

1. CERTIFICATION OF COMPLIANCE

Chairman Neiman 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. Herzl, Mr. Cautillo, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Hibberson, Mr. Rennert

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

4. MEMORIALIZATION OF RESOLUTIONS

1. Resolution of Appointment – Board Officers and Professionals

A motion was made and seconded to approve the resolution.

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

Abstain: Mr. Cautillo

2. SD 2087 George Topas

Central Avenue Block 85 Lot 5
(Denial) Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

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

Abstain: Mr. Cautillo

3. SP 2153 32 Cross, LLC

Cross Street Block 533, Lots 14 & 15
Preliminary and Final Major Site Plan for a 3-story office and retail building

A motion was made and seconded to approve the resolution.

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

Abstain: Mr. Cautillo

4. SP 2151 Zichron Chaim, Inc.

Lehigh Avenue Block 1605, Lot 8
Preliminary and Final Major Site Plan to convert an industrial building into a school

A motion was made and seconded to approve the resolution.

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

Abstain: Mr. Cautillo

- 5. SP 2145 & SD 2089 Somerset New Hampshire, LLC**
Route 70 & New Hampshire Ave Block 1248, Lot 2
Preliminary and Final Major Site Plan and Major Subdivision for a mixed use site

Mrs. Morris said there are a few changes requested by the applicant's attorney.

A motion was made and seconded to approve the resolution.

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

Abstain: Mr. Cautillo

- 6. SP 2143 Avraham Grubner**
East County Line Road Block 174.04, Lot 57.02
Preliminary and Final Major Site Plan for an office building

Mrs. Morris said there are a few changes requested by the applicant's attorney.

Mr. Jackson said the resolution has the front yard setback at 53 ft. Mr. Kociuba said it should be greater than 100 ft.

Mr. Kociuba said 100 ft to the existing structure and 25.4 ft to the proposed dormitory.

Mr. Neiman remembers when the applicant came in with the application, Mr. Kociuba wasn't aware that there was going to be a dormitory there and were talking about how many feet away from this structure that is currently there. He assumes there will be a new application for the dormitory.

Mrs. Weinstein said when they did the initial application for Yeshiva Schvilay Hatalmud on the adjacent property, it was a phase approval. Phase 1 consisted of renovating the existing building and putting a dormitory in that building. Phase 2 consists of construction of a new dormitory building. The new dormitory building will be 25.4 ft away from the office building.

Mr. Neiman said that is fine.

A motion was made and seconded to approve the resolution.

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

Abstain: Mr. Rennert, Mr. Cautillo

- 7. SD 2069 Sam Rabinowitz**
Locust Street Block 1081, Lot 4
Preliminary and Final Major Subdivision to create fifty-seven lots

A motion was made and seconded to approve the resolution.

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

- 8. SP 2138 Flea Market Developers, LLC**
Route 70 Block 1077, Lot 22 & 23
Preliminary & Final Major Site Plan & Subdivision for a mixed use development

(166 townhouses, a retail building, and a clubhouse)

A motion was made and seconded to approve the resolution.

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

9. SP 2057A Congregation Satmar of Lakewood

Kennedy Boulevard East Block 174.11, Lots 38.02, 39.01, & 39.02
Amended Preliminary and Final Major Site Plan for proposed synagogue, addition to existing residence, and Minor Subdivision to adjust lot line

A motion was made and seconded to approve the resolution.

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

10. SD 1631 Barbara Flannery

James Street & Drake Road Blocks 375; 377; 378; Lots 1; 26 & 26.01; 1
Extension of Preliminary and Final Major Subdivision

A motion was made and seconded to approve the resolution.

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

5. PLAN REVIEW ITEMS

1. 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.

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

Mr. Vogt said the waivers for topography, contours and man-made features are recommended. The Environmental Impact Statement can be waived as well conditioned that a copy of the Letter of Interpretation application is provided. The waivers for utilities, landscaping, lighting and construction details shall be submitted with revisions 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 said a variance is requested for minimum rear yard setback. Relief is also being sought from the buffer requirements. Design waivers are requested from providing sidewalk, curb, street trees, shade tree and utility easements along the project frontages.

Mrs. Miriam Weinstein Esq. said presently there is a commercial structure on the property that received approval from the zoning board. The plan is to convert the commercial structure to a dormitory and then construct an additional structure for a boy's high school. The applicant would like to initially keep the

commercial building operating until a certificate of occupancy is issued on the school at which point it would be converted to a dormitory.

Mr. Neiman said they would have to obtain all local and state approvals for a dormitory.

Mrs. Weinstein said that is correct.

Mrs. Morris wants to confirm this application is before the correct board given that the commercial building was approved by the Zoning Board. If that use is to remain for any period of time, then it is a non-conforming use and the Planning Board does not have jurisdiction.

Mrs. Weinstein said that is why she is specifically representing that the commercial use would only remain in place until a CO is issued. It is going to be converted into a dormitory and the applicant would have to understand that this board would not have jurisdiction if they are keeping that non-conforming use. Therefore, before a CO can be issued, they would have to discontinue that use and convert it into a dormitory.

Mr. Jackson does not believe they can do that. Once a building permit is obtained and they break ground then they have abandoned the old approval and you have a non-conforming use while you are building the new structure. He does not think you can wait and change it when a CO is issued. Once the applicant accepts the jurisdiction of this board and the approval that this board has given, at that point they would have to abandon the non-conforming use.

Mrs. Weinstein said then they will abandon it and convert that building into a dormitory. She asked if this could be heard at the February 2nd meeting.

Mr. Vogt said they need to get revised documents in.

Mrs. Weinstein said the architectural plans are already done.

Mr. Vogt asked about the other design information.

Mr. Kociuba said they would provide the documents by Friday.

