

## 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. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Isaacson, Mr. Meyer

## 3. SWEARING IN OF PROFESSIONALS

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

## 4. MEMORIALIZATION OF RESOLUTIONS

1. **SD 2286 Esther Dalia Kahan**  
10 Omni Court, 9, 11, & 13 Sylvan Court Block 411, Lots 3.22, 6, 7, & 70  
Minor Subdivision to create 5 lots

A motion was made and seconded to approve the resolution.

2. **SP 2264 Congregation Ohr Elchonon**  
187 East 4th Street Block 241, Lot 10  
Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to approve the resolution.

3. **SP 2266 Nine Holdings, LLC**  
1328 River Avenue Block 534, Lot 4  
Preliminary and Final Major Site Plan for a retail building

A motion was made and seconded to approve the resolution.

4. **SD 2310 BMW Homes, LLC**  
East 5th Street Block 242, Lots 3.01, 3.02, 4.01, 4.02, 5.01, 5.02, & 19  
Minor Subdivision to create ten lots

A motion was made and seconded to approve the resolution.

5. **SD 2330 Mark Properties, LLC**  
Drake Road Block 251, Lots 4.01-4.04  
Minor Subdivision to realign lot lines

A motion was made and seconded to approve the resolution.

- 6. SD 2311 Cynthia Hopkinson**  
244 Joe Parker Road Block 189.03, Lot 177  
Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

- 7. SP 2271 Bais Shaindel**  
685 River Avenue Block 782, Lot 7.01  
Preliminary and Final Major Site Plan for a third story addition to existing school

A motion was made and seconded to approve the resolution.

- 8. SP 2272 Congregation Pri Aahron**  
836 & 840 Ridge Avenue Block 189, Lots 28 & 29  
Preliminary and Final Major Site Plan for a school

A motion was made and seconded to approve the resolution.

- 9. SD 2315 Mordechai Finkelstein**  
106 Oak Street Block 1015, Lot 1.01  
Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

- 10. SP 2265 Talmud Torah Bais Avrohom**  
915 New Hampshire Avenue Block 1160.03 Lot 47.01  
Preliminary and Final Site Plan for an addition to a school

Mr. Jackson said Mr. Sabel approached him after the meeting and was concerned about safety and thought there was testimony that none of the buses would be making a left hand turn off of New Hampshire Avenue into the southwest portion of the property. Mr. Sabel indicated to him that he was there on an emergency call and he witnessed many buses making the left turn and hopping the curb. He asked if there was anything the board could do and the standard is if the board thinks there is a mistake as to the facts the board was relying on or they think something should be reconsidered, there is authority under the MLUL for the board to reopen the matter. One of the things they spoke about was putting bollards along there so the buses could not make a hard left and hop the curb. They also spoke about putting additional signage on this road and they could stipulate Title 39 so that the police could issue a ticket if someone were to make a left turn in.

Mr. Sabel really wants to get this school going before the new school year but there has to be something on the record as to the circulation plan. He asked the engineer to provide something to the board and the bollards would also help.

Mr. Jackson said the engineer could submit that and the board can review before adopting the resolution.

Mr. Flancbaum believes the testimony was that buses should not be making a left turn into that drive and unfortunately they are doing it. A plan should be provided showing circulation, bollards and additional signage.

Mr. Adam Pfeffer, Esq. said this is an existing school on a County road. This project received County approval and as the board can see on the plan, there is an angle on the entrance in order to limit the turns to right in only for cars,

not the buses. That angled entrance was completed approximately a month before the public hearing so it is fairly new. Their testimony was they had no problem adding additional signage and that the buses would enter and exit from the other two entrances. This school is trying to get the new rooms open for the September school year.

Mr. Herzl stepped down.

Mr. Pfeffer said there was significant testimony as to the road and traffic but they cannot control what someone ends up doing and the fact is the entrance here is already angled as to not allow a bus into that entranceway. This is a County road with a County approval for an existing site. If the board wants them to add more signage and bollards, that is not a problem but now the board is requesting a circulation plan and to come back which would be 50 or 60 days after the approval and the law says a resolution must be memorialized within 45 days. If that doesn't happen, the applicant has to file a complaint which is the last thing this school wants to do. They also agree that during resolution compliance, they would do anything to please the board which would not involve going back to the County. He understands the safety concern but this board should not get involved in policing. He asked that a resolution be drafted up during the meeting.

Mr. Sabel believes the applicant's engineer was aware of this issue about a week ago and he thought they would have enough time to provide something to the board.

Mr. Jackson doesn't have any issue if the board thinks there is a safety issue and they think that circumstances that were represented may be a little different and they want to look into it further.

Mr. Flancbaum thinks bollards should be added to the angled entrance as well as 'Do Not Enter' signage.

Mr. Jackson said an amended plan should be submitted showing directional arrows for circulation.

Mr. Herzl said any safety improvements must be completed before construction.

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

## **5. PUBLIC HEARING**

### **1. SD 2144 Chaim Abadi**

213 Miller Road & 11 Shady Lane Drive Block 12.01, Lots 7 & 11  
Extension of Minor Subdivision to create three lots

Mr. Joseph Kociuba, P.E., P.P. said they have had some difficulties getting approval from the County and are requiring a road widening dedication rather than an easement as well as discovering an error on the survey which will be discussed during correspondence.

A motion was made and seconded to grant a six month extension.  
All were in favor.

- 2. SD 2321 Yosef Lipschitz**  
875 Park Avenue Block 230, Lot 1  
Minor Subdivision to create four lots

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

Mr. Vogt said no variances are being requested. A design waiver is required due to the obtuse angle of the existing streets.

Mr. Glenn Lines, P.E., P.P. was sworn. They are subdividing this vacant lot which is approximately 25,000 sf into 2 conforming duplex lots. Due to the sharp angle of East Ninth and Park, the sight triangle is calculated using AASHTO requirements which is 8 ft from the stop bar and up the road, 250 ft and it actually doesn't touch their property so a waiver is requested.

Mr. Herzl asked if it is a dangerous situation.

Mr. Lines said no, it is open and they are not proposing any construction anywhere near that corner.

Mr. Vogt said based on the testimony that there are no sight distance or visibility issues, they are in support of the waiver.

Mr. Herzl asked if sidewalks are being provided.

Mr. Lines confirmed as well as shade trees and utility easements, each lot will have 4 parking spaces and garbage will be collected at the curb.

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 2263 Kiddie Care NJ LLC**  
944 East County Line Road Block 208, Lot 9  
Preliminary and Final Major Site Plan for a daycare

*A review letter prepared by Remington & Vernick Engineers dated March 14, 2018 was entered as an exhibit.*

Ms. Morris said this is a continuation from the January 23rd meeting.

Mr. Vogt said the applicant has submitted a few conceptual layout plans relative to parking and access. Layout 1 shows parking proposed within 5 ft of the property line and an alternative layout 2 which would not require relief.

