

**LAKWOOD PLANNING BOARD
MEETING MINUTES
MAY 17, 2005 • 6:00 P.M.**

CERTIFICATION OF COMPLIANCE

Chairman Banas called the meeting to order at 6:00 P.M. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the Ocean County Observer and the Asbury Park Press and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and a copy of this Agenda has been mailed, faxed or delivered to at least two of the following newspapers: The Asbury Park Press, The Ocean County Observer, or The Tri-Town News at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

ROLL CALL: Mr. Herzl, Mr. Neiman, Mr. Banas, Mrs. Wise, Mrs. Shravzblat, Mr. Dolobowsky, Mr. Chermack and Mr. Ackerman.

Also present were: Attorney Charles Hutchinson
Engineer Maxwell Peters
Planner Martin Trescott.

Mr. Banas asked if there were any changes and Mr. Kielt replied that item #6, SP #1809, and item #7, SD #1471, under new business were being tabled to the Special Meeting of May 24, 2005 at 6:00 p.m.

III. NEW BUSINESS

1. **SD #1468** (Variance requested)
Applicant: 319 Prospect St. LLC
Location: Prospect Street, west of Massachusetts Avenue
Block 445 Lot 1
Preliminary & final major subdivision - 27 lots

Mr. Peters stated the applicant is seeking preliminary and final major subdivision approval for 27 residential lots at 319 Prospect Street within the A-1 zone. By court order the applicant has been granted 8,000 square foot lots where 2.0 acres are required. Variances will be required for the minimum lot width, 200 feet is required and 50 feet has been provided, for the minimum front yard setback, 50 feet is required and 25 feet has been provided, for the minimum rear yard setback, 20 feet is required and 15 feet has been provided, for the minimum side yard setback, 15 feet is required and 7 feet is provided, and for the side yard setback both sides, 40 feet is required and 15 feet is provided. The board should determine the number of trees required per lot. The R-7.5 zone requires 4 trees per lot and the R-10 zone requires 6 trees per lot. The applicant should review the

plans to indicate that lot 1.28, the Open Space Lot containing the stormwater basin, is to be dedicated to the Homeowners Association. The board should determine whether the conservation easement should be dedicated to the Township or to the Homeowners Association.

Mr. Trescott stated there is a stormwater management basin proposed and the facility should be dedicated to a homeowners association. A design waiver is required for a side lot line of 1.28 which is not at a right angle to the street line beyond the setback line. Architectural drawings have been submitted by the applicant and garages are not proposed. Some of the footprints are not consistent with the architectural plan. Vehicular access from Prospect Street to proposed lots 1.01, 1.24, 1.25, 1.26 and 1.27 are to be restricted and should be shown with a notation on each lot. The applicant is proposing a twenty-five foot wide buffer along the majority of the north portion of the tract. The plans have been revised to show plantings in those areas as requested. A homeowners association should be established for the maintenance of the stormwater basin and the balance of the comments were technical in nature.

Ray Shea, Esq., appearing on behalf of the applicant. This matter was zoned by Judge Clyne in an action decided known as 319 Prospect Street v. Lakewood Township. The decision was not a settlement. It was a court ordered decision by Judge Clyne which said that an application should be submitted to the planning board for 27 lots. There was a sketch before the Judge similar to what is presented. The lot standards to be employed are those in the R-7.5 zone. There has been correspondence between Steven Pfeffer, his partner, the Township Attorney Steven Secare, and John Jackson. This is an application consistent with the R-7.5 provisions and you are to employ the bulk provisions applicable for the zone and that was the view of Steven Secare in his letter to Mr. Pfeffer dated April 18, 2005 acknowledging that he agreed with the contents of his correspondence to him. Mr. Hutchinson stated there was correspondence addressed to Mr. Jackson dated April 19th on that issue. Mr. Shea stated that the variances that are listed are not being applied for as they are not necessary in their view of the court order. He thought that was the view of Mr. Secare and Mr. Jackson.

Brian Flannery, P.E., was sworn in and his credentials were accepted. The reports were accepted with the exception of the stormwater basin. Mr. Shea stated they wanted the Township to maintain the basin and provide a payment for the same. There was no other reason for a homeowners association except for the maintenance of the basin. Mr. Flannery stated the application is for 27 single family lots in accordance with the court order. The 27 lots would be considered as a permitted use. He had a sketch of what was submitted as part of the court action which is capable with the plan. Sheet 2 of 9 was marked as A-1. The conceptual sketch dated February 11, 2004 was marked as A-2. A-2 indicates the R-7.5 zoning criteria and is consistent with what is shown on the subdivision plans submitted. The listed variances refer to variances from the A-1 zone. The A-1 zone is the two acre agricultural zone which was the underlying zone. The master plan indicated this area to be multi-family townhouses. The applicant submitted to the zoning board a multi-family application and the board came back with the single family. With regard to Mr. Peters' report, item 1 indicates the application, item 2 lists the variances that would be required if it was treated as an A-1 zone. Item 3 indicates the other approvals that would be required. They acknowledge that those approvals would be required. Item 4

indicates the board should determine the number of trees per lot between 4 and 6. Item 5 is the issue raised by Mr. Shea with regard to the homeowners association maintaining the basin. This development will be fee simple residential. The roadways are 50 feet wide which are conforming roadways in accordance with RSIS standards to be dedicated. The only item that would be the jurisdiction of a homeowners association would be the basin. Other subdivisions of this nature previously approved, the Township has maintained the basin. In multi-family applications, a homeowners association is formed and maintain the basin. He requested that the maintenance be done by the Township. Item 6 mentions a proposed conservation easement proposed along the easterly boundary. The indication is that it should be dedicated to the Township or a homeowners association. They wanted to dedicate the same to the Township. With regard to the planner's report, Item 1 is the dedication of the basin to the Township or a homeowners association. Item 2 indicates that a design waiver is needed on a lot line that is not radial. He felt it was an appropriate design waiver. Item 4 indicates the applicant submitted an architectural plan. It gives the typical units. Item 5 indicates vehicular access to the lots along Prospect Street should be restricted and they agreed to that. Item 10 indicates that they should comply with the Shade Tree Commission's recommendations. They had no problems with their recommendations. Item 13 indicates the outside approvals that are required. The only one he took exception to was CAFRA. They were under the threshold for CAFRA and they were not within their jurisdiction and did not need a CAFRA permit. They would get the other permits listed.

Mr. Banas asked if there were any wetlands on the property and Mr. Flannery replied that there were not.

