

## **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. Garfield, Mr. Flanbaum, Mr. Herzl, Mr. Isaacson, Ms. Zografos, Mr. Meyer

## **3. SWEARING IN OF PROFESSIONALS**

Mr. Dave Magno, P.E., P.P. was sworn in.

## **4. MEMORIALIZATION OF RESOLUTIONS**

- 1. SP 2186 Bais Reuven Kamenetz of Lakewood, Inc**  
Cedarbridge Avenue Block 1160.01; 1160.12, Lots 386 & 387; 261  
Rejection of Jurisdiction for a Preliminary and Final Major Site Plan for a school

A motion was made and seconded to approve the resolution.

- 2. SD 2101 Meyer Wainbrand**  
3 Cory Court Block 251, Lot 1.09  
Denial of a Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

- 3. SD 2320 Barry Eichenstein**  
14 & 19 Primrose Drive Block 11.01, Lots 3.03 & 4.07  
Minor Subdivision to realign lot lines

A motion was made and seconded to approve the resolution.

- 4. SD 2322 Ave of the States Office, LLC**  
Cedarbridge Ave and Ave of the States Block 961.02, Lot 1  
Minor Subdivision to create four lots

A motion was made and seconded to approve the resolution.

5. **SP 2276 Ave of the States Office, LLC**  
Cedarbridge Ave and Ave of the States Block 961.02, Lot 1  
Preliminary & Final Major Site Plan for a mixed use site

Ms. Morris said the applicant's attorney, John Doyle, asked that the resolution be revised to indicate the basement for the retail building would be used for tenant use only since it was not shown on the plans that were incorporated into the review letter.

Mr. Jackson said the applicant wants the basement to be inhabitable and they would comply with any requirements and it would strictly be used for storage.

A motion was made and seconded to approve the resolution.

## 5. PUBLIC HEARING

1. **SD 2324 Mordechai Finkelstein**  
138 & 142 North Oakland Street Block 189, Lots 136 & 186  
Minor Subdivision to create five lots

*A review letter prepared by Remington & Vernick Engineers dated April 2, 2018 was entered as an exhibit.*

Mr. Magno said a minimum lot area variance is required. Testimony shall be provided as a minimum rear yard setback variance may be required for the deck, also an angle point is proposed in the side line for new lot 136.02, therefore, a minimum side yard setback variance may be required. Lastly, the proposed width of the single family dwelling shall be corrected to 43 ft on the development plan unless a minimum aggregate side yard setback variance is being requested. Design waivers are required for a non-perpendicular side lot line along Stirling Avenue and from providing street trees. This project is located on the corner of Stirling Avenue and North Oakland Street, Stirling Avenue needs to be widened to match the rest of the width of the road so an improvement plan will be required.

Mr. Brian Flannery P.E., P.P. was sworn. The rear yard setback variance for the deck is not being requested as there was a discrepancy between the architectural plans and the design plans of a few inches. The deck would be a few inches smaller so that it fits within the setback. The minimum side yard setback and aggregate side yard setback variances are not being requested as well. Therefore, the only variance being requested is for minimum lot area where they have 89% of the lot area required. Exhibit A-1 shows new duplexes being built in the area as well as lots that have a variance condition including two lots on the corner of Somerset and Bergen which was approved by this board with minimum lot area variances. This is an area being redeveloped and this plan would be consistent with the rest of the neighborhood. Additionally, the only difference would be the rear yard and the only people who would notice that are the homeowners. He then referenced sections in the Master Plan and MLUL to justify the variances requested.

Mr. Herzl asked if sidewalks would be provided.

Mr. Flannery said yes as well as street trees. There would be four parking spaces per unit. DPW would pick up the garbage at the curb, the HVAC units would be screened and all of the other comments would be satisfied.

Mr. Isaacson questioned the number of houses proposed indicating that it is very congested.