A motion was made by Mr. Herzl, seconded by Mr. Follman to advance the application to the February 2, 2016 meeting.

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

6. PUBLIC HEARING

- 1. SP 2060B Toms River Torah Center**
Seminole Drive Block 2, Lot 38
Preliminary and Final Major Site Plan for an addition to the existing school

A review letter prepared by Remington, Vernick & Vena Engineers dated January 6, 2016 was entered as an exhibit.

Mr. Sean Gertner, Esq. on behalf of the applicant stated that Mr. Gasiorowski is here as an objecting attorney and would like to make an argument regarding jurisdiction.

Mr. Ron Gasiorowski, Esq. stated that this project was before this board a month or two ago. At that time, the applicant was being represented by Miriam Weinstein. At the last meeting, an issue was raised with regard to whether or not the applicant would consent to a deed restriction being placed on his property so that it could not be used as a planned educational campus. The first issue is whether or not the applicant would consent to that proposed deed restriction.

Mr. Gertner said no. He sees no reason to do that. They have heard some of the objections from the public. There are simple basic revised plans for a permitted use in this zone. The only variance required under this particular application is a pre-existing variance of less than 4 ft. It is a conforming application with a few design waivers.

Mr. Jackson asked who he is representing.

Mr. Gasiorowski said he is representing Michael Kalish who is a resident in the area. A map showing the property and surrounding area was entered as exhibit O-1. He said the applicant owns property further up Pawnee Road, block 2 lot 26. The use of that property is that of a student residence. That student residence is being utilized in conjunction with this site. If in fact this is a student residence as identified on tax rolls, it is therefore an accessory use to this school. As such, it should be part of this application and notice should be given to all property owners within 200 ft of block 2 lot 26. In addition, because this accessory use is part of the school it is really part of a planned educational campus which is not a permitted use. Jurisdictionally, he would argue that there was not proper notice, notice was not given to surrounding property owners and this is not a permitted use.

Mr. Vogt said it is their interpretation that it is a private school in the R-12 zone which would be a permitted use in accordance with section 18-906 of the UDO.

Mr. Gasiorowski said a private school is a permitted use but his argument is in effect that this is a planned educational campus because in addition to this school on that one lot which is identified as being part of the application there are other lots being acquired and being utilized as student residences. Therefore, it is not a permitted use. In addition, in this particular zone, student residences are not listed as a permitted use.

Mr. Vogt said student residences have been recognized by the board in the past as an ancillary use to a school. As to the question that this is a campus, this does not meet the definition of a campus and the applicant is not applying for a campus.

Mr. Gasiorowski said they are applying for a building which will contain a school. As part of that school there are ancillary or accessory uses. That accessory use is the student residence that is part of the application. Therefore, surrounding property owners should be noticed that when this school is constructed in addition to this school, there will be student residences.

Mr. Herzl asked what variances are being requested.

Mr. Vogt said there is a pre-existing front yard setback of 26.3 ft. Their interpretation is that landscape buffer relief would be required.

Mr. Flancbaum asked if there is a school there now.

Mr. Gasiorowski said there was a change of use application in 2014. This proposal is basically doubling the size of that which was approved back in 2014. This is an expansion and in order to accommodate that expansion, the applicant is acquiring properties to house students who will be going to that school. This area has no sidewalks so the students would be walking to the school in the street.

Mr. Jackson thinks the campus ordinance envisions a circumstance where the school has property on the other side of the street and it kind of ignores the streets to say it is all part of the planned educational campus. He believes Mr. Gasiorowski's point in this instance, the applicant's representation is that he owns outlying properties, therefore the use here bleeds over to the those properties and should be part of this application and as a result there should be notices sent out. He does not think the doctrine extends that far because if you build a business and then somebody buys a house across the street from the business to walk to work, does that mean that business use applies to the house where the owner lives. He doesn't think it makes sense to extend it that far but the court may disagree and the board may disagree. His recommendation on the notice issue is you do not give notice for the outlying parcels that might be owned by the school and that they might be housing students there. This argument is very easy to fix. If his argument has any merit at all, the applicant could re-notice and then this issue won't be there if this goes to court even though the applicant thinks it is completely unnecessary.

Mrs. Morris said the applicant in their submission to the board did not request the planning board to approve any sort of use or change to those outlying parcels. They have not asked the board to even consider those.

Mr. Jackson believes this board does have jurisdiction over this application and can consider the merits of it.

Mr. Herzl said the board will hear this application.

Mr. Brian Flannery, P.E., P.P. was sworn in. He said there are probably plenty of houses in the area that students are living in. That has nothing to do with this application. The application this evening is to put an addition on the school. A rendering of the site plan showing the existing facility in light tan and the proposed addition in dark brown was entered as exhibit A-1. An aerial was entered as exhibit A-2. This is a by right application. The existing building has a front yard setback variance which would remain and is less than 4 ft. The proposed plan was modified to conform to all of the setbacks. They are asking for buffer relief on both side property lines. The easterly property line is toward Pine Park and on the western property line it is residential. They would provide fencing that would fulfill the intent of the buffer. They do have an extra parking space so they could reconfigure the westerly parking lot if the board felt that was appropriate to eliminate the relief. It is his professional opinion that what is proposed is appropriate.

Mr. Herzl asked what kind of school is there now.

Mr. Flannery said it is a post high school. There are just over 20 married students that predominately walk to the school. The maximum number of students at build out would be 45-50. The purpose of the addition was to provide a proper sanctuary with a ceiling height that is appropriate to provide a lobby, coat room, library, balcony and some bathrooms. It is to take a school, which was a former home, and make it an appropriate school and better facilities. The ordinance requires 8 parking spaces whereas 9 are being provided. The ordinance requirements are 1 per classroom and 1 per office.

