

1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris 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 at least 48 hours in advance. The public has the right to attend this meeting, and reasonable comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Fuentes, Mr. Stern, Mr. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Meyer, Committee Ackerman

3. SWEARING IN OF PROFESSIONALS

Mr. David Magno, P.E., P.P. was sworn.

4. MEMORIALIZATION OF RESOLUTIONS

1. Resolution of Appointment

A motion was made and seconded to approve the resolution.

2. SD 2360 JAYG Enterprises, LLC

1875 Swarthmore Avenue Block 1609, Lot 11
Denial of Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

3. SD 2353 CSR Equity, LLC

Boulevard of the Americas & Avenue of the States Block 961, Lot 2.06
Preliminary and Final Major Subdivision to create three lots

A motion was made and seconded to approve the resolution.

4. SD 2358 Winding River, LP

1255 Prospect Street Block 396, Lot 1.01
Minor Subdivision to create two lots and Amended Site Plan for existing site

A motion was made and seconded to approve the resolution.

5. SD 2375 ABGK, LLC

Bradhurst Avenue Block 1027, Lot 5
Minor Subdivision to create four lots and dedicate a portion of vacated right-of-way back to the Town

A motion was made and seconded to approve the resolution.

6. SD 2376 SGKL, LLC

Havens Avenue Block 1037, Lot 3

Minor Subdivision to create two lots, one of which is being dedicated as a portion of vacated right-of-way back to the Town

A motion was made and seconded to approve the resolution.

7. SD 2377 Vine Heaven, LLC

Broadway Avenue Block 1036, Lot 5.01 & 5.02

Minor Subdivision to adjust a lot line and dedicate a portion of vacated right-of-way back to the Town

A motion was made and seconded to approve the resolution.

8. SD 2378 SGKL, LLC

Bradhurst Avenue Block 1026, Lots 8.05 & 8.06

Minor Subdivision to adjust a lot line and dedicate a portion of vacated right-of-way back to the Town

A motion was made and seconded to approve the resolution.

5. PUBLIC HEARING

1. SP 2233 Zichron Chaim, Inc.

712 New Hampshire Avenue Block 1159.03, Lots 13 & 17

Extension of Minor Subdivision to create two lots

Ms. Miriam Weinstein, Esq. said this application has some complicated MUA issues which is holding up a good part of it as well as Ocean County approval.

A motion was made and seconded to approve a one-year extension.

Affirmative: Mr. Fuentes, Mr. Stern, Mr. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Meyer

Abstain: Committee Ackerman

2. SD 2324 Mordechai Finkelstein

138 & 142 North Oakland Street Block 189, Lots 136 & 186

Extension of Minor Subdivision to create five lots

Mr. Finkelstein requested a one-year extension.

A motion was made and seconded to approve a one-year extension.

All were in favor.

3. SD 2365 Nachum Szanzer

1519 Central Ct & 14 Carlton Ave Block 12.12, Lots 1 & 2

Minor Subdivision to adjust lot lines

A review letter prepared by Remington & Vernick Engineers dated January 9, 2019 was entered as an exhibit.

Mr. Magno said variances are required for front yard setback along Carlton Avenue as well as side yard and rear yard setbacks for the existing shed. A variance is also required for the number of off-street parking spaces unless

off-street parking is added to new lot 2.01. Design waivers are required from providing sidewalks to the property line extension along the Central Court frontage as well as for street trees along the project frontages.

Ms. Miriam Weinstein, Esq. said this application is simply a lot realignment on the corner of Central Court and Carlton Avenue. The applicant is taking 7,144 sf from lot 1 and transferring it to lot 2. Both lots will still greatly exceed the requirements of the R-12 zone. This is being done so the applicant can build himself a new home on proposed lot 2.01 in the future. The existing home on lot 2.01 will be demolished so the parking variance discussed will be unnecessary as the new home will have four parking spaces. As far as parking relief for lot 1.01, nothing is changing. It will remain a three-bedroom house and two parking spaces have been more than enough. There is no basement apartment and no possibility of putting a basement apartment in there. Relief is required for the shed which the applicant wishes to keep on proposed lot 2.01. All improvements would be dealt with at plot plan stage, this application is simply to readjust the lot lines.

Mr. Herzl asked if sidewalks will be provided.

Ms. Weinstein said yes. The applicant wouldn't be able to get a CO without installing the sidewalk.

Ms. Morris said since the house will remain on the other lot, there will be no hook to get sidewalk along that frontage.

Ms. Weinstein said there is only about 8 ft of sidewalk missing at this time.

Mr. Herzl said the applicant shall install the sidewalk.

Ms. Weinstein agreed. There actually is one other variance as the existing home on lot 1 is closer than 30 ft to Carlton Avenue.

Mr. Charles Surmonte, P.E. was sworn. He said the front yard setback on the existing house on lot 2.01 is about .5 ft short of the 30 ft required.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn. He asked about the missing sidewalks and crosswalks.

