

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 May 5, 2022 at the Lower Township Municipal Building. The meeting was called to order at 6:00 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 Michael Kennedy David F. Brand, Jr. Ernest Utsch III Robert Sweeten George Doherty
MEMBERS EXCUSED:	Bruce Waterman Robert Basco, Sr.
STAFF PRESENT:	Anthony J. Harvatt, II, Board Solicitor William Cathcart, Board Engineer William J. Galestok, Board Secretary Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated April 27, 2022.

List of Mott MacDonald vouchers dated May 3, 2022.

List of Board Engineer vouchers dated May 5, 2022.

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

Mr. Brand made a motion to approve the minutes from the April 7, 2022 meeting. The motion was seconded by Mr. Kennedy. Motion carried.

Mr. Kennedy made a motion to approve the Board Engineer vouchers. The motion was seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to approve the Mott MacDonald vouchers. The motion was seconded by Mr. Brand. Motion carried.

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

Mr. Brand made a motion to approve the resolutions from the April 7, 2022 meeting. The motion was seconded by Mr. Sweeten. Motion carried.

5. Extension of hardship variance approval, submitted by Bruce Conwell, Jr., & Theresa Conwell for the location known as Block 752.04, Lot 2, 2 Melody Court.

Mr. Conwell explained to the Board that they had received approval for an addition to their home that was encroaching into the side yard setback and exceeding the allowed building coverage. He explained this approval will expire this month.

There was a discussion regarding a three-year extension that would expire April 2025.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Doherty	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. Hardship variance application to construct a detached garage combined with the existing garage, the accessory uses would be larger than the principal use, submitted by John Kopp, Jr., for the location known as Block 748, Lot 16.02, 4086 Bayshore Road.

Mr. John Kopp, Jr., applicant, was sworn in by Chairman Hanson.

Mr. Kopp explained to the Board he would like to construct a 24 x 24 detached garage for storage only. He explained he has another accessory use and with the combined square footage it would exceed the square footage of the house.

There was a discussion this looks like a two-car garage.

The Board asked if there would be water and a bathroom in the garage? Mr. Kopp explained there wouldn't be water to the garage or a bathroom.

This portion of the hearing was opened to the public. There were no public comments. This portion of the hearing was opened to the public.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Doherty	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 an addition on a lot deficient in lot area, width, encroaching into the front & rear yard setbacks & exceeding the allowed building coverage, submitted by Amy Saia for the location known as Block 496.15, Lot 9, 16 Osprey Drive.

Ms. Amy Saia, applicant, and Mr. Remi Nassar, PE, PP was sworn in by Chairman Hanson.

Ms. Saia explained to the Board that she would like to expand to have a large dining room. She explained she has a large family and when they visit, there isn't enough room. She explained this is their summer home.

Mr. Nassar explained the proposed addition would be 8 x 30 to accommodate the family. He explained the subdivision was built many years ago and the zoning has changed. He explained only the side yard setback complies with zoning. He explained there would be no impact to the westerly neighbors. He explained the building coverage would be exceeded by 3 ½%. He explained the existing shed would be removed. He explained what is proposed would not affect light, air and open space.

This portion of the hearing was opened to the public.

Mr. Harry Milbourne, Treasurer of Bay Gardens 2 Association, was sworn in by Chairman Hanson.

Mr. Milbourne explained this is a corner lot and feels what is proposed would affect traffic on the corner.

This portion of the hearing was closed to the public.

Mr. Nassar explained the neighbor has a large deck and a shed on the property line. He explained what the applicant is proposing would not affect traffic. He explained the applicant's driveway is on the other side of the property away from the intersection.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Sweeten	YES
	Mr. Doherty	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.

1. Use & hardship variance & preliminary & final site plan applications to install a pole sign, encroaching into the front yard setback and exceeding the allowed height, submitted by Pacific Outdoor Advertising, LLC for the location known as Block 793, Lot 11.03, 797 Route 109.

Mr. Carl Tripician, Esq., represented the applicant.

Mr. Tripician explained with only six Board members present tonight, he would request the absent Board member listen to the transcript. There was a discussion as to whether the applicant wanted to proceed with a vote tonight. Mr. Tripician explained he did. There was a discussion that once the Board votes, the absent Board member could not vote. Mr. Tripician explained he would proceed with the application tonight.

Mr. Joseph Jacobs, owner and President of Pacific Outdoor Advertising, was sworn in by Chairman Hanson.

