

**LAKWOOD PLANNING BOARD
MINUTES
JUNE 28, 2005**

I. 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.”

II. ROLL CALL: Mr. Herzl,
Mr. Franklin,
Mr. Miller,
Mr. Banas,
Mrs. Wise,
Mr. Dolobowsky,
Mr. Chermack (arrived late), and
Mr. Ackerman (arrived late).

Also present were: Attorney John Jackson,
Engineer Maxwell Peters (arrived late) and
Planner Marty Truscott.

Mr. Banas asked if there were any changes to the agenda.
Mr. Kielt noted there were no changes.

III. NEW BUSINESS

1. SD #1476 (Variance requested)
Applicant: J Wei Assoc LLC
Location: Pine Boulevard and River Avenue
Block 423 Lots 20, 21, 22 28 & 75
Preliminary and final major subdivision - 39 townhouse units and 1 clubhouse

Mr. Ackerman arrived at the meeting.

Mr. Truscott stated the applicant is seeking preliminary and final major subdivision approval for the creation of 40 residential townhouse lots and one commercial lot on Lakewood Pine Boulevard and River Avenue within the HD-7 zone. A variance will be required for minimum front yard setback. A minimum of 25 feet is required, 18 feet has been provided. The setback is measured to the building steps; the distance to the face of the building is 25 feet. Variance will be required for lot 75.29, the commercial lot, for minimum lot area and minimum front yard setback. A minimum lot area of 1.0 acres is required, 0.96 acres have been proposed. A minimum front yard setback of 150 feet is required, 57.6 feet has been provided. This is an existing condition. 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. The applicant shall provide for a homeowners association to maintain the stormwater management system and the common off-street parking spaces. The homeowner's association agreement shall be submitted for review. The applicant should provide testimony as to the use for lot 75.29. The board should determine if the 41 pull-in parking spaces will be considered as off street parking. Off street parking is defined as parking spaces located outside of the right of way. The pull-in parking spaces are shown halfway in the right of way. These parking spaces account for one third of the off street parking spaces required under RSIS. The applicant has indicated 20 additional on-street parking spaces will be provided. The proposed cartway width allows for a sixteen foot wide travel way and two eight feet wide parking lanes. The layout is in conformance with RSIS standards for neighborhood streets. The applicant should provide testimony as to any proposed development signage and provide the location and size of any proposed signage. The applicant shall label the pipe size and material used for the storm sewer lines located in the rear of the lots. The applicant has provided a traffic impact study for the proposed project. The study indicates the intersection of Pine Boulevard with Route 9 should be re-striped to provide dedicated left and right turn lanes. The board should determine if the applicant will be required to petition the Township Council to re-stripe the intersection.

Mr. Truscott stated the applicant is seeking preliminary and final major subdivision, major site plan and variance approvals to construct 39 townhouse units, one clubhouse and necessary improvements. The property has frontage on Route 9 on Lakewood Pine Boulevard. The tract 6.09 acres in area and now consists of four tax lots. The property contains one residential dwelling which will be removed and a commercial structure which will remain. A front yard setback to the steps of the townhouse units is 18 feet where 25 feet is required. The length of the building containing units 75.35 through 75.41 is 210 feet where a maximum of 200 feet is permitted. Lot 75.01 has a lot area of 0.96 acres where a minimum lot area of 1 acre is required. The existing front yard setback of the commercial building on lot 75.01 is 52.6 feet where a minimum of 150 feet is required which is an existing condition. The applicant must address the positive and negative criteria for the requested variances. Off-street parking must comply with RSIS standards. The applicant will provide two spaces in the front of each unit and 41 spaces. This was covered by the previous report. The applicant should present information concerning the use and operation of the clubhouse building. An open space lot is proposed on the west side of the site. Play equipment will be located on this lot. The ownership and maintenance of this lot should be addressed, including tree maintenance and protection and common areas should be owned by a homeowners association. The applicant indicates solid

waste and recyclable collection will be via roll-out cans. Prior to the issuance of a C.O. a homeowners association should be established. The applicant has submitted a traffic study by McDonough & Rea Associates dated April 22, 2005. The planning board should review the conclusions of the traffic report regarding the re-striping of Pine Boulevard and it should be reviewed with the police department. The applicant proposes to dedicate the proposed streets to Lakewood Township. On-street parking should be discussed with the planning board, particularly in connection with snow removal, garbage and recyclable collection. The comments of the Shade Tree Commission should be addressed. The applicant should provide information addressing compliance with the landscaping and buffer requirements of ordinance #03-05. Additional landscape screening should be provided behind units 75.02 through 75.06 and along unit 75.28. Landscaping should be provided on both sides of proposed Shilo Road at the entrance to the development. Sidewalk is now proposed along the property frontage on Lakewood Pine Boulevard, the sidewalk is omitted on Sheet 2. A bond should be posed to guarantee the removal of structures. Filing of the subdivision must comply with the Map Filing Law. Architectural floor plans and elevations were submitted. The proposed street names should be reviewed by the Police Department.

Ray Shea, Esq., appearing on behalf of the applicant.

Brian Flannery, P.E., was sworn in and his credentials were accepted. As indicated by the planner, they were looking for a couple of variances which he believed were minor in nature. The front yard setback from the roadway requires a variance where 25 feet is required. The building complies with that, the steps do not. The new ordinance which the Township is proposing to adopt does exclude steps from the setback. If that ordinance was in place, this variance would not be needed. Additionally, it is consistent with other developments of this type. Due to the configuration of the property, they would have to take away from some of the rear yards of the units. What is proposed is appropriate and meets the intent of the ordinance. Buildings 75.35 through 75.41 are 210 feet where 200 feet is allowed. This is the unit just north of the L-shaped portion of the property. The building is 210 feet. Usually the buildings are 26 feet wide and you are allowed to have eight of them for 208 feet. The variance could be eliminated but the reason they were asking for it was because they provided a clubhouse on the end of this building. If there were no clubhouse as part of this development, they could have more. They feel this is a better planning alternative and it was appropriate. He felt the relief requested was diminimous. They were not interfering with any site triangle easements. The third variance is with respect to the commercial building. The commercial is along Route 9 and is being separated from the commercial. One acre is required for the commercial, it was a 200 x 200 lot which gives you .96 acres. Virtually meeting the intent and is referred to as a builder's acre. It was an existing building and the relief was diminimous. The final item for relief is the front yard setback, 52.6 feet is existing which was consistent with the ordinance when the building was built. The ordinance now requires 150 foot front setback. The building pre-dates the ordinance. The variance is technical in nature. The buildings have been there for a long time and he felt the board could grant the variance without any detriment to the zoning plan or zoning ordinance. They were not touching the building at all. The purpose of this application is to create the property for residential use. The commercial could have been done as a minor subdivision. They prepared a plan to do that. When you look at the positive and negative criteria, the variances could be granted without any detriment.

