

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 ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on September 2, 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
John Armbruster
Ernest Utsch III
Bruce Waterman
Michael DiStefano
Christopher Kobik

MEMBERS EXCUSED: David F. Brand, Jr.
Robert Sweeten
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:

List of Board Solicitor vouchers dated August 31, 2010.

List of Board Engineer vouchers dated September 2, 2010.

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

Mr. Waterman made a motion to approve the August 5, 2010 minutes. The motion was seconded by Mr. Utsch. Motion carried.

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

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

Mr. Waterman made a motion to approve the resolutions from the August 5, 2010 meeting. The motion was seconded by Mr. Armbruster. Motion carried.

2. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage & width, submitted by Edward & Carole English for the location known as Block 140, Lots 7 & 8, 243 Pennsylvania Avenue.

Mr. Timothy Dwyer, Esq., represented the applicants.

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

Mr. Dwyer explained to the Board that his client is seeking a variance to construct a single family dwelling. He explained that the property is deficient in lot area, frontage and width. He explained that the proposed single family dwelling would conform to the zoning requirements.

Mr. Dwyer explained that Mr. Sweeney did an analysis of the area. He had marked into evidence a tax map page of the neighborhood.

Mr. Sweeney explained that on adjacent Block 140, there are sixteen non-conforming lots and six conforming lots. He explained that eight of the lots are 25 feet wide. He explained that in Block 139, 21 lots are non-conforming and one lot is conforming. He explained that in Block 145, 21 lots are non-conforming and five lots are conforming. He explained that the majority of the lots in the area are undersized. He explained that he doesn't feel there would be a negative impact to the zone or zoning plan if this application were approved.

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. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	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.

4. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage, width & depth, submitted by Leonard Helbig, III for the location known as Block 123, Lot 12, 224-26 Pacific Avenue.

Mr. Waterman excused himself from this application due to a conflict of interest.

Mr. Leonard Helbig, applicant, was sworn in by Chairman Hanson.

Mr. Helbig explained to the Board that this is an undersized lot. He explained that the lot needs variances for area, frontage, width and depth. He explained that he would like to construct a single family dwelling that would conform to all requirements.

The Board asked about the shed that is indicated on the survey? Mr. Helbig explained that the shed was removed. Mr. Galestok explained that he was at the property and the shed had been removed.

The Board asked if there was adjacent vacant land available? Mr. Helbig explained that the lots are developed on both sides.

This portion of the hearing was opened to the public.

Ms. Carol Galin was sworn in by Chairman Hanson.

Ms. Galin explained that she loves the neighborhood, but has concerns about a large vacant house a couple of lots from this lot. She explained that this house has been vacant for several years. She explained that the same would happen with this lot.

Ms. Galin asked what the difference between a hardship variance and variance was? The Board explained to Ms. Galin that the applicant is seeking a hardship variance for this lot because of the lot size. The Board explained what the zone requires.

Ms. Galin explained that she also had concerns with how construction of the house would affect drainage and water flow. The Board explained this would fall under the construction codes.

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. Kobik.

VOTE:	Mr. Armbruster	YES	Mr. DiStefano	YES
	Mr. Utsch	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. Hardship variance application to construct a second floor over an existing detached garage. Hardship variance needed for accessory use taller than principal use, submitted by Anne Polvino for the location known as Block 565, Lot 2, 83 Beach Drive.

Ms. Anne Polvino, applicant, and Mr. Mike Laing, builder, were sworn in by Chairman Hanson.

Mr. Laing explained to the Board that Ms. Polvino would like to construct a second floor over the existing garage for a quilting club. He explained that her club does a lot of quilts for donations to third world countries.

Mr. Laing explained that the Board has granted variances of similar nature. The Board explained that they approved one on Beach Drive that was supposed to be temporary until a second story was constructed on the house to alleviate that variance. Mr. Laing explained that for financial reasons, the owner could not construct the second floor on the house and the owner has since passed away.

There was a discussion that with the elevation of the property, the peak of the garage

would be 3'9" over the peak of the house.

The Board asked why a second floor couldn't be constructed on the house? Mr. Laing explained that addition would be more expensive than the garage. He explained that Ms. Polvino couldn't afford an addition on the house. The Board asked why a first floor addition couldn't be done to the house. There appears to be enough room. Mr. Laing explained that because of the lot, it wouldn't work.

Mr. Laing had marked into evidence photographs of other two story garages and reviewed them with the Board.