Ms. Miriam Weinstein, Esq. said this applicant seeks site plan approval to construct a two-story daycare facility. At the previous meeting, testimony was provided from their engineer and traffic expert. After the testimony was presented, the board asked them to come back with some modifications. Specifically, to label all rooms in accordance with the requirements for licensed daycare centers. The applicant's architect is present tonight to answer any questions board members may have. The board also asked that a traffic study be completed so as to not take into account road improvements on County Line Road which may not be done before the daycare center is constructed. Mr. Kennel has since revised the traffic study and is here to testify as to his findings. The plans will be

revised to eliminate the variance for lot width so no variances will be associated with this application. The applicant has also met with all of the neighbors to address their concerns, specifically buffering which is a design waiver requested. The applicant has agreed to fencing and planting trees on both sides of their property to the satisfaction of the neighbors.

Mr. Rennert asked if this could still be considered a continuation if the plans have been revised.

Mr. Jackson said yes.

Ms. Weinstein said they were minor changes.

Mr. Brian Flannery, P.E., P.P. was sworn. Exhibit A-1 is a rendering of the site showing the daycare and parking, A-2 is the tax map which shows their property as well as other shuls and offices along County Line Road. The plans have been revised to reduce the building size so they no longer need a side setback variance. They have provided fencing around the property to address the buffering issue. As indicated in the board engineer's report, they now have a conforming application. Two design waivers are being requested, one is for the buffer which was discussed at the last meeting. Second, the parking as proposed was right angle parking and a plan was submitted showing concept layout 1 and 2. Layout 1 has the right angle parking and a 22 ft wide aisle.

Mr. Herzl asked which plan is more consistent with what the board has already seen.

Mr. Flannery said layout 1. Layout 1 proposes 27 parking spaces, layout 2 proposes 22. Normally a parking aisle for two-way right angle parking is 24 ft wide and that allows room for both vehicles to park without hitting a vehicle on the other side. In this case, it is a little unique as it is one-way and there is no parking on the other side so there is an overhang on the vehicles. A vehicle backing out of that space where he has 22 ft, the rear of his car can go 2 ft further where if they had 24 ft and a car on the other side, it would be the same situation. They certainly think layout 1 is better as it provides for more parking.

Mr. Herzl asked how wide the aisles are in layout 2.

Mr. Flannery said 24 ft wide with angled parking. The parking spaces, when they're angled, are 18 ft but when you turn them, they become less efficient and they lose parking spaces. Layout 2 would require no relief and in layout 1, they would gain parking and would need relief for a 22 ft wide aisle. It is his testimony that a 22 ft wide one-way aisle with no parking on the other side is more than sufficient.

Mr. Herzl thinks they need the additional parking.

Mr. Meyer believes the purpose of the suggestion for angular parking was to see if they could gain more spots. He asked if it is impossible to do that.

Mr. Flannery confirmed.

Ms. Weinstein said they actually lose spaces with the angled parking.

Mr. Flannery said angled parking works in certain situations where you have the right geometry but in this situation it did not help.

Mr. Herzl said they need as many spaces as possible.

Mr. Flannery said there will be further testimony indicating that the 27 spaces are sufficient and it complies with the ordinance. The applicant's position is the 22 would be sufficient but 27 is a better situation. They would satisfy the board engineer's comments in his report.

Mr. Herzl said there was discussion at the last meeting that the entrance should be right in/right out only.

Mr. Flannery said it is a County road so they would comply with whatever the County tells them. He would expect it is going to be right in/right out.

Mr. Rennert asked if this board can make that a condition of approval as well.

Ms. Weinstein said that is fine.

Mr. Herzl said it is going to be impossible to make a left onto County Line Road.

Mr. Rennert asked if sidewalks are being provided.

Mr. Flannery confirmed.

Mr. Herzl said they would need signage for right in/right out only.

Mr. Flannery agreed.

Mr. Herzl said Mr. Franklin is not here tonight but he said at the previous meeting that he lives on Somerset Avenue and there is very heavy traffic associated with the existing daycare so he is very happy additional spaces are being added.

Ms. Chaya Gerlitz, owner and director of the daycare, was sworn.

Ms. Weinstein handed out a study performed by Ms. Gerlitz where, for three days, she took counts of the cars and how many children were dropped off and picked up.

Mr. Jackson said that is different than having a traffic engineer testify, however, he thinks the board can consider it as it is an actual observation by the operator.

Ms. Gerlitz said she noticed that quite a few of the cars in the morning were not associated with the daycare. These counts are cars that were there for her daycare only. Some of the parents did take a few minutes in the daycare when dropping off their children. She also took note of the maximum amount of cars that were at the daycare at any given time.

Mr. Herzl asked if that count included employees.

Ms. Gerlitz confirmed.

Mr. Rennert asked how many children are currently in the daycare.

Ms. Gerlitz said 83 children.

Mr. Herzl asked what the maximum would be for the new daycare.

Ms. Gerlitz said between 140 and 145.

Mr. Rennert assumes they will be more cars if they are doubling the amount of children.

Mr. Herzl asked how many employees would be in the building.

Ms. Gerlitz said 12 to 14 employees. There are employees that walk as they live in the neighborhood and some of the employees also carpool or get dropped off.

Mr. Rennert asked about pickup times.

Ms. Gerlitz said it is staggered.

Mr. Herzl sees from the study that parents can be there between 5 and 10 minutes.

Ms. Weinstein said it was indicated at the last meeting that she would have a staff member downstairs in order to try and cut down on the time that parents are there.

Ms. Gerlitz said if they need to that then they would.

Mr. Herzl said he wants people in and out as fast as possible. If there are 14 employees using spaces then there would only be 13 spaces left for customers.

Ms. Gerlitz said the maximum number of employees she witnessed at a time was 12.

Mr. Herzl asked if parents park or just pull up in front of the daycare to drop off their children.

Ms. Gerlitz said they have to park properly.

Mr. Herzl said if there is a staff member outside then they could help take the kids inside. He wants to ensure there is enough parking as they can't have people backed up on County Line Road.

Mr. Rennert said there was a neighbor who came forward at the last meeting. He asked if the applicant can address her concerns.

Ms. Weinstein said yes. There were two neighbors, Ms. Miller and Mr. Balter, which had concerns and the applicant met with both of them. She read a letter into the record from Mr. & Mrs. Miller dated 2/20/18, request #4 was not agreed to as the applicant told them it was not feasible.

Mr. Herzl asked if the applicant agrees to items 1, 2 and 3.

Ms. Weinstein confirmed.

Mr. Herzl knows Ms. Zografos had issues at the last meeting that the site wasn't a conforming daycare facility and they did not meet all of the necessary State requirements.

