

TOWNSHIP OF LOWER

2600 Bayshore Road
Villas, New Jersey 08257



Incorporated 1794

(609) 856-2005

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 OF ADJUSTMENT

A regularly scheduled meeting of the Zoning Board of Adjustment was held on November 7, 2024, at the Lower Township Municipal Building. The meeting was called to order at 6:00 P.M. by Chairman 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
Robert Basco, Sr.
David F. Brand, Jr.
George Doherty
Robert Sweeten
Ernest Utsch III
Joseph P. Baker
Geoffrey Bostard
Thomas Doherty

MEMBERS EXCUSED: Michael Kennedy

STAFF PRESENT: Anthony J. Harvatt, II, Board Solicitor
William J. Galestok, Board Secretary
Patrick Wood, Recording Secretary
William Cathcart, Board Engineer
Kathryn Steiger, Zoning Clerk

CORRESPONDENCE:

Handouts:

- List of Board Solicitor Vouchers, dated October 31, 2024
- List of Board Engineer Vouchers, dated November 7, 2024

Chairman Hanson read the agenda aloud for the benefit of the public. Chairman Hanson then reviewed the opening procedure to the public in attendance. This explains the process for how public comments are heard and conducted. He informed the public there would be a three-minute time limit to address the Board, to allow for all public comments.

At the request of the applicants, Chairman Hanson reported the following applications have been continued until the meeting of December 5, 2024:

Use variance application to construct and establish 10 townhome residential units and a marina to consist of 38 boat slips within the Marine Development II (MD-2) Zone, submitted by Cape May Inlet Marina, Inc. for the location known as Block 820, Lot 8.02, 1001 Ocean Drive

Hardship variance application for the construction of a front, covered porch that would exceed maximum lot coverage and encroach into the front yard setback, submitted by Denise Hickey for the location known as Block 213, Lot(s) 5+6, 209 Maryland Avenue

Use variance, hardship variance, preliminary and final site plan application for the creation of two twelve-unit garden apartment complexes that exceed height of a structure by over 10% of the zone maximum. Hardship variance relief requested for maximum number of stories and separation of the buildings. Submitted by H and H Construction Services NJ, LLC, for the location known as Block 409, Lot(s) 5.02,6+7, 301 Fulling Mill Road

Mr. Sweeten made a motion to approve minutes from the meeting of October 3, 2024, seconded by Mr. Baker. Motion carried.

Mr. Sweeten made a motion to approve Solicitor Vouchers, seconded by Mr. Baker. Motion carried.

Mr. Sweeten made a motion to approve the Board Engineers Vouchers, seconded by Mr. Basco. Motion carried.

Mr. Sweeten made a motion to approve all other resolutions from the meeting of October 3, 2024, seconded by Mr. Basco. Motion carried.

Prior to presentation of the applications, Mr. Harvatt explained the following to the Board regarding the following application:

Hardship variance application for the creation of a second-floor deck that would encroach into the side and rear yard setbacks, submitted by Daniel McDevitt, for the location known as Block 654, Lot 10, 200 Holmes Avenue

Mr. Harvatt was informed by Mr. Galestok the notices sent by Mr. McDevitt application may have been blank, since Jean Drew had contacted Mr. Galestok received a blank notice.

Mr. McDevitt stated that the notice was sent with a copy of the contents of the newspaper advisement. Mr. Harvatt explained the notices will need to be resent, and the application must be continued to the next available meeting.

Chairman Hanson advised the application is deficient in notice and will require new noticing, in both the mailings and newspaper.

1. Hardship variance application for the creation of an addition to an existing house that would exceed the principal lot coverage, submitted by Ann Long for the location known as Block 758, Lot(s) 11+12, 833 Cape Avenue

At 6:08 P.M., due to a conflict of interest, Mr. Galestok recused himself from the meeting.

Ms. Ann Long, applicant, was sworn in by Chairman Hanson.

Ms. Long explained that prior approval was based on a two (2) story addition. Due to costs, a second story is too expensive. New plans reflect expansion of the footprint for storage and bedrooms. Based on the new footprint, the lot coverage is approximately 17%, exceeding the maximum of 14%.

