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LOWER TOWNSHIP ZONING BOARD

A regularly scheduled meeting of the Zoning Board of Adjustment was held on September 3, 2026, at the Lower Township Municipal Building. The meeting was called to order at 6:00 P.M. by Vice-Chairman Kennedy. The Recording Secretary stated that adequate notice of said meeting was given in compliance with the Open Public Meetings Act of 1975.

MEMBERS PRESENT: Vice Chairman Michael Kennedy
Robert Basco, Sr.
David F. Brand, Jr.
Robert Sweeten
Ernest Utsch III
Geoffrey Bostard/Alt I-
Daniel Morley/Alt IV

MEMBERS EXCUSED: Chairman James Hanson
Joseph P. Baker
Roy Abrams, Jr./Alt III

MEMBERS ABSENT: Thomas Doherty/Alt II

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

CORRESPONDENCE:

Handouts:

- List of Board Solicitor Vouchers, dated August 17, 2026

Vice-Chairman Kennedy read the agenda aloud for the benefit of the public.

Mr. Utsch made a motion to approve minutes from the meeting of August 6, 2026, seconded by Mr. Brand. Motion carried.

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

Mr. Utsch made a motion to approve all other resolutions from the meeting of August 6, 2026, seconded by Mr. Brand. Motion carried.

1. Extension of hardship variance for the previously approved application, submitted by Dorothy Koehn, for the location known as Block 116, Lot 1, 98 Millman Lane, Villas

Ms. Rachel S. Koehn, 98 Millman Lane, was sworn in by Vice-Chairman Kennedy.

Ms. Koehn presented the request for another extension to the hardship variance. The most recent extension date approved was June 30, 2023. Ms. Koehn explained that personal matters have caused delays in proceeding with the project.

In response to Mr. Galestok’s inquiry for a new time frame, Ms. Koehn replied this extension request is for an additional two-year period. Mr. Galestok advised Ms. Koehn that, if approved, this would be the final extension granted.

Following up to the discussion from the previous meeting regarding the length and number of extension requests, the Board agreed to a final three-year extension date of June 30, 2029.

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 approve the extension, seconded by Mr. Utsch.

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Bostard	YES
	Mr. Brand	YES	Mr. Utsch	YES	Mr. Morley	YES
	Vice-Chairman Kennedy	YES				

Motion was approved.

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

2. Hardship variance application for the construction of additions that would encroach into the side yard setback and exceed the maximum principal lot coverage. Submitted by Mark & Michelle Heavener for the location known as Block 494.44, Lot 13, 3112 Butternut Road

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

The following applicants were sworn in by Vice-Chairman Kennedy:

- Mr. Mark Heavner
- Mrs. Michelle Heavner

Mr. Sprague testified as follows:

Describing the existing single-family dwelling, location of the property, and Single Family Residential (R-2) Zone, explained the purpose of the application is for living space and a garage addition. Since this is an undersized lot of approximately 14,400 square feet, where a half-acre is conforming, combined with how the dwelling is centrally situated on the lot, variances are required for a side yard proposed garage. The existing coverage is already at approximately 11.7%, where a maximum of 12% is permitted. A completely conforming garage would be 11.5 feet wide, and is not very practical for even a one-car garage. The proposed addition, with total coverage of 20.4%, will be under the maximum percentage of 22%, for a combined principal and accessory coverage.

Benefits of the proposed improvements supports light, air, and open space, while providing a desirable visual environment, maintaining the character of the neighborhood, and enabling off-street parking where the driveway will be widened. There are no detriments to the Master Plan or Zoning Ordinances.

In response to the Board’s questions below, Mr. Sprague replied:
Garage & Height: This will be a single story with no second story dwelling;
Height will not exceed the principal dwelling;
Rental/Utilities: There is no intent to rent the space and will have no gas or plumbing;

This portion of the meeting was open to the public/ No comments/This portion was closed to the public

Mr. Sprague concluded the relief is warranted, due to such an undersized lot for the R-2 Zone.

Mr. Galestok advised the Board this area was formerly serviced by septic systems and has been converted to municipal sewer, which now allows for a slightly higher density without causing any harm.

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

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Morley	YES
	Mr. Brand	YES	Mr. Utsch	YES		
	Vice-Chairman Kennedy	YES	Mr. Bostard	YES		

Motion was approved.