Mr. Neiman asked about the history of this matter and why it went before the Court. He asked if R-7.5 was consistent with the area. Mr. Shea stated that the master plan recommended a medium density for townhouses on the site. It was zoned A-1 but the zoning was inconsistent with the master plan. In two weeks there would be a reconciliation between the zoning ordinances and the master plan. Mr. Neiman stated they went to the zoning board. Mr. Flannery stated they appeared before the zoning board for multi-family, duplex units. Across the street is industrial and High Point up the street. This board heard an application on a similar property that was between Windham and Heartstone and that went in the same format as this with 8,000 square foot lots with the R-7.5 criteria which is consistent with Heartstone. This would be consistent with Heartstone and less intense than the multi-family permitted in the master plan. Mr. Neiman asked about sewer. Mr. Flannery stated there would be public water and public sewer. Mr. Neiman asked about the design waiver. Mr. Flannery stated the planner has indicated that a design waiver is needed because the lot lines are not perpendicular to or radial to the street line. That relates to the detention basin. The basin is more in a free form situation to fit where it belongs. If they were proposing a house on the lot it would be unusual. It is a different situation because they were not proposing a house.

Mrs. Shravzblat asked about garages and if the driveways could accommodate three cars. Mr. Flannery stated that the driveways are large enough to accommodate three vehicles.

Mr. Dolobowsky stated that during the last meeting they heard from people in the area. There was discussion about extra buffering along where the existing houses are and the

houses along Massachusetts. Mr. Flannery stated it was shown on the plans that were resubmitted and indicated in the planner's report. That was the conservation easement they discussed. They proposed a variable width conservation easement along that easterly property line. It would be 25 feet wide along all portions except the second unit from the south due to the nature of where the lot is because of the cul-de-sac since the 25 foot easement would encroach on the rear yard. The easement is 15 feet for that lot. There are existing trees that are proposed there additionally. They added additional landscaping to provide a significant buffer along that property line. There is a fence shown along half of the property line in places where it is the steepest. Mr. Dolobowsky asked what was between the detention basin and the back yards. Mr. Flannery replied grass. It was going to be a grassy detention basin and it would look nice. There would be no reason to provide a buffer. They provided plantings between the roadway and the homes and between the roadways and the basin. Any homeowner could plant plants if they did not like it.

Mr. Banas asked the depth of the basin. Mr. Flannery stated it was about four feet. Mr. Banas asked about a fence around it. Mr. Flannery stated they would provide a fence around the basin.

Mr. Chermack asked about the variances. Mr. Shea stated that each lot meets the requirements for the R-7.5 zone.

Mr. Banas asked how many bedrooms there would be. Mr. Flannery stated there would be four to five bedrooms.

Mr. Chermack asked if it would be possible to have no parking on the streets. Mr. Flannery stated it was possible but he did not see a reason why the streets could not be used. The Township and the residents could prohibit no parking signs if the need was there.

Mrs. Wise asked about the footprints. Mr. Flannery stated that the architectural drawing was a typical plan. It depends on the buyers on each lot. They showed a typical on each lot and the grading plan. The units could be smaller or slightly different. The site plan would show exactly what would be built.

Mr. Banas opened the application to the public. Seeing no person wishing to speak for or against the application, Mr. Banas closed the public hearing.

Mr. Dolobowsky stated that Mr. Franklin would not want to maintain the basin. The new ordinances provide provisions for a payment in lieu of where the developer would contribute. Mr. Shea stated that he could offer the payment as a condition of the approval recognizing that it was not yet in the ordinance. With the new storm water quality regulations, he did not think that the Township would want homeowners associations regulating their basins. Mr. Flannery stated that the applicant was willing to commit to the contribution in accordance with the proposed ordinance. Mr. Banas stated that until the ordinances were approved, he would lean towards the homeowners association. After that, he thought they could petition for a separation. Mr. Shea stated that there was concern by the property owners to the north, the dedication of the property easement either goes to a homeowners association or the Township. Residents would be better protected if the easement were

enforced by the municipality. The conservation easement monuments could be enforced by the municipality. There are significant benefits in the municipality taking control over public safety and quality of life issues. These are issues dealing with quality of life and he urged the board consider the power of municipal enforcement. The applicant is offering to pay a fee commensurate with the size of the basin and the maintenance obligations to Lakewood. Mr. Flannery stated that other towns approve it conditioned upon an applicant reaching an agreement with the Township for the perpetual maintenance of the basin. If that fails, then a homeowners association would have to be approved. If the board would grant that, the applicant would have the ability to speak with the Township Committee and they would not have to come back towards the board. If the board approves it subject to an agreement with the Township Committee on the maintenance, the applicant has flexibility.

On motion by Mr. Chermack and seconded by Mr. Neiman, the payment in lieu of maintenance would be approved subject to Township approval.

Mr. Hutchinson stated that the payment is not known at this time. Approval to township maintenance subject to an agreement with the Township, if the agreement could not be reached a homeowners association would be created made sense.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, yes; Mrs. Wise, yes; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; Mr. Chermack, yes; and Mr. Ackerman, yes.

Mr. Banas asked about the fence around the basin. Mr. Flannery stated they agreed to the fence. Mr. Banas stated the number of trees to be provided was an issue. Mrs. Shravzblat stated the number was between 4 and 6. She felt that no hardship would be created by asking for six trees.

On motion by Mrs. Shravzblat and seconded by Mrs. Wise, the applicant would provide six trees per lot.

Mr. Dolobowsky asked if they were shade trees. Mr. Banas stated yes. Mr. Dolobowsky stated that shade trees have to be planted so many feet apart. Mr. Peters stated that 19-1.5 states the required number of trees. It does not specify shade trees or street trees. The R-7.5 zone requires four trees per lot and the R-10 zone requires six trees per lot. He was not aware that the R-7.5 zone was agreed to when he put it in his report. Mr. Banas stated that the setbacks were regulated by the Judge and the board could not deviate from that. The board could indicate to have six trees per lot and each lot was 8,000 square feet.

Mrs. Shravzblat asked if it could be six plantings, not just trees. Mr. Banas stated that the ordinance indicates that a tree is anything on the property or the street. Six was not very many.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, yes; Mrs. Wise, yes; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; Mr. Chermack, yes; and Mr. Ackerman, yes.

On motion by Mr. Dolobowsky and seconded by Mrs. Wise, the application as discussed was hereby approved.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, yes; Mrs. Wise, yes; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; Mr. Chermack, yes; and Mr. Ackerman, yes.

- 2. SD #1470** (Variance requested)
Applicant: MLJR LLC
Location: County Line Road East, between Brook Road & Somerset Avenue
Block 174.04 Lots 54 & 55
Preliminary & final major subdivision - 9 lots

Mr. Peters stated the applicant is seeking preliminary and final major subdivision approval for 9 residential lots on Kennedy Boulevard East within the R-15 zone. A variance will be required for the minimum lot width for a proposed 84 feet where 100 feet is required. The applicant should provide testimony as to the extent of improvements proposed for Kennedy Boulevard East as the plans are unclear. The completion of the proposed work by others as indicated on the plans should be made a condition of the approval. It appears that the applicant will be required to obtain approvals from the Ocean County Planning Board, Soil Erosion and Sediment Control, NJDEP permits for Treatment Works Approval and Water Main Extension and other approvals from outside agencies. The rest of the comments were minor in detail.

