

1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable, comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

2. ROLL CALL & SWEARING IN OF PROFESSIONALS

Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Herzl, Mr. Rennert were present. Mr. Flancbaum was present for part of the meeting but had connection problems and did not stay for the full meeting.

Mr. Terence Vogt, P.E., P.P., C.M.E. was sworn.

3. PUBLIC HEARING

2. SP 2180A Congregation Somerset Walk

58 Canary Drive Block 830.04, Lot 30.02
Amended Preliminary and Final Major Site Plan for a synagogue

Mrs. Morris said this application is being tabled to a future meeting date. New public notice will be provided.

3. SP 2374 Congregation Toldos Yaakov Yosef

670 Squankum Road Block 104, Lot 13 & 59.01
Preliminary and Final Major Site Plan for a school

Mrs. Morris said this application is being tabled to a future meeting date. New public notice will be provided.

1. SP 2370AA Tuvia Steinharter

82 Erica Road Block 1248.01, Lot 14
Change of Use/Site Plan Exemption to convert a house to a school

Mr. Vogt said per our letter, this is a change of use site plan exemption. There are various submission waivers, plan design, signature block, setback, etc. And design waivers based on existing conditions include bus drop off/pick up area, shade tree utility easement, lighting and landscaping, trash and recyclable storage, and proposed grading. Page 3 under zoning, as per comment 1, it's a permitted use. Comments 2-4, these are pre-existing setback variance conditions, with the existing structure, which will have to be reaffirmed with the change of use. The design waivers include shade tree utility easements, shade trees, lighting, landscaping, and paved parking, as well as from curbing and sidewalk along the Erica Road frontage of the property.

Mr. Herzl asked if there was anything to be acted upon now, or if these are design waivers only.

Mr. Vogt said what the Board may want to do is hear the testimony first. If the Board desires site improvements, then that will be modified based upon what the applicant has to do.

Mr. Brian Flannery, professional engineer and professional planner, appeared on behalf of the applicant and was sworn in. He said this is a 75' by 300' lot that's got an existing 1-story dwelling on it. The plan is to utilize the six parking spaces that are already available. The Ordinance requires 4 spaces for the three classrooms and one office, and we've provided six. This is a school that currently has 37 students. They are expecting 57 students for next year, which is what this application is hoping to accomplish, so that they can open in September. It's a boys' school. Last year they had primary and first grade. They're planning on primary, first, and second this year. They have 4 vans that will be dropping the children off. They will stagger so that only 2 come at a time. They have three staff. If you look at the parking configuration, there are six double-stacked parking spaces. So the staff would come in, that leaves three spaces available for the vans for dropping off. We have 2 vans coming and they're staggered, so there's an extra space for a parent or carpool that may come in.

Mr. Herzl said the vans have to back out directly?

Mr. Flannery said yes. It's a residential street with a low density, and backing out of there is the same that the residents have been doing there.

Mr. Herzl said what's that section in between the left and the right-side parking?

Mr. Flannery said it's landscaped. Obviously we are looking at a school that's starting, with 2 classrooms last year and 3 next year. They intend to do something more permanent with the site, but they're asking for this change of use for next year so that the school can open and grow.

Mr. Herzl said the question is, can you make a turn-around. I'm not a fan of vans backing out.

Mr. Flannery said yes, as a condition of approval the applicant would be able to make a gravel turn-around for the vans. There is plenty of room to accommodate that. Going through the report, on page 3 it is a permitted use. The accessory side setback of 2.6' is an existing condition to the shed that's already on the property. The perimeter buffer relief again is an existing condition. Relief for the proposed parking being within 5' of the property is another existing condition.

Mr. Rennert said on these variances you just listed, would they be a variance whether it's a residential structure there or a school?

Mr. Flannery said the buffer and the parking setback are for schools. For residential, it's not a variance.

Mr. Rennert said so currently as this structure stands as a residence, there is no variance.

Mr. Flannery said other than for the shed.

Mr. Vogt said to clarify, the variances that we have listed under bulk variances under zoning are pre-existing setbacks with the resident building itself. We are asking that they be reaffirmed because the application is to change the use of the property from residential to school.