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

- 3. Use and hardship variance application for the expansion of a non-conforming detached garage with a second-floor apartment that would encroach into the front yard setback. Submitted by David P. Tomes, Jr. for the location known as Block 324, Lot 20, 1882 Bayshore Road

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

Mr. Sandman provided the following overview of the application request:

The property is a residential dwelling on Bayshore Road, in a General Business 2 (GB-2) Zone. A garage on the property is situated in the rear portion of the lot. When the applicant purchased the property, the garage building had an upstairs apartment. The building incurred severe damage in a storm and needed to be rebuilt. The applicant’s mortgagee required restoration of the original structure when rebuilding. The reconstructed structure has been vacant, not rented, and used as an additional storage area. The applicant is now requesting the storage area be restored to apartment space.

Mr. David P. Tomes, Jr., applicant, was sworn in by Vice-Chairman Kennedy.

Mr. Tomes testified as follows:

When the property was purchased in 2018, the back building structure was a two story, two-car garage, constructed circa 1936, with a second story two-bedroom apartment, and separate electric and plumbing hookups. During a storm, the side walls of the garage collapsed, and the original structure was removed; however, the mortgage company mandated the structure must be restored to what was there originally.

Exhibits A-1, depicting the rear of the old garage, and A-2, depicting the front of the old garage, were submitted into evidence.

Mr. Sandman confirmed the proposed extension runs along Caroline Avenue and stated the original garage was an existing structure with an apartment above.

Mr. Tomes continued, stating he came before the Board in 2018 to construct an addition to the current house and build a new garage. The second floor of the garage was permitted as storage. The intention now is to expand the garage for motorcycle storage and restore the second floor as an apartment for family use (uncle/cousin). The space can fit three (3) vehicles, but not large trucks, and further noted all space will be used for personal use. The plan is to create more off-street parking with the proposed expansion, restating this is a pre-existing, non-conforming residential use in the GB-2 one. There are no plans to change the garage interior, other than the second-floor portion, with the extension only being one-story.

In response to the Board's question, Mr. Tomes stated the second-floor unit will not be rented, but will require separate services, as was in place with the original structure.

Mr. Galestok advised that the proposed parking shows only a 15-foot depth, where 20 feet depth is required for trucks or larger vehicles. Mr. Sandman stated the existing parking is adequate; however, the applicant is agreeable to push the additional five feet (5ft) back to make the parking spaces conform. Mr. Harvatt advised that, if approved, this would be a condition. Mr. Tomes offered to push the extension space farther back to allow for three parking spaces.

The Board discussed the number of bays in the garage space and adequate parking for the upstairs apartment. Mr. Tomes advised it is one large bay area and advised there will be adequate parking.

This portion of the meeting was opened to the public.

Mr. Matthew Steigerwalt, resident of 31 Carolina Avenue, was sworn in by Vice-Chairman Kennedy, and provided the following testimony:

Approves of family occupancy for the apartment, but noted the current structure is not in the same location as the original garage. Mr. Steigerwalt requested clarification on the height, as there appears to be conflicting information on location and height of the rebuilt garage, stated on the 2018 zoning permit, and what is being presented at this meeting.

Expressed concerns regarding parking, how many spaces, where will commercial vehicles be located, is there enough for the main residence and commercial? Does this meet the requirements?

Dialogue continued between Mr. Steigerwalt, Mr. Harvatt, Mr. Galestok, and Mr. Tomes regarding:

Height and approval of the garage - Mr. Tomes stated the rebuilt structure was inspected and approved in 2018 by Officials of Lower Township and responded to Mr. Galestok that the pitch of the roof is 4 feet, flat roof. Mr. Steigerwalt questioned the new design, based on the existing structure, and stated it looks like a tower. Mr. Galestok replied that the two-story garage building received appropriate approval in 2018.

Mr. Steigerwalt noted possible discrepancies in the application, which lists accessory coverage of 9.2%, noting this is closer to 11%. Mr. Galestok commented this is a non-conforming use in the GB-2 Zone, with approval of the accessory building by the Board.

Mr. Harvatt requested clarification from Mr. Tomes on the issues cited. Mr. Tomes responded that he calculates coverage at 7% for the accessory unit, with a 150 square foot shed. Mr. Galestok advised that calculations are typically completed by an engineer, due to total lot coverage. Mr. Harvatt opined these are questions that should have been raised at the original 2018 application, which was inspected by the Township Construction Official.

