

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.

DUE TO COVID-19 AND SOCIAL DISTANCING REQUIREMENTS, THE MEETING WAS CONDUCTED THRU THE GO TO MEETING FORMAT AND WAS VIDEO AND AUDIO

LOWER TOWNSHIP ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on October 1, 2020 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
Robert Basco, Sr.

MEMBERS EXCUSED: Bruce Waterman

STAFF PRESENT: Anthony J. Harvatt, II, Board Solicitor
Scott MacPherson, Board Engineer
William J. Galestok, Board Secretary
Lisa A. Schubert, Recording Secretary

CORRESPONDENCE:

Handouts:

List of Board Solicitor vouchers dated September 25, 2020.

List of Board Engineer voucher dated October 1, 2020.

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

Mr. Brand made a motion to approve the September 3, 2020 minutes. The motion was seconded by Mr. Sweeten. Motion carried.

Mr. Brand made a motion to approve the Board Solicitor vouchers. 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. Sweeten made a motion to approve the revised resolution for the Lower Township MUA. The motion was seconded by Mr. Brand. Motion carried.

Mr. Brand made a motion to approve the resolutions from the September 3, 2020 meeting. The motion was seconded by Mr. Utsch. Motion carried.

5. Hardship variance application to construct a 10 x 18 porch encroaching into the front yard setback, submitted by Michael Perry for the location known as Block 630, Lot 8, 401 Howland Avenue.

Mr. Michael Perry, applicant, was sworn in by Chairman Hanson.

Mr. Perry explained he would like to construct a 10 x 18 front covered porch. He explained it would encroach into the front yard setback 5'. He explained no loss of views would affect any neighbor. He explained he would also be constructing an addition that would meet all the required setbacks.

The Board asked if the porch would be enclosed? Mr. Perry explained there would be a

roof, but would not be enclosed.

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

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|-------|-------------|-----|-----------------|-----|
| VOTE: | Mr. Kennedy | YES | Mr. Brand | YES |
| | Mr. Utsch | YES | Mr. Sweeten | YES |
| | Mr. Basco | 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 construct a 14 x 34 rear addition exceeding the allowed building coverage, submitted by Pasquale & Cheryl Colleluori for the location known as Block 372, Lots 7 & 8, 121 Village Road.

Mrs. Cheryl Colleluori, applicant, was sworn in by Chairman Hanson.

Mrs. Colleluori explained they would like to construct a rear addition that would meet the allowed setbacks, but exceed the allowed building coverage. She explained what is proposed does not infringe on the neighbors or obstruct their views.

The Board explained the proposed addition would keep in line with the existing house.

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

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|-------|-------------|-----|-----------------|-----|
| VOTE: | Mr. Kennedy | YES | Mr. Brand | YES |
| | Mr. Utsch | YES | Mr. Sweeten | YES |
| | Mr. Basco | 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.

8. Extension of hardship variance approval, submitted by N L Martucci Properties, LLC for the location known as Block 140, Lots 7 & 8, 245 Pennsylvania Avenue.

Mr. Nick Martucci, applicant, was sworn in by Chairman Hanson.

Mr. Martucci explained he is under contract to purchase this property. He explained a variance was previously approved and he would like an extension of that approval. He explained he plans on building a conforming single family dwelling.

There was a discussion extensions are usually approved for an additional three years.

There was a discussion the variance had already expired, so if approved, this extension would reach back and expire in 2022.

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. Kennedy made a motion to approve a three-year extension. The motion was seconded by Mr. Utsch.

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|-------|-------------|-----|-----------------|-----|
| VOTE: | Mr. Kennedy | YES | Mr. Brand | YES |
| | Mr. Utsch | YES | Mr. Sweeten | YES |
| | Mr. Basco | 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.

9. Hardship variance application to construct a 12 x 14 sunroom encroaching into the rear yard setback, submitted by Don & Ann Marie Papa for the location known as Block 494.01, Lot 27.28, 2704 Bybrook Drive.

Mr. Galestok explained there may be an issue with the notice. He explained two of the notices were sent with the incorrect zip code. Mr. Harvatt asked if the green cards were received? It was explained to him that no green cards have been received. Mr. Papa explained he has the two cards in question. It was explained to Mr. Papa he must submit all the green cards he received to the Planning and Zoning Office.

Mr. Donald Papa, applicant, was sworn in by Chairman Hanson.

Mr. Papa explained he purchased the property on Bybrook Drive and would like to have a sunroom on the back of the house. He explained the reserve is to the rear of his property, so no neighbor's would be effected.

Mr. Tomas Grygo, Design Consultant, was sworn in by Chairman Hanson.

Mr. Grygo explained the house is positioned on the property so there's more of a front yard than rear yard. He explained the applicant would like a 3-season room that would have electric, but is not designed to be heated and cooled long term.

There was a discussion the proposed rear yard setback would be 16'.

