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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 February 6, 2025, 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
Vice Chairman Michael Kennedy
Robert Basco, Sr.
David F. Brand, Jr.
George Doherty
Robert Sweeten
Ernest Utsch III
Geoffrey Bostard
Thomas Doherty

MEMBERS EXCUSED: Joseph P. Baker

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

STAFF EXCUSED: William Cathcart, Board Engineer

CORRESPONDENCE:

Handouts:

- List of Board Engineer Vouchers, dated February 4, 2025
- List of Board Solicitor Vouchers, dated February 4, 2025

Chairman Hanson 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.

Chairman Hanson read the agenda aloud for the benefit of the public. Chairman Hanson advised that, at the request of the applicant, the following application has been continued until the meeting of March 6, 2025:

Hardship variance application for the creation of a rear addition that would encroach into the rear yard setback and exceed the maximum principal lot coverage, submitted by Mark Shapiro & Beverly Chernaik for the location known as Block 567, Lot 4, 1307 Browning Avenue

Mr. Brand made a motion to approve Board Engineer Vouchers, seconded by Mr. Kennedy. Motion carried.

Mr. Kennedy made a motion to approve Mott McDonald Vouchers, seconded by Mr. Sweeten. Motion carried.

Mr. Brand made a motion to approve Board Solicitor Vouchers, seconded by Mr. Kennedy. Motion carried.

Mr. Utsch requested a revised Resolution for Cape May Inlet Marina, reflecting the Board's unanimous declination. Mr. Brand made a motion to approve the revised Resolution, seconded by Mr. Kennedy. Motion carried.

Mr. Utsch made a motion to approve all other resolutions from the meeting of January 9, 2025, seconded by Mr. Brand. Motion carried.

Mr. Kennedy made a motion to approve minutes from the meeting of January 9, 2025, seconded by Mr. Utsch. Motion carried.

1. Hardship variance application for the creation of a detached garage that would be built in front of the principal structure, submitted by George & Peggy Foster for the location known as Block 35, Lot 4, 33 Delaware Avenue

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

Mr. Sandman explained the occupancy of the residence will change from a summer home to a primary residence in the foreseeable future. Due to this change, the applicant is seeking to construct a 24x24, two car garage, which would be in the front yard.

Ms. Peggy A. Foster, applicant, was sworn in by Chairman Hanson.

Ms. Foster confirmed Mr. Sandman's statement and testified this will be a single story structure, utilized for storage purposes of beach equipment, cars, motorcycles, etc. Other properties in the area have similar configurations, however, the intent to replicate the layout of the neighbor who lives next door.

Mr. Sandman stated there is nothing contrary to this request and is consistent with the neighborhood.

This portion of the meeting was opened to the public.

Ms. Tracy McGowan, resident of 35 Delaware Avenue, was sworn in by Chairman Hanson.

Ms. McGowan submitted four exhibits that capture various views of both properties and testified as follows:

- Original developers subdivided into a very dense and narrow landscape, resulting in the two (2) properties sharing a sewer line
- Cited concern for access to First Responder's, in the event of emergencies
- Views may be blocked, negatively impacting quality of life and property values
- Clarified the opposition is not the construction of the garage, only where it is located
- Questioned why the proposed structure cannot be placed where current parking pad is

In response to the Board's question on where the garage should be placed, Ms. McGowan restated on top of the current parking pad.

In response to the Board's question on relocation of the garage, Ms. Foster testified relocation of the structure would place it directly in front of the front door of the home, and in response to the neighbor testimony, that property has always had this configuration. Ms. Foster noted the survey shows the garage well within the boundary lines and setback requirements.

Mr. Galestok responded to the Board's question regarding the required four-foot setback is not applicable to this application, since this is a front yard. The Board then commented that if the structure was moved to the driveway, it would fit better and address safety concerns expressed by Ms. McGowan.

Mr. David Gallagher, resident of 68 Delaware Avenue, was sworn in by Chairman Hanson.

Mr. Gallagher stated he resides across the street and testified as follows:

- Cited concern for views and negative impact to property values
- Stated the garage will block bay views from the bedroom windows

Mr. John Arnold, resident of 125 W. St. John's Avenue, was sworn in by Chairman Hanson.

