

presented a letter from the neighbor who couldn't attend tonight stating he had no objection to the application. Mr. Vogt indicated the professionals had not been notified of the request for a combined hearing. Mrs. Morris indicated that the February 16th meeting is very busy and with 3 additional plan review items after this they may follow suit in requesting an expedited public hearing. After discussion Mrs. Morris recommended a public hearing to be scheduled for March 15th with revised plans due by February 25th.

A motion was made and seconded to advance the application to the March 15, 2016, meeting.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Cautillo

Abstain: Mr. Rennert

2. SP 2161 TJ Realty Enterprise, LLC

River Avenue

Block 430, Lot 10

Preliminary and Final Major Site Plan for a building addition

A review letter prepared by Remington, Vernick & Vena Engineers dated January 26, 2016, was entered as an exhibit.

Mr. Vogt stated there are waivers requested for topography, contours, man-made features within 200 feet, environmental impact statement, and architectural drawings. He is in support of the waivers with the exception that architectural plans must be provided prior to the public hearing.

A motion was made and seconded to approve the waivers as recommended by the Board Engineer and Planner. All were in favor.

Mr. Vogt indicated that there are several pre-existing variances, and that condition 17 of resolution SD 1933 restricts the use of the commercial building based on the possibility of future conveyance of the property frontage to the State for road widening. 9 parking spaces would be located with the DOT desired typical section, and therefore he recommends that these spaces not be included in the overall off-street parking count. A variance should be considered for the number of off-street parking spaces where 37 are required but only 28 are proposed.

Mrs. Miriam Weinstein, attorney for the applicant, indicated that she would provide testimony at the public hearing regarding the variance.

A motion was made and seconded to advance the application to the March 15, 2016, meeting.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

3. SP 2162 Khal Meor Chaim

Miller Road

Block 9, Lots 3.01 & 6

Preliminary and Final Major Site Plan for a change of use and building addition for a synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated January 28, 2016, was entered as an exhibit.

A review letter prepared by Remington, Vernick & Vena Engineers dated January 11, 2016, was entered as an exhibit.

Mr. Vogt stated that it was a conforming application aside from the 50' front setback which requires approval from the Industrial Commission. Additionally a design waiver is required for a side lot line not perpendicular to the street, as well as no sidewalk or shade tree or shade tree and utility easement being provided along the frontage.

Mr. Liston, attorney for the applicant, stated that it was a pretty simple application. He presented the testimony of Mr. Timothy Lurie, engineer and planner for the applicant, who was sworn in. Mr. Lurie stated that the application is to subdivide into two lots, 8.719 acres and 3.383 acres at the southern end of the property by Rutgers Boulevard. Mr. Liston asked if there was anything in the Board Engineer's letter that he takes exception to. Mr. Lurie indicated that there were two items, a waiver for the side property line where it is being created perpendicular to the rear setback line instead of the street.

Mr. Neiman asked what is on the property currently, Mr. Lurie said it is a warehouse building. Mr. Neiman asked if they were creating any variances or any parking variances, Mr. Lurie said no. Mr. Franklin asked about the right-of-way for the power lines and Mr. Lurie responded it is 200' wide. Mr. Neiman asked about wetlands, Mr. Lurie confirmed there are no known wetlands on the property. Mr. Flancbaum asked what they would be doing with the subdivided piece. Mr. Liston indicated that it is a conforming lot that would eventually have a site plan application on it but that it was not the same applicant that was here today. He also asked to defer any tree planting required by the Board to that future site plan application. Mr. Neiman asked about sidewalks, Mr. Lurie indicated that there are not and that they are not proposing any. Mr. Neiman said it is in the industrial park so that is appropriate.

No one from the public had any comments. Mr. Hibberson asked about sidewalks, Mr. Neiman explained that typically we like to see sidewalks but the Industrial Commission prefers not to encourage walking in the area.

A motion was made by Mr. Cautillo, seconded by Mr. Flancbaum to approve.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

2. SP 2152 David Flam
Ocean Avenue Block 246, Lot 44
Preliminary and Final Major Site Plan for a synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated January 13, 2016, was entered as an exhibit.

Mr. Vogt stated that a rear yard setback variance is required, as well as perimeter buffer relief and relief for the location of the parking area within 5' of the adjacent lot.

