

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 *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. Flancbaum, Mr. Herzl, Mr. Isaacson, Mr. Meyer were present.

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

3. MEMORIALIZATION OF RESOLUTIONS

1. **SP 2383 Fouad Kashouty**
1690 Madison Ave Block 57, Lot 6
Minor Site Plan for a building addition

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

2. **SP 2389AA 306 Chestnut, LLC**
306 Chestnut Street Block 1087, Lot 21
Change of Use/Site Plan Exemption to convert a house to an office

Mrs. Weinstein appeared and said I wanted to clarify that I did not say there would be no rentals here. What we wanted to clarify is that the resolution should say that there should be no restriction on rentals so long as there is no parking issue. What we did discuss was that based on the discreet nature of their work, they certainly aren't going to have any abundance of cars. They wouldn't be renting it to anyone who would have an abundance of cars because it doesn't make sense with the sensitivity of the issues there. We wanted to ask that the version of the resolution be passed that does not have any restriction on rental as long as there is no parking issue.

Mr. Herzl said ok thank you. Personally, I don't think there will be a parking issue. And as long as the resolution says that you will conform with the parking, whatever the zoning officer says that you need, then I wouldn't have a problem.

Mr. Sabel said with all due respect, I think the Board went out of their way to be accommodating here. There is an issue with parking, an issue with sidewalk, it is a house on a busy street. We deliberated and we discussed it and we made it very clear that it's only for Bonei Olam and I think we should keep it that way.

Mr. Herzl said the only thing I would add to it, that should they get more property or be able to reconfigure to have more parking and not have a variance on that, then there's no restriction. The restriction is only because they asked for a variance. Should they come up with another 5 parking spaces and it conforms, then I don't have an issue with that.

Mr. Vogt said under zoning, I want to take time explaining this. No variances are currently identified on the application, however per our review no dedication is shown for the right-of-way widening of Cross Street, which is a County road. The County Master Plan indicates a 43 foot half right-of-way width where 33 is shown. Unless the applicant has met with the County and gotten confirmation that they're not going to require that 10 feet, I recommend consideration that they either apply for the variances or be ready to come back at a future date.

Mr. Herzl said can we grant that variance and the County's going to take away the property?

Mr. Vogt said I don't know that granting or not granting the variance is going to have an impact on what the County takes. They're going to look at the final build out of the Cross Street cartway and sidewalk. What I'm saying is that widening that is part of the Master Plan is not accounted for in the current design. If this gets approved tonight without the variances, and they ask for that 10', the applicant is going to be back before the Board at a future date.

Mr. Herzl said I just want to be sure that if the County takes their 10 feet, they can still build what they want to build.

Mr. Vogt said they can do so however it will create a variance condition. Unless the applicant asks for those variances tonight, they will have to come back.

Mr. Herzl said ok.

Mr. Vogt said continuing on under design waivers, as indicated comment 1 since more than 25 units are proposed a design waiver is required from the minimum 5% contiguous open space for recreation. And a design waiver is required from improving a portion of Linden Avenue along the project frontage.

Mr. Adam Pfeffer, Esquire, appeared on behalf of the applicant. He said to reiterate what Terry indicated, we are before the Board seeking 30 duplexes and one single-family residence for a total of 61 units. This parcel had previously received an approval under SP 2067 for a Planned Educational Campus. As the Chairman is aware, you guys had taken this under review during the Master Plan. There is an Ordinance that indicates any completed application for a Planned Educational Campus can seek reapproval for a development which is additionally permitted. It is our position that there are no bulk variances being sought. I will have Brian Flannery sworn in and I have Scott Kennel here to address traffic concerns.

Mr. Brian Flannery, professional engineer and professional planner, appeared and was affirmed. He said A-1 is a copy of sheet 89 of the tax map which shows the subject property, Block 466, all of Block 467 except for Lot 7, one lot in Block 468, and all of Block 469 except for Lot 8. A-2 and A-3 are copies of the Layout and Dimension plans. IT is a subdivision into conforming R-7.5 duplexes with one single shown on A-3 with frontage on Cross Street at the intersection with Trudy Lane. With respect to the issue that Terry raised with respect to the dedications, we anticipate based on conversations with the County that the road widening to the 43 feet can be provided in a combination of a dedication and road widening easement. So we will provide the required area for the future road widenings. Even if that isn't agreed to, there is enough land in the two units there that we can reconfigure it and we are not asking for variances. We are asking for this subdivision as shown. If the full 10 foot dedication is needed, we will take the dedication out of those two lots and we will still have 7,500 sf for the single and 10,000 sf for the duplex.

Mr. Vogt said that's fine, thank you.