Mr. Arnold cited prior safety concerns regarding access to the property.

This portion of the meeting was closed to the public.

Mr. Sandman summarized that access for First Responders is the same distance between the garage and property line and the house and property line.

Ms. Foster and Mr. Sandman responded to the Board's questions on attaching the garage to the house, concern about replacement of the shared sewer line, and separate utility meters:

- The contractor advised attaching the garage would not be cost effective
- Mr. Sandman responded that future status and/or condition of the sewer line cannot be addressed.
- The plan is to run electric only, no water, to the garage
- There is no intent to rent the garage as a living space, which can be made a condition to the approval

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

Mr. Brand:	No	Intentions are not clear/setting precedent
Mr. Sweeten:	No	Public Comments
Mr. Utsch:	No	All reasons previously stated
Mr. Basco:	No	Should be attached to the house
Mr. G. Doherty:	No	Not the best way to construct
Chairman Hanson:	No	Consider other work arounds

Mr. Kennedy made a motion to approve the hardship variance application, seconded by Mr. Sweeten.

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

Motion was denied.

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

2. Use variance, hardship variance, and minor site plan waiver application for the creation of an attached dwelling unit and 2nd floor garage addition within the GB-1 (General Business 1) zone. Hardship variance relief requested for side yard setback, minimum off-street parking, and sign setback. Submitted by Mid Atlantic Properties, LLC for the location known as Block 673, Lot 15, 3846 Bayshore Road

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

Mr. Matthew Menke, principal in Mid Atlantic Properties, LLC, was sworn in by Chairman Hanson.

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

Mr. Menke testified as follows:

The property consists of two (2) buildings. The front building consists of his financial planning office, which accounts for 70% of the structure, and a UPS Access drop off point, for the remaining 30%; and a two (2) car garage, used as a workout space. There are no employees, as most appointments are conducted electronically. The UPS store is strictly for drop off purposes, with very limited traffic, especially due to the other UPS location nearby. The proposal is to have a residential unit that will be occupied as his primary residence, and a second floor to the garage for a personal gym. A bathroom is proposed, but no cooking facilities. The first-floor garage will be used for storage only.

Mr. Nassar testified as follows:

Provides overview of the property layout and parking space, with one (1) parking space out front and one (1) space in the garage. The proposal states adding three (3) additional parking spaces, making total to four (4) spaces. The finished site will be an office, residential unit, garage, and second floor gym, making the property more of a home occupation. This application is requesting a variance for four (4) parking spaces, where 12 would be required. Parking, signs, and setbacks are existing, non-conforming. There are no detriments caused to the Zoning Ordinance or Plan, nor any substantial harm to the neighborhood.

Mr. Sandman the two (2) story structure would be below the 35-foot height requirement, in response to the Board's question.

Mr. Galestok advised that the Fire Safety and Engineer's report is non-applicable, since this is a site plan waiver.

This portion of the meeting was opened to the public.

Mr. Richard Pipito, resident of 607 Howland Avenue, was sworn in by Chairman Hanson.

Mr. Pipito testified as follows:

- Resided for 20 years in the property directly behind the applicant's
- Neighborhood has been peaceful
- Concerned about second floor garage gym, noise, privacy, with an outside entrance
- Will this be a rental property
- Possible negative impact to the neighborhood
- Adding parking spaces
- Rear of property is a dumping ground of overgrown, neglected weeds, seeping through
- Damaged fence was repaired
- Possible negative impact to area

This portion of the meeting was closed to the public.

Mr. Sandman stated the applicant would eliminate windows in the rear and side for privacy concerns. Mr. Galestok stated no windows in the back; however, windows on the sides of the building should not be an issue. If there are noise issues, that would be handled by the Police Department.

The Board discussed whether there are options to relocate the gym, rather than the second floor of the garage. Mr. Menke stated the interior of the front building has been renovated to accommodate the business, with no sufficient space to accommodate for gym equipment – e.g.: free weights, boxing heavy bags, bench system, etc.).

In response to Chairman Hanson question on voting, Mr. Harvatt advised that two (2) use variances are acceptable.

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

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

Motion was approved.

Mr. Kennedy made a motion to approve the parking variance, seconded by Mr. Sweeten.