Mr. Yossi Gestetner, 1520 Central Court, was sworn. He lives across the street and objected to any variances being granted for this application. He expressed his concerns about traffic and safety especially at the intersection.

Mr. Herzl closed to the public.

Committeeman Ackerman is confused as the plan states both houses are to remain.

Ms. Weinstein said the house on the corner is remaining. They would like the other home to remain until after the map is filed as they only have 190 days to file.

Ms. Morris said if the board is approving this application with that house to remain, then the board does need to act on the parking variance even if it is eliminated in the future.

Mr. Herzl asked if any variances are going to be needed for the new house.

Ms. Weinstein said no. The parking variance will only be for the existing house with no changes to that house.

Mr. Magno said the corner lot needs a front yard setback variance as there is a slight existing encroachment and the lot is getting smaller. There will be no plot plan for the corner lot, therefore, the sidewalk needs to get extended and the curb ramp redone at the corner and the existing driveway cut removed which they will need an improvement plan for. The interior lot, since the house is remaining, will need a front yard setback as there is a slight existing encroachment. The shed to remain needs variances for rear and side yard and since the house is remaining, a parking variance will be required since they are one spot short. He questioned if street trees are being provided.

Ms. Weinstein said street trees would be provided on lot 2.01 at time of plot plan. A waiver is requested for the corner lot as they would like it to remain as is.

Mr. Jackson said the resolution must state the parking variance would be abandoned once that house is taken down and that the applicant stipulates to that.

A motion was made and seconded to approve the application. The design waiver from providing street trees was not granted for the corner lot.

All were in favor.

Committeeman Ackerman left the meeting.

4. SP 2304 Khal Birchas Shimon

105 Linden Avenue Block 189.30, Lot 157

Preliminary & Final Major Site Plan for a synagogue & rabbi's residence

Ms. Morris announced this application will be carried to the February 19, 2019 meeting as the applicant is meeting with some of the neighbors and intends to revise the plans.

Mr. Abraham Penzer, Esq. said they are working on a plan which will make both the board members and neighbors happy.

5. SP 2224 Cong Satmar of Lakewood

604 & 608 East Kennedy Blvd Block 104.02, Lots 14 & 15

Preliminary & Final Major Site Plan for a synagogue

A review letter prepared by Remington & Vernick Engineers dated January 9, 2019 was entered as an exhibit.

Mr. Magno said submission waivers are requested for an environmental impact statement, which is supported since the site is already developed, and for a tree protection management plan which is acceptable for completeness purposes only. The plan shall be required as a condition of approval.

The board granted the submission waivers as recommended by the Board Engineer and Planner.

Mr. Magno said a minimum front yard setback is required. The plans also have a rear yard setback for the elevator shaft in the back of the building which is 12.83 ft whereas 15 ft is required. There is an architectural feature on the front corner of the building which would violate the 12 ft minimum side yard setback required by a few inches. It appears the proposed building can be slightly shifted to eliminate this variance situation. A maximum building coverage variance will be required. An off-street parking variance is required as 20 spaces are required and since the plans need to be revised, he believes the applicant can still get 17 spaces. Buffer relief from the 20 ft perimeter buffer is required from a residential use and the proposed off-street parking setback would require a variance but once again, he believes the plans can be revised to eliminate that variance.

Mr. Herzl asked if 17 spaces are being provided.

Mr. Abraham Penzer, Esq. said they are providing 19 spaces.

Mr. Magno said 19 spaces are shown on the plan but two of the spaces encroach into the shade tree/utility easement. He is unsure whether the County will require a sight triangle easement or not but assuming those spaces must be removed, it would go down to 17.

Mr. Penzer said testimony will be provided concerning parking. The thought for this shul is to make something exquisitely beautiful for the area and as the board knows, this street is the widest street in Lakewood. This shul will greatly enhance the neighborhood.

Mr. Brian Flannery, P.E., P.P. was sworn. Exhibit A-1 is a copy of sheet 31 of the tax map which shows the subject property, A-2 is an aerial showing the subject site, A-3 is the site plan submitted and A-4 is a rendering of the building. This application is within the Office Transitional Use Zone, where shuls are a permitted use. A front yard setback variance of 18.17 ft whereas 25 ft is required and that is due to the grand front entrance. This project first started without the grand entrance and elevator shaft in the back, but these features improve the plan and make it esthetically more pleasing. He believes these variances are minimal in relation to the proposed development. A minimum rear yard setback of 12.83 ft to the elevator shaft is proposed whereas 15 ft is required although the ordinance does permit certain architectural features but to be on the safe side, the applicant would request that relief. As suggested, they would shift the building a few inches to eliminate the side yard setback variance. A building coverage variance of 29.7% is proposed whereas 25% is permitted. Concerning parking, the way the ordinance is written since the main sanctuary is 1,986 sf, they would need 19 parking spaces which was rounded up to 20 in the engineer's report. If they took 37 sf off the sanctuary area, then they would round down to 19 so for 37 sf, that additional parking space is required which they would ask a waiver from which he believes is a de minimis change as to the size of the sanctuary.

