

# TOWNSHIP OF LOWER

2600 Bayshore Road  
Villias, 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 January 7, 2021 at the Lower Township Municipal Building. The meeting was called to order at 6:03 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:

Memorandum:

TO: Lower Township Planning & Zoning Boards  
FROM: William Galestok, Lower Township Planning Director  
DATE: December 8, 2020  
RE: Lower Township Council Changing Township Engineer

Handouts:

List of Board Solicitor vouchers dated December 30, 2020.

List of Board Engineer vouchers dated January 7, 2021.

2020 Zoning Board Variance Report.

Mr. Brand made a motion to nominate James Hanson as Chairman and approve Resolution #21-1-ZBA. The motion was seconded by Mr. Sweeten. Motion carried.

Mr. Brand made a motion to nominate Michael Kennedy as Vice-Chairman and approve Resolution #21-2-ZBA. The motion was seconded by Mr. Utsch. Motion carried.

Mr. Brand made a motion to nominate William Galestok as Board Secretary and approve Resolution #21-3-ZBA. The motion was seconded by Mr. Utsch. Motion carried.

Mr. Sweeten made a motion to nominate Lisa Schubert as Recording Secretary and approve Resolution #21-4-ZBA. The motion was seconded by Mr. Brand. Motion carried.

Chairman Hanson made a motion to nominate Anthony Harvatt, Esq., as Board Solicitor and approve Resolution #21-5-ZBA. The motion was seconded by Mr. Sweeten. Motion carried.

There was a discussion that the Township Council changed Township Engineer. Even though the Board is satisfied with the services provided by Mott MacDonald, it is important that the Board maintain the same Engineer as the Township.

Chairman Hanson made a motion to nominate DeBlasio & Associates as Board Engineers. The motion was seconded by Mr. Brand. Motion carried.

Mr. Brand made a motion to approve Resolution #21-7-ZBA, approving the meeting dates for the 2021 calendar year. The motion was seconded by Mr. Sweeten. Motion carried.

Approval of Annual Variance Report and adoption of Resolution #21-8-ZBA subject to MLUL 40:55D-71.1.

Mr. Galestok explained under 40:55D-71.1, the Board is required to do an Annual Variance Report. He explained this is to look for patterns in variances granted to see if there is a need to review for possible zoning changes. He explained he reviewed the report and did not find any areas that need to be addressed.

Mr. Kennedy made a motion to approve Resolution #21-8-ZBA, approving the variance report. The motion was seconded by Mr. Sweeten. Motion carried.

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

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

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

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

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

2. Informal discussion to demolish an existing restaurant and possible three (3) lot subdivision for three (3) single family dwellings, submitted by Lawrence Wind for the location known as Block 27, Lot 27, 401 Bayshore Road.

Mr. Ron Gelzunas, Esq., represented the applicant.

Mr. Gelzunas explained to the Board that Mr. Wind was previously before the Board for a use variance for a storage facility. He explained the Board denied that application. He explained the public and the Board had expressed this was not the area for a self storage facility. He explained Mr. Wind is now wanting to do a residential subdivision and asking for feedback from the Board. He explained they would propose three single family residential lots. One would face Bayshore Road and the other two would face Florida Avenue.

The Board explained they feel residential use is a good use and more suitable. It was explained there would have to be a building envelope. Mr. Gelzunas explained the proposal would meet all the required setbacks.

3. Use variance application to construct a 2<sup>nd</sup> single family dwelling on the lot, submitted by Rustin & Karen Cassway for the location known as Block 751, Lot 2.06, 710A New England Road.

Mr. Ron Gelzunas, Esq., represented the applicants.

Mr. Gelzunas explained to the Board the applicant was previously before the Board for a similar request. He explained they received approval for a second home on the lot and a detached garage. He explained the garage was built, but the second home was not. He explained the applicant's have since subdivided their property and added 22,000 square foot to their lot. He explained the property is now well over two acres. He explained this application is for the second single family dwelling, but in a different location on the lot.