Mr. Flannery said it is certainly consistent with the density in the area and what has been approved. People are in favor of these types of applications in the area because it is an area that needs to be redeveloped.

Mr. Garfield questioned if there would be any play areas for the children.

Mr. Flannery said it is walking distance to Ocean County Park.

Mr. Herzl opened to the public.

Mr. Moshe Zeines, 102 Elmhurst Boulevard, was sworn. He asked if the only variance being requested is for the single family home.

Mr. Flannery confirmed.

Mr. Zeines asked if a rear yard setback variance is being requested.

Mr. Flannery said no. The variance is for minimum lot area.

Mr. Zeines questioned the road restoration ordinance.

Mr. Flannery said the ordinance was changed a few months ago. First of all, you must restore the trenches to higher standards and then money is put into a fund so the Township has money to overlay entire roads rather than let somebody disturbed 19% of the road and then the next person gets stuck. This way, everybody pays into the fund rather than one guy getting stuck paving the road.

Mr. Herzl said a CO isn't issued until they comply.

Mr. Flannery said yes.

Mr. Herzl closed to the public.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Garfield, Mr. Flancbaum, Mr. Herzl, Ms. Zografos, Mr. Meyer

No: Mr. Isaacson

- 2. SD 2325 Moshe Ginsberg**  
134 Thorndike Avenue Block 267, Lots 7.01 & 7.02  
Minor Subdivision to adjust lot line

*A review letter prepared by Remington & Vernick Engineers dated April 16, 2018 was entered as an exhibit.*

Mr. Rennert arrived.

Mr. Magno said submission waivers are requested for topography and contours on the site to determine the natural drainage of the land. No changes are proposed to the grading of existing lot 7.02 and new lot 7.07, therefore, the waiver is supported.

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

Mr. Magno said no variances are being requested. A design waiver is required from the planting of street trees. The applicant's engineer indicates that existing street trees are present for proposed lot 7.07 and street trees for new lot 7.06 will be provided when the site is to be developed.

Mr. Glenn Lines, P.E., P.P. was sworn. A waiver is being requested from planting the street trees at this time. Lot 7.06 is a buildable lot and when someone comes in for a building permit, street trees would be provided at that time. Thorndike Avenue was subdivided a number of years ago and it has been a slow process where the lots are being sold off. The original subdivision map shows street trees. This subdivision proposes to take a 73x45 ft rectangular area off of the corner lot and transfer it to proposed lot 7.07 to make an 'L' shaped lot in order to build a swimming pool. The remaining corner lot requires no variances, meets all of the requirements and is still a buildable lot. The pool cannot be built until the land is transferred as you cannot build a pool on a vacant lot, there has to be a primary structure on the lot.

Mr. Herzl asked if there are sidewalks along Lafayette and Thorndike.

Mr. Lines confirmed.

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

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

**3. SP 2282 Noam Hatalmud**  
1501 Lanes Mill Road Block 187, Lot 73  
Preliminary and Final Major Site Plan for a school

*A review letter prepared by Remington & Vernick Engineers dated April 19, 2018 was entered as an exhibit.*

Mr. Jackson said Ed Liston could not appear tonight but he pointed out that the notice says there are no variances and that the relief requested is actually in the zoning section of the ordinance and that makes it a variance.

Ms. Morris said Mr. Liston is pointing out relief which would require a variance, however, the board engineer and she does not agree with that interpretation.

Mr. Jackson said if the notice says no variances are required and it turns out there are variances required then there is an issue with the notice because it misleads the public.

Mr. Herzl asked about the catch-all in the notice.

Ms. Morris said there is the catch-all but Mr. Pfeffer's notices often say 'this application fully conforms with all of the zoning requirements but they do request any and all variances that may come up at the hearing'. She thinks because of that language, they were a bit uncomfortable with it but after looking into it further, they realized that Mr. Liston was referencing a variance they weren't finding.