Mr. Stern questioned if there is enough parking for the Simcha Hall in the basement.

Mr. Flannery said the basement would be used for Shabbos only. The plans would be revised as the applicant is not asking for a Simcha Hall.

Mr. Sabel asked how many additional spaces would be required if it were a Simcha Hall.

Mr. Flannery said 9 spaces, but they are not requesting a Simcha Hall.

Mr. Stern questioned how the basement would be used on Shabbos only.

Mr. Flannery said it would be a condition in the resolution and the approval would indicate the hall in the basement is for Shabbos use only.

Mr. Fuentes asked how that would be regulated.

Mr. Flannery said there would be complaints from neighbors as the parking is insufficient and the zoning officer would issue a violation.

Mr. Herzl asked about the 2 spaces within the easement.

Mr. Flannery said 2 of the spaces are in the shade tree/utility easement. It is a very typical thing that there are encroachments, but it does provide adequate space for shade trees and utilities, so it is of his opinion it does not violate any provisions of the ordinance and that the 2 parking spaces can remain.

Mr. Herzl said this application is subject to County approval so if the County doesn't allow parking within the easement, they would have to come back before the board.

Mr. Flannery said that is correct, but the County has accepted AASHTO sight triangles in the past. Additionally, County regulations do not allow sight triangles at parking entrances. As indicated, this is a very wide road so although it looks like those spaces are very close, you can see on the plan it is setback quite a bit from the curb.

Mr. Herzl said then they are proposing 19 spaces and if they were to remove that 37 sf of sanctuary space, they would be compliant.

Mr. Flannery confirmed, and the variance relief is with relation to the front entrance and rear elevator shaft in order to make this beautiful building. To provide the required buffer relief, a 6 ft high vinyl fence would be provided. The fence would go down to 4 ft high within the front yard setback. As to the setback variance required to the off-street parking spaces, they would certainly work with the board engineer during resolution compliance, but they would request that relief at this time in case it cannot be eliminated.

Mr. Herzl asked about trash pickup.

Mr. Flannery said they already have DPW approval. The applicant agrees to all reasonable requests from the Shade Tree Commission.

Mr. Herzl questioned what types of properties are in the area.

Mr. Flannery said there is an office to the east and a residence to the west which may be an approved office use.

Mr. Herzl asked if sidewalks will be replaced on Kennedy Boulevard.

Mr. Flannery said yes, to the extent they need to be replaced. He then went on to reference sections in the Master Plan and MLUL to justify the variances requested.

Mr. Sabel pointed out the basement is showing two separate kitchens, bathrooms and entrances. He is unsure whether it would only be used for Shabbos.

Mr. Flannery said the applicant has indicated they are not requesting a Simcha Hall.

Mr. Penzer said this is already an operating shul, but it is overcrowded. This would satisfy the need of the neighborhood and the basement is only intended for Shabbos use. If it becomes anything beyond that, then they would come back before this board to get permission.

Mr. Herzl opened to the public.

Mr. Sabel asked if they are willing to eliminate one of the kitchens.

Mr. Shimon Yakobovitch was sworn. He said there is not a kitchen upstairs. It is a coffee room with a fridge.

Mr. Sabel said the plans show a warming kitchen.

Mr. Yakobovitch said this is not the final plan.

Mr. Herzl questioned if revised plans are available.

Ms. Morris said these are the latest plans which have been provided to this board. The plans always progress further after approval so there are more complete plans which go to the building department once the applicant submits permits.

Mr. Flannery said the applicant agrees to revise the plans to eliminate the kitchen on the first floor.

Mr. Sabel would like to see the kitchen in the basement eliminated. For Shabbos, typically a plug-in warmer is all that is required and not a stove or a sink.

Mr. Yakobovitch understands but it would be difficult if someone wants to make a kiddush.

Mr. Sabel said it would work as they just need to use plug-in warmers for the food to be served. They do not need to have a physical gas line to have a commercial stove.

Mr. Yakobovitch argued that if they want to have a regular kiddush then they need an operating kitchen.

Mr. Jackson believes the board is concerned the basement will become an actual full-blown Simcha hall then there is no way to stop that. He thinks the board is just trying to discourage it from becoming that.

Mr. Sabel said that is correct.

Mr. Stern said the issue is safety.

Mr. Herzl asked if there is a neighboring property which would allow them to use their parking lot.

Mr. Penzer does not believe so. He understands the board does not want to have Simcha's during the week and they have no problem eliminating the kitchen just to be a coffee room. But on Shabbos, they want to have a hot kiddush and do not want to be limited. The basement should be limited for Shabbos use only instead of limiting the kitchen. The applicant agrees to that as a condition of approval and it will be enforced.

Mr. Sabel said there is not a need for a stove on Shabbos.

