

**The Town of Bowers**3357 Main St.
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**MEETING MINUTES FOR PUBLIC HEARING**

The meeting was called to order at 7:08 pm on July 23, 2020 by Mayor Ada Puzzo.

Council members in attendance: Shirley Pennington, Bob McDevitt, and Marty Manning.

Vice-Mayor, Ryan Locke was unable to attend.

The Pledge of Allegiance was recited in unison.

Mayor Ada Puzzo stated that at the end of this public hearing council will vote on the issue at hand and state why they are voting for or against.

Barrett Edwards, Legal Counsel for Town of Bowers, said that residents will be given an opportunity to speak when the hearing is open to public comment. When a resident does speak please state your name and address for the record. He stated to please also note that this is a continuation of the hearing held in December so ideally it would just be new information presented at this time. So Mr. Rich Abbott, attorney for Jeff Liberto, will share his information, then there will be public comment and then Mr. Abbott will be given an opportunity for rebuttal, then the hearing will be closed.

Bob McDevitt of the Town of Bowers Council who is the Zoning Officer stated that he posted notices of this public hearing on the lots that are adjacent to the property in question as well as two places in town. Those places were 3357 Main Street and 3231 Main Street in the Town of Bowers.

The notice of this public hearing was also published in the paper and there were notices mailed to the property owners adjacent to the property in question and return receipts were received

Bob McDevitt attests that the above is truthful and will be entered into the record.

**Applicant:** Mr. Abbott stated that he had submitted documentation in December 2019 and council decided to table the matter until additional information was received from the appeals board. The Appeals Board is scheduled to meet on August 11, 2020 to review this case. Three of the six lots were found to have made a map amendment. They are looking to make the lots buildable. He stated that the primary concerns that residents had at the last hearing were drainage and flooding.

Mr. Liberto wishes to rezone his property from Conservation Agricultural to R-1 Residential.

**Public Comments:**

**Jay Baker - 224 N. Bayshore Drive**

Mr. Baker wants everyone to know that this property is in fragile wetlands. Rezoning this he feels would set a precedent. The roads flood now with rain and it would only get worse. This also limits emergency access as well.

**Carol Baker - 224 N. Bayshore Drive**

Mrs. Baker said her main concern is the drainage and has submitted pictures of the water making it impassible at times. She stated that the upland includes the dunes. Additional houses being built would cause additional runoff water. The setbacks were also discussed for builds. She stated the one of the properties that they want to make buildable includes part of the beach and dunes.

**Norm Summerall - 228 North Flack Avenue**

Mr. Summerall asked why would anyone want to build where a sand dune is located?

**Renee Summerall - 228 North Flack Avenue**

Mrs. Summerall stated that we need to keep wetlands as wetlands. She stated that she never sees Mr. Liberto unless he is asking something from the Town. She wants to know if what he is requesting will benefit the town. She feels that the wetlands should be preserved as they are a wind and water buffer. They are scenic and support bird watching. This is not Mr. Liberto's first request of the Town and each time it has not been beneficial for the Town. She feels that it comes down to one thing - money. All of this litigation is costing the Town money. She is firmly against rezoning these properties.

**Raymond R. Shore - 108 Carter Way, Glenn Mills PA**

Mr. Shore stated that when you purchase land you hope it is of value. It is upsetting to find out that it has little or no value. He had his daughter read a letter that he had written and will be submitted into the record.

**Mark Puzzo - 158 Cooper Avenue**

Mr. Puzzo stated that the only official changes to the map had no effect on the area that we are discussing. The changes to the zoning were not official as procedure was not followed. There was no public hearing held. He would like to see a map that is legitimately "official" instead of all the different variations that have been seen tonight.

**Doug Shuck - 159 N. Bayshore**

Mr. Shuck said that these lots are subject to the build line that is enforced by DNREC. There isn't a lot of buildable space. There needs to be additional information to actually say that these lots are in fact buildable. He is also unsure of the access that is available.

**Jim McCulley - Engineer for the Applicant:**

Mr. McCulley shared information on maps that he had access to. He had a map shoeing the dune line that he shared.

**Judy Martin - 156 N. Bayshore**

Mrs. Martin asked which houses had been built on the dunes as she was not aware of any house that had been built over the build line.

**Barrett Edwards - Legal Counsel for the Town**

Mr. Edwards reminded everyone that we need to speak in an orderly fashion as it is difficult to document if everyone is trying to talk at the same time.

He then made sure that the applicant and the Town agreed with the documents that were being submitted to the record as a result of this hearing continuation.

**Rebuttal by the applicant**

Mr. Abbott stated that he has not had the chance to review the PLUS comments that were received by the Town of Bowers. Due to that the record will be kept open allowing him to read and make a written response to those comments. Typically there will be 7 days notice to have an additional meeting.

Mr. Abbott then stated the on the matter of the zoning issue there is a 3 year statute of limitations, so if this was done in 2013 after 2016 there would be no comments allowed on the matter. He stated that if the zoning wasn't valid then there is no zoning which is not likely the case.

Mr. Abbott stated that the comments from the Bakers' seem to mirror those that were made in December of 2019. He said that the storm and drainage issues are historic issues throughout the Town of Bowers. His client is a victim not culprit and these issues would be addressed by the Kent County Conservation District. Whoever purchases the property and wants to build on it would have to address these issues. He also reminded everyone that his client donated Lot # 21 to the town as a means for a buffer for emergency access. The fragmitis that is on his client's property should be killed and that is what his client has done. The comments made about this issue being solely about money are way off base. His client owns these properties and has a right to use them. If this property remains zoned as CA then the properties actually have a negative value. He feels that the Town of Bowers should approve the rezoning.

Mr. Liberto discussed one of the maps that had been submitted by Mr. McCulley. He said that in 1950 this was a residential area with homes on the properties. No notice was given to the property owners when a change was made. There are other properties that are zoned R2 in the titled wetlands.

**The comment section of this public hearing was closed at 8:55pm.**

**As of this public hearing we have not received the DNREC findings concerning Mr. Liberto's property.**

**Councils Vote on the Matter**

A motion was made by Mayor Ada Puzzo, seconded by Marty Manning to close the Public Hearing with one exception which is to allow Mr. Abbott to respond to the Town of Bowers Plus comments only and that it be in a written response. Motion carried.

**This public hearing will be left open and another date will be scheduled when the written response from Mr. Abbott is received.**

With no further business to discuss a motion was made by Bob McDevitt, seconded by Shirley Pennington to adjourn the Public Hearing at 9:12 pm. Motion carried.

Respectfully submitted,

**Shirley A. Pennington**

Secretary