Mr. Jackson said if the board is persuaded that no variances are required then he thinks the applicant can proceed.

Mr. Adam Pfeffer, Esq. said the notice does state that the applicant fully conforms with the requirements of the zoning ordinance because that is what they believe to be true as well as the catch-all in case there are any variances because many times when you go before the board, a recommendation is made or an objector comes and requests

certain things. Additionally, if the notice is deficient, then it would be at their own risk. This matter was noticed properly in his opinion.

Mr. Brian Flannery, P.E., P.P. was sworn. The applicant needs to provide a buffer to Lanes Mill Road and since they are not providing that, they would need buffer relief and since buffers are mentioned in section 19, Mr. Liston interprets that as a variance. Lakewood boards have never said you need a buffer to the road, the ordinance doesn't say you need a buffer to the road and he believes Mr. Liston is wrong. Providing a buffer all around the property is ridiculous because you couldn't use it and that would be what Mr. Liston is proposing. Additionally, if the board decided to interpret it is a variance then they have more parking than required and they would eliminate those parking spaces. It is his opinion that when the ordinance says to provide a buffer to a non-residential use of 10 ft and a residential use of 20 ft which is normal as it would be to the neighbors but not to Lanes Mill Road.

Mr. Jackson said Mr. Liston wrote in his letter, 'in the R-15 zone, section 18-906, provides for buffering requirements for public and private schools. Parking is not permitted in any required buffer area'.

Mr. Flannery said they are not proposing parking in any buffer areas. The plan correctly shows, to the adjoining residential properties, a 20 ft buffer and they are not proposing any parking within those buffers.

Mr. Jackson asked if there is a buffer requirement.

Mr. Flannery said there is a 20 ft buffer requirement to the adjacent residential properties. Mr. Liston is saying they also need a buffer to Lanes Mill Road because Lanes Mill Road is in the R-15 zone. That is not his interpretation of the ordinance and he references section 18 of the ordinance where he talks about the definition of the buffer and section 18 says 'all areas not devoted to structures parking and others shall be appropriately landscaped and maintained'. It doesn't say buffer, 'Buffering shall be required when topographical or other barriers do not provide reasonable screening and when the board determines that there is a need to shield the site from adjacent properties', not from roads.

Mr. Jackson said there is no buffering required per se, it is only required when the board thinks it should be put in place.

Mr. Flannery said no, to the neighbors it is clear. Exhibit A-1 shows neighbors to the east and north with a proposed 20 ft buffer and Lanes Mill Road where there is not a 20 ft buffer and they do not require one.

Mr. Magno feels Mr. Liston is sharpshooting the ordinances as far as the definitions where he is looking at the last word in the definition which says roadway. The problem with that is that every project has access to a roadway, therefore, every access would encroach the buffer he claims is needed and for the 10 years they have been board engineers, they haven't interpreted it that way. If you have road frontage, they are not looking for the applicant to provide buffer along that road frontage.

Mr. Jackson asked if it is his opinion that no variance is required.

Mr. Magno confirmed.

Mr. Herzl said to proceed with the application.

Mr. Magno said an environmental impact statement is requested. The waiver can be supported as no known environmental constraints exist per NJDEP GIS mapping. In addition, a tree protection management plan has been submitted.

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

Mr. Magno said no variances are requested. A design waiver is required from providing a driveway more than 30 ft wide.

Mr. Flannery said the reason for the driveway being 2 ft wider is because it would make it safer on a County road and that is what the County will want. The provision in the ordinance really should be changed as there should be a provision that if you are on a major collector road, a wider entrance may be built in order to have appropriate traffic movements. For small sites, 30 ft is sufficient but this is on a County road and the County will want the entrance this way. The ordinance, in his opinion, is not applicable here.

Mr. Herzl said his testimony is 32 ft is safer than 30 ft.

Mr. Flannery confirmed.

Mr. Isaacson asked if it is right in/right out only.