Mr. Trescott stated a bulk variance is required for lot 55.05 and the applicant has to address positive and negative criteria. The applicant has submitted a Natural Resource Inventory. The applicant proposes to restrict vehicular access to Kennedy Boulevard from proposed lots 55.01 and 55.09. We are in agreement and recommend that the restriction be shown on each lot in the final plat. Vehicular access to County Line Road from proposed lots 55.04 and 55.05 will be restricted and should be noted on each lot on the final plat. The proposed street name is under review by the Police Department to confirm that there is no duplication. The applicant should submit the response from the Police Department. Proposed shade trees were submitted for review by the Shade Tree Commission and the applicant should address their letter of April 6, 2005. A bond must be posted to guarantee the removal of the structures that would be raised on the tract if they are not removed prior to the signing of the plat. The balance of the comments are technical in nature.

Abraham Penzer, Esq., appearing on behalf of the applicant. The board may recall that this was not heard last month.

Brian Flannery, P.E., was sworn in and his credentials were accepted. The application is for nine single family residential lots as indicated in the review letters they were seeking a variance for one lot. The lot on the southerly end of the proposed cul-de-sac due to the nature of the property they were indicating a lot width of 84 foot where 100 foot is required. The ordinance allows the measuring of the lot width by the definition perpendicular to the

lot depth at the set back line. If they did that, they would show a lot width that conforms. They could make this argument. They were showing a house that fits in and providing a setback from County Line Road as well as a dedication along County Line Road. The remainder of the lots conform in all aspects. They were looking for a C variance in accordance with the ordinance. The benefits outweigh the detriments. They have a subdivision that will provide needed housing. They could use N.J.S.A. 40:55D-2(e) which indicates to promote the establishment of appropriate population densities and concentration that would contribute to the well-being of persons, neighborhoods, communities, regions and preservation of the environment. This was the appropriate density. They were not exceeding the densities. Several lots exceed the area. This application has one variance on a lot that conforms with the area. The positive criteria in this case is the highest and best use of the property and meeting the goals stated in the Municipal Land Use Law. The negative criteria in his opinion was non-existent. It was on the end of a cul-de-sac. The square footage is slightly in excess of 15,000 square feet. With regard to the engineer's report, item 1 is information. Item 2 indicates the variance. Item 3 asks about signage. They were not proposing any signage. Item 4 indicates that testimony should be provided regarding the improvements to Kennedy Boulevard. Kennedy Boulevard is presently being developed just to the west of their site. They will take it from where it stops across the entire frontage of their site and extend the cul-de-sac into the site. The catch basins is currently under construction and if the work is not done, it would be required prior to this development and they acknowledge that as a condition. The rest of the comments were minor and technical in nature and they agreed to comply with them. Mr. Penzer stated crosswalks would be provided. Mr. Flannery stated that with regards to the planner's report, item A was informational. Item B was the variance. Item C1 was information. C2 indicates that they need restrictions on the vehicular access which they agree to. The remainder of the comments were minor and technical in nature and they agreed to them.

Mr. Banas asked the homes in the surrounding area. Mr. Flannery stated that the homes along County Line Road are R-15 lots. They front on the roads. There is Brookhill Development has cluster lots. To the west there are R-15 lots done by Somerset, then there are the Villas. Mr. Banas asked if they were all single family homes. Mr. Flannery replied they were.

Mr. Dolobowsky asked about the buffer. Mr. Flannery stated they would be in a staggered five foot row off County Line Road. One of the comments from the Shade Tree Commission was to go with the different species than the pine tree and they would comply with the same.

Mrs. Shravzblat asked if the lot could be arranged to avoid the variance. Mr. Flannery stated they could but the alternative was not good. With the cul-de-sac and the other lots, the one lot was smaller. They could build less houses but if you provide needed housing and comply with the intent, they could get this number of lots but it was not a good alternative with the houses fronting on County Line Road. The developer did not want to do this. Mrs. Shravzblat asked about the architectural plans. Mr. Flannery stated they provided typical dwellings that would be constructed. They do not have the specific plans at this time.

Mr. Banas asked about East Kennedy Boulevard. Mr. Flannery stated that proceeding on Kennedy Boulevard East is anticipated to be a four lane roadway. They would be building half of the roadway, two lanes.

Mrs. Wise asked about the size of the driveways and if they were big enough to accommodate two to three cars. Mr. Flannery stated that the subdivision has to comply with the RSIS standards for the type of houses that they were proposing which require three cars per house. There will be parking for three vehicles on each lot and parking on the street would be in addition to that.

Mr. Chermack asked about the traffic pattern once Kennedy Boulevard is improved. Mr. Flannery stated that it would come out to Somerset at some point in the future. It would function as a normal two lane roadway. At some point in the distant future, it will be four lanes, with two lanes in each direction. The traffic could go out west to Somerset. It could continue to the entrance way of the Villas or it could go through the Brookhill Development and take some of the back roads and get out to Brook Road.

Mr. Dolobowsky stated that these are upscale houses. Mr. Flannery stated some of the units would have one car garages and some would have two car garages.

Mr. Banas opened the application to the public. Seeing no person wishing to speak for or against the application, Mr. Banas closed the public hearing.

On motion by Mr. Dolobowsky and seconded by Mr. Herzl, the application was hereby approved as discussed and the variance was granted.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, yes; Mrs. Wise, yes; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; Mr. Chermack, yes; and Mr. Ackerman, yes.

- 3. SP #1811** (No variances requested)
Applicant: Yeshiva Nesivos Ohr Inc.
Location: corner of Oberlin Avenue South & Vassar Avenue
Block 1602 Lot 1

Change of use site plan from existing manufacturing and warehouse to proposed school.

Mr. Peters stated the applicant is seeking preliminary and final site plan approval for the change of use of a portion of an existing building into a school at the intersection of Oberlin Avenue and Vassar Avenue within the M-1 zone. No variances are required for this application. The applicant should provide testimony as to the ages of the students at the school, the number of students and staff anticipated, and the number of bus trips per day. The applicant should provide testimony as to the specific uses within the remaining portions of the building. The plans indicate the proposed warehouse portion if the building will be Phase II of the school. The applicant should provide testimony regarding the timing of the phasing. The applicant should add a new fire hydrant near the play area as requested by the fire department.

