

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 *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 the following newspapers: *The Asbury Park Press*, and *The Tri-Town News* at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Banas, Mrs. Koutsouris, Mr. Akerman, Mr. Schmuckler

3. SWEARING IN OF PROFESSIONALS

Mr. Peters and Mr. Truscott were sworn in.

4. NEW BUSINESS

Mr. Penzer was not present so there was a slight recess while the board waited then decided the hear item #4.

1. SP# 1902 (No variance requested)
Applicant: Bais Medrash Mayan Hatorah
Location: Coleman Avenue & Milton Street
Block 104 Lots 23 & 32
Preliminary & Final Site Plan for proposed school and dormitories

Mr. Peters read from a letter dated November 3, 2008. The Applicant is seeking a Preliminary and Final Site Plan Approval to construct a school and dormitory building, and all corresponding site improvements. The property has frontage along Milton Street & Coleman Avenue. The site is located within the R-12 zoning district. Outside agency approvals from Ocean County Planning Board, Ocean County Soil Conservation District, and NJDEP for

Treatment Works Approval are required. Evidence of the approvals shall be made a condition of the Planning Board approval. The applicant has provided a six (6) foot shade tree easement long both site frontages and a 25 foot x 25 foot sight triangle easement adjacent to the Coleman Avenue / Milton Street intersection to the Township of Lakewood. The applicant shall provide legal descriptions to the Board Engineer for review and easement documents to the Board Solicitor for review. The easement shall be filed with the county prior to signature of the Final Site Plan.

The two lots shall be consolidated by deed as a condition of approval. The applicant has proposed to connect the sanitary sewer to an existing main located in Whispering Pines Lane. This connection will cut through existing curb, sidewalk, and a grassed area at the corner of the corner of Squankum Road and Whispering Pines Lane. The applicant shall revise the plans to show the restoration of this area. Existing concrete curb is provided along the frontages of both roads. Concrete sidewalk is proposed as a part of this project. The applicant has provided 19 off street parking spaces for the proposed school. The proposed school contains one class room and one office resulting in two required parking spaces. The Lakewood UDO does not have a requirement for parking spaces for dormitories. The Board should determine if the provided parking spaces will be sufficient. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 29, 2008. The applicant requests preliminary and final major site plan approval to construct a school and dormitory building. Associated site improvements, such as a parking area for 19 vehicles, storm water management facilities, landscaping, lighting, and sidewalk, are also proposed. The proposed school consists of a basement level and two floors. The school/classroom facility will be on the first floor, and ten (10) dormitory rooms will be located on the second story. A cafeteria will be located on the basement level. The project site consists of two tax lots and is 27,000 square feet (0.6198 acres) in area. The property contains a residential dwelling, which will be razed, and the balance of the lot is wooded area. The tract is located at the intersection of Coleman Avenue and Milton Street. The surrounding area contains single-family and multifamily dwellings. This application was discussed at the Plan Review meeting on October 7, 2008, and the applicant has submitted a revised site plan. The parcel is located in the R-12 Residential Zone District. Schools are a permitted use in the R-12 Zone. An associated dormitory is considered an accessory use to the school. No variances are requested. Review Comments. A total of nineteen (19) off-street parking spaces are proposed. The proposed school contains one (1) large classroom and one (1) office. Based on the UDO standards, a minimum of one parking space is required for each class and one space for the office. The applicant should provide testimony addressing the appropriate number of off-street spaces based on staff and visitor parking. There is not a minimum parking standard in the Ordinance for the dormitory portion of the proposed structure. The applicant should provide testimony on the need for parking for the dormitory use based on staff related to the residential dormitory and the age of the students. The Planning Board should decide, based on the testimony, the appropriate number of parking spaces for the school and dormitory. The applicant should provide the following information about the proposed school operation: The proposed number of students to be educated on site; The grades or student age levels; The anticipated number of school buses visiting the site on a daily basis, if applicable; The proposed hours of operation; The services that will occur on site; The amount of students and teachers/staff to be housed in the dormitory; and, Number of teachers and staff. The applicant should discuss bus circulation, as applicable. Sidewalk is proposed along both street frontages. The appropriateness of open space or a sitting area for students should be discussed. Construction of a sewer line extension in the right-of-way of Milton Street is

proposed to serve the proposed facility. A landscaping plan has been prepared as part of the submission to the Planning Board. The Planning Board should decide if the 6-foot high, board-on-board fence and single row of Cypress is sufficient in the buffer area. At the Plan Review meeting, the applicant indicated that additional landscaping would be provided. The Landscaping Plan has not, as yet, been revised to identify the type and location of additional landscaping. A diversity of buffer planting species should be considered. The lighting should be revised to minimize spillage of the light fixture on the parking lot onto adjacent Lot 18. The balance of the comments are technical in nature.

Mr. Penzer, Esq. appeared on behalf of the applicant with Mr. Carpenter as the engineer for the applicant. With regards to the planner's report Mr. Carpenter stated the students stay on the site, they do not drive cars but there are time during the year when they do get picked up and dropped off at the school and it also serves when the students are there it can be used as a recreational area, like a basketball court or something of that nature. Mr. Penzer said the students are 18-20 years of age but a condition of the school is they are not allowed to have cars. There will be between 35-50 students maximum and the grade is above high school. There will be no school buses and the school will be in operation 24 hours since it is a dormitory, the students stay on site and the staff comes and goes. Mr. Banas asked how many dormitories and was told 10 and he asked how many per room and was told 3 and Mr. Penzer said the rest were going to be dropped off. Mr. Banas asked how they came up with 19 parking spaces, what was their basis for that and Mr. Carpenter said they wanted to put in a double row of parking spaces across the back and where the kids could use it as a recreation area also. Mr. Penzer said there is also parent teacher conferences and Mr. Banas asked how many chaperones were there going to be in the dormitories and Mr. Penzer said they don't have chaperones but there would be 1 dorm supervisor. Mr. Banas said they needed 3 parking spaces and Mr. Penzer said they need different teachers for different times, so there could be an overlap of 3-5 teachers so there is close to about 10 spaces needed, so they have an extra 9 and Mr. Banas asked how they were going to use that 9 for recreation then and Mr. Penzer said they have free time where there would be no classes scheduled so there would be no teachers on site. They will be constructing the sewer extension to service the site. Mr. Carpenter said he spoke with Mr. Truscott prior to the meeting and they agreed to add a second row of evergreens along the periphery of Norway spruce or that nature. They agreed to the six foot board on board fence at the plan review meeting and they agreed to the diversity of buffer planting of Leland cypress and Norway spruce. Mr. Penzer said the remainder of the items they can comply with.

With regards to the engineer's report Mr. Penzer requested said he would like to have the TWA be a condition of building permits, not at the time of resolution compliance. They don't usually file the easement with the county before they sign the plans and is curious why they do that in this case and Mr. Peters said usually they do that on subdivisions so it gets recorded with the field map because on the Site Plan they have no way of recording it if they don't file the easement. Mr. Penzer agreed. Mr. Carpenter said in regard to the sanitary sewer they are going to tie into the manhole on Whispering Pines Lane which eliminates any issues on the validity of the easement of the pump station on Whispering Pines Lane. Mr. Penzer said they are also installing concrete curbing along both frontages of the roads and sidewalks as well. They agree to the remainder of the comments in the engineer's report.

