

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 November 4, 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
David F. Brand, Jr.
Ernest Utsch III
Bruce Waterman
Robert Sweeten
Michael DiStefano
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:

Letter:

TO: Mr. Brian Murphy, PE, PP, CME
MV Engineering

FROM: William J. Galestok, PP, AICP
Director of Planning

DATE: October 14, 2010

RE: Your letter dated September 20, 2010;
Hemingway, Block 334.01, Lot 3.
Engineering Escrow fees

Memorandum:

TO: Lower Township Zoning Board

FROM: Mark Sray

Date: October 28, 2010

Project: Eugene and Carol Spirito
5103 Shawcrest Road, Unit C5103
Block 806, Lot 4.01
LTZB No. Z10-04-02

Handouts:

List of Board Solicitor vouchers dated November 3, 2010.

List of Board Engineer vouchers dated November 4, 2010.

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

Mr. Utsch made a motion to approve the October 7, 2010 minutes. The motion was

seconded by Mr. Waterman. 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 approved Board Solicitor vouchers. The motion was seconded by Mr. Waterman. Motion carried.

Mr. Armbruster made a motion to approve the resolutions from the October 7, 2010 meeting. The motion was seconded by Mr. Waterman. Motion carried.

1. Use variance & minor subdivision applications for the creation of three newly described lots, submitted by Bernard Dera for the location known as Block 410.01, Lot 71.03, 42 East Greenwood Avenue.

Mr. Timothy Dwyer, 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 his client is seeking a use variance and three-lot minor subdivision. He explained that currently the lot is eight acres. He explained that there are three apartment buildings for a total of 14 units, a single family dwelling and a storage building. He explained that this subdivision would have the apartment buildings on one lot. He explained that this zone requires 15 acres, but what is proposed would not impact the use. He explained the second lot would have the existing single family dwelling and the third lot would be vacant, but his client proposes a single family dwelling that would meet all the requirements for the zone.

The Board asked if Mr. Dera owns the land? Mr. Dera explained he was the contract purchaser. He explained that after the subdivision, he would own the vacant lot. The other two lots would remain in the current owners ownership.

There was a discussion that the owner is not present tonight and whether there is standing to proceed with the application. Mr. Dera explained that contract of sale does indicate that he would only be purchasing the vacant land. Mr. Dwyer explained that nothing will change with the remaining lots. Mr. Harvatt explained that Mr. Dera is the contract purchaser, but what if the property owner comes back and questions the Board as to why the subdivided his land? Mr. Dwyer explained that they do have an agreement from the owner. Also explaining that the owner signed the subdivision plan. There was a discussion that the application should be continued until and the property owner's attorney can be present at a future meeting representing their interests.

Mr. Dwyer explained that they would continue the application until next month's meeting agreeing to waive time constraints.

- 3. Use variance & minor site plan application to convert a commercial store to a residential apartment, submitted by Eugene Spirito for the location known as Block 806, Lot 4.01, 5103 Shawcrest Road.

Mr. Marcus Karavan, Esq., represented the applicant.

Mr. Eugene Spirito, applicant was sworn in by Chairman Hanson.

Mr. Karavan explained to the Board that this is one of ten units that were commercial. He explained that nine of the units were approved by this Board to be converted to residential. He submitted into evidence resolution from the previous approval.

Mr. Karavan explained that his client would like to convert the last unit too residential. He explained that his client has tried to rent this unit for commercial, but has been unsuccessful.

The Board explained that they remembered the previous applications. They explained that there had been long discussions about parking. Mr. Karavan explained that there has never been a problem with parking.

Mr. Sray explained that parking was his concern. Mr. Karavan explained that the Associations President had testified that there was more than enough parking.

Mr. Spirito explained to the Board that he has tried to rent this unit for a commercial use, but has been unable to do so.

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 that he didn't have Bureau of Fire Safety comments or Cape May County Planning Board comments. He explained that the application should be conditioned upon receiving these comments.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	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 construct a front porch encroaching into the front yard setback and a rear addition encroaching into the side yard setback and closer to accessory building than permitted, submitted by Barbara & Dennis Smith for the location known as Block 625, Lot 7, 400 Whildam Avenue.

Mr. Dennis Smith, Mrs. Barbara Smith, applicants, and Mr. Kevin Young, Licensed Architect, were sworn in by Chairman Hanson.

