

**ZONING BOARD OF ADJUSTMENT  
MINUTES**

**MAY 7, 2018**

Meeting was advertised in accordance with the NJ Sunshine Law.

Roll call: attending: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Naftali, Mr. Ribiat, Mr. Ingber,  
Mr. Gross, Mr. Gonzalez, Mr. Halberstam  
Attorney: Jerry Dasti  
Engineer: Terry Vogt  
Secretary: Fran Siegel

Salute to the flag.

Motion to approve minutes of April 9, 2018 – Mr. Halvorsen

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Naftali, Mr. Ribiat,  
Mr. Ingber, Mr. Halberstam

Secretary read letter from Miriam Weinstein re: **Appeal # 3818 – Prime Insurance** – requesting relief from the HVAC equipment being placed on the roof.

Miriam Weinstein, esq. – the builder did not read the resolution and placed the HVAC equipment on the side of the house. The builder installed the units on the ground. You can't see them, they are shielded. It would be a hardship and very costly to move the units to the roof.

The board asked for more information and this request was carried to the next meeting.

Motion to carry for further discussion to the June 11<sup>th</sup> meeting – Mr. Ingber

Second – Mr. Ribiat

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Ribiat, Mr. Ingber, Mr. Gross,  
Mr. Halberstam  
Nays: Mr. Halvorsen

Secretary read letter from Rabbi Rottenberg re: **Appeal # 3886 – Shaari Shlomo** requesting a 6 month extension to file the map.

Brian Flannery, sworn – Was approved in 2014.

Permit extension act expires December 1, 2018

Motion to approve extension - Mr. Naftali

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Naftali, Mr. Ribiat, Mr. Ingber,  
Mr. Gonzalez, Mr. Halberstam

Miriam Weinstein requested that this application be taken out of order because it was fast and easy and since they are adding more parking.

**Appeal # 4074 – Somerset Mgt.**, E. County Line Road, Block 174.11 Lots 41.02, 42, 43.07 & 45.01, R-12 zone. Commercial and residential. Expansion of non-conforming use

Secretary read report.

**From: Terry Vogt, Engineer/Planner –April 18, 2018**

The applicant is seeking minor subdivision approval and use variance relief to consolidate 4 existing lots into two. New lot 41.02 will contain an existing single family dwelling and new lot 41.03 will contain an existing retail center. A use variance is required for additional proposed parking for the retail building which is an existing non-conforming use. The purpose for the proposed subdivision is to provide additional parking, stormwater, and lighting improvements to the existing retail center.

Miriam Weinstein, attorney for applicant. The applicant currently has 4 lots one of the lots is the shopping center – there are 3 other lots. They want to consolidate the 4 lots into 2 one shipping center and enlarging the parking area to make more parking spaces. There is no new construction, taking away from the single family house. Adding to the recharge basin. Adding drainage.

Glenn Lines, engineer sworn. Parking not changing for the single family house, the single family house is 43 feet from the property line. This will add 48 parking spaces to the Shopping center. There is no negative criteria.

Open to Public. Closed to Public.

Motion to approve – Mr. Gelley

Second – Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Naftali, Mr. Ribiat, Mr. Ingber  
Mr. Gonzalez, Mr. Halberstam

**Appeal # 4077 – Eli Oelbaum**, 45 Clearstream Road, Block 2 Lot 133, R-40 zone. To modify tree preservation and conservation easement for pool and cabana.

**From: Terry Vogt, Engineer/Planner –**

The applicant is seeking approval to construct a pool, pool deck and cabana building within a designated Tree Preservation Area. At the discretion of the Board buffer landscaping and/or screening should be considered along the adjoining property line of Lot 134 & lot 137.

Brian Flannery, engineer, sworn. They want to construct a pool, pool deck and cabana building. They will modify the easement line. There are no variances. Not creating any runoffs. There will be a privacy fence and landscaping.

Open to Public. Closed to Public

Motion to approve – Mr. Ribiat

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Naftali, Mr. Ribiat, Mr. Ingber  
Mr. Gonzalez, Mr. Halberstam

Mr. Penzer asked that **Appeal # 4062 – Yehudis Kreiger**, 34 Congress Street, be carried to the next meeting. He has a conflict and they are trying to work matters out.

