

**ZONING BOARD OF ADJUSTMENT
MINUTES**

MAY 4, 2009

Meeting was called to order at 7:15 P.M.

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gelley, Mr. Lazzaro, Mr. Naftali, Mr. Zaks,
Ms. Goralski, Mr. Halberstam

Absent: Mr. Gonzalez, Mr. Lieberman

Arrived late: Mr. Lankry

Also present: Attorney - Christopher Koutsouris and Robert Ulaky
Jack Mallen, Engineer/Planner
Jackie Wahler, Court Stenographer
Fran Siegel, Secretary

Salute to the flag.

Motion to approve minutes of March 16th, 2009 with a waiver to read – Mr. Naftali

Second – Mr. Lazzaro

Roll call vote: affirmative: Mr. Gelley, Mr. Lazzaro, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Motion to approve minutes of March 30th, 2009 with a waiver to read – Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Lazzaro, Mr. Naftali, Mr. Zaks, Ms. Goralski

Appeal # 3699 – MetroPCS – 800 Massachusetts Avenue, RM zone. Block 453 Lot 1.
To locate 6 antennas at centerline height of 205 feet on existing tower.

Michael Beck, attorney for applicant. This matter was begun on March 30th. The matter was carried to this meeting in order that the objectors may continue their cross examination.

Gorden Gama was the objector's attorney. He was not present.

There was no one in the public.

Chairman closed the meeting to the public.

Mr. Halberstam & Mr. Gelley both signed certifications that they read the transcripts and reviewed the exhibits.

Mr. Beck – there are no operating cell sites in Lakewood. This is the first one. Seeking a use variance. There will be 6 antennas located on the existing tower. There are no exterior modular cabinets.

Motion to approve – Mr. Zaks

Second – Mr. Lazzaro

Roll call vote: affirmative: Mr. Gelley, Mr. Lazzaro, Mr. Naftali, Mr. Zaks, Ms. Goralski,
Mr. Halberstam

Appeal # 3705 – Ahron & Yafa Walkin, Clearstream Road, Block 2 Lot 134, R-40 zone.
amend condition of resolution to allow a 50 foot front setback where 100 feet was required.

Secretary read reports.

From : John Ernst, Engineer/Planner - March 26, 2009

1. The property is located on the northerly side of Clear Stream Road, approximately 247 ft. north of Hope Chapel Road (a.k.a. Ocean County Route 639). It lies within the R-40 (Residential) Zone and comprises an area of 42,642 s.f. As previously mentioned, the applicant's lot was previously in the E-1 (Estate) Zone and was created by the provisions of the E-1 zoning requirements and further deed restricted by Resolution No. 2969A by requiring a 100

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ft. Front Yard Setback on the applicant's lot from Clear Stream Road. The lot is vacant and is encumbered by a "Tree Preservation Area and Conservation Easement" located in the rear of the lot.

2. The applicant proposes to construct a two-story residential dwelling and a rear yard in-ground swimming pool on the lot. Potable water and sanitary sewer facilities will be provided by on-site systems.
3. The applicant has requested a Front Yard Setback Variance for the proposed two-story residential dwelling. A front yard setback of 50 ft. is proposed from Clear Stream Road; whereas under the approved subdivision (approved by Resolution Appeal No. 2969A) the lot was deed restricted to a front yard setback of 100 ft. from Clear Stream Road.
4. The applicant should provide testimony to the Board on the following issues:
 - a. Testimony should be given in support of the requested Variance.
What are the prevailing front yard setbacks along Clear Stream Road in the vicinity of the applicant's lot?

Jonathon Brandford Spinrad, 43 Sherry Court, affirmed. Mr. & Mrs. Walkin would like to build a home approximately 4,200 square feet and a swimming pool in their back yard. In order for them to fit in a pool, septic system and a well they are asking for the house to be set back at 50 feet which is the requirement of the zone. Described the setbacks of the other houses on the block. He is the builder.

Mr. Halberstam - This was part of a subdivision with the condition that the setback will be 100 feet.

Mr. Cherkos – this board has the authority to grant the variance if it chooses.

Mr. Spinrad –there are 3 properties on Clearstream Road, one is developed and built, one is the Walkins and one has a letter from Mr. Mack saying that they do not have to adhere to the 100 foot setback.