Mr. Rustin Cassway, applicant, Ms. Catherine Lorentz, Architect and Mr. Steven Lennon, PP & Landscape Architect, were sworn in by Chairman Hanson.

Mr. Lennon shared screen and reviewed the plan.

Mr. Lennon explained where the proposed single family dwelling would be located. He explained the existing single family dwelling on the property is currently a seasonal home. He explained that would be made into a year round home for Mr. & Mrs. Cassway's parents.

Mr. Lennon explained the proposed single family dwelling would meet all the required setbacks for the zone. He explained they have maintained as much of the existing landscape buffer as possible.

Mr. Lennon explained they are also going to install a pool. He explained the pool would meet the required setbacks.

Mr. Lennon explained the proposed single family dwelling would be slightly larger than what was previously approved.

Mr. Lennon explained what is proposed provides for light, air and open space. He explained there would be no negative impact to the zone, zone plan or zoning ordinance. He explained the lot is secluded and the wooded buffers would be maintained. He explained what is proposed is suitable for the area.

Ms. Lorentz shared screen and reviewed the architectural renderings.

Ms. Lorentz explained the proposed single family dwelling would be less than 3,000 square feet with the height of the home being 25'.

Mr. Cassway explained there's really no change from the previous approval except the property is larger and the proposed house is relocated.

This portion of the hearing was opened to the public.

Ms. Anna Iacone, was sworn in by Chairman Hanson.

Ms. Iacone explained she is in favor of this application and thinks it's wonderful that the applicant's are taking care of their family.

This portion of the hearing was closed to the public.

Mr. Gelzunas explained the proposed house is not going to be seen. He explained there are no density issues and what is proposed does not have an impact to the area.

The Board asked why the property could not be subdivided? Mr. Gelzunas explained the whole design of the proposed house and pool would have to be changed.

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	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.

4. Hardship variance application to construct a 9 x 20 addition encroaching into the rear yard setback, submitted by Walter Iacone for the location known as Block 512.09, Lot 3074, 3702 Bybrook Drive.

Mrs. Anna Iacone, applicant, was sworn in by Chairman Hanson.

Mrs. Iacone explained they would like to construct a screened in porch to the rear of their house. She explained the proposed porch would encroach into the rear yard setback. She explained their property backs up to the PonderLodge. She explained the rear yard setback would be 4'7" and 11' from the fence from PonderLodge. She explained what is proposed would have no impact visually to any neighbors. She explained this would be a nice space for family and neighbors to gather. She explained there would be electric and outlets.

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 was seconded by Mr. Brand.

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.

5. Hardship variance application to demolish a portion of the rear of the existing single family dwelling, rebuild that section and an addition encroaching into the side yard setback and exceeding the allowed building coverage and to allow a six (6') foot fence in the front yard, submitted by Colette McCutcheon for the location known as Block 505, Lot 26, 807 Seashore Road.

Ms. Colette McCutcheon and Mr. Sean Skelly, applicants, were sworn in by Chairman Hanson.

Mr. Skelly explained he is seeking approval to allow the existing fence in the front yard. He explained they live next door to the Township Road Department and sometimes there are cars lined up in front of their house. He explained at night time, the headlights from the traffic on Academy Road would shine in the windows. He explained he put the fence up not knowing a six-foot fence was not allowed in the front yard. He explained with the fence, it offers privacy.

Mr. Skelly explained they would like to remove the rear portion of the house, reconstruct the same size, same location and add a bit more. He explained this would be a two-story addition. He explained drainage is not an issue. He explained they are also asking for a building coverage variance. He explained 10% is permitted and with the addition, the building coverage

would be 14.9%.

The Board asked how big the removal and reconstruct would be as it is not indicated on the survey? Mr. Skelly explained 18' by the width of the house would be removed and the new depth would be 24' by the width of the house.