No one in the public was here for this application.

Motion to carry to the June 11<sup>th</sup> meeting – Mr. Naftali

Second – Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Halvorsen, Mr. Naftali, Mr. Ribiat, Mr. Ingber,  
Mr. Gonzalez, Mr. Halberstam

No further notice

Agreed to waive time.

**Appeal # 4063 – Avigdor Ziemba, Lincoln Street, Block 769 Lot 19.14, R-7.5 zone. Use variance for duplex. Lot width required 60 – proposed 54.**

Secretary read report.

**From: Terry Vogt, Engineer/Planner – February 20, 2018**

The applicants seeks minor subdivision approval to subdivide an existing 10,139 square foot property into 2 residential lots. The property was previously approved under planning board for zero lot lines proposed for future development with duplex building. Requesting variance relief for minimum lot width. New combined lots 19.22 and 19.23 propose a lot width of 54 feet where 60 feet is required.

Abe Penzer, Attorney for applicant. The only variance required is lot width. The have 54 feet and 60 feet is required. Applicant bought this property for a single family home and couldn't sell it.

Brian Flannery, engineer/planner sworn. Reviewed Terry Vogts report

A-1 color rendering

A-2 tax map showing subject property

A-3 tax map showing duplexes in area from Google maps

Mr. Flannery – Twenty out of 25 homes on this block are duplexes. They need a 60 foot lot width and they have 54 feet. This is a conditional use variance. They have a 54 foot wide lot and they have the required 10,000 square foot lot area. Each duplex is 20 feet wide. The impact of this lot would be diminimous. The ordinance says that on existing lots you can have 50 feet wide. This lot is existing.

Mr. Penzer - This is a unique lot – they have the lot area in excess of 10,000 square feet.

Mr. Halberstam – planning board resolution states that this lot should be a single family home.

Mr. Flannery – the applicant cannot sell this lot as a single family. On an existing lot you can build a duplex on a 50 foot lot.

Open to Public.

Yosef Kushner, 240 Lincoln Street, affirmed. Live on the corner of Melville and Lincoln. The neighborhood is opposed to this. He moved in about 10 years ago. The paper street of Melville was vacated. There were meetings with the developer and he agreed to build single family homes. The buses will not go down Lincoln or Melville. This intersection is very chaotic. For a decent price this property can be sold as a single.

Avigdor Ziemba, 659 North Lake Drive. Bought the house 4 years ago. Was with a real estate broker and he couldn't sell it. Nobody wanted to buy it as a single. He paid \$305,000 4 years ago. One of the offers was \$300,000. He wasn't around when those meeting took place. The real estate broker suggested that he go for the variance to build a duplex and then he would be able to sell it. He was unaware of any conditions when he bought the property.

Terry Vogt - This lot was approved by Planning Board as one of the single family lots.

Shimon Plotnik, 238 Lincoln Street, affirmed. Living there 10 years. That corner in the morning looks like an amusement park. It is a serious safety factor. This is a quiet safe block. Not in favor of this application.

Faiga Weiss, 263 Lincoln Street, affirmed. This lot was specifically not approved for a duplex. Not in favor of this application. There are no sidewalks. She lives in a single family home and does not have a tenant. Duplexes tend to bring tenants and more cars.

Joel Dueker, 205 Arlington Avenue, affirmed. Tenant in basement. There are people building single family homes on this block. Not in favor of the duplex.

Closed to Public.

Mr. Chairman asked if there was anybody in the audience that agreed with the application. There were no hands raised.

Mordy Eichorn, affirmed. Real estate broker and was involved in the negotiations of in the neighborhood. He was a partner in Arlington Heights who was the developer. They cannot sell it as a single family. The desire is for a duplex. They met with people from the neighborhood and the conditions of the vacation of part of Melville Avenue was; 1. he gave a \$50,000 donation to the neighborhood for the shul; which they did , 2. they had to pave from John Street to the other side of Melville, which they did.