Mr. Flannery stated that the application was for 39 townhouses, one club house lot and an open space lot. Lot 75.29 would be used for a clubhouse. Parking is discussed in both professionals letters. There are a total of 117 parking spaces proposed. Forty-one of the spaces are pull-in spaces. It was head in parking off the right-of-ways. They could move them further into the site if the board wanted. It was similar to other projects that were approved. The snow plowing and maintenance of the roadways would be incorporated into the responsibilities of the homeowners association. Around the cul-de-sac there is an additional 20 spaces which they did not include in the calculations for three spaces per unit. There is no signage proposed at this time. Any signage would be informing and permits for the same would be sought. A traffic study was done which indicates that the intersection should be re-striped. They agreed that would be a condition of the approval. The homeowners association would maintain and own the open space lot. They did receive the letter from the Shade Tree Commission and they did provide additional landscaping and would agree to other comments from the board's professionals. Mr. Shea stated the applicant is willing to post a bond for the removal of the structure on the site. Mr. Flannery stated that they comply with ordinance #03-05 and they would provide the additional information requested.

Mr. Peters and Mr. Chermack arrived during Mr. Flannery's presentation.

Mr. Dolobowsky asked what was on lot 75.01. Mr. Flannery stated that lot 75.01 is the commercial. Then lot 75.02, 75.03 through 75.42. Mr. Dolobowsky asked what lot 20.04 was. Mr. Flannery replied that was the corner lot. Mr. Dolobowsky asked what the two commercial buildings were. Mr. Flannery replied that they were doctors' offices. Mr. Dolobowsky asked what the rear setback was on the lots in connection with the variance for the rear setback. He was on page 1 of 2 where it says rear yard setback 50 feet required, 29.6 feet existing. Mr. Flannery stated it was the existing building to the back lot line. Mr. Dolobowsky felt that could be corrected since they were creating a new development. Mr. Flannery stated they have more setback in the other units. The lot lines exist and the buildings are set further than the others. There is a slither of lot 20.04 that goes behind the other lots. It was an existing condition. The building and lot line were existing. It was not noted because they were not creating it. Mr. Dolobowsky felt that they were creating it. Mr. Flannery stated that the slither is like a flag lot portion that came from the lot. Mr. Dolobowsky felt that they could give up 21 feet. Mr. Shea stated that it would not change the variance at all. Mr. Dolobowsky stated that if five buildings were eliminated there would be 21 feet more along the road. Mr. Shea stated that Mr. Jackson and Mr. Flannery discussed the "flag lot" portion. Mr. Truscott stated they were not reducing or increasing the lot line.

Marshall Weissman, 240 Oak Knoll Road, Lakewood, was sworn in. Mr. Shea stated that the addition of the portion of this lot would not affect the existing condition. Mr. Weissman stated that lot 20 was not going by them. The existing condition of the building has a 29 foot setback. The other thing they bought from them was a slither that was attached at the end. The 29 foot setback would remain regardless. Mr. Dolobowsky stated there was an existing lot 20 which had a flag pole as part of it. They removed the flag pole and incorporated it into their lot. So they were doing a subdivision at the same time. When someone comes before the board they discuss where the division would

take place. Mr. Jackson agreed and felt that it required a variance. They were taking a piece from the lot. Mr. Dolobowsky stated it was not addressed but it is shown on the plans. It is pre-existing. Mr. Flannery stated that from a planning perspective it does not make sense. Mr. Weissman stated he could give him the land and 25 feet of the land so he would not be within the setback. Mr. Dolobowsky stated it was listed as a variance to be granted but the applicant was not the owner. Mr. Jackson stated that it is a subdivision matter as well. The property owners within 200 feet of lot 20 would also have to be notified. Mr. Flannery replied that they did. Mr. Jackson did not think that the issue would fit the hardship criteria but it might fit the criteria where the benefits outweigh the detriments. If this can be shown, the variance could be granted.

Mr. Banas asked who should be asking for a subdivision of lot 20, the applicant or the owner. Mr. Flannery stated that as the contract purchaser, they could. Mr. Jackson stated that the current owner would have to join in the application. Mr. Kiert stated that when the initial submission was made, lot 20 was part of the entire tract. Mr. Flannery stated that on the map there is space for the signature of the owner of lot 20. There are two owners that would be signing.

Mr. Dolobowsky asked about the 20 spaces not designated. Mr. Flannery stated that if parking is permitted on both sides, an additional 20 spaces could be available. If parking is not available on both sides, there would be about 10 spaces available. If parking was limited to one side, they would limit it to the side where they could get the most parking. Mr. Dolobowsky asked where they were proposing parking on. Mr. Flannery replied on Heckel Street. Mr. Dolobowsky did not like when cars were backing out of the pull-in spaces with cars behind them and through traffic. He was going to propose no parking on the one side. Mr. Flannery felt that that made sense. Mr. Dolobowsky stated that there are a lot of nose-in spaces on Heckel for handicapped. There is also nose-in parking by the clubhouse. He was concerned about snow removal. Mr. Flannery stated they were doing their own snow removal. Mr. Franklin stated the problem with pull-in is that they put it behind the cars and they throw it back. Mr. Dolobowsky felt that parking should be eliminated on the opposite side of the nose-in parking areas.

Mr. Franklin stated that no one really monitors the parking on the streets. He felt that if the streets were four feet wider it would work better. The garbage costs were going up because of similar developments. Mr. Flannery stated they could provide 32 foot wide cartways. If it was further, there would be no room for utility easements and driveway aprons. Mr. Franklin stated that the two foot strip between the road and sidewalk be eliminated. Mr. Flannery stated that was the driveway apron. Mr. Franklin stated the apron could be on the side of the sidewalks. Mr. Flannery stated an additional problem would be the clean outs. RSIS allows a 28 foot wide road and they were going to 32. Mr. Shea stated that Title 39 should be used to enforce. Mr. Weissman stated that the gas, electric and water companies indicated that they want the utilities in that grass strip and not in the sidewalks. Mr. Peters agreed about the grass strip being needed to get the elevation. He was not sure if everything could be moved back to accommodate Mr. Franklin's request. Mr. Shea did not think they would have the room if the driveways were shortened.

Mr. Banas opened the application to the public.