Mr. Vincent Minkler, A.I.A. was sworn. There are actually 30 or 40 pages of requirements for the facility. It even gets down to what type of garbage cans you can have in the rooms so not all of it would fall under his expertise as an architect. The area required for sick children doesn't indicate in the requirements that it has to be a room

specifically but just an area designated in case a child is sick so they can be quarantined away from the other children. As indicated on the plans, an entire room labeled nurse's office will be dedicated to that. Every daycare classroom that has children under 2 1/2 years old has to provide about 10% visible area through the wall from the hallway to that classroom and that is provided for each classroom as well. The means of egress from each classroom, because it is children and each classroom is going to have more than 10 children, needs to have two doors into each classroom which is also provided.

Mr. Herzl said they also spoke about a dedicated recreation area.

Ms. Morris asked if the architectural plans have been revised since the board's concerns in January.

Mr. Minkler was not at the meeting so he is unsure what those concerns were. They do show a designated play area.

Mr. Herzl asked if it is his testimony that the plans conform to whatever the State requires.

Mr. Minkler said yes. The State also has their own review of a daycare facility and they may also have comments to which they would need to comply.

Mr. Jackson asked if there is a State review board they have to submit to that has to review the facility.

Mr. Minkler said yes but they have not gone through that process yet.

Mr. Jackson asked if it is his opinion that this application would meet their criteria.

Mr. Minkler confirmed. If they have any comments he is sure they would be very minor and they will meet any requirements.

Mr. Jackson asked if a facility like this could operate without getting that approval.

Mr. Minkler said no, legally.

Ms. Weinstein said they wouldn't get funding.

Mr. Jackson asked if it is possible to get waivers from specific criteria and if so, would they be asking for any.

Mr. Minkler cannot answer that question. The facility meets all of the physical requirements. The requirements get more specific as to the actual operations of the facility which would not be within his purview.

Mr. Jackson asked what the maximum number of children is this facility could handle.

Mr. Minkler said up to 145.

Mr. Jackson asked if there are any outdoor facilities.

Mr. Minkler said no.

Mr. Flannery said there is a playground which is outside and is shown on the plan. The outside amenities are behind the building in the southerly area. The revised plans submitted show the fenced area and call it out as the play area and that complies with the regulations specified as far as square foot per child.

Mr. Jackson asked what the surface would be.

Mr. Flannery said it would be a combination of grass and spongy material.

Mr. Jackson asked if there will be playground equipment.

Mr. Flannery said none is proposed. The operators of the facility will have toys which they would bring out.

Mr. Herzl is satisfied.

Mr. Vogt asked if the playground surface would meet applicable ASTM standards.

Mr. Flannery confirmed.

Mr. Flancbaum asked what the age range of these children would be.

Ms. Gerlitz said newborn to 5 years old. The State is very strict and have cited them for silly things, in her opinion so they definitely have many things they would need to conform to.

Ms. Weinstein asked if they grant waivers.

Ms. Gerlitz said not really, they come back again and again until they are satisfied.

Mr. Herzl said if they do not comply then they don't get funding.

Ms. Gerlitz confirmed.

Mr. Jackson asked if they have inspections and checks.

Ms. Gerlitz said all the time.

Ms. Weinstein asked how often they come.

Ms. Gerlitz said it depends. If they come and are not happy, whatever the citation is, they come back in maybe two weeks or four weeks.

Mr. Herzl asked if they serve lunch in the classrooms.

Ms. Gerlitz confirmed.

Ms. Weinstein wanted to point out that David Schreiber, who was the neighbor with the pool, testified at the last hearing and asked for certain items which they would also comply to.

Mr. Herzl said they agree to comply with any requests he made at the last meeting.

Ms. Weinstein confirmed.

Mr. Scott Kennel, traffic expert, was sworn. The revised report dated 2/21/18 took into consideration the board's suggestion for a right in/right out driveway. The analysis revealed that it will operate at a level service 'C' for existing movements onto County Line Road. As part of the revised report, he also conducted observations at the existing facility from 8:30 to 9 am in the morning and his data collection is consistent with Ms. Gerlitz as far as turnover, number of vehicles and the operation as far as anywhere from 1 to 3 children per vehicle.

Mr. Herzl asked if he feels the parking would work.

Mr. Kennel confirmed. His recommendation was layout 1 which proposes the right angle parking spaces and that the 22 ft aisle width is adequate to accommodate safe movement in and out of those parking spaces given the fact that vehicle overhang, that aisle affectively will operate as a 24 ft wide aisle which is a standard aisle width. The other aspect that it is a one-way circulation is also a positive in promoting safe operation. It is also a high turnover as indicated and based on his observations it is his opinion the parking will be adequate to support the development. The increased enrollment, which represents approximately 75% increase, can be accommodated with the proposed parking.

Mr. Rennert asked if the ingress/egress operates at a level 'C' or does County Line Road.

Mr. Kennel said the right turn movement operates at a level service 'C'. Based on a comment earlier as far as having the driveway operate efficiently as well as the internal circulation, the fact that it is right turns only will make that much more efficient from a parking lot and parking activity standpoint.

Mr. Herzl asked when the County adds a turning lane, would it be a level service 'A'.

Mr. Kennel said the left turn in would be a level service 'A'.

Mr. Sabel asked if they can request the curb at the beginning of the property to be changed instead of it being on the circle inward and not outward to avoid people making a left turn.

Mr. Kennel said in addition to the signage, they can modify the driveway design so that it promotes the right turn movements in and out.

Mr. Sabel said on both sides so you can't make a left turn in and a left turn out.

Mr. Kennel confirmed. All of that would be subject to County approval as far as design and signage.

Mr. Flancbaum asked why the applicant cannot comply with the condition that the parking lot be closed after hours.

Mr. Kennel said if a gate were installed it would have to be located 50 to 100 ft into the site so you're still going to have access to the lot because you don't want someone that's entering that is going to lock the gate blocking traffic on County Line Road.

Mr. Herzl said the applicant wouldn't be utilizing the site at night.

Ms. Weinstein said it doesn't make sense because if someone shows up before the owners, they would have nowhere to park and would block traffic on County Line Road.

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

Mr. Jackson said the applicant would agree to comply with all State regulations.

Mr. Herzl said the applicant also agrees to any conditions made with the neighbors.

Mr. Sabel said the curbs will be revised as previously discussed.

A motion was made and seconded to approve the application.

Affirmative: Mr. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Isaacson

No: Mr. Meyer

**4. SP 2279AA Yitzchak Goldman**

86 Pawnee Road Block 2.07, Lot 3

Change of Use/Site Plan Exemption to convert a house to a synagogue

*A review letter prepared by Remington & Vernick Engineers dated February 27, 2018 was entered as an exhibit.*

Mr. Vogt said this is a change of use with no site improvements currently proposed. Design waivers are required including sidewalk, parking within 5 ft of the side property line, providing a shade tree/utility easement, providing lighting/landscaping, trash/recyclables storage and proposed grading. There is an existing nonconformance with regard to minimum lot area, perimeter buffer relief is necessary as well as buffer relief for parking within 20 ft of the adjacent residential lots.

Mr. Flancbaum said he would like to hear testimony before they vote on the design waivers.

Mr. Vogt said the board typically doesn't vote on design waivers, just submission waivers.