Mr. Baker made a motion to conditionally approve the hardship variance, seconded by Mr. Brand.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	YES				

Motion was approved.

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

At 6:10 P.M., Mr. Galestok rejoined the meeting.

2. Hardship variance application for the creation of an addition to an existing home that would exceed maximum lot coverage, submitted by George Nelson & Zofia Varholova, for the location known as Block 497.03, Lot(s) 5.01+7, 445 Sheridan Boulevard

Mr. Andrew D. Catanese, Esq., is representing the applicant.

Mr. Catanese explained the application request is for a modest addition to an existing single-family dwelling.

Mr. John E. Halbruner, AIA, was sworn in by Chairman Halbruner, and provided credentials, which were accepted by the Board.

Mr. George Nelson, applicant, was sworn in by Chairman Hanson.

Mr. Halbruner stated the project includes demolition of the existing 11x14 addition, with a larger replacement of approximately 566 square feet. Coverage will be 14.8%, or 2.8% more than maximum. He clarified that a good portion of the addition is a covered deck, that if not counted, would be very close to conforming use. Options for a second story addition were determined to be not compatible to the neighborhood design. The proposed is consistent with the homes on Sheridan Boulevard. Front and side yard setbacks are existing non-conformities that will not be impacted or exacerbated. The proposal meets the 1000 square foot gross floor area minimum. Further, the design provides for adequate light, air, open space and promotes desirable visual environments. There are no detriments to the zone plan or ordinances.

This portion of the meeting was opened to the public.

Mr. Robert Posey, resident of 441 Sheridan Boulevard, was sworn in by Chairman Hanson.

Mr. Posey testified he is a neighbor of the applicant and is in favor of the addition. He stated this is a 500 square foot house and cannot see why a variance would be needed. This is a tiny home, that in today's world, is not feasible. This will improve the neighborhood.

This portion of the meeting was closed to the public.

Mr. Sweeten made a motion to conditionally approve the hardship variance, seconded by Mr. Baker.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	YES				

Motion was approved.

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

3. Use variance and minor site plan waiver application for the conversion of an existing laundry facility into a one-bedroom apartment, as well as, converting a portion of the existing residence into a one-bedroom apartment. Submitted by Irene Hober for the location known as Block 505, Lot 18.03, 837 Seashore Road

Mr. Charles W. Sandman, III, Esq., is representing the applicant.

Mr. Sandman advised the applicant came before the Board previously for a home occupational use, which was granted. Since the applicant's business has closed, the request is to revert to the original residential use again, with additional dwelling/apartment units. The standalone cottage apartment was transformed into a laundry facility, which will return to a single residential unit. Additionally, the application includes a section of the main dwelling into a separate apartment.

Ms. Irene Hober, applicant, was sworn in by Chairman Hanson.

Mr. Sandman clarified the separate section of the main dwelling will not contain any cooking or kitchen facilities.

Ms. Hober advised the business was in operation for approximately five (5) years, and has now been sold, and wishes to convert the laundry back to a residential unit for rental purposes. The separate section of the main house will be occupied by her adult daughter, who wants to return home.

Mr. Rami Nassar, MSc, P.E., was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Nassar testified that the lot is more than double the minimum area for the zone. The only changes to the laundry structure would be interior renovations. The existing septic system is oversized, since it was designed for the house and laundry services.

In response to Mr. Sandman's question, Ms. Hober explained the property consisted of two (2) houses when she purchased in 2019.

Mr. Nassar advised these are existing buildings, with no changes, simply a repurposing for the buildings. There are no substantial detriments to the zoning plan or ordinances. There is less de minimis than the use previously granted.

Mr. Hober confirmed the apartment in the main house will be accessed from the exterior.

Mr. Galestok stated this is a commercial site with ample parking. The septic is oversized and the drainage is fine. The Minor Site Plan Waiver is sufficient, rather than a full site plan.

This portion of the meeting was opened to the public.