Mr. Flannery said as indicated in Terry's report, this is an application is for 30 duplex units, or 60 dwelling units, and a single, or 61 dwelling units total. The property was previously approved for a campus, by the Yeshiva Gedolah of South Jersey. In accordance with the Master Plan recommendation of the Planning Board and the subsequent Ordinance adopted by the Township Committee, we are here to reduce the intensity of the development to come back with the lots as indicated. Terry indicates in his report the campus was approved under SP 2067, and with respect to the design waivers, one of those was for submission to the County Planning Board. It has since been submitted to them so that waiver is not needed. Getting to the items under zoning on page 4, the first one indicates it is a permitted use. The second one indicates there are no bulk variances but it indicates the potential for some. When we get the County approval we will either reduce those lot sizes accordingly or we will adjust them as part of resolution compliance. My testimony is we will do that with no variance relief required. Item 3 in the report is with respect to access easements with the sidewalks. We've shown the properties with right-angle corners, and a sidewalk easement across that area. As Terry indicates the Board has, on other occasions, asked that we dedicate that, and that takes a few square feet off the lot area and then requires a variance. We are happy with it the way it is, it accommodates the sidewalks, it accommodates the lots. If the Board feels they'd rather grant a de minimus variance for lot area based on those lots, and have circular dedications, the applicant has no problem with that. Then we get to the design waivers. With respect to the recreation area, this property is in the Cross and Prospect Street core. There are impact fees associated with it so we will provide an impact fee accordingly. The Master Plan shows Township recreational facilities to be built, and the impact fees associated with these lots and others in the Cross and Prospect Street core are where the money comes from to accommodate that. A design waiver is also requested from improving the frontage along Lewin Avenue on the single lot, as I indicated before, that was in Block 468. We have access to the lots on Nassau Street, we aren't proposing any access on that side property line. If the Board feels that we should improve that, then we will improve it. We are requesting the waiver because we don't feel it's necessary. If the Board wants us to improve that, we will improve it. We don't really have any variances so my normal testimony on the Master Plan and the Municipal Land Use Law I don't think is necessary, but due to the magnitude of the application I'd like to provide some information relative to our compliance with those. The Master Plan of 2017, on page 2, gives background information on population growth and it concludes on page 3, it's important that Lakewood plan for residential development to house its growing population. It's this specific area, the Cross and Prospect Street core, where the Township came up with a comprehensive plan for how to develop it. On the same Master Plan, the vision statement, it says encourage growth and development in appropriate locations consistent with established land uses. This is in appropriate location as determined by the Planning Board and the Township Committee. The same Master Plan on page 36, overall recommendations to implement the 2013 Smart Growth Plan, it describes the Cross and Prospect Street core, it says the intent is to create a new mixed use core that incorporates the principals of smart growth and promotes sustainable development practices. It's my testimony that this project does that. On page 38, where it was discussing recommendation zoning ordinance amendments, is the ordinance that brings us here tonight with the reduced density type development. It says permit existing campus development approvals to develop in accordance with standards of R-7.5 instead of utilizing campus development. That's the crux of how we fit with the Master Plan. The Municipal Land Use Law, NJAC 40:55D2, under purposes of the act, says encourage municipal action to guide the appropriate use or development of all lands in the state, in a manner which will promote public health, safety, morals, and general welfare. It's my testimony that this project does that. E is to promote appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, regions, and the environment. And again, it's my testimony that this does this by taking the campus that was approved and providing housing opportunities on properties that are taxed and are a much reduced density.

Mr. Herzl said this is unique for this property. Can any campus go today and make the R-7.5 density?

Mr. Flannery said the Ordinance that was adopted in 2018 capped it to at the time of the adopting of the Ordinance, so no. Nobody can come get a campus now and then say I want to do R-7.5. By approving it, you're doing what the Planning Board proposed back in 2017 and the governing body adopted in their resolution in 2018.

The door is closed on new people saying this is a way to get around it. And it's accomplishing something in this core. The intent wasn't to create a campus area, it was to provide a smart growth place where you can have some business, commercial, and residential. Continuing in Terry's report, he asks for testimony regarding a homeowners association, and there is no intention to create an homeowners association. These will be zero lot line units on fee simple lots. The testimony on the number of bedrooms, they will be typical Lakewood R-7.5 homes. Testimony on trash and recyclables, that will be public works. The other comments in the report we would address as part of resolution compliance.

Mr. Herzl said has public works accepted it?

Mr. Flannery said we have a letter from public works indicating that the stormwater would be public, the sanitation would be public, and it has no indication of a homeowners association.

Mr. Stern said I have to leave soon, so I'd like to ask a few pointed questions. What is going on with Block 467 Lot 7 and Lot 8... there's two empty lots.

Mr. Flannery said it's an ownership issue. No one has title that can be conveyed. If this applicant is successful in getting titled, we could come back and adjust the lots nearby. But since the applicant was not able to acquire those at the time the campus was done or at the time this application was done, it's properties that are owned by someone that doesn't want to sell.

Mr. Stern said so this isn't a litigation, it's a hold-out basically.