Mr. Brian Flannery, P.E., P.P. was sworn. The application is for a change of use site plan. There is an existing residential structure which was built many years ago and the applicant intends to use it as a shul. The relief indicated is for existing lot area. The shul sanctuary is 598 sf which by ordinance no parking would be required. There are 7 existing parking spaces on the site where none are required. It is a neighborhood shul with no Simcha hall proposed. The design waivers are also for existing situations. This is an inherently beneficial use and would respectfully requesting the change of use.

Mr. Flancbaum asked if the entire sanctuary space was calculated and nothing was taken out.

Mr. Flannery confirmed, they would be in compliance even if they take into account the entire house.

Mr. Herzl asked if this complies with the new ordinance.

Mr. Flannery said the new ordinance adopted by the town did not change the parking requirements for shuls.

Mr. Herzl said this shul will grow.

Mr. Flannery said yes and at that point they would have a piece of property where they would be able to make a site plan application for a proper shul with parking.

Mr. Herzl asked if the applicant agrees to all of the items in the engineer's report.

Mr. Flannery said they would be asking for the design waivers and buffer relief. The trash would be rolled out.

Mr. Herzl asked if there is an ADA ramp.

Mr. Flannery said yes and they would comply with ADA regulations.

Mr. Flancbaum asked if sidewalks are proposed.

Mr. Flannery said no as there is no other sidewalk in the neighborhood. When they come back with a full site plan, sidewalk and curbing would be provided.

Ms. Morris said per the engineer's notes, it looks like there is sidewalk to the left.

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. The sidewalk waiver was ***not*** granted. All were in favor.

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

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

Mr. Vogt said submission waivers are requested including a traffic study, proof of submission to the Ocean County Planning Board, topography, contours and man-made features within 200 ft, an environmental impact statement, a tree protection management plan and architectural drawings of the proposed structures. As indicated in their letter, a traffic impact analysis was submitted in lieu of a study and the submission waiver is supported with the understanding that it would have to satisfy the Ocean County Engineering Department. The waiver from submitting to the Ocean County Planning Board is supported for completeness purposes only. Since it is on a County highway, he believes the applicant would need to submit.

Mr. Alan Weiss, Esq. said they have not yet submitted but would agree to do so.

Ms. Morris wants be clear, submission to the Ocean County Planning Board is a requirement on their submission checklist. That means, if the board doesn't have it tonight, they can say this application is incomplete and not grant the waiver. On the other hand, the applicant often doesn't want to spend the time or money until approval is granted from the Township first.

Mr. Herzl questioned the traffic study.

Mr. Vogt said a traffic impact analysis was submitted which is a summary report. They are ok with accepting the report for local Planning Board hearing purposes. Ultimately the County is going to review this traffic impact analysis since it is their roadway and they may require additional information for their determination.

Mr. Rennert said when variances are requested, this board wants to see what sort of impact the project would have on traffic so they can decide if variances should be granted or not.

Mr. Vogt said part of where they struggle with this is that even though the UDO now requires a traffic study, it doesn't specifically say what a traffic study is. It doesn't say that a traffic study includes counts, level of service analysis, full detail circulation. If the UDO defines what should be included in a traffic study then the board would know what they are giving up. He can't tell them definitively what the difference is between their traffic impact analysis and whoever was thinking of a traffic study because there is no detail in the UDO.

Mr. Rennert said then they really aren't sure if a waiver is being requested.

Mr. Vogt said they are calling it a traffic impact analysis.

Ms. Morris said they could title the document as a study, regardless of its contents, and it would fulfill the requirement.

Mr. Rennert asked what the County would require.

Mr. Vogt said the County is going to require enough information on each application to make a determination as to what the safe ingress/egress is and what improvements, if any, are necessary to the County roadways.

Mr. Brian Flannery, P.E., P.P. was sworn. He said if he had submitted the traffic assessment, he would have called it a traffic report and it wouldn't have been discussed further. The County is inclined to ask for more information and typically on an application like this, if the board acts favorably, they would find out what the County exactly needs. The applicant had spoken with some neighbors who spoke about maybe changing things so he doesn't want to get too far down the road with the County without knowing where this is going. This is a unique situation and a unique piece of property.

Mr. Vogt said submission waivers for the B-Site features within 200 ft of the site are supported since there is enough information on the plans. The land is partially developed and mapping does not show any environmental constraints so the waiver from providing an EIS is also supported. The waiver from providing a tree protection management plan is supported for hearing purposes only. If the application is approved, they would have to document compliance with the tree ordinance as part of compliance. Finally, a submission waiver was requested from providing architectural drawings. They have architectural, however, they do not appear to be consistent with what the applicant is proposing on the plans.

Mr. Flannery said these are going to be custom lots. He is sure the board knows this neighborhood, it is an exclusive neighborhood. They showed boxes on the plan because they don't know what they are going to build. If the board acts favorably, they are going to create eight 12,000 sf lots in an R-12 zone and the buyers of those lots would pick houses that fit without any additional relief and submit a plot plan showing exactly what is going to be built. It is his opinion for a checklist requirement on a subdivision like this that asking for architectural plans really is a meaningless step.

Mr. Rennert really wants to understand what was submitted in lieu of the traffic study.

Mr. Vogt said the issue is the UDO does not specifically list what should be included in a traffic study. He is looking at the report entitled 'Traffic Impact Analysis' by Morgan Engineering & Surveying. It begins with site description, roadway characteristics including access, proposed roadway improvements, a conclusion statement based on the anticipated site traffic volumes as well as attached NJDOT data. It is not a complete study but there is not a requirement in the UDO as to what a complete traffic study entails.

Mr. Rennert asked what the conclusion of the traffic study is.

Mr. Vogt said there is a reference to RSIS standards that indicate that for traffic generation purposes, the subdivision will generate 10.1 peak trips for eight single family detached dwellings for a total of 81 trips. Based on other uses within the vicinity of the subject site, these additional 81 trips should not negatively impact the surrounding roadway infrastructure. There are references to 24 hour volume studies that were performed by the NJDOT. It goes on to conclusions, the proposed development intends to construct eight residential homes. All of the proposed lots will be accessed from the newly proposed cul-de-sac. The dwellings are consistent with other uses in the vicinity and the trips resulting from eight residential homes should have a negligible impact on the surrounding roadway infrastructure considering in 2013, there were traffic counts a mile west and a mile east of the site that had volumes of 20,000 and 13,000, assuming they mean average daily trips, respectively. It is concluded based on the information presented above, the construction of the eight residential homes can operate successfully considering the existing roadway infrastructure.

Mr. Flannery said the County doesn't have it spelled out either but the County is going to tell them to look at certain intersections. The board engineer doesn't deal with this road on a regular basis, the County does and they know where they've taken counts before and know where they would look for impacts. If there is a problem that needs to be fixed, the applicant would have to comply and the County will collect impact fees.

