

TOWNSHIP OF LOWER

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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 5, 2011 at the Lower Township Municipal Building. The meeting was called to order at 7:03 P.M. by Vice-Chairman John Armbruster. The Recording Secretary stated that adequate notice of said meeting was given in compliance with the Open Public Meetings Act of 1975.

MEMBERS PRESENT: Vice-Chairman John Armbruster
David F. Brand, Jr.
Ernest Utsch III
Bruce Waterman
Michael DiStefano
Christopher Kobik
Dianne Kelly
Kristine Trusiak
Stephen Komar

MEMBERS EXCUSED: Chairman James Hanson
Robert Sweeten

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 May 3, 2011.

List of Board Engineer vouchers dated May 5, 2011.

Mr. Utsch made a motion to approve the minutes from the April 7, 2011 meeting. The motion was seconded by Mr. Waterman. Motion carried.

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

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

Mr. Brand made a motion to approve the resolutions from the April 7, 2011 meeting. The motion was seconded by Mr. Waterman. Motion carried.

6. Extension of hardship variance approval, submitted by Beverly Jordan for the location known as Block 494.49, Lot 10, 304 Baywood Drive.

Ms. Beverly Jordan, applicant was sworn in by Chairman Armbruster.

Mr. Galestok explained to the Board that this property has received two variance approvals. He explained that there was difficulty receiving DEP approval.

There was a discussion regarding granting a three-year extension.

Mr. Brand made a motion to approve a three-year extension. The motion was seconded by Mr. Waterman.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	YES
	Chairman Armbruster	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.

1. Use & hardship variances & minor site plan applications to have an above ground fuel tank, replacing an underground tank and eight (8) foot fence surrounding the tank, submitted by Verizon New Jersey, Inc., for the location known as Block 252, Lots 18-20 & 37-41, 41 Locust Road.

Mr. Warren Stilwell, Esq., represented the applicant.

Mr. Stilwell explained to the Board that his client currently has an underground fuel tank. He explained that they would like to install an above ground diesel tank for the generator. He explained that they are proposing an eight-foot fence around the tank. He explained this would be in the front yard.

Mr. F. Mitchel Ardman, PE, PP, was sworn in by Chairman Armbruster.

Marked into evidence was a colorized version of the site plan with a revision date of April 20, 2011.

Mr. Ardman explained this building is a switching station. He explained that they are proposing a 1,000 gallon above ground tank. He explained the tank would meet the required standards. He explained it would be a dual-walled tank with an alarm system. He explained they are proposing landscaping around the fence. He explained the plantings would be evergreen scrubs and four to five-foot in height at planting. Within a couple years, the scrubs would be taller than the fence. He explained they are not proposing lighting near the tank. He explained that fueling of the tank would probably happens once or twice a year. He explained the truck would park on Woolson Road to make a delivery. He explained that the purpose of the tank is to fuel the generator when there are outages.

The Board asked if there would be a better location for the tank? Mr. Ardman explained that they did look at other locations on the property, but the generator is located in that front corner of the building. He explained if the tank is located in a different location, additional fuel lines and pump would be needed. The fence will be black vinyl chainlink and without the trees, one could see through the fence.

The Board asked how long the generator would run on one tank of diesel? Mr. Ardman explained the generator could run a couple of weeks on one tank. He explained that if power is lost during summer months, the area where the generator is located need air conditioning to keep it cool.

Mr. Galestok explained a use variance is need because public utilities are not a permitted use in the zone.

Mr. Ardman explained that this is a public utility and the generator is needed for emergency services.

Mr. Galestok asked why the tank could not be underground? Or why not connect to natural gas? Mr. Ardman explained that sometimes gas services go down. He explained that the current tank has been there for 20 years. He explained Verizon is changing all their underground tanks for above ground tanks. He explained that an above ground is more environmentally friendly.

The Board explained that they feel there is a better location on the property for the tank. Mr. Ardman described the residential uses in the area. He explained that basically anywhere they placed the tank would be seen from a residential use. The Board explained that the building blends with the neighborhood. They explained that what they are proposing would be more visible.

This portion of the hearing was opened to the public.

Mr. Bruce Miller was sworn in by Chairman Armbruster.

Mr. Miller explained he lives across the street from the building. He explained that there was a temporary generator on the exterior of the building that ran from 1:00 A.M. to 4:00 A.M.. He explained it was 75 feet from his bedroom window. Mr. Ardman explained there would be a temporary generator in place until the tank is switched out. He explained that it would not run at night unless there is an emergency. Mr. Stilwell explained it would not be a permanent fixture and would only be used during night time if there were an emergency.