Mr. Flannery said from my understanding, it's a title problem from people who own it. And there's no resolution of who the owner is or who you could deal with to buy it.

Mr. Stern said the variance that you're asking to say no playground, and then you said something about it's going to be fine because we're putting money in escrow and there's going to be a playground that the Township is paying for down the road, tell me more about that.

Mr. Flannery said we aren't asking for a variance, we are asking for a design waiver. And the normal subdivisions that occur in the town, not in a core, provide recreation in their little areas. In the cores, like in the Oak Street core you'll remember it's the same situation, everyone paid a fee and it was done. This particular core, there is an impact fee that each lot that's approved will have to pay, and those impact fees were to address the costs that the Town was going to incur on both traffic and stormwater and recreation amenities. And the Master Plan, the Smart Growth Plan, all showed Township land within this core that would be for recreation, as well as Township land within the core that would be for public purposes.

Mr. Stern said how far away is this public land from this development?

Mr. Flannery said based on the tax map it's within 800 feet.

Mr. Stern said a little less than 300 yards, down a public street to get to this land?

Mr. Flannery said yes.

Mr. Stern said so we're going to have little 5-year-olds walking 300 yards down a street to get to a playground?

Mr. Flannery said the little five-year-olds will play in their backyards, the same as they do all the other R-7.5 developments. And when their moms want to take them for a walk, they'll walk them two blocks to a playground.

Mr. Stern said I don't think that's how it works. I think in a development that has lots of young families, there are bazillions of kids with their Cozy Coupe, made by Fischer Price. And often times Mommy's not there or she is distracted. I don't think it's a really good plan. At 67 units, with basements, that's 134, times 4, so that's about 600 little kids running around here in the street. I think we need a playground on site, but that's just my two cents. I would say that's a design waiver we should not waive.

Mr. Sabel said the impact fee is standard for any duplex that gets built, unrelated to the 5% that is required in a big development.

Mr. Herzl said I was going to ask that. The 5% that you have to give for open area, has nothing to do with the impact fee. Is that correct?

Mr. Flannery said the 5% was put in a long time ago, and it's 5% open space, but that was prior to when we had a core where the Town was proposing where the recreation would be. And with respect to everybody that builds a duplex pays an impact fee, that's not correct. They only pay an impact fee if you're in an area where the Township has determined. I'm not sure how many zones they have in town, but at least half of the town doesn't have impact fees because they aren't in a zone where the Town said... and I know the Oak Street core, because that's where I've seen them, and now here, in this Cross and Prospect Street core, they have the impact fees because, as part of the process in the Smart Growth Plan, T&M looked at what's going to happen in these cores and said we need to have an impact fee to address that.

Mr. Herzl said Brian, you're having a community center here?

Mr. Flannery said there is no community center proposed.

Mr. Herzl said don't you need one if it's over 25 units?

Mr. Flannery said community center is never a requirement, the typical developments in Lakewood where you're not in a core, they indicate that you need to set aside 5% common area. That 5% common area is set aside mostly for a shul, and the shul sometimes has a playground. There is no requirement for a shul. Again, this is a by-right application. We are asking for a waiver on the recreation. There is a provision in the ordinance with respect to recreation that says if you're between 25 and 30, it's not really practical, make it a per unit fee to pay for that. I would think that if the Board were to look at this as 60, but due to the nature of it being in the core, if the Board were to say ok we're not going to grant the waiver but you need to pay that fee in accordance with the ordinance, I think the developer would feel that's an appropriate thing to do. He wants to have a nice development and it would certainly help.

Mr. Jackson said a waiver is still relief that the Board must grant. It's not as stringent as a variance, but there still has to be a reason for it. You have a blank canvas here, what's the basis for your request for the waiver for the recreational space?

Mr. Flannery said the basis is what I read in the Master Plan on the intent of the core. The fact that each of these lots is paying a fee, the fee pays for the Township to create the recreation which is two blocks away.

Mr. Jackson said it's not an either-or, when they wrote the ordinance they said you're supposed to have recreational amenity and they knew about the fee, or vice versa. When I say about the hardship or the practical

difficulty, there's nothing about the configuration that would prevent you from creating some kind of recreational space here, is there?

Mr. Flannery said there's nothing about the configuration but my testimony was, based on the intent of the ordinance, that the Town is developing recreation area and that the cores are different. That provision of the ordinance was put in probably back in 1999, when the Township had no plans of any cores. So we understand it's relief, we understand the Board has to be convinced. What I'm suggesting is that possibly instead of requiring one of the units to be removed and a playground put there, that the applicant make a contribution in accordance with the ordinance, the same as they can do in any other place in town if they only have 30 lots.

Mr. Stern said but the problem is that could be a year, that could be five years, that could be 10 or 15 years. In the meantime, we've got a 5-year-old walking 300 yards on a public street. That ain't safe. This is plenty dense and squished in here.