Jackie Gonzalez, 1835 New Central Avenue, Lakewood, was sworn in. She stated the applicant indicated that he does not own lot 20. Mr. Shea agreed. Ms. Gonzalez asked if the owner knew. Mr. Shea stated that it was included in the contract to purchase. Ms. Gonzalez asked if Mr. Weissman was the only affiliate of J Wei Associates LLC. Mr. Shea replied that Mr. Weissman was the only affiliate. Ms. Gonzalez asked if it was a new street that the building would be on. Mr. Shea stated they are existing streets. Ms. Gonzalez asked if it was public housing. Mr. Shea it would be open to the public. Mr. Weissman stated it has not been advertised yet because it was not approved yet.

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

Mr. Flannery stated the lot that runs out to Pine Boulevard would be left as open space. This would be a buffer area. Mr. Jackson asked if it would be deed restricted. Mr. Flannery stated it was a part of each lot and was in an area that is covered by building setback lines. Nothing could be built there. Mr. Banas stated that sheet 2 of 10 has no identification of what that piece belongs to or who. Mr. Flannery stated that sheet 2 of 2 shows it.

Mr. Dolobowsky stated sheet 2 of 2 does not show it. Mr. Flannery stated that the lot line wraps all the way around and goes to the front. Mr. Dolobowsky stated that he could not tell that. Mr. Flannery stated it was part of lot 75.34 which is the lot on the corner. They would deed restrict the same.

Mr. Banas stated that on the key map it shows as lot 28. Mr. Flannery stated it was correct but it was now part of lot 75.34. It would be deed restricted for conservation. Mr. Peters asked about the entrance on Shilo Road and the buffer area on the left hand sign and if it should be a separate lot. Mr. Flannery replied yes and they would provide the same.

Mr. Flannery stated the application is well below the density permitted by ordinance. The ordinance allows ten units per acre. The new ordinance allows 8 townhouses or 16 dwelling units per acre. They were coming in with an application that provides needed housing and a clubhouse. It provides a play area. All the information requested has been provided and the application is in accordance with the zoning.

Mr. Franklin asked if the only service was garbage collected. Mr. Shea stated that was correct and it could be included in the resolution.

Mr. Peters asked if the road would be dedicated to the town or owned by the homeowners association. Mr. Banas replied that it would be owned by a homeowners association.

Mr. Dolobowsky stated that there would be a lot with a huge lot behind them and that the homeowner and the association would keep the lot clean. Mr. Flannery stated they could make it a separate lot. Mr. Shea stated they have no objection to that. Mr. Truscott felt that would be easier.

On motion by Mr. Dolobowsky and seconded by Mr. Miller, the application was hereby

approved with the variances, the items discussed, the subdivision of the long lot to be owned and maintained by the homeowner's association, the township will only provide garbage collection, the homeowner's association will own the street and make the repairs. There will be no on street parking directly behind any of the nose-in parking spaces.

ROLL CALL: Mr. Herzl, yes;
Mr. Franklin, yes;
Mr. Miller, yes;
Mr. Banas, yes;
Mrs. Wise, yes;
Mr. Dolobowsky,
Mr. Chermack, abstain; and
Mr. Ackerman, abstain.

- 2. SD #1477** (Variance requested)
Applicant: Regency Row LLC
Location: East 7th Street, west of Somerset Avenue
Block 208 Lot 132
Block 222 Lots 11-13
Preliminary and final subdivision - 5 lots

Mr. Peters stated the applicant is seeking preliminary and final major subdivision approval for 5 residential lots along Est Seventh Street within the R-12 zone. The applicant is required to obtain approval from outside agencies. The board should determine if lots 4 and 9 should be dedicated to the town or deed restricted. They are both open space lots. The board should determine if the shade tree easement and utility easement can be done in the same area. Two separate easements were recommended to reduce conflicts. The board should determine if sidewalk is required along East Seventh Street. The applicant has required a waiver of the stormwater volume reductions required under the RSIS. We do not recommend the board grant this waiver. The applicant should at a minimum reduce the post development flows to less than the predevelopment flows. There are minor comments on stormwater management.

Mr. Truscott stated the tract is in the R-12 zone. The following variances are requested: lots 4, 5, 6, 7 and 8 have a minimum lot width of 50 feet where 90 feet is required; lots 4, 5, 6, 7 and 8 have a front yard setback of 25 feet where 30 feet is required; lots 4, 5, 6, 7 and 8 have a side yard setback of 7.5 feet where 10 feet is required; and lot 4 for a combined side yard setback where 22.9 feet is provided and 25 feet is required, lots 5, 6, 7 and 8 have combined side yard setbacks of 16 feet where 25 feet is required. The applicant must address the positive and negative criteria for the requested variances. Lot 133 Block 208 is listed in the application form, the NRI and the wetlands map. However, it is not identified on the final map and subdivision drawings. For consistency, the documents should reference the identical lot numbers. The useable rear yard of many of the proposed dwellings will be limited due to the proximity of the freshwater wetlands buffer line to the rear building line of each of the proposed dwellings. The status of the NJDEP wetlands permitting be discussed. The applicant is proposing a "buffer averaging plan" which is submitted to DEP approval. Proposed lot 9 is an open space lot. It is landlocked and appears to be within the freshwater wetlands area. The future disposition

of this lot should be discussed with the board. A bond should be posted to guarantee the removal of the structures on the tract if they are not removed by the time that the plat is presented for signature. The board may consider a conservation easement for the wetlands portion of each of the proposed lots. The balance of the comments were technical in nature.

Abraham Penzer, Esq., appearing on behalf of the applicant. The site development plan was marked as Exhibit A-1. Mr. Monford's elevations were marked as Exhibit A-2. No two houses were alike. Each house was unique. He stated they agreed to the sidewalks.