Mr. Kociuba, engineer and planner for the applicant, was sworn in, and stated that the application is for a proposed shul on Ocean Avenue with 9 parking stalls. A rear yard setback variance of 10' where 15' is required is being requested. This is in order to push the building back to increase the parking. This gives an additional 2

spaces for 9 instead of 7. They are compliant with the required number of spaces. They are providing sidewalk access from the street and will amend it to provide a handicapped ramp at the corner for ADA access.

Mr. Neiman asked if a hall or rental was proposed, Mr. Kociuba said there is a basement that is for synagogue use on shabbos only. Mr. Follman and Mr. Neiman debated the authority of the Board and the enforcement of this condition in past resolutions. Mr. Jackson asked about whether the architectural are conducive to a hall use. Mr. Kociuba indicated that there is a basement but he doesn't believe a full architectural plan has been designed for that yet. Mr. Neiman asked about the 9 parking spaces and said that he had yet to be at a minyan with only 9 people. He doubts the 9 spaces is sufficient. Mr. Kociuba indicated that there is on street parking on Pearl Street and that there is a current shul operating out of some basements directly across the street, which is being moved to here, so realistically the parking demand shouldn't change. Mr. Kociuba said the Rabbi is hear to speak if you have any questions of him.

Mr. Hibberson asked what would happen if the reduced setback is not approved. Mr. Kociuba testified that if that were to happen they would have to eliminate two parking spaces. Mr. Jackson asked if then the applicant would meet the parking requirements and Mr. Kociuba said no, 8 is required, so then we would need a variance for parking. Mr. Kociuba said yes, or they would have to change the shape of the building to comply with all requirements. Mr. Hibberson asked if that was practical. Mr. Kociuba said in his opinion the C2 variance was a better planning alternative than strict compliance with the regulations. Any configuration to avoid the setback variance would result in less parking.

Mr. Kociuba confirmed the traffic to the shul is existing now, and no increase in services is anticipated with the move to the new building. The Board asked about the properties to the rear, Mr. Kociuba testified that there are currently duplexes in the rear but there is no extra property to convey to avoid the variance requested with this application. With regards to buffering the applicant agrees to provide a 6' privacy fence and landscaping around the perimeter of the property.

Mr. Neiman opened to the public.

Ms. Betty Valentin, 305 Ocean Avenue, appeared and was sworn in. She lives on the corner property. She has concerns about safety and traffic. Additionally during the construction of the duplexes in the rear her fence was knocked down. She is concerned that she will lose some area of her backyard with this new development. Mr. Kociuba confirmed that the existing fence does not lie on the property line, it actually lies partially on the applicant's property, and is proposed to be removed and replaced with a privacy fence right on the line. Additionally the applicant would agree to frosted windows on the side of the property facing the Valentin's. Ms. Valentin said she guessed that would be ok.

Mr. Herzl questioned again the adequacy of the number of proposed parking spaces. Mr. Cautillo questioned the total number of congregants, which Mr. Kociuba said is about 40-50 congregants which might increase slightly.

Mr. Neiman asked about garbage provisions. Mr. Kociuba said there is a small dumpster shown on the plans for cans.

Ms. Valentin asked if there would be a fire hydrant. Mr. Kociuba said they aren't proposing one, all of the lots are existing.

Mr. Neiman closed to the public.

A motion was made by Mr. Flancbaum, seconded by Mr. Herzl to approve with the conditions discussed, namely the hall use shall be restricted to shabbos only, an 8' solid vinyl privacy fence shall be installed along the western property line, any windows on the western side of the building shall be frosted, and proposed lighting shall be shielded from the neighboring properties.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert

Negative: Mr. Hibberson, Mr. Cautillo

4. SP 2157 Tiferes Chaim

New Hampshire Ave

Block 1159, Lots 1 & 57

Preliminary and Final Major Site Plan for a new school building and to convert an existing commercial building into a dormitory

Mr. Rennert stepped down for this application.

A review letter prepared by Remington, Vernick & Vena Engineers dated January 28, 2016, was entered as an exhibit.

Mr. Vogt stated that a rear yard setback variance is requested, as well as waivers from the buffer requirements. 10' is required from the nonresidential use to the south and 20' is required from the residential use to the west. No landscaping or fencing is proposed within these invaded buffer areas. Design waivers are also required from providing sidewalk, curbing, street trees, street lighting, and shade tree and utility easements.