Mr. Herzl said we have basements also.

Mr. Stern said I don't know the whole background of this unique ordinance that only has two exceptions, but it doesn't sound like a context that we should be bending over backwards and looking for leniencies. There's times when this Board offers leniency, and there's times when we don't. My gut is this is not a situation where we have to look for leniency. We aren't looking to beat people up, but we aren't looking to go above and beyond the call of duty. This is a very dense development, it should have a shut and a proper playground that the kids of this development have a safe place to play. With that, I bid you all a good evening and I'll try to get back as soon as I can.

Mr. Stern left the meeting.

Mr. Herzl said is there any room to put a playground without losing one house.

Mr. Flannery said no, one of the units would have to be eliminated.

Mr. Garfield said what is the distance from the furthest house to an area you want to put a playground. You came up with the 800 foot, but that's from the closest property.

Mr. Flannery said that is correct. The furthest point is another 1,000 feet.

Mr. Garfield said that's quite a distance. Personally I'd like to see it right in the middle and off the main street.

Mr. Herzl said 1,800 feet, that's a quarter of a mile. A third.

Mr. Flannery said when I hear 5-year-olds walking in the street, I don't think they should be walking 200 feet unsupervised.

Mr. Garfield said agreed, so put the park in the middle. That's a long distance for kids.

Mr. Herzl said is there anything else in the report that you don't agree with?

Mr. Flannery said everything else we would agree to. Obviously we need relief from the Board. If the Board doesn't want to grant that relief, we could take a look at A-2 and Dave is talking about a unit, it would be a duplex that we

would use so we would lose two units, the duplex on the corner of Nassau and Nussbaum. That would be the playground.

Mr. Sabel and Mr. Garfield said Trudy and Nassau.

Mr. Flannery said Trudy and Nassau.

Mr. Garfield said on Trudy, 7.02 lot, what's going there?

Mr. Flannery said that's someone else's property.

Mr. Sabel said regarding sidewalks, Trudy Lane on the side of the yeshiva, you don't want to put sidewalks there? I don't know if you have to or if you need a waiver.

Mr. Flannery said the ordinance says we have to put sidewalk along our frontage, so typically the Board hasn't considered that a waiver. Whoever comes to build the other side would provide the sidewalk, and we have sidewalk all the way along on our side. I would tend to, on the opposite side of Nassau where we don't own that, to connect those, that would make sense. So that all of the new units have no gaps in the sidewalk.

Mr. Herzl said how wide is Trudy?

Mr. Flannery said it is a 50 foot right-of-way.

Mr. Herzl said and so is Nassau, they're all regular sized roads.

Mr. Flannery said yes.

Mr. Herzl said and Nassau, you're improving it, right?

Mr. Flannery said yes.

Mr. Sabel said I think with the yeshiva over there, no one else is going to come and put that sidewalk in there.

Mr. Jackson said I know we've had a lot of discussion about this, Terry. What's the policy of the town when someone is putting in a new road, whether they have to improve both sides of the road?

Mr. Vogt said if someone's putting a new road in, the road design would have to be reviewed and improved by the engineering department, possibly with input from Traffic Safety Unit.

Mr. Jackson said but what about having to put sidewalks on both sides. Is that normal, or...

Mr. Vogt said standard default is to have sidewalks on both sides unless there is a compelling reason not to. Whether or not both sides is a responsibility of one applicant is another question.

Mr. Pfeffer said I think in the past, the issue has become it is not our property. I completely understand when it's out property, other ones we've done the curb, but the sidewalks we don't have the authority or the jurisdiction to do it.

Mr. Jackson said this is virgin land now, though. There is no road there, and the road is being put in to service your development of how many households?

Mr. Pfeffer said 61 units.

Mr. Jackson said that's a pretty big development. You're paving the road on both sides...

Mr. Pfeffer said what I'm indicating is yes we are putting the road in, we are putting the sidewalk and curbing on our side, as far as the land that is not ours, the Board doesn't have the authority to require us to put a sidewalk on another person's property. Brian can confirm, I believe we've done curbing on previous applications which I don't think we have an objection to, so that the road is secure. As far as a sidewalk, we don't have the authority to go on someone else's property.

Mr. Jackson said well the sidewalk would not go on their property, it would go in the right-of-way.

Mr. Herzl said right.

Mr. Flannery said sometimes grading is needed in order to make the sidewalk work with the road grade. So we would need permission from the property owner.

Mr. Jackson said maybe, maybe not.

Mr. Sabel said and we're talking about 500 feet, correct?

Mr. Jackson said I'm just trying to figure out whether you have to, whether you should, whether it's optional... Obviously it's like a windfall to the people on the other side.

Mr. Herzl said it's a legal issue.

