

**ZONING BOARD OF ADJUSTMENT  
MINUTES**

**JUNE 7, 2010**

Meeting was called to order at 7:10 P.M.

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

Roll call: Attending: Mr. Gelle, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,  
Mr. Mund, Ms. Goralski, Mr. Halberstam  
Also present: Attorney – Russ Cherkos & Chris Koutsouris  
Terry Vogt, Engineer/Planner  
Jackie Wahler, Court Stenographer  
Fran Siegel, Secretary

Salute to the flag.

Motion to accept minutes of the May 3, 2010 with a waiver to read – Mr. Zaks  
Second – Mr. Gonzalez

Roll call vote: Mr. Gelle, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks,  
Mr. Mund, Mr. Halberstam.

**Appeal # 3698A – New Hampshire Avenue & Locust Street**, Block 1243 Lot 8, R-20 zone. Use variance previously granted for an office and an upstairs apartment. Site plan approval is now requested.

Secretary read reports.

**From: Terry Vogt, Engineer/Planner - April 19, 2010**

The applicant is requesting use and bulk variance relief for a mixed use project proposed in an existing building. The applicant has previously been granted a use variance and design waivers for a non-medical office use and 3-bedroom apartment due the combined use not being a permitted use within the R-20 zone. The approval (adopted 6-1-09) required that applicant to return for site plan approval. The original approval was for 1,800 square feet of office space, whereas the submitted site plan indicates that 2,244 square feet of office space is proposed. This is an expansion of a non-conforming use therefore the use variance must be renewed.

Brian Flannery, Engineer/Planner, sworn. Here for site plan. Upstairs unit is for residential and the downstairs is for offices. They made an error and asked for a 1,800 square foot unit but it is 2,244. All parking will be behind the building. They have provided sufficient parking. Reviewed Mr. Vogt's report. They are asking for a variance for a sign – the area allows a 4 foot square sign. The curbing and apron will be removed. They will provide details for a roll out dumpster.

Mr. Halberstam read the report from the Environmental Commission concerned about street lights.

Mr. Flannery - they will satisfy the lighting with the Board Engineer.

Mr. Vogt – they will verify that the lighting is with Township standards.

Mr. Halberstam concerned about the size of the sign.

Mr. Flannery – if this was a business zone the size of the sign would comply. This is a residential zone. Requesting a 48 square foot sign 11 ½ feet high.

Mr. Zaks – the sign is also too close to the street. They should move it back closer to the building. This sign is much too big.

Mr. Flannery – the sign will be 10 feet off the property line in the front corner.

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Discussion continued about the size and the location of the sign.

Mr. Flannery – agreed to a 20 square foot sign, 6 foot high at 20 feet back from the right-of-way. Mr. Kirshner will have his real estate business in the building.

Open to Public. Closed to Public.

Motion to approve with the conditions that the sign be 20 square feet, 6 feet high and 20 feet back from the right-of-way, street lights approved by the Board engineer – Mr. Zaks Second – Mr. Golley

Roll call vote: affirmative: Mr. Golley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks, Ms. Goralski, Mr. Halberstam

**Appeal # 3736 – Lakewood Cheder School**, 569 Cross Street, Block 490 Lot 10 M-1 zone. Use variance for townhouses.

Meir Golley excused himself from this application.

Avraham Naftali excused himself from this application

Mr. Halberstam announced that there were 6 members and this is a use variance.

Mr. Penzer requested that a Planning Board member be seated.

There were two Planning Board members in the audience, Enrique Percal, and Isaac Ackerman.

Both were class 4 members of the Planning Board.

Mr. Cherkos said that it would have to be a senior member.

Isaac Ackerman was sworn in as temporary zoning board member.

Secretary read reports.

**From: Terry Vogt, Engineer/Planner – May 18, 2010**

The applicant is requesting a Use Variance to permit townhomes on a 26.9 acre property located between Cross and Prospect Streets. The property is situated in an M-1 (Industrial) Zone. Townhomes are not a permitted use in the M-1 district, which is the purpose of the variance request. The Variance Map depicts a 167-unit Townhome development proposed, using the Townhouse Development subdivision standards contained within Section 18-900 H of the UDO.