Mrs. Weinstein, attorney for the applicant, stated that this application is for preliminary and final site plan approval to convert the existing commercial structure into a dormitory and to construct an additional structure on the property to serve as the school building for a boys' high school. There are actually no variances required anymore, this is a fully conforming application. The school currently has 90 boys enrolled, the maximum capacity would be 150. Roughly 20 post high school boys would live in the dormitory and roughly 90-100 high school boys would be bused in 2-3 buses.

Mr. Kociuba, engineer and planner for the applicant, was sworn in. He stated that the application is oversized with roughly 50% encumbered by wetlands. The portion being developed is the southern portion. The proposed school is proposed to the rear (west) of the existing building being converted into a dorm. They are requesting buffer waivers as indicated in Terry's letter. The proposed site access is off New Hampshire with a loop road proposed around the building which is substantial enough for bus traffic and staging. 2 busses can pick up and drop off, plus there is parking. The school will have approx 20 classrooms, 38 parking stalls are proposed which is substantially over the requirement. Design waivers are requested, there are no sidewalks in the area as well as there are wetlands that would be impacted with any sidewalk further to the north. Curb is not proposed along the New Hampshire frontage but it is a County road so that is their jurisdiction. They are proposing some street trees in front of where they are building, but not on the north side which is wooded and remaining as is. They are not requesting a waiver for street lighting they just haven't finalized the calculations. Lighting would be designed and approved during resolution compliance, as would shade tree and utility easements.

Mrs. Weinstein corrected that there are 20 rooms but certainly not 20 classrooms, perhaps a maximum of 10 classrooms all together. Currently there are 90 boys, the max would be 4 grades of high school and 3 grades of bais Medrash (post high school), which would be 7 classes. Mr. Flancbaum commented that the traffic in the area is horrendous and dangerous. He wondered if the Board had jurisdiction to recommend to the County the installation of a traffic light. Mr. Kociuba stated that the County would take a look at the impact to the area and would issue their requirements separately. Mr. Flancbaum understands that however would like to still recommend looking at a traffic light. Mr. Hibberson recommended restricting the drives to a right-in, right-out movement for force the County decision on roadway access. Mr. Kociuba repeated that it is still the County's jurisdiction as it is access to their roadway. Mr. Neiman said they are going to require a right-in, right-out, regardless. A left turn onto New Hampshire is not feasible.

Mr. Franklin complained that the applicant clearly hadn't gotten public works approval because the access to the dumpster was impractical. Mr. Kociuba stated that they would meet with public works and meet their requirements. Mr. Neiman asked if there was a way we could have public works look at these designs before they come to the Board. Mrs. Morris explained that as an outside agency public works approval was typically obtained during resolution compliance. Mr. Franklin said these changes could change the whole parking area. Mr. Vogt said realistically applicants push for expedited public hearings there really isn't time to meet with public works, revise the plans, and then obtain their approval, before the public hearings. Mr. Jackson said the Board has a history of being very accommodating but if they don't feel they have enough information to act on an application they have the authority to wait for such an approval.

Mr. Neiman opened to the public. Mr. Eliezer Ansbacher of 1610 Salem Street appeared and was sworn in. He voiced concerns about privacy for his back yard. Where he used to see trees will now be a school. He wants a 6' high solid fence to wrap around the school and parking lot, avoiding the wetlands, to shield the school from view from his property. He also asked about the drainage going onto his property. Mr. Kociuba indicated that the neighbor's property is substantially higher than the wetlands and that the drainage is designed to flow to those wetlands as it does now.

Mr. Neiman closed to the public.

A motion was made by Mr. Herzl, seconded by Mr. Hibberson to approve, with the conditions to provide a privacy fence and frosted windows as discussed as well as the restricted right-in, right-out onto New Hampshire.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Cautillo

Abstain: Mr. Rennert

3. SP 2047 Congregation Olam Chesed Inc
Kelm Woods Avenue Blocks 11.12, Lot 25
Preliminary and Final Major Site Plan for a proposed synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated January 13, 2016, was entered as an exhibit.

Mr. Vogt stated that there is a variance required for minimum front yard setback, as well as design waivers with respect to the perimeter buffer and for the 40' width of the nonresidential driveway where 30' maximum is permitted.