Mr. Rennert said so if this stays, if a new residential structure would be built on this footprint, would these variances be required?

Mr. Vogt said if it was built in the same exact location, yes. The bulk variances would be required. The buffer and the parking I believe are related to the proposed change of use.

Mrs. Morris said Terry when you say the bulk variances, you mean the setback for the shed. I believe that's the only bulk variance, correct?

Mr. Vogt said I'm sorry, I thought that was for the building itself, I apologize.

Mr. Rennert said so forgetting about the shed, just the building itself, am I looking at variances for that if it stayed a residence?

Mrs. Morris said no.

Mr. Vogt said the main building appears to conform.

Mr. Rennert said so when it says on the letter "existing condition," it doesn't mean it's an existing variance, it just means it's an existing condition.

Mr. Vogt said yeah. The accessory setback is an existing condition, correct.

Mr. Herzl said well a school is legal in every zone, so technically it's an existing condition for a school.

Mr. Rennert said that's not what I'm asking. Besides for the accessory use, for number 3 and 4 on the letter, that would not be a variance if it would stay a house.

Mr. Flannery said that is correct. My testimony would indicate that it's not a variance situation for the dwelling because as a residence you don't have those buffer requirements. But as a school, you have the requirements and the parking is there and everything infringing on the buffer is already there. So as far as the neighbors coming home and finding something different, the only thing they will find different is that it's a school for three classrooms. And vehicles will be parking within 5' of their property line, the same as they are today. When I get to the justification for the relief, and when you look at that section of the Ordinance it is in section 9 which makes it potentially a variance instead of waiver, but the language of it says that buffering shall be provided to the satisfaction of the Board and other places in the Ordinance it indicates that buffering is required when there's insufficient separation between the uses and when the Board determines that buffering is needed. So if the Board determines something different is needed here, the applicant would certainly provide fencing or some kind of landscaping that would satisfy the intent of the Ordinance. My professional opinion is that the low intensity type of school that we are talking about, there's no adverse impact on the neighbors and since they were noticed if they feel differently they will let you know. But the 20' buffer is the same for a 3-story, 40-classroom building as it is for a 3-classroom building. That's why in my opinion these variances are warranted.

Mr. Herzl said is this temporary? Three classrooms, you can't use that too long.

Mr. Flannery said we can only use it next year. The school is investigating the appropriate way to do it. Obviously something additional has to happen here, at which time the parking and buffering and all those items would be addressed. We are asking just to approve these three classrooms. By next year when a fourth classroom is needed, the school will have to determine the appropriate way to do that. If the Board acts favorably tonight, they'll have a year to figure out what they want to do for next year.

Mr. Flannery asked how old the students are.

Mr. Flannery said primary, first grade, and second grade.

Mr. Flancbaum said in my opinion whenever there is a change of use in a residential area, we should automatically require at least a 6' vinyl fence and some landscaping. It's an automatic requirement in my opinion.

Mr. Garfield questioned a traffic study he received for 750 students.

Mr. Herzl said that's for the application on Squankum.

Mr. Rennert said I have a comment to Terry. When you write in the letter, "this is an existing condition," it leads me to believe that we already have this variance. And that's not what you were trying to say. Can you be a little more specific in the future when you write these letters? That it's an existing condition, which under current circumstances is not a variance, but based on the proposed use will cause a variance?

Mr. Vogt said what we were trying to say is that there are no site improvements. What you see is what is out there now. It's pre-existing. We'll have to be clear going forward.

Mr. Herzl said could this school grow without coming back to the Board by just putting trailers in the back of the building and have 10 classrooms there with the same amount of parking? What triggers that they have to come back to a Board?

Mr. Vogt said that's a good question, I don't know the answer. I know that the Zoning Officer has certain powers under the UDO to allow temporary trailers. I don't know if she looks at parking or not as part of any temporary approvals.

Mr. Flannery said my experience is you need a Site Plan approval first, and then she does look at the parking to make sure that's provided. That's been my experience on plans that I've been involved with.

Mr. Rennert said so basically you'd be able to put up a few trailers over here because you have excess parking.

Mr. Flannery said I don't know how we would get the trailers onto the site without knocking the building down.