Mr. Koutsouris - The relief that is being sought is an amendment of the prior resolution which the applicant is now seeking this board to consider. The 50 foot setback was permitted in the prior zone and is now permitted in the present zone.

Ahron Walkin, 65 Maplewood Terrace, affirmed. Does not think that he was told about the 100 foot setback.

Mr. Zaks - The filed map would show the tree line but they would not have known about the resolutions.

Yafa Walkin, 65 Maplewood Terrace, affirmed. Bought the lot in December 2008. When they started to make the plans the engineer located the house on the lot they found out about the setback and the tree line. Would rather have a big backyard then a big front yard. Bought the property from Mordechai Schron.

Open to Public.

Eli Oelbaum, 45 Clearstream Road, affirmed. Everybody on the block has a 100 foot setback. Contacted the Walkins prior to the closing that if they were going to ask for any kind of variance they would be opposed. Contacted the Schrons and they said they would be willing to allow the Walkins to back out of the deal. To bring the house closer than 100 foot would change the status and the look of the block because of a pool is a self created hardship.

Gerri Ballwanz, Governors Road, sworn. This variance should not be granted.

Closed to Public.

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Ms. Goralski – do not see the necessity to deviate from the 100 foot setback.

Mr. Spinrad – the distance from the tree preservation line to the front of the lot is about 200 feet. The garage would be at 50 foot and the house would be about 70 feet back.

Mr. Zaks – everything would fit in at a 100 foot setback.

Mr. Halberstam – do you want to redesign and come back?

Mr. Walkin – he thinks that they were not told about the setback. Mr. Waxman said that it was a good deal and he should go through with it.

Ms. Goralski – there is still room at the 100 foot setback.

Mr. Zaks – whether you knew about it or not does not effect our decision.

Motion to deny – Ms. Goralski

Second – Mr. Lazzaro

Roll call vote: affirmative: Mr. Gelley, Mr. Lazzaro, Mr. Naftali, Mr. Naftali, Mr. Lankry,
Ms. Goralski, Mr. Halberstam

Abstain: Mr. Zaks

Appeal # 3697 – Pine Street Development, 225-233 Pine Street, Block 774.01 Lots 7, 8, 9, & 10.
R-7.5 and R-10 zone. 21 lot subdivision with 10 2 family dwellings.

Secretary read reports.

From: John Ernst, Engineer/Planner – March 13, 2009

The application is for a Preliminary/Final Major Subdivision with Bulk and Use Variances on the above referenced property. I have reviewed the submitted information and offer the following comments:

1. The property is located on the north side of Pine Street, approximately 146 ft. west of Vine Avenue. The property (consisting of Lots 7 through 10) is split zoned between the R-7.5 and R-10 Residential Zones and comprises an area of 4.31 acres. The front portion of the property along Pine Street (approximately 2.6 acres) is cleared of woods with the rear portion of the property (approximately 1.7 acres) having uplands woods and containing a forested wetlands area that is associated with near-by Cottler Brook to the east. The property is occupied by two residential dwellings, two detached garages, a shed and two horseshoe driveways from Pine Street. There are two residential encroachments on the west side of the site, one being an attached porch on adjacent Lot 11.01 (0.82 ft. encroachment)

and one being a chain link fence on adjacent Lot 12 (7 ft. encroachment). Adjacent Lot 21 (to the northeast of the site) is a Conservation Easement that has been dedicated to the Township of Lakewood while all other adjacent properties are either vacant or residentially developed.

2. The site appears to be in Flood Zone "X" (unshaded) which is an area determined to be outside the 0.2% annual chance floodplain.
3. In accordance with the Soil Survey of Ocean County the site appears to be situated on the following soil groups:
 - Atsion Series Soils which are poorly drained soils with the seasonal high water table expected to be 0 ft. to 1 ft. below the surface of the ground.
 - Downer Series Soils which are well drained soils with the seasonal high water table expected to be greater than 6 ft. from the surface of the ground.
 - Klej Series Soils which are moderately well or somewhat poorly drained soils with the seasonal high water table expected to be 1½ ft. to 2 ft. below the surface of the ground.