Mr. Flancbaum asked if the students are all married.

Mr. Flannery said yes.

Mr. Flancbaum thought he heard there was a dormitory down the street.

Mr. Flannery said he was implying it was a dormitory because there are students that go to the school that live in that house. They are all married. It's not a dormitory. This applicant owns other properties in the neighborhood. He does not know what the arrangement is. There are existing houses and people are allowed to live in those houses.

Mr. Vogt said no one will be living in this structure.

Mr. Flannery said that is correct. A partial design waiver is requested for the interior curbs. It is indicated in the review letter, that a slight change needs to be made based on truck turning movements and they would agree to do that as part of resolution compliance if the board acts favorably. Concerning trash pickup, they would meet with Public Works to discuss and that would be a condition of approval. The existing sewer is on a septic and the applicant is extending the sewer from Pine Park to the east to Seminole Drive and up Pawnee Road. This is a benefit to the neighborhood. This use in itself is inherently beneficial and the Master Plan speaks to the need for schools. The fence encroachments would be resolved as part of resolution compliance. The applicant would agree to satisfy the engineer as to lighting and landscaping. The HVAC equipment would be screened to the satisfaction of the board engineer.

Mr. Herzl asked if sidewalks are being proposed.

Mr. Flannery said sidewalks are proposed along the frontages of the site and internal sidewalks around all of the buildings.

Mr. Herzl asked if there will be any outside people coming to the school.

Mr. Flannery said no, this addition is strictly for the school.

Mr. Flancbaum asked if there is a basement.

Mr. Flannery said no.

Mr. Herzl said no new variances are being requested.

Mr. Flannery said no. There are design waivers that have been previously indicated which are certainly of a lower standard. It is his professional opinion that there is going to be no detrimental impact from any of the design waivers that are requested and the benefits outweigh any relief that is asked for.

Mr. Jackson asked if the proposed improvements exacerbate or intensify that existing nonconformity.

Mr. Flannery said they do not. The proposed improvements meet all of the setback requirements.

Mr. Jackson said they are asking for variance relief because it is a structure lawfully on the premises.

Mr. Flannery said yes.

Mr. Jackson said that is a hardship.

Mr. Flannery said that is correct.

Mr. Jackson asked if they can identify any negatives.

Mr. Flannery said there are no negatives. It is something that has existed in the neighborhood for a long time. It is at the end of a street so there are only a few residents that even see it. It actually adds aesthetic appeal to have that jog in the building.

Mr. Gasiorowski asked if Mr. Flannery gave testimony for the change of use approval in 2014.

Mr. Flannery said yes.

Mr. Gasiorowski said the resolution from that approval, exhibit O-2, states there would be no site plan improvements.

Mr. Flannery argued that there would be no improvements as part of the previous change of use approval. With this application, there are improvements.

Mr. Jackson asked how that is germane to this application.

Mr. Gasiorowski argued that there are pre-existing non-conformities with regard to setbacks and the like. At the time that change of use was made, they were pre-existing with the representation that there would be no further improvements to the site. He asked if these married students would be buying and living in homes in this area.

Mr. Flannery did not analyze where these students are going to live. No more than he does with any other school application in Lakewood. It is an inherently beneficial use and a by right application.

Mr. Gasiorowski asked if the unmarried students would be living in residences that would be utilized as dormitories.

Mr. Flannery said this application is for an addition to a school to provide a proper facility. It has nothing to do with where the students are going to be. He does not feel it is relevant and did not do research on that.

Mr. Gasiorowski said per the change of use approval, students are to be dropped off by van. He asked if that is going to change.

Mr. Flannery said students can still be dropped off by van. It is a permitted use, they have provided parking in accordance with the ordinance. There is certainly room for a van to pull in and drop off students.

Mr. Gasiorowski said students are not permitted to drive cars.

Mr. Flannery said the students attending the school would not be permitted to have cars on the school site. They are not going to restrict a married student from having a car.

Mr. Gasiorowski said the student could use that car to drive through the school and park in the street.

Mr. Flannery said it is possible.

Mr. Gasiorowski said this school is on a dead end street. There is no provision on the street or on this property to provide for a turn around, cul-de-sac or k-turn.

Mr. Flannery said it has worked in the past and it still works.

Mr. Gasiorowski said in the past, there was not a proposed school with 45 students as well as staff driving cars into that dead end area.

Mr. Flannery said any vehicle coming to the school has the availability of the school drive aisles to make whatever maneuver is needed and the parking is provided in accordance with the ordinance.

Mr. Gasiorowski said this building is approximately twice the size than some of the houses in the surrounding neighborhood.

Mr. Flannery said some of them, yes.

Mr. Gasiorowski said at the time of the change of use, the applicant represented there would only be 17 students.

Mr. Flannery said the application approved in 2014 was based on that. Every successful school grows and then they have to decide how to manage and make the school more appropriate for the students that are attending.

Mr. Gasiorowski asked if that means adult students whom are married that have families and cars.

Mr. Flannery said yes.

Mr. Gasiorowski asked how a fire truck would access the site to fight a fire.

Mr. Flannery said there would be no reason for the truck to drive onto the site.

Mr. Gasiorowski asked if parking is allowed on both sides of the street.

Mr. Flannery said there is no restriction on either side of the street as far as he knows. They are providing parking in accordance with what the ordinance indicates.

Mr. Gasiorowski asked if he has been to the site within 6 months and if so, to describe the parking conditions.

Mr. Flannery said there was some construction going on but he was able to drive to the site down Seminole and back out again without any problems.

Mr. Gasiorowski asked if this expansion will be out of character with the rest of the residential neighborhood.

Mr. Flannery said Lakewood has an ever increasing need for schools and the master plan encourages the inclusion of schools as an inherently beneficial use. He thinks this is a good location. This is adjacent to Pine Park at the end of a dead end street.