Mr. Flannery said the discussions we've had on this is that the other side of the street is an off-tract improvement. And if there was a necessity for an off-tract improvement that was generated by this project, then it's clear that we need to do that. This off-tract improvement, the pedestrians can walk on one side of the street. The only reason they need to walk on the other side of the street is if they're going to the neighbor, and the neighbor should build his own sidewalk.

Mr. Sabel said they are coming from north to south, they're walking on the west side of the street, coming from Prospect Street towards Cross Street. They're not gonna cross over to your side of the street, they're going to continue walking on the west side of Trudy Lane and either walk on the road or on the sand or grass.

Mr. Jackson said why don't you take a poll Mr. Chairman. Maybe a lot of the members don't think it's fair. This might be an offsite improvement.

Mr. Herzl said we had it on Chestnut with Herzog.

Mr. Sabel said let's make it clear that it's approximately 500 sf, at 10 to 15 dollars a square foot we are talking about \$7,500, \$10,000 max. It's a lot of money but I think it's a benefit to the Township and to the area.

Mr. Jackson said on a 60 unit development, \$7,000 is...

Mr. Pfeffer said this isn't necessarily a money issue, again I don't recall an application where the Board has imposed an offsite improvement on another person's property.

Mr. Herzl said on Chestnut we did it.

Mr. Jackson said I don't want to research and spend 2 hours talking about it. If the Board doesn't want it, it's not an issue. If the Board does want it, we will figure that out by the time we do the resolution.

Mr. Herzl polled the Board.

Mr. Flancbaum said as long as it's legal I think they should do it.

Mr. Isaacson said I agree.

Mr. Sabel said I agree.

Mr. Garfield said there should be a sidewalk.

Mr. Herzl said regarding giving a lot for recreation, Mr. Sabel I think your opinion is we should give away a lot.

Mr. Sabel said correct.

Mr. Flancbaum said I think they should have recreation on a development of this scope.

Mr. Herzl said and they should lose a lot?

Mr. Flancbaum said a development of this scope needs recreation. If they have to lose a lot, they should.

Mr. Isaacson said most definitely.

Mr. Garfield said they should have a lot and it should be in the area of Trudy and Nassau, in the center.

Mr. Herzl said Mr. Pfeffer, I think you heard loud and clear on both issues what the Board members feel.

Mr. Pfeffer said understood.

Mr. Sabel said Mr. Chairman, may I ask for your opinion on it?

Mr. Herzl said my opinion is that on something of this scope, I think it's a minor issue. We have to look out for safety. A tot lot and sidewalk are safety issues, and I think that when you're building 60 houses the cost is miniscule compared to what we could have safety for a child. It's not a big cost and I think we should ask for it.

Mr. Sabel said on Nassau, between that single duplex towards Trudy, I think Brian clarified that they will join the missing sidewalk.

Mr. Flannery said yes. Sidewalk there is appropriate and the cost of that would be de minimus.

Mr. Sabel said on Lewin Avenue, they are requesting a waiver from finishing that entire street, correct?

Mr. Flannery said correct.

Mr. Pfeffer said I have another witness, Scott Kennel, he has prepared a report and submitted it. If the Board doesn't have any questions I have no problem waiving his verbal testimony, I would just submit that his report be entered into the record.

Mr. Scott Kennel appeared and was affirmed. He said my office conducted traffic counts at Massachusetts and Cross in September, 2020. And for any concerns relative to whether those are appropriate volumes, I compared them, given the COVID situation, to the 2017 counts done for the Parke development on the golf course. The counts that my office collected were 10-15% higher than the base traffic on that other study. It's my opinion that the base data I used is appropriate. I included the traffic from the golf course redevelopment as well as a 45,000 sf shopping center proposed on Cross in the vicinity of Prospect. I also took into consideration the Ocean County planned improvements which provides for the widening of Cross Street that would provide a two-way center left turn lane and one travel lane in each direction with a 5' shoulder. The analysis indicated that at both Trudy and Nussbaum they would operate at a level of service C in the morning and a level of service D in the afternoon. As a follow up to one of the comments in Terry's report about the future development of Blocks 457 and 458 with 20 duplexes, the level of service would be the same in the morning and afternoon for both study locations, with a slight increase in delay. For the Board's benefit, I have done a separate traffic study dated October 26 for those 20 duplexes that will be part of that application when it is heard by the Board. The key is with the County improvements, taking into consideration other developments and traffic growth, it's a C in the morning and D in the afternoon at both study locations.

Mr. Herzl opened to the public.

Mrs. Morris read a comment from Mr. Moshe Zeines into the record.

I would like to recommend that the board condition its approval on the applicant installing the following:

1. Retro-reflective street name signs along all the corners of this development, and that street name signs be installed on top of the stop signs to ensure they do not get blocked by other traffic control signs.
2. Crosswalks along the corners
3. Stop bars, as well as double yellow solid lines painted 50 feet from the stop bars
4. Yellow paint on the curbs, 50 feet from the stop signs and 25 feet from the crosswalks (across from the stop signs) as well as No Parking signs along these areas, to guide drivers not to park too close to the corners
5. Brite sticks on each stop sign. Lakewood Public Works has been going around town installing these brite sticks to brighten up stop signs, so this should be the new standard as well for all new developments.