Mr. Craig Venet, resident of 6 Bottle Creek Drive, was sworn in by Chairman Hanson.

Mr. Venet testified he has lived in this location for eight (8) years, and the cottage was never a rental unit. The area is a subdivision of 13 single family dwellings (SFDs). He is looking for consistent application to the neighborhood that was subdivided in 2002. There is more income for a multifamily residence, R-2 (Single Family Residential 2) Zone is a single-family residential zone, there is no benefit to the community, this will increase traffic, noise levels, and loss of property values. Are any occupancy caps to be enforced, if approved.

Mr. Donald Cooper, resident of 8 Harvest Court, was sworn in by Chairman Hanson.

Mr. Cooper testified he moved into this neighborhood, with the understanding this was a single-family dwelling neighborhood, not a multifamily property. He would have looked elsewhere if he knew beforehand. The applicant has given insufficient documents and hand sketches. Further, there has been junk on the property, which has only just been cleared. He does not want multifamily units in the neighborhood.

In response to the Board's questions on:

How long Mr. Cooper has resided at this location –

- Mr. Cooper stated he has lived there for approximately three (3) years

Was the laundry still there at the time of purchase?

- Mr. Cooper did not know

Ms. Carol Venet, resident of 6 Bottle Creek Drive, was sworn in by Chairman Hanson.

Ms. Venet stated the cottage was renovation into a unit that was never occupied, then converted into a laundry. There were never two (2) residences there.

This portion of the meeting was closed to the public.

Ms. Hober explained the house and was not part of the subdivision previously mentioned. The cottage was a cottage when purchased, and the property was vacant for 20 years. She reconfirmed the separate living space for her adult daughter will not have cooking facilities, which she has no intent to rent.

In response to the Board's question regarding rentals, Ms. Hober stated it is her intent to rent the cottage year-round, but not as an Airbnb.

Mr. Utsch stated the cottage was originally a luncheonette, which was not unusual for this type of property to have multiple uses. The Board has approved similar uses for family members. The property sits apart from the subdivision, it does not abut Bottle Creek Road.

Chairman Hanson restated that the applicant's daughter will be living in the attached apartment, with only the cottage being rented out, noting that if an adjoining door was there, no variance would be required.

Mr. Brand stated this is a better use than what was previously there.

Mr. Brand made a motion to conditionally approve the use variance, seconded by Mr. Utsch.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	NO				

Motion was approved.

Mr. Brand made a motion to approve the minor site plan waiver, seconded by Mr. Utsch.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	YES				

Resolutions will be prepared by the Board Solicitor to review and approve at the next scheduled meeting.

Mr. Harvatt clarified that the resolution regarding the apartment will be without a kitchen, and not utilized as a rental unit. The cottage, however, will be a rental unit.

4. Hardship variance application for the creation of a new single-family dwelling that would exceed maximum lot coverage and encroach into the side yard setback, submitted by Dennis Spilker for the location known as Block 496.20, Lot 26, 13 Arrowwood Lane

Mr. Dennis Spilker, applicant, was sworn in by Chairman Hanson.

Mr. Matthew Sprague, Architect, P.C., was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Spilker explained that his home was lost in a fire on July 10, 2024, after living there for 22 years. The applicant is requesting to rebuild, with future plans to retire.

Mr. Sprague advised the proposed to construct two (2) story SFD. Rather than using the existing foundation, a new one is proposed, which is a bit larger, not substantially different from the house that existed. The new dwelling will have a front porch and be in approximately the same location, just a little farther back, with the garage being aligned to the driveway. The original house had exceeded the coverage at 16%, and new will be 20%, with the front porch and a portion of the covered back porch will be making up approximately 200 square feet to the overall total square footage of 2865. Proposed improvements are modest. A minimal encroachment to the side yard setback of 16.4 feet, where 20 feet is required.

This portion of the meeting was opened to the public. No comments were made from the public. This portion of the meeting was closed to the public.

Mr. Brand stated the proposed fits into the neighborhood, with the applicant not requesting to do much more than what originally existing.