Mr. Gasiorowski said the residence in question, one that is acquired and others to be acquired, would be an ancillary or accessory use to this site.

Mr. Flannery said no. In the past, this board has indicated that student housing is considered an ancillary use. That was not with respect to this application or the fact that houses in this neighborhood students are living in are an ancillary use. Those are on separate lots and residences are a permitted use with married students are living in them. That is not ancillary. That is its own primary use.

Mr. Gasiorowski asked if basement apartments are permitted in this zone.

Mr. Flannery said yes.

Mr. Vogt said the discussion earlier, as he understood it, was within the context of the campus which they feel this application is not for a campus. A dormitory is not proposed on this property.

Mr. Andrew Thomas, P.P. was sworn in. He said he has reviewed the zoning ordinances, review letters and Master Plan and visited the site on two occasions and the surrounding area. He showed an aerial photograph of the site and neighborhood. The site is at the end of Seminole Drive. Lakewood Pine Park is located on the right hand side. Pawnee and Seminole Drive are coming from West County Line Road. He highlighted two additional properties under the name Toms River Torah Center. One is the residence they had already spoken about, block 2 lot 26, as well as another piece of property, block 2.08 lot 2. Directly across the street on Seminole Drive is another piece of property which is also owned by this applicant. In total there are 4 pieces of property in the area that he is aware of owned by this applicant.

Mr. Gasiorowski asked him to describe the neighborhood and the improvements within that neighborhood.

Mr. Thomas said the neighborhood is located in the northwest portion of the Township. There is really no through traffic that comes through the neighborhood or past the site. There is an exception with Iroquois Place that does go into Jackson Township but for the most part it is a relatively quiet neighborhood. Generally speaking, there are no sidewalks within the neighborhood. There are a couple of houses which have been renovated and have sidewalks in scattered areas. He has been to the site on two separate occasions, once in the evening on November 10th and also once in the afternoon on November 23rd. Both times he had observed vehicles parking on both sides of the street. He entered photographs he had taken on those dates as exhibit O-3.

Mr. Gasiorowski asked if there is room to make a K-turn.

Mr. Thomas said no. You would have to make a K-turn going into the property.

Mr. Gasiorowski said the area where you would be pulling into is parking.

Mr. Thomas said that is correct.

Mr. Gasiorowski said the board made a finding that the site with the proposed new use will function completely with these existing conditions without causing any adverse impact to the students or any neighboring property owners. This application is calling for the doubling of the size of what was the subject of a waiver granted by this board one year ago.

Mr. Thomas said that is correct.

Mr. Gasiorowski asked if it is his opinion if the doubling of the size of the building and the increase of students going from 17 to proposed 45 have any impact upon the neighboring property owners.

Mr. Thomas said it would. The original approval that was granted in 2014 was premised on the fact that this would be a low impact use.

Mr. Jackson said he doesn't understand the point of this. This is a new application.

Mr. Gasiorowski said they came in for a change of use application on a 2,000 sf home. Now they are coming back in for an addition and the question is whether or not this would have an adverse impact on the neighborhood.

Mr. Jackson said the previous application is not on the table. It is this new application that the board is considering.

Mr. Thomas said the average house size in the neighborhood is 1,900 sf. In comparison, this facility would be over 5,000 sf. This would be the largest building within the neighborhood.

Mr. Gasiorowski asked about buffering.

Mr. Thomas said this application does not meet several purposes of the land use law including promoting a desirable visual environment. The site has parking in the front and the side yard in a residential neighborhood. There is nothing to mitigate that especially in the front yard. The size of the building is not consistent with other residential uses in the neighborhood. As far as promoting the free flow of traffic, the site is located at a dead end street. The increase in size does not promote the free flow of traffic. The application has really done nothing to fix the circulation issues by either providing a turnaround or even a roadway within itself to get out of Seminole Drive and to loop around the site.

Mr. Gasiorowski said looking at the setbacks for the front yard as well as the buffering, this plan calls for basically the entire front of this building on both sides to be utilized as areas of parking and deliveries without any buffering.

Mr. Thomas said that is correct. The parking goes right up to the property line. There is no buffering proposed.

Mr. Gasiorowski asked if there is any other building or facility located within 200 ft of this site where such a condition presently exists.

Mr. Thomas said no.

Mr. Gasiorowski asked if he is familiar with the zoning provisions of a planned educational campus.

Mr. Thomas said yes.

Mr. Gasiorowski said the testimony has been that the applicant is acquiring additional houses.

Mr. Herzl asked to move on from this subject.

Mr. Gasiorowski objected to the restrictions being placed on this testimony.

Mr. Gertner asked if schools are permitted in the zone and if they are inherently beneficial.

Mr. Thomas said yes.

Mr. Gertner asked where his client resides.

Mr. Thomas said he not sure exactly.

Mr. Gertner asked if he agrees that most of the buffer waiver would impact Pine Park.

Mr. Thomas said yes but it also impacts the western side.

Mr. Gertner asked if he heard testimony depending on if that particular person would appear, the applicant would be amendable to addressing that particular buffer.

Mr. Thomas agreed.

Mr. Jackson asked where his client lives.

Mr. Michael Kalish, 119 Pawnee Road, was sworn in.

Mr. Gasiorowski said his house will be between the student residence and the proposed school.

Mr. Kalish said that is correct. He said the entire neighborhood is in objection to this application. The neighborhood does not see this as a benefit. He said the applicant is going around buying up different properties and trying to take over the neighborhood. The original application was for 17 students but there are more than 20 people there on a daily basis. His main concern is where this is headed. He asked that any variances requested be denied.

Mr. Jackson said this is a conforming application. There is only a pre-existing variance.