Mr. Banas opened the microphone to the public

Mr. Keith Justice, 102 Milton Street, Lakewood was sworn in. He said he is across the street from the proposed project and said he has been in his house for 48 years and it has been a peaceful quite neighborhood and they object to a school next to them but have a feeling it will happen anyway. He is concerned with the traffic because they already have a parking problem in front of their house and the noise, lighting and hopes this project will respect their privacy because they try to keep to themselves. Mr. Banas asked Mr. Penzer to address that issue and Mr. Penzer introduced him to Rabbi Neuman and said they did not know he had a problem with the school and even though they are permitted in the zone it doesn't mean they can't be a good neighbor. They would be happy to meet with him and show him how they are working with the lights so they don't spill onto the adjacent properties and will work with him on any problems he may have to make him as happy as he can be and he knows he is against this. Mr. Banas said he thinks they can work something out.

Gerry Ballwanz, Governors Road, Lakewood was sworn in. She said the land there is fairly wooded and she heard there would be woods left and asked how much of the property would be cleared and would the big trees in the front of the house be removed, will the existing house be removed, how much of the mature trees will stay. Mr. Carpenter said if they look at sheet 4 of 6 it shows the trees to be removed and those are the ones in direct conflict with the building and the parking lot. There are 2 trees in the corner that have to come down for the curb and sidewalk area but numerous trees are remaining. Mr. Banas asked that the public be allowed to see the plans and Mr. Justice was interested to see them. Mr. Justice said the house was well built and it was a shame it was going to be leveled and Mr. Penzer offered the house to him.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Neiman, seconded by Mr. Schmuckler, to approve this application with the stipulations by the planner and engineer

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

2. SD# 1636 (Variance requested)
Applicant: Yehuda & Adina Kirshenbaum
Location: 1385 Pasadena Street, west of Alvarado
Block 187.13 Lot 15
Minor Subdivision for 2 lots

Mr. Alfieri announced that they were not prepared to go forward and his client called and said he cannot be here and does not want them to move forward without him present and the engineer and himself are here but there are also members of the public who are here and he is sure they will be upset that his client cannot move forward.

Mr. Banas asked the reason why he cannot appear and Mr. Alfieri said last week it was a personal reason because he couldn't get a babysitter, then he did show up late and tonight he said he had personal issues he can't get out of the house. Mr. Alfieri said he did not pry further.

Mr. Banas said as far as he is concerned, it should be re-noticed because this is the second time and Mr. Alfieri said he had no problem with that and he would re-notice.

Motion was made by Mr. Franklin, seconded by Mr. Herzl, to move without prejudice. (Denial)

Mr. Alfieri said he did not feel comfortable with that, he thought they were just going to re-notice for a future meeting. He said if they did not make the next meeting, he would agree to a denial. It was agreed to carry and reschedule and Mr. Franklin changed his motion to state re-schedule with notice. Mr. Alfieri said he would write to the board, ask for a new date and then notice for that date. He also agreed to an extension. Mr. Herzl seconded.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

Mr. Jackson made the announcement that it has been adjourned and mentioned that there were 6-8 people present to hear the application.

Mr. Banas opened the microphone to the public

Tracy Tift from Pasadena Street said he and his neighbors were here last week and this week and waited and they understand they had a newborn but now it is election day and they had to re-arrange their schedule to come here, this is the 3rd time they are coming and want to know if they will be notified in advanced and was told a minimum of 10 days in advance by certified mail. Mr. Banas said he was sorry they could not dispose of the matter.

3. **SP # 1893A (Variance requested)**
Applicant: Dr. Norman Indich
Location: West County Line Road @ southwest corner of Cedarview Avenue
Block 37 Lots 3 & 9
Preliminary and Final Site Plan for pediatrician office

Mr. Peters read from a letter dated October 25, 2008. The Applicant is seeking a Preliminary and Final Major Site Plan approval for Block 37, Lots 3 & 9. The applicant has proposed to construct a two story pediatric office building and associated site improvements. An existing building is located on each of the lots, which will be removed. The property will have frontage along County Line Road West and Cedarview Avenue. The project is located within the OT zoning district. A variance is requested for not provided the required number of parking spaces, 26 spaces is required, the applicant has provided 23 parking spaces. The applicant is requesting a parking variance. Per section 18-807 of the UDO, one (1) parking space is required per every 200 FT of gross floor area for medical office. The applicant shows on the plan a total floor are of 5,280 SF which yields a total number of twenty six (26) required off-street parking spaces. The applicant has provided twenty three (23) parking spaces are provided. The applicant shows on the architectural plans basement is proposed for the two story office building. Additional required parking spaces may be required depending on the use of the basement. The applicant shall provide testimony on the use of the basement. The Board should determine if the parking variance shall be granted. Outside agency approvals from Ocean County Planning Board, Ocean County Soil Conservation District will be required. Evidence of the approvals shall be

made a condition of Final Site Plan approval. The applicant shows on the plans existing curb and proposed sidewalk along property frontages. A 5.25 FT roadway easement along County Line Road West is shown on the plan to be dedicated to the Ocean County. The applicant has provided a six (6) foot shade tree and utility easements along the property frontages to be dedicated to the Township. In accordance with section 18-803 E of the UDO, a 50 FT buffer shall be provided along the northern property line of the site, since the property is adjacent to two single family dwellings. In addition, per section 18-902.K.4. of the UDO, a five (5) FT solid buffer area shall be provided along the northern parking area. The applicant has proposed 6 FT board on Board fence along the property line. The Board should determine to what extent screening of the property will be required. The applicant shall provide testimony on if there is an identification sign proposed on site. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 14, 2008. The applicant is seeking preliminary and final major site plan approval to construct a two-story, 5,280-square foot office building on a 16,274-square foot lot along County Line Road. There are two existing residential buildings on the lots which will be removed as part of this plan. The proposed building will include a pediatrician office on the first floor and office space on the second floor. The applicant has proposed a total of twenty-three (23) parking spaces for the proposed office use. The tract is located on the north side of County Line Road at the intersection with Cedarview Road. The subject site is located within an area with residential uses and some commercial uses. The applicant has proposed sidewalks and a shade tree and utility easement. A variable width roadway dedication to Ocean County also has been proposed. The application was discussed at the September 2nd Plan Review meeting and revised plans have been submitted to address the Board's and the professional comments. The tract is located in the Office Transitional Use Zone (OT). Medical offices are a permitted use in this zone. A variance is needed for the number of off-street parking spaces; 26 spaces are required, and 23 spaces are proposed. (Section 18-902.K.) A variance is required from the buffer requirements of the OT Zone District. A five-foot solid buffer is required if the adjacent properties are residential. The applicant has proposed a six-foot high board-on-board fence within an approximate 2.9 foot setback from the adjoining residential use on the rear of the property. (Section 18-902.K.) A design waiver is requested from the landscape buffer requirements. A minimum fifty (50) foot wide buffer area is required as the proposed office building is adjacent to an existing single-family residential development. The applicant has not specified the location of the proposed sign for this site. The OT Zone District development regulations specify the sign design requirements permitted. Additional details should be provided by the applicant regarding the sign location, dimensions, and proposed illumination. The applicant has provided a landscape plan as part of this submission. Landscaping has been proposed to screen the parking area, as well as the dumpster. We recommend that the applicant consider providing landscaping along the rear and side of the building to provide a vegetative screen from the adjoining properties. The applicant's lighting plan is subject to review by the Board Engineer. Site lighting should be configured to minimize any impact on nearby residential uses. The site plan has been revised to indicate that the second-floor office will be restricted to non-medical uses. The Board should decide if a deed restriction is appropriate. The applicant has submitted architectural plans that show an unfinished basement, a medical office on the first floor, and an office on the second floor. The basement area is to be limited to storage only on the site plan. The balance of the comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant with Mr. Flannery as the engineer and planner. With regard to the planner's report Mr. Flannery stated the applicant has a practice to the west and he is trying to modernize his practice, not to expand it. There are 2 non conforming structures on the site and they are proposing a facility that is consistent with what is called for and permitted in the zone. They are requesting a variance for parking; 26 spaces are required and they are proposing 23 spaces but since Dr. Indich has been in business for quite a while he is well aware of the parking requirements and he feels the 23 proposed far exceed the number spaces that he needs and Mr. Banas said he can't accept that. Mr. Banas said he may feel qualified but the ordinance speaks for itself. Mr. Flannery said the ordinance is a standard and when you come to the board you present your application and present your case and why the board should grant relief for the variances and in the MLUL there are standards you need to meet and they have to show the benefits outweigh the detriments and when you talk about parking standards, the benefits are providing a facility that replaces 2 non conforming uses and detriments with respect to parking would be if there was a parking deficiency and you had a situation where the patrons were not going to be able to park there. Part of the testimony he was going to give is that this complies with the MLUL and the Lakewood Master Plan which says you should promote smart growth planning principles where you have a doctors office that is where there is less reliance on automobiles because it is in more of a neighborhood and it is his professional opinion that the parking issues are different than at KMC and there are no detriments as far as parking. Mr. Banas asked what is on the second floor and Mr. Penzer said it is non medical and Mr. Banas asked if they removed the office and if they removed the second floor structure and how many spaces do they need for that structure and how many do they need for the medical profession. Mr. Flannery said 2/3 of the parking are for the medical and 1/3 are for the office and it is his opinion that to reduce the office where the parking need isn't there doesn't make sense. Mr. Penzer said the rule for medical offices are 1 per 100 and for offices is 1 per 300 so the difference is when you factored in the 26 spaces they were calling it all medical office space and it is his opinion that they are limiting it to the first floor and have no problem stating that in the resolution and saying the second floor cannot have any medical use whatsoever. Mr. Banas asked Mr. Truscott for his opinion and he said in the OT zone it is 1 per 200 and that is where they came up with 26.