Mr. Brand made a motion to conditionally approve the hardship variance, seconded by Mr. Utsch.

During the vote, the following Members gave findings of fact along with their decisions:

- Chairman Hanson: Approve. This is a de minimis in the grand scheme and straight forward to approve.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	YES				

Motion was approved.

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

Mr. Sprague addressed the Board and requested the Cawley application be continued, as the applicants are not present.

Chairman Hanson advised the application will be addressed when presented, per the agenda.

- Hardship variance application for the conversion of an existing structure into a duplex on a lot that is deficient in lot area, submitted by Barbara Wilde for the location known as Block 496.06, Lot 1, 3315 Bayshore Road

Ms. Barbara Wilde, applicant, was sworn in by Chairman Hanson

Ms. Gladys McKinney, assistant to the applicant, was sworn in by Chairman Hanson.

Ms. Wilde explained she purchased the two (2) unit property, which was formerly a dentist's office, with a commercial and residential use. The request is to convert to all residential use, for year-round occupancy, with both units having separate utilities.

Mr. Galestok advised this was first used by Dr. Tinney as his dental office, then was a solar business, which is why there are separate utilities.

This portion of the meeting was opened to the public. No comments were made from the public. This portion of the meeting was closed to the public.

Mr. Sweeten made a motion to conditionally approve the hardship variance, seconded by Mr. Basco.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	YES				

Motion was approved.

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

6. Hardship variance application for the creation of a new front and side covered decks that would exceed maximum lot coverage and encroach into the front yard setback, submitted by William & Deborah Cawley for the location known as Block 529, Lot 1.03, 501 Clubhouse Drive

Chairman Hanson stated the applicants were not in attendance. Action taken was to dismiss the application without prejudice.

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Brand	YES
	Mr. Utsch	YES	Mr. Doherty	YES	Mr. Baker	YES
	Chairman Hanson	YES				

7. Hardship variance application for the creation of a new single-family dwelling on a lot that is deficient in area, frontage, depth, and width, submitted by GKA Homes, LLC for the location known as Block 416, Lot 1.07, 149 Fishing Creek.

Mr. John P. Amenhauser, Esq., is representing the applicant.

Mr. Amenhauser advised the vacant lot is deficient in the minimum lot area, depth, width, due to lacking sewer. The applicant is requesting to construct a single-family dwelling that will meet all bulk standards. Previously, in 1987, this property had been granted relief for the same request.

Mr. Paul Kates, P.E., P.P., C.M.E., C.F.M., was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Kates stated that wetlands are present in the rear portion of the lot. The applicant is requesting to construct a single-family dwelling and driveway. Upon research, there is not adjacent land to purchase. The request meets all requirements, and the proposed home will be consistent to the neighborhood. There is sufficient space, with the building being constructed without effecting the wetlands or its buffer.

In response to the Board's question regarding availability of adjacent land, Mr. Kates restated there is none.

The Board inquired whether lot coverage would exceed 30%, to which Mr. Kates stated it will not exceed the maximum.

This portion of the meeting was opened to the public.

Mr. Andrew McNeill, resident of 155 Fishing Creek Road, was sworn in by Chairman Hanson.

Mr. McNeill made the following comments and distributed pictures:

- Property is in wetlands
- When it rains, there is lots of water
- Water drains into his lot, garage, and, at times, can be waist high
- The proposed construction would cause more flooding
- Re-stated how bad the flooding
- Drainage needs to be designed away from the house
- Has no issues with neighbors, just concerns about the flooding

The Board stated water runoff is outside of the Zoning Board's purview, and would be handled via the Construction Office.

Mr. Amenhauser stated that, as a condition of the approval, the applicant can submit a drainage and grading plan.

Mr. Galestok advised that someone needs to review the plan. The applicant should check with the County, as well. An escrow of \$500.00 will be needed for review of the drainage plans.

Mr. Amenhauser responded that the County has been contacted and is aware of the development for this lot.

Mr. Harvatt stated that the escrow of \$500.00 for review of the drainage plan will be a condition of the approval.

