

# TOWNSHIP OF LOWER

2600 Bayshore Road  
Villas, New Jersey 08251



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 August 6, 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  
Bruce Waterman  
Robert Sweeten  
George Doherty  
Robert Basco, Sr.

### 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 July 30, 2020.

List of Board Engineer vouchers dated August 6, 2020.

List of Board Engineer vouchers dated August 6, 2020.

Chairman Hanson read the agenda for the benefit of the public. He explained he would be taking the agenda out of order tonight.

Mr. Brand made a motion to approve the July 2, 2020 minutes. The motion was seconded by Mr. Sweeten. 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 Board Solicitor vouchers. The motion was seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to approve the resolutions from the July 2, 2020 meeting. The motion was seconded by Mr. Utsch. Motion carried.

5. Extension of hardship variance approval, submitted by Dorothy Koehn for the location known as Block 116, Lot 1, 98 Millman Lane.

No one was present for this application.

Chairman Hanson explained an extension is a straightforward request and the Board generally does the standard three (3) year extension.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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.

7. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage & width and encroaching into the side yard setbacks, submitted by Michael Mohr for the location known as Block 510, Lot 31, 812 Meadow View Road.

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

Mr. Mohr explained this is an undersized lot that used to have two houses on it. He explained he would like to construct a new single family dwelling. He explained the lot is narrow and would be unable to meet the side yard setbacks. He explained no vacant land is available.

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. Kennedy.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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.

8. Extension of use variance approval, submitted by John Taggart, Jr., for the location known as Block 765, Lot 11, 1279-1281 Wilson Drive.

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

Mr. Taggart explained to the Board he purchased the property one and a half years ago

with a use variance approval for a side by side duplex. He explained the approval has expired and he would like an extension of the approval.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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.

9. Hardship variance application to construct a single family dwelling on a lot deficient in lot area, frontage, width, depth, encroaching into the front, side & rear yard setbacks and exceeding the allowing building coverage, submitted by Merrill & Elizabeth Miller for the location known as Block 738, Lot 1, 788 Academy Road.

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

Mr. Gelzunas explained this is an undersized lot in the R-2 unsewered zone. He explained there was a home on the property at one time.

Mr. Dante Guzzi, PE, was sworn in by Chairman Hanson.

Mr. Guzzi explained this is a corner property in the R-2 unsewered zone. He explained the lot is 15,931 square feet with 104' frontage and a lot depth of 105'. He explained they need variances for lot area, frontage, width, depth, front, sides & rear yard setbacks. He explained if city sewer were available variances for setbacks would not be needed. He explained that he looked at the neighborhood and the majority is undersized and most of the houses don't meet the setbacks. He explained what is proposed would fit into the neighborhood.

Mr. Gelzunas explained the applicants are 22 year residents of the Township. He explained they would like to stay in the Township, but would like to downsize.

The Board explained the application states + or - 12% building coverage and + or - 35' for the height. Mr. Gelzunas explained they would conform to building coverage, height requirements and setbacks set forth on the plan before the Board. Mr. Guzzi explained the building coverage proposed is 4%.

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. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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.

10. Extension of hardship variance approval, submitted by Seashore Properties, LLC, for the location known as Block 539, Lot 60, 1 Cliffside Road.

Mr. Mike Dragoni, applicant, was sworn in by Chairman Hanson.

Mr. Dragoni explained to the Board there has been circumstances which have prevented him for starting construction. He explained that he would like to start construction this year, but the variance has expired. He explained that he would like an extension of the approval.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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.

12. Extension of use variance approval, submitted by 301 79<sup>th</sup> Street East, LLC for the location known as Block 763, Lot 11, 1288 Wilson Drive.

Mr. Ken Ackerman, Esq., represented the applicant.

Mr. Ackerman explained to the Board that his client would like an extension of the use

variance approval. He explained when his client purchased the property, he was under the understanding all approvals were in place. He explained when his client went for a building permit, that's when he found out the approval had expired.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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.

11. Hardship variance application to construct a screen room with a 2<sup>nd</sup> floor open deck encroaching into the front yard setback, submitted by Edward Wade for the location known as Block 535, Lot 43.02, 8 Racetrack Drive.

Mr. Edward Wade, applicant, was sworn in by Chairman Hanson.

Mr. Wade explained that he would like to construct a 10' by the width of the house screen room with a deck without a roof above. He explained it would be 10' from the front property line, but 21' from the street.

The Board asked about placing the screen room on the side of the house? Mr. Wade explained the house is 80 years old and the living area is small. He explained they would like to make the existing screen room into part of the living area. He explained he is five houses from the bay and currently has a view. He explained he would continue to have a view of the bay with the proposed.

The Board explained they have concerns with the proposed setback and setting a precedence.