Mr. Flannery said that is not being proposed. If the County requests that then they would comply. The traffic report submitted indicates it is a level service 'C'. This application is for a post boy's high school with 19 dorm rooms and 26 parking spaces which exceeds the ordinance. The ordinance requires 1 space per classroom and 1 per office. There are 3 offices and 1 classroom plus the Bais Medrash. There is no provision for schools but the applicant provided extra parking because it makes sense. There will be no buses.

Mr. Herzl asked if students are driving.

Mr. Flannery said no.

Mr. Herzl asked if there will be a Simcha hall and if so, will it be rented out.

Mr. Flannery said no. The letter indicates there will be 95 students proposed to use the dormitory, with up to 10 additional day students, no students will drive to school, no buses are proposed and up to 10 students would be dropped off and picked up by car so with the 26 parking spaces they would have sufficient parking.

Mr. Rennert asked if it is a two-story building.

Mr. Pfeffer confirmed, it has a footprint of 9,351 sf with a basement.

Mr. Rennert asked if there are only 19 dorm rooms.

Mr. Flannery confirmed, there is a kitchen and dining area in the basement. The Shade Tree Commission suggests evergreen buffer plantings and proposed plantings in the area between the parking lot and Lanes Mill Road (Items C & D) but that is not required per the ordinance so they would not agree to those items. If the board feels they need more buffering than submitted, they would certainly listen to the board. The applicant would comply with items A & B. DPW would pick up the trash. This is a by right application with no relief requested.

Mr. Herzl asked if there would be sidewalks on Lanes Mill Road.

Mr. Flannery said yes as well as Cindy Court. The applicant agrees to the rest of the items in the engineer's report.

Mr. Herzl opened to the public.

Mr. Moshe Zeines, 112 Elmhurst Boulevard, was sworn. He asked if the lighting plan was submitted and reviewed by the engineer.

Mr. Magno said the lighting plan requires corrections.

Mr. Flannery said the applicant agrees to satisfy the board engineer.

Mr. Zeines asked if that is for the parking lot and the front roadway.

Mr. Magno believes the plan shows proposed street lighting that is not required because this is on an existing road. The applicant needs to eliminate the proposed street lighting and fix the proposed site lighting.

Mr. Flannery said there are lighting standards and a point by point analysis will be provided so the lighting is not too bright or too dark.

Mr. Zeines said there will be lights on Cindy Court but they won't spill onto the neighbor's properties.

Mr. Flannery confirmed, they would not have too much light going off of the site in any location.

Mr. Rennert questioned why the lighting plan wasn't corrected after the tech review meeting.

Mr. Pfeffer said usually the lighting plan is not something that would hold back an application. The applicant agrees to revise the plan and they did revise anything else that was needed.

Mr. Zeines said there was a comment in the engineer's review letter concerning connecting sidewalk from the rear steps of the school building to the parking lot.

Mr. Flannery said the applicant is not proposing that. The boys would go outside and it would be on the grass. There is adequate access with sidewalks coming in to the building.

Mr. Pfeffer said the applicant is proposing sidewalks along the project frontages as well.

Mr. Zeines doesn't think it makes sense to have grass there as soon as the boys leave the building. He suggested adding a landing.

Mr. Flancbaum said there is a landing proposed in the back. At the front of the building, there are concrete walkways everywhere.

Mr. Matyes was sworn. He understands that Yeshivas are permitted in this zone but he pointed out there are numerous other Yeshivas in what was a relatively quiet neighborhood. He asked what the overall plans are for this area.

Mr. Herzl said schools are legal in every zone and as long as it is a variance free application, there is nothing the board can do.

Mr. Rennert said the Township Committee has the power to change what is permitted in each zone.

Mr. Jackson said the governing standard that the board must operate under is that it must follow the law. When there is a conforming application, the applicant has come forward with an application that complies with the law. If the board were to deny an application that complies with the regulations, they would have nothing to hang their hat on. To the courts, that is the epitome of arbitrary and capricious as there would be no basis for denying it if it meets the regulations.

