

**ZONING BOARD OF ADJUSTMENT
MINUTES**

JULY 11, 2011

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gelley, Mr. Mund, Mr. Naftali, Mr. Zaks,
Mr. Ribiat, Mr. Gonzalez

Arrived Late: Mr. Lankry, Mr. Halberstam

Absent: Mr. Schwartz

Also present: Attorney – Russ Cherkos
Terry Vogt, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary

Salute to flag.

Motion to approve minutes of June 6, 2011 with a waiver to read – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Mund, Mr. Naftali, Mr. Zaks, Mr. Ribiat,
Mr. Gonzalez

Correspondence

Letter from Sam Brown, Attorney for applicant, re: **Appeal # 3772 – SLD Investments**, Locust Street & Route 70, Block 1081 Lot 5.01 requesting to carry this application to the July 25th meeting.

Motion to carry - Mr. Mund

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Mund, Mr. Naftali, Mr. Zaks, Mr. Ribiat,
Mr. Gonzalez

No further notice.

Letter from John P. Doyle, attorney for applicant, re: **Appeal # 3775 – New Future Dreams, LLC**, Lexington Rest Home, 127 7th Street, RM requesting to carry this application to the July 25th meeting. They will re-notice.

Motion to carry - Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Mund, Mr. Naftali, Mr. Zaks, Mr. Ribiat,
Mr. Gonzalez

Mr. Gonzalez, announced that **Appeal #3743, Lakewood Courtyard**, will be continued from last meeting and will be open to the public.

Mr. Zaks announced that he had a conflict and will step down.

Mr. Gonzalez announced that there were only 5 members voting.

Mr. Penzer agreed to move forward with the application.

Yehoshua Olshin, 422A First Street, Apt. 212, affirmed. Parking and the traffic on First Street is a challenge. Any approvals these issues should be considered.

Charlie Silberberg, 1472 Cedar Row, affirmed. He is building a development on the corner of First Street & Forest Avenue. Cars are backed up. The neighbors had meetings with the applicant. One idea was that they make North Lake Drive two-way to alleviate the current flow of traffic on First Street. Applicant met the DOT and they indicated that they would permit them to make that change. Asking that if the board approves this proposal the resolution should be subject to the applicant making an application to the Township Committee and getting them to approve North Lake Drive to be a two-way street and that the applicant pay for changing light.

Closed to Public.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 11, 2011
PAGE 2.**

Mr. Liston summed up. The applicant is seeking what it calls assisted living without nursing care – there is no such thing. Really asking for over 55 residential housing. The parking is inadequate for what he is really trying to do.

Mr. Penzer – An Orthodox Jewish Assisted Living place is different. This board approved 12 - 15 years ago 140 units with 54 parking spaces. If we add this proposal they will be at 131 with 66 parking spaces. If they need any State approvals they will get them.

Mr. Naftali – there are 2 basic issues – one is the traffic – major changes have been made that helped a lot. They are really talking about 20 minutes twice a day. Any alternative to be placed there would be much worse. In regard to the assisted living part any type of rentals would not be a smart business. It makes sense to have an additional amount of rooms added to the existing facility.

Mr. Cherkos asked Mr. Naftali questions.

Mr. Naftali – this is an expansion of an existing non-conforming, also is an assisted living facility, the applicant has demonstrated that he has met his burden of proof also will not put the North Lake Drive issue as part of the motion.

Mr. Gelley also agreed.

Mr. Mund agreed that the 3 parts have been demonstrated

Mr. Ribiat – agreed to all 3 parts

Mr. Gonzalez – agreed.

Motion to approve – Mr. Naftali

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Mund, Mr. Naftali, Mr. Ribiat, Mr. Gonzalez

Mr. Gelley had to leave.

Mr. Zaks and Mr. Lankry returned to the dais.

Appeal # 3776 - Congregation Our Minyan – Ridge Ave. Block 175 Lots 11 & 82, R-15 zone. To construct a synagogue/school which is permitted and religious text burial proposed as an accessory use.

Secretary read reports.

From: Terry Vogt, Engineer/Planner - July 5, 2011

The applicant proposes to construct a synagogue/school on the referenced property, with burial of religious texts on the property as an accessory use. Places of worship are a permitted use. The applicant has requested a use variance for the accessory use. The applicant is requesting bulk variances for front yard setback. The applicant will require a variance for building height. For a school or house of worship the ordinance requires a buffer of 10 feet from non-residential uses and 20 feet from residential uses. The eastern side of the property as depicted does not meet the listed standards. A waiver is necessary.

Ray Shea represented applicant.

Graham Macfarlane, engineer/planner, sworn.