Mr. Banas asked how many spaces they needed for just the medical office and Mr. Truscott said 26.4 spaces in the OT standards. Mr. Flannery said if they reduced the building by 10% they would be able to use the whole building for medical and would have less parking. Certainly you would have less parking to make the building 10% bigger and restrict the upstairs to non medical uses and that is why they placed that restriction on it. Mr. Banas asked again about the spaces because he is looking at the floor plans at the medical office and there are more chairs put in than there are spaces, not counting the employees. Mr. Flannery said the mothers come with the kids and their siblings so there are a number of family members in the room at a time. Mr. Schmuckler asked about the lot next door and how many spots were available there and was told 13. Mr. Banas said if they can use that argument then anyone can build a structure and tell people they only need 5 spaces because that is all they see being used; that is why they have ordinances, to make it clear. Mr. Schmuckler asked how many employees were in the practice and they conferred to discuss it. Mr. Neiman commented on how he drives by and never sees the parking lot crowded either.

Continuing on with the planner's report, Mr. Flannery stated the buffers are to provide aesthetic relief to the adjoining properties and the adjoining property owners were notified of this meeting

and they have not come to object and it is his opinion that the buffer they have proposed is appropriate and the 2 residences to the north are non conforming uses in this zone and have been noticed. Mr. Banas asked if the professionals suggested a solid structure and Mr. Truscott stated the applicant proposed a 6 ft. high board on board fence along the residential properties to the north and Mr. Peters said his comment was based on the ordinance with the residential use next to it there should be a 50 ft. buffer and he asked if there should be additional screening required. Mr. Flannery said they would provide a sign in compliance with the ordinance. Typically restricting the second floor to office is a condition of site plan and can be enforced by the building department and Mr. Penzer said he would prefer it in the resolution as opposed to the deed as it screws up the title. Mr. Banas asked Mr. Jackson his opinion and he said he has a problem with deed restrictions for the same reason as Mr. Penzer does, if it is in the resolution it is a site violation and enforced by the building department. Mr. Flannery said the remaining items in the planners report can be complied with.

With regards to the engineer's report, Mr. Flannery said he raises the same issues with respect to the variances and the buffer and the remainder of his comments in his reports can be satisfied. Mr. Banas asked about the 50 ft. buffer that is required and Mr. Flannery said in the OT zone it is less than 50 ft. and it is his opinion that the 50 ft. is not appropriate and what they are really requesting a waiver from is 25 ft. because the 50 ft. is when you are adjoining an existing single family residential development or a property zoned for single family uses and they have neither here; the existing single family residential development is defined as 6 or more units on residential streets and these are not. He said it comes to the same issue that the buffer is to protect the adjoining properties and it is his opinion that what they have proposed here protects the adjoining properties and if those adjoining property owners feel differently they have been noticed and they would have come to the meeting and Mr. Banas said Mr. Flannery knows he cannot accept that because the property owner of today may not be property owner of tomorrow and Mr. Flannery said the property owner of tomorrow is going to see what is there and will have the option of buying somewhere else if he is not happy with the situation. The nature of this strip between 2 major collector roadways is that it is changing from a residential use to an office use as anticipated by the Township Committee when they changed it to the OT zone. Mr. Banas asked Mr. Peters if he agreed with the 50 ft. buffer or the 25 ft. buffer as Mr. Flannery is indicating and Mr. Penzer said it is Section 18-902.K4 and Mr. Truscott said it always goes back to that technicality of the definition of a existing single family dwelling/ existing single family development which has to be 6 or more and Mr. Truscott said both him and Max agreed and in their letters had the 50 ft. buffer is required and said they are not even meeting the 25 ft. Mr. Jackson asked what their building envelope would be if they honored that buffer, would they be able to develop it and they said no because it is a 16,274 sf lot and Mr. Flannery said it is a 103 ft and if you take away the 50 ft. that would be almost _ of the lot and with the front yard setback and Mr. Truscott said the point is they really have no setback at all with the building and the parking lot right up against the residential properties, whether it is 25 or 50 ft. it is irrelevant, it is what kind of mitigation you can provide and there is none provided at all. Mr. Flannery said the solid fence and the landscaping and his testimony is due to the nature of this area where it is changing to office use and those property owners were noticed. Mr. Schmuckler asked how much room there was between the parking lot and the fence and was told 2.9 ft. and will be filled with heavy landscaping. Mr. Peters said another area the board can look at is just north of the building where there is an 11 _ ft. wide area where there is no landscaping proposed and they can fill in that area and Mr. Banas said he did not see any landscaping on the plans where the 2.9 ft. is shown and Mr. Flannery said that was one of the

comments from the professionals and they said they would satisfy that comment. Mr. Banas asked what they were planning on adding and Mr. Flannery said a single row of arborvitaes on the property line and move the fence right up to the parking lot and Mr. Banas said he likes that idea better, so the property owners can look at a row of greenery rather than an stark fence. Mr. Franklin said the dumpster wouldn't work unless they had an agreement with whoever picks up the garbage to have the 2 parking places empty so they can pick it up and Mr. Penzer said they always come before hours. Mr. Schmuckler asked what they were doing with the basement in the building and Mr. Penzer said it will be unfinished right now but will be used mostly for storage.