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4. The applicant proposes to develop this site for residential Use in the following manner:
 - a. All existing improvements within the site are to be demolished (except for the porch and fence encroachments on residential lots to the west).
 - b. A new cul-de-sac road, approximately 320 ft. long, is to be extended into the site from Pine Street.
 - c. Twenty (20) residential dwelling lots and one lot for stormwater management are proposed.
 - d. The application form indicates that ten (10) two-family dwellings are proposed and in review of the applicant's plans each two-family building will be divided by a property line so that each proposed lot has a single-family dwelling. As per the Township's definitions (18-200B Dwellings) and for zoning purposes this type of construction would be considered as "multi-family" construction which is not permitted within both the R-7.5 and R-10 Zones. The applicant appears to be developing this site with single family attached units which is not identified as a permitted use within the R-10 or R-7.5 Zones.
 - e. The area of proposed development is primarily within the R-10 Zone. Approximately 2.3 acres of development is within the R-10 Zone and approximately 0.7 acres of development within the R-7.5 Zone. Only four of the proposed twenty dwelling lots are within the R-7.5 Zone.
 - f. Underground stormwater piping and a stormwater infiltration basin is proposed at the terminus of the cul-de-sac road. The limits of the basin have been configured to be within a wetlands "Transition Area Waiver - Reduction" area that has been conditionally approved by the N.J.D.E.P. The plans indicate that the stormwater basin/lot will be dedicated to the Township of Lakewood.
 - g. Each of the proposed residential lots will have its own dry well for roof runoff.
 - h. Each of the proposed residential lots will have off-street parking for four vehicles.
5. The following Variances are required for this application:
 - a. A Use Variance - The applicant's proposal by definition is Multi-Family Use (single building with 2 single family units) which is not permitted within either the R-7.5 or R-10 Zones.

- b. A Use Variance for Residential Density - The applicant proposes 20 single family units or 4.65 units/acre. Based on the R-10 Zoning requirements for single family units 18.8 units or (4.36 units/acre) are permitted or for two-family units 15.6 units (3.63 units/acre) are permitted.
- c. Lot Area Variances - Each residential lot (20 lots) require a Variance for lot area - 10,000 s.f. required; provided areas range from 4,006 to 9,706 s.f. (Lots 7.01 through 7.10 and 7.12 through 7.21).
- d. Lot Width Variances - Seventeen (17) of the residential lots require Lot Width Variances - 75 ft. required; provided widths range from 27 ft. to 65 ft. (Lots 7.03 through 7.10 and 7.12 through 7.20).
- e. Front Yard Setback Variances - Nine (9) of the residential lots require a Front Setback Variance - 30 ft. required; provided front setbacks range from 25 ft. to 28.16 ft. (Lots 7.01, 7.02, 7.07, 7.08, 7.12 through 7.14, 7.20 and 7.21). Lots 7.02 and 7.20 require Front Setback Variances from both streets.
- f. Rear Yard Setback Variances - Nine (9) of the residential lots require a Rear Setback Variance - 20 ft. required; provided setbacks range from 7 ft. to 17.96 ft. (Lots 7.01, 7.08, 7.09, 7.12, 7.13, 7.18, and 7.21). Corner Lots 7.02 and 7.20 provide a zero (0) ft. rear setback.
- g. Side Yard Setback Variances - Eighteen (18) of the residential lots require Side Yard Setback Variances - 10 ft. required; 0 ft. provided (Lots 7.01, 7.03 through 7.10, 7.12 through 7.19 and 7.21), 7.00 ft. and 7.30 ft. provided (Lots 7.02 and 7.20).

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- h. Combined Side Yard - Fifteen (15) of the residential lots require combined Side Yard Setback Variances - 25 ft. required; provided combined setbacks range from 7.00 ft. to 13.58 ft. (Lots 7.03 through 7.10 and 7.13 through 7.19).
 - i. Building Coverage Variances - Fourteen (14) of the residential lots require Building Coverage Variances - 25% max. allowable; provided coverages range from 25.1% to 34.3% (Lots 7.01, 7.03 through 7.07, 7.09 and 7.13 through 7.19).
6. This application is subject to the requirements of the Residential Site Improvement Standards (RSIS) adopted as N.J.A.C. 5:21-1, et seq. In review of the applicant's proposed Drainage Easement that runs along the common property line of proposed Lots 7.08 and 7.09, a *de minimis* exception from the RSIS is required. The width of the Drainage Easement is 10 ft.; whereas a width of 20 ft. is required.
7. The applicant should provide testimony to the Board on the following issues:
- a. The applicant should demonstrate to the Board that the Use Variances can be granted without substantial detriment to the public good and that the intent and purpose of the Lakewood Township Land Use Ordinance and Master Plan will not be substantially impaired.
 - b. The applicant should discuss any special reasons supporting the granting of the Use Variances, addressing both the positive and negative criteria for the Variances.
 - c. The applicant should provide testimony regarding the Bulk Variances required.
 - d. Will the proposed buildings have basements?
 - e. The applicant should provide testimony regarding any proposed sanitary sewer construction along Pine Street.
 - f. Will this project be built in one phase of construction? If not, the applicant should state the number of dwellings for each phase. If the project is to be phased we would