Mr. Miller explained the corner is a bus stop and for safety reason, why not have the tank underground? Mr. Ardman explained that if there were a leak, it would be easier to detect. Mr. Miller explained it could be placed to the rear corner of the building where there are more trees. The Board explained that if the tank were moved to that location, the fuel truck could pull into the parking area to fill the tank.

This portion of the hearing was closed to the public.

Mr. Galestok read Bureau of Fire Safety comments dated February 8, 2011 in which they found this application acceptable.

Mr. Sray explained that all the Engineer comments were addressed.

There was a discussion regarding the proposed location and whether there would be a better location for this. Also what would this look like.

Mr. Stilwell explained that he would like to continue the application until the June 2, 2011 meeting with no new notice.

2. Preliminary & final site plan applications to construct 33 age restricted single family residences in a condominium regime, submitted by Bruce & Eliza Waterman for the location known as Block 495.01, Lot 13.01, 115 Breakwater Road.

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

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

Mr. Joseph Maffei, PE, PP, and Mr. Bruce Waterman, applicant, were sworn in by Chairman Armbruster.

Mr. Dwyer explained the use variance for 33 age restricted units were approved at last month's meeting. He explained they did not receive preliminary approval because the number of units was reduced and the units were to be reconfigured.

Mr. Maffei explained the plan was reconfigured with the Board concerns and they have incorporated the County requirements. He explained the units were reconfigured and some units have 16 foot separation and others have 20 foot separation.

Mr. Dwyer explained that if preliminary approval is granted, they would like to withdraw the final site plan application. He explained that they would then proceed with CAFRA approval.

Mr. Maffei explained that they have no problems with the Engineer comments.

Mr. Galestok read Bureau of Fire Safety comments dated March 30, 2011. Mr. Maffei explained four hydrants are proposed.

The Board asked if the basin would be fenced? Mr. Maffei explained there would not be a fence around the basin. He explained the basin would be two to three feet deep and would drain quickly. There was a discussion that there are developments with catch basins. Some have fencing around the basin. Some don't. It was explained that there should be a low barrier around the basin. Mr. Dwyer explained they would put a reasonable barrier around the basin.

Mr. Galestok asked how additions, shed, pools, patio's etc., would be handled? Mr. Dwyer explained this development is a condo regime and no one would be able to do anything without approval from the Association. It was explained that there would be an area delineated for the structure owner to have sheds etc. This would be shown on the final plan. Mr. Dwyer explained the Association papers would be registered with the DCA. He also explained that there would not be any pools.

This portion of the hearing was opened to the public.

Mr. Bob Rizzo was sworn in by Chairman Armbruster.

Mr. Rizzo explained he was the President of the Mickel's Run Association. He explained that at one of the meetings, he showed the Board this plan and they are in favor of this application. He explained that Mickel's Run has ten basins that drain within 48 hours. He explained they do have a concern with additional traffic this development would create. Mr. Maffei explained that there will be an excel/decel lanes.

This portion of the hearing was closed to the public.

Mr. Brand made a motion to conditionally approve the preliminary site plan approval. The motion was seconded by Mr. DiStefano.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Kobik	YES
	Mrs. Kelly	YES	Mrs. Trusiak	YES
	Chairman Armbruster	ABSTAIN		

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 an addition encroaching into the side yard setback, submitted by Charles & Barbara Dick for the location known as Block 752.01, Lot 36.01, 1057 Shunpike Road.

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

Mr. Charles Dick, applicant, was sworn in by Chairman Armbruster.

Mr. Dick explained this is a small house built in 1857. He described the layout of the first and second floors.

Mr. Tourison explained the existing back porch would be removed and a new 27 x 34 addition is proposed in the same location. He explained that because of the way the house is situated on the lot, the addition would encroach into the side yard setback. He explained that with the interior configuration of the house, this is the best location for the addition.

This portion of the hearing was opened to the public.

Mr. Alan Heim was sworn in by Chairman Armbruster.

Mr. Heim explained that he is in favor of this application. He explained they maintain their property. He explained this would be a benefit to the neighborhood.

This portion of the hearing was closed to the public.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	YES
	Chairman Armbruster	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 porch encroaching into the front yard setback and exceeding allowed building coverage, submitted by George Doherty for the location known as Block 500.02, Lot 9, 552 Seashore Road.

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

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

There was a general discussion regarding the DOT taking land for the Breakwater Road extension.

Mr. Doherty explained to the Board that he needs the addition for family and company. He explained he has no intention to have a multi-family dwelling.