Both property frontages are improved. Virtually the entire property is wooded and/or undeveloped in its current condition, as well as adjacent property east and west of the site.

Abraham Penzer represented applicant.

- A-1 color rendering of proposed use variance
- A-2 architectural rendering of proposed townhouse unit
- A-3 conforming site plan for an industrial building
- A-4 conforming school
- A-5 opinion from Steven Pfeffer, Esquire consisting of 6 pages

Brian Flannery, engineer/planner, sworn.

Board accepted credentials.

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Mr. Flannery – this is a bifurcated application – asking for use only. Reviewed Mr. Vogts report. Property is in the M-1 zone and not a permitted use. Permitted uses in the zone would be industrial uses. Some of them would be warehouses, manufacturing, repair plants, automobile assembly plants, education facilities, etc. A building can be 65 feet high. Described A-3 and the size of the building that would be conforming would be over a million square foot. This was the subject of the 2007 Master Plan and recommended for a possible mixed use development. Township Committee adopted a final draft in 2009 that indicates that this area should be developed with Smart Growth principals with the intent for a mixed use core and higher density. All future access is from the Prospect Street area. The plan that is presented was developed with the Smart Growth Plan.

Mr. Ackerman - The Planning Board has approved the Smart Growth and the intent was that it will be part of the next Master Plan.

Mr. Flannery – there will be a minimum of 125 foot buffer along Cross Street. There were also recommendations that there will be no access to Cross Street.

Mr. Halberstam – do not want to hear any site issues.

Mr. Flannery – this is a positive impact because there are many advantages over the permitted uses. This will be a compact community. This area was considered higher-density, mixed use.

Mr. Penzer – the purpose of the law suit was to direct the Township Committee to adopt the Smart Growth. This property is owned by the Lakewood Cheder School. They are in debt and they are trying to get out of debt. The purpose is to get the money to keep the school in operation.

Russ Cherkos – the order from the judge says that the Township shall use its best judgment to integrate its land use development in the Smart Growth Plan and zoning ordinances to effectuate the Master Plan. The Board should take it into consideration with the plan.

Mr. Flannery - The Planning Board adopted the Smart Growth Plan as did the Township Committee now they are waiting for concurrence from the State. Once it is reviewed by the State then the Township will go forward and adopt ordinances.

Mr. Flannery – Johnson Avenue currently is a paper street and runs parallel to their property line. They are proposing to the Township Committee to vacate the part of Johnson Avenue that comes out to Cross Street.

Open to Public.

Larry Avran, 144 Enclave Blvd., sworn. Encourage the Zoning Board to approve this use change. It appears to be beneficial with the agreements to keep most of the traffic off Cross Street, and according to Smart Growth to keep the minimum of 100 foot buffer.

Bill Hovday, 30 Schoolhouse Lane, sworn. The Orthodox Community had a desperate need, they got together and through negotiations this plan is in accordance with the agreement. They asked for 125 foot buffer, and the request to vacate Johnson Avenue

Steven Pfeffer, 1448 14<sup>th</sup> Street, affirmed. The town has to update their Master Plan every 6 years and Lakewood Township recommendation that this area should be some sort of a multi family. In favor of this application.

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Gerri Ballwanz, Governors Road, sworn. In a few short weeks or months this issue will be resolved and then it could go to Planning Board. She checked with the State and Smart Growth and they are in the process of making the decision and it should be done by August 25<sup>th</sup>. This is premature and should wait.

Closed to Public.

Motion to approve the townhouse use with a minimum 100 foot buffer to Cross Street – Mr. Zaks

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gonzalez, Mr. Lankry, Mr. Zaks, Mr. Mund,  
Mr. Ackerman, Ms. Goralski, Mr. Halberstam

Recess.

**Appeal # 3645A – Ocean Avenue Development**, Block 189 Lots 105, 106 & 107, Ocean Avenue, R-20 Zone. To construct 33 townhouses with one tot lot. Use variance previously granted. Preliminary & final major subdivision and site plan approval is now requested

Secretary read reports.

**From: Terry Vogt, Engineer/Planner – April 22, 2010**

The applicant is requesting Preliminary and Final Major Subdivision and Site Plan approval to construct thirty-three (33) townhouses, one tot lot and one open space lot on the above-referenced lots. The applicant has previously been granted a use variance to construct thirty-eight (38) townhouse units on the property.