Since parking use is not specifically stated in this application, Mr. Steigerwalt voiced concern over commercial items and vehicles (trucks and trailers) at the property. Mr. Steigerwalt submitted two photographs: EXH-1, showing the front of the existing garage; and EXH-2, showing overflow parking in the garage. This additional square footage impacts the drainage to his property and questioned whether review by the Township's Engineer was completed.

Mr. Steigerwalt concluded these issues should have answers prior to acting on the application.

Mr. Sandman advised that the extension is going to be towards the interior of the property, not towards the neighboring parcel.

Mrs. Jenifer Steigerwalt, resident of 31 Carolina Avenue, was sworn in by Vice-Chairman Kennedy, and provided the following testimony:

Expressed agreement with previous testimony offered by her husband, Matthew Steigerwalt. Mrs. Steigerwalt questioned where commercial trucks will be placed if the extension will be used for motorcycles, further noting that construction trucks are parked on the street. Mr. Tomes described the size of the trucks, which come/go, and do not sit overnight, since he owns another property in Cape May Court House for the larger trucks and trailers. There is no intent to park commercial vehicles on the property or street.

The Board noted that a GB-2 is being used for residential and expressed confusion over concerns with stormwater drainage and parking. There are no issues with personal vehicles – e.g.: motorcycles – stored in a garage.

This portion of the meeting was closed to the public.

The Board’s decision was based on pushing the garage back by five feet and not increasing the building to provide a 20-foot parking pad. Additionally, Mr. Tomes confirmed the driveway will be concrete, with an additional five feet of impervious coverage.

Mr. Brand made a motion to conditionally approve the Use variance, conditioned upon the garage push back of five feet, not increasing the building size, and providing a 20-foot parking pad, seconded by Mr. Basco.

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Morley	NO
	Mr. Brand	YES	Mr. Utsch	YES		
	Vice-Chairman Kennedy	YES	Mr. Bostard	NO		

Motion was approved.

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

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Morley	YES
	Mr. Brand	YES	Mr. Utsch	YES		
	Vice-Chairman Kennedy	YES	Mr. Bostard	YES		

Motion was approved.

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

- 4. Hardship variance application for the conversion of an existing single-family dwelling into a duplex, requiring variance relief for lot area. Submitted by Edward Laguardia for the location known as Block 158, Lot 4, 301 W. New York Avenue

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

Mr. Sandman provided the following overview of the application request:

This is an existing non-conforming structure that was originally purchased jointly by both applicants as a side/side duplex. It was subsequently changed to upstairs/downstairs, with a center stairwell. Both units have separate gas and utility lines.

The purpose is to close off the center stairwell and convert the structure into two separate condominiums for individual ownership.

The following two applicants were individually sworn in by Vice-Chairman Kennedy:

- Mr. Michael Kane
- Mr. Edward Laguardia

Mr. Laguardia stated, as a licensed engineer, he prepared the plans for the application, and reviewed the regulations, survey, and other data cited in the documentation submitted for the request. The only change to the drawings is to remove the interior stairwell, and proceed with conversion to condominium ownership and create separate deeds to each unit. This change will enable each family to move forward separately for purposes of estate planning. No exterior changes or addition of any bedrooms are planned. Each unit already has separate kitchens.

In response to questions from the Board regarding access and parking, Mr. Laguardia advised that the second unit has an existing 10x25 deck for an exterior entrance, with available parking at the rear of the property. There are no plans for installation of an elevator.

Mr. Harvatt opined that a Homeowners Association, where common elements are applicable, including parking, will need to be created, filed, and recorded, since each unit requires a separate deed.

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. Galestok cited parking requirements of 400-34B for parking standards (e.g.: parking ordinance, standards, curb cuts, etc.) to comply. Mr. Sandman stated the applicants will comply with the parking, as required.

Mr. Harvatt inquired whether the application was deficient, to which Mr. Galestok stated only adherence to the 400-34B parking is needed.

Mr. Laguardia reconfirmed to the Board there are two (2) separate hookups for water and utility meters.

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

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Morley	YES
	Mr. Brand	YES	Mr. Utsch	YES		
	Vice-Chairman Kennedy	YES	Mr. Bostard	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 preservation from demolition an existing front addition that encroaches into the front yard setback. Submitted by Circa 1842, LLC for the location known as Block 495.01, Lot 8.01, 156 Fishing Creek Road

Mr. Brook Benjamin, principal member of the applicant LLC, was sworn in by Vice-Chairman Kennedy, and provided the following testimony:

Mr. Benjamin explained this property was purchased, with the intention of renovation. When previously subdivided in the summer of 2025, 13 feet of frontage was dedicated to the County for road widening. This caused an encroachment of the existing front porch into the front yard setback requirement. The front porch has existed for approximately 50 years, and the intent is to retain the structure as is and not alter the existing footprint. Demolition would disturb the original building, require that section of the crawl space be sealed, and present challenges with exterior asbestos shingles and vinyl siding.