Mr. Sabel said the same owner owns 76 Erica as well, so they can go in from there.

Mr. Herzl said you do have 19'. That's why I asked you the question. If you're coming to us for a change of use and you're coming back with plans in two years, I don't have an issue with it. I don't want this to become a temporary school for the next ten years without coming back to the Board and without having the parking. I don't know how other members feel.

Mr. Sabel said I agree with you.

Mr. Garfield said exactly.

Ms. Jilian McLeer said Chairman, the Board can certainly impose conditions if the Board is concerned about something like that. We can certainly discuss that.

Mr. Herzl said I would look at it as a change of use for 2-3 years, and they have to come back to the Board within that time frame.

Mr. Rennert said you can't do that, you can't give a change of use for only a specific time.

Mr. Flannery said the change of use only applies to this residential structure changing from a house to a school. I think like 7 years ago there were people that abused the change of use. You used to just go to the Zoning Officer to change one permitted use to another. At that point they said no, some of the schools have abused this, so for schools you have to notify the neighbors. My discussion with the applicant is this is for a year, maybe 2 at the most, until they figure out what they want to do and come back. I don't remember this in the past, but perhaps it's something I don't know that someone did abuse how Lakewood is friendly to the private schools, and maybe that's where that's coming from. But Jilian has indicated that the Board can put restrictions as they feel are needed in order to protect it from being a school with trailers in the back forever.

Mr. Rennert said would the applicant agree if they ever put up trailers or any addition at all, to come back in front of this Board?

Mr. Flannery said yes, on behalf of the applicant I am saying yes.

Mr. Garfield said that means no trailers will be coming in at the time of these three classrooms?

Mr. Rennert said there will be no trailers without permission from this Board.

Mr. Flannery said correct. All that's being approved by this Board are the three classrooms shown on the plans submitted, and anything else needs to come back to this Board for approval.

Mr. Herzl said Jilian, is that ok?

Ms. McLeer said definitely.

Mr. Garfield asked what about office space? They may say they need office space and bring a trailer in.

Mr. Rennert said they're agreeing for any additional structure, they will come back before this Board.

Mr. Garfield said thank you.

Ms. McLeer said I think that's a fine condition. I've written it down here and I'll make sure that gets into the resolution, assuming there is an approval.

Mr. Herzl said technically they have to come back because after 2-3 years they are going to outgrow this building.

Mr. Flannery said I wanted to go through the Master Plan of 2017, it says encourage development and redevelopment based on smart growth planning principles. It's my testimony that this accomplishes that. Under page 10 of the same Master Plan under Community Facilities Strategies, it says continue to support the development of private schools in the Township. Obviously we understand where that's coming from. With respect to the relief, the Municipal Land Use Law NJAC 40:55D2, A is encourage municipal action to guide the appropriate use or development of all lands in the state, in a manner which will promote public health, safety, morals, and general welfare. Providing the school a place certainly provides that general welfare. To the extent that variances are needed, because what we're talking about with reference to bulk variance which is a shed and is existing, the buffer relief, which in my interpretation it's more of a design waiver than a variance, but if it was a variance it's certainly a C2 variance where we need to show that it relates to a specific piece of property and I think this piece of property that is 22,000 sf in an R-12A zone is certainly appropriate. It's particularly well-suited for the school, the purposes of the Municipal Land Use Law, I've already indicated. It's my opinion the variance can be granted without any substantial detriment to the public good. The variance will not impair the intent and purpose

of the zone plan and zoning ordinance because it complies with the Master Plan. And the benefits substantially outweigh any detriment. With respect to the design waivers we are asking for, gravel driveway to remain. That's for two reasons. One, environmentally the gravel provides for some stormwater recharge so it's not going to change the water flow in the area, and it's for a short period of time. As Mr. Herzl indicated, we are going to be back to the Board with this within a couple year period. When we come back, there will be changes and any improvements we had put in would be money that is wasted and for a school that's starting up like this it's my opinion that it would be appropriate to allow this. As indicated in Terry's report, he talks about the parking. The Ordinance requires 4, we have 6, and we've indicated as a condition of approval that we would provide a gravel turn-around area. I don't think there was anything additional that needed to be addressed.