There was a discussion regarding the fence height. Mr. Skelly explained there is a 6' fence across the street and the road department that is next door has a 6' fence. He explained the traffic in this area has included tremendously and he cannot enjoy his front yard. He explained that he did try landscaping, but that didn't work.

This portion of the hearing was opened to the public.

Mr. Daniel Federici was sworn in by Chairman Hanson.

Mr. Federici explained he lives on Seashore Road also. He explained that he can confirm what Mr. Skelly has testified to. He explained the traffic has increased significantly and there is a need for privacy.

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.

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.

10. Extension of hardship variance approval, submitted by Arthur Craig for the location known as Block 753.01, Lot 19.03, 1039 Seashore Road.

There was a discussion that the variance was granted August 13, 2017. Mr. Craig did not build the addition, but is now going to, but the approval has expired.

There was a discussion that the standard extension of approval is three (3) years.

Mr. Brand made a motion to approve a three (3) year extension. The motion was seconded by Mr. Utsch.

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.

- Hardship variance application to demolish the existing single family dwelling and construct a new single family dwelling on a lot deficient in lot area, frontage, width, depth, encroaching into the side yard setbacks and exceeding the allowed building coverage, submitted by Janet Burns for the location know as Block 505, Lot 4, 711 Seashore Road.

Mr. Andrew Schaeffer, PE, was sworn in by Chairman Hanson.

Mr. Schaeffer explained to the Board that Ms. Burns is on the go-to-meeting tonight, but is having difficulty with her audio.

Mr. Schaeffer explained Ms. Burns would like to demolish the existing single family dwelling and construct a new single family dwelling. He explained the proposed house would be set back to meet the required front yard setback, but because of the narrowness of the lot, variances would be required for side yard setbacks. He explained they are also seeking variance approval for building coverage.

Mr. Schaeffer explained what is proposed would be keeping in line with the neighborhood.

This portion of the hearing was opened to the public.

Mr. Daniel Federici was sworn in by Chairman Hanson.

Mr. Federici explained he lives next door to what is proposed. He explained he has concerns with drainage. He explained currently there is run-off that goes across the applicant's driveway onto his property. Mr. Schaeffer explained no drainage plan is required for a single family dwelling. He explained the proposed rear yard setback is 130' and what is proposed shouldn't have an impact to Mr. Federici's property. Mr. Schaeffer explained Ms. Brown's driveway is not changing.

This portion of the hearing was closed to the public.

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	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 16 x 30 side addition and a 12 x 16 screen porch, encroaching into the side yard setback and exceeding the allowed building coverage, submitted by Harold & Mary Carter for the location known as Block 753.01, Lot 27.03, 1109 Seashore Road.

Mr. Ron Gelzunas, Esq., represented the applicants.

Mr. Gelzunas explained there is an existing single family dwelling on the property. He explained his clients would like to construct a master bedroom, bath and screened in porch that would encroach into the side yard setback. He explained the proposed side yard setback would be 10 feet.

Mr. Dan Guzzi, PE, and Mrs. Mary Carter, applicant, were sworn in by Chairman Hanson.

Mr. Guzzi explained the proposed addition adds an additional 480 square feet to the house and 192 square feet for the screen room, but they would still be under the allowed building coverage. He explained the proposed side yard setback would be 10' from the front corner of the house and 12.9' to the rear corner of the addition and 14' from the rear corner of the screen room. He explained there would be no impact to the neighbor's as the addition would be located on the side of the house closest to the Cape Island Lodge. He explained what is proposed would have no impact to the public good. He explained the septic system is located to the rear of the house and to place the addition there would cause the applicant's to relocate the septic system. He explained there is an evergreen buffer between the applicant's house and the Lodge.

Mrs. Carter explained they purchased the home in 1999 and are hoping to become year round residents, but they do need additional room for when family visits.

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. Kennedy.

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.