Mr. Trescott stated the applicant should describe the operational characteristics of the facility including the following: the proposed number of students to be educated on site, the proposed number of classrooms, the anticipated number of school buses visiting the site on a daily basis, the proposed hours of operation, and the services that will occur on site. The applicant should describe the operational characteristic of the existing industrial and proposed warehouse uses and the compatibility of these existing and proposed uses with the proposed school. The testimony should address truck deliveries and circulation, as well as storage of materials. The owner should discuss whether there would be any well as storage of materials. The owner should discuss whether there would be any adverse odors, noise or other effects of the industrial uses which would adversely impact the proposed school use. The site plan indicates that there are a total of 101 parking spaces on the property. There are 30 spaces for the school, 30 spaces for Shachihata and 31 spaces for the warehouse. The ordinance requires one parking space per classroom or 15 spaces. The Shachihata portion of the facility will be 29,600 square feet and the warehouse will be 18,000 square feet. Computations to support the proposed parking for the industrial and warehouse uses have been submitted. Testimony should be providing concerning the site circulation. Truck parking should be discussed. The applicant should provide testimony on the proposed school phasing plan. The applicant should clarify how parent drop-off will occur and at what location. The applicant proposes one dumpster for all three uses. The applicant should clarify how all the uses will obtain access to the dumpster.

Abraham Penzer, Esq., appearing on behalf of the applicant. He stated that all of the review comments were testified to by Rabbi Stortz. He would review them again.

Brian Flannery, P.E., was sworn in and his credentials were accepted. The application is for a change of use which initially would have three phases on site. The existing Shachihata facility would maintain a portion of the warehouse in the back of the site and a portion of the offices. There will be a wall with two separate uses. The school would take the office area in the front part of the site and there would be a warehouse remaining in the back. There is not a user for the warehouse at this point. It would simply be for storage. Mr. Penzer stated the applicant clearly intends to operate the entire building for the school. The absolute approval being sought is for the entire building. The phasing would be in two steps with a total time of five years.

Mr. Dolobowsky stated that it was really three phases. They were showing phases one and two with phase three later.

Mr. Flannery stated that with regards to the planner's report, item one indicates what the application is about. It was a change of use. The anticipated construction is only for the recreation area. Fencing will be installed on Vassar Avenue. Gates will be installed at the parking area on both ends. The gates will be closed and the area would be used for recreation. Gates are being used because if you need more parking, the gates could be unlocked and opened up. This would only be after hours. Internally there would be the construction of a wall to separate the two uses. No variances are requested and they are here for permitted uses. The proposed number of students initially would 130. In Phase II in five years it would be 225 students and in ten years, the final phase, there would be 360 students. The proposed number of classrooms would be 11 initially and 18 on

phase II. The anticipated number of school buses would be three initially, drop off and pick up, and phase II would have five and phase III would be eight. The arrivals and dismissals would all be staged so you would not have the 8 buses there all at once. The initial hours of operation would be from 9 a.m. to 5 p.m. and they would be expanded from 7:30 a.m. to 6 p.m. The services that would occur on site would be typical educational services. The Shachihata business is a printing facility. All the work takes place inside. There are no objectionable odors or noises. All the truck deliveries would be off Vassar Avenue into the loading dock and back out the same way. The front loop is designated for buses only. The front is for parking. Parents could drop off at one of the parking spaces if the buses were there. If there were no buses, they could pull up front. The warehousing has little need for the dumpster. The office use has a door in the rear. The school would have to walk the garbage to the dumpster. The school is aware of it and they have no problem. Mr. Penzer stated that the first two phases would be done in five years and the third phase within ten years. Mr. Flannery agreed. The Shachihata has a five year lease with a five year option so it was possible that they would not be able to get that portion for ten years if the lease is renewed. Mr. Flannery stated that with regard to the engineer's report he addressed everything. Mr. Flannery stated that there are stand pipes on the building and they added them to the plans. There is a fire hydrant across the street which was added on the plans. He requested that that not be required.

Mr. Banas asked if adequate signage was provided. Mr. Flannery replied yes. The details were on the plans. The front entrance was for school buses who make a left and all others make a right. The truck would be directed to the Vassar Avenue entrance.

Mrs. Shravzblat stated she was concerned about the warehouse and the other business and if it could be restricted for storage. Mr. Flannery stated that the school would want the same restriction. They would have no problem with that. Mrs. Shravzblat asked if there were reports with regard to the printing business. Mr. Flannery stated there was a phase one audit which they would submit to the professionals as a condition of the approval.

Mrs. Wise asked about the handicapped spot in the back area. Mr. Flannery stated that the handicapped spots are in the rear.

Mr. Dolobowsky stated he would like the professionals to review the phase one audit report. He wanted to see the warehouse deed restricted. Mr. Penzer stated that they were getting a mortgage from the bank. The bank cleared them and they would be closing on the property in the beginning of June. The bank was concerned also.

Mr. Chermack asked the kind of traffic that the Shachihata gets. Mr. Flannery stated it was basically their employees, which is 20. They indicated that they wanted 30 spaces. They have an excess of spaces and the planner indicated that. Mr. Chermack asked about the entrances. Mr. Flannery stated that the vehicles know the traffic and they could use the Vassar Avenue entrance. Oberlin Avenue is an entrance only. The employees have to go out on Vassar Avenue. The commercial traffic is limited to the rear.

Mrs. Shravzblat asked if there were details on the proposed playground equipment. Mr. Penzer stated the details were on the plans. Mr. Banas stated it was all game time equipment.

Rabbi Stortz was sworn in. He stated the school would occupy 15,000 square feet in the north west part of the site for the first five years. The amended site plan was marked as A-1. It was outlined. That will take the school to 225 students with 9 classrooms. He indicated to the right, northeast, area would be phase II which was currently an empty warehouse. It would be used with an additional 8 classrooms and a gym. This would take the next five years. At that point, Shachihata's lease runs out and they would be able to occupy the rest of the building. Mr. Banas asked about the lease. Rabbi Stortz stated that the lease they have now starts when they close for five years and they have to optional three years leases. It would be a maximum of an 11 year lease. Mr. Penzer stated no external changes were being made except what was previously discussed this evening. Rabbi Stortz stated everything is existing.

Mrs. Shravzblat asked if there was landscaping. Mr. Trescott stated that based on what is there presently, there was landscaping that was appropriate and sufficient for the application.

Mr. Banas opened the application to the public.

Larry Simons, Lakewood, was sworn in. He stated there would be 130 students, then 225 students and in ten years 360 students. He asked if that would be the total added together or a maximum of 360. Mr. Flannery stated the maximum is 360 students. Mr. Simmons asked about the parking spaces, 30 were for the school, 30 were for the business, and 31 were for the warehouse. That only adds to 91. Mr. Banas stated that there was extra spaces that were designated for a specific use. Mr. Simmons asked who would have access to the ten empty spaces. Mr. Banas stated that they would be empty.

Seeing no further person wishing to speak for or against the application, Mr. Banas closed the public hearing.