Mr. Flancbaum asked if this is a situation where the board can include Title 39 in the resolution in case there is an issue.

Mr. Jackson said that is for traffic, but he actually just received a memo from the Police Department requesting no Title 39 stipulations.

Mr. Flancbaum understands but it is something the police should be enforcing, and it should be included in the resolution.

Mr. Sabel has no objections to the shul, he is only questioning the Simcha Hall as it would need 9 additional parking spaces.

Mr. Penzer understands. He reiterated that it is only intended to be used on Shabbos and to make that a condition of approval.

Mr. Herzl opened to the public.

Ms. Silvia Hagenfeld, 1503 Berkowitz Avenue, was sworn. She claims no notice was given for the application which was heard a few years ago. She said there are 13 other synagogues within half a mile. She is opposed to this application.

Ms. Laura Wright, Coventry Square, was sworn. She is opposed to any new development on Kennedy Boulevard as the traffic is already horrendous.

Mr. Nastaliauch, 603 Appolo Road, was sworn. He designed this project and thought it would set an example for Lakewood not to build a Shul in a neighborhood with parking issues. Kennedy Boulevard is a wide road and there is usually plenty of parking, even buses come to this area to park. He claims there is more than enough on-street parking to satisfy the needs of the shul and that parking should be used by the residents and not bus companies.

Mr. Sabel agrees it is in a good location but if there is going to be a Simcha Hall during the week, then they need an additional 9 spaces.

Mr. Shlomo Klein was sworn. He questioned the actual size of the main sanctuary. He asked if the bema was excluded.

Mr. Flannery said nothing was excluded.

Mr. Klein said the zoning officer cannot issue violations if the basement is used during the week.

Mr. Flannery said maybe there is a practical issue but in any other town, if the neighbors complain and it is a condition in the resolution, then the zoning officer and police must do their job and enforce it.

Mr. Jackson said this has been discussed numerous times in the past. He believes it is very difficult to enforce but whether it is impossible or not, that would be up to a judge. He thinks it is important for the board to put in safe guards to make it as unlikely as possible that it will cause problems.

Mr. Klein said the basement is over 2,000 sf and may be used as the main sanctuary or for learning and upstairs may be used to pray.

Mr. William Sleight, Flintlock Drive, was sworn. He asked if the shul will only be used on Shabbos.

Mr. Herzl said it would be used all week, they were speaking about the basement.

Mr. Sleight is concerned about traffic, parking and his overall quality of life being affected.

Mr. Herzl closed to the public.

Mr. Penzer said they are not looking to have Simchas, but the ordinance does allow on-street parking within 500 ft of the subject site to be counted towards the parking requirements. It is his testimony there will be 9 spaces somewhere along Kennedy Boulevard.

Mr. Jackson said it is still a variance, but he is testifying that there is enough on-street parking along Kennedy Boulevard.

Mr. Herzl asked if there will be any outside Simchas.

Mr. Penzer said no, and it is only intended to be used for Shabbos at this time.

Mr. Magno asked if the board is allowing the 2 spaces within the easement.

Mr. Herzl said yes. If the County wants those spots removed, then they would have to come back before the board.

A motion was made and seconded to approve the application with the condition that the Simcha hall would only be used on Shabbos.

Affirmative: Mr. Fuentes, Mr. Stern, Mr. Flancbaum, Mr. Herzl, Mr. Meyer

No: Mr. Sabel

6. SP 2308 Yeshiva Toras Menachem Inc.

1990 Swarthmore Avenue Block 1606, Lot 16

Preliminary and Final Major Site Plan for an addition to a school

A review letter prepared by Remington & Vernick Engineers dated January 10, 2019 was entered as an exhibit.

Mr. Magno said submission waivers are required for proof of submission to Ocean County Planning Board, the applicant's engineer has since indicated an application was filed, and an environmental impact statement which we support waiving since the property is already developed.

The board granted the submission waiver as recommended by the Board Engineer and Planner.

Mr. Magno said the plan depicts a pre-existing non-conforming front yard setback as well as buffer relief. Design waivers are required from providing sidewalk along the Swarthmore Avenue frontage and for providing driveway widths greater than 30 ft. Testimony shall be provided concerning parking and the existing/proposed circulation with the site layout as the plan shows six access points. He asked if any of those access points could be eliminated.

Mr. Stern asked why they would want to eliminate access to the site.

Mr. Magno said if you would have a lot of cars entering and exiting at the same time within proximity to each other, it will create conflicts as well as visual conflicts because the site is on a curve as well.

