

**ZONING BOARD OF ADJUSTMENT
MINUTES**

OCTOBER 4, 2010

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. Lankry, Mr. Zaks, Mr. Mund, Mr. Halberstam

Absent: Ms. Goralski

Arrived Late: Mr. Gonzalez, Mr. Gelley, Mr. Naftali,

Also present: Attorney – Russ Cherkos

Terry Vogt, Engineer/Planner

Jackie Wahler, Court Stenographer

Fran Siegel, Secretary

Salute to the flag.

Motion to approve minutes of September 13, 2010 with a waiver to read – Mr. Lankry

Second – Mr. Mund

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

Correspondence

Request from Warren Stilwell, Esq. to carry **Appeal # 3726, T-Mobile**, 612 Cross Street to carry without a firm date to investigate using an alternate site.

Motion to carry without a date and a waiver of time – Mr. Zaks

Second – Mr. Mund

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

Letter from Brian Flannery withdrawing **Appeal # 3559**, Croton Ave, Block 1007 Lot 3.

Mr. Gonzalez arrived.

Mr. Cherkos – received correspondence regarding an old approval for Kimball Medical Center – in 1998 there was a subdivision as part of a use variance for an Assisted Living Facility, that was approved by this board. It has all been constructed. The subdivision deeded was never filed. The area is to be transferred from Kimball to Kimball. In order to perfect the subdivision the map had to have been filed in 190 days from the approval. They are requesting an extension of time until November 1, 2010 to file the map. Mr. Vogt has to review the document and sign it.

John Gelson, Attorney for Kimball Medical Center – The lot is 50 x 60, permits obtained, site plan approved. Asking for the extension of time until November 1, 2010. They are selling what exists today.

Robert Burdick, Engineer/Planner, sworn. In 1998 they obtained approval for the Assisted Care Facility on a lot on Williams Street. That lot is approx 3-4 acres. Because of a building setback problem they decided to transfer a 50 x 60 foot portion of lot 18 over to lot 20.

Motion to grant extension for **Appeal #3053 and 3053A** until November 1, 2010 subject to engineering review – Mr. Zaks

Second – Mr. Gonzalez

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

Abraham Penzer, requested that **Appeal # 3746** be carried until the November 1st meeting

Motion to carry with a waiver of time and no further notice –Mr. Zaks
Second – Mr. Lankry
Roll call vote: Mr. Gonzalez, Mr. Lankry, Mr. Zaks, Mr. Mund, Mr. Halberstam

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 2.**

Mr. Halberstam announced that they needed 2 Planning Board members to hear **Appeal # 3736A**. Mr. Franklin and Mr. Hertzl, Planning Board members were affirmed/sworn.

Appeal # 3736A – Lakewood Cheder School – 569 Cross Street, Block 490 Lot 10, M-1 zone. Site plan, major subdivision. Use variance previously granted.

Secretary read report.

From: Terry Vogt, Engineer/Planner - September 27, 2010

The applicant is requesting Preliminary (only) major subdivision approval to construct a 166-unit town home development on a 26.9 acre property located between Cross and Prospect Streets. The property is situated in an M-1 zone. 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.

The applicant received Use Variance approval to construct a town home development at the June 7, 2010 Zoning Board meetings, as stipulated per Zoning Board Resolution # 3736, adopted June 28, 2010. Additionally, the applicant's professionals met with our office and the Director of Public Works on August 17, 2010 to review design and Township maintenance issues with the project (if/when approved).

Applicant was represented by Abraham Penzer. Lakewood Cheder is selling this property in order to bring in funds. There are 4,000 children in the school. Some of the Planning Board and Zoning Board members are parents of children attending this school and had to be disqualified and that is why we had to go to the Doctrine of Necessity. Here for preliminary major subdivision. They have to go to CAFRA. Need to lock in the unit count.

