

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 September 3, 2009 at the Lower Township Municipal Building. The meeting was called to order at 7:00 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
Michael DiStefano
Christopher Kobik
Kristine Trusiak
Stephen Komar

MEMBERS EXCUSED: David F. Brand, Jr.
Bruce Waterman
Robert Sweeten
Dianne Kelly

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

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated September 2, 2009.

List of Board Engineer vouchers dated September 3, 2009.

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

Mr. Armbruster made a motion to approve the minutes from the August 6, 2009 meeting. The motion was seconded by Mr. Utsch. Motion carried.

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

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

Mr. Utsch made a motion to approve the resolutions from the August 6, 2009 meeting. The motion was seconded by Mr. Armbruster. Motion carried.

1. Use & hardship variance and minor subdivision applications for the creation of three newly described lots. Use variance needed for detached dwellings on one lot. Hardship variances needed for frontage & width, submitted by Neva & Leonard Sachar for the location known as Block 792, Lot 1.04, 656 Sunset Blvd.

Mr. John Sachar, Esq., represented the applicants.

Mr. Leonard Sachar, Mrs. Neva Sachar, applicants, and Mr. Vincent Orlando, PE, were sworn in by Chairman Hanson.

Mr. J. Sachar explained to the Board that his clients are seeking approval for subdivision and use variance. He explained that the use variance is technical in nature because there is a lake cottage on the lot. He explained that the lake cottage has been there for many years.

Mr. J. Sachar submitted into evidence a photograph of the primary residences which is approximately 6,000 square feet. And a photograph of the lake cottage which is approximately

600 square feet.

Mr. L. Sachar explained that the lake cottage has been there for as long as he can remember. He explained that they use the lake cottage for entertaining. He explained that it is also used when his grandchildren visit. He explained that his wife also uses this building as her greenhouse to start her seeds. He explained that the building is used mostly in the summer and winterized for the winter. He explained that there is a neighbor that has a living unit over his detached garage. He explained that the property across the street has a pool house. Submitted was a photograph of the property across the street. The Board asked if the property across the street was located in West Cape May? Mr. Sachar explained that it was.

Mrs. Sachar explained to the Board that she uses the lake cottage to start her seeds. She explained that she begins planting the seeds in March and then in May, she transplants them to the garden.

Mr. Orlando had marked into evidence a colorized survey of the five existing lots. He explained that three of the five lots are landlocked. He explained that there are wetlands to the rear of the property.

Mr. Orlando had marked into evidence a colorized subdivision plan. He explained that the proposed three lots would front on Sunset Blvd. He explained that the two proposed flag lots would have a shared 18 feet paved drive. He explained that no new development is proposed on the lot with the existing house. He explained that the use variance is technical in nature because of the non-conforming use on the house lot.

Mr. Orlando explained that the property a unique piece of property. He explained that there are two ways to develop the land. He explained that they could propose a major subdivision with a 40-foot road and have six to eight lots. Or what is before the Board tonight.

Marked into evidence was a photograph of a waterfall on the property.

Mr. Orlando explained that the property is very irregularly shaped and what is proposed would have no impact on the adjacent properties.

Mr. Orlando explained that when a subdivision is proposed on a County Road, it has been common practice to have a joint driveway.

Mr. Orlando explained that what is proposed has no negative impact or detriment to the zone, zone plan or public good.

Mr. Orlando explained there are several sheds and barns on the property that would remain. He explained that the applicant would post a bond for the buildings. Mr. L. Sachar explained that one shed is for his tractor and hay. Another one is the horse stable. Another is a sheep shed.

The Board asked if there were cooking facilities in the lake cottage? Mr. L. Sachar explained that there are cooking facilities in the cottage. He explained that there is also an HVAC system. The Board asked if someone was living in the cottage year round? Mr. L. Sachar explained that there was a caretaker living there at one time, but not now. He explained that it is mostly used when his grandchildren come to visit. The Board asked Mr. L. Sachar if he would remove the cooking element of the cottage? Mr. L. Sachar explained he would do whatever it takes to approve the application. Mr. J. Sachar explained they would agree to remove the cooking area of the cottage.

Mr. J. Sachar explained that they are not asking the Board to change the use in the zone. He explained that single family dwellings are permitted as is farming. He read 'the right to continue'.

The Board asked Mr. Galestok if this was a certified duplex? Mr. Galestok explained that it was not, but it would be good to have it certified. He explained that the reason for the use variance was because of the subdivision.

Mr. J. Sachar explained that in a 1971 Resolution approved by Town Council allowed multiple structures on this lot.

Mr. Galestok read the definition of flag lot. He explained that when the Planning Board made the recommendation for flag lots, their intension was too only have one flag lot.

Mr. Orlando explained that they could have conforming lots, but the lots would be odd shaped. Mr. Sray asked why not have two 40' lots? Mr. Galestok explained he has concerns with future subdivision of this lot. Mr. Orlando explained that they could deed restrict the property that there is no further subdivision. Mr. Galestok explained that a deed restriction doesn't hold up.

Mr. Galestok explained that there could be a major subdivision of this property. He explained that they could do a 40' right-of-way with 18' paved. Mr. Orlando explained that they could do two 40' staffs and still have 18' paved for the shared driveway with a cross easement.

Mr. Sray read Engineer comment's dated June 25, 2009. He explained that a variance would be needed for the driveway.