Mrs. Morris said that's the only comment I received via email.

Mrs. McLeer opened up to public callers. No one came forward.

Mr. Isaacson said on Lewin Avenue, at the corner with Nassau, there is Lot 1.01 and 1.02. Why aren't they improving it until the end of 1.01 on Lewin?

Mr. Flannery said we asked for a waiver for improving it on the frontage along Lewin. We are improving the rest of it, and we've agreed to extend the sidewalk on Nassau.

Mr. Isaacson said I see this as an issue, whenever 458, 7.01 comes to develop, he's going to say why should he complete the street, that part is not his. Why don't we just finish it now along the length of 1.01.

Mr. Flannery said this applicant has agreed to put sidewalk in on other people's properties and agreed to some things, but it's the Board's decision. We requested the relief, I gave my reasoning, we've gone along, with a little arm twisting, on the other things, so we are requesting the Board grant it.

Mr. Isaacson said I think I may have one more arm twist in me.

Mr. Sabel said who is going to come down the road and develop this land?

Mr. Flannery said it sounds like my arm is being twisted again and we aren't going to get that relief either.

Mr. Sabel said for the entire length of Lewin or only until your property?

Mr. Flannery said only for our length of Lewin, that's all that we are required to do. If no one comes down the road and develops it, then the trees stay and no one needs it. Any one that would need to develop it, the cost would be on them, the same as this applicant is developing streets that are owned on the other side by others, so he is providing a benefit to other property owners. We don't need it for any access or any use, but I understand the Board's position and it's their decision.

Mr. Sabel said when 479, Lot 2, comes back eventually to develop, west of our property, west of Lewin, he's going to put up a bunch of duplexes and he's not going to finish that part.

Mr. Flannery said he would have to request relief from the Board as well, so it doesn't sound like you're approving relief.

Mr. Sabel said I think we should develop that area.

Mr. Jackson said that duplex off on its own, does your client own all the land in the gap that's not being developed?

Mr. Flannery said no. They have the lot that is shown in yellow on A-1. The other properties are owned by other parties.

Mr. Jackson said what about the other yellow parcels on the other side of Nassau.

Mrs. Morris showed the exhibits again.

Mr. Jackson said ok thank you.

Mr. Sabel made a motion to approve with the following conditions: sidewalk along Trudy Lane, Nassau, and improving the extra area on Lewin until after the duplexes, and giving the 5% required.

Mr. Herzl said that means giving a recreation lot.

Mr. Sabel said correct.

Mr. Flancbaum said you said behind the duplexes, are you indicating we are not granting the design waiver request for Lewin. They will improve it across their frontage.

Mr. Sabel said only their frontage, yes.

Mr. Flancbaum seconded.

Mr. Herzl said we aren't granting the waiver on the recreation either.

Mr. Garfield negative, all else were in favor.

Mr. Sabel said my motion was not to require them to put in a playground, unless that's a given. They just have to provide the space, correct?

Mr. Herzl said yes. A recreational lot, we said.

Mr. Jackson said that's something we'll have to talk about, because that's going to have to be somehow deed restricted to the benefit of the community in conjunction with the proposal. It's not necessarily a community association for this type of development. So there has to be a mechanism for all of the homeowners to get together and then manage it. That's a little unwieldy.

Mr. Herzl said can we dedicate it to the Township for open area?

Mr. Jackson said we could do that, it's something we'll have to talk about but there are some mechanics that go along with this that are dawning on me as we put this condition on. Because this isn't like a condominium complex. These are all free-standing homes. So who's going to pay the insurance, who is going to mow the grass, who's going to take care of this? It's not that simple. It may make sense to dedicate it to public purpose.

Mr. Herzl said I think they should dedicate it to the Township, let the Township do it.

Mr. Jackson said I will have to figure out the mechanics of that with Mr. Pfeffer at a later date. So Jilian, be aware when we do the resolution on this we will have to have some further discussions, possibly even with the Township to figure out how to accomplish this.

2. SD 2453 327 Ocean, LLC

323 & 327 Ocean Avenue

Block 246, Lots 40, 41, & 67

Minor Subdivision to create six lots

Mr. Vogt said from my November 3rd letter, submission waivers on page 3 is proof of submission to Ocean County Planning. We can support that for hearing purposes only as noted. It's up to the Board whether you want to grant the waiver.