Mr. Penzer – there are duplexes in the area as a matter of right, some with approvals. This property has been on the market for several years. The only reason this property is not being sold is because they are not building singles. The area has changed. Applicant bought this lot and cannot sell it. This will not impact the neighborhood. Nobody will be able to see the difference between 54 & 60 feet. This is one duplex, one extra unit.

Mr. Dasti - The decision should be based upon the testimony heard. Not whether promises were made or not made.

Mr. Naftali – he would like to see proof of any agreements that were made.

Mr. Ingber – applicant bought this lot as a single family lot.

Motion to deny – Mr. Ingber

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Halvorsen, Mr. Ingber, Mr. Gonzalez, Mr. Halberstam

Nayes: Mr. Naftali, Mr. Ribiat

Abstained: Mr. Gelley

Adam Pfeffer requested that **Appeal # 4075 Pinchus Wolhender**, be carried until the June 11<sup>th</sup> meeting.

Motion to carry – Mr. Lankry

Second – Mr. Gonzalez

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

No further notice and agreed to waive time.

**Appeal # 4064 – Uri Meir Kanarek, 311 8<sup>th</sup> Street, Block 97 Lot 13, R-OP zone. To enlarge the existing 2 units.**

**From: Terry Vogt, Engineer/Planner – February 21, 2018**

The applicant proposes what is depicted (per the architectural plans) is adding a two-story addition (and unfinished basement with an exterior entrance proposed) to an existing two-story single family dwelling (which appears to include an existing apartment style finished basement).

Brian Flannery, sworn.

A-1

A-2 tax map

A-3 aerial map

Brian Flannery, sworn. This meets the definition of multi-family. The application is to take a 2 unit multi-family building and put an addition on it so it better houses the 2 families in the building. This lot is 7,500 square feet. If approved the applicant will fence the property to provide a buffer. They are providing 3 spaces per unit. They are increasing the size of the building to expand the units. By right they can put an addition on the existing building as long as they stay in the setbacks and don't go over the lot coverage allowed of 40%. They want to make 2 units that make more sense.

Mr. Halberstam – this looks like a front to back duplex which is not permitted.

Mr. Ribiat – how many units are there?

Mr. Flannery - Asking for 2 units. The basements cannot be rented out.

Mr. Dasti – there are separate entrances to the basements.

Mr. Flannery – Have a 2 family in a zone that allows 2 family. This is a multi-family building on one lot. Proposing 1 building owned by one entity and two units to be rented out. The access to the basement is in the inside of the building. The existing house will be renovated. Each floor is 1,070 square feet. There are 2 floors and a basement. This is a 2 family, multi-family in a zone that allows multi-family. The building is not be taken down. There will be a 3,000 square foot unit in the front and a 3,000 square foot unit in the back.

Open to Public.

Michael Lutz, 814 Clifton Avenue, affirmed. Adjoining neighbors to this house. The basement has been rented before. Presently there are 3 stories. Asked to reject this application.

Chaim Friedlander, 806 Clifton Avenue, affirmed. Surrounded by 2 dormitories, 2 large families and they cannot find parking. Asking the zoning board that this should not be approved.

Closed to Public.

Mr. Vogt - His interpretation was that the architectural looks like a front to back duplex.

Mr. Flannery – applicant says that he will be renting or selling – he will not be living there.

Mr. Terry - Our interpretation was that this appeared to be a back to back duplex.

Motion to deny – Mr. Lankry

Second – Mr. Ribiat

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

Nayes: Mr. Halberstam

Chairman announced that **Appeal #4073 – David Birnbaum** will not get heard tonight.

Motion to carry to June 11<sup>th</sup> - Mr. Lankry

Second – Mr. Naftali

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

**Appeal # 4068 – Chaim Abadi**, 141-147 Ocean Avenue, Block 248.01 Lot 63.01, B-4 zone.

Proposed 4 story building. First and second story shul, third & 4<sup>th</sup> story office.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – March 21, 2018**

The applicant is requesting preliminary and final major site plan approval to include use and bulk variance relief for a new four story synagogue/office building to be constructed. The site plan indicates that the proposed building will have a 6,486 sf footprint and a main sanctuary area of 2,491 sf. The applicant proposes the 1<sup>st</sup> and 2<sup>nd</sup> floor to be used as a synagogue. The 3<sup>rd</sup> and 4<sup>th</sup> floors proposed would be utilized as office space.