Ms. Miriam Weinstein Esq. said this school currently has 494 students from 1st through 8th grades. There is one 7th grade, one 8th grade and then parallel classes in the younger grades but they are already up to three classes per level from primary through 2nd grades and they have already received 232 applications for next year's incoming primary class. This application is for a proposed two-story addition to the northeast corner of the existing school which includes a hall in the basement. After the addition, there will be a total of 36 classrooms as well as parking, a playground and a pool. Per their calculations, there will be 298 parking spaces whereas 273 are required and when the hall is in use, the school would not be, not any of the adjacent buildings in this industrial park as the hall would be used at night. The only variance being sought is for a pre-existing non-conforming front yard setback for the existing building and typical buffer relief. All children will be bused to school except for the occasionally student who misses a bus or has an appointment. A waiver is being requested from providing sidewalks along the frontage as this is within the Industrial Park and the Industrial Commission does not want sidewalks.

Mr. Brian Flannery, P.E., P.P. was sworn. Exhibit A-1 is a rendering of the entire site, A-2 is an aerial exhibit, A-3 shows the existing building as well as the proposed addition, A-4 is a copy of sheet 130 of the tax map and A-5 is a rendering of the front of the building.

Mr. Jackson said the applicant intends to use off-site parking. He asked if there is an arrangement or deed.

Ms. Weinstein said they have a lease for lot 9 which is owned by the Lakewood Industrial Commission.

Mr. Jackson questioned if that lot was included in the 200 ft list.

Ms. Morris is unsure, it is not referenced on the application.

Mr. Stern said the issue also is that leases expire.

Mr. Jackson agreed. The board may not be comfortable with this as leases can be terminated, cancelled, or run out as there is no deed restriction. If they do intend to use this lot, then it must be included in the application and properties within 200 ft must be notified.

Mr. Stern questioned if the terms of the lease are an important factor for the board.

Mr. Jackson said the board should be very concerned.

Mr. Herzl said normally the board requires a long-term lease of 20 years or so.

Mr. Flancbaum said it is a long-term lease. It is undevelopable and useless property to the Industrial Commission except the Industrial Commission is able to lease it for parking because it doesn't interfere with planes flying overhead.

Mr. Herzl asked if the applicant is going to pave the lot.

Mr. Flancbaum believes so.

Ms. Morris said the list on the plans only references lot 16.

Mr. Flannery said the notice they would need to give would be anyone within 200 ft of the lease area. If you look at the tax map, no one additional would need to be notified.

Mr. Herzl asked if most of the parking is on that leased lot.

Mr. Flannery said more than half.

Ms. Morris questioned why they cannot just obtain the lot from the Industrial Commission if they can't utilize it anyway.

Ms. Weinstein said the lease is for 10 years with the option to extend the initial term of the lease for four consecutive 5 year renewal terms so it would be a term of 30 years.

Mr. Herzl asked what stops the Industrial Commission from voiding this lease a day later.

Mr. Flannery said it is a signed agreement, so all parties would have to agree to void it and if that happens then the site plan is not valid.

Mr. Jackson said as an alternative, they could propose a 99-year parking easement.

Mr. Flancbaum is a board member for the Industrial Commission, but he doesn't remember all of the details. There may be a reason it is only a 10-year lease.

Ms. Weinstein was not involved in the lease agreement, but it is for a total of 30 years. There is no provision in this lease which would allow the Industrial Commission to breach the lease.

Mr. Jackson does not think there is jurisdiction if they plan to use 180 spaces on a lot which has not been noticed. He also suggested that Mr. Flancbaum should recuse himself as he is on the Industrial Commission.

Mr. Flancbaum stepped down.

Mr. Jackson said they may want to check with the Industrial Commission for an alternative agreement that would give them the right to park there and they can't mutual agree to terminate the lease such as an easement.

Ms. Weinstein said you can mutually terminate an easement the same way you can mutually terminate a lease.

Mr. Jackson said an easement is recorded for the benefit of the public. Also, since they are using the Industrial Commission's property for an approval, they would have to be a co-applicant.

Ms. Weinstein asked that the application be carried to the next available meeting.

A motion was made and seconded to carry the application to the February 19, 2019 meeting.
All were in favor.

7. SP 2296 Lakewood Madison Plaza LP
1700 Madison Avenue Block 27, Lot 63
Preliminary and Final Major Site Plan for a bank

A review letter prepared by Remington & Vernick Engineers dated January 9, 2019 was entered as an exhibit.

Mr. Magno said submission waivers are requested for topography, contours and man-made features within 200 ft, these waivers are supported since this project is part of a large existing shopping center. An environmental impact statement, since the site is already developed, and the flood zone limits are depicted on the site plans, we can support this waiver and a tree protection management plan which shall be provided as a condition of approval.

The board granted the submission waivers as recommended by the Board Engineer and Planner.

Mr. Magno said a minimum front yard setback is required, a 3 ft right-of-way dedication may be required which would have an effect for the number of off-street parking spaces and lastly it is unclear whether any sign variances will be required. Design waivers are required from extending sidewalk to the northern limits of the site along the Route 9 frontage, from providing buffers, from providing shade tree/utility easements along Madison Avenue and Kennedy Boulevard West frontages and finally the plan does not address whether a design waiver is required from providing street trees along the Kennedy Boulevard West frontage.