Mr. Pfeffer, attorney for the applicant, stated that this applicant is an existing synagogue that occupies two basement units of approximately 3,200 sf of space. The new sanctuary is only going to be about 1,000 square feet larger so the children can come with their families. This is not a new shul but rather an existing shul that needs the space. Mr. Flannery, engineer and planner for the applicant, was introduced and sworn in. Mr. Flannery stated that the application is for a house of worship on an existing lot. He referenced two exhibits, A-1 a rendered version showing the building in red. A-2 is a copy of the tax map showing the property along Hillside Boulevard and south of Kelm Woods Avenue. 1 variance is requested for a front yard setback of 20' where 30' is required. The parking lot has one entrance onto Hillside, the sanctuary is 4300+ sf, and 45 parking spaces have been provided. This is an inherently beneficial use. The Master Plan of 2007 encourages development and redevelopment based on smart growth planning principles. The municipal land use law encourages appropriate land use and promoting general welfare of the public. Certainly getting the people out of the basements and into a facility to worship promotes their general welfare. Provision of sufficient space for a variety of cultural and residential uses which is also encouraged by this application. Westgate was approved by the Zoning Board when it was otherwise zoned, but now the lot is a large conforming lot in the R-15 zone. The building could be pushed further back to eliminate the front setback variance however that would require a more aggressive permit from the NJDEP for encroachment into the wetlands. The DEP will want to see that the applicant attempted to avoid the wetlands if possible, which is why the variance is being requested now.

Mr. Neiman stated that Hillside Boulevard is very narrow, is there a reason it couldn't be widened to accommodate all of the traffic and school buses? Who would the Board ask to accommodate that widening? Mr. Pfeffer indicated that he has a traffic engineer who could address these questions after he is sworn in. Mr. Pfeffer reiterated that they are creating 45 parking spaces which should theoretically be coming off of the roadways. They are not proposing any additional services above and beyond what the shul holds now. There is no simcha hall and they will comply with any restrictions the Board imposes regarding that.

Mr. Jackson asked how and why, when the original subdivision was created, this parcel remained undeveloped. Mr. Flannery stated it clearly looks like it was set aside as open space. The objector's attorney indicated there was a tax lien and some issues, but he doesn't know those details. From a planning perspective it is a legally existing lot that the congregation has ownership of and on which they can present this application. Mr. Jackson opined about open space restrictions and deed restrictions.

Mr. Flannery continued that if the Board doesn't want to grant the front setback variance, the applicant would move the building and amend the application to remove it. If the Board is inclined to grant it, Mr. Flannery feels it can be granted without detriment to the public good – the parking and traffic concerns would actually improve. It doesn't contradict the master plan or zone plan. The master plan actually mentions an acute need for houses of worship. The benefits of this inherently beneficial use and the proposed parking clearly outweigh any detriments.

Mr. Jackson questioned the C variance and the type of supporting testimony provided. Mr. Flannery stated that the C2 variances could be granted because they promote the purpose of zoning, and it doesn't have a negative impact on the surrounding area. Providing a parking lot actually improves the area. Mr. Jackson mentioned C1 variances, and Mr. Flannery said no he doesn't really think it is a hardship. Based on the configuration of the existing configurations of the property he could make the argument that it is a hardship, and Mr. Jackson said yes he'd like him to make that argument. Mr. Flannery stated that the only buildable area of the site is along Hillside, and it is a very limited area, and DEP permits are required. The benefits outweigh the detriments and if the Board doesn't want to grant that relief they can adjust the building to remove the requested variance. Terry's report indicates in item 3 that there is disturbance to the 20' landscape buffer, but the applicant will provide landscaping and a fence to the satisfaction of the Board Engineer to meet the intent of the ordinance. With respect to the driveway waiver, a traffic engineer will give his testimony supporting the same. Item 1

references the maintenance and trash pickup, and the applicant says they will meet with Public Works to satisfy any requirements they have. Mr. Flannery continued that the provided parking is in accordance with the ordinance requirements. Mr. Neiman asked if the parking lot is flush against the existing mikvah to the north, and Mr. Flannery said yes. Mr. Neiman said that due to the sensitivity and private nature of the mikvah the Board will require that they adjust and possibly remove some of the parking spaces in that area. Mr. Flannery said the applicant would honor that request.