recommend that the entire roadway be built under the first phase so that sufficient turn-around area is provided for emergency vehicles.

- g. Will a project sign be constructed? If so, what kind, where and will it conform with the Ordinance?
- h. Will all buildings be compatibly designed for appearance? Will the proposed buildings meet the conditions of Section 18-821, (Building Uniformity in Residential Developments) of the Ordinance?
- i. Will additional landscaping be provided throughout the development in accordance with Section 18-805, Landscaping and Buffers?
- j. Additional Architectural Plans should be provided depicting the floor plans of each floor and the exterior elevation views of the sides and rear of each building type.
- k. Will a fence be provided around the stormwater basin?
- l. How will the applicant resolve the porch and fence encroachments from adjacent Lots 11.01 and 12? If the encroachments are to remain we would suggest that either written agreements (with those owners of the encroachments) or blanket easements permitting the encroachments be filed within the County. This will eliminate problems of encroachment for future property owners.

8. The Board should be aware that the applicant proposes to dedicate the following to the Township of Lakewood:

m. The stormwater basin lot (proposed Lot 7.11) which includes the wetlands, wetlands buffering areas and the stormwater management basin. This dedication will make the Township of Lakewood responsible for the maintenance of the stormwater basin. The wetlands and wetlands buffering areas are to be within a Conservation Easement also within Lot 7.11.

n. A ten foot wide Drainage Easement that runs along the common property line of proposed Lots 7.08 and 7.09. This dedication will make the Township of Lakewood responsible for the maintenance of the stormwater basin's overflow drainage pipe.

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9. In conformance with Section 18-803.Eb of the Ordinance, a 30 ft. wide landscaped buffer area should be provided along the rear of all proposed residential lots. The Board should determine if the buffer should be planted with trees/shrubs. In addition, the Board should be aware that the applicant proposes residential dwellings that will have rear yard setbacks of 15 ft.

10. In conformance with Section 18-803.H1 of the Ordinance the applicant should obtain a Tree Removal Permit for the areas of woods clearing.

11. Since the applicant proposes less than 25 residential dwellings this application is not subject to the dedication and development of active/passive recreation areas (Section 18-808).

12. We have performed a cursory review of the stormwater management system and it appears that the facilities proposed by the applicant will be adequate to support the proposed development. However, since the applicant proposes to maximize the development on this site we would advise the Board that any approvals granted be conditioned upon a stormwater management system that meets the requirements of the RSIS and the NJDEP Best Management Practices. There may be minor technical issues that remain to be resolved. We will issue a more detailed review letter of the plans and calculations to the applicant's engineer with copies to the Board. In the interim the applicant's engineer should address the following issues:

13. There is a 1.7 ft. vertical separation between the bottom of the basin's sand layer and the seasonal high water table; whereas 2 ft. minimum is required. On-site permeability tests for the

basin and dry wells should be submitted. Tests for the dry wells can be performed at one test site

on each side of the proposed street while the test for the basin should be taken near SB#1.

- i. The applicant's engineer is to check the total roof area to dry wells and include additional paved surfaces in Pine Street that will be directed to the basin.
- ii. A Drainage Area Map for the conveyance system should be submitted.
- b. The following outside agency approvals are required:
 - i. Ocean County Planning Board.
 - ii. Ocean County Soil Erosion and Sediment Control.
 - iii. NJDEP (for verification of filing deed restriction for Transition Area Waiver-Reduction).
 - iv. NJDEP (for potable water approval).
 - v. NJDEP (for sanitary sewer approval).
 - vi. New Jersey American Water Company (for potable water and sanitary sewer approval).
 - viii. approval).