The original approval of the use variance allowed for thirty-eight (38) units, where the current application proposes thirty-three (33) units. This is a positive revision, as the newly-proposed development density has been reduced. The use variance was originally required due to townhouses not being a permitted use in the R-20 Single Family Residential Zone. The use variance approval included a condition to return before the board for final site plan approval.

Mr. Gelleys was back on the dais.

Mr. Ackerman left the dais.

Sam Brown, attorney for applicant. The site already has a use variance for 38 units. They have reduced the amount of units to 33.

Brian Flannery, engineer/planner, sworn. Application is for 33 townhouses.

A-1 rendered version of site development plan

A-2 aerial view

Mr. Flannery – Described the area and the density of the townhouse developments in the area. This project at 8.8 units per acre is less dense than the average in the area.

Mr. Brown - The size of the basement is not conducive for anything except storage.

Mr. Halberstam - The townhouses are approximately 22 x 32.

Mr. Flannery – reviewed Mr. Vogt's report. They do exceed density, they are asking for 8.8 units per acre where 15 units per acre are allowed for Multi-family. There is no detrimental impact on the zone plan, or the neighbors. They have provided 2.54 parking spaces per townhouse. The only access to the basement is through the units. They will satisfy the engineer with landscaping and storm water. Not proposing any parking along

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the road other than the parking area in the back. The HVAC units will either be in the side or the rear of the units. The garbage cans will be stored in front of the units, they will put an enclosure in front of the units to match the architecturals and hid the garbage cans. The width of the road is 32 feet. The whole westerly property will be trees and a 6 foot white vinyl fence. On the easterly side there is a detention basin with a fence.

Mr. Brown – this was originally approved with 38 units. Under the multi-family ordinance they would be permitted 15 units per acre. Asking for a total of 3 units more. They agreed to work out some sort of irrigation system.

Mr. Flannery – they will have patios instead of a deck. They are not proposing parking on the road. There is no community building. Their intent is to work with the adjoining facility. Applicant agreed to sidewalks all the way to the end of their property. Agreed to a berm.

Ms. Goralski asked for street trees between the driveways.

Mr. Brown – applicant agreed to do whatever works.

Mr. Gonzalez – Route 88 is a very busy road. Asked that the first house be moved further back from the road.

Mr. Flannery – there is a 3 foot berm and the house is set back at 49 feet. There is 25 feet between the two buildings – suggested that the house be moved at 20 feet.

Mr. Zaks asked about the buses.

Mr. Flannery – there is a cul-de-sac and the bus can turn around, it's up to the Board of Education. John Franklin from Public Works has looked at the plans. They need DOT approval for a left hand turn in.

Open to Public, Closed to Public.

Motion to approve subject to: a 6 foot white vinyl fence on the westerly side of the project, irrigation system for landscape areas, patios instead of decks, extend sidewalks along route 88, 15 foot easement for pedestrian access to the north end, street trees between driveways, increase height of berm from 3 feet to 5 feet, request from the DOT for dropped curbs, garbage enclosures in front of the units, hvac units will be on the side of the end units or in back of the property, no on-street parking signs, - Mr. Zaks  
Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelleys, Mr. Gonzalez, Mr. Lankry, Mr. Zaks, Mr. Mund,  
Ms. Goralski, Mr. Halberstam

**Appeal # 3732 – Isadore Fisher, 351 Ridge Avenue, Block 224 Lots 11.01, 11.02 & 11.03, R-10 zone.** To subdivide the existing lots in to 2 undersized duplex lot.

Secretary read reports.

**From: Terry Vogt, Engineer/Planner – May 6, 2010**

The applicant proposes to combine the existing rectangular Lots 11.01, 11.02 and 11.03, to vacate an existing Township of Lakewood drainage easement and then seeks a Zero Lot Line Minor Subdivision approval in accordance with Section 18-911 of the UDO resulting in proposed rectangular Lots 11.04, 11.05, 11.06 and 11.07. Lot 11.04 would be 5,250 SF with frontage on New York Avenue. Lot 11.05 would be a corner lot of 6,000 SF with frontage on New York Avenue and Ridge Avenue. Lots 11.06 and 11.07 would each be 5,625 SF with frontage on Ridge Avenue. A duplex is proposed to be constructed

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on each resulting lot. The front of the structure on Lot 11.04 would face New York Avenue. The front of the structure on Lot 11.05 would face New York Avenue. The front of the structure on Lots 11.06 and 11.07 would face Ridge Avenue. An existing dwelling and shed are proposed to be demolished as part of the project.