Mr. Banas opened the microphone to the public

Larry Simons, 7 Schoolhouse Court, Lakewood was sworn in. He said he heard the word that the second floor offices will never medical offices and was told yes. He said they also spoke about 23 vs. 26 parking spaces and deed restriction vs. resolution and said if they are not going to use the second floor as medical offices that why don't they have a deed restriction? Deed restriction accomplishes the same thing and Mr. Banas referred it to the attorney said it would be enforced by the code enforcement and who is going to show up to enforce a deed restriction on a private building. Mr. Simons asked who is going to respond to a resolution violation and Mr. Jackson said the way it is supposed to work is if somebody was to complain or the zoning officer were to notice that was not approved, it could be stopped, they could issue a summons; it is a violation of the site plan. Mr. Penzer said it works better with resolution because once resolution compliance it goes into the zoning office and becomes part of the file. Deed restriction never gets into the file because it is in the courthouse in Toms River.

Seeing no one else, this portion was closed to the public

Mr. Penzer said in the code, the board members are planners and as Mr. Neiman and Mr. Schmuckler have seen by driving by this site, because of the uniqueness of the site a variance is sought and he feels they meet it on all fronts. This usage would be needed in the area because of all the children in the area, so it would be inherently beneficial, but it is also the least intensive. Mr. Banas said since the idea of a deed and resolution came up, why not put a note on the plans that the second floor is just going to be offices not medical and Mr. Truscott said it is already there, it is just a little beyond that. Mr. Jackson said he recommends the upstairs be for non patients.

Motion was made by Mr. Schmuckler, seconded by Mr. Herzl, to approve this application with the variance and design waiver with the restriction in the resolution and on the site plan

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

4. SD # 1638 (Variance requested)
Applicant: Benzion Harnick
Location: corner of New York Avenue & Ridge Avenue
Block 223 Lot 93
Minor Subdivision to create 2 lots

Mr. Peters read from a letter dated October 25, 2008. The Applicant is seeking a Minor Subdivision approval to subdividing one (1) lot into two (2) new lots. The new lots are to be known as Lots 93.01 and 93.02. No construction is proposed under this application. The property has frontages along Ridge Avenue and New York Avenue. The site is situated within the R-10 zoning district. The applicant is requesting a front yard setback variance for Lot 93.01; thirty (30) FT is required, where 26 FT is provided along New York Avenue. Outside agency approval from Ocean County Planning Board is required. Evidence of the approval should be provided prior to the Planning Board Approval. The applicant states on the plan three (3) off street parking spaces will be provided per lot, when new dwellings are to be constructed in the future. The NJ RSIS standards for single family dwellings top out at three (3) required parking spaces. The Board should determine if the proposed number of parking spaces is adequate. The applicant shows on the plan, a ten (10) FT roadway widening easement along New York Avenue is to be dedicated to the Township. In addition, a six (6) FT shade tree and utility easement is to be dedicated to the Township along both frontages. Concrete curbs and sidewalk are either existing or proposed along both street frontages. The existing dwelling spans the two new lots shall be removed prior to the approval of the minor subdivision or a bond posted to ensure the prompt removal of the structure. The outbound corners shall be set prior to signature of the final plat, as the surveyor's certification states they have been set.

Mr. Truscott read from a letter dated October 14, 2008. The applicant is seeking minor subdivision approval to create two building lots. Lot 93 contains a single-family detached dwelling and is 20,025 square feet (0.46 acres) in area. The existing residence will be removed. The property is located at the intersection of New York Avenue and Ridge Avenue. The property is located in the R-10 Zone. A variance is requested for a 26-foot front yard setback on New York Avenue; 30 feet is required. A variance is requested for a 14-foot rear yard setback; 20 feet is required. The positive and negative criteria must be addressed for the front and rear yard setback variances. The applicant proposes a "Road Widening Easement" to address the deficient right-of-way of New York Avenue (existing 30-foot right-of-way) and Ridge Avenue (existing 33-foot right-of-way). A portion of the existing sidewalk is located on Lot 93.01 and not within the right-of-way. An access provision should also be provided within the road widening easement. Ideally, the small portion of the sidewalk should be dedicated to the Township, even if a lot area variance is necessary. The property will be served by public water and sewer. Sidewalk exists along the Ridge Avenue frontage and is proposed on New York Avenue. The balance of the comments are technical in nature.

Mr. Doyle Esq. appeared on behalf of the applicant. He said this application will take an older and unattractive house and provide 2 new housing units for the community. Both lots meet the required size but because of the nature of the lot the setback variances are requested.

Mr. Hopkin appeared as the engineer for the applicant and stated the existing house is located in the northwest corner of an oversized lot and this area of town is going through a revitalization and what is being proposed is demolition of this existing house and 2 new home proposed. The variances requested are just for the corner lot 93.01, the other lot is fully conforming and he feels the variances are diminimus in nature. The home would front on New York Avenue which is a little bit more quiet of a street than Ridge Avenue. The variances relate to the one lot specifically because it is a corner lot; the existing homes in the area, especially New York Avenue have similar setbacks, and the lot on the other corner of New York and Ridge

is set only 10 ft. from New York and they are proposing 26 ft. The benefits are they would provide new, attractive homes in the area with variances that would barely be perceivable and would advance the purposes of zoning and provide light air and open space because they meet the lot coverage requirements and most of the setbacks requirements and it would provide some affordable housing in the area because this would provide 2 lots that could be built upon. It is his opinion these benefits far outweigh any detriments for this specific piece of property and there are no detriments to this application.

With regards to the engineer's report Mr. Hopkin said they can comply with all the comments in his report. With regards to the planners' report Mr. Hopkin said they are proposing a road widening easement along New York and Ridge Avenues; this also parlays with the comment about the existing sidewalks and if an additional dedication is needed but Mr. Hopkin said his preference is to have a provision in the easement that would allow easement and traversing on the sidewalk. If someone were to walk on the sidewalk and they turned the corner they would temporarily trespass on Lot 93.01 and the applicant would just write into the road widening easement that access is provided for the general public. Mr. Doyle said they would provide an easement so that in fact the public would have a right to be on that sidewalk. Mr. Doyle said the width of New York Avenue has been pre-determined by reason of the utility locations recently installed, existing curbs on newly developed homes etc. and is pretty much developed.

Mr. Banas asked what number becomes non-diminimus and Mr. Hopkin said it depends on the specific property and the specific application and the surrounding properties. Mr. Doyle said being that the house across the street has a 10 ft. setback and they are asking for a 26 ft. they feel in this case it is diminimus but each individual case should be proved on a case by case basis and they have the duty to prove that. Mr. Jackson said there is not a doctrine in the Land Use Law that entitles somebody to relief if they say something is diminimus; that is a judgment call. Mr. Banas asked why 3 parking spaces, why not 4? Mr. Hopkin said they are meeting the standard and Mr. Banas said they have been putting in 4 spaces on basically all applications and out there in that area, you need the spaces off street to park. Mr. Franklin said there is no parking on the street there. Mr. Banas asked how many bedrooms are there and Mr. Doyle said there are no designs for the homes yet but based upon the likely bedrooms they agree there should be 4 parking spaces and will agree to that.