A Board member explained that they rode past the house. They explained that because of the slope of the property, it doesn't appear that the roof line would be above the house. They asked what the pitch of the roof would be? Mr. Laing explained that it would be the same as the house.

The Board asked if there would be a bathroom? Mr. Laing explained there would be. The Board explained that because of the bathroom, it could be turned into a living unit. Mr. Galestok explained that there could be a deed restriction as a condition of 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.

There was a discussion that there were concerns with plumbing in the garage.

There was a discussion that the applicant also dyes quilts and this would be another reason plumbing would be needed in the garage. It was explained that the applicant has lived there for 25 years. And soon her sister and brother-in-law will be moving into her home.

Mr. Galestok explained that the only reason Ms. Polvino is before the Board is because of the three feet above the house roof line. He explained that if there was a second floor on the house, a variance for this wouldn't be required. A Board member did explain that it would be more expensive to construct a second floor on the house.

The Board discussed that they do want a deed restriction as a condition of approval.

Mr. Waterman 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. Waterman	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. Use & hardship variance, preliminary & final site plan & waiver applications to reestablish an automobile repair facility. Use variance needed for not having residential use. Hardship variance needed for sign area, submitted by Louis H. Altobelli, Jr., for the location known as Block 500.01, Lot 20.03, 600 Seashore Road.

Mr. Galestok excused himself from this application due to a conflict of interest.

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

Mr. Louis Altobelli, applicant, and Mr. Brian Murphy, PE, PP, were sworn in by Chairman Hanson.

Mr. Sandman explained to the Board that his client is seeking preliminary and final site plan and a determination of an existing non-conforming use. He explained that they have applied for a parking variance, but their Engineer will testify that enough parking will be provided.

Mr. Altobelli explained that he has admired the property for a couple of years. He explained that the owner of the property had old cars in it. He explained that he would like to use the property as a ma-pa business. He explained that he would like to do light repairs at this location. He explained that he will not be doing any auto body work. He explained that the footprint of the building will not change. He explained that there are no lifts in the building and they are not proposing any.

Mr. Altobelli explained that they plan to spruce the building up. He explained that they would put new stucco on the building and install landscaping.

Mr. Altobelli explained that he has no intension to do anything with Weeks Landing Road, except to widen it ten feet.

Mr. Altobelli explained that the building currently has a paint room, air compressor, tools and toolboxes.

Mr. Altobelli explained that he has a letter from Mr. Long, who couldn't be present tonight.

Mr. Chris Baylinson, Esq., represented Mr. Scott Nusser and Mrs. Eileen Nusser, objectors.

Mr. Baylinson explained that he objected to this letter. Mr. Harvatt explained that the letter is inadmissible. Mr. Sandman explained that the Board can take it for what's it worth. He explained that he does have someone present tonight that could testify to the fact that this was

open to the public. Mr. Sandman explained that Mr. Long told Mr. Altobelli that this was a garage and had many owners throughout the years between two families starting in 1956.

Mr. Sandman had marked into evidence a survey dated 1956 which indicated the building as an auto garage. He explained that the owner of the property was Mr. Roop.

Mr. Baylinson asked Mr. Altobelli if he purchased the property yet? Mr. Altobelli explained that it is under agreement, but he plans to buy the property either way. Mr. Baylinson asked when it was opened to the public last? Mr. Altobelli explained he did not know. Mr. Baylinson asked how many employees and hours of operation? Mr. Altobelli explained that he would have two employees. The hours of operation would be 8:00 A.M. to 5:00 P.M. Monday through Friday. There would not be weekend or holiday hours.

Mr. Altobelli explained that there are four overhead doors. He explained that they would use the back bay for storage.

Mr. Altobelli explained that they would probably use a low lying or portable lift. He explained that the ceilings are not high enough for a full lift.

The Board asked what type of repairs would be done at this facility? Mr. Altobelli explained they would do general repairs such as tune-ups, tires, brake jobs, etc.

Mr. Baylinson explained that it was his understanding that Mr. Altobelli was in negotiation with the next door neighbor, VFW. Mr. Altobelli explained that he was not in negotiation with the VFW. Nor did he make an offer to them.

Mr. Baylinson asked if towing and storage of cars was proposed for this location? Mr. Altobelli explained that there would not be towing or storage of cars on this site. He further explained that no outside work will be conducted on vehicles.

Mr. Todd deSatnick, Realtor, was sworn in by Chairman Hanson.