Mr. Ron Gasiorowski, attorney for an objector, was introduced as representing Mr. Vogel residing on Prospect Street. Mr. Gasiorowski questioned whether the engineer who prepared the applicant's plans would be providing testimony. Mr. Pfeffer said no. Mr. Gasiorowski objected to the testimony provided by Mr. Flannery as he did not prepare the plans. Mr. Jackson stated that it was procedural, typical, and permitted for an alternate engineer to present testimony. He stated that the "strict rules of evidence" do not apply as this is not a court of law.

Mr. Neiman asked Mr. Flannery about the total square footage of the proposed building. Mr. Flannery stated that the architectural plans state 9,672 square feet. The total figure was discussed between the Board, the applicant's professionals, and the Board's professionals with no clear conclusion. Mr. Neiman asked that the record reflect the total square feet as 9,672 square feet as testified. Mr. Vogt stated he believes the footprint is 9,672 whereas the total square footage is over 13,000. Mr. Neiman stated he is asking because there was an initial plan a few years ago that was smaller and he wants the Board to realize the building grew since then. The debate about footprint vs full square footage and architectural plans vs site plans continued.

Mr. Gasiorowski continued and asked Mr. Flannery about the square footage of the basements currently used for the shul as compared to the proposed building. Mr. Flannery indicated that he does not have that number. Mr. Gasiorowski asked the same question again, and Mr. Flannery said again that he doesn't know the size of the existing basements. Mr. Gasiorowski asked again why Mr. Flannery is testifying if he didn't prepare the plans. Mr. Flannery reiterated previous discussion and confirmed his familiarity with the proposed plans and his adequacy to testify as planner and engineer.

Mr. Gasiorowski asked if there was a storm water report. Mr. Flannery said yes. Mr. Gasiorowski stated he hadn't seen it. Mrs. Morris stated that there was a copy in her file but Mr. Gasiorowski hadn't requested a copy.

Mr. Gasiorowski presented a copy of the site development plan of the original subdivision known as Westgate, which he marked as O-1. Mr. Jackson questioned the document provided and asked where he had gotten it. Mr. Gasiorowski indicated that it was provided by Mrs. Morris. Mrs. Morris corrected him in that she had provided a copy of the resolution, however the plans must have come from Mrs. Siegel as it was a Zoning Board approval and she herself had not provided said plans. Mr. Flannery confirmed that it appeared to be what Mr. Gasiorowski claimed it was, however Mr. Pfeffer indicated he didn't know if it was the final signed and approved plan by the Zoning Board as there were no signatures by the Board Engineer or Chairman.

Mr. Gasiorowski pointed out the area of the subject application on the exhibit he had provided. He also highlighted the areas labeled as detention basin and wetlands buffer. Mr. Flannery indicated that his exhibit A-2 also shows the detention basin on the neighboring existing lot which is not part of this application. Mr. Gasiorowski stated that this project was originally approved by the Zoning Board and showed this lot as an open space lot with no development shown on it. Mr. Flannery stated that is correct. He also stated that the general development plan Mr. Gasiorowski provided does not use the words open space and it also does not show any of the engineering details for the detention basin. There was discussion and questions about the delineations between wetlands, buffer, open space, etc. Mr. Franklin stated that should be clear in the minutes from the original approval. Mr. Pfeffer clarified that the detention basin exists on the neighboring property which is

owned by the Township. Mr. Rennert asked if the minutes and resolution from that original approval were available. Mr. Pfeffer provided copies of the resolution which he had received from Mrs. Morris however no one had obtained copies of the minutes.

Mr. Gasiorowski questioned the stormwater runoff for this project, the overall development. Mr. Flannery indicated that it ends up in the Township owned detention basin. Mr. Gasiorowski questioned whether the basin was sufficient to accept the runoff from the new application. Mr. Flannery stated that all of the flows were reduced as required by state design standards, and that the provided calculations support that. The impact on the basin and neighboring wetlands will actually be reduced by this new application.

Mr. Gasiorowski asked Mr. Flannery about the use variance granted by the Zoning Board, but Mr. Flannery indicated that he wasn't familiar with the details. He simply knows that the use variance was granted at the time. Mr. Gasiorowski asked about a condition in the approving resolution that states any changes to the plans would require relief to be granted by this [Zoning] Board. He asked Mr. Flannery if this would be a change to the original application. Mr. Flannery stated he didn't believe so, in his experience there is latitude on changes like this, but without having read the details of what Mr. Gasiorowski is presenting so he can't say for sure.

