

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 November 5, 2009 at the Lower Township Municipal Building. The meeting was called to order at 7:07 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
Ernest Utsch III
Bruce Waterman
Robert Sweeten
Michael DiStefano

MEMBERS EXCUSED: John Armbruster
David F. Brand, Jr.
Christopher Kobik
Dianne Kelly
Kristine Trusiak
Stephen Komar

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

CORRESPONDENCE:

Handouts:

The New Jersey Planner: September/October 2009; Vol. 70, No. 4.

List of Board Engineer vouchers dated November 4, 2009.

Mr. Utsch made a motion to approve the October 1, 2009 minutes. The motion was seconded by Mr. Sweeten. Motion carried.

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

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

Mr. Sweeten made a motion to approve the resolution from the October 1, 2009 meeting. The motion was seconded by Mr. DiStefano. Motion carried.

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

1. Hardship variance application to construct an addition encroaching into the front yard setback and exceeding the allowed building coverage, submitted by George Doherty for the location known as Block 500.01, Lots 9 & 10, 552 Seashore Road.

Mr. Jeffrey Barnes, Esq., represented the applicant.

Mr. George Doherty, applicant, was sworn in by Chairman Hanson.

Mr. Barnes explained to the Board that his client's property is in the RB Zone. He explained that most of the property is currently non-conforming. He explained that NJDOT is taking a portion of his client's property which will make the property even more non-conforming. He explained that his client would like to construct an addition to the existing single family dwelling.

Mr. Doherty explained that the house is only two bedrooms. He explained that he has two children and he would like to add an additional bedroom.

Mr. Barnes explained that they would accept a condition that architectural plans would have to be submitted prior to a building permit. The Board explained that would not be necessary.

Mr. Galestok asked what the setback would be from the proposed addition to the property line? Mr. Barnes explained that they would give the Board an exact setback, but it is still undetermined exactly how much the NJDOT is taking. Mr. Galestok explained that it appears to be less than 29 feet to the existing line. There was a discussion that it is possible that the proposed addition could go right to the right-of-way. There was a discussion about possibly angling the addition. Mr. Barnes explained that they could go up and expand some place else, but his client would like a one story addition and the NJDOT keeps changing the dimensions.

Mr. Harvatt explained that the applicant has to tell the Board what he wants and go from there. Basically, it must be more specified. The Board explained that they will vote based on what's before them tonight.

There was a discussion about stepping the addition back. Mr. Doherty explained that he could do that.

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 explained that they were basing their vote on the existing survey.

The Board asked where the septic system was? Mr. Doherty explained the septic system was in the rear yard.

Mr. Sweeten made a motion to conditionally approve the application. The motion was seconded by Mr. DiStefano.

VOTE:	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Sweeten	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. Hardship variance application to construct a single family dwelling and two accessory buildings. Hardship variance needed for accessory use larger than principal structure and exceeding the allowed building coverage, submitted by James Hemingway for the location known as Block 753.01, Lot 18.02, 3 Oreo Way.

Mr. Kenneth Calloway, Esq., represented the applicant.

Mr. James Hemingway, applicant, and Mrs. Cynthia Chemerys, PE,PP, were sworn in by Chairman Hanson.

Mrs. Chemerys explained that Mr. Hemingway would like to construct a single family dwelling with one detached garage for their personal cars. She explained that Mr. Hemingway would like to construct a second detached garage for his antique cars. She explained that the two detached garages exceed the allowed building coverage, but combined with the house, would be less than the combined total for both uses. She explained that the accessory uses would be larger than the proposed single family dwelling. She explained that it is a rural area and what is proposed would fit in with the area.

The Board asked Mr. Hemingway if the garage for the antiques cars would be a pole barn? Mr. Hemingway explained that it would be. The Board asked what the height of the pole barn would be? Mr. Hemingway explained that he didn't have the exact height, but it would be approximately 16'8" to the eaves and approximately 28' to the peak. Mr. Hemingway explained that he is going to install a lift inside so he can work on the cars. He explained that he currently has 11 cars. He explained that he will probably get more. The Board asked if the pole barn and lift would be used for service work? Mr. Hemingway explained that he would only be working on his cars there. There would be no service work for the general public.