Mr. Gasiorowski said the relief already granted was predicated upon the existing building with the people being taken there by van.

Mr. Jackson said that application is not relevant.

Mr. Gasiorowski said this is an expansion of a previously approved change of use site plan. He asked if there is a student residence next to Mr. Kalish.

Mr. Kalish said yes.

Mr. Gertner objected. He asked how he knows there are students there.

Mr. Kalish said the property is in the schools name.

Mr. Jackson said the board has no issue with students buying and living in houses in the neighborhood.

Mr. Gasiorowski said the applicant is buying houses to allow his students to live in.

Mr. Jackson said the board accepts that.

Mr. Kalish asked if there is a limit to the amount of students in a school that go down a residential area with no sidewalks.

Mr. Jackson said he doesn't believe it has been recognized in land use law that an entity can't buy a house nearby and give it to someone.

Mr. Gasiorowski said Mr. Neiman represented to the public that when the applicant came before the board with regard to this change of use that specific representations were made as to how this site would be used. He urged that this matter not be considered and decided upon until Mr. Neiman is present.

Mr. Gertner sees no reason to do that.

Mr. Jackson asked if they properly noticed for this meeting.

Mr. Gertner said yes.

Mr. Herzl opened to the public.

Mr. Dov Feldman, 99A Pawnee Road, was sworn in. He is a student in the kollel. The kollel wants to expand for the faculty which would be beneficial for existing and future students. He is in support of this school.

Mr. Gasiorowski asked if the school is strictly post-graduate students and how many are enrolled currently.

Mr. Feldman said that is correct. He estimated that there are 23-25 students.

Mr. Gasiorowski pointed out that is greater than what was approved in 2014. He asked if he resides in the neighborhood and if so who owns the residence.

Mr. Feldman said yes. The applicant owns the house.

Mr. Gasiorowski asked how many families are living in the house.

Mr. Feldman said two.

Mr. Gasiorowski asked if he has a car.

Mr. Feldman said yes.

Mr. Fred Rush was sworn in. He said nobody cared when people came in to Lakewood buying up property. Now someone is coming in on a small street where families are being affected and now someone cares.

Mr. Betzalel Freedman, 124 Seminole Drive, was sworn in. He decided to live here because it is a quiet, residential neighborhood. There are no sidewalks. The children play in the street. When he comes back from work, there are quite a number of cars. He feels the cars are going quicker than in the past and it is dangerous for the children.

Mr. Pancos, 120 Seminole Drive, was sworn in. He also moved here because it was nice and calm. He said the applicant bought 15 houses in this neighborhood. He said there are at least 25 students attending this school.

Mr. Nussbaum, 11 Iroquois Place, was sworn in. He moved here because it is a quiet, residential neighborhood. Before he started buying up houses, his children were able to ride freely in the street. He said the applicant is buying up houses very quickly.

Mr. Jackson said anyone is allowed to buy houses. He asked how they are more disruptive than anybody else.

Mr. Nussbaum said it's not the students, it's the applicant. He has consistently lied to the neighborhood as to what his plans are.

Mr. Follman asked if the students are noisy.

Mr. Nussbaum said no but he has a lot of other students that come in from outside of the neighborhood. Many students are in a rush and the speed limit is not obeyed.

Mr. Flancbaum said they can't approve or disapprove anything based on the character of an individual applicant. They have an application with no variances requested and it is a permitted use in this zone. The board understands the objections but this is a conforming application.

Mr. Nussbaum said at the last meeting that Mr. Neiman wanted to place a deed restriction on the property.

Mr. Herzl said that didn't happen. The resolution doesn't reflect that. If something is not safe, they would have to call traffic/safety or the building department.

Mr. Herzl closed to the public.

Mr. Gertner reiterated that this a conforming application. He asked that the board approve the waivers for the buffer.

Mr. Herzl asked what kind of buffer is proposed.

Mr. Flannery said a 6 ft vinyl fence would be placed along the property line.

Mr. Gasiorowski stands by his argument that this application was not properly noticed as it did not include student housing in the area. He also wanted to note that there were members of the public who wanted to speak and the board advised them that public comment is closed.

Mr. Jackson said that is not true. He asked if anyone else wanted to speak.

No one came forward.

Mr. Gasiorowski said it is outrageous that the board does not take into consideration the impact on the neighborhood and the fact that this is just not located to one specific lot and one specific building. There are houses in the area that are all being used for this school use.

Mr. Jackson said Mr. Gasiorowski has made a creative argument but he does not think it is one that is irrational. He understands the concept he is arguing but he does not think the MLUL is ready to make that leap to say that

when people buy properties near a house of worship or a business then that business jumps to those properties. The board must look at this as its own application. It is a permitted use in the zone. A lot of the arguments by the objector's planner was about particularly suitability. The governing body has already said that this site is appropriate for this use by virtue of the fact that it's zoned for that. This is a totally new application and the board should consider it as such.

Mr. Herzl said even the pre-existing variance is de minimis. It's less than 4 feet.

Mr. Flancbaum wants to encourage the neighborhood to make any violations known to traffic/safety or the code enforcement office. Otherwise, this application is fully conforming.

A motion was made by Mr. Hibberson, seconded by Mr. Flancbaum to approve the application.

Affirmative: Mr. Herzl, Mr. Hibberson, Mr. Flancbaum, Mr. Cautillo

No: Mr. Follman

2. SP 2144 Yosef Hirsch

East County Line Road Block 208.01, Lots 14 & 15
Preliminary and Final Major Site Plan for a mixed use site (retail, office, shul)

Mrs. Morris said she received a request from the applicant's attorney to carry this to the February 16, 2016 meeting.

A motion was made and seconded to carry this application to the February 16, 2016 meeting.