On motion by Mr. Neiman and seconded by Mr. Dolobowsky, the application was hereby approved as discussed. He was unsure about the second entrance. Mr. Banas stated that the applicant agreed to have the trucks come in on Vassar Avenue.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, yes; Mrs. Wise, yes; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; Mr. Chermack, yes; and Mr. Ackerman, yes.

Mr. Banas called a brief recess. The meeting was reconvened.

4. **SD #1475** (Variance requested)
Applicant: Sean Kohn for Congregation Bnei Moishe
Location: Shafto Avenue, south of County Line Road
Block 148 Lot 2
Preliminary and final major subdivision - 3 lots

Mr. Peters stated the applicant is seeking preliminary and final major subdivision approval for the creation of three lots for the construction of three single family homes on Shafto Avenue within the R-10 zone. A variance will be required for minimum lot area where 10,000 square feet is required and 7,848.80 square feet for each lot is provided. A variance will be required for minimum lot width where 75 feet is required and 48.33 feet for each lot is provided for each lot. A variance will be required for the minimum side yard setback where 10 feet one side and 25 feet combined is required and 8.33 feet one side and 18.37 feet combined for each lot is provided. A variance will be required for maximum lot coverage where 25% maximum coverage is permitted and 28.5% lot coverage is provided. The applicant will be required to obtain approvals from Ocean County Planning Board, Soil Erosion and Sediment Control and NJDEP for Treatment Works approval. Evidence that these permits have been obtained should be made a condition of final approval. An easement agreement should be submitted to the board's attorney for review. The legal description of the easement should be submitted to the board's engineer. There are various comments with regard to the Map Filing Law.

Mr. Trescott stated the applicant requests preliminary and final major subdivision and variance approvals to create three undersized single family building lots. Off-street parking, concrete sidewalk and curb are also proposed. The plan indicates that each of the lots will be served by public water and sewer. The site is in the R-10 residential zone and variances are requested as described by Mr. Peters. Ocean County Planning Board approval will be required. The existing dwelling and garage and well and septic system should be removed prior to the plat being signed or bond posted. The number of off-street parking spaces for each lot (3 spaces per lot) complies with the RSIS standards based on five bedrooms per dwelling as shown on the architectural plans. There was a reference to an 8 foot fence on sheet 3 and is not consistent with the proposed 6 foot fence shown on sheet 5. This needs to be reconciled. The board may want to consider reducing the fence height in the front yard.

Abraham Penzer, Esq., appearing on behalf of the applicant. This is a very difficult application to him. He was honored to represent Chana Halpert who is a four year old girl who is a quadriplegic. From her neck down she has no control. From the neck up she is totally normal. He was humbled by the warmth and kindness of the Jewish community. There are thousands of people who have decided to help this little girl and bring her to a quality of life that she does not enjoy. Approximately two and a half years ago she was in a car with her parents. Her mother had a brain injury. They gave up hope on her. Rabbi Schenkowleski fought for them to bring her back to life. She is almost normal except that she cannot handle her daughter's injury or take care of her. The problem comes about that Mr. Halpert has the problem of taking care of the family and his wife and needs outside care to help him take care of his daughter. His daughter needs 24 hours, 7 days a week care. There are only 22 facilities in the entire United States that have a ventilator that she can live on. In New Jersey there is a facility in Voorhees. The problem

is that if she is taken out, the line is so long to use the ventilator that they cannot take her back. The decision is so important that they want to give this young lady a quality of life. To achieve it, a tremendous amount of thought, consultations with experts, a tremendous amount of money had to be raised and a tremendous amount of infrastructure had to be. There is between five to seven people who go to the facility to help take care of her. There is a machine that makes this child, by computer, that makes the pages turn so instead of living a life of nothing in an institution, this machines gives her the ability to be able to turn pages so she can read or look at things her level. She likes company. She was asking her father to come home. In order to do this, the entire Jewish community has united to raise the money, to raise the manpower and to make a facility. All the people want to give her a quality of life. He has a burden to prove whether or not this is an inherently beneficial use and therefore belongs in this neighborhood or not. He has to give the board the history so they could judge it since they are a quasi-judicial body which must make findings of fact that he was going to present to them. Before he did he wanted to give a broad scope of what the law is and where he went. In his research, he researched case law in New Jersey as well as the entire United States and there was a sort of mandate that came from the President of the United States. He has two speeches that President Bush made which were supplied to Mr. Jackson. He complimented Mr. Jackson for his help and provided him a copy of all his research. The first document was regarding the ADA, entitled The Disabilities Rights Movement, A Brief History, which starts off explaining the history and states as follows: "A pivotal moment in the history of disabilities rights may have been the admission of Ed Roberts to the University of California, in Berkeley in 1962, paralyzed from the neck down due to a childhood bout with polio, Roberts overcame opposition to gain admission when he was housed in a campus hospital. The headline in the local newspaper proclaimed helpless cripple attends UC classes. Within a short period of time several other men and women with disabilities joined him on campus dubbing themselves the rolling quads because all these students were quadriplegics that had no control of their bodily function from the neck down. They banded together for better services, for permission to live independently rather than at a hospital. They started moving and went to the US office of education and what they argued, and what the President has argued, and Governor Codey has argued, that people who are disabled should not be institutionalized. We should try and make them independent. They live longer, they are happier and they have rights." In 2001, there was a case that made President Bush mandate that money should be put aside to take people out of institutions and put them into houses. In fact, to a certain extent, this case which Tommy Olstead, et al. v. Elsie, 527 U.S. 581. Some parts are absolutely amazing. One item is that if you keep someone in an institution when you have the opportunity to take them out that is discrimination under the law. "Unjustified placement or retention of persons in institutions severely limit their exposure to the outside community and therefore constitute a form of discrimination based on disability prohibited by Title 2. Undue institutionalization qualified is discrimination by reason of disability." This is how the ADA was born and how the laws have come because the United States Supreme Court says if you have an opportunity to take somebody out of an institution and you do not put them in a home than you are discriminating against their rights, even a child of four years old. He shepardized the case and it is quoted by every attorney general and New Jersey is one of the few states that Robert Wood Johnson has received a grant that New Jersey is one of the pilot states that they want people to go out of institutions and they want them to go into houses. Nobody realizes that