Mr. Flanbaum said he is fine granting the waivers. This application does front on a County road so they would make the determination as to whether or not egress/ingress is sufficient. He also agrees with the applicant's engineer that for a residential subdivision, it is a waste of time to submit architectural. It is much more important for commercial, industrial, schools but not with a project like this.

Mr. Rennert asked if it is a level service 'C'.

Mr. Vogt said there is not enough detail in the report to determine what the level is.

Mr. Rennert asked if the counts included the basement apartments.

Mr. Flannery confirmed but you are not going to change the level of service with only eight houses. There will be a 'C' level of service coming out of that entrance. The County takes different trip generations in Jackson, Brick and Toms River than they do in Lakewood and when this applicant goes to the County, he is going to hire McDonough and Rea and they are going to get the traffic report done.

Mr. Rennert asked when they are trying to figure out the trip generations if it is based on how many units are being built.

Mr. Flannery said the standard procedure is the number of units being built times a Lakewood trip factor.

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

Mr. Vogt said variances are requested for minimum lot width. Design waivers are also requested for sidewalk along the west side of the cul-de-sac, from proposing non-radial lot lines, from proposing a shade tree/utility easement along West County Line Road and from proposing street trees along the West County Line Road frontage.

Mr. Flannery said they are no longer seeking relief from providing a shade tree/utility easement and street trees along West County Line Road. The design waiver for the non-radial lot line is typical when you have a cul-de-sac and they are asking for a design waiver from providing sidewalks on the west side of the cul-de-sac where no homes are being proposed and to the rear of existing homes. Obviously if the board feels there should be sidewalks there, it

would be provided but it is his testimony that this would be a case where it makes sense to grant the sidewalk waiver.

Mr. Flancbaum thinks there should be sidewalks all around new cul-de-sacs because you have families and children playing in the street even if there aren't houses there. It's a safety factor.

Mr. Herzl agrees.

Mr. Flannery said if you look at exhibit A-1, this is unique in that most cul-de-sacs have houses on both sides.

Mr. Flancbaum understands but there are still going to be people in the street and there should be sidewalks.

Mr. Flannery said if the board wants sidewalks on both sides then they would provide them. Exhibit A-1 is a tax map of the area and shaded in blue are all of the existing nonconforming lots. Exhibit A-2 is the subdivision map submitted showing the proposed lots. The only variance requested is for lot width. They have one lot which conforms, one lot along County Line Road where they gave a right-of-way dedication and are proposing 75 ft which is consistent with the blue lots shown on exhibit A-1 and the rest of the lots will be 86 ft wide. All of the lots comply with lot coverage, area, rear and side yard setbacks. Looking at sheet 18 of the tax map, 45% of those lots have variances and if they look at just block 25, 39% of those lots have variances so these lots aren't going to look out of place. The only people who are going to see the lot widths are the people buying these lots and they would be building beautiful houses.

Mr. Rennert asked if this is the first cul-de-sac in this area.

Mr. Flannery believes it will be the last cul-de-sac in the area because it is developed. There is one cul-de-sac to the east and the rest are pretty much through roads.

Mr. Sabel said there is another property to the west that is not developed.

Mr. Flannery said yes, there are all paper streets in that area. He wouldn't expect to see a cul-de-sac in that area. He went through the Master Plan and MLUL to justify the variances requested. This project will provide a specific type of housing and a density appropriate for this area. The density permitted in the R-12 zone is 3.63 dwelling units per acre and if you look at the remainder of that area, it gets pretty close to that. This project is proposing 2.64 dwelling units per acre because it is compliant with the 12,000 sf minimum and it is proposing a single loading cul-de-sac.

Mr. Rennert asked if the road is being factored into the lot area calculation.

Mr. Flannery said no, the lot areas are all 12,000 sf without the road. It would be a dedicated 32 ft wide cartway, RSIS compliant cul-de-sac. The right-of-way is 50 ft wide which provides sufficient room for sidewalk on both sides.

Mr. Herzl asked if buses and trucks would be able to turn around.

Mr. Flannery said it is RSIS compliant so it would be the same as every other cul-de-sac that has been built since the 90's. A garbage truck can turnaround if cars aren't parked. It is his testimony that the variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. This project proposes a public right-of-way which would need DPW approval including garbage cans which would be rolled out to the curb and a maintenance agreement where there would be a one-time fee made by the developer. Review comment #3 talks about the driveways but all of these driveways

and all of the site features shown here are typical to show how much can fit and the type of houses people are going to build. These aren't the actual driveways that are going to be built as each lot would have a custom home. Review comment #8 they would certainly comply with the bypass areas and any other Township requirements.

Mr. Herzl asked about comment #12.

Mr. Flannery said some details need to be added and as indicated that can be done during resolution compliance. The drainage system has enough detail to see it works but as the board engineer indicates, additional information has to be submitted during resolution compliance.

Mr. Herzl asked if a lighting plan would be submitted.

Mr. Flannery said yes, it would be submitted as part of resolution compliance.

Mr. Herzl said no lights should spill out into the neighbor's property.

Mr. Flannery agrees and they would submit a plan to be reviewed and approved by the board engineer.

Mr. Weiss said the applicant agrees to condition the approval that submission must be made to the Ocean County Planning Board for their comment and approval.

Mr. Michael York, Esq. on behalf of one of the objectors. He said the plans were labeled as multi-family homes. He asked if multi-family homes are being built.

Mr. Flannery said the architectural plans were labeled as two-family which the applicant is not proposing.

Mr. York asked if the applicant is asking for basement apartments.

Mr. Flannery said the applicant is asking for residential lots where he can build whatever is permitted by Lakewood ordinance which permits basement apartments.

Mr. York was unable to locate in the ordinance where it says a basement apartment is allowed and if in fact a basement apartment is allowed, he questioned that would be a second family and it would affect the notice because the notice clearly says they are building single family homes.

Mr. Flannery said they are not asking the board to allow basement apartments. They are asking the board to subdivide this three acre property into eight 12,000 sf lots zoned R-12 to permit whatever is allowed in the R-12. He would be happy to show Mr. York where in the ordinance it says basement apartments is allowed but that is not part of this application.

Mr. York asked if the applicant agrees that they will not build basement apartments.

Mr. Flannery said the applicant is very clear. They want this three acre lot divided into eight 12,000+ sf lots with all of the rights of any other R-12 lot in Lakewood.

Mr. York has no problem as long as it includes not building basement apartments. His problem with the basement apartments is, again, it is not in the ordinance and if it is not in the ordinance then the notice is wrong.

Mr. Herzl believes it is a single family with a basement and it is not considered a two-family.

Ms. Morris said it is not in chapter 18 because it applies to building code requirements which this board doesn't deal with. However, it does come up regularly before the board and their understanding is that there are specific classifications in the building department for the type of housing so that they meet the proper building code requirements with regards to occupancy and those may or may not match exactly the terms used in this setting, however, this board has conventionally understood these to be single family homes with potential basement apartments which are not the jurisdiction of this board to CO, to inspect or to determine what is allowed or what is not allowed.