This portion of the meeting was closed to the public.

The Board inquired about the grading. Mr. Kates responded that the path of the wetlands is closer to the front of the property and will ensure it fits with the plan provided, as a condition.

Mr. Baker made a motion to conditionally approve the hardship variance, seconded by Mr. Brand.

VOTE:	Mr. Basco	YES	Mr. Doherty	YES	Mr. Utsch	YES
	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Chairman Hanson	YES				

Motion was approved.

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

8. Use variance, hardship variance, preliminary and final site plan application for the conversion of a commercial unit into residential within the GB-2 (General Business 2) zone, along with the addition of a new covered front porch, landing, stairs and various other improvements. Hardship relief requested for lot area, front yard setback, maximum lot coverage, and minimum parking buffer. Submitted by RGDS Properties, LLC for the location known as Block 27, Lot(s) 25+26, 405 Bayshore Road

At 7:26 P.M., Mr. Basco recused himself from the remainder of this meeting

Mr. Jeffrey P. Barnes, Esq., is representing the applicant.

Mr. Barnes explained the property is located in the General Business Zone (GB-2) and consists of two (2) units. The building was constructed circa 1907, with reconstruction 1950. The applicant is seeking to change use from commercial to residential. The proposal is for interior renovations and a covered front porch. Unit 2 was granted a resolution approval in 2006, with consolidation of the lots as a condominium in 2019. Further, since the property is located on Bayshore Road, the County is asking for eight (8) feet easement for eventual road expansion.

Mr. John E. Halbruner, AIA, was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Brian MacGillivray, member of the LLC, was sworn in by Chairman Hanson.

Mr. Victor Dortone, member of the LLC, was sworn in by Chairman Hanson.

Mr. Halbruner reviewed types of variances and differences in “D” type variances, what is permitted within a zone. He stated this property can no longer operate as commercial, and that residential use is far more viable. The proposal includes a covered porch and very little exterior changes. This application is mostly for a change in use and interior remodeling. Further, turning a long vacant building into a residential unit is a better fit and more beneficial with the neighborhood. The proposal promotes free flow of traffic and is a desirable visual environment. The changes are all positive, with no negative impact to the Zoning Plan nor the ordinance. There will be no changes, nor will this exacerbate the pre-existing non-conformities.

Mr. Galestok stated the County Site Triangle will be used over the Township’s requirements.

Mr. Halbruner stated no changes to traffic flow will occur. If the road is widened, the site triangle will change, but the structure and additions will not be in the new triangle.

Mr. Cathcart stated that, per the Engineer’s review, the applicant addressed concerns and would like to see landscaping proposals.

Mr. Galestok stated the Fire Safety report of October 28, 2024, was found acceptable.

This portion of the meeting was opened to the public. No comments were made from the public. This portion of the meeting was closed to the public.

Mr. Sweeten made a motion to conditionally approve the D(1) use variance, seconded by Mr. Brand.

VOTE:	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Mr. Doherty	YES	Mr. Utsch	YES	Mr. Bostard	YES
	Chairman Hanson	YES				

Motion was approved.

Mr. Sweeten made a motion to conditionally approve the D(2) use variance, seconded by Mr. Brand.

VOTE:	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Mr. Doherty	YES	Mr. Utsch	YES	Mr. Bostard	YES
	Chairman Hanson	YES				

Motion was approved.

Mr. Sweeten made a motion to conditionally approve the hardship variance, seconded by Mr. Bostard.

VOTE:	Mr. Brand	YES	Mr. Sweeten	YES	Mr. Baker	YES
	Mr. Doherty	YES	Mr. Utsch	YES	Mr. Bostard	YES
	Chairman Hanson	YES				

Motion was approved.

Resolutions will be prepared by the Board Solicitor to review and approve at the next scheduled meeting.

At 7:44 P.M., Mr. Baker made a motion to adjourn the meeting, seconded by Mr. Sweeten.

Motion carried.

Respectfully submitted,

Patrick L. Wood,
Recording Secretary

A verbatim recording of said meeting is on file in Township Hall.

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