Brian Flannery, P.E., was sworn in and his credentials were accepted. The application is for five lots in the R-12 zone. All of the lots have in excess of 12,000 square feet. The property in total is 2.156 acres. The density typically for an R-12 would be 3 1/2 units per acre. They provided 2.3 dwelling units per acre. They were requesting relief from some of the bulk standards. In going through Mr. Peters report, item one is information, item two indicates the additional approvals that they would need. The rear of the site is wetlands which are indicated on the plans. There are five residential lots proposed and an open space lot with paper streets to access it. It is an area that is unbuildable because of the wetlands. There are comments to deed restrict it which they will do and dedicate it to the town. It was lot 9. Lot 4 has some wetlands on it but it also has a dwelling on it. There would be a conservation easement on the wetlands portion. Mr. Penzer stated this addresses item seven of the planner's report. Mr. Flannery stated that item four deals with the shade tree and utility easements. They were providing the area adjacent to the right of way as a shade tree and utility easement since his office has been doing plans in the area. He felt there was no harm in calling it a shade tree and utility easement. Sidewalks would be provided. Item six refers to the stormwater management to the site. The roadway already exists. They were proposing the dwellings and driveways. They provided recharge systems for the roof runoff and recharge into the ground. For the two years storm, they reduced the predevelopment flow by 50%, for the ten years storm by 75% and for the 100 year storm they reduced it by 100%. If you build the roadways with the units, you provide for the same. Here the reductions are problematic because all they have is the roof and the driveway. They can comply by making impervious driveways. They would agree to that if the board wanted. He would prefer to pave the driveways and request a diminimous exception to the RSIS requirements. Mr. Peters stated he agrees that the driveways should be paved. He felt that increasing the size of the recharge system would let them get down to the existing flow. Mr. Flannery stated they would enlarge the recharge system to the size the engineer felt was appropriate. They would provide the information requested in item seven. With regard to the planner's report, the variances they were requesting were for lot width where 90 feet is required and they are provided 50 feet on four of the five lots. Lot 4 has the width because it has wetlands associated with it. A variance is needed for the front yard setback where 30 feet is required and they have 31 feet to the building itself. The steps are in the front area. They would prefer to keep the land in the rear. They would not want to push the units further in the back closer to the wetlands. Mr. Penzer stated that the new ordinance would not constitute steps in being in the front yard setback. Since the planners and the town have taken that position, they were beyond that. A side yard setback where 7.5 feet is proposed and 10 feet is required. A combined side yard setback where 25 feet is required and 22.9 feet is provided on lot 4 and 16 feet on the

other lots. If you look at the proposed architectural, due to the unique shape of the property, they are proposing houses that have more depth than width. They feel that the proposed setbacks provide adequate area for use of the units. The architectural is a first class job and the units will be an improvement to the area. Mr. Banas stated that looking at the type of homes in the areas, these homes would stand out. Mr. Flannery stated that immediately adjacent yes, but in the same zones they would not. He described the different uses in the area. He felt it would fit in the area and would not stand out as a sore thumb but stand out as something nice. Item one references lot 133. Lots 132 and 133 were merged which they will make consistent on all the documents. Item two indicates the rear yards which were discussed. They submitted the wetlands applications to the state. Proposed lot 9 is the open space lot. Items five and six were minor in nature. Item seven was the conservation easement which they agreed to. Item eight is the comments of the Shade Tree Commission. They are advisory in nature and they will take direction from the board's professionals. Item 9 is the outside approvals.

Mr. Dolobowsky asked about lot 4 and why it was not subdivided. Mr. Flannery stated if the board would prefer that they would do it. They could put a conservation on it.

Mr. Chermack stated lot 4 is a flag lot and suggested that the lot lines be moved over so there would not be setback issues. Mr. Flannery stated there were wetlands and wetland buffers in that area. Mr. Banas asked if they were putting monuments in the wetlands area. Mr. Flannery replied that they were.

Mr. Banas opened the application to the public.

Jackie Gonzalez, 1835 New Central Avenue, Lakewood, was sworn in. She objected to the application since the owner did not obtain the property legally. Mr. Banas stated that was not a concern of this board. Ms. Gonzalez asked the board not to approve the application since the property was not obtained legally. Mr. Jackson stated that the board could consider the allegation but there was no indication or any kind of proof to indicate that the property was obtained illegally. In order to respect the integrity of the process, he felt it was prudent not to agree without any kind of concrete evidence. Mr. Banas stated the place to make the claim would be at the prosecutor's office. Mr. Jackson stated it was not up to the planning board to decide if ownership was obtained legally or not.

Mr. Miller stated that if the court found the same was obtained by fraud, the court would order an injunction. Mr. Jackson replied she could hire an attorney and seek advice. It was not up to the planning board to give advice to an objector. The board heard the comments and would be guided accordingly. Mr. Banas stated to take it up with the prosecutor or the attorney general if she had proof. Mr. Jackson stated you could also contact an attorney and seek whatever recourse the civil courts would provide.

Thomas Rosenberg, Lakewood, was sworn in. He felt it was a nice project and was in support of it.

Reuel Topas, 319 East Seventh Street, was sworn in. He was glad to see this project coming in. He thought it would be an improvement to the area. It was the right type of housing for the area.

Martin Eovea, 596 East Seventh Street, was sworn in. He was in support of the project.

Aaron Kaplan, 351 East Seventh Street, was sworn in. He was in the house three doors down from the project. He felt it would be a nice project and hoped it was approved. He stated he has septic and it was nice that sewer would be brought down the street.

Meir Hertz, Miller Road, Lakewood. He stated he was the principal of the project. He thanked the board for hearing the application this month. The property was acquired by him through a foreclosure and a sale. He had documentation regarding the acquisition of the property.

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

Mr. Banas stated the applicant asked the board to decide the outcome of lots 4 and 9. Mr. Penzer stated they were open to what the board decided. They felt the best thing was to give it to the town or draw the lot line from each house straight back. No matter what happens, the property would have to stay in its nature state. Mr. Hertz stated that none have access to a paper street. Mr. Miller stated that he thought the town would accept but he would leave it to Mr. Franklin regarding the maintenance. Mr. Franklin stated it could not be maintained because it was flood land and the township could not go on it. The homeowners would want to keep it clean and it would contribute to the entire flood area. He felt that it was all in the flood plain and that the township could obtain ownership. Mr. Jackson stated there was a comment to rely on Mr. Franklin's opinion. A member can use their knowledge of experience and not as a professional or expert. Mr. Franklin replied that was correct. Mr. Penzer stated that they understood that and they waive any type of objection whatsoever regarding the same. Mr. Dolobowsky asked about lot 4 and if it made sense to have the applicant subdivide lot 4 so the lot does have a full 12,000 square feet or a bit more, but it would leave a 8,000 or 9,000 square foot lot similar to lot 9 that could be dedicated to the township. Mr. Flannery stated they have no objection to leaving 12,000 square feet in lot 4 and subdividing the remainder. The width would be smaller. A conservation easement could be placed on it and it would be the same anyway. Mr. Franklin stated then the homeowner would have to maintain it.

On motion by Mr. Dolobowsky and seconded by Mrs. Wise, the application was hereby approved with the monumenting of the buffer lands through the back yards so the homeowners know where the wetlands buffers begin and granting the requested variances.

Mr. Jackson wanted the issue with regard to the lots clarified. Mr. Banas stated that lot 9 would be offered to the Township for their open space inventory. Lot 4 would be a conservation easement.

