

# 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 May 6, 2010 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  
David F. Brand, Jr.  
Ernest Utsch III  
Bruce Waterman  
Michael DiStefano  
Christopher Kobik  
Dianne Kelly

MEMBERS EXCUSED: John Armbruster  
Robert Sweeten  
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:

List of Board Solicitor vouchers dated April 26, 2010.

List of Board Engineer vouchers dated May 6, 2010.

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

Mr. Utsch made a motion to approve the April 1, 2010 minutes. The motion was seconded by Mr. DiStefano. Motion carried.

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

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

Mr. Utsch made a motion to approve the resolutions from the April 1, 2010 meeting. The motion was seconded by Mr. DiStefano. Motion carried.

1. Informal discussion regarding proposed changes to approved site plan, submitted by John & Patricia Bowman for the location known as Block 752.01, Lot 18.05, Seashore Road.

Mr. John Bowman, applicant, was sworn in by Chairman Hanson.

Mr. Bowman handed the Board a copy of the approved site plan and photographs of the site. He explained that as a developer, he constructed subdivisions but never a site plan.

Mr. Bowman explained that concrete was supposed to be used around the building, but he but in Pennsylvania flagstone. He explained that during the inspection from the Engineer, he was informed that the plan was for concrete.

Mr. Bowman explained that he moved the sign more toward Seashore Road close to the driveway. He explained that the plan showed the sign in the center of the lot which was an unrealistic location. He explained that there wasn't anything said at the meeting pertaining to the location of the sign.

Mr. Bowman explained that this is a small real estate office. He explained that they didn't want a trash enclosure. He explained that they do not put trash out at the curb. He explained that they will put an enclosure.

The Board explained that approval was given for a real estate office/nursery and these improvements should be installed. There was a discussion that if the use changes, an application would have to be presented to the Board.

There was a discussion that approval was also granted for a construction office. So essentially three uses were approved for this lot.

Mr. Galestok explained that when a use variance is granted, what is presented on the plan must be constructed in that location. He explained that there were no dimensions on the plan for the sign. He explained that the options would be a formal revised site plan application or an administrative review by the Engineer.

Mr. Sray explained that the sidewalk along the south side of the building was supposed to be concrete. He explained that with what was installed, it blends in with the driveway. He explained that to delineate this area, there should be a vertical curb to protect people. He explained that six inches is standard. Mr. Bowman explained he doesn't feel there is a problem. He explained that the driveway is wider than most streets. Mr. Sray explained that this is a commercial use, and what is there now could conflict with patrons leaving the premises. The Board explained that Mr. Sray's point is regarding safety. Mr. Bowman explained that he could lay in concrete to create a raised curb. Mr. Sray explained that this would create a variance to reduce the width of the driveway.

There was a discussion that the Board didn't have a problem with the relocation of the sign, but there is a safety concern with the sidewalk area. It was explained that either the stone would have to be removed and constructed as per plan. Or Mr. Bowman would have to come back to the Board with a formal application. Mr. Bowman explained that he would remove the stone and install concrete.

Mr. Bowman explained that there would be a trash enclosure on the porch on a concrete pad under roof.

Mr. Sray explained that he does not have approved plans yet. He explained that revisions to the plans were needed and he hasn't received those plans as of yet.

2. Use variance & minor subdivision application for the creation of three (3) newly described lots for single family dwellings, submitted by Bernard Dera for the location known as Block 410.22, Lot 6, 312 Fulling Mill 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. Sweeney explained that this is an irregularly shaped lot with more than half being wetlands. He explained that this property is surrounded by all but one residential use. He explained that the lots would comply with the R-3 zoning requirements. He explained that he feels the purposes of zoning would be advanced.

Mr. Sray read Engineer comments dated April 27, 2010.

Mr. Dwyer submitted a letter into evidence from the Township Municipal Utilities Authority (MUA) for the sewerability of the lots.

Mr. Sweeney explained that each lot would have its own driveway.

Mr. Galestok read Bureau of Fire Safety comments dated April 26, 2010 in which they found this application acceptable.