Mr. Matyes questioned if dormitories are allowed in this zone.

Ms. Morris said on occasion, they have asked the zoning officer to clarify that and she has confirmed that she considers dorms an accessory use to a school.

Mr. Matyes said he has reached out to the school and they have come to an agreement on certain items. He asked that those items be made a condition of approval.

Mr. Herzl asked if the applicant has agreed to those items.

Mr. Pfeffer said that he received the agreement earlier tonight but whatever is in the agreement, they agree to as a condition of approval.

Mr. Abe Auerbach was sworn. He said the applicant has spent numerous hours with neighbors and rabbi's of the community and the school has agreed to provide variance fencing, trees, certain types of windows so the boys cannot see out. The agreement can be attached to the resolution as a condition of approval.

Mr. Herzl asked if the applicant agrees to everything in their letter.

Mr. Auerbach confirmed.

Mr. Pfeffer handed a copy of the letter to the board attorney.

Mr. Jackson understands the applicant agrees to these items but that doesn't mean the board has to impose all of the items listed in the letter.

Mr. Pfeffer said there are some items which may not be enforceable including a curfew for the boys.

Mr. Jackson doesn't like the idea of bootstrapping in and agreeing to items that has nothing to do necessarily with land use regulations. If it is a compromise where variances are required that is one thing. For example, if a building is too close to a setback and there are second story windows which would look out into someone's pool and the applicant agrees to screened windows or landscaping but this is a conforming application. The board should not make this a basis of their decision and it is not a mandatory part of the approval.

Mr. Pfeffer said in good faith, they acknowledge to intend to comply with their requests.

Mr. Matyes said most of the items have to do with trees and fencing in order to be good neighbors. He said a change of use was approved for the current building. He asked if there is any way to revert that building to a house.

Mr. Jackson said the items listed in the letter are very extensive and he doesn't see how you can just revoke the use of a school at the request of an applicant. He thinks that is a territory they shouldn't go into.



Mr. Matyes said they were the ones who originally applied for the change of use and they are willing to ask that it be changed back to a house.

Mr. Jackson said the school has a CO and whatever rights and responsibilities that go with it and if someone wants to change the use then they can go through the process.

Ms. Morris said a lot of these conditions have to do with removing parking spaces that are proposed, adding new trees and fencing. If the applicant wants to design their plan in conjunction with the neighbor's recommendations, that is fine but as Mr. Jackson said, this is not something that the board is going to enforce, reference or incorporate into the resolution.

Mr. Flannery said there was one item that was a substantial change. The neighbor wanted 3 spaces by Cindy Court removed.

Ms. Morris said if the applicant is going to revise the plans to comply with the requests then the board should see the final plan.

Mr. Flannery said it certainly would be the board's decision if they feel the applicant's request to move those 3 parking spaces makes sense. The applicant has more parking than required, obviously the applicant feels the 3 additional parking spaces makes more sense. The other items with respect to putting in more trees shouldn't have any substantial impact. The request to eliminate the change of use is on someone else's property which this school does not own.

Mr. Jackson said they have a plan submitted by a licensed professional engineer, it was scrutinized by the board engineer, the board went through it and to re-tweak or redesign it for reasons that aren't clear, he thinks is not a good use of the board's time.

Ms. Morris said they are not discounting the revisions requested but the board likes to see the plans showing what they are approving so if the applicant is going to be making these revisions, they can bring back revised plans at another public hearing but currently the board has plans before it upon which they are asked to act.

Mr. Jackson said eliminating parking spaces may be the last thing the board wants to happen.

Mr. Herzl said any conditions that does not change the site plan is fine with the board.

Mr. Flannery said the applicant wants to be a good neighbor and requests to remove those 3 parking spaces.

Mr. Rennert asked why the neighbor's wants those spaces removed.