The applicant has previously obtained Planning Board approval in 2009 to subdivide the property into two lots, one of which would contain the existing dwelling and the other would contain a duplex. The applicant has also previously been denied an application in July of 2009 to subdivide the lots into two lots and construct two duplexes on the resulting lots, including demolition of the existing dwelling. A use variance is required as duplexes in the R-10 zone require a minimum of 6,000 SF (50% of the zone requirement of 12,000 SF) whereas a minimum of 5,250 SF is provided.

Mr. Flannery requested that this application be carried because there was a neighbor with concerns and they were trying to work out their concerns.

Motion to carry – Ms. Goralski  
Second – Mr. Mund

Mr. Flannery then suggested that the Board take the next application and so that the neighbor and the applicant can try to resolve the problems.

Motion to carry withdrawn.

**Appeal # 3735 – K & F Townhomes, 805 & 809 Clifton Avenue, Block 114 Lots 6 & 7, RM zone.** To construct 3 townhouses with on separate lots.

Avraham Naftali was back on the dais and will vote on this application.

Secretary read reports.

**From: Terry Vogt, Engineer/Planner – May 20, 2010**

The applicant proposes to combine two existing lots, construct 3 townhouses and then subdivide into three separate lots, one lot per townhouse. Two existing dwelling on the two existing lots are proposed to be removed. Townhouses are a permitted use in the RM zone, though a townhouse with a basement is to be treated as 2 units.

Mr. Penzer represented applicant.

Brian Flannery, engineer/planner sworn. The application is for a lot in the RM zone they are asking for 3 townhouses. Townhouses are a permitted use in the zone. Permitted would be 2 ½ townhouses they are asking for 3. There are existing two units. Reviewed Mr. Vogt's report. They are allowed 8 townhouses per acre or 16 units including the basements. Asking for 38% lot coverage where 35% is allowed. They have drywells shown and does not effect the usability of the rear yard. They have provided 4 parking spaces per townhouse. This area is close to the Yeshiva and there is a demand for residential dwelling units.

Mr. Lankry – no problem with this application.

Mr. Zaks – fits right into the neighborhood

Open to public. Closed to Public.

Mr. Flannery – there will be garbage enclosures in front of the units.

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Ms. Goralski asked for the HVAC units in the back not under the decks

Mr. Flannery – agreed. Applicant is not intending to finish the attic.

Motion to approve subject to trash enclosures in the front of the units, hvac units in the back – Mr. Zaks

Second – Mr. Golley

Roll call vote: affirmative: Mr. Golley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks, Ms. Goralski, Mr. Halberstam

**Appeal # 3732 Isadore Fischer** will be carried to June 28<sup>th</sup> – no further notice and a waiver of time

Motion to carry – Mr. Zaks

Second – Mr. Golley

Roll call vote: affirmative: Mr. Golley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Zaks, Ms. Goralski, Mr. Halberstam

Resolutions

**Appeal #3734 - Rochel Shapiro**, 116 Hudson Street, Block 138.01 Lot 6, R-10 zone.

Resolution to approve addition for single family home.

Motion to approve – Mr. Gonzalez

Second – Mr. Gelley

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

**Appeal # 3731 - Metro PCS**, 55 River Avenue, Block 88, Lot 11 – Resolution to approve the location of 3 antennas on an existing tower.

Motion to approve – Mr. Lankry

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Mund, Mr. Halberstam

**Appeal # 3728 - Chaim Dovid Stern**, Seventh Street & New York Avenue, Block 223 Lot 1, R-10 zone. Resolution to approve zero lot line subdivision of existing lot for a proposed duplex.

Motion to approve – Mr. Naftali

Second – Mr. Mund

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

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 10:45.

Respectfully submitted,

Fran Siegel, Secretary