Brian Flannery, engineer/planner, sworn. They will satisfy the items in Mr. Vogts report. Reviewed Mr. Vogts report. The application submitted is for 166 townhouse unit.

A-1 rendered version of Sheet 3 site development plan
A-2 & A-3 entire layout of subdivision sheet 4 & 5

Mr. Flannery – they agreed with the neighbors for a buffer of an average of 150 feet. They provide 32 foot wide cart ways within the development. There will be 4 parking spaces per unit. There is no access onto Cross Street. They will have to come back to the board for final major subdivision approval. They need to lock in all the units and the layout for CAFRA. They will provide more shade trees. All environmental issues will be tied up with CAFRA. Density allowed is 8 units per acre they only have 6.2. They comply with the coverage and tract boundaries. They have provided more handicapped parking than required. There will be 2 parking spaces in front of each unit and there are parking areas throughout. The plan is in full compliance with RSIS.

Mr. Penzer - The township will maintain the basins and storm water collection and they will be contributing \$300.00 per unit to meet that requirement.

Mr. Flannery – NJ American Water would be responsible for the sewerage collection system. There will be an entrance sign. Details to be provided at final. The project will have minimal adverse impact on the site and surrounding areas. There was a meeting with Public Works and their input was taken into consideration for this plan.

Mr. Franklin suggested that something be done to be able to get to the yard drains.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 1, 2010
PAGE 3.**

Mr. Flannery - They will have another meeting with Public Works and Mr. Franklin. The basins have steel grates and they will be in the backyard. The grates are typically about 3 feet by 2 feet.

Mr. Penzer – they will satisfy Public Works and the Engineer.

Mr. Flannery - They will resolve the issue before they come back for final. There will be trees and shrubs in front of each unit. They will agree to sprinkle the common areas. There will be grass between the driveways and they will not commit to sprinkling the front yards.

Mr. Zaks – he would like to see a sprinkler system. The front façade should have a stone veneer and wrap around the building.

Mr. Penzer - All trees will remain in the buffer zone. They will have an answer at final for the sprinklers.

Mr. Zaks – there will be 166 families with basement what recreation is provided.

Mr. Penzer – the Township is developing a park in front. They do not have a final answer. Voting on the unit count and the basement – but the final details are reserved.

Mr. Cherkos – this is a CAFRA application and there will be consideration from the DEP and there may be significant changes.

Mr. Flannery – they have shown that there is a recreational area on each end and in addition the basin and buffer area. The recreational areas are about 20,000 square feet. There is a basketball court with tables for seating around it. RSIS does not have a standard for recreation.

Mr. Penzer - The ordinance says that you need to set aside 5% of the site for recreation. They have much more than required by ordinance. They are not touching the tree save area exceeds the 5%. It is passive recreation.

Mr. Zaks – it is not active recreation. There could be between 600 and 800 kids.

Mr. Penzer – there are cul-de-sacs where the children can play.

Mr. Flannery – children can play in the woods. They have recreation that exceeds what the ordinance says.

Mr. Zaks asked for a fence around the detention basin.

Mr. Flannery - The applicant has dedicated 3 acres of their site for recreation.

Mr. Penzer - the community center is 3 floors 3,500 square feet per floor. A basement shul, a shul on the second floor and the 3rd floor is a mikvah with a shul. A total of 10,000 square feet. There will not be a Kiddush room.

Mr. Zaks – the main sanctuary is too small. There is no way that 166 families could utilize this building.

Mr. Penzer – the lots area approximately 2,600 square feet.

Mr. Flannery – the unit is approximately 26 x 50.

Mr. Zaks suggested that the building be brought out to the parking area.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 4.**

Mr. Flannery – applicant agreed to make the community building 150 feet. Adding another 30 x 35 per floor. There will be garbage enclosures in the front of the building for the roll out containers. The enclosures for the community building will be on the side of the building.

Mr. Penzer – they will come back after CAFRA. CAFRA looks at drainage, grading etc.