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. Utsch.

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|-------|-----------------|-----|-------------|-----|
| VOTE: | Mr. Kennedy | YES | Mr. Brand | YES |
| | Mr. Utsch | YES | Mr. Sweeten | YES |
| | Mr. Doherty | YES | Mr. Basco | 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 & variance and preliminary & final site plan applications to utilize the existing buildings and properties as a site for MAC's Historic/Educational tours. Variances needed for lot width, front & side yard setbacks, accessory building at back and parking, submitted by Mid-Atlantic Center for the Arts for the location known as Block 752.01, Lots 40 & 41, 1017-1019 Batts Lane.

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

Mr. Frank Corrado, Esq., represented the applicant.

Mr. Corrado explained his clients would like to preserve this historic site and cottages. He explained the property was purchased by the Clemens who restored the property and allowed MAC to conduct tours of the property. He explained there was a complaint made and Code Enforcement got involved. When MAC received the violation notice, MAC stopped all tours. He explained that they would like to resume the historical tours of the property. He explained they would not be holding any events or weddings. He explained they would be doing 10 tours per week and less in the off-season. He explained there would be only one vehicle per tour and no parking on the street. He explained MAC wants to make this available to the public and feels it is a beneficial use.

Mr. Corrado explained in the Land Use Law, it states the conservation of historical sites is a beneficial use. He explained what is proposed would have no negative impact to the area or zone plan.

Mr. Corrado explained there are some bulk variance requests, but those are all preexisting conditions.

Ms. Joan Berkey, historian architect, was sworn in by Chairman Hanson.

Ms. Berkey explained she has been a historian architect for 39 years. She read a statement of the history of the property. She explained this is a benefit to the community to preserve and also to allow for public education purposes.

Mr. Tom Carroll, Founder of MAC and Board member for 40 years and Mr. Joseph Alessandrine, Executive Director, were sworn in by Chairman Hanson.

Mr. Carroll explained they had invited the neighbors to tour the houses and asked them what their concerns were. He explained the majority of the concerns were off-street parking.

Mr. Carroll explained what they are proposing is a daytime use. He explained there would only be tours. He explained there would not be any parties, fundraisers and no one parking on the street. He explained there would be one vehicle, a MAC trolley, for a tour that would pull onto the property and pull around the back. He explained they are proposing 10 tours a week, two times a day. He explained no port-a-potties are proposed. He explained there would be parking for maintenance of the grounds and buildings. No asphalt or paving is proposed. There would be no vehicle parking on Batts Lane. There would be no lights as there would be no night time tours. No insect spray would be used so there would be no detriment to the bee hives next door. The back of the property is wooded and would remain that way. He explained the property is approximately 700+ deep and there are no plans to use any of the rear of the property.

Mr. Alessandrine explained they will have to have MAC staff go to the property for maintenance so there will be equipment stored there.

The Board explained there was testimony that no individual cars will be coming to the property, but what would prevent someone on a bike? Also, it is the understanding that there may be shuttle tours from Congress Hall to this site. Mr. Carroll explained it is possible there could be bike traffic to this site. He explained if someone with a golf cart came, they wouldn't stop them. He explained there would be tours from Congress Hall to this property, but this would be with the MAC trolley. Mr. Alessandrine explained the maximum allowed people on the trolley right now is 28.

Mr. Marc DeBlasio, PE, PP, was sworn in by Chairman Hanson.

Mr. DeBlasio explained the property is approximately 1.28 acres. He explained they are providing four parking spaces, but they will not be used for visitors, but for MAC staff. He

explained they are not proposing any other site improvements. He explained this property would be used for tours only and not residential rentals. He explained that they could leave the site as is and both structures could be rented yearly, weekly, etc. He explained the site could also be demolished and a larger house could be constructed with accessory uses and the lot could be cleared. He explained he feels the positive criteria for the use variance has been satisfied. He explained these are historic buildings and they would like to preserve them as such. He explained they are not proposing any expansion and what is proposed has no detriment to the public or public good.

Mr. DeBlasio explained they have no exception to the Engineer comments.

Mr. MacPherson summarized Engineer comments dated June 29, 2020.

Chairman Hanson read Bureau of Fire Safety comments dated June 22, 2020 in which they found this application acceptable.

The Board asked if 28 people would be on the tour? Mr. Carroll explained there would be 28 people plus a tour guide. He explained the group would be divided into two groups. One group would tour the one house and the other group, the other house. He explained there would be only one trolley at the site. Reservations would be made on the website and there would be no personal tours.

This portion of the hearing was opened to the public.

Mr. Michael Fekete, Esq., represented Mr. Robert Smeltzer, objector.

Mr. Fekete questioned Ms. Berkey. She explained these were whalers cottages. She explained only one of the buildings is historic with only a portion of the other being historic, but both are beneficial.