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

- 3. SD #1478** (Variance requested)
Applicant: Martin Lewin
Location: corner of Cedarview Avenue and County Line Road West
Block 39 Lot 4
Minor subdivision to create two lots

Mr. Peters stated the applicant is seeking minor subdivision approval for two residential lots on County Line Road West within the R-12 zone. A variance is required for the minimum lot width where 90 feet is required and 65 feet has been provided on lot 4.02. A variance will be required for the minimum lot area where 12,000 square feet is required and lot 4.01 has 10,905.7 square feet proposed and lot 4.02 has 8,028 square feet proposed. A variance will be required for the minimum front yard setback where 30 feet is required and 15.8 feet is proposed for lot 4.01 and 15 feet is proposed for lot 4.02. A variance will be required for the minimum side yard setback where 10 feet is required and 7.9 feet has been provided on lot 4.02. A variance will be required for total side yard setback where 25 feet is required and 15 feet has been provided on lot 4.01. This is due to the property having only one side yard. The applicant has indicated that the tax assessor approved the proposed lot numbers. The applicant shall provide a signature block for the tax assessor. Evidence of the tax assessor's approval for proposed lot numbers must be provided prior to filing of the map. The applicant shall provide testimony as to the location of existing parking areas and to how three parking spaces will be provided for each dwelling. The board should determine if shade tree easements are required along Cedarview Avenue and County Line Road West.

Mr. Truscott stated Mr. Peters listed the required variances. The applicant must address the positive and negative criteria for the variance requests. The subdivision if approved would remove the existing non-conformity of two principal residences on one lot. The proposed subdivision line is not perpendicular to Cedarview Avenue. A design waiver is required. The applicant is subject to approval of the Ocean County Planning Board and must comply with the provisions of the Map Filing Law. The subdivision plat has been revised to indicate a proposed bituminous driveway on lot 4.01. The dimensions and specifications of the proposed driveway should also be provided. A shaded area, approximately 25 feet by 30 feet is shown on new lot 4.02. If the area is intended for parking, it should be labeled as such. The applicant submitted a letter indicating the lot numbers have been approved by the assessor.

Abraham Penzer, Esq., appearing on behalf of the applicant. The property currently has two houses. Mr. Lewin would like to subdivide the property and give each of his children a lot. The issue is that although there are a number of variances. They were not doing anything to the house. They were just drawing an imaginary line. They were trying to keep the situation exactly the way it is. They were just giving a lot to each child. Dividing the property takes away the non-conformity. All the variances are existing as they stand right now. Nothing is changing except changing the line. This would be more in tune with the neighborhood with having a house on each lot rather than having two houses on one lot. Granting the variance would not be a detriment to the zoning plan. They agree to items two through 4 of the planner's report. The plans will be reflect the parking for the area on lot 4.02 and item six was informational. With regard to the engineer's report, item one was information, items two through six were the variances, item seven would be complied with. The board has to decide if the shade tree easement is needed. There is more than enough parking.

Martin Lewin, 1425 Cedarview Avenue, Lakewood, was sworn in. He stated he lives three doors away from the property. In front of 4.02 there are four parking spaces and for 4.01 there is an existing driveway curb on County Line Road where a parking lot could be put in with a parking lot so there would be no backing out onto County Line Road. Mr. Banas asked where the parking was on lot 4.02. Mr. Peters stated the blackened area. Mr. Lewin stated it comes straight out onto Cedarview.

Mr. Dolobowsky stated if the variance is granted for lot 4.02 for the 7.9 foot setback and later on someone wants to build a new home, can they use 7.9 foot or do they have to conform with the proper building envelope. Mr. Lewin stated there is a lot that is three foot wide that he was in the process of purchasing from the township that would make it 10.9 feet. Mr. Peters stated that if the house is knocked down, then the variance is abandoned and they would have to come before the board of adjustment for side yard setback or they would have to build a house within the envelope.

Mr. Miller confirmed that the township did offer the three foot strip, lot 5, for sale and Mr. Lewin won the bid.

Mr. Dolobowsky stated he has no problem with the 7.9 foot. He just wanted clarification.

Mr. Banas stated he has a problem with lot 4.01. They would be opening a driveway on County Line Road. It was a congested road. He suggested to open it on Cedarview Avenue. Mr. Lewin stated he had no problem doing that. There was an existing driveway lip that he was going to use. He would provide the opening on Cedarview Avenue.

Mr. Dolobowsky asked where it would be placed so it was not too close to the corner. Mr. Banas stated it was close to the property line. Mr. Dolobowsky felt it would have to be moved up to the corner to get pull-in spaces. Mr. Penzer stated it could be moved about five feet off the house. Mr. Lewin stated there was an existing driveway lip on County Line Road. Mr. Dolobowsky stated there was no driveway just a curb cut. Mr. Penzer stated there could be a turn around in the rear of the house. Mr. Lewin was concerned about the driveway going over the septic tank. Mr. Banas stated he did not like that. Mr. Dolobowsky wanted to know if there would be enough room. Mr. Peters

expressed his concerns and recommendations. Mr. Banas asked about a cross easement for both dwellings. Mr. Penzer stated it could be done but where would the parking be. Mr. Banas stated between both buildings on the lot line. Mr. Penzer suggested putting in nose-in after the septic. This is the only way it would work.

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. Miller and seconded by Mr. Herzl, the application was hereby approved granting the variances and the variation to the parking area.

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

- 4. SP #1815** (Variance requested)
Applicant: Sharon Tal
Location: West County Line road and Kennedy Boulevard West, east of Heathwood Avenue
Block 42 Lot 1
Preliminary and final site plan - 9,970 square foot office building

Mr. Peters stated the applicant is seeking preliminary and final major site plan approval for a two story office building with access from Kennedy Boulevard West with additional frontage on County Line Road West in the OT zone. A variance will be required for the minimum front yard setback where 25 feet is required and 15 feet has been provided along County Line Road West. A variance will be required for the maximum permitted building height of 25 feet and the architectural plans indicate a height of 36 feet 6 inches. The applicant is required to obtain Ocean County Planning Board approval. The applicant should provide testimony as to any proposed development signage and provide the location and size of any proposed signage. The plans must be signed by the owner in the presence of a notary public prior to receiving the board's engineer's signature. The board should determine if shade tree easements are required.

