

## **1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE**

Vice Chairman Eli Rennert 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 *The Star Ledger* 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 & SWEARING IN OF PROFESSIONALS**

Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Flancabaum, Mr. Rennert, Mr. Meyer were present.

Mr. Terence Vogt, P.E., P.P., C.M.E. was sworn.

## **3. PUBLIC HEARING**

### **4. SP 2419 Bnos Devorah**

Oak Street

Block 1149; 1152; 1153, Lots 1, 5, 6; 1, 5, 6

Preliminary and Final Major Site Plan for a school

Mrs. Morris said this applicant has requested to carry this application to a future meeting date. They're still working with some neighbors. I recommend we make an announcement to carry this to the June 8<sup>th</sup> meeting.

A legal announcement was made to carry the application to the June 8, 2021, public hearing with no further notice.

### **1. SD 2470 Joseph Bitton**

40-52 8<sup>th</sup> Street

Block 165, Lot 10

Preliminary and Final Major Subdivision to create six lots

Mr. Vogt said per our letter dated May 20, submission waivers include traffic study, topo, contours, and manmade features within 200', EIS, and architectural drawings. We can support the waivers for hearing purposes for reasons stipulated in the letter.

A motion was made and seconded to support the submission waiver requests in accordance with the engineer's recommendations. All were in favor.

Mr. Vogt said under zoning, section 2, variances are required for several lots for minimum lot area. As well as a rear yard setback variance for proposed Lot 10.05 and for Lot 10.06. That's all the relief.

Mr. Joseph Kociuba, professional engineer and professional planner, appeared on behalf of the applicant. He said Mr. Bitton is on the meeting as well. Mr. Kociuba was affirmed. He said the application is proposing to subdivide an existing parcel into six lots which will maintain three duplex structures. We are proposing sidewalk, four parking stalls per unit. The lot is 30,020 sf so as far as density and lot area, we have enough to create six units. What we are requesting as far as relief is the two more rectangular sets of duplexes on the west, instead of 10,000 sf we are providing 9,900 sf and taking that little bit of extra area and giving it to the last two units on the east side of the property simply due to the unique shape of the lot. As you can see on the plan before you, the property is not a

rectangle, it has a substantial angle at the end of the property due to the railroad. So it makes development of that last lot specifically, the furthest lot to the east, more difficult to properly improve. We do have an average of 10,000 sf per unit, but we're just providing the extra area on those last two units that's 10,220 sf. The rear yard setback is due to the unique nature of the property. Terry's office indicates that the eastern property adjacent to the railroad is considered a rear yard rather than a side, which requires relief. The angle there is unusual, greater than 45 degrees, and it acts more as a side yard to this property than it does a rear yard. So we've designed it to have a 7' setback which would comply with the side yard requirement, however due to the technicality of the layout we require relief. That relief can be granted under the C1 and C2 criteria. Obviously this is a very uniquely shaped piece of property, and relief there is necessitated due to a hardship. There was a question regarding connection to an existing drainage pipe on the property to the west. That's a park, that's owned by the Township, there's a drainage pipe that flows through that property to the north up to 8<sup>th</sup> Street. The pipe is not located in an easement, but it's on public property, so we feel we can connect to that and provide our drainage through that location. That's how the entire area is currently drained. We are providing street trees as required by ordinance, we are providing sidewalks and adequate parking. The layout of the units and the relief being requested, as indicated, can be granted under the C1 criteria due to the shape of the property.

Mr. Rennert said what's on this block, across the street and further down.

Mr. Kociuba said immediately across the street is other duplex units, and immediately west of here is a park owned by the Township.

Mr. Rennert said four spots off street per units?

Mr. Kociuba said correct.

Mr. Rennert asked for public comment.

Mrs. Morris said I have two emails and there are a couple callers. I will unmute.

Mr. Ari Leiser appeared and was affirmed. He said I live directly across, 45 East 8<sup>th</sup> Street, over twenty years now. Our block is a very unique, very long, block. We are happy here for many years. New neighbors coming in, we have one safety issue. Almost every block in Lakewood that's a dead end has a large cul-de-sac for emergency vehicles to have a turnaround. We don't have that. It goes directly into the railroad area. We had two fires, including most recently. It was very dangerous and scary, there was no place for the emergency vehicles to come in and be able to turn around and be there safely. We would really like to ask the Board to make sure that the plans should include a cul-de-sac, a turnaround area, to make it safe for all of us, the existing people living here and the new people coming in also. It should be safe for all of us. We are also losing a lot of parking over there, and that might help with that. But the main issue is safety for all of us for all vehicles to be able to turn around. They're having at least another 12 people moving in here. We had another two duplexes put up a year or two ago, at the left-hand corner. The north east corner. Which also makes more congested over there. Please make sure to include a roundabout or cul-de-sac there to make it wider on all sides for emergency vehicles to be able to come in and turn around there.

Mr. Rennert said Mrs. Morris, did this plan go to the Fire Commissioner?

Mrs. Morris said I can't say for sure, the applicant is supposed to mail those directly and I have not seen a review by them.

Mr. Leiser said we have a special needs child who had to move off the block because the bus wasn't able to turn around here. They had to sell their house and buy a different one because of this reason.

Mr. Rennert said Mr. Kociuba, do you know if the plans were sent in to the Fire Commissioner?

Mr. Kociuba said we would typically do that during resolution compliance. I don't know that we send a direct submission to the Fire company. I don't see that we submitted anything direct at this point. The dead end condition is pre-existing, this lot was previously fully-developed and utilized as a catering facility, and the duplexes across the street have been there for some time with that condition, and in fact a new duplex was constructed behind and to the north east of those units more recently. I have not submitted to the Fire company for approval at this point.

Someone said Hatzolah ambulances can't turn around there either. It's every emergency vehicle, not only fire.

Mr. Rennert said thank you.

Mr. Vogt said if the Board wants to act favorably, I would ask for the Fire Commissioner's approval as an outside agency approval. Looking at the plans, Joe I'm not sure if there's room to put an RSIS compliant cul-de-sac in. Do you have an opinion on that?

Mr. Kociuba said correct, there is not room here to put an RSIS compliant cul-de-sac in.

Mr. Vogt said the next question would be is there room to put in a turnaround? I'm looking at the corner of the easterly most duplex unit. It looks like you've got room there in the corner to possible put in a turnaround.

Mr. Kociuba said I would have to review that with the applicant. One item I would indicate, an existing condition, currently there's a very large driveway at the northeast corner of this eastern end of 8<sup>th</sup> Street. Very similar to the dead end of 9<sup>th</sup> Street, that provides for a turnaround currently.

Someone said right, a very nice one in fact.

Mr. Rennert said where?

Someone said 9<sup>th</sup> Street has a very nice turnaround, a cul-de-sac, to be very safe. But East 8<sup>th</sup> doesn't have anything.

Mr. Kociuba said the dead end of 9<sup>th</sup> Street on private property, maybe owned by the Township, there is a cul-de-sac but it's the size of the right-of-way, it's not- it doesn't expand beyond the right-of-way. It's not RSIS compliant. They expanded the pavement maybe 8' on either side just to give some kind of a bulb at the end.

Mr. Rennert said let's move on with the public comment.