Mr. Galestok read an email dated April 27, 2010 that he received from the MUA. He also read the letter from the MUA which had been marked into evidence.

Mr. Dwyer submitted a letter into evidence from the State.

Mr. Galestok explained that the application should be conditioned upon the property getting sewer.

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 this property has been for sale a long time. They explained that this appears to be the best use of the property.

There was a discussion about concerns with the driveways going out on Fulling Mill Road. It was discussed that this is a County Road and this Board really doesn't have any jurisdiction over that.

Mr. Galestok read Cape May County Planning Board comments dated May 5, 2010.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	NO
	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 construct a single family dwelling on a lot deficient in lot area, frontage, width, encroaching into the side yard setbacks and exceeding allowed building coverage, submitted by Bernard Dera for the location known as Block 97, Lot 2, 102 East Atlantic Avenue.

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

Mr. Dera and Mr. Sweeney were sworn in previously and are still under oath.

Mr. Dwyer explained that a car hit and destroyed the structure. He explained that the property is undersized and developed on both sides. He explained that the proposed single family dwelling would comply with the front and rear yard setbacks and would accommodate on site parking. He explained that hardship variances are needed for both side yards and building coverage.

The Board asked where the old house was located on the lot? Mr. Sweeney explained he was not sure where the old house was. He explained that when he went out to do the survey the house was already demolished.

Mr. Galestok explained that the Construction Official and Building Inspector thought that maybe the house could be saved, but when they went under the house, they found that the beams were destroyed and not able to be repaired.

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. Utsch.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	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 a single family dwelling on a lot deficient in lot area and depth, submitted by Bernard Dera for the location known as Block 446, Lots 1 & 2, 338-340 U.S. Route 9.

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

Mr. Dera and Mr. Sweeney were sworn in previously and are still under oath.

Mr. Dwyer explained that the property in question is located on the corner of Route 9 and Elm Street. He explained that the lot has 18,000 square foot lot area. He explained that no sewer service is available to this lot and the application could be conditioned upon receiving a permit from the County and/or State for a well and septic system. He explained that both sides of this property are developed with residential uses.

Mr. Galestok explained that the zoning schedule on the survey is incorrect. He explained that the lot area requirement is 35,000 square feet. He explained that it used to be 20,000 but was increased to match the County requirements for septic systems.

This portion of the hearing was opened to the public.

Mr. Michael Brocco was sworn in by Chairman Hanson.

Mr. Brocco explained that he has lived next door to this property since 1988. He explained that he has not received notice when any house in the area is built. He explained that with every house built, his basement floods. He explained that he never had this problem before. Mr. Dwyer explained that there are strict rules by the State for construction. He explained that the house would be constructed and would not drain onto his property. Mr. Brocco explained that his property is even with Route 9 and the property in question is six to eight feet lower than his. He explained that he has concerns that it would be built higher than his property.

Mrs. Karen McKelvey was sworn in by Chairman Hanson.

Mrs. McKelvey explained that she agreed with everything Mr. Brocco comment on. She explained that she lives across the street from this lot. She explained that she has a view of a wooded lot. She explained that she feeds birds. She explained that there are a lot of birds that live on this lot and she can't afford to feed them too.

The Board asked Mrs. McKelvey if she wanted to purchase the lot? Mrs. McKelvey explained that she couldn't afford to buy the lot.

This portion of the hearing was closed to the public.

Mr. Dwyer explained that this is an undersized lot. He explained that there will be proper drainage for the lot. He explained that the property owner is not permitted by law to drain onto other properties.

Mr. Dera explained that Mr. Brocco's property is about six feet higher than this property. He explained that this property is not draining anywhere. He explained that other properties are draining onto this lot.

The Board explained that they understand the neighbor's concerns, but unless they want to purchase this lot, the Board has no choice but to approve the application. They explained that if they do not approve the application, the Township must purchase the land.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	NO
	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 7:58 P.M. The motion was seconded by Mr. Kobik. 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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