Mr. Banas opened the microphone to the public

Noreen Gill, 192 Coventry Drive, Lakewood was sworn in. She said that area is very congested and asked why they don't have the bedrooms, and asked if there is a basement, is there an outside entrance, etc. and Mr. Banas said it is a subdivision and with a subdivision they are not required to submit those.

Gerry Ballwanz, Governors Road, Lakewood was sworn in. She said if she remembers correctly, that house on that lot diagonal was described as antedated but she recalls it being a recently built ranch, maybe 30 years old. She doesn't think it is one of the old houses and to call it antedated, she challenges that description.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Neiman, seconded by Mr. Herzl, to approve the application with the 4 off street parking spaces.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

Mr. Kielt read the next 2 applications together, since they are together.

5. SD # 1640 (No variance requested)
Applicant: 16 South Clifton Ave LLC
Location: South Clifton Avenue, south of Main Street
Block 8 Lots 8 & 1
Minor Subdivision to realign existing lot lines
6. SP# 1901 (Variance requested)
Applicant: 16 South Clifton Ave LLC
Location: South Clifton Avenue, south of Main Street
Block 8 Lots 8 & 18
Preliminary & Final Site Plan for proposed 2 story office building

Mr. Banas recused himself from both applications, since he is a congregant of the church.

Mr. Penzer said before the reports are read he wanted to relay an issue that arose with these 2 applications and Mr. Jackson said to wait until the reports are read. Mr. Peters read the reports from both applications, then Mr. Truscott did the same.

For SD# 1640 - Mr. Peters read from a letter dated October 25, 2008. The Applicant is seeking Minor Subdivision Approval to realign the lot lines of Lots 8 and 18. The lots will be known as Lots 8.01 and 18.01 after the subdivision. An approximately 2,600 SF area of land will be transferred from Lot 18.01 to Lot 8.01. Lot 8.01 will also gain 2.9 FT width along the property frontage. No construction is proposed under this application; however, these lots are the subject of Site Plan application number SP-1901. The property has frontage along South Clifton Avenue just south of Main Street. The site is located within the B-4 zoning district. The applicant has revised the plans to correctly show the site is located within the B-4 Zoning District. The zoning table shall be revised to correct the bulk requirements. The minimum required lot area should read 20,000 SF. The minimum required front yard setback should be 25 feet, and the minimum required rear yard setback should read 30 feet. The application will require the following variance: Minimum lot area; 4,793 SF and 10,435 SF are provided for Lot 8.01 and Lot 18.01 respectively, where 20,000 SF is required. Both lots were previously undersized. Minimum lot width; 24.90 FT and 98.19 FT are provided for Lot 8.01 and Lot 18.01, where 100 FT is required. Minimum front yard setback; 0 FT are provided for each lot, where 25 FT is required. This is an existing condition. Minimum rear yard setback; 0.5 are provided for Lot 18.01, where 30 FT is required. This is an existing condition. Minimum side yard setback; 0 FT are provided, where 10 FT on one side and 20 FT combined side yard setback is required. Outside agency approval from Ocean County Planning Board is required. Evidence of the approval shall be made a condition of the Planning Board approval. The application shall

indicate on the plan Main Street and South Clifton Avenue are State Highway Route 88 and Ocean County Route 528 respectively. The remaining comments are technical in nature.

For SP #1901 - Mr. Peters read from a letter dated October 25, 2008. The Applicant is seeking a Preliminary and Final Site Plan Approval to construction a two (2) story office building with 3,859 SF of floor area on Lot 8.01. Lots 8.01 and 18.01 are currently known as Lots 8 and 18. Reconfiguration of the two lots is being reviewed under application SD-1640. The property has the frontage along South Clifton Avenue. The site is located within the B-4 zoning district. The applicant has revised the plans to correctly show the site is located within the B-4 Zoning District. The zoning table shall be revised to correct the bulk requirements. The minimum required lot area should read 20,000 SF. The minimum required front yard setback should be 25 feet, and the minimum required rear yard setback should read 30 feet. The applicant shall request the following variance: Minimum lot area; 4,793 SF and 10,435 SF are provided for Lot 8.01 and Lot 18.01 respectively, where 20,000 SF is required. Both lots were previously undersized as well. Minimum lot width; 24.90 FT and 98.19 FT are provided for Lot 8.01 and Lot 18.01, where 100 FT is required. Minimum front yard setback; 0 FT are provided for each lot, where 25 FT is required. This is an existing condition. Minimum rear yard setback; 0.5 are provided for Lot 18.01, where 30 FT is required. This is an existing condition. Minimum side yard setback; 0 FT are provided, where 10 FT on one side and 20 FT combined side yard setback is required. Outside agency approvals from Ocean County Planning Board and Ocean County Soil Conservation District are required. Evidence of the approvals shall be made a condition of the Planning Board approval. The applicant is required to provide 35 parking spaces based on the use and area of the building. If some of the parking will be provided within the paved area behind the proposed building, the parking spaces shall be striped and dimensioned. It is our understanding parking will be provided on the Church property adjacent to the subject property. The number of parking spaces available shall be provided through testimony and a written agreement between the applicant and the church will be required. The applicant shows on the Existing Condition Plan two 5 FT x 7 FT dumpsters located in the rear yard of the Lot 18; however, no trash receptacle areas are shown on the Improvement Plan. The applicant shall provide testimony on storage and disposal of solid waste generated on site. Per section 18-803.E. of the UDO, a minimum buffer area of twenty five (25) FT shall be provided along the property lines. The applicant has provided landscaping along the southern property line of Lot 8.01; however, the landscaping is located outside the property line into the neighboring lot, Lot 1. Written permission for the landscaping shall be provided by the neighboring property owner. The proposed office building on Lot 8.01 and the existing building on Lot 18.01 are shown on the plans located along the southern and northern track boundary lines. The applicant will need a variance for not providing sufficient buffer areas. The applicant shows on the plans a proposed retaining wall along the southern property line of Lot 8.01 is located at the rear yard of the lot. The applicant will be required to provide written permission from the owner Lot 1 to install and maintain the retaining wall. The easement agreement and legal descriptions shall be provided to the Planning Board for review. The parking/loading area at the rear of Lot 8.01 has no access to a public right of way. This will require an access easement through a neighboring lot or a written agreement of a neighboring lot owner. The proposed building on Lot 8.01 appears to be delineated with a double line. It is difficult to discern the limits of the building, especially the areas of the stairways. This shall be clarified. The remaining comments are technical in nature.