Mr. Truscott stated site improvements include a parking lot for 33 vehicles, drainage facilities, landscaping and lighting. The tract is located in the OT office transitional zone and professional office uses are allowed in the OT zone. A variance is required as indicated for the 15 foot front yard setback. A variance is also needed to allow 33 off-street parking where 50 spaces are required. A height variance is not required because the height is measured from the finished lot grade to the top ridge line. The site plan and the architectural drawings should indicate that the basement will be limited to storage only. The site plan has been revised to indicate the correct parking ratio in the OT zone of one

space per two hundred square feet per the ordinance. A total of 50 spaces are required and 33 spaces are proposed. A five foot buffer is now shown along the portion of the site which borders a residence. Landscaping is now provided between the parking area and the sidewalk on Kennedy Boulevard West and is acceptable. The applicant has provided additional landscaping along County Line Road. However, foundation plantings on the south side of the building are also recommended. Architectural elevations and floor plans have been submitted.

Ray Shea, Esq., appearing on behalf of the applicant.

Brain Flannery, P.E., was sworn in and his credentials were accepted.

Mr. Shea stated the building will be a first class building. He explained the variances.

Mr. Flannery stated the application is for an office building of 9,990 square feet with parking for 33 vehicles. The comments of the professionals other than the variances are minor in nature and they would comply with them. They acknowledged that they need Ocean County Planning Board approval. There is no signage proposed. If they decide to, they would submit for a sign permit. If the sign permits conforms with the ordinance, it would be easy. If the board wants a shade tree easement they would provide the same. Mr. Banas stated the board wanted one. Mr. Flannery stated they agreed with the planner regarding the height. The information will be shown on the plans and a variance is not needed. The basement would be limited to storage. The parking ratio has been indicated. The OT zone requires one parking space per 200 square feet. In other areas, parking is allowed at one space per 400 square feet. Industry standard is one space for 300 square feet which is what they provided. A doctor will be in one portion of the building and only uses the office on a part time basis on Tuesdays and Thursdays afternoons. He felt that the parking was sufficient as proposed. Mr. Banas asked about the new ordinance. Mr. Flannery stated the new ordinance allows one space for 300 square feet. Under the new ordinance, this conforms. The only variance would then be the front yard setback. They were requesting 15 feet to maximum the use of the site. They would provide additional buffering as requested by the board. He felt the variance could be granted without any detriment to the zoning plan or zoning ordinance. Mr. Flannery stated a shade tree easement would be provided.

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. Miller and seconded by Mr. Herzl, the application was hereby approved, granting the requested variances.

ROLL CALL: Mr. Herzl, yes;
Mr. Franklin, yes;
Mr. Miller, yes;
Mr. Banas, yes;
Mrs. Wise, yes;
Mr. Chermack, yes; and
Mr. Ackerman, yes.

5. SD #1430B (No variance requested)

Applicant: Pine River Village

Location: Pine Street, across from corporate campus
Block 830 Lot 1

Amended site plan

Mr. Peters stated the applicant is seeking amended preliminary and final major subdivision approval for the subdivision of a number of lots into age-restricted community with 151 single family houses, 29 townhouses and two clubhouses. The property is along Pine Street, Washington Avenue and Midwood Street within the M-2 zone. The applicant has indicated that the proposed homeowner's association shall provide trash hauling service to take trash cans from rear alleys to primary streets for pick up by the municipality. This service should be incorporated into the homeowner's association agreement. The agreement should be reviewed by the board's attorney. Evidence of approval by the board's attorney must be provided prior to obtaining a signature from the board's engineer. The applicant shall petition the township to pass an ordinance which allows parking on only one side of the street. The applicant has indicated that no curbing is to be installed along the alleys. The board should determine if curbing shall be required to be installed. Curbing is not required to control drainage in this location, it is a question of aesthetics. The applicant indicates that Cedarbridge Development Corporation is responsible for all traffic contribution fees. Evidence of this should be provided.

Mr. Truscott stated the revised development proposal consists of 153 single family hoes, 22 townhouse units and two clubhouses. The board previously approved this development. The applicant has revised the plans to shift some lot lines and now proposes two clubhouses where previously one clubhouse was planned. In addition, the width of the townhouse units has been increased to 30 feet. The site in located in the M-2 zone. Variances were previously granted by the board for various elements of this development project. The applicant should confirm that no further variances are required. Prior to the issuance of a C.O. for any of the proposed units, a homeowner's association should be established for the ownership and maintenance of all common areas. The applicant should address the comments of the shade tree commission dated June 1, 2005. Screening of the stormwater basins should be provided along Pine Street. Foundation plantings around the base of the proposed clubhouses should be provided. The Lakewood Fire District had several comments on the subject plan. The applciant's engineer has indicated in his cover transmittal that one of the items has been addressed. The applicant should discuss the balance of the fire district's review comments. A follow-up review letter from the Fire District should be requested. As requested, crosswalk striping across Goldcrest Drive at the clubhouse has been provided. A bond should be posted to guarantee the removal of the structures on the tract if they are not removed by the time that the plat is presented for signature. Filing of the subdivision must comply with all provisions of the Map Filing Law. Typical architectural floor plans and elevations have been submitted. Proposed street names should be reviewed by the police department to avoid duplicate street names. The project engineer should certify that all site improvements are in compliance with RSIS with a note on the plans.

Ray Shea, Esq., appearing on behalf of the applicant. This was approved previously. They were here tonight for an amended final. This was 180 units, which was reduced. All the recommendations are acceptable. They did receive the comments from the fire district which was discussed with them. This proposal was brought about by closely looking at the project. He reviewed the concerns with the previous approval.

Mr. Banas stated that all the suggestions were open for review. Mr. Shea agreed with that.

Mr. Zucker was sworn in. He stated he agreed with everything that Mr. Shea represented.

Mr. Banas stated this was a plan for the Cedarbridge Development. He asked when Lafayette Street would be reforested since it has been delayed for over a year and a half. Mr. Kielt stated that it was two different projects. It was two separate projects. This was across the street. Mr. Shea stated that Cedarbridge sold this property and he was not prepared to respond. Mr. Banas stated he rescinded his statement.

Mr. Chermack asked about the decision to move to more single family homes as opposed to the townhouses. Mr. Shea stated they increased the single family units by two and decreased the townhouses by seven. Mr. Zucker explained the same and that a clubhouse was added. The units would be a little wider and there would be more space. Mr. Jackson stated that Mr. Zucker's explanation almost mirrors N.J.S.A. 40:55D-2 that says that one of the goals of the municipal land use law is to promote a desirable, visible environment through creative development techniques and good civic design arrangements.

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. Miller and seconded by Mr. Dolobowsky, the application was hereby approved.

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

Mr. Banas called a brief recess.

The meeting was reconvened.