Mr. Corrado asked Ms. Berkey if this was the only property owned by a black man at that time? Ms. Berkey explained it was.

Mr. Fekete questioned Mr. Carroll. Mr. Carroll explained they did invite the neighbors to view the property and explained what they wanted to do with the property. He explained there were approximately 22 or 23 neighbors that did. He explained they did hold a fund raiser at this location.

Mr. Fekete asked Mr. Carroll if there were signs for self-guided tours to bring attention to this site? Mr. Carroll explained there were. He explained the signs were gone by October.

Mr. Fekete asked Mr. Alessandrine if tours continued after Code Enforcement sent the Notice of Violation? Mr. Alessandrine explained he was not the Director at that time. However, the last two tours were cancelled.

Mr. Fekete questioned Mr. DeBlasio. Mr. DeBlasio explained the structures could be demolished and a large single family dwelling could be constructed. He explained he believes a large single family dwelling would be out of character for the area.

The Board asked Mr. Carroll what the hours for the tours would be? Mr. Carroll explained they would be daytime only and would have to experiment with the times, but would say between the hours of 10:00 A.M. to 3:00 P.M.

Ms. Barbara Dreyfuss was sworn in by Chairman Hanson.

Ms. Dreyfuss explained she was in favor of this application.

Mr. Graydon Hutchinson was sworn in by Chairman Hanson.

Mr. Hutschinson explained he is a volunteer for MAC and a neighbor of this property. He explained MAC is always respectful to the neighbors.

Ms. Shirley Wilson was sworn in by Chairman Hanson.

Ms. Wilson explained she is in favor of this application. She explained this is a jewel to the Township.

Ms. Suzanne Schumann was sworn in by Chairman Hanson.

Ms. Schumann asked how long the tour would take? Mr. Carroll explained they are generally between 45-60 minutes. She asked where the trolley would park? She explained when tours were being conducted, the trolley was parked on the street. Mr. Carroll explained the trolley would back into the driveway. They would not park on the street.

Ms. Pamela Sutton was sworn in by Chairman Hanson.

Ms. Sutton explained she has concerns with traffic on a narrow street.

Ms. Mary McHugh was sworn in by Chairman Hanson.

Ms. McHugh explained she lives next door to the cottage and has never had a problem with any tours.

Mr. Todd Shoffler was sworn in by Chairman Hanson.

Mr. Shoffler explained he lives on Shunpike Road. He explained the previous weekend there was a trolley parked on the neighbor's yard that appeared to cause some divots on the property. He explained there was also a trolley parked in the cemetery. Mr. Carroll explained he doesn't believe the trolley parked at his neighbor's property was a MAC trolley. He explained the trolley at the cemetery was probably a MAC trolley as they do stop there. Mr. Shoffler

explained he doesn't have a problem with them having two tours a day.

Mr. Walter Stiefel was sworn in by Chairman Hanson.

Mr. Stiefel explained he did not receive notice of this application. He showed photos of the trolleys. He explained he was not in favor of this application.

Ms. Cindy Mullock was sworn in by Chairman Hanson.

Ms. Mullock explained she was in favor of this application.

Mr. Mike Torpey and Mrs. Martha Torpey, were sworn in by Chairman Hanson.

Mr. Torpey explained he and his wife have lived in this area for 13-14 years and have never had a problem with a traffic jam.

Mr. Robert Smeltzer was sworn in by Chairman Hanson.

Mr. Smeltzer explained MAC ignored the notice of violation issued by the Township and continued to conduct tours. He explained a portion of the one structure is on his property. He explained during the event, there were port-a-potties and were in violation with the Health Department.

Mr. Fred Long was sworn in by Chairman Hanson.

Mr. Long asked if there would be a fee to tour the buildings? Mr. Carroll explained there would be. Mr. Long explained this is a commercial use in a residential zone and this is a problem.

This portion of the hearing was closed to the public.

Mr. Corrado explained the encroachment has been this way for 170 years and they will address this. He explained they have tried to reach out to Mr. Smeltzer, but he has remained silent.

The Board explained this is a residential zone and they feel the best use of the property is for residential purposes. They explained if approved, it could set a precedence. They explained this is a unique area with large parcels of land with a mix of farming and residential uses. It was explained it's understood that history should be preserved and this building could be moved. Mr. Carroll explained it could cost \$150,000.00 or more to move and it could not be moved to the Physick Estate. Mr. Corrado explained they also want to preserve the site itself and feels moving the building would destroy the site.

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

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|-------|-----------------|----|-------------|----|
| VOTE: | Mr. Kennedy | NO | Mr. Brand | NO |
| | Mr. Utsch | NO | Mr. Sweeten | NO |
| | Mr. Doherty | NO | Mr. Basco | 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. Brand made a motion to adjourn at 8:47 P.M. The motion was seconded by Mr. Kennedy. 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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