For SD # 1640 - Mr. Truscott read from a letter dated October 21, 2008. The applicant seeks minor subdivision and variance approval to re-align the existing lot line between Lots 8 and 18 to enlarge Lot 8. The applicant also proposes to construct a new commercial building on new Lot 8.01 under pending Application SP-1901. The tract is 15,228 square feet (0.35 acres) in area and located at the southwest corner of the intersection of South Clifton Avenue and Main Street (also known as NJ Route 88). The property contains a building on each lot. The existing structure on Lot 8 will be razed, and the existing structure on Lot 18 will remain. The applicant has submitted revised plans to address the comments from the Board and its professionals at the September 2, 2008 meeting. Zoning. The subject site is located in the B-4 (Wholesale Services) Zone. The following variances are requested: Lot Area: A minimum lot area of 10,000 square feet is required; 4,793 square feet is provided. Lot Width: A minimum lot width of 100 feet is required, and 24.9 feet is proposed. Front Yard Setback: A minimum front yard setback of 15 feet is required, and 0 feet is provided. Side Yard Setback: A minimum side yard setback (on one side) of 10 feet is required, and 0 feet is proposed. Combined Side Yard Setback: A minimum combined side yard setback of 20 feet is required, and 0.3 feet on the. The variances for the setbacks should be addressed as part of the site plan application. The applicant should address the positive and negative criteria in testimony at the public hearing. The following plat revisions are required: The bulk requirements of the B-4 Zone should reflect the standards within the text of the Unified Development Ordinance. Correct lot area, front yard setback, and rear yard setback should be listed. Add building coverage data. Provide the bearing and outside dimension of the western property line of the tract on South Clifton Avenue. Provide the bearing and dimension of the eastern lot line of proposed Lot 8.01. Identify the zoning setback lines. The dimension of the eastern lot line of proposed Lot 18.01 should be identified on the plat and the correct dimension listed in the bulk schedule. Identify the dimension of the eastern lot line of new Lot 18.01. Identify the dimension of the south property line of Lot 8.01. Add the list of property owners within 200 feet. We note the encroachment of the existing building on the right-of-way of South Clifton Avenue. Any Board approval of the minor subdivision should acknowledge the encroachment and indicate that the Planning Board is not approving same. The number of off-street parking spaces for the existing and proposed buildings will be addressed with the site plan application. The balance of the comments are technical in nature.

For SP# 1901 - Mr. Truscott read from a letter dated October 23, 2008 *Revised October 24, 2008*. The applicant seeks preliminary and final major site plan approval to construct a two-story retail and office building. The proposed will contain 5,788 square feet of retail space, and 1,929 square feet of office space. The subject parcel is 15,228 square feet in area and located at the southwest corner of the intersection of Main Street (State Highway Route 88) and South Clifton Avenue. The property contains an existing building and has approximately 123.09 feet of frontage on South Clifton Avenue. The existing structure on new Lot 8.01 will be razed. The proposed building will be constructed on new Lot 8.01 and will be 4,793 square feet in area. The applicant has submitted a minor subdivision application to align the lot line between Lots 8 and 18 as Application SD-1640, also pending before the Planning Board. Zoning. The property is located in the B-4 Zone. Retail and office uses are permitted in the B-4 zone district. The following variances are requested: Lot Area: A minimum lot area of 10,000 square feet is required; 4,793 square feet is provided. Lot Width: A minimum lot width of 100 feet is required, and 24.9 feet is proposed. Front Yard Setback: A minimum front yard setback of 15 feet is required, and 0 feet is provided. Side Yard Setback: A minimum side yard setback (on one side) of 10 feet is required, and 0 feet is proposed. Combined Side Yard Setback: A minimum combined side yard setback of 20 feet is required, and 0 feet is proposed. The applicant should

address the positive and negative criteria in testimony at the public hearing. Review Comments. Off-Street Parking. A total of 35 off-street parking spaces are required, and none are provided. A waiver of 18-807.B of the UDO is required. The parking computations are as follows:

Use	Rate	Floor Area	Parking Spaces Required
Retail	1 space/200 sq. ft.	5,788	29
Office	1 space/300 sq. ft.	1,929	6
Total Spaces:			35

Buffer. The Planning Board should decide if any buffering should be required for the south (side) and west (rear) boundaries of the subject lot. The south side of the property will face a parking area, and the applicant proposes foundation plantings on this side. No plantings are proposed in the rear (or west side) which abuts Lot 18.01. **Streetscape.** The Planning Board should discuss the possible extension of existing streetscape improvements (i.e., brick pavers) along the frontage of Lot 18.01 as a condition of approval. A Staging Plan has been submitted for Board review. The Staging area is proposed in the rear of Lot 8.01 on Lot 18.01. Continuation of pedestrian circulation along the sidewalk is shown on the Staging Plan and should be provided during the construction phase. Evidence of the necessary authorization for the staging area from the owner of Lot 18.01 should be submitted to the Planning Board. The architectural drawings should be updated to provide the building address and Block Number 88. **Solid Waste.** The applicant should provide the Planning Board with a description of the collection of solid waste from the proposed building. Any trash enclosure should be screened. **Landscaping** is proposed off-site on adjoining Lot 18.01. The owner of Lot 18.01 must consent in writing to the proposed improvements. Building-mounted signage must comply with the UDO requirements. Discuss handicap-accessibility to the proposed building from the adjacent parking area. The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; Ocean County Soil Conservation District; Water and Sewer Utilities.

Mr. Penzer Esq. appeared on behalf of the applicant for both applications and said the reports are identical for both the subdivision and the site plan. He said there are 2 interesting issues, the first issue is an issue that Mr. Flannery's opinion is it is a drafting error and it is really zoned as B2 and if it is a B2 then there are no variances whatsoever. Mr. Mack originally stated that he agrees and then said since it is a mistake you should go back to what it was (B4) but it is Mr. Penzer's legal opinion and he says it in writing that it is a mistake, so if it is a mistake, then it should be a B2. If it is not, then we are here to ask for the variance in the B4. Mr. Jackson recommended the board look at this as a site in the neighborhood, decide if it is appropriate or not, and if it is, grant the variances based on the more conservative zone. He does not think it is as easy as the Zoning Officer saying there is a mistake because other people might rely on that mistake and think that is what the zone is.

Mr. Penzer said the second part is that there is an issue of meeting with the church, which they did, and work out all the items. They worked it out so well that the church asked him if he would bring the board a copy of the agreement they have and read it into the record. Mr. Neiman said before he reads it into the record, explain what the applicant is doing. Mr. Penzer said they are

got permission from the church to go onto their parking lot. This application goes up to the lot line, so in order to do anything in the back of the property we have to go onto the church's property, so we have permission to go onto their property to stage it, etc. The only problem they have is dedicating parking to this applicant. The church owns the parking lot and it leases it to the township from year to year so they cannot go and be better than the township parking, we can have use of it. Mr. Neiman said he would like to see it and also asked what they are gaining by moving the lot line and why it can't stay where it is. Mr. Penzer said they are squaring it out straight so the building goes back straight and the only way to get into the back is through the parking lot of the church and that will be for staging and maintenance of the retaining wall. The entrance will be on Clifton Avenue. Mr. Jackson said to mark the letter A1 which is the letter from the church granting them access.

Mr. Flannery is the engineer and planner for the applicant said with regards to the planner's report, they are straightening out a "z" shaped lot that went from Clifton Avenue behind another building and in by the church's parking lot. They will have 2 lots that are more squared off and 2 buildings; staging will be in the rear and to the south is the church's parking lot and during mass it is used but otherwise it is used as a township parking lot for shopping and this same procedure will go, the difference is that they are going to have 2 more squared off lots and the one building will be extended. There was a question as to whether this is B2 or B4 zoning and said they will be presenting proofs so the board can grant variances for the B4, even though it is his opinion that it is in the B2 zone and if they had sufficient time they could go to the town and get it straightened out, the tax records show it as B2 but the tax map shows it as B4. When the tax map was revised in 2003 the line was drawn in the wrong spot and even though it is wrong by 123 ft. but when you are doing it in 1000 scale it is 1/8 of an inch. Mr. Mack agrees that it is a drafting error and property zones can't change with a drafting error and the only way it can is if the Township Committee takes official action and in this case they didn't. Mr. Neiman said he is familiar since it happened in another area around Drake Road and said let's continue with this as a B4 and Mr. Flannery said what he wants to indicate is as a B2 it needs no variances. With the planners report, the existing front setback is actually a negative number because it encroaches over the property line but it is an existing condition. The other variances he feels can be granted without any detriment to the zone plan or zone ordinance and it provides businesses that serve the downtown area and works well with the adjoining property owner given the agreement they have furnished to the board. They agree to comply with the remainder of the comments in the planners report as far as the subdivision report. With regard to the site plan report, there are the same issues with the zoning in that report along with the variances and he had the same testimony. With regard to the parking, 35 parking spaces would be required and they are providing, based on the agreement with the neighbor, the adjoining parking lot contains well over 35 parking spaces. Mr. Neiman said if this was a B2 zone they would not need any parking, they would not need variances for setbacks, etc. and Mr. Flannery said yes, it would be conforming completely. Mr. Schmuckler asked if the township decides to stop leasing this parking lot is that agreement going to stand that the church will allow them to use it for parking. Mr. Franklin said the way it started was they put an addition on the Post Office and the town wanted an addition they couldn't put the addition because there wasn't parking so the Catholic Church made an agreement with the township that they could put the addition on and the workers from the post office (at the time there were 100's of them) could park there and it works out well for the church because the town maintains the parking lot.