Mr. Jacobs explained to the Board that he has done digital billboards throughout New Jersey. He explained he has a lease for this property. He explained he has received a permit for a double-sided sign from NJDOT.

Mr. Jacobs explained the total height of the sign would be 77', explaining 8' would be below grade and 69' would be above grade. He explained the size of the billboard would be 16' x 60'.

Marked into evidence as A-1 was a photo board.

Mr. Jacobs explained the photo board is a mock up of what the sign would look like. He explained the sign is constructed in such a way that it can only be viewed straight on. He explained the sign is bowed so it cannot be viewed from the side. He explained the sign would be used for Amber & Gold Alerts. He explained the sign could be used for other alerts and these alerts can be posted within minutes. He explained the sign would also be available to the town for public displays at no charge. He explained it would also be available for commercial businesses.

Mr. Jacobs explained he is aware the condos across the street have concerns. He explained the sign would be angled in such a way they would not see the sign.

Mr. Jacobs explained there would be no flashing or movement in the sign. He explained the sign would change every eight seconds.

Mr. Jacobs explained the sign is designed to withstand winds up to 170 mph. He explained there is no on-site maintenance.

The Board asked Mr. Jacobs if any of the principals of the company live in Lower Township or the next County over? Mr. Jacobs explained no one does, but he does spend a lot of

time here. He explained he has developed signs in Atlantic County.

The Board asked if any video would be shown on the sign? Mr. Jacobs explained there would be no video.

Mr. Jacobs explained they do have a digital permit and this permit does not allow for another billboard within 3,000 feet.

Ms. Deborah Wahl, PE, PP was sworn in by Chairman Hanson.

Marked into evidence as A-2 was the site plan.

Ms. Wahl explained the property is on the northeast corner of Ocean Drive and Route 109. She explained the elevation at the corner is 19' and the elevation on-site 9'. She explained there are coastal wetlands to the rear of the site and possibly freshwater wetlands at the front of the site. She explained the lot is a half acre. She explained the permitted uses for the zone do not fit for this site. She explained access to the lot is limited and a higher impact use would be a hazard to the area. She explained what is proposed is a good use for the site because it generates no traffic. She explained the overall height of the sign would be 77', but not all 77' would be seen because of the grade. She explained the sign has no noise and it's between 200 to 300 feet from a residential use.

The Board questioned if a wetland buffer has been determined yet? Ms. Wahl explained it has not, but feels it would be about a 25' buffer.

The Board explained the access to the property could be hazardous and asked if the applicant has approached the neighbor to grant an easement? It was explained if an easement is not granted, access can be gained from Route 109. It was explained there would only be traffic to this site during construction. Mr. Jacobs explained the maintenance of the sign is done remotely and he has not had to send anyone to a site for any reason.

Mr. Galestok asked how far away can the sign be seen? He explained with electronics, there is always the possibility of a malfunction. He explained there is a sign in the area that malfunctioned and it was so bright, it was blinding to motorists. Mr. Jacobs explained the sign has auto-dimmers and if there is a malfunction, they would be notified immediately and it would be corrected, but that would not happen with this sign. He explained as far as the distance the sign would be seen, he explained it is geared solely for on coming traffic.

The Board explained there is an electronic billboard sign between the Walt Wiltman Bridge and the Eagles stadium that does not dim. Mr. Jacobs explained that is an old fashion sign.

The Board explained when coming over the Cape May Bridge, this would be the first thing motorists would see. They asked what the safety precautions would there be?

Marked into evidence as A-3 was a Light Block Tech. Board and as A-4 was a Light Mitigation Spec Sheet. These were reviewed.

Mr. Remi Nassar, PP, was sworn in by Chairman Hanson.

Mr. Nassar explained there are restricted uses for the property because of the wetlands. He explained what is proposed does not take up a lot of space on the lot. He explained he feels this is an appropriate use of the property. It promotes the health, safety and general welfare, does not conflict with adjacent agencies and could be used for emergency purposes. He explained there would be no detriment to the zone, zone plan or Ordinance. He explained the benefits outweigh the deterrents.

The Board asked why another sign cannot be within 3,000'? Mr. Jacobs explained the State does not allow signs on the Parkway. He explained the proposed location is just before entering the Parkway.

There was a discussion regarding the construction of the sign. Whether it was designed to fall upon itself, like cell towers are and if the sign did fail, if it would stay on the property. Mr. Jacobs explained the sign is constructed to withstand strong winds. He explained they recently constructed a similar sign and it had a 30' foundation.