Mr. Galestok read Cape May County Planning Board comments dated August 17, 2009.

Mr. Galestok read Bureau of Fire Safety comments dated June 4, 2009 in which they found this application acceptable.

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 use variance was not required because the

subdivision did not increase the intensity of the use. The motion was seconded by Mr. DiStefano.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Chairman Hanson	YES

Motion carried.

Mr. Armbruster made a motion to conditionally approve the subdivision. The motion was seconded by Mr. Kobik.

VOTE:	Mr. Armbruster	NO	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Armbruster made a motion to conditionally approve the hardship variance for the shared driveway. The motion was seconded by Mr. Utsch.

VOTE:	Mr. Armbruster	NO	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Armbruster made a motion to conditionally approve the subdivision with two 40' frontage lots. The motion was seconded by Mr. Kobik.

VOTE:	Mr. Armbruster	NO	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Armbruster made a motion to approve the certification of non-conforming use. The motion was seconded by Mr. Utsch.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	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.

Chairman Hanson called for a short recess at 8:25 P.M. The meeting was called back to order at 8:34 P.M.

2. Hardship variance application to convert an existing single family dwelling into a duplex, submitted by Marcello Mogavero for the location known as Block 104, Lots 1-5, 116 Tomlin Avenue.

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

Mr. Marcello Mogavero, applicant, was sworn in by Chairman Hanson.

Mr. Dwyer explained to the Board that the property is on the corner of Tomlin Avenue and Harvard Street. He explained the property is approximately 13,000 square feet in size. He explained that there is a very large one story dwelling that his client would like to convert to a duplex.

Mr. Dwyer submitted into evidence a floor plan.

Mr. Dwyer explained that the lot was originally over 17,000 square feet in lot size. He explained that Harvard Street was paved over a portion of the lot. He explained that this portion was previously dedicated by the previous owner to the Township. He explained that even without this portion of the lot, there is still ample room to create four parking spaces.

This portion of the hearing was opened to the public.

Ms. Julia Geiger was sworn in by Chairman Hanson.

Ms. Geiger explained she is adjacent this lot. She explained that she doesn't see why this application shouldn't be granted.

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. Utsch.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	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 a second floor screen room encroaching into the side & rear yard setbacks, submitted by Albert & Carol Ann Pace for the location known as Block 517, Lots 8-10, 20 Pinewood Road.

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

Mr. Albert Pace, applicant, was sworn in by Chairman Hanson.

Mr. Dwyer explained that his client's have a two-story single family dwelling on the corner of Pinewood Road and Clubhouse Drive. He explained that they would like to construct a second floor screen porch. He explained that the proposed addition would keep in line with the existing house. He explained that what is proposed would have no negative impact to the neighborhood.

Submitted into evidence were photographs.

Mr. Dwyer explained that his client's agree that they would keep this just a screen porch.

This portion of the hearing was opened to the public.

Ms. Kathryn Casterline was sworn in by Chairman Hanson.

Ms. Casterline explained that she is a neighbor and doesn't have a problem with this application.

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. Utsch.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	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 the existing front deck and construct a wheelchair ramp on the side of the house, encroaching into the front yard setback and exceeding allowed building coverage, submitted by Leroy & Irini Sheets, Jr., for the location known as Block 500.01, Lots 54.08 & 54.09, 529 Shunpike Road.

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

Mr. Tourison explained that there is currently an open deck on the front of the house. He explained that his clients would like to enclose this deck for additional living space and construct a handicap ramp on the side of the house. He explained that Mrs. Sheets health is deteriorating and she is having a hard time accessing portions of the house.

Mr. Tourison submitted photographs into evidence.

Mr. Tourison explained that the deck currently has a 27' front yard setback. He explained that there would be no change to the setback if approved.

Mr. Tourison explained that because of the existing interior configuration of the house, this is the most logical place for the addition. He explained that if the addition were placed elsewhere on the house, the entire interior would have to be reconfigured. He explained that the proposed addition would be a bedroom and family room.

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. Utsch.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	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. Hardship variance application to construct an inground pool in front yard encroaching into the front yard setback and six foot fence in front yard and site triangle, submitted by Keith & Beverly Briggs for the location known as Block 410.03, Lot 7, 43 Iowa Avenue.

Mr. Keith Briggs and Mrs. Beverly Briggs, applicants were sworn in by Chairman Hanson.

Mr. Briggs explained to the Board that they would like to have an inground pool in the front yard of his corner property.

Mrs. Briggs explained that there isn't room on the other side of the house to place the pool there. She explained that they would also like to have a six-foot fence on the street side. She explained that because of traffic and public, for privacy reasons, they would like a six-foot fence.

Mr. Galestok explained that there are two Ordinances for site triangles. The Land Use Ordinance which is 90 x 90 and the second the General Ordinance of 30 x 30 which is the one usually enforced.

The Board asked if the fence was going to be vinyl? Mr. Briggs explained that it would. He explained that it would be five feet with a foot of lattice on top. He explained that the fence would gradually decrease to four feet. The Board explained that they understand the need for the fence, but is just considered with the look. Submitted into evidence were photographs of other corner fences 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. Kobik made a motion to conditionally approve this application. The motion was seconded by Mr. Armbruster.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Trusiak	YES	Mr. Komar	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.

Mr. Kobik made a motion to adjourn at 8:55 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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