

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. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Follman, Ms. Zografos

3. SWEARING IN OF PROFESSIONALS

Mr. Terry Vogt, P.E., P.P., C.M.E. was sworn in.

4. MEMORIALIZATION OF RESOLUTIONS

1. **SD 2252 Aharon Mansour**
Chestnut Street Block 1095, Lots 14-16
Minor Subdivision to create two lots

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

2. **SD 2253 Karen Mandel**
Netherwood Drive Block 436, Lot 1
Preliminary and Final Major Subdivision to create 5 lots

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

3. **SD 2109 292 Sampson Ave, LLC**
Sampson Ave Block 246, Lot 24
Denial of Minor Subdivision to create two lots

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

4. **SD 1949 Aaron Finkelstein**
Congress Street & Bruce Street Block 250, Lots 2-5
Extension of a Minor Subdivision to create six fee-simple duplex lots

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

5. **SP 2062 Yeshiva Ruach Hatorah, Inc.**
Ridge Avenue Block 189.03, Lot 35
Extension of a Preliminary and Final Major Site Plan for a school campus with a dormitory and residences

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

5. PUBLIC HEARING

1. **SP 2227 Yerek, LLC**
Airport Road Block 1160.01, Lots 242.01 & 242.02
Preliminary and Final Major Site Plan for warehouse storage units

Mrs. Morris said the applicant's attorney has requested this matter be carried to a future meeting date.

Mr. Adam Pfeffer, Esq. said new notices will be sent out but asked that this be scheduled on the August 8th agenda. They are working to eliminate the parking variance. There will still be one or two minor variances for rear yard setback and lot coverage.

Mr. Herzl said the lot coverage is too high.

Mr. Pfeffer said it will be reduced as they are reducing the building size.

2. **SP 2238AA Shea Rosenfeld**
Hope Chapel Road Block 2, Lot 114
Change of Use/Site Plan Exemption to make temporary house of worship trailer into permanent house of worship

A review letter prepared by Remington, Vernick & Vena Engineers April 19, 2017 was entered as an exhibit.

Mr. Grunberger arrived.

Mrs. Morris said the applicant had received approval for temporary trailers which they would like to make permanent.

Mr. Vogt said perimeter buffer relief is necessary. Design waivers are required including curb and sidewalk along the property frontage, as well as lighting and landscaping.

Mr. Brian Flannery, P.E., P.P. was sworn. He said this situation has been working well for the last five years and they would like to put a nice front on the temporary trailer which is already on a permanent foundation. The applicant is trying to be a good neighbor and making this into a permanent building rather than it looking temporary. The site is fully developed with six parking spaces. The sanctuary is less than 800 sf so technically no parking is required. There are no other ancillary uses or future expansions are planned at this time. The board engineer suggested converting one of the spaces to be handicapped accessible which the applicant agrees to. The site has existing landscaping and nothing is being proposed at this time. A waiver is being requested for curb and sidewalk along the front of the shul as this is an existing condition which has been there for many years. The existing utilities servicing the building now are more than adequate.

Mr. Herzl asked if a Simcha hall is being proposed.

Mr. Flannery said no, there is absolutely no change in use. It will only be used for a shul as it has been for years.

Mr. Follman asked what the other building on site is.

Mr. Flannery said it is an old house which is unoccupied at the time.

Mr. Follman asked if it would be torn down.

Mr. Flannery said the intent would be to leave it there and use it in its current situation. Both of the structures are used for the congregation. The resolution can certainly stipulate that the house can only be used for the shul.

Mr. Follman said if the building was removed then there would be more space for parking.

Mr. Flannery said they already meet parking requirements as the sanctuary is less than 800 sf.

Mr. Jackson asked if there is parking demand for the commercial building.

Mr. Flannery said no, it is not a commercial building as it is not used for anything.

Mr. Jackson said if they were to come in with a blank slate application then this building would create parking and setback demands.

Mr. Flannery said it would create setback demands but not parking demands because the parking demand for a shul is based on the area of the sanctuary. It was a small house originally being used for the congregation and when the congregation grew, they decided to put up a temporary trailer. After five years of praying in that trailer, they determined that is all they really need.

Mr. Hibberson asked how often the building is used and who uses it.

Mr. Grunberger asked if this creates an issue with lot coverage.

Mr. Flannery said the lot coverage hasn't been calculated but the board can see it is a 1.35 acre lot with two small buildings.

Mr. Grunberger asked why the applicant is requesting this change if the site has been working.

Mrs. Morris said the zoning officer issues permits for trailers but they are intended to be temporary. They can be extended but the Township is shying away from doing that for too long. The applicant would have to come before the Planning Board to get an actual site plan approval.