Board accepted credentials.

Mr. Shea – asking for site plan for synagogue also school and burial of sacred text.

A-1 aerial map of the site

A-2 site plan sheet – layout of the project

Mr. Macfarlane - There are 3 areas designated for bus drop-off.

A-3 religious text burial plan

Mr. Macfarlane – shows constraints on the property and this was submitted to the DEP to obtain required approvals. Tract is about 10 acres. JCP&L Right of way will not permit using part of their easement for part of the text burial. Shows environmental restricted areas. There are 2 separate burial areas to handle all the materials that will be buried on the site.

A-4 floor plan for the synagogue - architectural plans

Mr. Macfarlane – Floor plan shows the 4 floors of the proposed school and synagogue. The basement level is about 3,700 square feet and the 3 stories for the classrooms and the teaching areas. For a total height of 36 feet.

A-5 elevations – front rear and the 2 sides.

Mr. Macfarlane – the site has unique constraints, wetlands buffers, C-1 restrictions and a JCP& L easement that make the site challenging. The area that is being used for the text burial is about 3,000 square feet of the site. The principal uses of the school and the synagogue are permissible, the religious text burial is an accessory use. There is no negative impact on the surrounding properties.

Mr. Macfarlane reviewed the Mr. Vogt’s report. There is an area for trash cans behind the building. Trash cans is a better alternative to a dumpster.

Mr. Lankry asked if it can be redesigned to include a dumpster not trash cans.

Mr. Macfarlane agreed. There is no free standing signage proposed.

Chaim Abadi, 245 Miller Road, affirmed. The plan is for an elementary school. They have approximately one-and a half acres that could be used for recreation and will dedicate it for a play area.

Mr. Macfarlane – Buriel ground is 5 feet deep.

A-6 grading plan

Mr. Macfarlane – the northeast corner of the building. There will be a 7 foot wall along the walkway and there will be a railing. There is gravity sewer available which is being extended and there is water as well. Will work a dumpster in on the southwest side of the property.

Open to Public. Closed to Public.

Motion to approve subject to: dumpsters approved by board engineer, play areas approved by board engineer, retaining wall to be block or equivalent, fencing approved by board engineer – Mr. Zaks

Second - Mr. Lankry

Roll call vote: affirmative: Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Zaks, Mr. Ribiat,
Mr. Gonzalez

Mr. Halberstam arrived.

Appeal # 3773 – Route 88 Properties, Block 548 Lot 78, Ocean Avenue, RM zone. To construct 6 multi-family units. Maximum density permitted is 15 units per acre whereas 17.5 units is proposed.

From: Terry Vogt, Engineer/Planner – April 12, 2011

The applicant proposes to construct six multi-family units on the referenced property. The Multi-family residential zoning standards allow a maximum density of 15 units per acre. The proposed density is 17.5 units per acre. A use variance has been requested. The applicant has bifurcated this application and is only seeking approval for the use variance at this time.

Abraham Penzer representing applicant.

Brian Flannery, engineer/planner, sworn.
Board accepted credentials.

Mr. Zaks owns property within 200 feet and stepped down.

Mr. Penzer agreed to proceed.

Mr. Flannery – this is a bifurcated application here just for the density. Five units would be allowed and they are asking for 6.

A-1 rendered version of variance map.
A-2 area map
A-3 artists rendering of the proposed structure.

Mr. Flannery – not here for site plan only asking for density to allow 6 units. Described the area. There will be 3 units on the bottom and 3 units on the top. These are small units. The basement will be for storage. Each units is approximately 23 feet wide x 58 feet. The RM zone permits multi-family. There will not be a rental basement.

Open to public. Closed to Public.

Motion to approve no more than 6 units – Mr. Lankry
Second – Mr. Mund

Roll call vote: affirmative: Mr. Lankry, Mr. Mund, Mr. Naftali, Mr. Ribiat, Mr. Gonzalez,
Mr. Halberstam

**Appeal # 3774 – Madison Ave. Holdings LLC, 951 Madison Avenue, Block 98 Lot 1,
R-OP Zone. Expansion of gas station and convenience store and
addition of prepared food sales.**

Mr. Zaks returned to the dais.
Mr. Lankry had a conflict and stepped down.

Secretary read reports.

From Terry Vogt, Engineer/Planner – May 24, 2011

The applicant is requesting preliminary and final site plan approval to construct an expansion to an existing gas station and convenience store, maintaining and expanding the existing uses and adding the sales of prepared food. The existing building has a footprint of 1,635 square feet and is proposed to add a 3,575 square foot addition to the building. A car wash previously existed at the property, but it has been removed.