The applicant remains responsible to obtain all other Local, State and Federal approvals and permits that may pertain to this project.

Abraham Penzer represented applicant. There is a massive problem with the duplexes.

A-1 Fannie May article

A-2 MLive.com article

Mr. Penzer – difficult to get approvals for condo's. There are discussions to change the UDO to allow fee simple lots.

Brian Flannery, sworn. Looking for 20 residential lots. Reviewed Mr. Ernst's report. The units would be classified multi--family by the ordinance. Because they will have not have 2 units on one lot they cannot be considered a duplex and must be considered multi-family. They are also in a split zone, R-10 and R-7.5. The Master Plan recommendation is that this should be a R-7.5 zone.

Mr. Halberstam - Are we applying the R-7.5 duplex UDO code to this project?

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Mr. Flannery – If they weren't asking for the fee simple lines, it would be a conforming application and would be at the Planning Board.

Mr. Halberstam - R-7.5 duplex criteria but they are asking for a line going down the middle.

Mr. Flannery – each lot will have its own drywell and a minimum of 4 parking spaces. The issue is fee simple lot lines. Requesting the fee simple because the condo lots have trouble with financing. They requested site plan also. They will agree to satisfy all engineering comments.

Mr. Mallen – Applicant did submit revised plans and they did address most of the issues.

Mr. Flannery - All of the units have a basement entrance on the side of the house.

Mr. Zaks asked about the water table.

Mr. Flannery - All of the basements will be 2 feet above the seasonal water table. Twenty fees simple lot. There will be 4 parking spaces for each lot. Not proposing units in the basement.

The Board was concerned about the parking.

Mr. Penzer – they can provide 8 more parking spaces on the street.

Mr. Mallen - looking at it as a 2-family they should need at least 5 parking spaces for the upstairs and 1 for the basement.

Mr. Flannery – not asking for units in the basement. 4 cars per unit is on the plan for each lot and in addition the 8 on the street.

Mr. Penzer - There will be less than 25 residential dwellings so recreation is not applicable.

Mr. Flannery – the stream is 300 feet away. They will fence in the detention basin.

Mordechai Eichorn, 8 Evian Court, affirmed, licensed real estate broker.

Board accepted credentials.

Mr. Eichorn – The fact that the banks are not lending is making it very difficult to buy a house. Fee simple houses are much easier to obtain a mortgage. In today's market it makes it a lot easier to purchase a fee simple house than it is to buy a condo. A duplex with one owner and two units is very difficult to sell because they have to rely on financing. Across the street they could not sell the condos. Once they went to fee simple they were able to sell out the development.

Mr. Penzer said that there were people in the audience that would purchase these only if they are fee simple

Mr. Halberstam – How difficult would it be if these houses were fee simple but not attached? Like a Pine River type concept.

Mr. Eichorn - If they were the same price it would be easier to sell. In his opinion it would hurt the sales of this particular development if these were not the same product as the one across the street.

A-3 – site plan for development across the street.

Mr. Penzer spoke with the contractor who said to make each house individual it would cost about \$40,000 more.

Sarah Milstein, affirmed. Mortgage processor. Help clients get loans. Hard to get financing for condos. The rates are higher on a condo.

Open to Public.

Gerri Ballwanz, Governors Road, sworn. Concerned about this being low lying land. This might be too many units for this land. Parking along Pine Street would have a negative impact on the town.

Closed to Public.

Mr. Penzer – A condo is a split of the building but the land is separate. These lots are larger than the lots across the street. They cannot go condo because they cannot get a mortgage, they can get a mortgage for fee simple. This should not be different than across the street.

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Mr. Halberstam – this is an application where the majority of the application is in the R-10 zone where the requirement is 12,000 foot lots. The new Master Plan designates this site for R-7.5. The majority of the duplexes are 10,000 square feet and fits in with the R-7.5 foot criteria. Have an issue with a duplex becoming fee simple. What about basement apartments?

Ms. Goralski – agree.

Mr. Flannery – the duplexes across the street have less than 4 parking spaces per duplex. They have provided more parking than across the street. They needed more relief than they are asking for. They are in the same situation that the developer across the street was in. They are proposing 4 parking spaces on each lot and 8 in the cul-de-sac. The benefits of allowing the fee simple greatly outweigh the detriments.