Chaim Abadi, 245 Miller Road, affirmed. Existing now is 4 stores. The footprint of this building is a little smaller than the existing building.

Joe Kociuba engineer/planner, sworn. The site is now primarily all impervious and in an unsafe condition. The existing building has retail and the minyon is upstairs with a synagogue used by challenged teens. This is an inherently beneficial use. This will be a 4 story building and the minyon will take up the lower two stories and a sanctuary of 2,388 square feet. Proposing 51 parking stalls. Parking is substantial for the site. Will provide better site access. Requested a side yard setback for 5 feet where 10 feet is required. The benefits outweigh the detriments to the neighborhood. Requesting a height variance of 64 feet where 45 feet is permitted. Described other higher buildings in the area.

Scott Kennel, sworn. Traffic report submitted 3/20/18. Creating a new legal two way driveway. This is a mixed use development. The 51 parking spaces proposed are adequate. Short 14 spaces according to Terrys report.

Chaim Abadi - In the back they can park about 30 cars that is now used by the adjacent building. The top two floors will be taxable. The program for the Minyon is at night.

Mr. Kociuba - Applicant agreed to all comments in the engineering letter.

Open to Public.

Chairman asked the audience who was in favor of this application. All applauded.

Chairman asked if there was anyone who objected to this application. There was no one.

Yaakov Bess, director of Minyon Shelanu, affirmed. This is for the community. This will be a place where everyone can come and not be judged.

David Seebag, affirmed. This is a beneficial use. In favor of this application.

Motion to approve – Mr. Lankry

Second – Mr. Ribiat

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

Chairman announced that **Appeal # 4071 - Alexander Hoffman** will be carried to June 11, 2018

Motion to carry – Mr. Gelley

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Naftali, Mr. Ingber,  
Mr. Gonzalez, Mr. Halberstam

No further notice and agreed to waive time.

### **Resolutions**

**Appeal # 4058 – E. 7<sup>th</sup> Street Developers**, E. 7<sup>th</sup> Street, Block 222 Lot 4 & 5 – R-12 zone.

Resolution to approve a use variance for duplex

**Appeal # 4049 – Shasnis, LLC**, Henry Street, Block 778 Lots 1, 2, 3 & 77, R-10 zone.

Resolution to approve 2 duplexes and a single family lot.

**Appeal # 4059 – Arlington National LLC**, John Street, Block 758 Lots 19 & 24. R-7.5

Resolution to approve a use variance for partial office use.

**Appeal # 4067 – Chaim Dubin**, 25 Birch Street, Block 416 Lot 21, R-10 zone. Resolution to approve the construction of a single family home with bulk variances.

**Appeal # 4069 – Yehoshua Frenkel**, Block 534 Lot 7 (7.03, 7.04, 7.13, 7.14), HD-7 zone.

Resolution to deny a use variance for residential use within 200 feet of Route 9.

**Appeal # 4070 – Pinchos Lipschitz**, 110 Shady Lane, Block 12.03 Lot 13, R-12 zone.

Resolution to approve a side yard setback variance requested for single family home. Required 10 feet – approved 7.4 feet.

**Appeal # 4072 – Yosef Notis**, 30 Commonwealth Ave, Block 290 Lot 1.42, R-10 zone.

Resolution to approve the construction of an addition in the side yard setback – required 10 feet – Approved 5 feet.

**Appeal # 4027A - Drake Development**, Drake Road, Block 251.02 Lot 98, R-40 Zone.

Resolution to approve subdivision for 9 single family lots on 9 undersized lots.

Board members voted to approve all resolutions.

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 11:25 P.M.

Respectfully submitted,

Fran Siegel, Secretary