The Board asked how the second floor deck would be accessed? Mr. Wade explained the house is 1 ½ story and he would put a door from the upstairs onto the deck. He explained there are two bedrooms upstairs with interior steps.

Mr. Wade explained there is a new house at 16 Racetrack Drive with same as he's requesting. He explained the house sits 21' from the street. He explained he is asking for what they did.

This portion of the hearing was opened to the public.

Ms. Margaret Keane was sworn in by Chairman Hanson.

Ms. Keane explained she opposes this application. She explained there are setbacks for a reason and feels a 10' setback is too close. She explained there is room on other parts of the property to place this. Mr. Wade explained this would be exactly like 16 Racetrack Drive. He also explained Ms. Keane is closer to the bay so he doesn't know why she's upset.

Ms. Donna Flegal was sworn in by Chairman Hanson.

Ms. Flegal explained she opposes this application. She explained she feels this would set a precedent.

This portion of the hearing was closed to the public.

Mr. Wade explained he has a nice property and would like a good view of the bay. He explained that maybe the Township should consider a tree Ordinance. The Board explained they do not have jurisdiction to have a tree ordinance.

The Board explained they feel this would set a precedence in the Townbank area. They explained they don't see the hardship with this application.

The Board asked what the side deck was? Mr. Wade explained this deck would not encroach into any setbacks.

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

VOTE:	Mr. Kennedy	NO	Mr. Brand	NO
	Mr. Utsch	NO	Mr. Waterman	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.

2. Use variance, minor subdivision & preliminary & final site plan applications for the creation of two (2) newly described lots, submitted by Lower Township MUA for the location known as Block 410.01, Lot 43, 2900 Bayshore Road & 115 Fishing Creek Road.

Mr. William Kaufmann, Esq., represented the applicant.

Mr. Kaufmann explained the MUA is planning a sewer expansion project. He explained they would like to purchase four acres from the church and construct a substation/pump station. He explained the church is not a permitted use in the zone, but the pump station is a permitted use. He explained they are proposing a six-foot fence around the proposed pump station and they require a variance for a six-foot fence in the front yard. He explained they are not proposing any plantings around the pump station at all.

Mr. Carl Gaskill, PE & PP and Mr. Mike Chapman, Executive Director, were sworn in by Chairman Hanson.

Mr. Chapman explained he has been the Executive Director of the MUA for seven years. He explained they are looking to expand sewer service within the Township. He explained they are looking into installing a vacuum sewer system. He explained they have a CAFRA permit, wetlands permit and the property would be deed restricted for the next 20 years that there would be no other development on the lot.

Mr. Chapman reviewed the slides with the Board. He explained they have easements in place to build the pump station.

Mr. Gaskill explained the site to the Board. He explained there are wetlands and buffers on-site. He explained they are proposing a 14 x 33 prefab building that would be approximately 14' to 15' high on a foundation with a small fence enclosure. He explained there would be an emergency generator. He explained there wouldn't be any traffic at this site, except for one vehicle, at pick-up truck doing maintenance during working hours. He explained they are proposing a 6' high black coated chainlink fence around the structure lit with 50-watt bulbs that would be down lit.

Mr. Gaskill explained this would be a conforming subdivision, but the church is a non-conforming use.

Mr. Gaskill explained there would be no detriment to the zone, zone plan or Master Plan if approved.

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

Mr. Galestok read Cape May County Planning Board comments dated March 16, 2020 in which they found the application incomplete.

There was a discussion regarding the size of the lateral line.

The Board asked about the placement of the building and whether it could be moved back? Mr. Gaskill explained the design and location of the building is for functioning purposes and they cannot move it back because CAFRA and DEP permits have been issued for this



location. He explained the building will meet the allowed 20' front yard 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.

Mr. Kaufmann explained they have satisfied the positive and negative criteria for this application.

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

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Doherty	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Waterman made a motion to conditionally approve the minor subdivision and preliminary and final site plan applications. The motion was seconded by Mr. Kennedy.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	YES
	Mr. Sweeten	YES	Mr. Doherty	YES
	Chairman Hanson	YES		

Motion carried.

Mr. Kennedy made a motion to conditionally approve the variance application. The motion was seconded by Mr. Waterman.

VOTE:	Mr. Kennedy	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Waterman	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. Use variance and preliminary & final subdivision applications for the creation of six (6) newly described lots with a two-unit residential dwelling unit, submitted by Cape Real Estate Developers, LLC for the location known as Block 765, Lots 10, 12 & 14-25, 878-894 1<sup>st</sup> Avenue & Wilson Drive.

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

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

Mr. Gelzunas explained his client is the contract purchaser of the lot. He explained the property was once a boat yard and currently has a dilapidated warehouse. He explained his client would like to demolish the warehouse, do a six-lot subdivision for residential use. He explained each of the proposed lots would have a duplex that would meet all the setback requirements.