Mr. Sabel said Terry, are they legally required to provide a bulb for this particular property? Not in general for the whole neighborhood. For this property are they required.

Mr. Vogt said I don't know if they're required. What I'm hearing, and I don't know I haven't been out on this property, I would like to see some form of a turnaround. Again, there's a difference between an RSIS compliant cul-de-sac. A cul-de-sac according to the State design regs has to have a minimum radius of 40'. That locks you into a very large bulb. I don't think you have room here, and I think Mr. Kociuba agrees with me. Assuming that's not feasible, I would like personally to explore the possibility of some form of turnaround with input including but not limited to the fire official, the traffic safety, Public Works. Something sufficient so that when this area is built out, you're going to have an adequate turnaround. I don't know what that looks like right now.

Mr. Sabel said the question is if legally are they requesting a variance or design waiver for this, or they don't have to provide that?

Mr. Kociuba said in my opinion of the RSIS we are not required as the public improvements are already there.

Mr. Vogt said I don't think it's a legal requirement. I think doing something to make the plan work better and the neighborhood work better if this is approved and built, that's what I'm looking at personally.

Mr. Kociuba said perhaps what might be helpful is if Ally could put the aerial up.

Mrs. Morris said I don't think you sent me an aerial.

Mr. Kociuba said we did not prepare a separate aerial. I know in the past you've pulled up Google Maps.

Mrs. Morris said oh ok, hold on.

Mr. Sabel said and the only reason we can require them to do this is because of the design waiver or lot variance, correct?

Mr. Vogt said they are seeking variance relief, so the Board has latitude under the benefit/detriment, if you want to see something done out here I think you have some latitude. I'll defer to John on exactly what that is. Like I said, I'm not looking to hold them to RSIS. I don't think that RSIS works here. I would like to see something, personally. I think a turnaround of some form is a reasonable request.

Mr. Jackson said you're 100% right. When an applicant seeks variances, the Board does not have to grant the approval. And that has to do with the benefits and the detriments, and if you think not meeting the parking requirement is a detriment then they haven't made their burden of proof and you can deny the application. When there's an application with variances, unless it satisfies you that there's a hardship or that the benefits substantially outweigh the detriments under C2, and if there is a hardship under C1 then you have to be satisfied that the relief doesn't substantially impair the intent of the Master Plan-you know there's a whole checklist that you go through. So yes, as Mr. Vogt said, if there's variances you have the discretion to not approve the application.

Mr. Kociuba said and to clarify my testimony is the variances for lot area are de minimis, they're 100 sf on two of the duplex lots to provide a little bit of area for the last lot to provide a better unit there.

Mr. Rennert said let's move on, can we zoom in on the street (on the aerial)?

Mr. Kociuba said you see unit 61 East 8<sup>th</sup> is under construction at the time, that is now constructed. That large dirt area is all driveway now, allowing for a K-turn area.

Someone said that's a private property.

Someone else said that's a private property.

Mr. Rennert said ok. Is there anyone else from the public that wishes to be heard?

Mr. Binyamin Herskowitz of 49 East 8<sup>th</sup> Street appeared and was affirmed. He said I manage the property at 49 East 8<sup>th</sup> Street and my concerns are basically the same as Mr. Leiser. Mainly the safety of the block, there's no turnaround there, and the fire actually happened with the house that I manage, the first fire. The Fire Department

had a very difficult time going down there so I would like to request that there be some safety measure with a turnaround.

Mrs. Morris said we have an email from Mr. Leiser who we spoke with already. Moshe Zeines said I whole heartedly agree with Terry that this application needs a turnaround at the end of 8<sup>th</sup> Street. If the turnaround is only 80 feet in diameter, we will also need no parking signs to ensure that buses will be able to turn around without getting stuck between parked cars. If the turnaround is only 80 feet, I urge the Board to condition the approval on requiring the applicant to request that the Township install no parking signs around the turnaround.

Mr. Yaakov Elazary, 31 East 8<sup>th</sup> Street, appeared and was affirmed. He said I want to add on something more. In the end of 2014, when they put those two duplexes on the other side, a lot of people came out, we hired a lawyer, we went through 2015, and it finally passed through on 8/20/16, practically in the middle of the night, without letters to people's houses. They were delivered, we have proof that it was sent to Jackson, and it went through. I was a little involved and I have two letters here that were addressed to the Planning Board Administrator. One from the Lakewood Fire District, on December 11, 2014, showing access to the property can only be made from East 8<sup>th</sup> Street. It is extremely narrow with car parking on both sides. Access by fire apparatus is comprised. There's only room for one engine to enter the block. After that, additional apparatus must be in line behind the first, creating a serious delay in operations at the end of the block. As we saw by Greenwald they had to come in by the other side and also by the park area. I also have a letter from Remington Vernick Engineers on November 12, 2014. These were received from our lawyer then and it shows on page 3, this also went to the Township Planning Board, to Ally Morris, and review comments: there is insufficient turnaround access for the Township and emergency vehicles that require to serve the proposed lots. Since East 8<sup>th</sup> Street has a 29.5' width and 60' ROW, there appears to be room to install a turnaround as permitted per RSIS standards. Approval of turnaround and site access will be subject to Township and DWP approval. As we know, nothing happened to that effect on the other side of the block. You saw on those pictures, they have a big parking space there, and there was no turnaround made there in the dead of night. There's still a chance to correct it to some extent, on the other side of the street. To have a turnaround. That the garbage trucks don't have to back up into it. God forbid if there's a fire at the end of the block on the left in those duplexes that are hidden, that maybe some fire apparatus will get there properly in time. Otherwise we might have to have keystone cops in bringing down on the railroad. When Mr. Herskowitz said there was a fire in his apartment, it was a small fire, thank god. I think it was a dryer vent fire. But they fire engines had a very hard time to come down. The department liaison was there and he saw it also. It's very important that there be some type of cul-de-sac put there for the safety of the people. Hopefully something can be done. I have these papers in front of me, the Township has them also. I said the dates. The only reason that last one went through, it was pushed off, pushed off, 'til people forgot about it so the special needs child moved out of the way.

Mr. Jackson said I don't have any institutional recollection, if I understand what you're saying there was a previous application across the street from this wherein in the review letters it said there was insufficient room for fire apparatus to turn around and that that application was denied or wasn't built for any reason whatsoever. For some reason. Is that what you're saying?

Mr. Elazary said no it was built. Even though the fire district and Remington Vernick said there would be problems.

Mr. Jackson said so is it your point that it was too much then and it's even more too much now. Is that the point that you're saying?

Mr. Elazary said my point is that even though the people lost out on the block then, lets correct it and make sure it doesn't happen and then there will be no recourse at all and then god forbid you'll be looking for problems.

Mr. Jackson said Mr. Vogt are you familiar with this letter that addressed turnaround radiuses or whatnot?

Mr. Vogt said unfortunately I'm not. I don't have any records at hand as to what the application was or what the issues are. I can tell you that more and more in recent years we've been relying on the Township, people who have institutional knowledge like the fire official, the traffic safety bureau, like public works, getting their input as part of the process, to make sure there are no issues that we're not aware of. I don't have the file on the 2014 application. I can't tell you how that got approved or deemed compliant. Based on what I'm hearing tonight, if it was a problem then if you're adding more now, logic would indicate that you may be exacerbating the problem which is why I'm recommending at least exploring the turnaround at this point. Not revisiting the past.