Ray Shea, attorney for applicant.

Bob Burdick, professional engineer, sworn.
Brian Flannery, professional planner, sworn.

Mr. Shea – this is currently a gas station and a convenience store.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 11, 2011
PAGE 5.**

Mr. Flannery – The Township Committee recently passed an ordinance which would permit the gas station to have a convenience store. The R-OP zone does not permit the gas station. This is an expansion of a non-conforming use. Property is adjacent to the BMG school. There is a lot of foot traffic and a need for this food service. Reviewed Mr. Vogt’s report. The use fits in well with the campus that it will serve. There is parking in the rear of the building and will restrict them for employees only. The predominant use of the convenience store is the walk-ins from the adjoining campus students. The existing driveways will remain. The purpose of this expansion is to service the campus students. The site is in the downtown regional center. This is a pedestrian friendly service.

A-1 – sheet 1 & 3 of the site plan

Mr. Burdick – planning to extend the existing service station & convenience store to the south to within 0.4 to the fence. The building will be an “L” shaped building. They will be getting rid of the trailers.

Mr. Flannery – there is 3 inches from the BMG property line but their building is 4 feet from the property line.

Mr. Shea - The whole idea is to prep the food upstairs and bring it downstairs.

Mr. Burdick agreed to installing bollards so no shopping carts get into the gas station area.

Mr. Zaks asked for curbs.

Mr. Burdick agreed to the bollards and the curbs.

Mr. Flannery - The building will be ADA accessible.

Mr. Zaks asked for striping on the northerly side and the building in front of the parking lot as a walkway.

Mr. Burdick agreed.

Mr. Naftali – this is a very large structure – asked for more parking or make the building smaller.

Mr. Flannery – the DOT would be reluctant to allow them to eliminate a driveway.

Mr. Shea - This is a grab and go place, a 4 or 5 minute transaction place.

Mr. Flannery – designed to get the people out quickly.

Mr. Zaks asked about deliveries.

Mr. Burnick – along the north side of the building will be deliveries. Dumpster is located on the northeast corner of the property. Agreed to have the garbage pick-up early in the morning before the traffic. There is no ADA access to the second floor. There is a proposed conveyor system to get the food from upstairs to downstairs. They are providing boxwood along the easterly side. They will look at providing some additional landscaping along the northerly side. The whole building will be stucco and brick.

Mr. Flannery - only 4 in the back will be for employees - there are 17 spaces in the back so there are 13 additional spaces

Mr. Naftali – concerned about the parking spaces.

Mr. Ribiat - Concerned about the safety issue of pedestrians walking across the parking lot.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**JULY 11, 2011
PAGE 6.**

Mr. Shea - There is no change in the future – the same people that are using this now will continue. They do 1,500 transactions a day.

Open to Public. Closed to Public.

Mr. Zaks – in favor of this application – students within the 2 block radiis and will be mostly walk-in traffic

Mr. Gonzalez - will not be that much of an expansion because the people are there already and this will make it more convenient.

Motion to approve subject to: a sidewalk in front of the building, adding bollards, enhancing the landscaping on the northerly side of the site, striped walkway across from 10th Street to the building, curb in front of the building, private carter picking up garbage in the morning, - Mr. Zaks

Second – Mr. Mund

Roll call vote: affirmative: Mr. Mund, Mr. Naftali, Mr. Zaks, Mr. Ribiat, Mr. Gonzalez,
Mr. Halberstam

Resolutions

Appeal # 3764 - Elm O, LLC Block 437, Lot 3.02 & 4 Times Square and Elmhurst Blvd – R-12 Zone. Resolution to approve a use variance to allow subdivision into 4 – 7,500 square foot lots.

Motion to approve – Mr. Mund

Second – Mr. Zaks

Roll call vote: affirmative: Mr. Mund, Mr. Zaks, Mr. Halberstam

Appeal # 3755 – MTR Ventures, Lois Lane & Dr. Martin Luther King Drive, Block 768 Lots 16 & 18.13, RM and R-7.5 zone. Resolution to approve a use variance to construct 2 duplexes and 1 single family home.

Motion to approve – Mr. Mund

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Mund, Mr. Naftali, Mr. Gonzalez, Mr. Halberstam

Appeal # 3759 – S & H Builders, Conrail & 7th Street, Block 165 Lot 12, RM Zone – Resolution to approve the construction of 2 duplex and one triplex.

Motion to approve – Mr. Mund

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Mund, Mr. Naftali, Mr. Zaks, Mr. Gonzalez, Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 10:45 P.M.

Respectfully submitted,

Fran Siegel, Secretary