Mr. Rennert said what about curbs and sidewalks?

Mr. Flannery said we are seeking the waiver on curbs and sidewalks along the frontage because we will be back in a year or two, at which time we will be doing a real plan for a real school. At that time we would certainly put in the curbs and sidewalks because we would know where they are going to go and they won't have to be disturbed. We are asking respectfully for that waiver for a start up school to help them for next year.

Mr. Herzl asked about garbage.

Mr. Flannery said it will be in a roll-out container picked up by DPW, the same as it was for the house.

Mr. Herzl asked if the whole property is fenced in.

Mr. Flannery said the plan does show an existing fence around the entire property.

Mr. Herzl said we need a decent fence, there are little children there.

Mr. Flannery said we would agree that the fence needs to be in suitable condition, subject to the determination of the Township Engineer.

Mrs. Morris said it looks like one side is labeled as stockade, the other side is labeled as chain link, and they don't appear to connect.

Mr. Vogt said that's correct, there's a gap west of the shed.

Mr. Flannery said we agree to fence as needed, to make it safe and proper as per the determination of the Township Engineer.

Mr. Vogt said so we don't know what's out there, 4' or 6.'

Mr. Flannery said I don't know. For the ages of the kids we are talking about, I think either 4 or 6 would be sufficient. I think the Engineer's office could inspect it. The applicant will certainly submit photos and a report to the Engineer as part of resolution compliance as to our opinion of what needs to be done and we would defer to RVE for either their concurrence or whatever they feel needed to be done.

Mr. Rennert said what's the harm in putting gin curbs and sidewalks now?

Mr. Flannery said when we come in with full plans, those curbs and sidewalks will be trashed so we'd be wasting the money. They aren't going to accomplish anything for a year or two because there's no other sidewalk in the neighborhood. And they'll change the drainage pattern.

Mr. Herzl said what about putting in a meandering asphalt path?

Mr. Flannery said I think that would be a very good compromise.

Mr. Herzl asked Mr. Rennert what do you think about that?

Mr. Sabel said I think the Board has to look at it differently. The building next door is owned by the same owner. It's very possible... Brian is saying they'll be coming back to the Board in 2 or 3 years. We don't know. It may not, because they can use the house next door for another three classrooms. So they could have 6 classrooms over there before they start building anything. Therefore, the items we discussed, trailers, driveway, and sidewalk, has to be looked at as 6 classrooms and not coming back so quick.

Mr. Flannery said there will be no trailers because we agreed as a condition of approval to no trailers. If they want to do something on the adjoining lot, they would have to come back to this Board for a change of use, at which point the Board could say you've got two buildings, you've had time, put in the curb and sidewalk.

Mr. Sabel said that's comforting, the question is if the Zoning Officer agrees to that. I don't know if we've ever had a case like that.

Mr. Flannery said if there's a condition in the resolution that says you have to, then you have to.

Mr. Sabel said and I hope the Zoning Officer would look at it. She deals with these trailers every day, and she gives them rather easily. Which is a good thing. But if we can get an input from her, knowing that trailers are going to be based on our condition of approval that would comfort us.

Mr. Flannery said we would be happy as a condition of approval to send a letter to Fran Siegel with the resolution pointing on the condition, so if someone were to ask for trailers, it would be inappropriate to grant them.

Mr. Sabel said you understand the concern. It is a big property.

Mr. Herzl said I think the resolution should say that we are restricting it for 3 classrooms, up to 60 kids, 20 per classroom.

Mr. Sabel asked why 20 per classroom.

Mr. Herzl said that's a standard classroom. I think Brian testified that it would be 57 students.

Mr. Flannery said yes. The applicant's intent is figuring on a maximum of 29 per classroom.

Mr. Herzl said 29 times three is more than 57.

Mr. Flannery said 19, excuse me.

Mr. Sabel said it says three classrooms, occupancies of 7, 15, and 12. That's the floorplan that we have. Total of 37 kids.

Mr. Flannery said I know there was an operations statement that says 57 for next year.

Mr. Herzl said the proposed classroom is 150 sf on the left. You're going to put 19 kids in there? I hope not.

Mr. Sabel said who's going to stop them if we don't?