There was a discussion regarding the proposed setback for the front porch. Mr. Galestok explained it scales to about 11 feet.

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. Brand.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	YES
	Chairman Armbruster	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 demolish the existing single family dwelling and construct a new single family dwelling in the same footprint. Hardship variances needed for lot area, frontage, width, depth, front, side & rear yard setbacks and exceeding the allowed building coverage, submitted by Stephen Rahter for the location known as Block 815, Lot 16, 703 West Rio Grande Avenue.

Mr. Stephen Rahter, applicant, was sworn in by Chairman Armbruster.

Mr. Rahter explained the house is on pilings and new pilings are needed. He explained that he wanted to raise the height of the house because of flooding. He explained it was suggested to demolish the house and rebuild.

Mr. Rahter had submitted into evidence architects drawings.

Mr. Rahter explained that currently everything is non-conforming except the height. He explained that he would like to construct a new house in the same footprint with the same non-conformities. He explained they will not have any windows to the closet neighbor. He explained that he would not start construction until the fall.

The Board explained the proposed new house is very close to Rio Grande Avenue and there is not much land to put a ladder. Mr. Galestok explained further down the road, houses are in the road. He explained that they have encroachment agreement with the County. Mr. Rahter explained that the front door would not be on the Rio Grande Avenue side of the house. He explained the entrance would be on the side. He explained the new house would meet the allowed height.

This portion of the hearing was opened to the public.

Mr. Mark Hillard was sworn in by Chairman Armbruster.

Mr. Hillard explained to the Board that he thinks this will be a big improvement to the area.

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. Brand.

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	YES
	Chairman Armbruster	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.

- 7. Hardship variance application to construct a roofed deck encroaching into the front yard setback, submitted by Lillian C. Wille for the location known as Block 624, Lot 6, 402 Eldredge Avenue.

Mrs. Lillian Wille, applicant, and Mr. Joseph Wille, son of the applicant, were sworn in by Chairman Armbruster.

Mr. Wille explained that this is his mom’s property. He explained that she has wanted a covered deck for a couple years. He explained that in order to have a covered deck, a hardship variance for front yard setback is needed. He explained there would not be any screens.

The Board explained that five feet is narrow for a deck, especially when furniture is placed on the deck. Mrs. Wille explained she would like a six-foot deck.

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

VOTE:	Mr. Brand	YES	Mr. DiStefano	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Kobik	YES	Mrs. Kelly	YES
	Chairman Armbruster	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.

- 8. Use & hardship variance applications to build a detached living unit for family use only. Hardship variances needed for side & rear yard setbacks, submitted by Richard & Maureen Sandman for the location known as Block 680, Lot 2, 701 Indian Avenue.

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

Mr. Richard Sandman, applicant, was sworn in by Chairman Armbruster.

Mr. C. Sandman explained the house was expanded a couple of times. He explained that the family keeps growing. He explained that they have a new baby and need additional bedrooms. He explained that to do a second floor would take up a lot of the room on the first floor. He explained that the simplest solution is to have a detached unit for the older son. He explained that they would like to have a kitchen in the unit.

Mr. R. Sandman explained they have done two additions. He explained they cannot go out any further on the sides. He explained a second floor would be too costly. He explained that eventually the detached unit would be an in-laws quarters.

It was explained that the detached unit would meet the side and rear yard setbacks of four feet. The Board explained those are setbacks for an accessory use. This would not be an accessory use if there is a living unit.

Mr. R. Sandman explained a portion of the unit would be for his son. The other portion would be used for a playroom. He explained that he would like to keep the unit in the proposed location, explaining this area would allow for some yard for the kids to play. He explained that there are several detached units in the area.

The Board explained that if approved, this would set a precedent. They explained that as a Board, they have only approved one detached unit in the area and that was for an addition to an already existing unit.

Mr. R. Sandman explained that they are not in the economic situation to move. Mr. C. Sandman explained that this location would allow for safe access around the building.

The Board asked why an addition couldn't be constructed where the deck is located? Mr. R. Sandman explained there are sliding glass doors out onto the deck and there is also a hot tub on the deck. He explained that they would have to reconstruct the roof line to construct an addition in that location.

There was a discussion about attaching this to the house. It could be the same size as what is proposed and there would have to be a complete connection to the house. If attached to the house, variances for rear yard setback and building coverage would be needed. The use variance application would no longer be needed.

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 a rear yard setback and building coverage variance for an addition to the house. 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	YES
	Chairman Armbruster	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. Brand made a motion to adjourn at 9:10 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.

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