Mr. Lankry – are you allowed to clean up the buffer and actually make it useable?

Mr. Flannery – CAFRA looks at poison ivy differently.

Mr. Lankry – this could be a busy area even in the dead ends –there is no place for the kids to play.

Mr. Penzer - Cannot go to CAFRA without a unit count. There is now 166 townhouse units.

Mr. Cherkos – the purpose of a preliminary approval is a unit count - cannot do that with conditions that may change the number.

Mr. Penzer – in the future there will be a park –

Mr. Zaks – there is 800 children and 2 measly little playgrounds.

Mr. Gonzalez – there will be a lot of children in this area – to play in the woods is a very dangerous situation – suggested that the 7 units closest to the recreation be removed and increase the size of the park.

Mr. Franklin suggested that the adjacent property that is owned by the Township – build the park in the Township property and turn it over to the Town and the Township maintains it.

Mr. Cherkos – Applicant should discuss this with the Township.

Mr. Zaks suggested that he propose the park to the Township and come back with the answer.

Mr. Halberstam suggested that they take another application and will come back to this application.

Zoning Board members Mr. Gelley & Mr. Naftali sat on the dais.

Appeal # 3741 – Aaron Mansour, 112 E. 5th Street, Block 240 Lot 7, B-2 zone. To construct a duplex on an undersized lot.

Secretary read report.

From: Terry Vogt, Engineer/Planner July 2, 2010

The applicant proposes to replace two (2) previously-existing homes with a new side by side two-story duplex building with a basement. A use variance is required as duplexes in the B-2 zone require a minimum of 10,000 SF whereas 6,300 SF is provided. Bulk variances are also sought for lot width, side yard setbacks and building coverage.

The existing property fronts East Fifth Street, and is located approximately 100 feet east of its intersection with Ridge Street. The area is primarily residential use.

Miriam Weinstein, attorney for applicant.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 5.**

Ms. Weinstein – there is no use variance necessary – the property is in the B-2 zone which relates back to the RM zone which allows duplexes.

Mr. Halberstam – they do not need a use variance.

Mr. Vogt – this is an issue of an undersized lot and does not require a use variance.

Ms. Weinstein – this is a single, undersized lot. This lot is only 42 feet wide.

Nicholas Graviano, sworn. - this parcel is between 2 townhouse dwelling lots. The applicant is requesting a variance to construct a duplex. The premises presently contains two single family detached dwellings.

A-2 – 4 photographs existing conditions map.

Ms. Weinstein -There is a single family and a two family dwelling. There is a total of 13 occupants. Surrounded by townhouses.

Mr. Halberstam – but each townhouse is about 26 feet wide.

Mr. Graviano – There will be 3,150 square feet per duplex unit. There will be a side entrance to the basement. There will be 4 parking spaces per dwelling unit.

A-2 - buy/sell letters signed by neighbors

Mr. Zaks – in favor of this application – the building should be moved back and it will be an enhancement to the neighborhood.

Mr. Halberstam – the property is too narrow for a duplex. All the townhouses in the neighborhood are 26 feet wide not 17 feet wide.

Mr. Naftali – not comfortable with this application.

Ms. Weinstein - The ones next door are 24 feet.

Open to Public.

Noreen Gill, 192 Coventry Drive, sworn. Asked about the amount of bedrooms in the units.

Mr. Graviano – there are 4 bedrooms per unit.

Ms. Gill – 17 feet is very narrow.

Mordechai Zafrani, affirmed. Own the next door property and if this will be owner occupied I would love to have it.

Meir Altschuler, affirmed. Own the house in the rear. Would rather see a duplex than what is there now.

William Hobday, sworn. 17 feet is just insufficient for a dwelling.

Shlomo Ovadia, affirmed. Live in the back and think it would look beautiful.