Mr. Brian Flannery, P.E., P.P., Scott Kennel, traffic expert, James Lalli, A.IA. and Richard Dordas, Construction Engineer for Chase Bank were sworn.

Mr. Ray Shea, Esq. said this is the old Payless shoe store and they are proposing a brand-new Chase branch. They will be closing the one across the street and the one in the center and will be consolidating those into this new building.

Mr. Flannery said Exhibit A-1 is a photograph of the existing site, A-2 is a rendering of the bank, A-3 is a copy of the overall site plan, A-4 is elevations of the bank. The Payless shoe store, which is 2,832 sf, is being replaced with a

new Chase Bank building which will be 5,011 sf. He noted the application could obtain a site plan exemption and add 1,500 sf to the building without even coming to the board. The proposed bank building would be setback 31.3 ft which is an existing condition. It is his opinion, based on Section 18-806a, that they do not need a variance 'Except as otherwise provided in this section, the lawful use of land or buildings existing at the date of adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or building is located; provided, however: a. That no lot nonconforming to the standards set forth in its zoning district shall be further reduced by the owner b. That no nonconforming nonresidential building shall be enlarged, extended or increased unless such enlargement does not increase the degree of nonconformance or does not expand upon the existing footprint of the building.' He is not going to argue with the board engineer and would give his justification for a C-2 variance, but it is his opinion the variance is not required as the existing building is at 31.3 ft and the new building is going to be at 31.3 ft. The report goes on to indicate the 3 ft difference in the right-of-way and the adjoining lot does have a 3 ft difference. That is the NJDOT right-of-way and they do have a letter of no interest from the NJDOT, so it is his opinion that 3 ft dedication is required. A design waiver is requested from extending the sidewalk to the northern limits along Route 9 and as the board can see on exhibit A-3, there is a stream and they would need NJDOT/NJDEP permits. It is his opinion they would not be able to get a permit from the DEP as they are within a Category 1 buffer and the sidewalks are not going to connect anywhere as there are no sidewalks in Howell.

Mr. Herzl asked if there are any other businesses which would benefit from the sidewalks.

Mr. Flannery said no, it is just a stream.

Mr. Sabel said there are a lot of pedestrians who walk over there.

Mr. Flannery said a design waiver is required for a 25 ft buffer. Their project isn't changing anything with respects to buffers. The buffers are to the remainder of the site which isn't being changed.

Mr. Sabel said the sidewalks end before the Sprinkles ice cream store.

Mr. Flannery said the applicant is willing to submit to the NJDOT for a permit for the sidewalks and to the extent NJDOT approves the sidewalks, they'll build as much sidewalk as allowed. That property by Sprinkles is within the NJDOT right-of-way.

Mr. Herzl would like to see them extend sidewalks as much as possible as people are constantly walking along those stores.

Mr. Flannery said they would extend to the end of buildings if allowed, any further and they would have to obtain a permit from the NJDEP.

Mr. Sabel asked if the NJDOT would allow markings or a barrier.

Mr. Flannery said they could ask. Design waivers are required from providing shade tree/utility easements and street trees which again are along other portions of the site. The applicant agrees to fix any pavement in this area as well as any other areas where restriping is proposed. There is a comment which suggests removing angled parking near the Sprinkles ice cream store but it is his opinion that is parking already there, used and needed. It is not hurting anything now and he would suggest leaving it as is. They would provide the engineer with an indication of how the dumpster situation will get cleaned up. It is an existing center where typically it gets a bit out of control, but the applicant will certainly, as part of resolution compliance, indicate where the dumpsters would be and manage it properly. The trash would be private pick up. The existing parking is deficient per the ordinance. They are only adding an additional 2,179 sf and if you figure out how much additional parking is required, it would be 10

additional spaces whereas they are proposing 18 spaces. This bank is in an area where there is open parking as people want to park closer to the stores. They are not asking for parking relief for the new building, but the existing site has a parking variance condition and they would need that extended.

Mr. Sabel said the site will still be deficient by over 100 parking spaces.

Mr. Herzl asked if it is his testimony the existing site circulation works.

Mr. Flannery said yes, Scott Kennel would give additional testimony. An existing light pole on a curbed island will need to be moved and the plans will indicate that. The applicant agrees to any reasonable and practical recommendations from the Shade Tree Commission. As per signage, his review of the plans indicates that the ID sign proposed is shown on the plans 5 ft from the right-of-way which is a variance condition. They can move it back 15 ft from the right-of-way which would then comply. As far as the area and height of the sign, it does show that it complies with the ordinance. The sign package also proposes directional signs, which in his opinion is not something governed by the ordinance. The board would look at directional signs to the extent that they help traffic and all other features. Finally, there are walls signs, which the board can see on the existing Payless store has wall signs on all three sides of the building which Chase would like to request as well. It is difficult to determine from the ordinance but with respect to the lettering on the buildings, it is difficult to determine exactly which area you should include. His opinion, except for the ID sign that was at 5 ft and would be 15 ft, they would comply with any sign regulations.