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

Mr. Vogt said under zoning, our comment number 2 for future development of proposed Lot 41.01, if permitted, extension of Sampson Avenue will be necessary. The property shows wetlands and a buffer in that area, we are going to ask for testimony from the applicant's professionals as to the buildability of that road extension. Comment 3, the applicant requires side yard setback variances as well as for an accessory structure on new lot 41.06. Finally, comment 5, a variance will be required for the number of off-street parking spaces on proposed Lot 41.06 unless the existing driveway is paved and provides enough room for 4 spots. On page 4, a design waiver would be

necessary if improving Sampson is not proposed and also for side lot lines that are not perpendicular which the Board has granted in the past.

Mr. Adam Pfeffer, esquire, appeared on behalf of the applicant. He said as Terry indicated, we are seeking to subdivide 3 existing properties into 6 new properties to provide for 2 duplex buildings on 4 zero lot line properties, a single-family lot with an existing dwelling to remain, and a parcel to be retained by the applicant. He had Brian Flannery, professional engineer and professional planner, affirmed.

Mr. Flannery said the application is for three existing lots on Ocean Avenue, Route 88. We submitted a copy of sheet 52 of the tax map highlighting the subject lots. There's a lot of duplexes and townhouses in this area, we are near the Lakewood Housing Authority, so the proposal is to leave the existing dwelling, create two conforming duplex lots for 4 duplex dwelling units, and leave the rear portion undeveloped. A-1 is sheet 52 of the tax map that was submitted.

Mrs. Morris said I didn't get the tax map so I can't share that with the Board.

Mr. Flannery said we don't really need the tax map, so A-1 is a copy of the Minor Subdivision plan. It shows the three lots into 6, one of which is for the existing dwelling to remain, two duplexes on zero lot lines, and then a remaining open space in the back. We also submitted a Final Plat which doesn't show much of anything else, and we submitted an aerial that is up on the screen now which shows the surrounding development. You can see the duplexes and the Housing Authority property is just a little north. This is an infill lot and we are proposing conforming duplex lots. The lot in the back is one of the questions in Terry's report, if we go to page 3, under zoning, number one indicates it's a permitted use. Number 2 talks to the extension of Sampson Avenue. Right now that has environmental constrictions. We don't have DEP permits and aren't intending to do anything with it at this time. That will take a lot of work in the future to come up with something that makes sense, otherwise it will remain as an undeveloped piece of property. The minimum side yard setback variances we are asking for the lots, we have 60' wide lots and are asking for 5' on each side. If you look at the aerial you will see there are plenty of others in the area that have 5' on each side, or 10' in between them, and that allows the homeowners to have a 25' wide house which is better for the future residents of the Township. We need a variance and are requesting that. We also need a minimum side yard setback for an accessory structure, and that's the existing shed that is already there. We are asking for the variance to leave it where it is. Item 5 in the report says a variance will be required for the number of off-street parking spaces, on new Lot 41.06, which is the existing house. It has a gravel driveway, which doesn't meet the ordinance but is existing. The applicant is requesting relief to allow the existing gravel driveway that provides sufficient parking for the unit. With respect to design waivers, the design waiver from improving Sampson Avenue is because we don't have DEP permits to improve that so we can't. And the side lot lines at not perpendicular, and as Terry indicated due to the nature of the existing property lines it lays out better for development with them like this.

Mr. Herzl said how many lots are there total, 5?

Mr. Flannery said 6. Four are zero lot lines, one is the existing house, and a remainder is the open area.

Mr. Herzl said and the existing house, you're not doing anything with that lot?

Mr. Flannery said correct.

Mr. Herzl said and you have sidewalks in front of them?

Mr. Flannery said we are proposing sidewalks in front of the entire property. With respect to the justification for the variances, these would be C2 variances. If you look at the Master Plan of 2017, on page 2, it talks about all the growth. It concludes that based on this information it is important for Lakewood plan for residential development to house its growing population. The vision statement on page 7 says encourage development and redevelopment based on smart growth planning principles, and it's my testimony that this does this. It's an appropriate redevelopment that fits in well with the area. The Municipal Land Use Law, NAC 40:55D2 under purposes of the act, is A encourage municipal action to guide the appropriate use of all lands in the state in a manner which will promote public health, safety, morals, and general welfare. It's my testimony that this does that. B is to promote the establishment of appropriate population densities and concentrations that will contribute to the wellbeing of persons, neighborhoods, communities, regions, and preservation of the environment. I think when you look at the aerial you see that this is very compatible with the area. For the C2 variance we need to show it relates to a specific piece of property. This is an infill lot, the lots are very narrow, usually we try to get them to be 67' wide so that you can have 26' wide houses. As an architect, the 26' really works out better. If the land was available we would have made them 26. In order to develop this unique piece of property we have them at 60, which conforms with the ordinance. We are requesting the side setback relief, which really isn't going to adversely impact anyone, in order to allow the future residents to have 25' wide units. We have to show the purposes of the MLUL would be advanced, which is what I read. The variance can be granted without substantial detriment to the public good. And it's my testimony that this will fit in well and it's compatible with the area. The variance will not impair the intents and purpose of the zone plan and zoning ordinance, and a development of this type certainly isn't going to have that. And that the benefits substantially outweigh the detriments, and it's my testimony that this does that.