Mr. Jackson said there's another way of looking at it, that that concern was rejected by the Board because the application was approved. We don't know if it was something done reluctantly-

Mr. Vogt said I don't have the record, I can't tell you-

Mr. Jackson said I agree and this is something the gentleman is bringing up now, I'm just bringing up to the Board that could cut two ways. Mr. Vogt, you raised the same concern in your review. You said we need more of a turnaround.

Mr. Vogt said yeah and again I acknowledge you don't have room for an RSIS compliant cul-de-sac, but RSIS does allow, in the absence of a cul-de-sac, a turnaround. Which is likely going to be smaller in size and you have a little more flexibility in terms of how it can be incorporated on the property. It's much easier in my opinion to do a turnaround. Based upon what I'm seeing and hearing, my opinion is you should explore a turnaround.

Mr. Jackson said sir is there anything else on a different topic you'd like to bring up?

Mr. Elazary said if you need these letters I could mail them.

Mrs. Morris said that's ok, I have them in the old file.

Mr. Elazary said one other concern, the drainage they had mentioned before by the park. What's been happening until now, when we have a very bad rainstorm, that drainage has been bubbling up dirty water. If we're going to have three duplexes there and so much more runoff, and not much place that it can soak down, it's going to be much worse.

Mr. Kociuba said the lot is currently an impervious lot. So to remind the Board, this is a commercial lot that is primarily impervious. It's not as if there's zero traffic coming off the lot or zero stormwater. It is used commercially today, so as far as an exacerbation of traffic it is commercial used as opposed to residential. Regarding the stormwater, we are reducing the amount of impervious that will certainly benefit the stormwater system and we are proposing drywells for the units. If I may, I would like to confer with my client. I believe we can agree to work with Terry and public works to come up with a small hammerhead.

Mrs. Morris said I received another email. This is from Mark Becker. I would like to correct the applicant's professional. He represented this evening that was a previous catering facility on the subject area. He therefore testified that there was a pre-existing condition. However, that representation is inaccurate. Having conducted business with Greenwald Caterers, I can state that the premises consisted of a caterer's kitchen only. The traffic generated by that cooking kitchen was very minimal compared to what is being proposed. The street cannot safely accommodate the proposed development.

Mrs. Leiser appeared and was affirmed. She said right now the driveway into Greenwald is a single driveway. By putting up three duplexes, you're adding another two driveways. Right now there is absolutely no parking on the block. By taking one driveway and making it into three for four cars each, that means we are losing street parking. I wanted to bring that to your attention.

Mr. Rennert said the off-street parking entranceway would be in front of this property, am I wrong?

Mrs. Leiser said no because they're doing three driveways.

Mr. Rennert said right, in front of the house they're doing a driveway.

Mrs. Leiser said it's six houses, right? That means there's driveways along all the front of the property whereas now, to get into Greenwald, it's one driveway and then the rest is a full sidewalk. Now the whole street is going to be driveways.

Mr. Rennert said thank you. He closed to the public.

Mr. Kociuba said I've discussed with my client, Terry is correct and my testimony is we can not provide an RSIS compliant cul-de-sac here. Even a small cul-de-sac would have a detrimental impact on the lot, it would reduce the lot area creating a zoning board issue. But we can provide a small hammerhead on the property to allow a turnaround for emergency vehicles in an easement, and work with Terry and the Fire Commissioner and DPW to come up with a size that works for everyone.

Mr. Jackson said where would that be, and would it be a public improvement, would it be an easement? How would it be configured?

Mr. Kociuba said it would be a hammerhead style extension. Ally if you could put the layout plan on the screen.

Mrs. Morris put the plan up.

Mr. Kociuba said it would be in an easement on the eastern end of the property. We do have a lawn area that would allow us to extend a hammerhead into the property.

Mr. Jackson said Mr. Kociuba can you draw on this?

Mr. Kociuba said Ally can.

Mrs. Morris drew a turnaround on the screen coming off the easternmost driveway.

Mr. Kociuba said that's off the driveway, my thought is that it would be a hammerhead vertically off the end of the tree coming...

Mrs. Morris drew a turnaround coming off East 8<sup>th</sup> Street southwards into the property in the proposed lawn area.

Mr. Kociuba said a box right there, yup. It would be some sort of a hammerhead there in a right-of-way easement to allow for access. We wouldn't be able to dedicate that area to the Town because then we create a density issue on the property.

Mr. Rennert said and if we would give you the density variance...

Mr. Kociuba said you don't have the right to.

Mr. Rennert said ok. It's really the same thing if you give the easement.

Mr. Vogt said I think the easement approach is a practicable option.

Mr. Rennert said would this allow for a fire truck and emergency vehicles to turn around? Would it be big enough?

Mr. Vogt said we would seek input from the fire commissioner and Public Works and work with Mr. Kociuba's office to make sure that the turnaround is adequately dimensioned for that.

Mr. Jackson said emergency vehicles as a general rule don't need to turn around because they usually come with the police and lights and they can do whatever they want. But I think a concern is also the every day – the delivery trucks, etc. And will they be able to use this kind of facility.

Mr. Kociuba said we do design these regularly, especially in townhouse developments. It's a standard use there to have a hammerhead in that fashion, so yes I'm fully confident we can design something that DPW would be happy with.

Mr. Jackson said I don't know if that's one of the Board's concerned, that it be configured to allow the general public to turn around, or delivery trucks, garbage trucks, school buses. But then again is that also a good idea there, or I don't know if that was supposed to be open space or a yard where kids were going to play otherwise. I think you gotta look at the whole picture.

Mr. Rennert said they have a playground on the other side.

Mr. Sabel said sometimes as a threat they tell us they could put a school here. I think this is the time.

Mr. Stern said what's the response about the neighbor who talked about parking being horrendous.

Mr. Kociuba said we are compliant with the parking requirements, we are providing four stalls for each unit. As far as on-street parking that exists there, it sounds to me that it's likely from the units across the street. Those were designed to comply with the parking demands at the time they were installed. The hammerhead will eliminate even more on-street parking, but we are fully compliant. And the applicant has the right to develop his property.

Mr. Stern said is your parking double-stacked?

Mr. Kociuba said yes.

Mr. Rennert said if you took out the last duplex and made it single-family, would you be able to get a compliant cul-de-sac.

Mr. Kociuba said I don't think a single-family home is permitted in this zone. So as far as planning is concerned, I think this is the better alternative.

Mr. Rennert said a single-family home is not permitted, but a duplex is?

Mr. Kociuba said we are in the RM zone, the multi-family zone.



Mr. Elazary said there are single-family homes across the street.

Mr. Rennert said if you would put in a single-family home, would you be able to put in a cul-de-sac.