Mr. Abe Penzer, Esq. said there are other shuls in a similar situation. Normally when they come before the board, they are not sure what the uses will look like. Here they have over five years where they know what the use is. The use is not changing and it has been working. The shul is used seven days a week, the other structure is used sometimes for a lecture hall.

Mr. Herzl asked if it is the same congregants using the other structure.

Mr. Penzer confirmed, no other outside people are coming in.

Mr. Flannery said the neighbors have all been noticed so if this was a shul that was a problem for the neighbors, they would be here.

Mr. Flancbaum said the board needs to look further than just the immediate neighborhood.

Mr. Penzer said they have been in direct dialogue with the neighbors in the past.

Mr. Flannery said the proposed building will obviously look nicer than the temporary trailer that is there today.

Mr. Herzl asked if the facade will be covering the old house as well.

Mr. Flannery said no. The house doesn't look like a temporary structure so they would keep that as is.

Mr. Penzer said the site is fully developed with paved parking.

Mr. Herzl said there are sidewalks across the street.

Mr. Flannery confirmed.

Ms. Zografos questioned whether or not the house is being used on a regular basis.

Mr. Penzer said it is not used on a regular basis. When they have small dissertations, it is used but it is used infrequently and it is used by the same people as the shul.

Ms. Zografos doesn't think it matters who uses it. She asked if the house is considered an accessory use. She asked if the square footage allowed for an accessory building.

Mrs. Morris said there isn't a limit as long as it is considered ancillary.

Mr. Grunberger questioned any existing variances.

Mr. Flannery said the existing variances relate to the lot width and front yard setback for the building which is already there. Lakewood ordinance says once the front setback is established, they are allowed to continue that. In an R-40 zone, a 50 ft front setback is required whereas the house is at 31.8 ft. There is another provision in the ordinance which says the front setback is the average of the buildings on the street and as the board can see, the buildings on the street are not setback 50 ft.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn. He urged the board not to grant the curb/sidewalk waiver. He questioned why more applicants do not go this route as they would save a lot of money.

Mr. Nathan Zelikovitz was sworn. He said he owns a few properties adjacent to this project and he is very supportive of this plan. The congregation has been there for a number of years and they have been excellent neighbors. The County did just install sidewalk along Hope Chapel Road which has drastically improved any safety issues they had. He said there is no need for sidewalks across the street as nobody walks there.

Mr. Jackson noted they have had very strong direction from the Mayor and Council to require sidewalks.

Mr. Flannery said the Township has been looking at a sidewalk project on the other side of the street but they have a couple of the neighbors further north that are fighting them on it because they don't want sidewalks there.

Mr. Herzl said there is a synagogue with children over there. He thinks it is a safety issue not having sidewalks.

Mr. Flancbaum agrees.

A motion was made and seconded to approve the application. The design waiver from providing curb and sidewalk along the property frontage was not granted.

All were in favor.

3. SP 2172 Center 101, LLC
Clifton Avenue Block 90, Lot 9
Preliminary and Final Major Site Plan for a five-story office and retail building

A review letter prepared by Remington, Vernick & Vena Engineers dated May 9, 2016 was entered as an exhibit.

Mrs. Morris said this was a previous denial by the board of a fully conforming application. There was a recent court order by Judge Ford remanding it back to the Planning Board for an approval.

Mr. Jackson recommended a motion be made for the board attorney to draft a resolution obeying the court's order in this matter.

Mr. Franklin said it is common sense. You can't put 360 cars in that part of the downtown area. It will totally destroy the downtown area and they can't let that happen. The judge may have remanded this back to the board because it is legal but common sense has to rule here somewhere.

Mr. Jackson said he could have that reflected in the resolution if the board believes it is bad planning but they have to obey the court's order.

Mr. Herzl read the court order from the judge and she does point out that Clifton Avenue is a disaster and there is no parking but because it is in the B-2 zone, they do not have a right to deny it.

Mr. Jackson said that is correct. The board cannot just make up reasons to deny an application, the board has to follow the regulations even though the board is universally opposed to it.

Mr. Adam Pfeffer, Esq. said it was and still is a fully conforming application. At the time of the hearing, they did put on the record they would agree to all of the conditions in the engineer's review letter and that is still the case today.

Mr. Jackson believes there were mainly technical issues.

Mr. Shlomo Klein commented on the certificate of ownership form.

Mrs. Morris said there is a certificate of ownership form in the file which lists the applicant who is an LLC and the form that was filed does not list that. It just lists the LLC itself rather than the individual owners. She spoke to Mr. Pfeffer and she believes he is prepared to address that.

