to attached duplexes, submitted by Bruce Waterman for the location known as Block 495.01, Lots 7.01 & 7.02, 152 Fishing Creek Road.

Mr. Waterman explained that he recently had a two-lot subdivision. He explained that the zone allows attached duplexes. He explained that one lot is 1.69 acres and the other is 2.389 acres. He explained the lot width is 116 feet. He explained that with duplexes, the County Health Department requires two septic systems and two wells.

Mr. Waterman showed the Board elevation drawings of a duplex that he had done on Pine Avenue. The rendering shows the duplexes are attached by garages.

Mr. Waterman explained that he feels that two detached single family dwellings per lot would be better than attached. He explained that the area lends itself to single family dwellings.

Mr. Galestok explained that a use variance was approved in the area for a duplex.

Mr. Galestok explained that Mr. Waterman had another subdivision on Breakwater Road and the neighbor's there were against duplexes.

Mr. Waterman explained that he has spoken with some of the neighbor's and they would rather single family dwellings.

The Board asked if there would be four homes on two lots? Mr. Waterman explained that is what he would like.

There was a discussion that with the wetlands on the property, could a garage be placed behind the houses? Mr. Waterman explained that a garage may not be able to be placed on the lot. He explained that there may not be enough room.

There was a discussion about density. Mr. Waterman explained that it would be the same density with a duplex on each lot or two single family dwellings on each lot. He explained that it is easier to sell a single family dwelling. He also explained that the owner's insurance would be cheaper detached. He explained that the Pine Avenue duplex costed the owners extra money because of the attachment.

Mrs. Raff explained that she would be visually impacted. She explained that she was leaning toward single family dwellings.

There was a general discussion about single family dwellings versus attached duplexes.

There was a discussion that a new alternate Board member was appointed, but another alternate member wasn't moved up.

There was a discussion that a letter should be sent to Council requesting the Board member in the alternate IV position be moved up to the alternate III position.

Mr. Armbruster made a motion to approve a letter to Council. The motion was seconded

by Mr. Utsch. Motion carried.

Mr. Galestok explained that the Township is becoming more paperless and asked the Board member if they want the handouts mailed or e-mailed to them? The Board said that it was okay that the handouts are e-mailed to them. Mr. Galestok explained that if there was something that the Board would discuss that night, there would be paper copies available to them that night as well as e-mailed to them.

Mr. Armbruster made a motion to adjourn at 8:22 P.M. The motion was seconded by Mr. Utsch. 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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