Mr. Kociuba said no matter what we develop, an RSIS compliant cul-de-sac, the width of that right-of-way is typically 96' wide, which would extend out into this lot considerably. Given that it's an existing condition, the Board saw fit to approve two duplexes two different times, across the street and at the northeast corner, and we've agreed to provide a hammerhead that will benefit the area and provide a turnaround opportunity that hasn't existed for 20 years, I think certainly outweighs any detriments here. The variances are minimal, purely giving an extra 100 sf from two of the lots to one. We still have over 30,000 sf for the three duplexes which is compliant with the zoning. The only other item is the setback to the railroad because it's on an angle. Very limited relief here. I think providing the hammerhead certainly outweighs any detriments that might occur.

Mr. Rennert said ok thank you. I will entertain a motion.

Mr. Meyer made a motion to deny the application, and Mr. Flancbaum seconded.

Mr. Stern asked, if we deny it what is the recourse of the applicant?

Mr. Vogt said I'm going to lean on John, but my understanding would be he could come back with a modified application which is essentially by-right. And we could still require outside approvals including Public Works and the fire official. And still probably end up with a bump out in some form. That's my interpretation.

Mr. Jackson said there are a couple things the applicant could do. They could appeal the denial, in which case they go to court and say the Board's action was arbitrary and capricious. Another option is they would be able to come back with a modified plan that is substantially different, materially different. And that is a judgement call and it would be up to the Board to decide if it's materially different, and if it's different you could hear the application and vote on it.

Mr. Stern said thank you.

All were in favor of the motion to deny the application.

**2. SP 2369 Yeshivas Shagas Aryeh**  
Neimann Road and Cross Street Block 251.03, Lot 19  
Preliminary and Final Major Site Plan for a school

Mr. Vogt said on page three of our May 13<sup>th</sup> letter, submission waivers include signed sealed copy of the survey, traffic study, proof of submission to the County, topo, contours, and manmade features within 200', EIS, Tree Protection management, landscaping, and soil erosion. We can support the waivers for public hearing purposes for reasons stated in the letter.

Mr. Stern said wasn't there a problem with the survey Terry?

Mr. Vogt said there is, if you look at the paragraph in bold under submission waiver 10, we indicated the current survey is not indicative of site conditions. A current survey should be required as a condition of any approval, since some improvements may need alterations. If the Board acted favorably, we would receive and review an updated survey during compliance review.

Mr. Stern said so submission waiver means we don't have to have it to act, but it's a condition of final approval that they submit after the fact. Is that correct?

Mr. Vogt said correct. We have identified that the currently submitted survey is not accurate with regard to current conditions. We recognize that, going back to the tech meeting. We've agree as part of compliance, so we can review existing conditions, we will get an updated survey at that time.

Mrs. Morris said can I clarify on these lists. These submission waivers are all items listed as required for a standard application. Terry is telling you what is missing, and then is indicating whether or not he supports waiving that requirement at this time because he doesn't feel that you need to see it, and that he would review it under resolution compliance. It is something that's typically submitted, but they're asking for a waiver to do it later.

Mr. Stern said ok, I got it.

Mr. Garfield said on this paper from Remington Vernick, page 2 project description, says you're asking for approval to allow three temporary modular buildings to become permanent on Lot 19. A temporary building means lasting for a limited of time. A permanent building is long lasting, durable. It can't be both.

Mr. Vogt said I would wait to get testimony from the applicant's professionals on that issue. A lot of times people think as modular and temporary as the old trailers. Modular construction has really changed over the last 15-20 years. You now have a whole construction where you can have modular buildings as a construction method, but they are permanent building quality. I'd like the applicant to testify further on that.

Mr. Garfield said ok thank you.

Mr. Stern said so Terry you support all of the submission waivers.

Mr. Vogt said for hearing purposes, yes.

A motion was made and seconded to support the submission waiver requests in accordance with the engineer's recommendations. All were in favor.

Mr. Vogt said continuing under zoning, a front yard variance is required for modular building 3, side yard setback is also required for building 3. A variance is required from perimeter buffer requirements in 18-906A of the UDO. We aren't sure, we will get testimony, but parking relief may be required as well. There are no bus loading and unloading areas shown, that would be a variance because it's in section 900 of the code. And any other relief that may be necessary. Under design waivers, a waiver is necessary with regard to curbing along the West Cross Street frontage. It's not clear whether the sidewalk along West Cross Street will be relocated. The Board shall act on the design waiver with respect to curbing.

Mr. Adam Pfeffer, Esquire, appeared on behalf of the applicant. He said Rabbi Kanarek runs this school and it's one of the most prestigious in town. The application tonight is a bit of an anomaly in that nothing is changing from what's existing today. Previously, there were some temporary buildings that were approved. Over the last few years the applicant has made some significant improves to those buildings and we are now seeking to make then permanent. He had Mr. Glenn Lines, professional engineer and professional planner, affirmed.

Mr. Lines said this is an application for three modular buildings that were previously approved as temporary, and we are now coming back to keep them as permanent structures. The modulares have been placed on site, they've

been upgraded over the past year or two. It would be a shame to get rid of them because they're in good condition. Unlike the old modulares that lasted a couple of years, these are more like modular homes. They probably will last 30 or 40 years. Variance number 2 and 3, they're for the existing setbacks to the modular that's located next to the gym off Neimann Road. 24.3' from Neimann Road to the modular where 70' is required. The gym next to it was approved with a 46.6', I'm sorry 69.45' setback to Neimann Road. They're basically in line, they're not blocking any traffic or sight distance, they're on the outside curve of the road. The other two modular are located in the middle of the site, there's an existing house and they've been built to the rear of those. They're in an area that was left open for future development, that's why we have these two modular here. As far as the 20' buffer, we did request a waiver of that. We don't really have any space for it and right now there's a little paved area next to modular #1, that's where the Township had requested we move the solid waste dumpsters up to that location, it's easier for them to get into. As far as the comment number 5 on parking, when this was approved I didn't look up the number but we did have an excess in parking just in case we had an addition to the building. Basically we were at about 150%, and don't hold me to the number, but it was a large amount of excess parking for the school so I know we don't need a variance for that. Bus loading and unloading is along the front of the school. At the time this was approved, we weren't showing where the buses would be staged. But there wasn't a requirement for an actual loading zone. You can see the driveway there is wider, it allows two way traffic and parking for the buses. The white rectangles you see on the pavement, those are buses being loaded in front of the school. That's the variances. On design waivers, we received a waiver from Ocean County to not provide curbing along West Cross Street. They agreed to the waiver as long as we move the sidewalk back. On this application we've provided more of a wandering path along the front of the property for the sidewalk and that allowed us to save some existing mature trees that were between the parking lot and West Cross Street, and that's something the Board was interested in back when this was originally approved. So I'd request that design waiver be continued, as it was approved the way it's shown on the plan. Going on to the letter, I don't have any problem addressing the comments in the letter.

Mr. Pfeffer said am I correct in stating that what the Board sees in front of them is existing today and nothing is changing?

Mr. Lines said yes. This is exactly what you'd see if you drove out to the site today.

Mr. Pfeffer said can you give the justification and the proofs for the existing variances?

Mr. Lines said we have a side yard setback for modular building number 3. There's an existing 23.4' setback which is where 70' is required. Again, this is an existing condition. This is where the modular was approved to be placed and we are on the outside of the curve of Neimann Road, so it doesn't cause any sight distance problems. The original building got a variance of 46.06', so this is just in keeping with the variance. I don't believe that the location is going to be any detriment to...