Mr. Flannery read from section 18-910 labeled basement apartments, ' A. Purpose. The purpose of this section is to regulate basement apartments as defined herein within the Township of Lakewood to ensure the apartment's compliance with safety rules and regulations. B. A basement apartment must meet all requirements of a basement as defined by State codes and statutes. C. Definitions. A basement apartment must have an address designation and mailbox recognized by the USPS, along with a kitchen, bathroom, bedroom and living area that is solely contained beneath the ground floor and separate from the residence above the ground floor. D. Permitted Use. Basement apartments are permitted uses in all residential zones or those that have been grandfathered because they have been established prior to any zone change except as set forth in paragraph I of this section. E. There shall be only one (1) basement apartment per single-family residence to include townhouses and condominiums. The said basement apartment shall be a rental unit for lease. F. The basement apartment must have its own independent means of entry and exit as well as a secondary egress window or door in accordance with all requirements of the State codes and statutes. G. The basement apartment and upstairs unit must have access to all utility meters and shutoffs. H. The basement apartment and the area above ground level must be separated by a fire separation system, have smoke and carbon dioxide detectors pursuant to both State and local codes. It must totally comply with all the requirements of the Uniform Construction Code. I. Prohibitions. Basement apartments are prohibited in the A-1 Agricultural Zone and age restricted communities.'

Mr. York now agrees that basement apartments are allowed in the R-12 but the problem is the notice is defective. The notice says they are building single family homes and are limiting this application to single family homes. If they are planning on putting in basement apartments then the notice is defective.

Mr. Jackson said the applicant is seeking lots for single family homes like every other lot in Lakewood. If someone can go to the building department and get an approval for a basement apartment that is up to the applicant at that time just like it is for any other homeowner so the applicant is not seeking anything more than a single family home and they are not precluding future purchases from going in and getting a permit just like any other property owner is allowed to. He understands what Mr. York is saying but this is the way this board has always governed these matters and it is the way Lakewood works so he has no issue with the notice. This applicant is not seeking multi-family, duplexes or basement apartments. The applicant is asking for single family lots with all of the rights and privileges that go with that.

Mr. Weiss said he was retained in November and had renoticed and republished this application. He believes that he gave the public sufficient notice about what this application was going to curtail. He did say in the application that these are single family detached dwellings and they are permitted in R-12 zone. This is definitely not multi-family and it certainly isn't any type of structure that would define multi-family.

Mr. Jackson said the board is satisfied with the notice and to move on.

Mr. York asked what the minimum lot frontage is for these properties.

Mr. Flannery said if he is referring to lots 38 through 57, those lots are 100 ft wide, lot 38 is 89 ft, lot 39 is 90 ft and 40 is 79.2 ft.

Mr. York did not mean lot width. He asked what their minimum lot frontage is on Cedar Row.

Mr. Flannery said 90 and 100 ft.

Mr. York asked what the front and rear yard setback requirements are.

Mr. Flannery said the front yard setback requirement in the R-12 zone is 30 ft and the rear is 20 ft.

Mr. York questioned if this proposal in essence is creating a second front yard for the lots to the west.

Mr. Flannery said it could be viewed that way. Lakewood ordinance has a couple of definitions for through lots and reverse frontage lots which implicate things differently. The answer is maybe.

Mr. York said any kind of accessory structure which is more than 20 ft closer to the road would be a nonconformity.

Mr. Flannery said yes, it changes from a rear lot.

Mr. York said then this proposal creates nonconformities for his client and neighbors.

Mr. Flannery said yes, if there are existing structures then they would be existing nonconformities.

Mr. York said if their home is 20 ft from the proposed cul-de-sac then it would also be considered a nonconformity.

Mr. Flannery looked at the aerial and didn't see any homes but if there was a home, 20 ft would create a nonconformity.

Mr. York said as a result of this application.

Mr. Flannery confirmed.

Mr. York asked if they were to remove just one of these eight homes then no variances would be needed.

Mr. Flannery confirmed.

Mr. York asked what the hardship would be in asking for these variances.

Mr. Flannery said he didn't mention a hardship but said there is a C-2 variance where the benefits have to outweigh the detriments.

Mr. Jackson pointed out that the statute states that the benefits must substantially outweigh the detriments.

Mr. York asked what the overall benefit would be to the community.

Mr. Flannery said any development of this property with residential lots, since it only has access to County Line Road, is going to have to put a roadway in along one property line or the other creating a (inaudible) situation that he expressed on the other lots. If he is asking about a hardship, that would be a hardship in developing this property. The unique shape of it would require a roadway either on the west side as proposed or on the east side. The benefits include a need to project for the housing population, getting an appropriate population density. The population density permitted in the R-12 zone is 3.63 units per acre and they are substantially less.

Mr. Jackson said under the MLUL it states that C-1 is a hardship due to the peculiarities of the lot topography, shape, situations uniquely affecting the lot. Under C-2, when you advance the purposes of the MLUL and the benefits substantially outweigh the detriments then you can make the determination that it meets the positive criteria. You can meet the positive criteria under C-1 because you have a hardship or under C-2 because you advance the purpose of zoning and if granted, the application substantially outweighs any detriments. Then you have to do a negative criteria test and ask if there is substantial detriment to the zone plan, the neighborhood and to the master plan. The applicant said they don't meet the positive criteria under C-1 so they go right to C-2 so you ask yourself what are the benefits. Mr. Flannery said the benefits are there is appropriate population densities and he believes that benefit substantially outweighs any detriments. He suspects Mr. York is going to say it is too dense, it is undersize, too populated.

Mr. Herzl said these are technically lots that would have two frontages which is usually considered rare.

Mr. Jackson said that is something they would have to factor in when making a decision.

Mr. Herzl asked if there is any law that this applicant cannot build a road behind these lots if it is going to make them nonconforming.

Mr. Jackson said there is nothing that prohibits it but the board may look at it as a detriment and they may say the benefits do not substantially outweigh the detriments of making all of those lots now double fronted and affectively making 6 or 7 lots nonconforming. He asked if Mr. Flannery agrees that due to this application, all of those lots would not be nonconforming.

Mr. Flannery first wants to point out that any development of this property is going to require a road along the property line and that is a hardship.

Ms. Morris said at least this applicant is providing a fully compliant RSIS right-of-way as opposed to easements or the roadway counting towards lot areas which this board has seen a lot of in the past.

Mr. Flannery said in the definition section of the ordinance, there is a definition, reverse frontage lot which these clearly would be if this project is built. A reverse frontage lot is defined as a lot which fronts upon two parallel streets, and is not accessible from one of the parallel streets. Reverse frontage lots shall have one front yard, one rear yard and two side yards. His definition would be, the rear yard stays a rear yard, it has a front yard on the street it has access to and has two side yards.

Mr. Jackson asked him why they wouldn't have access to the road behind it.

Mr. Flannery said because they are already constructed on the other street.