Mr. Matyes said there is a house directly across so there would be less of a buffer/privacy.

Mr. Jackson asked how many parking spaces are required.

Mr. Flannery said they need 5 and are proposing 26. If these space are removed, they would have 23 spaces.

Mr. Jackson asked how many students will there be.

Mr. Flannery said 95 boys but they are not driving, 10 of them are going to get dropped off/picked up. There will be 8 faculty members.

Mr. Jackson said they will have over 100 people going to this school every day.

Mr. Flannery argued this is a school with a dormitory so 85 of the 100 people are staying.

Mr. Pfeffer wanted the board to be aware that even though Mr. Liston was not here, the person he was representing was present to state his concerns on the record.

Mr. Josh Krainess, 1366 Alvarado Avenue, was sworn. He moved to Lakewood to have a better standard of living and he feels that is being taken away. He expressed his concerns about traffic, pollution, congestion and his overall quality of life. He is not against Yeshivas being built but unfortunately they do not have the infrastructure in their neighborhood to support all of the Yeshivas being proposed. He is concerned about the safety of the children.

Mr. Herzl said he should express his concerns to the Township Committee as they are the ones who decide if schools shouldn't be allowed in certain zones.

Mr. Matyes questioned the traffic study.

Mr. Flannery said Scott Kennel, who prepared the traffic study, knows Lakewood, he knows there is growth and he projects growth into the report and the report submitted is looking at 2028 with the projected growth.

Mr. Jackson asked if 3 spaces are removed then it would enhance his quality of life, provide additional buffering and it would make it a less intense use.

Mr. Matyes confirmed.

Mr. Rennert asked if he requested a fence.

Mr. Matyes said yes, as well as trees.

Mr. Flannery said they agree to provide those items.

Mr. Jackson said they would get revised plans showing these items.

Mr. Flannery agreed, during resolution compliance.

Mr. Jackson said it would be subject to review and approval by the board engineer.

Mr. Spiegel was sworn. He moved to Lakewood to get away from a busy area and for a better quality of life. Now, it is turning into a city as there are so many Yeshivas approved in the area which causes traffic/congestion. He asked what the maximum number of students will be.

Mr. Pfeffer said 115 to 120 at the max.

Mr. Spiegel asked if the rooms will be large enough.

Mr. Herzl said they cannot get a CO if they do not comply with building codes and ordinances.

Mr. Pfeffer said they would comply with any regulations.

Mr. Mark Bakst, Alvarado Avenue, was sworn. He is concerned the maximum number of students will exceed as they may expand to other homes in the area. He asked how they can ensure that doesn't happen. He is also concerned there will not be enough parking when the school has events.

Mr. Herzl closed to the public.

Mr. Flancbaum asked if those 3 spaces could be moved to another location so they don't lose those spaces.

Mr. Pfeffer said they could plant trees in front of those spaces so it would block the light going into the adjacent property in order to keep those spaces.

Mr. Flancbaum prefers that the spots be relocated.

Mr. Pfeffer said they would agree to work with the board engineer in order to keep the 26 spaces.

Mr. Herzl said there will be no outside functions permitted.

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

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

Mr. Glenn Lines, P.E., P.P. said they have been going back and forth with the Township engineer in order to get a better layout of the road.

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

5. **SD 2216 Gofar Drake, LLC**  
Serenity Way Block 251.01, Lots 32.19 & 32.20  
Preliminary and Final Major Subdivision to create three lots

A motion was made and seconded to carry the application to the June 19, 2018 meeting. All were in favor.

6. **SD 2314 David Herzog**  
1052 West County Line Road Block 25, Lot 62  
Preliminary and Final Major Subdivision to create eight lots

Ms. Morris said the applicant asked that this application be carried in order to provide a revised traffic study in order to complete the review letter.

A motion was made and seconded to carry the application to the June 5, 2018 meeting. 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