Mrs. Smith explained that she and her husband would soon be retiring to this house. She explained that there is a front porch now that is in need of repair. She explained that she has had several builders look at this and the way it is constructed, water just puddles in front of the door. She explained that they would like to replace the entire deck with the same size and construct a roof over it. She explained that the house is small and when they retire, they will need more room. She explained that they would like to go straight off the back of the house and by doing so a side yard setback variance is needed. She explained that she would not be encroaching into the side yard setback any more than what the current setback is. She explained that this addition would be to closer the garage then what is allowed.

The Board asked if the rear addition would fall under the square off rule? Mr. Galestok explained that it would have, but the proposed addition is beyond the existing house. He explained that there is also the issue with the setback to the garage.

There was a discussion about reducing the size of the addition so this setback is met. Mr. Young explained that this would hurt the size of the kitchen. He explained that at this size, the addition would be fire rated inside and outside. The Board asked if the addition could be constructed on a 45-degree angle to meet the setback? Mr. Young explained that they could do the 45-degree angle and meet the setback.

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 the side yard setback request is minimal. They explained that the front yard encroachment is an existing condition. And the variance request for the distance to the garage was eliminated.

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

VOTE:	Mr. Armbruster	YES	Mr. Brand	YES
	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.

6. Hardship variance application to demolish the existing single family dwelling and construct a new single family dwelling on a lot deficient in lot area, depth, encroaching into the front and side yard setbacks and exceeding the allowed building coverage, submitted by Donna Macko-Fister for the location known as Block 761, Lots 17-21, 809 Wilson Street.

Ms. Donna Macko-Fister, applicant, was sworn in by Chairman Hanson.

Ms. Macko-Fister explained to the Board that she would like to demolish the existing home and reconstruct a new home. She explained that her mom had suffered a stroke and she would like to move her into her home. She explained that the existing home is only 16 years old and unfit to live in. She explained that there is mold in the house. She explained that she had an independent inspector inspect and they found several structural defeats that are causing the mold.

The Board asked why the proposed single family dwelling was so close to the side yard setback? Ms. Macko-Fister explained that she would like to use the existing septic system and because of the square footage of the house, she needs the setback from the septic. The Board asked if the crawl space would be concrete? She said that it would. The Board explained that in this case, the house could be 15 feet from the septic system. There was a discussion about moving the house over and having a 9.2 side yard setback.

The Board questioned the letter that was with the application. They explained that it is hard to believe that no inspections were done on the house. Ms. Macko-Fister explained that it was true. She explained that she spoke with Mr. Playford and he gave her a copy of the application that no inspections were done.

The Board asked if only she and her mom were going to live in the house? Ms. Macko-Fister explained it would just be the two of them. The Board explained that it seems like a large house for just two people. It was discussed that the square footage including the garage would be 2566. Ms. Macko-Fister explained that it would be a three-bedroom house with an office. She explained that there are similar setbacks 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 to conditionally approve the application. The motion was seconded by Mr. Waterman.

VOTE:	Mr. Armbruster	YES	Mr. Brand	NO
	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.

5. Informal discussion regarding residential use in the General Business Zone, submitted by Bruce Waterman for the location known as Block 495.01, Lot 13.01, 115 Breakwater Road.

Mr. Waterman excused himself from this discussion.

Mr. Waterman gave the Board a conceptual drawing. He explained that the land is in the General Business zone and more than eight acres. He explained that he would like to do a residential use on the land. He explained that they could do 51 townhouse units, but think detached single family dwellings would be a better use. He explained that they could have approximately 35 units on this track of land. He explained that they would propose ten feet between the units. He explained that they arrived at this distance because the R-3 zones highest setback is ten feet. Mr. Galestok explained that it should then be twelve feet. He explained that the six-foot setback should be double. Mr. Waterman explained that nothing would be allowed in the side yards.

There was a discussion that residential uses have been approved around this lot.

Mr. Waterman explained that 30 x 70 footprints are shown on the plan, but this is the maximum footprint allowed. He explained that he would not be building rectangles.

There was a discussion about having all these units on one lot. Mr. Galestok explained this would be a similar situation as Bayshore Woods. He explained that there really are not any lots, but the unit owners do own their little area.

Mr. Waterman explained that he is thinking about having this an age restricted development. He explained there would be an association and they would have to take care of the roads. Mr. Galestok explained that he believes there is a State law that the Township would be responsible for trash and snow removal.

Mr. Waterman explained that the lands around the Rite-Aid were sold to the State.

Mr. Waterman explained that all the units would have a two-car driveway with a one car garage.

Mr. Galestok explained that there has to be some rules in place for when the unit owner wants to do some type of addition, decks, etc.

Mr. Waterman explained that he would like each unit to have an area to the rear that could be fenced and for a shed.

Mr. Armbruster made a motion to adjourn at 7:57 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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