Mrs. Morris said I'm sorry, if I'm having trouble finding this the Board might as well. Where is this side setback. Is it not a front setback to Neimann? Where's the side. I know the letter says side, but where on the map is it?

Mr. Lines said it is that 24.3... it's technically a side because that's the adjoining lot next door. So they called it out as a side setback. Actually, to the front property line we have 53.72' where 70' is required, and that's right above...

Mrs. Morris said I see, this is the side right here. This is where the property ends. So you're proposing this turnaround on the neighboring property for DPW, do you have approval for that?

Mr. Lines said yes. Where we placed that where DPW wanted it so they don't have to drive into the site and behind the building.

Mrs Morris said so you're very small side setback, it says 4' right here to neighboring Lot 30.

Mr. Lines said correct.

Mrs. Morris said thank you.

Mr. Lines said actually the other corner is 3.4'. And then there's a number under there by the pull off, I think it said 56'. 53.72' is actually the front setback to the modular. Where the existing building is 46.6'. So actually our side setbacks is the 3.4. Really what had been called out as a front setback in Terry's letter, the 69.45, and the 24.23, they're through the neighbor's lot, they're really side setbacks rather than front setbacks.

Mr. Stern said can you show me again where the 3' setback is?

Mrs. Morris said yes. She showed on the site plan where the setback is.

Mr. Stern said and on the north side, on the other property, it looks like just dirt and it says something asphalt.

Mr. Pfeffer said it's a basketball court.

Mr. Stern said a basketball court for the adjoining property, thank you. That's not your property.

Mr. Lines said no it's not, although they overlapped the property line.

Mr. Stern said and the triangle to the left is just dirt.

Mr. Lines said some trees and some dirt, yes.

Mr. Stern said so that side's not impacting anybody.

Mr. Lines said in number 2, where it says minimum front yard setback variances, modular number 3 is 53.72' where 70 is required. The existing yeshiva building is 46.06' where 70 is required. And the gymnasium is well over the 70' required. That's probably close to 120' back to the gym, so that doesn't need a variance for that.

Mr. Stern said so what's the history. I imagine the building came before the Planning Board back in the day when it was built, whereas the three modular went to the inspection department?

Mr. Lines said it did come before the Planning Board as... I don't remember. I know the Site Plan came before the Board in 2011, 2012.

Mr. Pfeffer said the building and the Site Plan. The trailers I don't think ever came before the Board, they went to the building department, they received a permit, they installed them. Usually there's a limitation for how long they can be. Over time, those buildings have been substantially improved and at this point the school has a good use for them and would like to make these permanent, and that's why this application is before this Board.

Mr. Stern said how have they been substantially improved?

Mr. Pfeffer said with regards to the improvements, I do have the builder who is available to give testimony. He had Mr. Abe Auerbach affirmed.

Mr. Auerbach said the school started off as trailers as the schools grew and needed more space. Over time people decided he needs more and more so he realized this needs to be made permanent. So he improved it, obviously we'll be complying with all applicable codes and all the proper inspections are all going to be compliant. We have added walkways to make it safe and compliant. Obviously any parking requirements would be made sure we have sufficient parking to match and to make sure that it's fully safe and compliant.

Mr. Pfeffer said to confirm, these are onsite already.

Mr. Auerbach said they're on site, nothing is changing, nothing is planning on changing. We've upgraded, we've put new siding and new roofing on it. It's all up to applicable building codes.

Mr. Stern said Ally can you pull up the picture that I emailed you from Google Earth? It looks to me that you raised the building, you put in a basement?

Mr. Auerbach said no, we have not added any square footage. We built it to the standards at the time and we increased it and reinforced it up to the applicable codes. There's no square footage being added now. This is what's there now, nothing is proposed to changed.

Mr. Stern said it looks like it's on stilts. Is that how you built it back in the day?

Mr. Pfeffer said Bruce is this a picture you pulled up?

Mr. Stern said yes, this is Google Earth.

Mr. Pfeffer said I just wanted to make sure, John, that we identify this picture, that it's a Google Earth image and that's what we're looking at, which is perfectly fine. I just want to make sure we identify it properly.

Mr. Jackson said I believe all these proceedings are being recorded, so I don't think there's going to be any question what the record is.

Mr. Pfeffer said this is an older picture, this is not what's there today. If you go there today, this is not what it looks like. When you have a picture of a building that's half built, it becomes a little problematic. That's my only point.

Mr. Sabel said Ally, I just emailed you a picture from today if you want to share.

Mr. Stern said while we're waiting to pull that up, what is it we're seeing in the Google Earth thing. Is that like a platform?

Mr. Auerbach said the way trailers are built, they're built on piers and they put skirting around it. I don't know exactly what point in time that picture was taken, maybe it was during construction or maybe even repairs are being done today but I don't know. Again, the way trailers are constructed, which we've reinforced and added supports and added additional footings and piers to comply to make it "permanent." We've built new roofs, we've built additional- we've connected roofs, new exterior façade. Everything is brought up to speed, up to all- everything here was done with permits, fully compliant.

Mrs. Morris pulled up the pictures from Mr. Sabel.

Mr. Sabel said Ally if you scroll down, there's three pictures in the same file.

Mr. Stern said ah, there it is. So it's just a foundation basically.

Mr. Auerbach said that's correct. Obviously someone took it off to do repairs or something, I don't know exactly what stage it is right now, or maybe they're waiting to hear their approval today before they decide if they should get everything- I don't know exactly what's going on there at the moment right now, but I'm telling you every single thing there is fully compliant with all applicable codes.

Mr. Stern said ok.

Mr. Garfield said it's been mentioned that this has been improved and changed, but that was many years ago it seems. Does this meet today's standards for approval?

Mr. Auerbach said yes.

Mr. Garfield said do you have a document showing the approval?

Mr. Auerbach said well again, all permits were pulled at the inspection department and all work done needed new work – new facades, new electrical service, additional piers, additional tie downs. Whatever was necessary to make this a more permanent nature has been done with all applicable codes. Obviously I can share all those permits with the professionals should the Board grant this variance and obviously we will agree to keep it and to clean it up and make it more... figure out what's happening here. But yes, everything was done with the proper permits. I don't have that handy at this second.

Mr. Stern said Mr. Pfeffer, in Terry's report it talks about the classrooms being I guess one classroom per building, but in actuality it's really two per building. I'm not sure where I saw that.

Mr. Pfeffer said on page 4, number 5. The architectural plans show one classroom per building, applicant's professionals indicated that two per modular building are proposed. I guess Glenn, can you confirm. Is it one or two, and either way do we have enough parking? That's the question, do we need a parking variance.

Mr. Stern said before you answer, if you could put a footnote on it, it talks here about getting rid of the basketball hoops. I think that's a profoundly bad idea. Boys need basketball. But the question is, assuming the basketball that's shown on the plans is really not used for parking, it's used for basketball, then how do our parking requirements stack up. Answer it straight and with my variant please.

Mr. Pfeffer said I also want to point out, everything here is existing. We aren't adding more students based upon these trailers. They're there already. So keep that in mind, whatever it is the site works already, parking variance or not. I do agree, I think the basketball courts should remain.