6. **SD #1481** (Variance requested)
Applicant: Shlomo Kanarek & Leonard Lebovics
Location: Warren and Pine Streets
Block 768 Lots 43, 82 & 83
Preliminary and final major subdivision - 11 lots

Mr. Peters stated the applicant is seeking preliminary and final major subdivision approval for 11 residential lots along Warren Avenue from Pine Street to unimproved Fern Street within the R-10 zone. A variance will be required for minimum lot area where 10,000 square feet is required and 7,500 square feet is proposed for 8 of the 11 lots. A variance will be required for minimum lot width, where 75 feet is required and 50 feet is proposed for 8 of the 11 lots. A variance will be required for minimum side yard set back where 10 feet one side and 25 feet combined is required and the applicant has provided 7.5 feet one side and 15 feet combined for 8 of the 11 lots. The architectural plans indicate five bedrooms homes with a separate access to the unfinished basement. The applicant should provide testimony to confirm the basements will not be utilized for living space and the structures will be for single family use. Outside agency approvals will be required. The plans indicate sewer and water utilities will be installed by others. The utilities shall be installed prior to signature of the final plat or evidence of NJDEP approval submitted. The completion of the proposed work by others as indicated on the plans should be a made a condition of the approval. The proposed fire hydrant should be shown on the plans. The driveways are shown as 18 feet in width but they must be 36 feet in length from the right of way line to accommodate three cars. The plans should be revised to indicate a minimum of three off street parking spaces will be provided for each residence in accordance with RSIS standards. The board should determine if on street parking should be restricted on Warren Avenue and Fern Street. RSIS recommends a 20 foot wide travel lane and one parking lane for a 28 foot wide cartway, such as Warren Avenue.

Mr. Truscott stated the applicant is seeking approval to create 11 building lots an drainage improvements. The site has frontage on three streets: Warren Avenue, Fern Street and Pine Street. The plan indicates that the improvements to Fern Street will be performed by others. The tract is 2.2 acres in area and consists of four tax lots with four existing single-family dwellings and several accessory structures. The structures and planned to be removed. The variances were already detailed. The applicant must address the positive and negative criteria for the requested variances. Testimony should address the existing development pattern of the surrounding area. Shade trees have been added to the plans. The applicant should discuss with the board the scope and schedule of the proposed improvement to Fern Street by others. The proposed drainage facilities are located on several lots. The responsibility for maintenance of the drainage lines must be addressed. Drainage easements should be provided. The balance of the comments are minor in nature.

Ray Shea, Esq., appearing on behalf of the applicant.

Brian Flannery, P.E., was sworn in and his credentials were accepted. The variances requested are lot area. The R-10 zone requires 10,000 square feet and they were proposing 7,500 square feet for all but three of the lots. Lot width is required at 75 feet and they provided 50 feet for all but three of the lots. Side yard setback is required is

10 feet one side and 25 feet combined, they were proposing 7.5 feet one side and 15 feet combined. There is a R-10 zone on the northerly side of Pine Street, then it continues down past this property and goes to an area behind the Highway Development Zone. The tax maps indicated the surrounding developments. There is a school to the rear, to the north there is a church and north of them is the affordable housing units being constructed on Jay Street, all the property to the north and east of this property is zoned R-7.5. If you look at the contiguous development, there is some R-10 zoning in the area with narrower lots. Across the street there is a strip of R-10 zone with R-12 behind it. The Pine River project is also in the area. The units are 36 foot wide lots, so there is less than 4,000 square foot lots. To the east of that is the Forest Park Developments which was built with a combination of R-10 and R-12 zones. These are on 22 foot wide lots. They were proposing 11 lots with more density than the R-10 zone but less than the R-7.5 zone. It was substantially less density than the surrounding areas. It was an area that was need in housing. They were looking at providing housing that is consistent with other housing in the area. There is 99,000 square feet for 11 units so it would be slightly less than 10,000 square feet per unit. He indicated the affordable housing goals which he felt this would fit into. He felt that when the positive and negative criteria was reviewed the variances could be granted without any detriment to the zoning plan or zoning ordinance. Mr. Banas did not agree. He stated it was an R-10 zone and did not see why they did the R-7.5 zone. If you wanted to impact it to a greater degree, they could have gone to the board of adjustment. Mr. Flannery stated that the variances were not required for the board of adjustment. The variances would be a C-2 variance and the MLUL indicates that an application or appeal relating to a specific piece of property, the purposes of the act would be advanced by a deviation of the zoning ordinance requirements. The benefit of the deviation would substantially outweigh any detriments. They would be providing enhancements to the area. One of comments were the improvements on Fern Street. There is an application to improve Fern Street to one of the adjoining houses and that improvement would be without a turn around. They discussed the same with the applicant and they would be proposing to construct those improvements as indicated on the plans. They would construct those improvements and in addition to those improvements they would construct a cul-de-sac at the end of Fern Street. Mr. Banas stated that was commendable. He wanted to know why they could not build the project in the requirements of an R-10. Mr. Shea stated there is a R-7.5 zone across the street. There are three roadways to the project. It is argued that a deviation would be beneficial. It was consistent with the master plan. Mr. Flannery stated that the first four items of Mr. Peters' report were informational and the variances. Item five indicates that the basement should not be used for living space. The same is stipulated and offer it for a condition of approval that the basements will be used by the owners of the home. Items six through ten are minor and would be provided. Item 11 indicates the board should determine if on street parking should be restricted on Warren Avenue and Fern Street. The same will be provided as would 36 feet depth and 18 feet wide to accommodate four cars so parking on the streets would not be needed. Mr. Banas asked how many bedrooms were in the homes. Mr. Flannery stated four to five bedrooms. With regard to the planner's report, items C.1 through C.3 were minor in nature and informational. Item 4 would be done by the applicant as would the cul-de-sac at the end of Fern Street. The improvements would be paving, curbing, sidewalks and the cul-de-sac. The maintenance of the drainage lines would be a homeowner's association. Items 6 through 10 were minor in nature and would be compiled with. They were complying with all the planning and engineering recommendations.

Mr. Shea marked sheet 3 as A-1 and an area map as A-2.

Mrs. Wise stated she concurred with Mr. Banas about the zone. She felt that the R-10 zone should be used rather than the R-7.5. Mr. Flannery stated it was a decision that the board had to make. Mr. Banas stated that when a line is drawn, you try to maintain the line as much as possible. Mr. Flannery stated that the nature of the testimony was that there was a school to the west and other developments to the south which are in the R-10 and R-12. The nature of the testimony goes to the surrounding uses not just that there is a R-7.5 across the street.