Mr. Jackson said that doesn't mean they can't punch a curb through.

Mr. Flannery said then they would be creating their own problem.

Mr. Jackson argued that doesn't mean they don't have access. They have access if the road is behind them.

Mr. Flannery said they would have no physical access. It doesn't say they don't have the ability and it doesn't clearly define it. In other towns they put what people refer to as a spite strip. They put a one foot strip along that property so now it doesn't front on it.

Mr. Jackson said a lot of times that is done to control access because someone may not want traffic coming in on the other side of the road.

Mr. Herzl asked if there would be any houses within 30 ft of the new road.

Mr. Flannery didn't see any looking at Google Earth. The applicant would happily put a 6 ft fence along that line to close it off so there is no access. If the property owners want to be considered reverse frontage lots and have that a rear setback, then that could be accommodated with the Township but in his opinion it's already there.

Mr. Jackson asked if Mr. York's client would be happy if the applicant eliminated one of the lots.

Mr. York said no. He asked if it is Mr. Flannery's testimony that the benefits of this entire application outweigh the detriments of his client and the neighbors.

Mr. Flannery doesn't think the intent of the MLUL is to fake personal benefit and detriment. The benefit is to the general public. He balances the benefits and the detriments to the public good based on the Master Plan and the MLUL.

Mr. York said the only detriments to the public good would be to his client. He asked if there is a detriment to the Township.

Mr. Flannery said it seems the detriment to his client would be creating a front yard setback issue which, per the definition of the ordinance, they put a fence up so it was inaccessible then it no longer is a front yard setback. By ordinance, if they reduced all of the lots so all of the widths were there, that would not change what would occur to their client. The only way they can change that is to flip the road to the east side and then people along the east side would have the road there because there is a hardship to this property to develop it as an R-12 residential other than one big lot or the other uses permitted in the R-12 which are schools, shuls and daycares. He thinks the neighbors would be impacted more by a school, shul or daycare than they would by this subdivision.

Mr. Jackson said once you get past the positive analysis, then you have to ask no variances or other relief may be granted without a showing that such variances or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. It is not necessarily specific to the house next door except to the extent that disrupting the house next door disrupts the zone plan in general.

Mr. Flannery said with respect to the house next door, it is clear on this application that they are asking for a variance. They are here saying they would do whatever is necessary. They can buffer and/or provide a fence so that any impact is limited but the property is not going to be developed as one single family home.

Mr. York asked if it is proposed to have the sight triangle easement on the western portion of this new road.

Mr. Flannery said they would propose an AASHTO sight triangle easement which testified earlier, is 8 ft back from the stop bar. It is his opinion that would not impact the lot next door and the sight triangles are something the County requires. Any approval by this board would be subject to getting the County to agree that the sight triangle proposed is appropriate.

Mr. York said in order to get a sight triangle from lot 58.02, they would have to seek their permission.

Mr. Flannery said the sight distance they would need would be accommodated within the right-of-way and that they would not need lot 58.02's permission. The County's normal standard is 30 ft and they would need permission from that. If they are unable to obtain it from lot 58.03 then the County would approve a waiver to use the AASHTO sight triangle which is a recognized standard. The County would normally ask for a 30 x 100 ft sight triangle easement.

Mr. Jackson said the County could condemn it because the sight triangle is there for safety reasons.

Mr. Flannery said RSIS relies on the AASHTO sight triangle and it doesn't go as deep as the County sight triangle.

Mr. Rennert asked if the applicant is unable to provide a County sight triangle then it should be a right in/right out only for safety.

Mr. Flannery said if the board feels that way then they would agree to it. He doesn't know of any other roads that are like that. It is his testimony that the County is going to require that they have adequate sight distance.

Mr. Herzl has an issue making a left turn with no light.

Mr. Flannery said the applicant agrees to right in/right out but it would be subject to County approval.

Mr. York said it is noted in the review letter that the drainage plan is incomplete. He asked when it would be completed.

Mr. Flannery said it would be completed during resolution compliance.

Mr. York said the objectors aren't able to cross examine as to what the proposed drainage plans looks like and the same goes for storm management. He assumes if the board acts favorably, that would also be completed during resolution compliance.

Mr. Flannery confirmed.

Mr. York asked if that goes for the lighting plan as well.

Mr. Flannery confirmed.

Mr. York said again, his client won't be able to cross examine Mr. Flannery on that as well.

Mr. Jackson said the board could carry the application so the applicant's engineer could make the revisions and then Mr. York can cross examine.

A motion was made and seconded to carry the application to the May 8, 2018 meeting.  
All were in favor.

**6. SP 2210 First Lakewood Forest Associates**

114 Clifton Avenue Block 90, Lot 8

Preliminary and Final Major Site Plan for a 5 story office and retail building

Ms. Morris said there is a jurisdictional concern in that this applicant is making use of the new zone map adopted in December 2017 but not making use of the rest of the ordinance from December which now requires parking above the second floor in the B-2 zone.

Mr. Adam Pfeffer, Esq. said this application was submitted over a year ago and this goes back to the time when they had tech hearings. There was also another similar application that was also trying to move forward but there was an error in the Township zone map, however, it was never fixed. The Township was in the process of fixing it and was going to adopt the new zoning map but at the same time when they were doing the Master Plan, they decided to do it all together. They tabled the application as they needed jurisdiction to move forward. The Township has since fixed the error which was adopted in the Master Plan. The zoning map was incorrect and it has been acknowledged that it was incorrect. This is a fully conforming application.

A motion was made and seconded to carry the application to the April 10, 2018 meeting.  
All were in favor.

**7. SP 2186 Bais Reuven Kamenetz of Lakewood, Inc**

Cedarbridge Avenue Block 1160.01; 1160.12, Lots 386 & 387; 261

Preliminary and Final Major Site Plan for a school

Mr. Jackson said he has a conflict and as a result, this application cannot be heard.

A motion was made and seconded to carry the application to the April 10, 2018 meeting.  
All were in favor.

**8. SD 2320 Barry Eichenstein**

14 & 19 Primrose Drive Block 11.01, Lots 3.03 & 4.07

Minor Subdivision to realign lot lines

Ms. Morris said the applicant failed to provide proper notice to one of the utility companies on the certified list.

A motion was made and seconded to carry the application to the April 10, 2018 meeting.  
All were in favor.

**9. SP 2267 640 James Street, LLC**

640 James Street Block 385, Lot 4

Preliminary and Final Major Site Plan for an office and warehouse building

Ms. Morris said revised plans were never submitted for this application as per the Board's request at the previous public hearing.

A motion was made and seconded to carry the application to the April 24, 2018 meeting.  
All were in favor.

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

Ms. Morris said there was doubt as to whether or not this qualified as a creeping major subdivision and would need amendments to the application and notice. As a result, she noted this would be carried and then shortly thereafter, the engineer confirmed it is a minor subdivision but since she had already listed it to be carried on the agenda, they didn't think it would be wise to change it at this point.