Mr. Benjamin summarized the application request is simply to do nothing, retain the existing footprint whereby the front porch remains intact.

Mr. Galestok reported the initial application was presented and approved by the Planning Board, where the original developer was removing the front porch. A review by the County required the 13-foot frontage for future street widening. Subsequently, the owner then sold the property prior to any changes. Mr. Galestok pointed out this owner wishes to save the original structure. Nothing else is changing to the site. In the meantime, the Historic Preservation Commission (HPC) has stated there is no objection to this application to keep the existing front porch.

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, seconded by Mr. Basco.

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Morley	YES
	Mr. Brand	YES	Mr. Utsch	YES		
	Vice-Chairman Kennedy	YES	Mr. Bostard	YES		

Motion was approved.

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

6. Hardship variance application for the construction of an addition that would encroach into the rear yard setback and the minimum distance required between structures. Submitted by Scott & Elizabeth Dare for the location known as Block 606, Lot 6, 905 Holmes Avenue

Mr. Ronald J. Gelzunas, Jr., Esq., is representing the applicant.

Mr. Gelzunas stated the purpose of the application is to construct a small rear addition for a bedroom and living space.

Mr. Shaun Hass, Engineer, was sworn in by Vice-Chairman Kennedy, and presented credentials, which were accepted by the Board.

The following two applicants were sworn in by Vice-Chairman Kennedy:

- Mr. Scott Dare
- Mrs. Elizabeth Dare

Mr. Haas testified as follows:

Provided a description of the property, existing structures, zoning, property dimensions and size, explaining the lot is a triangular shape. The parcel is a non-conforming lot, therefore, requires variances for minimum lot area, lot depth, and minimum gross floor area. The dwelling is approximately 638 square feet. The detached garage, which will remain unchanged, is approximately 349 square foot and has a two-car driveway with space for three parking spots. The application is for a 470 square foot addition, with a second floor and includes a kitchen, bathroom, living room, and master bedroom.

Due to the lot being a triangular shape, the proposed addition causes encroachments into the minimum distance between buildings, creating a breezeway between the structures, and rear yard setback. This is a modest addition and will increase the living space needed. Expansion without relief would be on the west side, requiring removal of the garage and reconfiguration of the off-street parking spaces, where one spot would be lost.

Mr. Gelzunas stated all homes on this block have issues with setbacks, due to the triangular shape. The addition will bring the minimum gross floor area into conformity, with total building coverage of only 15.9%, where 30% is permitted. This is a very reasonable proposal, with open air, light, and space. There are no detriments to the neighboring properties, Zoning Plan, or Zoning Ordinances. The vacant side of the lot will be a ten-foot setback, which will be corrected on the plans.

Mr. Shaun noted the distance between structures should allow more than enough room for emergency responders.

Mr. Haas responded to questions from Mr. Galestok and the Board:

Space jutting out: Mr. Haas clarified this is a secondary door on the back end of the kitchen.

Roof Lines: This is a mud/laundry room

Mr. Haas concluded it is better to keep the structures separated to retain the neighborhood aesthetic. Enclosing would inhibit rear access for emergency personnel. If connected, it would also cause another encroachment into the rear yard setback.

Mr. Gelzunas confirmed, as a condition for approval, any lighting to the rear of the property will be shielded and down facing.

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. Gelzunas restated this is a modest addition, is a better option to fix up, rather than tear down, helps maintain the character neighborhood, benefits the Township and community, and encourages development.

The Board noted that there are plenty of homes affected by these irregularities.

Mr. Galestok advised that a revised plan is needed, to reflect accurate setbacks, including a revised Zoning Chart.

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

VOTE:	Mr. Basco	YES	Mr. Sweeten	YES	Mr. Morley	YES
	Mr. Brand	YES	Mr. Utsch	YES		
	Vice-Chairman Kennedy	YES	Mr. Bostard	YES		

Motion was approved.

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

At 7:33 P.M., Mr. Brand made a motion to adjourn, seconded by Mr. Basco. Motion carried.

Respectfully submitted,

Patrick L. Wood,
Recording Secretary

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

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.