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

Motion was denied.

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

At 7:00 P.M., the Board took a five (5) minute recess. At 7:07 P.M., the meeting was resumed.

3. Use variance, hardship variance, preliminary and final site plan application for the creation two triplexes within the GB-1 (General Business 1) zone. Hardship variance relief requested for front yard and side yard setbacks. Submitted by Lawrence McKnight for the location known as Block 707, Lot 1, 9700 Pacific Avenue.

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

Mr. Joseph H. Maffei, P.E., P.P., C.M.E., was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Brian Newswanger, Architect, was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Lawrence McKnight, contract purchaser, was sworn in by Chairman Hanson.

Mr. Barnes presented an overview of the project, as follows:

Explained the applicant is seeking to demolish and construct two (2) triplex buildings, with a swimming pool. Landscaping planned on the Pacific Avenue side for light and open space. Setbacks are 20 feet, versus the required 25 feet, which are like other recent developments, and a D1 Use Variance is necessary, since residential units are not permitted for the GB-1 Zone. Planned “bump outs” are being removed and discussions on curb cuts are ongoing.

Mr. Newswanger provided testimony, as follows:

The project calls for three (3) buildings that are in keeping with adjacent neighborhoods, while having separate identities, and remain in scale with other area buildings. The buildings will look very similar to the presented renderings, with the common area having a traditional Victorian garden and shade areas. Brick materials are planned. Clarified the 20-foot setback is needed to be created due to the modulation to the design of the buildings. Fencing for the pool and privacy is planned. Parking will include three (3) spaces. Lighting placement will not be overpowering. Ground floor will have trash receptacles, HVAC units will be located inside the building, no public access off Pacific Avenue, and, in response to the Board's question, confirmed the garage door height will be eight (8) feet.

Mr. Maffei provided testimony, as follows:

Confirmed prior testimony from Mr. Newswanger regarding the project's layout, landscaping, location of pool, curb cuts, consistency with the neighborhood, etc. Added that noise created from the pool area is directed upwards, not outward, which will be countered by the landscaping, and less lightning will be required. Further stated this area can no longer support businesses and the trend is shifting to residential, and in response to Mr. Barnes questions regarding these continuing changes, the project blends into the neighborhood.

Mr. Stanford reported that the side yard and number of stories are no longer required, however, additional grades along Pacific Avenue will be required. County approval is necessary, since Pacific Avenue is a county road.

In response to the Board's question on height, Mr. Newswanger confirmed the height of the building is projected at 34'10", but will be under the 35' maximum. The Board further stated that the east side of Pacific Avenue should not be flattened out.

Mr. Galestok advised that the Fire Safety comments of January 8, 2025, is acceptable, and reads "permitted uses in the GB-1 Zone."

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

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

Motion was approved.

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

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

Motion was approved.

Mr. Brand made a motion to approve the site plan, seconded by Mr. Kennedy.

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

Motion was approved.

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

4. Use variance and revised site plan application for the creation of the previously approved two (2) duplexes and two (2) single-family dwellings that will exceed the maximum height requirement by over 10%. Submitted by LJKQ Real Estate, LLC for the location known as Block 722, Lot(s) 1-5+30, 10000 Pacific Avenue

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

Mr. Barnes presented an overview of the project, as follows:

This is the third presentation of this application to the Board. The final site plan has been amended, with a new height of 38', where 35' was originally approved. The new height was done for practicality purposes. Also requested is relief for the front yard setback to 20', which is consistent with other properties, and allows for light, air, open space. The site plan includes an individual pool for each unit. Please note there are layout changes to bedrooms for design improvements.

Mr. Jason Szor, RA, was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Joseph H. Maffei, P.E., P.P., C.M.E., was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Lawrence McKnight, principal of LJKQ Real Estate, LLC, was sworn in by Chairman Hanson.

Mr. Szor provided testimony, as follows:

Height of 38' was the result of materials, due to eight (8) foot ceilings. This change does not increase the overall square footage. The pitch of the roof remains unchanged. All options were considered.