Mr. Gasiorowski continued in the vein of whether or not this should be considered a change to the original use variance application, and pointed out that encroaching into the wetlands buffer with this application should be considered a material change. Mr. Flannery disagreed.

Mr. Jackson asked a member of the audience who was taking photographs to identify himself. The gentleman stated he is Yisroel Kertz. Mr. Jackson pointed out for the record that the court room is full for this application.

Mr. Gasiorowski opined that this Board does not have jurisdiction to act on this application. He stated that the Zoning Board approved the original application, and furthermore the wetlands area and buffer was shown as part of the original approval and on the filed map for that approval. Only the Zoning Board of Adjustment can remove those restrictions.

Mr. Neiman said if they could have built on this area back then they would have. He questioned whether this is an application for a building on open space, and whether or not the Zoning Board had restricted the area as such. Mr. Jackson summarized that it is a difficult situation to advise the Board on. Generally if there is a subdivision with a facility that serves that subdivision, there is generally a note on the plan that protects the overall development or there is a restrictive covenant and only the Court can remove that restriction. Unless it can be shown that there was an intent of some sort that this area was to be a facility to serve the development, then the Planning Board has jurisdiction. The Board is going to have to make that determination.

Another separate issue is that the Zoning Board had original jurisdiction over this application.

Mr. Jackson read from the original approval a statement about a walking area and a 50' buffer of woods that will shield the residential areas. Mr. Gasiorowski, Mr. Flannery, and Mr. Jackson discussed the residential buffer vs the wetlands buffer and again questioned the Board's jurisdiction.

Mr. Vogt was questioned by Mr. Jackson on whether or not he felt the NJDEP would or could approve the proposed footprint as shown, Mr. Vogt said yes. Mr. Jackson stated that the NJDEP or environmental constraints were not the same as those imposed by the Zoning Board or any Board as a condition of approval. Mr. Gasiorowski stated that's exactly why this application should be before the Zoning Board. Mr. Neiman countered that this original approval was from 20 years ago so no one is going to know those details. This

applicant is coming for a conforming application before the Planning Board as is their right. Mr. Gasiorowski argued that no, this is changing the original approval.

Mr. Neiman questioned what information was available on why there were no homes built here in the first place. No one was able to answer this question. Mr. Jackson asked who owned the property and paid taxes all these years. Mr. Gasiorowski stated the homeowners association did. Mr. Jackson stated that is very telling of the intent then. He went on to say that the zoning has changed and this is conforming, he doesn't know if the Board of Adjustment has authority any more. The Zoning Board could be asked for an interpretation on whether or not they still have jurisdiction over this. Mr. Pfeffer stated that the resolution itself states that the approval was for 15 years. This is 20 years later. Secondly, it is hard to argue that this one proposed building changes the intent of Westgate which is over 1,000 units. This is not a substantial change over the whole approval. Lastly, the zoning has changed and this is a permitted use in this zone. For these reasons the Zoning Board has no jurisdiction over the application.

Mr. Gasiorowski stated that the 15 year time period was for build out only, not for the whole approval. Mr. Flannery stated that the Zoning Board is very good at putting conditions in their resolutions when they want to impose them. There is nothing in this resolution stating that this lot can't be used.

Mr. Neiman read part of the resolution that referenced walking trail to be located adjacent to the wetland buffer bounded by Road B, the main road, and Road J. All debated the specific location of this trail and the severity of the restriction this implies. Mr. Neiman voiced concern over acting on something the Zoning Board had required. Mr. Jackson stated he was concerned about the fact that the property was owned by the homeowners association at one point, because that implies something. Mr. Pfeffer corrected that the homeowners association never owned this property. He has the tax records to show it as owned by the developer and now the applicant. Mr. Gasiorowski said he thought the property had gone through foreclosure. Mr. Pfeffer said no, tax liens, which is different.

Mr. Gasiorowski asked again about going into the buffers and how that makes this not a conforming application. Mr. Flannery stated that even going into the buffers this is still a conforming application, and with respect to the walking path this is 20 years later and the walking path and all amenities have been installed. They exist on the lot across the street, you can see it on Google Earth. As each section came in and got final approvals when the Zoning Board wanted things installed they required them and they were installed. There is nothing shown on this section of the map.