With regards to the engineer's report, Mr. Flannery said he raises the same planning issues and as far as the technical issues, they agree to comply with them. Mr. Peters said he needed to clarify something on the yellow building on the southeast corner there is an offset and Mr. Surmonte who drew the plan answered Mr. Peters question and said that one of those lines is the property line and the other is the proposed building so the proposed building will be inside the property line by .8 ft. Mr. Truscott also had a question and said Mr. Flannery agreed to comply with all the comments but there was one item in the site plan about the streetscape and the possible extension of the brick pavers in front of the building and Mr. Penzer feels it is a waste and it dips down to there and they asked Mr. Franklin his opinion and he said it is no big deal and not a problem to end it where it is and not extend it.

Mr. Jackson said Mr. Flannery is probably right about the zone change but in his view they can't override what the map says and absent the governing body weighing in on it or further clarifying it he thinks it should be. Mr. Neiman said they are pretty big variances and Mr. Penzer said the parking is met and Mr. Neiman said forget the parking, there are other variances that are needed, a lot of them are existing and Mr. Flannery said what they are doing is an improvement in the area so it falls under a C2 variance where the benefits outweigh the detriments and even under a C1 where it is a hardship because it is an existing condition. Mr. Neiman wanted that on the record. Mr. Jackson said the other side of the coin is to make them conform more to the zone and striking that balance and deciding what the board thinks is appropriate and if they meet the criteria that is what the board does. Mr. Neiman said there is no conforming building that can be put on this property and that is the problem. Mr. Neiman asked Mr. Franklin if he is comfortable with the letter from the church about the staging and Mr. Franklin said he is. Mr. Neiman said the letter from the Environmental Commission asked where the trash enclosure was because they did not see it on the plans and Mr. Surmonte said there will be an enclosure at the rear of each of the buildings and it will be added to the site plan.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Herzl, seconded by Mr. Akerman, to approve this application as a B4 with the variances based on the professional reports without the brick pavers

Mr. Kielt clarified that this is for application SD 1640 and SP 1901

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Schmuckler; yes

7. **SD# 1642** (Variance requested)
 Applicant: Yitzchok Lieberman
 Location: Arlington Avenue @ northeast corner of Wynatt Avenue
 Block 774.01 Lots 12 & 13
 Minor Subdivision from 2 lots to 3

Mr. Peters read from a letter dated November 3, 2008. The applicant is seeking a Minor Subdivision approval to subdivide two (2) lots into three (3) new lots, to be known as Lots 12.01, 12.02, and 12.03. No existing dwellings are shown on the plan located within the property. No buildings are proposed to be constructed under this application, however roadway improvements are proposed. The property has frontages along Wynatt Street and Arlington Avenue. The property is situated within the R-7.5 and R-10 zoning districts. The applicant is requesting the following variances. Minimum lot area for Lots 12.02 and 12.03; 10,000 SF is required, where 8,602 SF are provided. Minimum lot width for Lots 12.02 and 12.03; 75 FT is required, where 50 FT are provided. Minimum front yard setback for Lots 12.02 and 12.03; 30 FT is required, where 25 FT are provided. Minimum rear yard setback for all new lots: 15 FT is required for Lot 12.01, where 8 FT is provided for Lot 12.01; 20 FT is required for Lots 12.02 and 12.03, where 15 FT are provided. Minimum one side yard setback for Lots 12.02 and 12.03; 10 FT is required, where 7 FT are provided. Minimum total side yard setback for Lots 12.02 and 12.03; 25 FT is required, where 15 FT are provided. Allowable building coverage for Lots 12.02 and 12.03; 25 % is permitted, where 30 % is proposed. The Board should be aware that a minimum lot area of 10,000 SF is required when two-family/duplex structures are proposed in the R7.5 zone. The applicant shall provide testimony on the intention of the subdivision. Per NJ RSIS standards, two and an half (2.5) off-street parking spaces are required for single family dwellings with unknown numbers of bedrooms. The applicant has proposed three (3) parking spaces per dwelling. The Board should determine if the proposed parking will be sufficient. Outside agency approvals from the Ocean County Planning Board and NJDEP for Treatment Works Approval are required. Evidence of the approvals shall be provided as a condition of the final approval. The subdivision will result in two dwellings being located on one lot, which is a nonconforming use. The dwellings shall be removed prior to signature of the final plat or a bond posted to ensure the prompt removal of the structures. The plan notes the proposed utility extensions and roadway improvements will be installed by others. The applicant shall provide testimony on who the "others" are and when the improvements will be installed. The applicant shall provide testimony on how the existing dwelling is provided with water and sewer. Any individual septic systems or wells found on site shall be abandoned in accordance with the state and federal standards and regulations, and noted as such on the plans. A 6 FT shade tree and utility easement is proposed along the property frontage. Curbs and sidewalks are either existing or proposed along the property frontages. An aerial map from NJDEP shows wetlands may be located within close proximity of the site. The applicant has revised the plans to show wetlands to the east of the site, however, the NJDPE mapping shows the possibility of wetlands to the south of the site as well. The applicant shall address this issue. A signature block shall be added to the Roadway Improvement Plan for the Planning Board Chairman, Engineer, and Secretary. The plan has been prepared in accordance with the New Jersey Map Filing Law.

Mr. Truscott read from a letter dated October 30, 2008. The applicant requests minor subdivision and variance approvals to create three lots. The subject parcel is 38,236 square feet in area and situated on the east side of Arlington Avenue. The subject tract contains two (2) dwellings. The surrounding land use is residential. The parcel in question is located in both the R-10 and R-7.5 Residential Zone Districts. Single-family detached residences are a permitted principal use in both zones. Compliance with the bulk standards of the R-10 Zone is required for Lots 12.02 and 12.03. The following variances are requested:

**PLANNING BOARD MEETING
NOVEMBER 4, 2008**

**TOWNSHIP OF LAKEWOOD
REGULAR MEETING**

	Required	Proposed Lot 12.02	Lot 12.03
Minimum Lot Area (sq. ft.)	10,000	8,602*	8,602*
Minimum Lot Width (sq. ft.)	75	50*	50*
Minimum Front Yard Setback (feet)	30	25*	25*
Minimum Side Yard Setback:			
One (feet)	10	7*	7*
Both (feet)	25	15*	15*
Minimum Rear Yard Setback (feet)	25	15*	15*
Maximum Building Coverage	25%	30%*	30%*

* = Variance requested.