Mr. Galestok asked when the front yard setback changed, since the application shows a front yard setback of 25.17. Mr. Barnes stated possibly after discussions with neighbors, which was advertised, but not in the application request. Mr. Harvatt stated the notice requirements must state the application request. He noted the revised plan was not represented to the Board before and not advertised. In response to these statements, Mr. Barnes inquired if only the height issue be dealt with for this meeting, and will return for the front yard setback. Mr. Harvatt stated the height will be heard at this meeting. The front yard issue will be bifurcated to the next Zoning Board meeting.

Mr. Maffei provided testimony, as follows:

Changes reflect the 38-foot building and individual pools, all else is identical to the original approval. The project adds character to the neighborhood, promotes establishment for appropriate population density, and creates no negative impacts to the neighborhood, zoning plan or ordinance.

Mr. Szor added that a “sun study” for 40 & 38-foot heights was completed, based on the 25-foot setback.

Chairman Hanson confirmed that other properties had been approved at the 38-foot height.

This portion of the meeting was opened to the public.

Mr. Scott Cohen, resident of 126 E. North Station Avenue, was sworn in by Chairman Hanson.

Mr. Scott testified as follows:

- The building is big and a 40-foot height is crazy
- Concern about the six (6) foot setbacks
- This was a summer home & enjoyed sitting on the deck
- No privacy if height is unchanged
- Push back building and reduce height would be an improvement
- Landscaping needs to be considered

Mr. Ralph D’Alessandro, resident of 203 E. North Station Avenue, was sworn in by Chairman Hanson.

Mr. D’Alessandro testified as follows:

- The 40-foot height was 14% over maximum allowed of 35. The 38 feet makes it better
- His property is 29 feet, which is consistent with most of the surrounding buildings
- The proposed project is six (6) boxes with flat roofs
- Not in favor of exceeding the 35-foot maximum, as it will not improve anything

This portion of the meeting was closed to the public.

Mr. Barnes concluded that he understands the concerns voiced by the public about height, which was rectified to the least de minimis as possible. The applicant will return to address the front yard setback, and although three (3) feet may seem substantial, the sun plan shows minimal impact. The main issue tonight is due to a construction design flaw, requiring the height variance.

Mr. Stanford reminded the Board this will change the application from a D to a C Variance. A revised Engineer’s estimate will be required, if approved.

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

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

Motion was approved.

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

- 5. Hardship variance application for the creation of a new single-family dwelling on a lot that is deficient in area, frontage, and width, submitted by the Estate of Loretta Schellinger for the location known as Block 253, Lot 13, 36 Locust Road

Mr. D. Scott DeWeese, II, Esq., is representing the applicant

Mr. DeWeese provided an overview of the application, as follows:

The applicant is seeking variance for future construction of a single-family dwelling (SFD) on an undersized vacant lot. A C1 hardship variance for minimum lot area, front and width, due to a 75-foot requirement, where only 50 feet is available. Mr. DeWeese confirmed that adjacent neighbors were approached to purchase ground that would bring the lot into compliance, however, there was no interest in selling.

Mr. Louis A. Scheidt, P.E., P.P., was sworn in by Chairman Hanson, and provided credentials, which were accepted by the Board.

Mr. Kent Schellinger, applicant of the Estate of Loretta Schellinger, was sworn in by Chairman Hanson

Mr. Ralph Schellinger, applicant of the Estate of Loretta Schellinger, was sworn in by Chairman Hanson.

Mr. Scheidt provided testimony, as follows:

This is a 50 x 100 vacant lot, which is a consistent size of other neighborhood lots. There are no options to acquire adjacent land that would bring it into conformity. In response to Mr. DeWeese’s questions of neighborhood makeup and consistency, Mr. Scheidt confirmed this area largely consists of SFDs on 50x100 lots. He stated this would promote the establishment of appropriate population densities and would provide conformity and harmony with the neighborhood. There are no detriments to the public good, zoning ordinance or plan. In conclusion, this is a better zoning alternative rather than leaving as a vacant lot. It cannot be developed without variance relief. This is a classic MLUL (Municipal Land Use Law) case – there are no downsides.

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 made a motion to conditionally approve the hardship variance application, seconded by Mr. Kennedy.

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

Motion was approved.

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

At 8:25 P.M., Mr. Kennedy made a motion to adjourn, seconded by Chairman Hanson.
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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