disabled people have a right. He quoted a footnote that the attorney general of the United States when he argued the case before the Supreme Court states “the preamble to the attorney general’s Title II regulations defines “the most integrated setting appropriate to the needs of qualified individuals with disabilities to mean “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.” That is what the law is. There is a mandate to make people go with other people who are not disabled. This is a mandate and is a beneficial use. He had three speeches from the President and takes about the ADA and it seems that every year the President makes a speech and talks about how important it is. In the latest speech, all this time he was talking about how to make physical and mental facilities. The President now talks about how Americans with disabilities have a lower level of education than those without disabilities and why people with disabilities can be employed even quadriplegics and he says “the administration will work to ensure that all Americans have the opportunity to learn and develop skills, engage in productive work, choose where to live and participate in community life.” This represents an important step in achieving the goals. They are now talking about educational opportunities. They are also talking about promoting home ownership. “Home ownership has always been the heart of the American dream.” This past year, Congress passed the American Home ownership and Economic Opportunity Act which reforms federal rent assistance to give people who qualify the opportunity to purchase a home. One section specifically refers to permit people to get out of institutions. In increasing independence, home ownership also promotes savings. It talks about how that will cut the Medicare costs down. He urged the board that he would give the copies and they would see what they were saying. To summarize all of this was an article that came from Washington, entitled President Bush signs Homestead Order, that as a result of all these actions that the President went “the order implements the United States Supreme Court’s homestead ruling from 1999 that decision says that states must make plans to provide services with people with mental disabilities at home rather than an institution whenever possible.” Bush’s order applies to all Americans with disabilities. It gives them options to live at home rather than in institutions when possible and allows them to be independent in the process. He also implemented section 508 of the rehabilitation act which took effect and the grant that was given to the Robert Wood Johnson. The program though is for 18 years of age or over. There is a mandate from the President that requires it. He passed the research and speeches around. It was their position that this use was an inherently beneficial use. He had 15 cases which clearly state that it is in the domicile and in the responsibility of your job to make inherently beneficial uses happen. The board knows N.J.S.A. 40:55D. The magic words are public, health, wealth and welfare. He attended an ordinance meeting with Mr. Dolobowsky and others. In the preamble in the new ordinance it states that health and welfare was an issue that the planning board should grapple. He did not know a bigger issue than a child who was so totally destroyed who wants to come home. Meridian Hospital v. Borough of Point Pleasant, 225 N.J. Super. 490 (App. Div. 1999) cert. denied 163 N.J. 80 (2000). In this case, the Appellate Division said that even if you have a part, a nursing home or hospital is an inherently beneficial use. Even if it is something that helps the hospital or nursing home, that is also an inherently beneficial use and the planning board could grant the variance without any difficulty. Baptist Homes Society of New Jersey v. Township of West Orange, Appellate Division 1293-00T2 (2001) an unpublished opinion which said very clearly that for assisted living that is an inherently beneficial use and the record is that unless shows that there would be such a public detriment the planning

board is instructed that that is an inherently beneficial use. The next case which is fascinating is *Medical Center at Princeton v. Township of Princeton Zoning Board of Adjustment*, 343 N.J. Super. There the question was does a hospital have to have a parking lot. Is a parking lot an inherently beneficial use. The Court says that if you find something to be integrated does not have to be the inherently beneficial use. The board will hear testimony why do we need houses, why not one. Unfortunately, the child's mother cannot handle it. Therefore, there is a woman who has agreed to dedicate her life to take care of this child. Her name is Chana Shore. As long as she can live next to her parents she has an infrastructure. The first house is her parents. The second house will be for her. The child's life is in her hands. The hospital will not release the child until they are absolutely convinced that every base is covered. They earned their respect. They need all three houses. The first house will be for Ms. Shore and her family. The floor plan shows where the ventilator is, where the care giver is. There is no area for someone to visit. Her dining room will be the area if the child gets visitors. She wants to thrive on people. The second house is for Ms. Shore's sister so if she needs to do something there is someone to be there. The third house is the parents. The parents have to live close by because they are hoping that as she gets older, Chana will leave the house and visit her mother and interrelate with her. They need all three. It was his legal opinion that although there are two other houses, they are integrated. *Scholastic Bus Company, Inc. v. Zoning Board of Borough of Fairlawn*, 740 Atlantic 2d 657 (App.Div. 1999). This shows an inherent beneficial use. Next is *Smar of New York, Inc. v. Borough of Fairlawn Board of Adjustment*, 152 N.J. 309 (1998). *Pierson States Inc. v. Bridgwater Township Zoning Board of Adjustment*, 303 N.J. Super 507 is another case. *Children's Institution v. Vorona Township Board of Adjustment*, 290 N.J. Super. 350 (App. Div. 1996) indicates that anything that you can take care of for handicapped children is an inherently beneficial use. *Mercuiro v. Delvecchio*, 285 N.J. Super. 328 (App. Div. 1995) cert. denied 144 N.J. 377. The next three cases is *Carrie Ninex New Brunswick Cellular*. The key case is *Seca v. Wall Township*, 127 N.J. 152 (1992). The Court said that a head trauma center or anything to do for head trauma is something that is an inherently beneficial use. The cases do not draw distinction if it is one person or more. The Court is talking about whether or not it is an inherently beneficial use. The next two cases are *Jayber v. Municipal Council*, 238 N.J. Super. 165 and *Homes of Hope Inc. v. Mount Holly Township Zoning Board of Adjustment*, 236 N.J. Super. 584. The board has to determine whether or not the use is an inherently beneficial use. The child has not been out of the institution in two and a half years. The size and dimensions of the three houses cannot be changed. If the board has to find that they have to make it smaller, then the child is stuck because they consulted with the leading architect in New York who does not do anything but design houses for disabled children. They tried every way possible to make the houses work. He was begging the board for the little child that they find that it was an inherently beneficial use.

Brian Flannery, P.E., was sworn in and his credentials were accepted. Architectural renderings of the three houses were marked as A-1. Sheet 3 of 7 of the plans revised through 6/5/05 were marked A-2. This shows the layout of the three lots. The landscaping plan was marked as A-3. The architectural floor plans dated October 19, 2004 were marked as A-4. The nature of the application is a three lot subdivision. There are bulk variances. The subdivision is for property located on Chaffo Avenue just south of County Line Road. The variances were listed by the board's professionals. Lot area of 10,000

square feet is required. They provided three lots each of 7,848 square feet. Lot width required is 75 feet and the lots have a width of 48.33 feet. Lot coverage maximum is 25% and they were proposing 28.5% for the three lots. Side yard setbacks are 10 feet and combined of 25 feet, they were requesting a side yard setback of 8.33 feet and a combined side yard setback of 18.33 feet. The planner's report lists a fence height of 8 feet. This is a permitted use and a variance was not needed. Mr. Penzer thanked the neighbors for helping them but they wanted an eight foot fence and deposit \$10,000 in his trust account for the installation of the eight foot fence. Mr. Banas stated that the planner indicated that sheet 3 did not correspond with sheet 5. They each had to different sizes. Mr. Flannery stated that it was listed under C4. The eight foot was what they were proposing. In order for the board to grant the variances they are C-2 variances which the Municipal Land Use Law says that the board could grant the bulk variances where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance and the benefits of the deviation would substantially outweigh any detriments. The benefits were indicated by Mr. Penzer. The benefits are clear and do not need to be discussed further. The law is clear. The benefits of the application are perfectly clear. They have to look at the detriments. All the drainage, parking and traffic which are all in accordance with the normal standards and have been addressed. The buildings as indicated are nice buildings and will fit well into the area. If any of the neighbors think there is a detriment, he was sure that they would tell the board. The law says that the benefits of the deviations have to substantially outweigh the detriments. There are no detriments. The benefits are abundantly clear. He felt that the board could grant the same without any detriments to the zoning plan or zoning ordinance.