Mr. Scott Peter, applicant, and Mr. Vince Orlando, PE, PP & Licensed Landscape Architect, were sworn in by Chairman Hanson.

Mr. Orlando explained they are proposing a six-lot subdivision with conforming lot area. He explained they are seeking a use variance to allow a total of six duplex units. He explained the structure would conform to setback and height requirements. He explained currently there is an old warehouse, asphalt and clamshell and was once the business for Tony's Railway.

Mr. Orlando explained there are 10 existing duplexes in the area. He reviewed an aerial photo with the Board indicating the residential uses in the area. He explained the proposal of residential is keeping inline with the area.

Mr. Orlando reviewed a conceptual plan with the Board. He explained each unit would have adequate parking on-site. He explained there would still be adequate on street parking. He explained the zone permits restaurant, taverns and hotels. He explained each of the allowed uses would have a higher impact to the area than residential. He explained they had no problem with the Engineer comments.

Mr. Orlando explained he understands there are concerns with losing on-street parking. He explained they have a plan and reviewed the plan for on-street parking.

Mr. MacPherson summarized Engineer comments dated May 31, 2020.

Mr. John Amenhauser, Esq., represented objectors, Mr. & Mrs. O'Neill's and Mr. & Mrs. Tamagni.

Mr. Amenhauser questioned Mr. Orlando regarding the number and size of the proposed parking spaces. Also asking if a hotel would have less of an impact for parking and having one ingress and egress and have less of an impact to the on street parking.

Mr. Amenhauser asked Mr. Orlando if there were drainage and landscaping plans? Mr. Orlando explained they do not have those plans.

Mr. Amenhauser questioned Mr. Peter about parking. Mr. Amenhauser explained it has been his experience people do not use their garage to park in and don't use their driveways.

This portion of the hearing was opened to the public.

Mr. James Chadwick, PE & Licensed Architect, was sworn in by Chairman Hanson.

Mrs. Deborah Carr was sworn in by Chairman Hanson.

Mrs. Carr explained there is no parking on that side of Wilson Drive. Mr. Orlando explained they would petition the Township to allow parking on that side of Wilson Drive.

Mrs. Carr asked how many bedrooms per unit there would be? Mr. Peter explained he would like to construct a two-story three bedrooms, three bath house. He explained the proposed structures would meet all the bulk requirements for the zone.

Mrs. Carr explained this area floods and asked what would be done to lessen this? Mr. Peter explained they will put together a plan that does not contribute to the flooding. Mr. Orlando explained there would be more green area with what is proposed.

Mr. Peter Cirrinicione was sworn in by Chairman Hanson.

Mr. Cirrinicione explained this property has been owned by his family for 60 years. He explained he lives across the street from this property. He explained there are a lot of residential uses in the area. He explained he does not want to live across the street from a hotel and would rather residential. He explained parking has always been an issue in this area. He explained what is proposed is consistent with the area.

Mr. Henry Tamagni was sworn in by Chairman Hanson.

Mr. Tamagni explained he opposes this application. He explained there is parking and flooding issues.

Mr. Mike O'Neill was sworn in by Chairman Hanson.

Mr. O'Neill explained Mr. Peter did reach out to him. He explained he opposes this application. He explained there is parking and flooding issues and feels it approved, those would only get worse.

Mr. William Chiasson was sworn in by Chairman Hanson.

Mr. Chiasson explained he has concerns with flooding.

Mr. Henry Tamagni was sworn in by Chairman Hanson.

Mr. Tamagni explained he opposes this application. He explained this application will bring a lot more cars and it's too much density.

Mr. Amenhauser explained the applicant is to remove a permitted use and replace it with a non-permitted use.

Mr. Chadwick explained this area is running out of land for permitted commercial uses. He reviewed the area indicating what is residential use and what is commercial uses. He explained no more residential uses should be permitted. He explained there should be more marine related businesses in this area, such as bait & tackle. He explained what is proposed does not promote appropriate density. He explained this area is also prone to flooding and no drainage plan was submitted.

Mr. Gelzunas questioned Mr. Chadwick. He asked Mr. Chadwick if it was out of the ordinary to not have a drainage and grading plan with a use variance application? Mr. Chadwick explained it was not, but would have liked to have seen how flooding would have been addressed. There was a discussion regarding a hotel and the number of rooms and parking needed for this site.

Mr. Gelzunas asked Mr. Orlando if the driveway aprons could be widen? Mr. Orlando explained they could. He explained they can also look into additional on-site parking. Mr. Peter explained he usually has a storage area in the garage. He explained they will eliminate the storage area to allow for another parking space in the garage. So there would be two parking spaces in the garage and one in the driveway for a total of three parking spaces.

Chairman Hanson explained that due to the hour, this application would be continued until the September 3, 2020 meeting.

Mr. Gelzunas agreed to waive time constraints.

Mr. Kennedy made a motion to adjourn at 10:11 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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