Mr. Vogt said if I can clarify quickly, the intent of our comment was not to remove the basketball courts per se. They're currently striped as parking areas. We were talking about removing the striped parking areas.

Mr. Stern said ok so you're anticipating what I was saying. If we remove the striping and put a no parking sign, but on the site plan that's parking, right? Number 14 on the site plan, it says that's parking. In reality, that's basketball. Can we have dual use? I don't know. I'm trying to avoid having cars zooming in and the kids playing basketball on a foggy day.

Mr. Vogt said that was our concern as well. We are pro basketball

Mr. Auerbach said your points are valid and we will make sure the school is out there watching the kids.

Mr. Pfeffer said let Glenn finish his answer on a technical question.

Mr. Lines said we have sufficient parking for the school and six additional classrooms in the parking area in front of the school. The extra spaces in the back were intended, 20 additional, if they were necessary for parking during student conferences or PTA where you needed more parking because there's no parking on Neimann Road.

Mr. Pfeffer said so it would be off-peak times so that kids would not be sitting playing there.

Mr. Lines said that is correct. And now that Public Works does not have to go down into the back to pick up the trash that was in the back of the building, we could easily... to help with the Board's concern, I agree we don't want cars down there, I'm sure we could put some type of a chain or fence or a gate up at the top of the driveway in front of the school to keep cars and trucks...and then the rest of it could be used during the daytime for basketball.

Mr. Stern said I'm not trying to make you guys crazy. If, from a practical standpoint, you guys never use that parking lot during the day...I'm assuming you're good stewards of these kids. I was just asking the question. I see basketball hoops on Google Earth and I see your site plan shows parking. So during the day, if you eliminated those 20 stalls, are you still compliant?

Mr. Lines said yes we are.

Mr. Stern said so it's a moot point.

Mr. Lines said again, if it would make the Board more confident we could do something to restrict vehicles to get down there in the back area.

Mr. Stern said no, it's fine.

Mr. Sabel said the original building had an unfinished basement and therefore they cannot assess the amount of parking that is needed. What is the condition of the basement now? And the parking that we discussed, is that both for the building and the three trailers, and we're still compliant with parking?

Mr. Pfeffer said yes.

Mr. Sabel said and the basement is not finished?

Mr. Auerbach said the basement is finished and we have all approvals for that to complete the basement for a school use. There is no rental, no bar mitzvah halls...

Mr. Pfeffer said finished as what?

Mr. Auerbach said as a school use. A lunch room, computer room, and all fully up to code. Up to snuff.

Mr. Sabel said does that require additional parking spots?

Mr. Auerbach said no it does not. It's the same school use, the kids go downstairs to the big room where they eat lunch. They go down and pray. There is no additional kids being generated by the additional space. That was done 4 or 5 years ago. We would not have gotten a permit then if not.

Mr. Sabel said are you coming to the Board for those trailers because you're trying to get a CO for that basement? Or that has nothing to do with it?

Mr. Auerbach said no.

Mr. Pfeffer said we're trying to, as indicated before, the application for the trailers didn't have to come to this Board because they can by code go into the building department. As long as you meet all the criteria, you can get them.

Mr. Sabel said you did come in front of the Board, in April 2011. I have the two resolutions.

Mr. Pfeffer said for what, for the trailers?

Mr. Sabel said yeah.

Mr. Pfeffer said on what date.

Mr. Auerbach said I think you're making a mistake Chaim.

Mr. Sabel said two story building with a basement. Not for the trailers, you're right.

Mr. Pfeffer said so our point is at a later date they went to the building department, got the trailers, but those have a limited time period when you go to the building department. We are now seeking to make them, with some upgrades, to make them permanent.

Mr. Sabel said I think you and I both agree these trailers are not perfect.

Mr. Pfeffer said the applicant would agree to make some additional upgrades.

Mr. Sabel said I think Mr. Auerbach would be very happy to put up a nice building over there. Why aren't we, instead of keeping a dungeon?

Mr. Auerbach said I don't know if you're aware, no schools are on the money ball. This school's not in the money-making business. He gets approached, he has to help this kid, more tutor rooms, more kids... he put up trailers. He thought it would be temporary. As only the needs increased he realized it has to be permanent. If it's stable and meets all applicable codes, we have to do the right thing. As long as it's safe and there's no harm being done, and all the codes are being met, that's why the request is here.

Mr. Pfeffer said Abe let me ask you, would the applicant agree to do some sprucing up to make the area and the actual trailers, new siding, or something to make it match with the existing building that's a very nice building.

Mr. Auerbach said correct, agreed.

Mr. Sabel said I think we're going to get these applications on a weekly basis because we have a lot of trailers in town. Maybe this is the right thing to do, I don't know. We have to figure out a normal way to deal with these. A trailer is a temporary structure, it doesn't last forever. The building they put up is permanent, it's going to stay there forever, it's beautiful. Trailers will deteriorate.



Mr. Auerbach said I agree with you, as a builder who makes a living building schools. I try to look at it as the scope. If you have a 75,000 or 80,000 sf building, and you have 800 or 1200 sf of trailers, 5 percent of the site is trailers, which is now being brought up to code to make it permanent, that's a fair question. If you have 100% of trailers, that's a whole different- I'm not saying to deny anybody else, but this is not a typical... this is 85,000 sf building with a gym. Yes, we do have some modular buildings up here, I agree. But the proportion is minute.

Mr. Sabel said can we grant a 10-year approval? With an expiration date, does that make sense?

Mr. Jackson said I'm unfamiliar with anything that allows a temporary approval. Either it makes sense from a land use perspective or it doesn't. I mean, you could put it in, but whether it's enforceable, and as a practical matter, do you really think anyone is going to evict them or make them shut down 5 or 7 years from now, go in guns a-blazing and they're packed and we need the room for schools?

Mr. Sabel said obviously there's a way of evicting them and closing down the trailers if needed. If there's a way out now, there's a way out then.

Mr. Jackson said I'm with you. The whole idea of temporary trailers... if you want a nice facility, don't allow the temporary. But they look pretty nice.

Mr. Pfeffer said they have a nice facility. This is a campus that most schools in town don't have.

Mr. Jackson said I just want this to get approved because I think it will be the first one ever with too much parking.

Mr. Vogt said I'm hearing the phrases "trailer" and "modular construction" used interchangeably. They're not necessarily the same. These ancillary buildings, are they trailers or are they modular buildings?

Mr. Stern said they're modular buildings, they ain't got no wheels.

Mr. Vogt said modular construction has a bad connotation with regard to trailers. It's become a more acceptable method of schools and administrative facilities of schools in recent years because of ease of construction and more competitive cost. I did work years ago for the Jersey School Construction Corporation. We had a contract in the Essex region about 20 years ago. Modular construction was a common technique used for permanent classroom and administrative offices. I just want to put that on the record. They're not synonymous terms.

Mr. Stern said right. And this is manufactured modular facility, this is not a trailer.

Mr. Vogt said it's manufactured modularly, and then it's assembled on site in place.

Mr. Stern said very useful distinction. Ok.