Mr. Jackson asked Mr. Gasiorowski why he thought the developer conveyed the portion across the street with the walking trails to the homeowners association but not this lot, and why did they continue to pay taxes on it. Mr. Gasiorowski said often times we have passive recreation. The developer was supposed to turn it over to somebody but perhaps he didn't. Mr. Pfeffer said the property came from the developer to the applicant and he can develop it. Mr. Franklin asked about a title search, and Mr. Jackson said the applicant should be able to provide that. He'd like to see a search for the property across the street (with the walking trails) as well as the detention basin lot. Why would those be conveyed but this one be held onto by the developer? The applicant should get these questions answered for a future date.

Mr. Pfeffer said he has no problem providing that information just for the Board in the future to deny jurisdiction. Mr. Gasiorowski said that the Board Engineer's review letter references the ownership issue because the filed map references the subject lot to be conveyed to the homeowners association. Mr. Jackson stated that it is 9:00 this obviously isn't going to be completed tonight. Mrs. Morris reviewed the load on the upcoming agendas. The Board recommended carrying to the March 1st meeting.

Mr. Jackson stated that this lot that was subdivided out 18 years ago and they are proposing a conforming use, he thinks the Board has jurisdiction. The Board members debated the history of the lot ownership and jurisdiction, and why houses weren't built on it in the first place. All agree that a title search may lend clarification to these issues. The Board members asked about the availability of the minutes from when the application was originally approved. Mrs. Morris stated that she wasn't sure what records the Zoning Board secretary had available.

Mr. Neiman offered to open to the public to hear one person for the application and one person against it. The rest of the public still has the right to be heard at the next meeting.

Mr. Benjamin Yoffee appeared as an owner of a house in Westgate. His backyard faces the proposed shul. He and his family are in support of the application because his boys need somewhere to daven. Even though he may be impacted by future traffic brought by the school, he still needs somewhere for his children to daven. The traffic problems are existing and Westgate was not designed properly, but that's just how it is now. Mr. Neiman asked if widening Hillside Avenue, for two lanes in each way, it would help. Mr. Yoffee said removing the car parking from the street may help. He can't wait for the Township to widen the roadway, his children need somewhere to daven now. If there is no simcha hall other than shabbos, that is fine.

Mr. Daniel Ifrah appeared as an owner of a house in Westgate. He's been a resident since the development was built. His children and his family benefit from the shul in the basements. He supports it because he knows it is good for the community. But as much as he needs a place for his children to daven, he needs a place for his kids to live. He complained about the school buses, the traffic, and recent traffic accidents on Hillside Boulevard. He is not willing to risk his children's safety just so they have somewhere to daven. He is not against a shul, but let's do it in a way that works for our neighbors, whether that is by designating parking, increasing the parking lot, widening Hillside, etc. Mr. Neiman asked if Mr. Ifrah knew by memory what the property was intended for. Mr. Ifrah said he did not know, but there is a pond and a small trail on the property that the children use. Additionally the mikvah is in the corner and it has been an unspoken blessing that the property has been vacant so the ladies using the mikvah have the privacy they deserve.

Mr. Pfeffer granted the Board a waiver for the time requirement to act upon the application.

A motion was made and seconded to continue the public hearing at the March 1, 2016, meeting.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

6. CORRESPONDENCE

- **SD 1631 – Block 375; 377; 378; Lots 1; 26 & 26.01; 1** – request to eliminate requirement for a homeowners association

Mrs. Morris explained that a request had been received to eliminate a proposed HOA for a previously approved subdivision.

Mr. Flannery stated that he had met with Public Works, and was willing to pay a one-time maintenance fee for the stormwater facilities as permitted by ordinance. Instead of a separate open-space lot, the area would be added to a neighboring residential lot, similar to the way it was done at Serenity Estates off Drake Road. That homeowner would be responsible for the ownership and maintenance of the open space area.

A motion was made by Mr. Herzl, seconded, to approve the removal of the proposed HOA and plan changes necessitated therein.