Mr. Miller stated he received a telephone call from the Deputy Mayor who indicated he received a lot of telephone calls from residents who wanted to see this area get a face lift and make the area look nice. He contacted Mr. Banas to see if it would be appropriate for him to meet the people and walk the property. He did the same. Land is expensive. He called some of the members to discuss the matter. He went back to the Deputy Mayor but indicated that the zone line runs down Warren Street. The school that ends behind the property concerns him. By granting the variance, the entire area gets a face lift as well as security to the school.

Mrs. Wise concurs that it would be a good face lift to the community but to the extent of the zoning, they were not saying that they did not want houses built. Unfortunately, she did not discuss the matter. She indicated that the size of the homes and the zone should be switched. She was concerned with the zoning of the area. She was not against the building. Mr. Banas felt that an R-10 was more appealing.

Shlomo Kanareck, 137 East Eighth Street, was sworn in. He stated he did not talk to Mr. Miller about the application at all. He was the president of the school neighboring the property. He was concerned about the dilapidated homes to the back of the school. He decided to do something to face lift the area. The only feasible way to do the project is with 11 homes. They would try to make a beautiful project out of it. The hope that the housing will serve as housing for the school staff. In addition, they talked to the neighbors. He is before the board a lot. He will make a nice project out of it. The neighbors were for the project. He asked the board to do their best to consider the project.

Mr. Dolobowsky asked if he could do the project with 10. Mr. Kanareck stated it would be tough with 11 homes. His original plan was townhouses. He was trying to make it nice with private homes. The neighbors and the school were happy with it.

Mr. Banas opened the application to the public.

Zalman Sorotzkin, 115 Courtney Road, was sworn in. He stated that he did not know the applicant personally but he met him a couple of years ago. He was a member of affordable housing. A few years ago there were a group of students that were not able to afford homes. They approached Rabbi Kanareck to see if he could help. They met with him and he was one of the main people to discuss the topic with Mayor Harrison at the time. He had a big hand in pushing through the affordable housing project. His main objective was to provide affordable housing. He felt the application should be approved. He felt the quality of life would be improved by the application.

Carol Gartenhaus, Forest Park Circle, was sworn in. She stated she lived there for six years. They have their bikes stolen and cars broken into. She felt that if there was any way to improve the conditions, it should be done. She felt that if 11 homes would improve the area, she begged the board to approve the application.

Becky Kirschman, Brick, was sworn in. She drives through Lakewood and she has seen housing in the area of Pine Street go from bad to worse. She felt that this application would help the area. The other developments please her just driving through the area. She supported the application. She would like to see the area cleaned up.

Eli Schwab, 147 Liberty Drive, was sworn in. He felt the project should be judged as a community project since it would benefit the community greatly. It deserved a special merit. He felt this was the property thing to do. The bulk of the homes are in the R-7.5 zone, even the ones that are in the R-10 zone. He did not think it would be a detriment to approve the variances.

Evester McDaniels, was sworn in. He felt the project would be good for the area.

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

Mr. Shea stated that Mr. Flannery did testify, although he was constrained by the limits of the law, and directed himself to the master plan and MLUL. He corrected interpreted those sections and applied them to this project as he deemed fit. People also testified who are not educated in the law. Residents of the community and adjacent communities testified. He asked the board to take into consideration the weight of all the testimony. The applicant has done such much for so many. Any other developer would have said yes to dropping one unit. The applicant was very truthful when he indicated that they needed all 11 units to make the project work in the area. He felt that the application should be approved and that the school and the neighbors are the ones affected. They seemed pleased with the application. He asked the board to consider that and grant the approval.

Mr. Banas stated that when you purchase property you know the value of the property and the constraints. You have to have a concept of what the community feels should be in the zone. He felt that the application was overbuilt in an R-10. Mr. Shea stated the average lot size is 9,000 square feet in a 10,000 square feet area. Mr. Banas stated that was no longer diminimous.

Mr. Chermack stated that one of the public testified that this development is supporting affordable housing. He asked if there was a price tag on the units. Mr. Shea stated he would be in dangerous territory to indicate what would be affordable in Lakewood. He did not think he was qualified to answer the question. He did indicate that his staff who works at the school would take advantage of the housing and as such it would have to be reasonably affordable to the people who work at the school.

Mrs. Wise stated that the community at large prior to the development in the area has been concerned about safety and lighting and run down homes. She was concerned

with the size of the homes, not the building of the homes. She understood the demand for homes and the desire to live in a safe neighborhood. She was concerned with the size of the homes and the size of the homes being put in this area. A line has to be drawn somewhere. There are rules for a reason. They have the entire community at heart. Mr. Shea stated that no one misunderstands her position.

On motion by Mr. Chermack and seconded by Mr. Miller, the application was hereby approved as discussed and with the cul-de-sac. He understood the concerns about the zone but there would be benefit to sprucing up the area.

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

IV. MEMORIALIZATION OF RESOLUTIONS

1. **SP #1814** (No variance requested)
Applicant: Bais Tova Inc.
Location: Oak Street and Funston Avenue
Block 792, 793 & 794 Lots all
Preliminary & final site plan for proposed school.

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

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

V. CORRESPONDENCE

None at this time.

VI. PUBLIC PORTION

None at this time.

VII. APPROVAL OF BILLS

On motion by Mrs. Wise and seconded by Mr. Miller, the submitted bills were hereby approved for payment.

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

VIII. APPROVAL OF MINUTES

On motion by Mrs. Wise and seconded by Mr. Herzl, the minutes of June 7, 2005 were hereby approved.

ROLL CALL: Mr. Herzl, yes;
Mr. Franklin, yes;
Mr. Miller, abstain;
Mr. Banas, yes;
Mrs. Wise, yes;
Mr. Dolobowsky, abstain;
Mr. Chermack, abstain; and
Mr. Ackerman, abstain.

Mr. Banas stated he noticed a lot of changes of use going on in the industrial park. He asked the professionals to review it. If it was a change of use, should it come before the board. Mr. Jackson stated that if it was a change of use that was not a permitted use. Mr. Banas stated the board approved previous changes of uses in the past. Mr. Kielt stated that if the owner applies for a commercial C.O., they go to Mr. Mack. If he deems it a change of use, he forwards them to the planning board. If he deems it is not a change of use, he gives them a commercial C.O. It was up to the zoning officer if it was a change of use. Mr. Jackson stated there is a lot of discretion that lies with the zoning officer. Mr. Kielt would talk with Mr. Mack to find out the procedure and get more information.

IX. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,
Elaine Anderson
Planning Board Recording Secretary