Mr. Sabel said I have another question. Terry, a trailer- a modular home is brought into the property and put down on a concrete foundation. A trailer, as far as I understand it, this looks like a trailer. It's brought in on a trailer, put on bricks, and removed the wheels. A modular home that they sell is on a concrete foundation and has proper footings.

Mr. Auerbach said it could be done either way. Modular, I'm actually doing a whole school building out of modular. It could actually be done either way. I hear that confusion a lot. But it could be done either way. All code are being met, it's all safety codes, this has been here 5 years already and unfortunately the need for it has not decreased and it's just not feasible or realistic for me to go tell them to tear it down. It's not going to happen.

Mr. Sabel said are you going to go for a new CO for this or will this rely on the old CO?

Mr. Auerbach said that's why we are here now, to get a permanent CO.

Mr. Sabel said and an inspector, a fire inspector, housing inspector, someone is going to come and inspect this building?

Mr. Auerbach said all inspections have been met. All codes have been met. Everything is done. The way it works is we can only get a TCO for x amount of months at a time because I need engineering since it's only temporary. As time went on we realized this is not happening, the needs are there, we have to make it permanent so that's why we are here now. But all safety codes, building codes, plumbing codes, electrical codes, everything is fully up to code.

Mr. Sabel said was. And a yeshiva that's on a trailer for 5 or 6 years, or this is a matter of fact 10 years, I'm sure something is broken inside and maybe some windows or maybe a fire extinguisher or-

Mr. Auerbach said Mr. Sabel, this is not a yeshiva. This is again 2% of the whole project of 85,000 sf of tutor rooms, resource rooms-

Mr. Sabel said inside of the building, is going to be inspected by a fire inspector or building inspector to make sure-

Mr. Auerbach said we'll have annual inspections by the fire marshal, who comes around and inspects annually to make sure that it's safe and it complies with all safety regulations. Any school building requires maintenance and upkeep. That's standard, whether somebody cracks a tile or drop something. But the fire marshal goes around and inspects it every single year to make sure that it's fully safe.

Mr. Stern said Chaim, why don't I give you the honor of making the motion and making-

Mr. Pfeffer said we have to open to the public first.

Mr. Stern said I know that. I'm just letting him know that if he wants to put a condition on the motion that Terry has to review all of the fire department certificates that are recent and updated, he can do that.

Mr. Vogt said that's not something that we would typically do, truthfully Chairman. We work with the building department routinely as another agency. But I don't look over the construction department's back, per se.

Mr. Stern said got it.

Mr. Flancbaum said I just wanted to point out the elementary school that I attended in Lakewood, also had a trailer which was a tutoring room for the kids that needed extra help. I think it's still there actually. To Mr. Auerbach's point, which I attended also for speech therapy when I was in second and third grade, you went out of the building and into the trailer, and the trailer was permanent. I happen to live down the street from this school and the boys are inside the school building. It's a very big school, there's hundreds of boys inside the school building, and they use the trailer for an accessory use for tutor rooms. I don't see anything out of the ordinary regarding that.

Mr. Stern said ok, I'm assuming no more comments from the Board. Let's open to the public.

Mrs. Morris unmuted call-in users and asked if anyone wanted to speak. No one came forward.

Mr. Jackson said I got an email on this. This is Shagas Aryeh, right?

Mrs. Morris said yes.

Mr. Jackson said this says Mr. Auerbach lied on the record. And this is from Orders Person. It says Sha'agas Aryeh does not rent out their basement for outside events. I have been there at several outside catered events. And it's signed Shlomo Stein.

Mr. Auerbach said the school is not meant for a hall. The school is not out for rent. If once or twice the school rented it out for bar mitzvahs, I have no control over that but it's not designed, it's not decorated, there is no accommodations for outside events. In the same way you have the fire department rent out their town hall, does not mean it's made for rentals. It's a school.

Mr. Jackson said we get your point. Mr. Flancbaum is by there all the time, it's a school. Thank you. We were going to regroup and see if anyone else wanted to make verbal comments? That was the only written one I have.

Mr. Stern closed to the public.

Mr. Pfeffer said again, everything that's there today is existing, it's onsite, we're not changing anything. We've given the justifications for the few existing variances that we're asking them to be reapproved. We agree to make some cosmetic improvements to spruce up the trailers so that picture is not what people see. We are asking that these trailers, modular, whatever be granted approval.

Mr. Sabel said I want to go back to item K on the original resolution. It mentions about a fence around the property. I don't know if that was done or not. I don't know if it's necessary, but let's at least discuss it.

Mr. Auerbach said I appreciate the safety, we all have kids and want to make sure everything is safe. I can tell you one thing, we have a CO back from 2005 or so. We are here for 8, 10 years already. If it's there, you can assume we complied with everything. If a fence came down, a fence came down. I don't know the answer to that question right now.

Mr. Sabel said where is this referring to? The entire property?

Mr. Lines said no this was along the curb, right in front of the school, there's a large concrete area. It's so that, if you see the line where Ally just drew. There was supposed to be 40' sections of fence with an opening. And then the buses would pull up and line up with the openings in the fence. So it kept the children on the walkway behind the fence, and then they'd walk through and get onto a bus, so that they were kinda corralled behind the fence.

Mr. Stern said I don't think, there's no school in Lakewood that does that, is there?

Mr. Lines said I haven't been to the site in several years I have to say. It was constructed originally. I would assume it's still there. It's a very good idea.

Mr. Auerbach said again this is something that was there. If it came down that's not something I can go beat them up now about. It's not a mandatory safety to have that. Most schools do not have that. It's pretty innovative actually. Maybe over the years the school felt it was easier- I don't know, that's a fair point from 11 years ago, so I don't feel I can go back to the school now and tell them this came down 11 years ago. It's not around the whole property. It was a convenience that we had for bus access.

Mr. Sabel said all I did was ask a question. Mr. Chairman, I am prepared to make a motion but I have a couple items. He made a motion to approve, with the conditions that you'll pass a fire inspection, a building inspection, whatever inspections that it needs to. I guess they'll need a new inspection, not rely on the old one. If I can request that, legally. They have to cover the entire bottom of the trailers with something permanent. Not a vinyl cover, something permanently, maybe a metal or something that can look normal.

Mr. Stern said tznus trailers.

Mr. Sabel said permanent tznus. And we have to put some lighting on that open area, where it used to be grass and now it's sand. That whole entire area.

Mr. Stern said where?

Mr. Sabel said if we can legally require it. If we're not legally required to put there... but it looks like a dark area.

Mrs. Morris said the area near trailers 1 and 2? In the middle.

Mr. Sabel said in the middle. Is that square lights?

Mr. Auerbach said there are lights there. I'm not trying to be difficult. It's fully lit up, it's fully safe. We all have kids, we all want the kids to be safe.

Mr. Sabel said and a pavement walkway from that entrance where it says #1, existing building-

Mrs. Morris put up Mr. Stern's hand-marked image.

Mr. Sabel said yeah, exactly. I was there today and a bunch of people were walking through on the grass. I can imagine with rain it's an issue.

Mr. Auerbach said no problem. That makes sense.

Mr. Flancbaum seconded.

Mr. Garfield said yes.

Mr. Stern said yes.