Closed to Public.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 6.**

Mr. Lankry – in favor of this application

Motion to approve subject to having 8 parking spaces and moving the units back a little–

Mr. Zaks

Second – Mr. Mund

Roll call vote: affirmative: Mr. Lankry, Mr. Zaks, Mr. Mund

Nays: Mr. Gelley, Mr. Gonzalez, Mr. Naftali, Mr. Halberstam

Motion denied.

Recess.

Appeal #3736A - Lakewood Cheder – continued

Mr. Flannery – they want to move this application quickly so they will provide an additional recreation area in the northwesterly corner by eliminating 3 units and provide an additional 10,000 square feet of playground area.

Open to Public.

Noreen Gill, sworn. Concerned about the grates.

William Hobday, 30 Schoolhouse, sworn. Commended the Board on this application by keeping their agreement with the neighbors.

Gerri Ballwanz, Governors Road, sworn. Suggested using the words “up to” for the amount of units. Don’t think that the park will be for active recreation. Asked about the process for the selection of the Planning Board members.

Mr. Cherkos – the statute says that the Planning Board has to send the two members in order of their seniority.

Larry Simons, 7 Schoolhouse Court, sworn/affirmed.

Closed to Public.

Mr. Zaks – you have to propose the sprinkler system to CAFRA.

Mr. Cherkos – if you do not propose it the DEP will not say to put in a sprinkler system.

Mr. Penzer – they will be coming back 3 times for 3 phases.

Mr. Vogt – as currently proposed the Township will be taking over all the basins. They will re-visit the catch basins for safety, etc.

Motion to approve subject to: fence surrounding detention basin, community center increased another 1,000 square feet for 3 floors, eliminate 3 units adjacent to basketball court to increase recreational area another 10,000 square feet, irrigation system will be in front of the units, 163 units, - Mr.Zaks

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Hertzl, Mr. Gonzalez, Mr. Lankry, Mr. Franklin,
Mr. Zaks, Mr. Mund, Mr. Halberstam

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 7.**

Chairman announced that **Appeal # 3750** – Prospect 1500 LLC, be carried to the November 1st meeting. Mr. Sternstein, Applicant agreed to waive any time.

Motion to carry to November 1 with no further notice – Mr. Mund

Second – Mr. Zaks

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

Appeal # 3747 – Aharon Rottenberg, Burnside & Creston Avenues, Block 190.04, 190.05, 199, 200, 201 & 202 Lots Various,-15 zone. Use variance to construct townhouses where they are not permitted.

Secretary read report.

From Terry Vogt, Engineer/Planner – September 2, 2010

The applicant requests a use variance for construction of a 22-lot “triplex” townhouse development within the R-15 (Single-family) zone over 500 feet east of Brook road. Each lot would be developed with a “Triplex” 3-dwelling residential building (66 attached residential units total). One of the lots is designated as a “Detention Basin Lot”. Townhouses are not a permitted use in the zone.

Abraham Penzer represented applicant.

Brian Flannery, Engineer/Planner – asking for a use variance to allow tri-plex townhouse units in the R-15 tract where townhouses are not permitted.

A-1 tax map

A-2 variance map

A-3 architectural rendering of the triplex unit.

Mr. Flannery - Each of the triplex units would be on an approximately 18,000 square foot lots. There is a wetlands corridor to the north of this project. Each side of the stream requires a 300 foot buffer. Described uses in the area. The property is set back from Brook Road. They left a 30 foot buffer from the existing single family homes. To the west there are industrial uses. The Smart growth plan says that the demand for housing in Lakewood is going to far exceed the availability to provide the housing. If the Board approves the use they will be back with a detailed site plan. They will propose a 75 foot wide buffer along the wetlands line. It will be left in its natural state. There will be a recreation area and a community center that the adjoining single family homes will have access to. There will be sidewalks put in. This is a unique piece of property. They could construct 44 conforming single family homes. They are asking for 66. Brook Road is a County Road. They are providing larger side setbacks. If approved it will increase the traffic on Brook Road and they will provide the traffic data to show that the road can handle those trips. Reviewed Terry Vogt's report. They will be putting basements in the units and there will be no bedrooms in the attics. These items will be addressed at the time of subdivision. They will comply with RSIS. Only asking for use. There can be nothing built north of this and there will be nothing built east of this, south is the existing project and the two lots on Brook Road, Atlas Welding and the Brandenburg farm. The depth of the lots is 135 feet, with a 35 foot rear yard setback and 25 side setbacks, there is 50 feet between each building.