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

3. SD 2044 Preferred Enterprises, LLC

Rutgers Boulevard Block 1607, Lot 13
Minor Subdivision to create two lots

A motion was made by Mr. Follman, seconded by Mr. Flancbaum to carry this application to the February 2, 2016 meeting.

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

4. SP 2152 David Flam

Ocean Avenue Block 246, Lot 44
Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to carry this application to the February 2, 2016 meeting.

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

5. 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 motion was made and seconded to carry this application to the February 2, 2016 meeting.

Affirmative: Mr. Herzl, Mr. Hibberson, Mr. Flancbaum, Mr. Follman, Mr. Cautillo, Mr. Grunberger

6. SP 2113A Yeshiva Shaar Hatalmud

Edgecomb Avenue Blocks 1009; 1019; 1022; 1023, Lots 1.04 & 1.06; 2.01; 3; 1
Amended Preliminary & Final Major Site Plan for a school with duplexes

A review letter prepared by Remington, Vernick & Vena Engineers dated January 14, 2016 was entered as an exhibit.

Mrs. Miriam Weinstein, Esq. said there was an initial application for a school and some duplexes. The board approved the school, not the school as the infrastructure is not in place yet. They came back eight or nine months later for the duplexes but the board did not feel comfortable. They went back and sought an interpretation from the Township Attorney as to whether or not duplexes would constitute an educational use since this land has a restriction on it for educational purposes only to which Mr. Secare's opinion is that it did. The board gave them guidance at the last meeting that while the board concurs that faculty housing could constitute an educational use, they felt that the number of houses had to be proportionate to the needs of the particular schools. They are back tonight with a new application and are seeking approval for three school buildings. One would be a girl's elementary school, building A, which would have roughly between 250 and 500 students. This school probably has the largest playground of any girl's elementary school in Lakewood since there is plenty of property without the housing. There will be then be building B, a boy's high school, which has about 120 boys and the third building would be for a Bais Medrash for college age, post-high school boys with about 100 boys and a dormitory so there would be no busing to building C because the boys would live on campus. There will be busing for buildings A and B. In addition, they are seeking a total of three duplex structures which would be 4 living units per school. The applicant would like to seek a height variance for the gym in the high school building.

Mr. Glenn Lines, P.E., P.P. was sworn in.

Mr. Neiman asked how many lots there will be.

Mrs. Weinstein said these lots would be consolidated into a single lot.

Mr. Neiman asked if the schools are under the same ownership.

Mrs. Weinstein said it is all going to be owned by one owner. This property cannot be sold for a period of 15 years since it is deed restricted.

Mr. Lines said the girl's elementary school will have a maximum of 500 students with probably 12 buses. There is a bus loading and unloading zone in the front which could stack at least 4 and another 4 or 5 could be stacked further on the site. If necessary, another 2 or 3 buses would be on Edgecomb. There are over 50 parking spaces for the project which is over and above what is usually provided. A very large playground is set up in front of the school which is behind a couple of residential lots that are fronting on one of the paper streets.

Mr. Neiman asked about garbage pickup.

Mr. Lines said the dumpster will be in the front of the building. The Township would pick it up. Access would be through Edgecomb Avenue out to Route 9 through the adjacent subdivision that is to be constructed.

Mr. Herzl said the school has its own parking and playground. It is all self contained.

Mr. Lines said that is correct.

Mr. Rennert asked about cars going in and out when the buses are there.

Mr. Lines said the teachers would already be at the school. There is more than enough parking. They need 25 spaces and are providing 50+ spaces.

Mr. Herzl said even if the buses are stacked on the site, there shouldn't be any problem for parking.

Mr. Lines said there still should be spaces available for any teachers coming in later.

Mrs. Weinstein said the students are all bused other than an occasional student who misses the bus.

Mr. Vogt asked if there are any items in the letter which he does not agree to.

Mr. Lines said he had mentioned at the tech meeting about the HVAC equipment being screened. He does not feel it is necessary if it's on the roof and they are far enough away from all of the property lines.

Mr. Vogt said he agrees to the technical comments in the review letter. In terms of the HVAC units, they would be roof mounted on the schools. More often than not, they recommend that there is some kind of screening. Not just visibility but also sound. Very commonly that can be a building parapet. The applicant is requesting that be waived because of the nature of the property and how far it's set back.

Mr. Lines said that is correct. This building is in the middle of the property. Building B backs up to Yeshiva Kol Torah, Building C is across the street from Tashbar.

Mr. Neiman asked if sidewalks will be provided.

Mr. Lines said sidewalks will be installed along the frontages of the streets they are going to improve for this project.

Mr. Neiman asked about the boy's high school.

Mr. Lines said there are three parking areas. Buses would come in through Pinehurst Avenue, through the parking lot and come around in front of the school. There is room for 4 buses which is plenty for 120 boys. There are 47 parking spaces provided. The staff will be around 10.

Mr. Neiman recommends fencing around the schools.

Mr. Lines said they do have part of it fenced off. They will probably fence off a little portion to the north of the girl's school so kids can't get through. They want to leave this area open as a soccer field. They do want to request a building height variance for the gymnasium.

Mr. Jackson asked if that is in the notice.

Mrs. Weinstein said no but there is a catch all.

Mr. Jackson asked what the maximum height allowed is.

Mr. Lines said they are requesting 40 ft.

Mr. Vogt said the zoning requirement is 35 ft which means the Planning Board only has the prevue to grant less than 10% so they could probably go as high as 38.4 ft.

Mr. Lines said that is correct.

Mrs. Weinstein said they are requesting a variance for 38.4 ft.

Mr. Neiman said he is fine with that.

Mr. Lines said the last building is the Bais Medrash which would be on the corner of Wadsworth and Argyle Avenues. That school has approximately 100 students with no buses and very few staff. Seven spaces are provided. The review letter points out that they need a handicapped space so it would be reduced to six plus the eight provided for the duplexes.