Mr. Herzl said it is his testimony that no sign variances are being requested.

Mr. Flannery confirmed.

Mr. Magno is fine with the site ID sign. His concern with the signs is that when he looks at the sign package, there are a multitude of wall signs on the building and there are so many he is sure if some type of relief would be needed but none was requested.

Mr. Flannery said his opinion is that the ordinance doesn't clearly say what is a façade mounted sign and what exactly it needs to be but certainly the intent of the sign ordinance and what is being proposed is similar to other banks. Variances are not requested for those signs because they comply with what the ordinance allows.

Mr. Shea said if the board determines that variances are required then the applicant respectfully requests those variances be granted.

Mr. Magno disagrees as they don't even know what variances are being granted. The site plans do not address the number of signs or the size of the signs which it should.

Mr. Flannery said marquee signs are allowed on one side per 21 sq ft which it is not exceeding.

Mr. Magno questioned why that isn't on the zoning data, so they don't have to try and go through the large sign package submitted and try to figure it out.

Mr. Jackson said it is Mr. Flannery's opinion that they satisfy all of the criteria, so he doesn't see why the board cant approve what is shown on the plans, subject to him providing a table of each ordinance and satisfying the board engineer that variances are not required.

Mr. Kennel said a traffic parking report was submitted dated November 27, 2018. The first aspect of that took into consideration the additional traffic generation from the slightly larger building where the Payless shoes was located

and that the de minimis increase in traffic would qualify for an NJDOT letter of no interest which was issued on December 14, 2018. As it relates to parking, there was a comprehensive data collection program as far as the parking accumulation which including parking observations in December of 2017 as well as September of 2018 and included the Sunday before Rosh Hashanah which is typically a peak time out there for parking. The observation showed that there were 620 parked vehicles at 12 pm with 160 spaces available and many of those spaces were available in the location where the proposed Chase Bank is being built. The dynamics of this shopping center are such that the Chase Bank, in his opinion, will not have an impact on the current parking practices through the remainder of the shopping center. It was also indicated they are providing additional parking spaces in those peak areas, specifically in the northwest quadrant of the northerly building. During typical time periods there was an excess of 200 parking spaces available on site so given the nature of the proposed use, which already exists on site today, the provision to provide two ATM drive-thru lanes so that less people must park to walk to get to the ATM. It is his opinion that the parking provided, even though it requires a variance and based on current parking observations, is still more than adequate and the construction of this bank will not have a negative impact on the rest of the shopping center. The report also suggested a couple of other enhancements for accessibility and that dealt with the Route 9 access which was one other comment raised was to provide a sidewalk between the two driveways. Providing a sidewalk between the two driveways, in his opinion is feasible. It may require the elimination of the three trees in that area, but the report also stated that those trees need to be trimmed to enhance sight distance. Recommended internal signage to better guide people that need to go Route 9 north to utilize the Kennedy Boulevard access points as well as add additional no left turn signs on the easterly access where they seem to be missing today to enforce the right in/right out operation at that location.

Mr. Herzl asked how many cars can be stacked in the ATM drive-thru lanes.

Mr. Kennel said it could accommodate approximately 10 to 12 vehicles.

Mr. Magno said the revised plans showed a 74 ft desired typical section for Route 9 at this location where south of here it is usually 57 ft. He questioned if that is due to the right-of-way being larger at this location.

Mr. Kennel said the change of right-of-way widths occur typically by the character of the road or municipal boundaries. If that is the case, he would have to verify that with the NJDOT access code.

Mr. Magno just wants the board to be aware that parking is proposed within that desirable typical section.

Mr. Sabel asked if it would be a good idea to limit only to left turns going north into this shopping center.

Mr. Kennel said there is a dedicated left turn lane and he wouldn't recommend adding additional traffic onto Kennedy Boulevard. Based on what he has observed, if they eliminate or at least trim the trees that would enhance the visibility and the operational aspect of it. The key thing is there is a dedicated turn lane for a refuge area and it is his recommendation that should remain to optimize access to the site.

Mr. Herzl said there is no left turn on Kennedy Boulevard going east.

Mr. Kennel confirmed at the easterly driveway and on the west side there is full movement where the traffic signal is located.

Mr. Herzl said the other entrance on Route 9 is right out only.

Mr. Kennel said that northerly access is really a service access and access to the ice cream shop. It only operates as a right in/right out only.

Mr. Herzl said the only way to go north is by taking Kennedy Boulevard and making a turn at the light.

Mr. Kennel said that is correct and the revised site plans show additional guide signs at key locations along the main circulation aisles to direct people to the signalized access to head back north on Route 9.

Mr. Herzl wants to ensure there is signage prohibiting left turns onto Route 9 as he sees it all the time.

Mr. Herzl opened to the public.

Mr. Moshe Zeines, 112 Elmhurst Boulevard, was sworn. He thinks there is left turn allowed onto right 9 from one of the driveways.