Mr. deSatnick explained that he received a time line of the property from the current owner, Mr. Robert Lepor, dated August 18, 2010. Mr. Baylinson objected to this time line. Mr. Harvatt asked Mr. deSatnick about the letter and how he came about it? Mr. deSatnick explained that he asked Mr. Lepor about ownership and how the property was used over the years and Mr. Lepor provided this time line. Mr. Harvatt explained that this was a letter from the seller to his client. Mr. deSatnick read the time line into the record. Mr. Baylinson asked Mr. deSatnick if there was anything in the letter about how the property was used since 1963? There was not.

Mr. Altobelli explained that he spoke with Mr. Long the night before. Mr. Baylinson read the letter from Mr. Long. He had no objections to Mr. Altobelli reading the letter into the record. Mr. Altobelli read the letter. In the letter it stated that since 1956 the property was operated by Mr. Roop.

Mr. Harvatt explained that the Vice-Chairman, Mr. Armbruster, approached him to advise him the Mr. Long is his wife's uncle. Mr. Baylinson explained that he did not have any objection with Mr. Armbruster continuing to hear the application.

Mr. Baylinson asked Mr. Altobelli when the last time this property was open to the public? Mr. Altobelli explained that he didn't know.

Mr. Spyros Spyropoulos, was sworn in by Chairman Hanson.

Mr. Spyropoulos explained that he knew the gentleman that worked on old cars at this location. He explained that the property was used as a garage in the 80's. He explained that some of his friends had work done there. He explained that in the 70's, one of the Carbone boys maintained old cars. He explained that at least four years ago, it was opened to the public.

Mr. Sandman had marked into evidence three photographs, front elevations and a site plan.

Mr. Murphy explained that the property fronts on Seashore Road. He explained that Weeks Landing Road runs through the property. He explained that he spoke with the County regarding access to the property. He explained that no access will be provided off Seashore Road. He explained that all access will have to be from Weeks Landing Road.

Mr. Murphy explained that when he did a site visit, there were a lot of things inside the building to indicate it was an auto repair shop.

Mr. Murphy explained to open today, the site would be unsafe. He explained that they are proposing curbing, landscaping and asphalt. He explained there will be stone parking to the rear of the building and they could run another row to the rear for additional parking and a variance for parking would not be needed.

Mr. Murphy explained that Weeks Landing Road would be widen from 14' to 24' and this would allow for two way traffic.

Mr. Murphy explained they are proposing one free standing sign and two building mounted signs. The free standing sign would be 32 square feet. He explained that he believes the building mounted signs would exceed the allowed. He explained they could reduce the square footage to conform if necessary.

Mr. Murphy explained that he does not have first hand knowledge of the repair facility. He explained that by looking inside the building, there were a lot of repair tools.

Mr. Baylinson asked Mr. Murphy to read note 16 on the plan. After Mr. Murphy read the note, he explained that there was not going to be any painting or auto body work done at this location.

Mr. Baylinson asked Mr. Murphy to show the location of the parking and if there were any stacked parking? Mr. Murphy showed where the 15 parking spaces would be and there would be stacked parking. Mr. Baylinson explained that stacked parking is not permitted and a variance would be needed.

Mr. Baylinson asked what the setback from the County right-of-way would be? Mr. Murphy explained it would be nine feet. Mr. Baylinson explained that section 400-18E3 prohibits parking this close to the property line. Therefore, a variance would be needed.

Mr. Murphy reviewed the aerial photographs that went back to the 1970's. He explained that all access from Seashore Road would be prohibited. He explained that all access would be from Weeks Landing Road.

Mr. Baylinson asked Mr. Murphy if the septic system was adequate? Mr. Murphy explained it would have to be designed to handle this site.

Mr. Murphy reviewed the landscape plan with the Board. He explained they will have planters and evergreen trees. He explained that they will not provide evergreen trees in the front of the lot.

Mr. Murphy explained that not all of the parking area will be paved. He explained they request either a waiver or variance for this. He explained that the lot coverage for the stone will be 6.4% and 38.5% for the asphalted area.

Chairman Hanson called for a short recess at 9:07 P.M. The meeting was called back to order at 9:20 P.M.

Mr. Sandman explained that they have to determine the use and if the use was abandoned. He explained that he hasn't rested his case yet, but think the people should be heard. Mr. Baylinson asked Mr. Sandman if he had additional witnesses? Mr. Sandman explained he did.