Mr. Herzl said they are very small rooms.

Mr. Rennert said why is it listed, the number of occupants, on the plan? Is it with respect to building codes?

Mrs. Morris said most likely, typically when that's listed on architectural plans, yes it's a code issue about square footage.

Mr. Herzl said like I said before, 150 sf on the top left classroom, you can't put in more than 10 kids. You can't put 20 kids in there. 150 is 11 by 11, 12 by 12. It's a small room.

Mr. Rennert said so let's find out the plan.

Mr. Herzl said Terry, how many kids can you put in 150 sf, do you know?

Mr. Vogt said I don't know, but I assume when they go for building permits, they are going to be regulated on occupancy by the building code official. To answer the earlier question where the 57 students came from, we received a brief operations statement from Nexgen early April, which simply said 37 students this year and 57 next year. Again, if the Board were to approve it and they go to the building official, they may only say you can have 25 people in the whole building for argument's sake.

Mr. Sabel said your letter says 37, and the plans they show us is 34.

Mr. Vogt said like I said, there was a letter that says 37 now and 57 next year.

Mr. Sabel said I can clarify that I think. The 57 is going to be using the building next door. Which is fine, if the building department approves it. But we have to take that into consideration.

Mr. Herzl said there is only one floor to this building, correct?

Mrs. Morris said correct, there is a basement labeled for storage. It's a partial basement.

Mr. Herzl said Terry, explain to the Board how you're getting 57 people in the building.

Mr. Flannery said there have been a lot of questions that we don't have answers for, so we would like to carry this application. And get the answers and come back when... We've heard the Board's concerns, we can come back with something that will make the Board comfortable and will answer the many questions that you have.

Mrs. Morris said I recommend we hear the public comments before we send them away.

Mr. Sabel said my concern is the area is the least safe, I live in the area, because of crime. But the zoning allows it.

Mr. Herzl said I don't know the area, but I strongly suggest that we have a decent fence going around the whole property, that it shall be safe for the kids.

Mr. Herzl asked for the public comments.

Mrs. Morris said I want to start, I received a voicemail yesterday from a Ms. Burdick at 88 Erica. She is directly next door. Unfortunately I couldn't hear her phone number to return the call but she is in opposition to the application. I received three comments via email that I will read into the record.

The first email is from Cynthia and Dennis Buoye of 95 Lucy Road:

This is a residential area that is very congested with busses in the morning and afternoon. There are no sidewalks for the children to walk on. A school would create even more traffic. That being said, we are not against a school that would benefit the children in our neighborhood. If the school will not benefit our children, it should be located in the prospective students' neighborhood so they can walk to school and not create more traffic.

Questions:

1- Is the school going to be an elementary, middle, high school, or post secondary school?

2- Is the school going to benefit the children in our neighborhood?

3- The preliminary architectural plan shows room for 34 students. The documents state there will be 37 students the first year and 57 students the second year. How is this small home going to accommodate 57 students plus staff? What about parking and transportation?

4- Is the septic system able to handle 57 students plus staff? In addition to handwashing and toileting, will meals be prepared?

5- This property (82 Erica Rd) was bought in conjunction with 76 Erica Rd (house next door) by Yechezkel Steinharter who owns an adult care center.

NexGen Land Development is a commercial building company. Therefore, we would like to know what the long term plans are for these 2 properties.

Are they going to be combined into 1 property? R12-A zones are residential (including schools) and only allow 25% of the property to be developed.

Is a variance in the future plans?

The second email is from Lori Zbikowski at 51 Eric Road:

To whom it may concern,

I was literally just informed by my neighbor that there are plans to put a school at 82 Erica Rd.. I find it very interesting that I did not receive a certified letter letting me know about this board meeting and that they plan on putting a school there. As a homeowner on this block I do have a right to know I will contact my lawyer in reference to this. I am five houses away from that house and under no circumstances should there be a school put in the middle of a residential area. This block has had multiple shootings especially at that house. I find it awfully funny how many times we asked the landlord to evict the tenants because we were in fear of lives and he allowed them to live there and now all of the sudden he wants to place a school there and it's OK. Well it's not OK with us!! There are multiple accidents also because people race up and down this block. What will happen is a child will get seriously hurt if a speeding car is barreling down the street and their ball just happened to roll out into the street. Don't put a school in the middle of a block. Also the fact that I'm paying enough in taxes in this town and my child goes out of district to school. I'm not

paying one extra dime of taxes for a school to go here. I cannot attend the online meeting Or write to you in advance which I think is BS to begin with because I am an essential worker and will be at work and literally just found out about this meeting.