Mr. Penzer – If you granted fee simple lots across the street in the A-1 zone which is more restrictive how could you not grant this?

Mr. Zaks – this Board does not want to see fee simple. Would rather see individual houses. If you could take the same amount of houses and spread them out I would be in favor of the application. We understand the economy.

Mr. Naftali suggested that the Board take a break so the applicant can discuss their options.

Recess.

Mr. Flannery – we will slide the units 3 ½ feet on each side so that it would be 7 and 8 between each unit. They will amend the application. The density will remain the same. They will be completely detached houses.

Mr. Koutsouris – there is only one use variance – there should be one vote. There are several bulk variances.

Mr. Mallen – looks like it can be done administratively –will not change grading or drainage.

Mr. Flannery - Will separate the units also on Pine Street.

Motion to approve this plan subject of a split with a minimum of 7 feet and 8 feet alternately between each house so that they will be detached houses on its own lot, no cars backing out onto Pine Street, 8 extra parking spaces on street, solid fence around detention basin with gate, approval of engineer before the approval of the resolution – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lazaro, Mr. Naftali, Mr. Zaks, Mr. Lankry,
Mr. Halberstam

Nays: Ms. Goralski

Appeal # 3704 – 323-325 Realty, LLC, Ridge 4th Street, Block 237 Lots 1, 2.01, 2.92, 3, 26 & 27, R-7.5 zone. Subdivision for four duplex lots.

Secretary read reports.

From: John Ernst, Engineer/Planner - March 25, 2009

1. The property is located on the east side of Ridge Fourth Street, between Ridge Avenue and East Fifth Street. It lies within the R-7.5 (Residential) Zone and comprises an area of 39,333 s.f. The property is occupied by five single-family residential dwellings and a garage. Surrounding land Uses are single-family dwellings with the exception of a multi-family townhouse building on adjacent lots 4.01 thru 4.06 to the east and along Ridge Avenue.

1. The applicant proposes to consolidate the six existing lots and re-subdivide the tract into four lots for the purpose of constructing four two-family dwellings (duplexes). Two-family/duplex residential buildings are permitted within the R-7.5 Zone providing that each of the buildings are on lots having a minimum area of 10,000 s.f. Also proposed on each residential lot are 10 off-street parking spaces. In addition, indicated on the applicant's plan are dedications of road widening easements along Ridge Fourth Street and Ridge Avenue. The easements are to be dedicated to the Township of Lakewood and encompass lands 25 ft. from the roadway centerlines. The proposed road widening easements (rather than a

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roadway dedication) appears to be consistent with nearby development. The proposed development is supported with existing potable water/sanitary sewer facilities within the adjacent roadways.

2. The applicant has requested a Use Variance to permit the construction of a two-family/duplex building on proposed lot 1.04. The lot has a proposed area of 9,333 s.f.; whereas 10,000 s.f. is required. All other proposed lot areas are in conformance with the Township's Ordinance.

3. The applicant has provided Architectural Plans that indicate two (2) floors for each unit, an exterior basement access along the side of each unit and full size windows within the front roof gable end of the building.
4. The applicant should provide testimony to the Board on the following Zoning issues:
 - a. The applicant should demonstrate to the Board that the Use Variance can be granted without substantial detriment to the public good and that the intent and purpose of the Lakewood Township Land Use Ordinance and Master Plan will not be substantially impaired.
 - b. The applicant should discuss any reasons supporting the granting of the Use Variance, addressing both the positive and negative criteria for the Variance.
5. In conformance with the Map Filing Law prior to map signing either the existing buildings should be removed or a bond for the removal of same should be posted with the Township.
6. The following comments pertain to issues other than Zoning issues:
 - a. When constructed will the proposed buildings meet the conditions of Section 18-821 of the Ordinance (Building Uniformity in Residential Developments)?
 - b. The applicant proposes duplexes (multi-family) units and adjacent Lot 25 is a single family home (see Section 18-803E.2 of the Ordinance; Buffering). At a minimum we would suggest a 6' privacy fence or a single row of arborvitae (6 ft. to 8 ft. high) at six ft. centers along adjacent Lot 25 from the back of the lot to the front setback line.
 - c. The applicant should indicate that adequate parking will be provided for each lot clear of the proposed roadway widening easements.
7. The Minor Subdivision Plan should be revised as follows:
 - a. To be consistent with the proposed "road widening easements" indicated on the plan, a "3.5 ft. road widening easement to Lakewood Township" should be provided along East Fifth Street. The adjacent "10 ft. wide shade tree and utility easement" should also be moved northerly 3.5 ft.
 - b. As per Section 18-805B of the Ordinance the proposed lot numbers should be assigned/approved by the Township's Tax Assessor. If previously approved please submit to this office a copy of the Tax Assessor's approval letter.
 - c. A note should be provided on the plan which states that each duplex building to be constructed will be provided with a dry-well for roof runoff.
 - d. As per the Map Filing Law a minimum of three outbound corners of the property should be coordinated.
 - e. Each owner of property listed within General Note #6 should be provided with an "owners certification" for filing the map.
 - f. All certifications that indicate "Planning Board" should be revised to "Zoning Board of Adjustment".
8. The following outside agency approvals are required:
 - a. Ocean County Planning Board.
 - b. Ocean County Soil Erosion and Sediment Control (if area of disturbance is greater than 5,000 s.f.).