The Board explained that they did not want to open the public portion of the meeting only to hear additional testimony after and the public wants to speak again. They discussed that the main issue is whether the use was abandoned. Mr. Baylinson explained that he didn't think the site plan application could continue tonight. Mr. Harvatt explained that he agreed with Mr. Baylinson.

This portion of the hearing was opened to the public.

Mr. Ed Cooper was sworn in by Chairman Hanson.

Mr. Cooper explained that he opened his auto repair in the 1970's near Meadowview Road. He explained that when it closed, he was told that the use was abandoned.

Mr. Scott Nusser was sworn in by Chairman Hanson.

Mr. Nusser explained that he has lived next to this property since 1990. He explained that the building in question was used as storage for the campground. He explained that in the 24 years since he has had his business, he has never seen the property in question opened to the public. He explained that whatever use it was was small in nature. He explained that what is proposed would be a more intense use. He explained that he has concerns with the septic system, noise and smell. He explained that there will probably be cars parked on Weeks Landing Road. He explained that if what was proposed was small in scale, he wouldn't have a problem with it. He explained that he was told by Mr. Roop that it was a small scale business in the 1950's and 1960's. He explained that when the Lepor's purchased the property, they used it to store equipment for the sandpit and campground.

Mr. Paul Mirabile was sworn in by Chairman Hanson.

Mr. Mirabile explained that he has concerns with Weeks Landing Road. He explained that he has owned his property for 14 years and doesn't recall any bay doors open or work being done. He explained that his wife once saw a trailer on the property, but basically the property has been dormant.

Mr. Mirabile explained that it appears to him that the property was used for storage as opposed to auto repair.

Ms. Karen Sue Matthews was sworn in by Chairman Hanson.

Ms. Matthews explained that there is a dangerous curve on Seashore Road and it is a hazard when exiting Weeks Landing Road. She explained she has concerns with Weeks Landing Road being closed off. Mr. Murphy explained that Weeks Landing Road would not be closed.

Mr. Howard Holland was sworn in by Chairman Hanson.

Mr. Holland explained that Mr. Lepor has not been opened for 30 years. He explained this site is used for storage for campground material. He explained that this is the wrong type of business for this area.

Mrs. Lynn Jefferis was sworn in by Chairman Hanson.

Mrs. Jefferis explained that she has lived on Weeks Landing Road for 15 years. She explained that she has a 15-year-old daughter and 8-year-old grandson whose bus stop is at the corner of Seashore and Weeks Landing Roads. She explained that she is concern that what is proposed would make an already dangerous corner even more dangerous for them.

Mrs. Jefferis explained that she has never seen repairs done at this location nor seen it opened to the public.

Mrs. Jefferis explained that Weeks Landing Road was never a through road. At one time it was just a dirt road. She explained that it is also a very narrow road.

Mr. Gibson was sworn in by Chairman Hanson.

Mr. Gibson explained that he has worked at the airport and drives by this property twice a day. He explained that he hasn't seen any active at this property. He explained that he is concerned with the additional traffic this would create. He explained that he remembers when Mr. Lepor had his construction business and this is where he worked on his work trucks. He explained that this was back in the 60's.

Miss Mary MacDonald was sworn in by Chairman Hanson.

Miss MacDonald explained that she has lived on Weeks Landing Road for 42 years and has never seen auto repairs done at this location. She explained that she has concerns with contamination.

Mr. Joe Petruccelli was sworn in by Chairman Hanson.

Mr. Petruccelli explained that he has lived on Seashore Road for 17 years and in the Township for 32 years and has never seen any repair work at this site.

Mr. Petruccelli explained that he has seen other properties of Mr. Altobelli's and there were cars and trucks lined up on side streets.

Mr. Petruccelli explained that he has a hard time as does his neighbor's getting out of the driveway.

Mr. Petruccelli explained that this is not a place for a commercial facility.

Miss Frances Garretson was sworn in by Chairman Hanson.

Miss Garretson explained that this is a residential area. She explained that she has environmental concerns, along with traffic and parked cars, noise and smells. She explained that this property hasn't been used by the public since at least 1962.

Chairman Hanson explained that they would not hear any more public comments and the application would be continued until the October 7, 2010 with no new notice.

Mr. Kobik made a motion to adjourn at 10:00 P.M. The motion was seconded by Mr. Waterman. Motion carried.

Respectfully submitted,

Lisa A. Schubert,
Recording Secretary

A verbatim recording of said meeting is on file in Township Hall.

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.