7. ORDINANCES

- **Oak Street Core Residential Development, Approval Process**

Mrs. Morris explained that this ordinance is for the development and approval process for subdivided lots located in the Oak Street Core area, which includes the R-10A zone and is under the Township CAFRA permit for the area. This ordinance would permit administrative approval of subdivisions by Terry, similar to the zero lot line subdivisions, if the application conforms to the zone requirements and CAFRA design for roadways, drainage, etc.

Mr. Neiman asked if there was a limit to the number of units that could be approved administratively. Mr. Flannery said the most it could be is one block, because the road network is already there, which is 16 units. Mr. Rennert asked why the Board would give up the opportunity to review these plans. Mr. Neiman said he is concerned about provisions for open space and community buildings and such. Mr. Flannery said all the design was already done and approved by CAFRA. A developers agreement would have to be entered into to ensure it is all developed and built in accordance with the plan that was done for the town. Mr. Vogt indicated that he had reviewed and approved those CAFRA design plans. They were satisfactory to him. If this goes forward, the developers will have to post the necessary bonding and inspection fees. Mr. Flannery said there are no community facilities as part of the plans, but the reason for the overall plans was so that it wasn't developed piece by piece. It is next to the ball field which is a huge recreation area, and anyone selling these properties will know that somewhere to worship is going to be necessary to serve those homeowners. Mr. Neiman wants to know how they are ensuring those shuls will be built. Mr. Flannery stated that the only assurance is because no one will be able to sell anything without those provisions. Mr. Shmuel Rabinowitz stepped up to speak and said there is no overall developer, there is a group of property owners who want to develop these properties. Under 25 units there is no requirement for community buildings so you can't impose those requirements on these little various owners. It was designed in a way that it will be adjacent to areas designated for schools and shuls.

Mr. Rennert asked why the Board would want to give up control of subdivisions, especially in this largely undeveloped area. Why doesn't the Board just give all subdivision approval control to Terry? Mrs. Morris clarified that these roadway layouts are already determined because there are existing paper streets, and all of the grading and drainage has already been designed and approved by Terry. Approvals under this ordinance would only be for subdivisions which fully conform with the zone requirements, meaning there are no variances, as well as the CAFRA design plans for the roadways and drainage. Mr. Neiman asked who is paying for all of the improvements, and Mr. Flannery said the joint venture of the developers behind the Ordinance and the CAFRA plans will pay for it. Mrs. Morris opined that there is a potential nightmare coming to the engineering department in sorting out how things will be bonded, as well as by whom and when the improvements will be installed, but that is not the concern of the Planning Board. Terry confirmed he has reviewed and approved the CAFRA design plan. Mr. Neiman asked about impact fees applying over here, and Mr. Flannery said they wouldn't apply because everything is being built by the joint venture, including the traffic light on Route 9.

Mrs. Morris confirmed she thinks the intent of the ordinance is well-meaning. Implementation at construction time could get messy, but that doesn't concern the Board and there is no real reason for the Board to spend time reviewing by-right applications where the design is predetermined. Mr. Flannery reiterated that the Ordinance requires a developers agreement to protect the town. Mrs. Morris said this ordinance would avoid the Prospect nightmare that we have right now, where there are 6 projects on 6 different blocks all designed by

different engineers and now Terry is reviewing and trying to get them all to match. Mr. Neiman said yes, we should have done this over there.

A motion was made by Mr. Follamn, seconded by Mr. Flancbaum, to recommend that the Committee adopt the ordinance as written.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

- **Transportation Improvement District, Impact Fees**

Mrs. Morris stated that the Committee had previously adopted the Transportation Improvement District ordinance for areas 1 and 2. This ordinance is a follow-up and is the addition of the fee schedule.

Mr. Neiman asked how these fees would be assessed and who would be paying them. He wants someone to come and explain this to the Board. Mrs. Morris stated that she had provided the Board everything she had received pertaining to the proposed ordinance. Mrs. Nechama Morgan from the audience stated that she had requested supporting studies but hadn't been provided anything. She doesn't know where these numbers came from. Mr. Neiman indicated that the Board would be withholding comments on the proposed ordinance until after such time that a presentation and supporting documentation could be provided for the members' consideration. He directed Mrs. Morris to schedule said presentation at a later meeting date.

8. PUBLIC PORTION

Mr. Flancbaum asked about the possibility of requiring Public Works approval prior to the public hearings in the future.

9. APPROVAL OF MINUTES

10. APPROVAL OF BILLS

11. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth, Planning Board Recording Secretary