Mrs. Weinstein said the boys are not allowed to bring their own cars.

Mr. Follman said a Bais Medrash usually has a lot of outsiders coming in and there is definitely not enough parking to accommodate that.

Mr. Lines said the staff would be parked at the duplexes so the parking lot would be empty most of the time.

Mrs. Weinstein said there is plenty of extra parking at the high school building. It is a walk but it would be available if needed.

Mr. Jackson asked how many parking spaces would be provided for the duplexes.

Mr. Lines said there are 4 spaces per half of the building.

Mr. Jackson asked how many living units there are including basement apartments.

Mr. Lines said 12.

Mr. Jackson asked how many parking spaces are being provided.

Mr. Lines said 24.

Mr. Neiman said that is normal for duplexes.

Mrs. Weinstein said at any given time there are probably not more than 10 staff members.

Mr. Jackson said a rear yard setback variance is requested for the duplex on Wadsworth Avenue.

Mr. Lines said that is correct.

Mr. Jackson asked what the reasoning is for that variance.

Mr. Lines said they are using a very narrow piece of the lot for a duplex. The lot behind them is set into their property. Their rear would back up to lot 3.

Mr. Jackson asked what is on that lot now.

Mr. Lines said it is currently vacant. It is zoned residential. He does not believe the rear set back variance would be detrimental to the other unit. Their backyard is facing theirs.

Mr. Jackson said he is not relying on a hardship.

Mr. Lines said it is a hardship because of the shape of the lot. It is the skinniest portion of the lot.

Mr. Jackson said that is not a hardship. If he wants to say it is a C-2 variance then that is a different issue.

Mr. Follman said when they sold these properties, was it the idea to open a school factory on them or to open up one beautiful building with adequate parking.

Mr. Lines said that is the idea the Township Committee had at the time. When he was the Township Engineer, the Committee decided they wanted to make larger properties available to the schools. He does not feel the impact of the variance would be detrimental to the lot next door.

Mr. Rennert asked him to explain the maximum building coverage numbers.

Mr. Lines said what they did to get a number so they weren't overdeveloping the property is they separated the elementary and high school from each other. The lot coverage would be 25.8.

Mr. Rennert said the building looks very big. He believes the number should be a lot higher. He thinks the plans were thrown together haphazardly.

Mr. Flancbaum said they should be looking at the entire property.

Mrs. Weinstein asked if the lot coverage of the entire property exceed the maximum allowed of 30%.

Mr. Lines said no. When you take all of the buildings, the coverage is 25.81%.

Mr. Hibberson asked what the total number of students would be for all three schools.

Mr. Lines said a maximum of 720 students. There are 500 for the elementary school, 120 for the high school and 100 for the Bais Medrash.

Mr. Jackson asked how they come up with that number. How do they know this property can handle that amount of students.

Mr. Lines said the buildings have not been designed yet.

Mr. Jackson said the review letter requests architectural plans.

Mr. Vogt said they always ask for architectural plans. The applicant is agreeing to a maximum of the amount of students under each of the uses. The architectural plans may only show that the building can support 400 students per the applicable code, it will be 400.

Mr. Jackson said there is the worry that you might not have the capacity but he thinks the opposite is a bigger worry. It could be a building for 900 students.

Mr. Vogt said even if the building is oversized, the applicant is agreeing to a maximum of 720 students.

Mr. Jackson said if there are architectural then the board could really see what they are approving.

Mr. Vogt said they typically couldn't give testimony as to the occupancy of the building. That would be the building officials call. If they are testifying that they are going to limit to school to a certain number, can that be enforced.

Mr. Lines said if they agree to 500 students and submit a plan to the building department but it can hold 600, they shouldn't approve it.

Mr. Jackson does not believe the board can rely on that.

Mr. Lines said they rely on it all the time.

Mr. Neiman said normally the board has architectural but the applicant is testifying on the record that they would not exceed that amount of students.

Mrs. Morris said the contractor did drop off architectural plans this morning. However, being that it was not 10 days before the meeting, they could not be made part of her official file as they were not part of the engineer's review. They could be presented as an exhibit at this time if the board does not want to see them.

Mrs. Weinstein wants to explain how they arrived at that number. Assuming the girls elementary school has 9 classes, primary through 8th grade, that's 18 classes with 27 girls in place which comes to 486 students. That is where the 500 number came from. That means they would be limited to 18 classrooms. The high school is 4 grades. The maximum for the Bais Medrash is 100 students.

Mr. Neiman left the meeting and Mr. Rennert will chair.

Mr. Grunberger arrived at the meeting.

Mr. Lines explained the bus circulation again. They are asking for a waiver from improving Argyle and Edgcomb Avenues. No improvements will be fronting those streets and will not need them for access. Wadsworth will need to be improved from Argyle down to Pinehurst and possibly out to Vine. Argyle will be improved as part of the Tashbar project.

Mr. Rennert opened to the public.

Mr. Richard Krupnick, 1500 River Avenue, was sworn in. He said there is no plan that addresses water and sewer. He is wondering if Argyle and Edgcomb Avenues are going to be cleared to get any utilities to the project.

Mr. Lines said no. Water and sewer will come down Wadsworth to Pinehurst.

Mr. Krupnick said his family owns a neighboring property, block 1009 lot 1.05, and there was previous discussions about putting a 6 ft vinyl fence along the westerly property line. He would like that fence installed along with some shade trees to block his lot from building B's parking area.

Mrs. Weinstein said the applicant has agreed to that.

Mr. Krupnick said he would like the fence installed prior to the clearing of this project and temporary orange fence would be put on the rest of his property lines.

Mr. Lines said in order to get soils approval, they would have to put up a fence to the clearing limits anyway.