Mr. Herzl said if that is the case then he would like the applicant to request from the NJDOT that be eliminated.

Mr. Zeines asked that they paint stop bars in the parking lot.

Mr. Shlomo Klein was sworn. He commented that sidewalks should always be provided in order to provide safe passage for pedestrians. He questioned if the NJDOT will not allow them to install sidewalks.

Mr. Flannery said his testimony was they would need an NJDOT permit so unless they issue a permit, they cannot put in sidewalks. They agree to submit to the NJDOT for that permit.

Mr. Flancbaum said the board is requesting the applicant to install sidewalks up until the northerly entrance on Route 9.

Mr. Herzl asked if the applicant would apply to the NJDEP to extend the sidewalks further towards the Howell border.

Mr. Flannery said they can apply but the NJDEP would require an environmental study.

Mr. Herzl requested that the applicant submit applications to the NJDEP and the NJDOT.

Mr. Klein said the NJDEP may not allow sidewalks, but they may allow gravel or blacktop similar to what they did over at South Lake Drive which would give people space to walk.

Mr. Flannery agreed to make an application to the NJDEP and NJDOT.

Mr. Herzl closed to the public.

A motion was made and seconded to approve the application.
All were in favor.

8. SD 2354 Silvestro Drive Holdings

Silvestro Drive Block 430, Lots 1, 2, 12, & 54.01

Preliminary and Final Major Subdivision to create nine lots

A review letter prepared by Remington & Vernick Engineers dated January 14, 2019 was entered as an exhibit.

Mr. Magno said submission waivers are requested from providing an environmental impact statement, this waiver can be supported as long as the site contains no environmental constraints, and from providing architectural

drawings of the proposed structures. It is their understanding that the proposed dwellings will be custom homes, therefore, we can support the requested submission waiver.

The board granted the submission waivers as recommended by the Board Engineer and Planner.

Mr. Magno said testimony shall be provided as to why lot 54.01 has been included in the project as it doesn't appear necessary and the subdivision is crossing a zone line by doing that. Variances are requested for minimum lot width and combined side yard setback. A design waiver is required from providing a 10 ft wide right-of-way dedication along Claire Avenue. However, it should be granted since what they are proposing would match what was approved to the south.

Mr. Brian Flannery, P.E., P.P. and Scott Kennel, traffic expert, were sworn. Exhibit A-1 is a copy of the subdivision map, A-2 is an aerial photograph, A-3 is a copy of the zone map in the area. He indicated a few other projects in the R-12 zone which are not on 12,000 sf lots. Exhibit A-4 is a copy of the tax map which shows projects to the east along Route 9 which were approved for apartments, duplexes or townhouses and the properties to the west which is Hearthstone where 75% of the lots are under 10,000 sf. This project is providing lots which are much larger than surrounding lots and are consistent with the lots just to the south.

Mr. Herzl asked if the widths are similar.

Mr. Flannery said all of Hearthstone are 80 ft and these lots are being proposed at 75 ft. Lot 54.01 is included in the application as another lot owner will be getting a much nicer backyard. Variances are requested from minimum lot width on proposed lots 2.01 through 2.03 and 2.06 through 2.09. New lots 2.01 through 2.03 and 2.07 through 2.09 propose 75 ft lot widths. New lot 2.06 proposes a 77.85 ft lot width whereas 90 ft is required. Lot 2.06 would need a combined side yard setback variance of 21.425 ft. He is unsure where that number came from, but the architect said at least a 55 ft wide house would be needed and they would respectfully ask for a 22 ft setback which he believes was advertised. There was a question with respect to the intersection but they would agree to work out the intersection with the board engineer during resolution compliance so it works. A cul-de-sac was suggested in the engineer's report, but he doesn't believe that is the best idea. They will be doing the same thing which was done to the property south and they would dedicate 6 ft and beyond that they are doing a 7 ft easement and beyond that they have a 6 ft sight triangle easement. *(Difficult to hear testimony when not speaking into the microphone)*

Mr. Sabel questioned if the road is RSIS compliant.

Mr. Flannery said they would be widening it out to provide for some future stub. If the board acts favorably, we can show the board that design before the resolution is memorialized. In his opinion, this is RSIS compliant as it is an intersection. It is not RSIS compliant if it is a straight through road, but it is not as there will be a stop sign on each side. He then referenced sections in the Master Plan and MLUL to justify the variances requested.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn. He said there was testimony in the past from one of the lot owners stating they would be willing to dedicate a lot for a road to connect in order to get variances. He said there was an agreement to keep a pathway which pedestrians use to walk through that area. He understands the board doesn't have to require the applicant to keep it but since they are requesting waivers it is something the board can request.

Mr. Herzl closed to the public.

A motion was made and seconded to approve the application. All were in favor.

- 6. APPROVAL OF MINUTES**
- 7. APPROVAL OF BILLS**
- 8. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth
Planning Board Recording Secretary