If you would like to speak to me you can reach me at 732-236-1506 My name is Lori Zbikowski @ 51 Erica Rd, Lakewood

The third email is from Ms. Zbikowski again:

Also in reference to the above planning of them trying to put in a school at the above address if 10' is required why are you going to allow a 2.6 feet building to be built there when the requirements clearly state 10' away from the home that is next to you. My Lord if the place caught on fire the houses next to it would go up in flames. Our existing insurance companies are not going to ensure something like this when there are certain requirements. I work A lot of hours and I want peace and quiet when I come home from work I don't need a school that's going to be open seven days a week next to me or down the block for that matter. There are numerous places in Lakewood that they can put a school at put it in the industrial park there's numerous that are there now! Also, The poor little old lady that lives next-door to this home does not have access to a computer to fight this school being put in she knocked on my door this is how I found out about it she tried to call the number on the paper numerous times and left messages and no one called her back. If We wanted to live next to a school We all would've moved there to begin with. Please do not allow this to happen.

Mrs. Morris said that's everything that I have in public comment.

Ms. McLeer said to confirm, the lady who left those messages is not within the 200'?

Mrs. Morris said correct, which is why she wouldn't have gotten a notice.

Mr. Sabel said the only good thing is having a school here, there won't be shootings at this house.

Mr. Herzl asked if Ms. McLeer's office received any additional emails.

Ms. McLeer said no, just the ones that Ally went over.

Mr. Herzl said the neighbors don't want a school there, but a school is legal in every zone. Our job is to make sure that it's safe, fences, gates, whatever we can do to make it safe. But to say we don't want a school in this area, that is not legal.

Mr. Rennert said but Yechiel, you are giving a lot of variances here. I think it would be best before the next meeting if maybe the applicant can meet with the neighbors who have concerns. I think putting a school in would improve the neighborhood. It won't be open 7 days a week. And it would be small kids. Fencing it in right is important, and the circulation, but it would benefit the neighborhood I think.

Mr. Herzl said and with elementary school, you aren't going to have kids there past 5pm. They neighbors are concerned about noise and privacy, but they'll never have that issue.

Mr. Rennert said they're allowed to go there, but how do you make them comfortable. A white vinyl fence... I don't know.

Mr. Vogt said I'm not sure if it's possible, I'm asking the applicant if it would be possible to correspond with the building department prior to the next meeting and find out what the occupancy of this building is per the proposed condition. I know you want 37 kids this year, 57 next year, we haven't even talked about teachers or staff. I think it would be good to find out, what is the allowed occupancy of this building. We may be talking about a different application if we find out they can only have 30, 40, 50 kids.

Mr. Herzl said I'm sure there's a standard sf per kid.

Mr. Vogt said and the number of teachers as well.

Mr. Flannery said at the next meeting we will have those numbers.

Mr. Herzl said you hear the concerns of the Board and the neighbors. Try to come back with answers, and try to reach out to those neighbors to see what they want to make a good application.

Mr. Herzl said when are we tabling this to.

Mrs. Morris said I'm not sure if there is time to get a notice in the paper for the June 23rd meeting. I think there is time. So I would recommend June 23rd which is two weeks from tonight.

Mr. Abadi shook his head affirmatively.

Mrs. Morris said I think new notice is required.

Mr. Herzl said Mr. Jackson told me because it's virtual it needs to be renoticed.

Mrs. Morris reminded the Board that the 5 members who were present tonight should try to attend on the 23rd. Otherwise the applicant has to start their case over.

Mr. Rennert said and the recording will be available so others can vote too.

Mrs. Morris said correct, I will remind the other members to watch the video.

- 4. APPROVAL OF MINUTES**
- 5. APPROVAL OF BILLS**
- 6. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Ally Morris
Planning Board Recording Secretary