Mr. Krupnick wants to make sure that no clearing is done on his property. He asked that the vinyl fence be installed before clearing.

Mr. Lines agreed.

Mr. Rennert asked if there is a house on that property.

Mr. Krupnick said no, it is a wooded, vacant lot. He said after looking at the circulation and considering the amount of students and buses coming through there, Argyle and Edgecomb Avenues should really be improved.

Mr. Rennert said there is another application for a school. They will be improving Argyle Avenue.

Mr. Krupnick asked if that would run from Wadsworth past lot 1.04.

Mr. Lines said yes.

Mr. Rennert agrees that these streets should be improved to improve traffic flow.

Mrs. Weinstein said the applicant does not have a problem paving Edgecomb Avenue but they do not want to be held up by the Tashbar project.

Mr. Rennert said they would pave Edgecomb up to Argyle.

Mrs. Weinstein said that is correct. The applicant does not know when Argyle would be paved. Edgecomb won't get you anywhere until Tashbar paves Argyle out to Wadsworth. She concurs with the board that when this happens, the bus circulation could be changed.

Mr. Lines said his concern is people driving through their property once Edgecomb is opened up. If they are going to open Edgecomb, then they going to close Pinehurst.

Mrs. Weinstein said the buses would come at 7:30 as the boys needs to be there for morning prayer services and they are not going home until 9:30 at night. These buses are not coming and going during peak rush hour times like the girl's elementary school.

Mr. Lines said the big traffic generator is the girl's elementary school and those buses are going out to Route 9. They do not want cars coming from Edgecomb, through their busing area and out Pinehurst.

Mr. Jackson said they could put up signs to help regulate the traffic.

Mr. Lines said that would be bad design.

Mr. Rennert said this application is a bad design. There is no parking by building C at all.

Mr. Flancbaum said it would have been nice to see this at a technical meeting first. This is a completely different design to what the board has already seen. He believes the architectural should be reviewed by their professionals as well as a completed circulation plan. This is a big campus with three major schools.

Mr. Krupnick said if the applicant does improve Edgecomb, he would ask that the board require curbing as well.

Mrs. Weinstein suggested that the board approve preliminary approval only and they would need to come back for final approval.

Mr. Jackson said once the applicant receives preliminary approval, they are locked in.

Mr. Flancbaum said a circulation plan and architectural should be submitted for review.

Mr. Rennert wants to see how bus stacking would work for the number of students proposed without having to come out onto Edgecomb.

Mr. Lines labeled a colored exhibit as A-1.

Mr. Mike McGlocklin, was sworn in. He agrees with the board that they should not approve this until architectural plans are submitted and reviewed.

Mr. Rennert closed to the public.

Mr. Vogt said there was a lot of back and forth as to how they would get bus circulation for the individual uses. He would like to see a circulation plan showing the various bus movements and where the buses would be staged. That will be very important for the board to see.

Mr. Jackson suggested that the applicant's professionals meet with the board engineer to ensure they come back with a nice, clean plan.

Mr. Vogt also said if Tashbar is not done, they would need a plan showing how these three entities will operate.

Mr. Jackson said to revise the plans as to what has been agreed to so far with Mr. Krupnick so that doesn't fall through the cracks.

Mr. Rennert would like to see a plan with different options when opening up the various roads.

Mrs. Weinstein said that is fine. They could submit that by Friday. She asked that this be scheduled on the February 2nd meeting. The applicant is under time constraints for a loan.

Mr. Vogt said he understands but he does not believe they would have a coherent plan back in time for the 2nd.

A motion was made by Mr. Hibberson, seconded by Mr. Flancbaum to carry this application to the February 16, 2016 meeting. Mrs. Weinstein agreed to a time waiver.

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

7. SP 2150 Wawa Lakewood, LLC

Route 9 and Prospect Street Blocks 420; 420.01, Lots 16; 12, 14, & 23
Preliminary and Final Major Site Plan for a convenience store and gas station

Mrs. Morris stated that revised plans were not received. This project will be carried to the next available public hearing, February 16, 2016.

A motion was made and seconded to carry this application to the February 16, 2016.

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

8. SP 2068 Yeshivas Ohr Yissochor Academy, Inc.

Cross Street Blocks 525; 528; 529; 530, Lots 1.01 & 1.02; 1, 3, & 8; 1; 1
Preliminary and Final Major Site Plan for an academic campus

Applicant has requested to carry this project to a later meeting. This application will not be heard.

A motion was made and seconded to carry this application to the February 16, 2016.

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

7. CORRESPONDENCE

SD 2000 – Block 73, Lot 2 – discussion on Shade Tree Commission recommendations

Mrs. Morris said this is a previously approved subdivision. There are no specific landscaping requirements, however, the shade tree commission had some suggestions for a row of arborvitae. The board hadn't really discussed or considered it either way but it was referenced in the engineer's review letter. The applicant's argument is that they are not required to listen to the shade tree's recommendations.

Mr. Joe Kociuba, P.E. said the recommendation was to provide a landscape buffer along the rear of the property. The proposed application had a 20 ft setback which is standard for this area. The property to the rear has a landscape buffer with a fence and an existing row of arborvitae. It is their opinion that a buffer is not required and it was not brought up at the public hearing.

Mr. Vogt said the shade tree commission reviews all applications. They gave recommendations for this application. The buffer was not contested or clarified during the application process. Based upon the testimony, does the board want to amend the approval to eliminate the shade tree recommendations.

Mr. Rennert asked what is behind them.

Mr. Kociuba said townhouses.

The board agreed that the shade tree commission comments are not required.

8. PUBLIC PORTION

Mr. Bill Hobday is pleased to see new members on the board but he wants to ensure that these volunteers are ready to do their due diligence to the Township.

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