The Board asked if there was a lease between the applicant and property owner? Mr. Jacobs explained he had a 25-year renewable lease.

The Board explained there was recently a cell tower approved in this location and asked if this sign would interfere with the tower? It was explained this sign would not interfere with the cell tower.

Marked into evidence as A-5 was an aerial photo.

Ms. Wahl described how the sign would face. She explained traffic on Ocean Drive would not be able to see the sign. She explained no traffic study was done.

Mr. Galestok read Cape May County Planning Board comments dated February 17, 2022 in which they approved application.

Mr. Galestok explained he doesn't believe an application was made to Bureau of Fire Safety.

This portion of the hearing was opened to the public.

Mr. Edmund Shinn, Esq., represented the owners of Sea Gear.

Mr. Shinn explained he had a copy of the Cape May County Comprehensive Plan. He read a section from the Plan pertaining to this being an environmental sensitive area.

Mr. Shinn explained he represents the adjacent property owner and no easement will be provided. He explained he feels a traffic study should have been completed. He explained there was no testimony regarding wildlife or birds. This property is not connected to the property owners business and the property owner purchased this lot for \$11,000.00.

Mr. Shinn submitted into evidence as O-1 the comprehensive plan for Cape May County and as O-2 paperwork from Fish, Game and Wildlife.

Mr. Jeffrey Barnes, Esq., represented the Canyon Club Association.

Ms. Barbara Allen Woolly-Dillion, PP, AICP, was sworn in by Chairman Hanson.

Ms. Woolly-Dillion explained she has the Lower Township Master Plans for the past 25 years. She explained she has reviewed all of them. She explained signs are a permitted use and allowed up to 35' in height. She explained she doesn't feel there is a way to prevent light spillage.

Marked into evidence as O-2-1 was a photo south bound on Route 109 looking at the site. Ms. Woolly-Dillion explained you can barely see the Shell sign. She explained the proposed sign would be double the height of the Shell sign. She explained for size reference, the sign would be half the size of the meeting room.

Ms. Woolly-Dillion explained she doesn't feel the positive and negative criteria have been met. She explained seven variances are requested and feels they are self created. She explained what is proposed is a visual blight. She explained there are 25 other uses that are permitted. She explained she feels this is a detriment to the public good. She explained a utility pole is between 25-35' in height and this sign would be 77' tall. She explained she doesn't feel this fits into the character of the neighborhood. And they are placing the sign as close to the intersection as possible. She explained she doesn't feel this application is fair to the municipality and would be a detriment to the community.

This portion of the hearing was opened to the public.

Mr. Jerry Mancuso was sworn in by Chairman Hanson.

Mr. Mancuso explained he is the owner of Shell and opposes this application. He explained he feels the proposed sign would block his business. He explained he feels the sign would be dangerous and cause quite a few accidents with people trying to read it.

Mr. Frank Barbera was sworn in by Chairman Hanson.

Mr. Barbera explained he is the owner of store front on Washington Street Mall. He explained he feels this sign would be beneficial to their business and another other businesses in the area.

This portion of the hearing was closed to the public.

Mr. Jacobs explained Ms. Woolly-Dillion works for the City of Atlantic City. He explained he has installed his signs there and has received a letter from her boss commending him. He explained his intent is to be a good neighbor and he would reduce the size and height of the proposed sign. He explained he would reduce the sign from 77' to 64'. He explained the height from grade would be 56' tall. The sign would be reduced in size from 960 square feet to 672 square feet, from 16 x 60 to 14 x 48.

The Board discussed that even with the reduced size, it's still large. They explained houses are allowed to be built at 35' in height and some houses are not as big as the proposed sign. They explained they feel if approved, it would set a precedence.

Mr. Galestok read the definition of billboards.

The Board explained even though the billboard is made that only straight on traffic and see, there are homes in the area that will still see the sign. They explained they feel it is a distraction having the sign changing every eight seconds. They still have concerns with the height even though it would be reduced. It was explained in the past there were multiple uses on this site.

Mr. Brand made a motion to conditionally approve the use variance application. The motion was seconded by Mr. Sweeten.

VOTE:	Mr. Kennedy	NO	Mr. Brand	NO
	Mr. Utsch	NO	Mr. Sweeten	NO
	Mr. Doherty	NO	Chairman Hanson	NO

Motion denied.

A memorializing resolution will be prepared by the Board Solicitor for the Board to review and approve at the next scheduled meeting.

Mr. Kennedy made a motion to adjourn at 8:24 P.M. The motion was seconded by Mr. Brand. 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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