Mr. Jackson thinks they can amend that. He doesn't think it is logical to make the applicant come back with the form completed filled out.

Mr. Pfeffer said for the record, there is one member in the LLC. Even if they submitted an application today, nothing would be different as no new ordinances have been adopted.

Mr. Herzl doesn't understand how this is going to work without parking. Parking garages are an option but that is up to the Township.

Mr. Grunberger questioned whether traffic would be a reason to deny this application.

Mr. Jackson made that argument before the court. The judge said the applicant met the criteria under the MLUL.

Mr. Franklin said this is going to put a lot of people out of business just for this one building. The people who come in to do their shopping for 10 minutes and leave won't have anywhere to park. This building won't even have enough parking so they won't even be able to serve the people in the new building because there won't be enough parking for them. The ordinance was passed years ago for a senior citizen housing project because they could not get a mortgage without it. That is the reason the ordinance was done but the committee has changed since then and they never took the ordinance out a few years later like they were supposed to.

Mr. Herzl said perhaps this application will push the Township more to provide a parking garage downtown.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn. This board directed the Committee to change the B-2 requirements which went to a first reading but it did not pass. The mayor was for this but none of the other members wanted to vote on it. He said it is very important for the public to see who the owners and applicants are. He also heard this property is not actually in the B-2 zone.

Mr. Brian Tereblo, 310 2nd Street, was sworn. He said this is going to destroy the downtown area because there is no parking. He said many businesses are going to suffer as a result of this.

Mr. Herzl closed to the public.

Mr. Jackson said there have been letters and maps indicating this property is in the B-2 zone.

Mrs. Morris said the official zoning map dated 2006 by Birdsall Engineering does show this property within the B-2 zone.

Mr. Jackson said he could appeal the decision but that is up to the board.

Mr. Franklin thinks they should appeal it because this will destroy the downtown.

Mr. Follman agrees.

Mr. Flancabaum understands the board's concerns but they are going to have public meetings on the Master Plan in early September and the Master Plan recommends serious parking requirements in the downtown for anything over two stories.

A motion was made and seconded to direct the board attorney to draft a resolution obeying the court's order.

Affirmative: Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Follman, Ms. Zografos

Abstain: Mr. Grunberger, Mr. Flancbaum

4. SD 2067 Mark Moskovitz

Central Avenue & Bradshaw Road Block 83, Lot 7
Extension of Minor Subdivision to create two lots

Mr. Graham MacFarlane, P.E., P.P. was sworn. He said they have been working on a sewer extension application, however, when the application was originally approved, Central Avenue was still under a moratorium so it didn't make any sense to finalize those approvals or to subdivide the property before they were able to get utility service. The moratorium will be lifted in the very near future. A one year extension is requested.

Mr. Herzl opened to the public, seeing no one come forward, he closed to the public.

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

All were in favor.

5. SD 2129 Miriam Klein

Miller Road Block 12, Lot 201
Extension of Minor Subdivision to create two lots

Mr. Joe Kociuba, P.E., P.P. was sworn. They are requesting an extension as a result of some difficulty they have had with the County. They have made an application to the County many months ago and have been working back and forth with them. His understanding is that one of the waivers requested was being heard this past Wednesday but he does not have an answer on that yet but they are actively proceeding with the County trying to finalize this. A one year extension is requested.

Mr. Herzl opened to the public.

Mr. Klein asked what the issues are with the County.

Mr. Kociuba said they require some waivers from right-of-way dedications and sight triangle easements.

Mr. Moshe Hirsch was sworn. He asked if time extensions need to be noticed to neighbors.

Mrs. Morris said it is her understanding that extensions do not require legal notice.

Mr. Herzl closed to the public.

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

All were in favor.

- 6. SD 2266 Claire Drive, LLC**
Claire Drive Block 430, Lots 13-16
Minor Subdivision to create five lots

Mrs. Morris said the applicant failed to provide adequate legal notice for this project. The applicant has requested this matter be carried to the August 8th meeting. New notices will be provided.

6. ORDINANCES & CORRESPONDENCE

- **Resolution 2017-211 – Proposed Ordinance:** New Zone, Riparian Buffer Conservation Overlay

Mrs. Morris said this was before the board previously but they did not have a map. She received a copy of the map from the Clerk so it is now back before the board for recommendation.

Mr. Vogt said it appears what is on this map is what the state has shown to be category 1 water ways as well as the associated 300 ft buffers. The benefit of having this map on the books is everyone including the builders and the public, there will be a body of reference showing the waterways and buffers so it can be dealt during the Planning Board process. If the board does approve the project, the applicant would have to seek the appropriate approval from the NJDEP. This is a tool to help be more proactive.