Open to Public

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 8.**

Avraham Schubert, affirmed. 18 Gefen Drive – development behind this proposal. They have been working with the developer. They have an agreement – they are concerned about Road C that exists between lot 8 & 9. They do not want that road to ever open up. That acts as the only common area in our development. There is only sidewalks on one side and the developer has agreed to install sidewalks on the other side through the entire development.

The developer has agreed to give them a 50 foot buffer, creating a separate lot that will be given to the home owners on Gefen Drive. He will provide seating enough for their entire development in the synagogue.

Applicant agreed to all the terms of the neighbors.

Mr. Halberstam said that he will look at the agreement at site plan.

Mr. Cherkos - The Board does not have to comply with any conditions between the builder and the homeowners.

Catherine Stillwell, 950 Brook Road, sworn. The homes in the area are on 10 acre lots. Her property is well over 2 acres and well beyond the R-15 standard. Townhouses do not belong in the R-15 zone. This is not a permitted use. They are asking for 66 townhomes and there is no hardship. The stream that runs through there is a C1 stream - it is one of the water supplies for Bricktown. This development is not right. There are 10 lot owners getting benefits and the rest will have an adverse effect.

Jacob Weiss, 14 Gefen Drive, affirmed. They do not have a community center or a playground. They will benefit by getting these new amenities. They welcome the additional homes.

Noreen Gill, 192 Coventry Drive, sworn. Brook Road is very winding. It is not a road where another 200 cars should be on. This is a very bad plan for this area.

Robert Schuster, 821 Brook Road, affirmed. People do not tend to take as much pride in a duplex or triplex than they do a single family home. There is only one outlet for 66 triplex units.

Michael Stillwell, 950 Brook Road, sworn. This property is virgin forest and quite extensive with wildlife. There are endangered species in that area. The high density ruins the green acres. As Chairman of the Shade Tree Commission – he has not reviewed the plan.

Moshe Ingber, 28 Gefen Drive, affirmed. This property is owned by a developer and he has the right to put up homes. They have missing sidewalks in half the community which is very dangerous for our children and the developer is willing to install those sidewalks and we are coming out to support this because we are the most effected.

Yosef Kuperwasser, 16 Gefen Drive, affirmed. This development will benefit the area and is in favor of it.

Gerri Ballwanz, Governors Road, sworn. This is an R-15 zone and it should stay an R-15. Brook Road is a winding-narrow road. There is also a category 1 stream and we need to protect it. This is a very bad plan.

Edwin Schuster, affirmed. This will have an effect on the area.

Yeruchem Gelb, 26 Gefen Drive, affirmed. Looks like a good project and in favor of it.

Closed to Public.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**OCTOBER 4, 2010
PAGE 9.**

Chairman announced that **Appeal # 3747** will continue on November 1, 2010.

Resolutions

Appeal # 3738 – Princeton One, LLC, Block 159 Lots 9 & 24, B-2 zone. – Resolution to approve the construction of 5 townhouses with basement apartments.

Motion to approve – Mr. Lankry

Second – Mr. Gonzalez

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

Appeal # 3740 – Aaron Mansour – 138 E. 7th Street, Block 235 Lot 4 – R-7.5 zone.
Resolution to deny the construction of a duplex on an undersized lot.

Motion to approve – Mr. Gelley

Second – Mr. Halberstam

Roll call vote: affirmative: Mr. Gelley, Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 12:00 a.m.