The applicant remains responsible to obtain all other Local, State and Federal approvals and permits that may pertain to this project.

John Doyle represented applicant. Proposing 4 duplexes. They have 39,300 square feet and they need 40,000.

Mr. Flannery – reviewed Mr. Ernsts report. One of the lots will be 9, 333 square feet where 10,000 square feet is required. Duplexes are permitted on the condition that you have 10,000. The relief requested is de minimis. They have provided 5 parking spaces for each unit. They would agree to a 6 foot white vinyl fence to the single family neighbor. At this point they don't have final architectural plans. They are asking for a minor subdivision approval. Will agree to separate the parking on lot 1.03. On 1.04 they will slide the house back. There will be 5 bedrooms.

Mr. Doyle - The structures will conform with all the bulk requirements.

Open to Public. Closed to Public.

Motion to approve – Mr. Zaks

Second – Ms. Goralski

Roll call vote: affirmative: Mr. Gelley, Mr. Lazzaro, Mr. Naftali, Mr. Zaks, Mr. Lankry,
Ms. Goralski, Mr. Halberstam

Appeal # 3698 – Robert Kirschner, New Hampshire Avenue, Block 1243 Lot 8, R-20 zone. To Have an office use on the site with an upstairs apartment. Use variances are sought for the office use and the “garden apartment”.

Mr. Lazzaro recused himself from this application.

There were only 6 members voting.

Applicant agreed to continue.

Secretary read reports.

From: John Ernst, Engineer/Planner - April 22, 2009

The application is for a Use Variance on the above referenced property. I have reviewed the submitted information and offer the following comments:

1. The property is located at the intersection (northeasterly corner) of New Hampshire Avenue and Locust Street. It lies within the R-20 (Residential) Zone and comprises an area of 20,000 s.f. The property is occupied by a two-story residential dwelling with a raised rear-yard deck, a front-yard stone surfaced driveway/parking area from New Hampshire Avenue and a rear-yard stone surfaced driveway from Locust Street which is an unimproved Township roadway. The intersection of New Hampshire Avenue and Locust Street is controlled by a traffic signal and lane markings for northbound/southbound traffic on New Hampshire Avenue and traffic on Locust Street on the westerly side of New Hampshire Avenue. As previously mentioned Locust Street on the easterly side of New Hampshire Avenue is an unimproved roadway. Surrounding land Uses within 200 ft. of the property is either vacant/wooded or residential with Township athletic fields on the southeast corner of the intersection.
2. The applicant proposes to change the Use of the existing residential dwelling into a combined Use of non-medical office/3 bedroom residential apartment. The Office Use is to be on the first floor while the Residential Use will be on the second floor. Also indicated on the applicant's plan is the following:
 - A new one-way driveway (in) from New Hampshire Avenue and a new two-way driveway to Locust Street.
 - Curbing and sidewalk construction within the right-of-way area of Locust Street
 - 13 off-street parking spaces (3 in the front-yard and 10 in the rear-yard).