Mr. Dolobowsky stated he did not object to the eight foot fence but did not think the ordinance permitted the same in the front yard. Mr. Flannery stated it was not permitted in the front yard. Mr. Dolobowsky asked what it would drop down to in the front. Mr. Flannery would agree that the front would be four foot but they wanted to ensure that the neighbors were in agreement with that. They requested that the board take into consideration the wishes of the neighbors. Mr. Flannery stated that the front fence would be four feet. Mr. Penzer stated that the head of the neighborhood group was Mr. Birnbaum. He gave his time and he would be next door to the needed area. Mr. Dolobowsky stated he had two sets of plans or would different houses be built. Mr. Penzer stated that one house is for handicapped and two houses. Mr. Dolobowsky stated that two houses are not accessible by ramp, only one is. The third house would have an aluminum ramp that goes in and out. Mr. Penzer stated that the girl would not live in the other two houses. She would be living in the first house, the handicapped house. Mr. Dolobowsky asked about the driveways. He thought that the driveway where the girl would be would require a wider space for a handicapped van. Mr. Penzer thought that it was a good idea and it should be provided for.

Ellie Halpert, father, was sworn in. He stated his daughter was 4 and a half years old and his wife could not take care of her. The first house would be for Mrs. Shore and her children to take care of his child. Mr. Penzer stated this was the house to the extreme right. The middle house is the Torsky house and the third house would be the parent's house. He needs assistance to take care of his daughter. Mr. Halpert stated that his daughter is quadralapedic and on a ventilator. She cannot breathe normally and there

are issues like pneumonia and emergencies could arise if something gets blocked. It requires round the clock supervision because if the machine stops, the lungs could get block and there are only three minutes. This is why they need a care giver. The ventilator is making it very complicated. They have to have it set up where the Shores are provided with enough backup. His daughter could not be left unattended. With Mrs. Shore's sister available, she would be able to have assistance. Mrs. Shore realizes that it is a tremendous undertaking and knows that she could not do it alone. Her sister would be able to fill in in a pinch. It could not be set up a few hours in advance. This will give Mrs. Shore the piece of mind. The first house is set up for the Shores with an elevator. The emotional issues are also a problem. The nature and love of a regular family are also needed. His daughter is being fed through a feeding tube. She is now fully awake and able to eat. Tests were done. She is not eating because she is not in a normal setting where she sees the other children eating. She has no desire to eat regularly. He felt that the feeding tube would be able to be removed within two months after being moved. She requires care and nature from a family. They were trying to set it up in a way where she would receive the medical attention and the emotional needs would be met. The elevator would be a way for her to get to the top floor to integrate with the family. This will allow her to feel normal. The second house is for Mrs. Shore's sister to help her. Mrs. Shore needs backup and requested it. The backup is very important. Without backup, it would not be successful. The third house was for him so they could be near her. His wife was not able to provide the care. His daughter is excited about coming back to Lakewood. She would be able to go out of the house and could play with his son. They would be part of her life. All three houses were necessary to make this happen.

Mr. Banas asked how large the ventilator was. Mr. Halpert stated it was about one foot tall and about two inches thin. It could be placed on the back of the wheelchair and she could drive it. Somebody has to be next to her but she could do everything on her own. He explained the floor plan of the house. The ramp would be alongside the house. Her room is in the back. The idea of the design is to provide for as much room for her independence. They were providing for five foot wide hallways for her to maneuver by herself. Her home is large so it could contain a standing device, an area for the ventilator and equipment that is needed to help with the ventilator. The bathtub opens up. The elevator shaft is next to the bathroom. The dining room would be used for visitors. There is no area for her to meet unless it was in the bedroom or dining room. Mr. Penzer stated that Mrs. Shore has six children and the rooms are upstairs. Mr. Halpert stated that the second and third house were for the families to live next door. The homes do not need to be accessible. The hallways were not accessible. The sizes were based on the plans prepared by the architect. Mr. Banas asked why his house would have to be the same size as the house his daughter would be in. Mr. Penzer stated that each family is growing. They would not be able to move. The homes could not be added on to. They have to take the position what would be the maximum amount of children they would have. There would be enough room in the future. Both sets of grandparents live out of town and will come to assist. They were single family homes. Mr. Halpert stated that his parents would not be living there, but they would be visiting as would his wife's parents.

Mr. Banas stated that item #5, SD #1467, and item #SD #1474, would not be heard. SD #1467 and SD #1474 would be heard on May 24, 2005.

Mr. Hutchinson stated that SD #1467 and SD #1474 would be carried to the Special Regular Meeting on May 24, 2005 at 6:00 p.m. No further notice was required of the applicant.

Mr. Penzer stated that parking should be provided for a van. There is a school that will be making accommodations for her to attend classes. Mr. Halpert stated the school board knows about her and will be providing the transportation. His van was a modified van with a ramp and felt that the driveway was wide enough. Mr. Trescott stated the driveway for her house would have to be widened. The lot coverage would be increased. Mr. Flannery stated that the driveway coverage is not an issue. The variance is requested for the buildings not the driveways. The widened driveway would add an additional seven foot of pavement. Mr. Penzer stated there is an issue with regard to the ramp for the parent's house. Mr. Halpert stated that there are aluminum ramps that do not require variances that could be installed. There is one currently on the Shore's house. They were not indicating a ramp because it could be added without approvals. Mr. Banas did not think that was acceptable. He felt that it should be permanent. Mr. Penzer stated they would agree to put the ramp in.

Mr. Penzer stated that he has the architect who will just tell the board that he was in consultation with the leading architect.

Baruch Framovitz, architect, was sworn in and his credentials were accepted. He stated he consulted with Todd Rosenblum who specializes in making homes for disabled children that are ADA compliant. The building was designed with his approvals. They both designed it. It was partially designed by the nurses and doctors. The bathroom took at least ten hours to design. There are a lot of issues that had to be considered. The bathtub is in the middle of the room. There has to be room for a stretcher in the bathroom as well as storage. There are a lot of medical supplies which need to be stored. Mr. Banas stated that he did not think anyone on the board wanted to deprive the health for the child. The board sympathizes with them. He asked if there is anything that would be needed in this house that was not provided for. Mr. Framovitz stated was a visiting room so they decided to combine it with the dining room. They tried to keep it very open so there was room for her to interact. Mr. Banas stated that it was also to get them to live as a family. Mr. Framovitz stated that the other two houses are not very big houses compared to what is currently being built. It was a typical house with no more than five bedrooms.