A motion was made and seconded to carry the application to the April 10, 2018 meeting.  
All were in favor.

## **6. CORRESPONDENCE**

- **SD 2144 Chaim Abadi** – administrative change to adjust and correct approved lot areas

Mr. Joe Kociuba, P.E., P.P. said during the process of finalizing the subdivision it was determined that the surveyor had an error in the outbound of the property, namely the curve forming the Miller Road right-of-way. As a result, the lot areas have changed slightly. The original approval detailed that the lot area of Lots 11.01 and 11.02 after dedication of land to Ocean County to be 9,614 sf and 9,688 sf respectively. The resolution of approval noted, the Lot 11.03 was to be "slightly larger than 10,000 sf. Due to the amended outbound, approximately 152 square feet of area that was thought to be part of the lot in question was actually part of the Miller Road right-of-way. In the enclosed amended minor subdivision plan, Lots 11.01 and 11.02 were increased in area by approximately 1 square foot each respectively. The area of Lot 11.03 reduced from 10,404 sf to 10,254 sf (a reduction of 150 sf). This reduced size of Lot 11.03 remains consistent with that determination by the Board. It is by correspondence that we request the Board approve this very minor change to Lot 11.03.

Mr. Jackson said the data is just being made more precise.

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

- **SD 2208 Prospect Street Holdings, LLC** – correction to existing approval termed "major" subdivision where approved lots only constitute a "minor" subdivision

Mr. John Doyle, Esq. asked that the application be corrected to reflect the fact that this is a minor subdivision, not a major subdivision.

Ms. Morris said originally it was a major but the board wouldn't approve the number of lots the applicant wanted and over the course of the public hearings, the number of units was reduced and as a result it is actually a minor subdivision.

Mr. Brian Flannery, P.E., P.P. said the main issue is it is harder to get County approval if it is a major.

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

• **SP 2134 3G Corporation** – adjustment to property boundary lines as required by Ocean County

Mr. John Doyle, Esq. said this board approved the expansion of a Wawa on Squankum and East County Line Road. Critical to it is the light on Squankum opposite where East Kennedy continues. After it was approved by this board, the County said they wanted to keep the two-way access in and out.

Mr. Herzl said they recommended that it should be a one way in.

Mr. Doyle said they had to apply for it as one-way. The traffic signalization devices that would have to be revised were within 10 ft of the property line between this applicant and the neighbor. The neighbor at the time did not wish to be part of the application and they had no choice. The County was clear, and the Township would have preferred the two-way, but because of that technicality they couldn't do it, and the County is clear that they want to keep the in and out on Squankum. It is right in/right out only on East County Line Road which is not changing. The only change, in effect, is to continue what has always been there. The neighbor and his client have come together and there was a slight transfer of property to facilitate what is going to the County for the traffic signalization. It is a County road and the County wants to preserve it as is.

Mr. Herzl asked if anything else is changing besides the entrance on Squankum Road.

Mr. Doyle said nothing is changing from what the board had approved.

Ms. Morris pointed out that the in and out on Squankum works now without the property transfer.

Mr. Doyle said it does but the County wants to refine the radius and they need to do something more modern with the traffic light which requires another box which for safety needs to be just outside their property.

Mr. Herzl said whatever he is stipulating on the record is due to the County requesting it.

Mr. Doyle confirmed.

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

- **SD 2007 Times Square Holdings, LLC** – revisions to approved subdivision as per NJDEP requirements
- **SD 2008 Berkshire Investments Holdings, LLC** – revisions to approved subdivision as per NJDEP requirements

Mr. John Doyle, Esq. said these are two separate applicants and two separate applications but because they are next to each other, the board had them do the applications together. After getting approval for 45 lots, the NJDEP knocked them down and they lost 14 lots. Nothing else is changing in the application.

Mr. Brian Flannery, P.E., P.P. said it is the same applications, just the lots in the back aren't being built. After CAFRA approval, they are proposing 13 units and a shul on the one and the other would be 18 lots.

Mr. Herzl asked if it would be vacant area.

Mr. Flannery said yes, it would be donated to the Township.

Mr. Jackson said he uncomfortable with SD 2007 because the whole geometry of the road and lots are different. He is concerned about the houses around it.

Mr. Flannery said the properties around that development would be the other project.

**SD 2008**

Mr. Jackson asked what would happen to the area in the back.

Mr. Flannery said it would be dedicated to the Township.

Mr. Jackson asked if there would be a conservation easement on it.

Mr. Flannery said yes, it would remain undisturbed.

Mr. Jackson said he doesn't have an issue with that.

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

**SD 2007**

Mr. Doyle said they are shortening the cul-de-sac.

Mr. Flannery said the geometry of some of the lots changed a little bit.

Mr. Meyer questioned why CAFRA wantw the odd shape.

Mr. Flannery said they got into this situation because Marshall Weisman had owned both of these properties and some other property 20 years ago in the same name so the NJDEP looked back through their records and saw that so then they had to get a CAFRA permit.

Mr. Jackson asked if any zoning, stormwater management, or environmental regulations changed since the approval.

Mr. Flannery said by going to CAFRA, they put in a bigger stormwater management system and spent more money then what was originally approved by the board.

Mr. Jackson believes an amended application should be submitted.

Mr. Flannery said there are no new variances and the lots around the cul-de-sac were tweaked a little.

Mr. Herzl thinks the applicant should come back as well.

Mr. Doyle said they are not creating any new variances there are less lots being proposed.

Mr. Flannery also pointed out that the new lots are larger. He asked that they come back under correspondence and he would provide detailed information concerning the new lot sizes.

• **SD 2010 Jacob Lipschitz** – waiver request for curb and sidewalk along Route 9

Mr. Joshua Schmuckler said the applicant would like to put the sidewalk in with no curb.

Mr. Herzl questioned why they do not want to install the curb.

Mr. Schmuckler said it is a State highway and they want to leave it as it is.

Mr. Vogt said if this is a State highway, he cannot speak to this.

Mr. Rennert wants to see a letter from the State indicating they do not want curb.

Mr. Jackson said the board cannot grant a design waiver without notice.

Mr. Schmuckler said they would notice and come back.

Mr. Jackson recommends they come back with an amended application. This should not be heard under correspondence.

• **SP 2226 Bnos Devorah Inc** – addition of a pool to approved site plan

Mr. Joshua Schmuckler said they would like to add a pool to the site. The pool will not be used for any outside use. It would only be used for the school and the daycare in the summer on the campus. The adjacent properties are wooded and there are no surrounding neighbors.

Mr. Sabel said there is a paper street behind this school and it will be developed in the future. He asked if a fence could be provided.

Mr. Schmuckler agrees.

Mr. Herzl asked if any new variances are being created.

Mr. Schmuckler said no.

A motion was made and seconded to approve.

All were in favor.

**7. APPROVAL OF MINUTES**

**8. APPROVAL OF BILLS**

**9. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Sarah L. Forsyth  
Planning Board Recording Secretary