A motion was made and seconded recommending the proposed ordinance be adopted by the Township Committee.

All were in favor.

- **Resolution 2017-259 – Proposed Ordinance:** Attic definition, and Habitable Attic definition and parking requirements

Mr. Vogt said when the township engineer receives a plot plan for review, he would now add another space for the attic whether it is finished or not.

Mr. Klein argued that the attic could show three bedrooms but still only one space would be required.

Mrs. Morris said it is the same for the basements. It doesn't matter how many bedrooms are shown in the basement, it is counted as two bedrooms per the ordinance. The board could recommend that unfinished attics be counted as one space and finished attics should be counted per the number of bedrooms.

Mr. Jackson said the board can recommend that if it is a configuration which shows more bedrooms, it should be the actual count of the bedrooms when it is finished.

Mrs. Morris asked if the board would like to include basements in that recommendation as well.

Mr. Flancbaum said they should be factoring in the total number of bedrooms. They shouldn't just be considering one space for the attic and two spaces for the basement but should calculate it per bedroom.

Mr. Jackson said the board should recommend to the council to take this further and to count the actual number of bedrooms and to come up with a ratio that would satisfy based on the actual number of bedrooms.

Mr. Herzl said that should include the attic, main floor and basement.

A motion was made and seconded recommending that bedrooms in the attic as well as in the basement be counted on an individual basis (as done in the main part of a residence) rather than limited to an estimated 1 bedroom per attic and two bedrooms per basement. The same parking calculations, therefore, should be applied to the house as a whole.

All were in favor.

• **Resolution 2017-260 – Proposed Ordinance:** – Parking Requirements for Offices in various sections

Mrs. Morris said this is a proposed change to the parking requirements for offices in a couple of places within the ordinance based off previous discussions. Mr. Rennert had made a recommendation some time ago which she had put into letter form with the board's consent regarding parking requirements. One of them was office use parking requirements were a little low compared to neighboring towns as well as offices uses with different parking requirements depending on what zone you are in. In the regular parking requirements section, the requirement was 1 per 300 sf and the recommendation is to change that to 1 per 250 sf. There is also a separate requirement for offices listed in the M-1 zone that was 1 per 400 sf and the recommendation is to change that to 1 per 250 which is in accordance with Jackson and Toms River Townships.

A motion was made and seconded recommending the proposed ordinance be adopted by the Township Committee.

All were in favor.

• **SP 2225 Yosef Notis, Block 284.06, Lot 23** – request for rear yard setback variance to accommodate rear stairway for emergency access

Mr. Brian Flannery, P.E., P.P. was sworn, he said this is a continuation from the last meeting. There was discussion with the neighbors which didn't get resolved before this item was announced to be carried. The construction plans indicated in the northwest corner, an exit was required and the applicant proposed a stairway coming out at that point and turning around and coming down. The applicant met with the neighbor and the neighbor does not want to see people walking up and down the stairway so the applicant has agreed to enclose the stairway which creates a setback relief.

Mr. Herzl pointed out that it is only to be used in an emergency.

Mr. Flannery understands but the neighbors felt more comfortable with the wall. The applicant wants to be a good neighbor so they are requesting a setback variance for that. Additionally, when they went to the County, they didn't like the parking being so close to James Street so the County required them to eliminate the first two parking spaces coming from James which creates a parking variance. The applicant had sufficient parking when approved. This is a local shul with no basement and the parking required is still better than the existing situation where it is in someone's basement and there is no parking. The setback relief only impacts the neighbors and the neighbors are the ones who prefer the stairway to be enclosed rather than open.

Mr. Follman asked how many parking spaces are proposed.

Mr. Flannery said 9 spaces, 11 are required based on the ordinance.

Mr. Herzl opened to the public.

Mr. Moshe Zeines, 112 Elmhurst Boulevard, was sworn in. He reminded the board that next door on James is a Yeshiva. When this application originally came before the board, the parking was a big deal and when the Yeshiva came in, they made promises concerning the parking including not parking on James Street. They are parking on

James Street so when this shul comes in with the reduced number of spaces, more people will be parking on James. Ten people are required for a quorum so there will be at least one person parking on the street. He suggested this applicant and the Yeshiva next door buy property behind them to create a parking lot.

Mr. Shlomo Klein was sworn. He pointed out the upstairs is the ladies portion of the shul and they would mainly be using that emergency exit.

Mr. Herzl closed to the public.

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

7. PUBLIC PORTION

Mr. Klein discussed the Master Plan and the B-2 zone.

8. APPROVAL OF MINUTES

9. APPROVAL OF BILLS

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,
Sarah L. Forsyth
Planning Board Recording Secretary