Mr. Dolobowsky asked about the ramp on the parents house and he wanted the location specified on the plans.

Ray Carpenter, P.E., was sworn in and his credentials were accepted. He drew the plans and the ramp could be located without any problems since they were similar to the first house.

Mr. Banas asked if there were basements in the homes. Mr. Penzer replied that there would be unfinished basements. Mr. Neiman suggested one utility for each home. Mr. Penzer replied there would be only one utility for each home.

Mr. Banas stated he was troubled that all three homes had to be the same size. He could understand one big house with two smaller houses or something similar to reduce some of the variances. Mr. Flannery stated that the homes were for two families which they did not know how many children each would have. Mrs. Shore's sister has a family and she may have a larger family. This had to be accommodated. There would be visitors to the house. They did not want to make a house that was too small. These are not excessively large homes.

Mr. Chermack asked about the average number of people there would be currently each day. Mr. Penzer replied seven to ten. They did not have the luxury of moving. They could not come back to the board to do an addition. They could go smaller once inside, but they could not go bigger. Mrs. Shore has six, soon to be seven children. Mrs. Tursky would be having children as well. They would be permanently planted there and they have no choice. They could not make it smaller. Once the child is move there, the child cannot move and the parent cannot move. Mrs. Shore is now going to move over to Mrs. Tursky's house now. The first house would end up as storage and medical equipment and would not be able to accommodate the children as they grow older. They really did not have a lot of choices. They were locking it in forever.

Mr. Banas opened the application to the public.

Harry Edenfield, 1503 Berkowitz Avenue, was sworn in. He expressed his sympathy for the family. He looked at the pictures and asked if it could be one large building. He thought they could have looked for property that could handle the building sizes. He stated that every tree on the lot was already taken down. He hoped the decision would allow everyone to live happy. He felt changes needed to be made to the plans.

William Hobday, Lakewood, was sworn in. He heard nothing about an alternate power source that may absolutely be required for this child in the event of a power outage. There needs to be a continuous power source to ensure that the child is safe. He felt that the planning for the buildings were terrific. They were trying to squeeze the buildings on a very, very undersized lot. He did not believe that there was a lot in Lakewood or their congregation that a sufficient lot could not be acquired to house this project. He felt that they would regret it later that they cannot expand in the future.

David Donah, Lakewood, was sworn in. He agreed that they should look to see if there is another property that could accommodate this application. In this specific area, there is no property to obtain. He looked around himself and the only thing was to go way out.

Seeing no further person wishing to speak for or against the application, Mr. Banas closed the public hearing.

Mr. Penzer stated that they did look for other property but the care giver will not undertake this unless she has her sister on one side and her parents on the other. They paid doubled

for this lot to accommodate Mrs. Shore. There is no other place for them to go. Mrs. Fried does not drive and this was the furthest she would go out because neither she nor her husband drives. There was no choice. The child cannot live with the parents because the mother cannot deal with it so they cannot do it in one house. Mr. Banas suggested looking for a diesel generator rather than a battery generator.

On motion by Mr. Chermack and seconded by Mr. Neiman, the application was hereby approved as discussed and granting the required variances.

Mr. Banas stated he was for the child but he thought the two homes were too large for that space and it was overcrowded.

Mr. Neiman stated he knew Mrs. Shore's family and he understood what Mr. Penzer was saying because they were locking themselves to these three homes forever.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, no; Mrs. Wise, no; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; Mr. Chermack, yes; and Mr. Ackerman, yes.

Mr. Banas called a brief recess. The meeting was reconvened.

IV. MEMORIALIZATION OF RESOLUTIONS

1. SP #1801A (No variance requested)

Applicant: Yeshivat Keter Torah

Location: Apollo Road, west of Squankum Road
Block 104 Lots 57 & 60

Site plan - proposed two temporary school buildings

On motion by Mr. Herzl and seconded by Mr. Dolobowsky, the resolution were hereby memorialized.

ROLL CALL: Mr. Herzl, yes; Mr. Dolobowsky, yes; and Mr. Ackerman, yes.

2. SP #1807 (Variance requested)

Applicant: Georgian Court University

Location: Lakewood Road and Eighth Street
Block 45 Lot 1

Change of use site plan from residence to offices

On motion by Mr. Ackerman and seconded by Mr. Dolobowsky, the resolution were hereby memorialized.

ROLL CALL: Mr. Herzl, yes; Mr. Dolobowsky, yes; and Mr. Ackerman, yes.

- 3. SP #1808** (Variance requested)
Applicant: Bais Rivka Rochel
Location: River Avenue (Route 9) between Spruce Street & High Street
Block 782 Lot 77
Change of use site plan from nursing home to school and dormitories

On motion by Mr. Ackerman and seconded by Mr. Dolobowsky, the resolution were hereby memorialized.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Dolobowsky, yes;
and Mr. Ackerman, yes.

- 4. SP #1803** (No variance requested)
Applicant: Stamos & Somers
Location: corner of Cedar Bridge Avenue & New Hampshire Avenue
Block 1603 Lot 1.02
Preliminary and final site plan for proposed industrial building

On motion by Mr. Ackerman and seconded by Mr. Herzl, the resolution were hereby memorialized.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Dolobowsky, yes;
and Mr. Ackerman, yes.

- 5. SD #1465** (Variance requested)
Applicant: John Brown
Location: Pine Street and Arlington Avenue
Block 774.03 Lots 2, 6 & 12.03
Minor subdivision to re-configure 3 lots (no new lots proposed)

On motion by Mr. Herzl and seconded by Mr. Ackerman, the resolution were hereby memorialized.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Dolobowsky, yes;
and Mr. Ackerman, yes.

V. CORRESPONDENCE

None at this time.

VI. APPROVAL OF MINUTES

None at this time. Mr. Kielt noted that he sent a schedule out of when the minutes and resolutions were due.

VII. APPROVAL OF BILLS

On motion by Mr. Dolobowsky and seconded by Mr. Neiman, the submitted bills were hereby approved for payment.

ROLL CALL: Mr. Herzl, yes; Mr. Neiman, yes; Mr. Banas, yes; Mrs. Shravzblat, yes; Mr. Dolobowsky, yes; and Mr. Ackerman, yes.

VIII. PUBLIC PORTION

None at this time.

Mr. Banas stated that the minutes of the County Planning Board looked good. He felt Lakewood was doing a good job. He asked if the board approved Washington Square Estates. Mr. Kielt replied that the Zoning Board approved that. Mr. Banas asked what a rain garden was and the professionals would look into it. He stated there was a special meeting on May 24th and asked the members to bring their calendars since they had to schedule meetings to review the ordinances being introduced by the Committee.

IX. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,
Elaine Anderson
Planning Board Recording Secretary