8. Use & variance & revised site plan applications to expand the building footprint to include an elevator and pool equipment storage area, utilize the existing grass parking facility located on Block 703, Lots 1-7 & 30-321 for valet parking only. Use variance needed for off-site parking. Variance for four-foot high landscape buffer for the off-site parking, submitted by Achristavest Pier 6600, LLC for the location known as Block 710.01, Lots 1-12.02, Block 710.02, Lots 1.01-1.03 & Block 703, Lots 1-7 & 30-32.01, 9701 Atlantic Avenue & Seaview Avenue.

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

Mr. Corrado explained they are before the Board tonight to scale back the Planning Board's previous approval and to allow the applicant to continue to use the lease parking lot owned by the Township for a remote valet parking area. He explained they have no plans to do anything with the lot than the remote parking.

Mr. Eustace Mita, applicant, and Mr. Vince Orlando, PE, PP, were sworn in.

Mr. Mita explained in 2019 the Planning Board approved a six-floor expansion, a raised pool, raised banquet hall, recreation room, tiki bar and an event room. He explained it is scaled back and will maintain the existing site conditions. He explained they are doing away with the pool, recreation room and tiki bar. He explained there will be less rooms than what was previously approved. What is proposed would not cover any more land than what currently exists.

Mr. Orlando explained the banquet room was previously approved by the Planning Board.

Mr. Orlando explained the previous approval was for 20 additional hotel rooms on the sixth floor. He explained the original hotel has 104 units, it now has 102 units, so there would be a total of 122 units. He explained they are proposing an elevator shaft and some interior storage and this would all be within the structure. He explained there would be no change to the parking, lighting, signage or any paving.

Mr. Orlando explained the Planning Board granted the enclosure of the banquet room that is totally within the footprint of the existing building. They approved a canvas awning and then a hard roof. The deck, pool and tiki bar will be eliminated.

Mr. Orlando explained they are asking the Board for the continued use of the off-site parking. He explained it would be used for valet parking. The property is 80 x 100 and can accommodate 45 cars 30 of which would be stacked parking. He explained there is no public parking on this lot. This property is a grass lot. He explained there would be no paving of the lot and no lighting. The Board Engineer has requested bumper stops on the north side of the property for those 15 parking spaces, which they could incorporate.

Mr. Orlando explained they are seeking a use variance for the off-site parking. He explained the property is located in the R-4 zone and they feel this lot is well suited for this use. Have been using for the past five years. This is an appropriate location for a valet only parking area. This would have no impact to the zone, zone plan or zoning ordinance. He explained the lot would be used minimally and only in the off season.

Mr. Corrado and Mr. Orlando discussed that parking is an accessory use in the R-4 zone. If there were a principal use on the property, a use variance would not be required.

Mr. Orlando explained they are requesting a waiver for landscape buffer for this lot as it is a grass lot. He explained they are also requesting a waiver for survey.

Mr. Orlando explained they do have a CARFA permit for this project.

Mr. MacPherson summarized Engineer comments dated January 5, 2021.

Mr. Galestok read Bureau of Fire Safety comments dated December 23, 2020 in which they found this application acceptable.

The Board asked about the number of parking spaces. Mr. Orlando explained there are 122 units and a total of 167 parking spaces.

The Board explained the lease with the Township expires in 2021 is there already another lease in place? If not, and the Township decides to sale the property, what happens? Mr. Mita explained they intend to renew the lease and they also have the option to buy. The Board asked what would happen with that parking if approved, but the Township did not renew the lease? Mr. Corrado explained Achristavest has an agreement of sale with the Township and put a deposit down.

Chairman Hanson explained at this time the application would be continued until the February 4, 2021 meeting. No new notice would given. The public portion would be opened at the February meeting.

A motion was made and seconded at 8:32 P.M. to enter into Closed Session.

The meeting was called was back to order at 8:50 P.M.

Mr. Basco made a motion to adjourn at 8:51 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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