3. The applicant has requested the following:
 - a. A Use Variance for the proposed combined Use of non-medical office/residential apartment which are not permitted Uses within the R-20 Zone.
 - b. A Waiver from providing a 50 ft. wide buffer along adjacent Lot 10 which is occupied by a residential dwelling.
4. The applicant should provide testimony to the Board on the following issues:
 - a. The applicant should demonstrate to the Board that the Use Variance can be granted without substantial detriment to the public good and that the intent and purpose of the Lakewood Township Land Use Ordinance and Master Plan will not be substantially impaired.
 - b. The applicant should discuss any special reasons supporting the granting of the Use Variance, addressing both the positive and negative criteria for the Variance.
 - c. Will any exterior improvements be done to the existing building?
 - d. The applicant should address the Board on the following issues:
 1. Will landscaping improvements be provided?
 2. Will site lighting improvements be provided?
 3. Will a site identification sign for the proposed office be provided? If so, will it conform with the Ordinance?
 4. Will stormwater control facilities be provided?
 5. Will the driveway/parking area and Locust Street be paved? If not, what kind of surfacing is proposed?
 6. Will a refuse/recycle area be provided? If not, how will refuse/recycling pick-up be provided?
 7. Since the intersection of New Hampshire Avenue and Locust Street is signalized has the applicant discussed this project with the County?
 8. What will be the days/hours of operation for the proposed office?
 9. How many office employees will there be?
 10. How will headlight glare on adjacent residential lots be controlled?
 11. How will access to the apartment be provided?
5. The Board should be aware that the front-yard setback to the existing building from New Hampshire Avenue is 22.89 ft.; whereas 30 ft. is required. The applicant has provided a statement that a front-yard setback Variance was previously granted under Resolution #3468.
6. If the Use Variance is granted by the Board the applicant should submit a Site Plan application in conformance with the Township's Ordinance.
7. Prior to making a Site Plan application to the Township, the applicant should go before the Ocean County Planning Board for their input in regards to site layout and improvements to be constructed.

I would reserve the right to present additional comments pending the testimony of the applicant before the Board.

Robert Kirschner, 1400 West Cross Street, affirmed. This building was moved from property where the Enclave development is now. The ranch is now a two story building. Left the 3 bedroom ranch on the top finished and the downstairs is just an unfinished area. Would like to move his office there. It would be a perfect mix to have this mixed use. The unit upstairs is rented and has been for 4 years now. He will put some lighting on the building for safety. His office is now on County Line Road.

Brian Flannery, sworn. Here for use only. Asking to put his office there which is the least intrusive. Will come back for site plan. This use will not impact the neighborhood.

Mr. Kirschner - There is about 1,800 square feet. He does not intend to use all of it. Would like to rent it out to maybe an accountant or some other professional. There will be a minimum amount of cars there.

Mr. Flannery – they will meet with the County.

Open to Public. Closed to Public.

Motion to approve subject to an office with an apartment on top, mixed use variance only – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Lankry, Ms. Goralski,

Nays: Mr. Halberstam

RESOLUTIONS

Appeal # 3681A – Alter Rubin, 310-324 Dewey Avenue, Block 247 Lots 12-16, R-7.5 zone.

Resolution to approve site plan.

Motion to approve – Mr. Naftali

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Lankry

Appeal # 3693 – Mark Properties, Vermont Avenue, Block 1116 Lot 1, R-40 zone. Resolution to approve a single family house on an undersized lot.

Motion to approve – Mr. Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Lankry, Mr. Halberstam

Appeal # 3696 – Abbi Hirsch, Spruce Street, Block 849 Lot 13, R-40 zone. Resolution to approve a single family home on an undersized lot. Required 40,000 approved 30,722.

Motion to approve – Mr. Zaks

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Lankry, Mr. Halberstam

Appeal # 3700 - Tovia Halpern, Buttell Avenue & Williams Street, Block 420.01 Lots 1.01, 21 & 22, R-10/R-12 zones. Resolution to approve subdivision into 3 lots, one conforming duplex, one single family and use variance for a duplex in the portion of the R-12 zone.

Motion to approve – Mr. Naftali

Second – Mr. Zaks

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Lankry, Mr. Halberstam

Motion to pay bills

All in favor

Motion to adjourn.

All in favor.

Meeting adjourned at 11:00 P.M.

Respectfully submitted,

Fran Siegel, Secretary