Mr. Galestok asked how many stories the single family dwelling would be? Mr. Hemingway explained that it would be one story. It was determined that the pole barn would be taller than the single family dwelling. Therefore, a variance was needed for this. Mr. Calloway explained that the application was noticed for any and all other variances deemed necessary. He explained that they would like to include the height variance.

The Board explained that they have concerns with what would happen beyond this application. They explained that their concern is if in the future, someone wants to work on cars in this building. It was explained that if someone wanted to do that, they would have to come back to the Board for approval.

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. Galestok explained there could be a deed restriction that the pole barn is for residential use only. And the maximum height to the peak is 28 feet and 16 feet to the eaves.

Mr. Waterman made a motion to conditionally approve this application. The motion was seconded by Mr. Sweeten.

VOTE:	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	YES
	Chairman Hanson	NO		

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. Use & hardship variance & technical major subdivision for the creation of two newly described lots in the GB-II zone. Hardship variances needed for lot area, frontage, width & depth, submitted by Commercial Services, Inc., for the location known as Block 71, Lot 27 & Block 111, Lots 33 & 34, 713 Bayshore Road.

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

Mr. Bernard Dera, applicant, and Mr. William Sweeney, Licensed Land Surveyor, were sworn in by Chairman Hanson.

Mr. Dwyer explained to the Board that the property is located in the GB-II zone. He explained that Mr. Dera is the contract purchaser. He explained that the owner of the property did a two-lot subdivision with the past three years. He explained that when the Board approved that subdivision, it was conditioned that there be a deed restriction for residential use only. He explained that proposed Lot 27.01 has a house and proposed Lot 27.02 would be vacant. He explained that both lots would exceed 7,500 square foot lot area. He explained that a variance is needed for lot frontage and width, but does not agree that a lot depth variance is needed.

Mr. Sray read Engineer's comments dated October 29, 2009. He indicated that the Ordinance does require double the lot size and a buffer.

Mr. Galestok explained that this is an odd shaped lot. He explained that the Ordinance does require double the lot area for a corner lot created in the GB-II zone. He explained that he believes that this was meant for a commercial use.

The Board explained that the proposed lots are larger than most in the R-3 Zone. They explained that they don't see a need for a buffer with a residential use behind these lots.

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. Sray asked if Cape May County Planning Board approval has been obtained? Mr. Dwyer explained that he doesn't have a letter from them, but the application was submitted to them.

Mr. Galestok read Bureau of Fire Safety comments dated October 23, 2009 in which they found this application acceptable.

Mr. Waterman made a motion to conditionally approve this application. The motion was seconded by Mr. Utsch.

VOTE:	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	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 demolish the existing single family dwelling and construct a new single family dwelling on same footprint, on a lot deficient in lot area, frontage and width and encroaching into the front & side yard setbacks, submitted by Dolores Morroni for the location known as Block 38, Lot 14, 17 East St. Johns Avenue.

Ms. Dolores Morroni, applicant, and Mr. John Horton, son-in-law to the applicant, were sworn in by Chairman Hanson.

Mr. Horton explained to the Board that there was an oil spill on the property a couple of years ago. He explained that the existing single family dwelling and foundation will be demolished and a new single family dwelling will be constructed in the same footprint. He explained that because the lot is so narrow, there is nothing that can be done about the side yard setback.

Mr. Galestok explained that the house would be 18.4 feet wide. He explained that there certainly is a hardship with the narrowness of the property and a corner property.

The Board asked if the garage was staying or being demolished? Mr. Horton explained that they are not sure. He explained that the garage would either stay and they would post a bond or it would be demolished when the house was demolished. Mr. Galestok explained that they would not be able to rebuild the garage the same size without needing a variance. Mr. Horton explained that they understood this.

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. Waterman made a motion to conditionally approve this application. The motion was seconded by Mr. Sweeten.

VOTE:	Mr. DiStefano	YES	Mr. Utsch	YES
	Mr. Waterman	YES	Mr. Sweeten	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. Waterman made a motion to adjourn at 8:09 P.M. The motion was seconded by Mr. Sweeten. 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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