We have received a letter dated October 17, 2008 of confirmation of the location of the zone boundary from the Township Zoning Officer (copy attached). The positive and negative criteria for the requested variances should be addressed. The consistency of the proposed lot areas and lot widths with the neighborhood should be discussed. Review Comments. The applicant has submitted a Road Improvement Plan for Lots 12 and 13, Block 774.01, for the extension of Arlington Avenue along the frontage of Lots 12.02 and 12.03. The Plan indicates that the curb, sidewalk, pavement and water main will be installed by others. It appears that the applicant will be installing an 8-inch sanitary sewer line and two (2) sewer manholes connecting to Pine Street to serve the subject lots. The applicant should submit written evidence the road improvements on Arlington Avenue have been previously approved by Lakewood Township, and that the improvements have been bonded. This information should be submitted and reviewed by the Board Engineer prior to the filing of a plat. Sidewalk is now proposed along the property frontage. The balance of the comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant. He said at the technical meeting they had 2 plans, a conceptual plan and a minor subdivision and what they explained is the top plan is the synagogue they were putting on one of the lots and the bottom plan is the minor subdivision showing making one lot smaller to make the synagogue lot bigger. He said the board had 3 concerns at that meeting and they are prepared to address all of them. The most important concern was whether Wynatt Street was a street or a lot and they have found out that it is a street. The other concern is finding out where the boundary is: the line on the top lot, which is where the synagogue will be when they come back if this subdivision is approved, the line splits on the bottom left of the map (sheet 1 of 1 of the Minor Subdivision) and the zone goes right through the property and it is R10 and the one on the top is an R7.5 zone and if they had to show the predominate lots in the area it would be R7.5. The final concern is whether the wetland line to the right of the property touches this property in any way which would infringe on the buffer.

Mr. Flannery was sworn in as the engineer and planner for the applicant and said they have rendered in the yellow area the buffer line is for the wetlands on the adjoining property and

stated they have no wetlands on their property. The GIS maps show wetlands on the adjoining properties and they had Trident Environment go out and look at it specifically and they said the only wetlands that impact their property is what is shown. Mr. Flannery said he has a letter from Trident that he would submit to the board and Mr. Banas asked him to submit that letter. Mr. Flannery said they are requesting variances for the 2 southerly lots and said they are trying to preserve as much land as possible in the northerly lot for the synagogue and the southerly 2 lots will be residential lots and they will be conforming with the neighborhood and are consisted with the R7.5 zone. He also said they are consistent with the recently adopted Master Plan re-examination report (page 75) and this is Area 17 that was recommended to be rezoned to R7.5 and approved by the board. Mr. Banas said it was not approved by the Township Committee. Mr. Flannery also referred to page 35 of that report under housing and the comment about the tremendous residential growth in Lakewood and not all the housing needs are being met and he said they are trying to meet the needs. He also quoted from page 39 (houses of worship) that states there is an acute need for sites for neighborhood synagogues based on the explosive growth of the orthodox Jewish population and sites are needed in close proximity to members' homes. Mr. Flannery said what they are requesting are consistent with the Master Plan and meets both the purposes of zoning under the MLUL and it is his opinion that the board can grant these variances without any detriment to the zone plan or zoning ordinance. Mr. Flannery went through the planners report and explained the variances and said they were consistent with the R7.5 zone and said the remainder of the review comments were minor and they agreed to comply. With regards to the engineer's report, they list the same variances and the only additional comment is the duplex structures are permitted but we are not proposing duplexes and by making them 8600 duplexes would not be allowed in either zone. The intention is clear, they have been up front and they would like to do a synagogue there as part of making the synagogue work they want two residential lots which will fit in nice with the neighborhood. They agree to comply with the remainder of the comments in the engineer's report. Mr. Banas asked about the parking spaces and Mr. Flannery said that should be 4 parking spaces per dwelling and they concur. Mr. Flannery said the comment in Max's report about the road improvements by others, there was another application in the area (Mr. Brown) and they agree if for some reason, Mr. Brown does not do his improvements, they are obligated to do those and one way or another a bond will be posted and those improvements will be put in.

Mr. Banas asked about water and sewer and was told the plans indicated an extension of water and sewer to serve the development. The current development is on well and septic and they would abandon them and water and sewer would be extended.

Mr. Banas opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Neiman, seconded by Mr. Herzl, to approve the application with all the stipulations of the planner and engineer

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Schmuckler; yes

5. MEMORIALIZATION OF RESOLUTIONS

- None at this time

6. CORRESPONDENCE

- None at this time

7. PUBLIC PORTION

- No one at this time

8. APPROVAL OF MINUTES

- None at this time

9. APPROVAL OF BILLS

Motion was made by Mr. Neiman, seconded by Mrs. Koutsouris, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Schmuckler; yes

Mr. Banas wanted to discuss the school from last week (Yeshiva Keter Torah) and wanted to bring the members up to date. He said he didn't know if they went to the area and suggested they go take a look because what they have there is entirely different than what they surmised. He does not know how they received approval for 10 trailers. Reading the ordinance it seems to him as though a trailer was necessary after you have a building and then you go on from there and it seems as though the trailers were established without a building to attach itself to. He said they had trouble with trailers on Joe Parker Road similar to this and that only dealt with one trailer. Mr. Franklin said there was a house there and Mr. Banas agreed and said the board

got into a lot of difficulty there. Now there is no building whatsoever which was supposed to be phase 1 and we have 10 trailers and frankly he is disturbed. They are there, you can't throw them out now but it is something he would like the board to take a look and see as to what the conditions are. Mr. Schmuckler asked if shouldn't the zoning officer enforce the law and ordinances and not allow that? Mr. Banas asked Mr. Jackson what he suggests and Mr. Jackson said he suggests they place a call to the zoning officer and tell him to take a look at it, it is an enforcement issue. The Planning Board deals with applications that come before the board and we don't really have any authority to do anything other than alert the official who does have the authority. Mr. Kiert said the zoning officer is fully aware of it.

Mr. Schmuckler asked if the board approves such an application does it mean they allow them to have these trailers or ignoring the fact that they have these trailers altogether. It means somehow while we are addressing the phase 1 and phase 2 constructions, we are giving credibility to these trailers where we should not be giving it to an illegal structure? Mr. Banas said that is the problem that he has also. Mr. Banas said we know that it shouldn't be and it is there, how it is done, he doesn't know. Mr. Jackson suggested that they take into account that there is discretion in the executive branch of the government on where and how they choose to pick their battles and there are various policies, etc.

Mr. Banas said if they turn their left eye away, all they are doing is giving credence to this way of life. Mr. Schmuckler said it is more than that, if we allow the building to go on, they did not even show how they were going to do the building with the trailers and Mr. Franklin said if you go out there and see it, it is a mess. It is not the safest place in the world for kids and it is quite disturbing and Public Works was doing a poor job of garbage collection out there because bags of garbage was thrown all over the place and no one ever reported it to us. There is no pads poured under the garbage containers, a totally un-policed area. Mr. Schmuckler said the board always has the option of making them go through the loops to make sure they keep the children safe.

Mr. Banas stated he wanted the board members to please, if they have the opportunity, go out there and look.

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

**Respectfully submitted
Chris Johnson
Planning Board Recording Secretary**