Mr. Sabel said I want to add, on the original steps on the original building, there's also opening. There's a crisscross old broken wood. They should make it look nice. On the original pictures that I sent you can see what I'm referring to. Not just around the trailers, under that walkway, hallway, under that roof. Just to make it look decent and a little safer for the kids not to run underneath and play.

Mr. Auerbach said no problem Chaim.

The rest were also in favor.

Mr. Stern said the motion passes. Thank you all. Mr. Auerbach, put some lipstick on the pig and make it pretty.

**3. SP 2423 Aderes Bais Yaakov**  
2023, 2031, 2037 Lanes Mill Road Block 188, Lots 22, 23, & 24  
Preliminary and Final Major Site Plan for a school

Mr. Stern left the meeting.

Mr. Rennert returned to chair the meeting.

Mr. Sabel said how many Board members do we have?

Mrs. Morris said 5.

Mr. Vogt read through the relief required in his review letter.

Mr. Pfeffer said I think someone raised a jurisdictional question on this application. We are comfortable with our notice and our application. We've noticed for a school and will have all the proofs put on.

Mr. Jackson said what Mr. Zeines raised in his letter is that he says there's a banquet hall and the notice doesn't say that. As a general proposition, the notice is supposed to apprise the neighbors and the general public of what is going on. So the Board at the first instance will have to make a determination of whether the notice advises the neighbors that there's going to be a banquet hall. Mr. Pfeffer, if you could give us an idea, how many square feet is the banquet hall and in general what type of events will you be doing there?

Mr. Pfeffer said it's a school that has a hall for its own use and thereafter may rent it out for other purposes. He had Brian Flannery, professional engineer and professional planner, affirmed.

Mr. Jackson said the Board's going to have to determine whether the extent of the banquet hall, and if that's the type of thing you put in a notice. Just tell us how many square feet it is, and what types of events will be there, will it be catered outside and will there be alcohol.

Mr. Flannery said the hall that's indicated in the basement, which is a room for the school, the school would use it also, but the room designated as the hall is 12,000 sf. The entire building footprint is 56,000 sf. So we're talking about a 12,000 sf room in a 56,000 sf structure that's got two stories and a partial basement. So it's a small part of the building and it's consistent with other rooms that schools use.

Mr. Jackson said you're not answering my question though. So 12,000 sf, will it be available for outside uses such as weddings?

Mr. Flannery said yes.

Mr. Jackson said how many times a week do you think that will happen?

Mr. Flannery said perhaps Mr. Auerbach-

Mr. Pfeffer said maybe one, maybe multiple times.

Mr. Jackson said I just want to get an answer, if it's 7 days a week, 5 days a week. I doubt it will be 7.

Mr. Pfeffer said I promise you it's not 7 days a week.

Mr. Jackson said Mr. Rennert and members of the Board, there's been a question as to, as a general rule you're supposed to put all the different uses in. And the one case that was cited by Mr. Zeines, and I know of other cases where they don't say exactly what type of center it is, in my view the cases are very erratic. In my view, I would say if the notice says a school and schools customarily have banquet halls, then if you say school that's enough. I have a feeling the appellate division, on a banquet hall this size, I would bet that they would want to see the notice specifically call that out. But on the first level it's the Board's decision whether you think the notice is adequate. So I would ask the Board to make that threshold determination before we go forward.

Mr. Pfeffer said on a legal side, I also think it's the applicant's decision if they want to move forward at their own risk.

Mr. Jackson said I think it's more than that Mr. Pfeffer, because I think the Planning Board is also the guardian of public interest. And it has to ask itself whether it's fair to a neighbor who might not understand what's going on. I think in Lakewood it's pretty common, but if there were neighbors who live next to it who were not familiar with the nuances of this type of a school, they wouldn't think that it's going to be a wedding hall with a parking lot overflowing 5 nights a week until 2:00 in the morning. And so the question is, is it fair to them that they get an idea of what's actually going there.

Mr. Pfeffer said and I think that goes to the crux of our planning testimony, I think we may address a lot of those concerns.

Mr. Jackson said ok and I don't know whether any of the other notices for any other schools that we've done specifically reference a banquet hall, but usually they try to cloak that, so I doubt that they do. I think the Board has to make a threshold determination. You have to call it one way or the other.

Mr. Rennert said I guess we should poll the Board and see how they feel. One thing I think is important to look at, it might be part of the school to have outside events but there's a small scale and there's a large scale. This looks like a wedding facility, and that's larger and attracts much more traffic and people than a bar mitzvah hall, let's call it.

Mr. Pfeffer said we have traffic testimony available this evening, we have all the testimony to put on. You guys are jumping ahead and making answers without letting the applicant go forward-

Mr. Rennert said the question is not is the application good or not, the question is whether you noticed correctly or not. So why don't we do a roll call.

Mr. Garfield abstained.

Mr. Sabel asked to see a copy of the notice.

Mrs. Morris put it on the screen.

Mr. Sabel said there's only three or four neighbors, I'm sure they know what's going on.

Mr. Auerbach said all the plans are online, anybody can see it.

Mr. Sabel said are there any objecting attorneys on this application?

Mrs. Morris said not that I'm aware of. I have two emails that came in from individuals.

Mr. Sabel said can we look at those comments now?

Mrs. Morris pulled up the comments, and both are specific to the adequacy of the notice.

Mr. Rennert said one suggestion I might have if the Board is not comfortable, is hearing this as a school and then coming back to modify it at a later date.

Mr. Pfeffer said I'd like to start our testimony, and give our proofs and justifications and go through Terry's report. As I indicated, we have Brian Flannery and Scott Kennel here. You guys haven't even heard the application yet.

Mrs. Morris said we have an unrealized until now conflict with another Board member, which means we only have 4 members at the moment who can sit on this application.

Mr. Pfeffer said so we're going to address it next meeting.

Mrs. Morris said we will need to announce a carry. Our next meeting we have quite a number of applications already-

Mr. Pfeffer said put it in two meetings, it's fine. It's a fighting of the schools.

Mrs. Morris said it's all schools. Give me a moment so I can tell you what date is preferable.

Mr. Sabel said can you renote for this one?

Mrs. Morris said it would have to go to June 22<sup>nd</sup> to have time to provide new notice.

Mr. Sabel said why don't we do it that way.

Mrs. Morris said June 15<sup>th</sup> I have 5 large applications on. So it would have to be the 8<sup>th</sup> next week, or June 22<sup>nd</sup>.

Mr. Pfeffer said we'll take the 22<sup>nd</sup>. I ask that the announcement be made to carry it to the 22<sup>nd</sup>. I'm going to speak with my client to determine if we're going to renote or not, and figure out how to address the concerns that have been raised.

Mr. Rennert ask the Board to give their opinion, in general, on notices for schools specifying hall uses.

Mr. Sabel said I say whatever the law requires to do, whatever it needs to say in the notice, needs to say in the notice.

Mr. Rennert said I think that it should be renoted, not that I'm not going to hear it if it's not.

Mr. Meyer said I don't think they should have to renote.

Mr. Garfield said it should be renoted.

A legal announcement was made to carry the application to the June 22, 2021, public hearing.

#### **4. APPROVAL OF MINUTES**

#### **5. APPROVAL OF BILLS**

## **6. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Ally Morris  
Planning Board Recording Secretary