Mr. Herzl said how many parking spaces do you have for each lot?

Mr. Flannery said all of the lots have a minimum of 4 spaces. The existing house on Lot 41.06 will have 4 spaces but it's in the existing gravel driveway.

Mr. Herzl said and garbage is going to be the Township?

Mr. Flannery said yes.

Mr. Vogt said I want to go back to Lot 41.01 and Sampson Avenue. I heard testimony that that property won't be developed unless or until someone does the Sampson Avenue access in the future. If the Board acts favorably on this, I want some kind of assurance that the Township is not going to inherit future maintenance obligations of that property if it goes undeveloped long term. Right now you have an owner of 327 Ocean LLC. I don't know if they are going to retain ownership, if something can be put into the approval that whoever owns that property, they are going to be responsible for the maintenance of that property, irregardless if it's developed or not.

Mr. Pfeffer said the maintenance on our property itself, correct?

Mr. Vogt said yes, we don't want the Township to have any obligation to maintain that property if it's never developed.

Mr. Pfeffer said understood. Our property is our property. We will be responsible to maintain our property.

Mr. Vogt said and it should be 327 Ocean and future successors.

Mr. Pfeffer said yes.

Mr. Herzl said Mr. Jackson, don't you need a homeowners association if there is an extra property?

Mr. Pfeffer said no, these are individual lots.

Mr. Herzl said the lots don't go through to Sampson from Ocean. Lot 41.01 is a separate lot. Who owns it?

Mr. Flannery said it's a separate lot that has frontage on Sampson Avenue, and as Terry has indicated it will be retained by the applicant 327 Ocean LLC and we are agreeing that they, or future owners, will be responsible for maintaining it. At this point, it looks like its an undevelopable piece of property. But if a permit can be granted or something can be done where et would be developable, the applicant would have to come back to the Town and get whatever approvals are needed to do that.

Mr. Herzl said so it does not belong to the properties on Ocean Avenue.

Mr. Flannery said that I correct.

Mr. Jackson said Mr. Vogt, why would that be different than any other vacant lot in town? It's a wooded parcel with street frontage. Well, it's a paper street.

Mr. Vogt said we are bringing it up because the existing property does not require the improvement of Sampson Avenue. The existing overall property has Sampson Avenue access. We are creating a property that has no access unless or until Sampson is developed.

Mr. Jackson said is there anything that would prevent Sampson from being developed? Is it environmentally constrained?

Mr. Vogt said yes, it's called NJDEP.

Mr. Flannery said wetlands. The lot has no vehicular access but it has pedestrian access. The applicant is ok with a condition as Terry suggested, indicating that they are responsible for the maintenance because they are responsible for it.

Mr. Jackson said I wonder if we are setting the stage for a problem in that this does not have access. I wonder if that gives an easement, by necessity, to the back lot to get out to Ocean because they are essentially land locked due to environmental constraints.

Mr. Flannery said we are happy to have a condition in the approval that there is no easement by necessity because they can't get to the back lot to do anything by driving because there are going to be houses there. The only access people would have to that lot are similar to all the other vacant lots, which get fewer all the time, where there is a paper street that allows access to your property but you can only walk there.

Mr. Jackson indicated he was having trouble locating the property on the various maps and the Board Secretary and applicant's professionals reviewed the maps for locations.

Mr. Pfeffer said there is a paper street, it is existing, and we are full acknowledging that we can't develop this property without DEP approval.

Mr. Herzl said on Lot 41.01, is there any wetlands on that lot.

Mr. Flannery said yes and it's shown. It's a majority of the lot. They would need a DEP permit to allow them to do that. It's a difficult permit to get, and chances are it will remain woods for a very long time.

Mr. Jackson said maybe we can address this by putting a note on the subdivision plan that the owner of Lot 41.01 acknowledges that there is no easement by necessity and they may not ever be able to get access to Sampson because of environmental constraints.

Mr. Herzl said we are only approving it that this lot has frontage only to Sampson. If they can't get it, then it's landlocked.

Mr. Jackson said even if they can't I think this lot would still have some value, looking at the aerial there are other property owners who might want to make their backyard bigger. I don't think it's an orphan lot.

Mr. Herzl said why not divide it for the four lots on Ocean Avenue?

Mr. Flannery said because those lots don't need it, they are conforming lots and as Mr. Jackson indicates, if any of the adjoining property owners want to acquire this it has a value. It's not landlocked because there is a street and it has adjoining property owners so it has a value. The applicant just hasn't determined the highest and best use yet.

Mr. Pfeffer said the applicant would agree to Mr. Jackson's suggestion for a note on the plans.

Mr. Sabel said I thought Terry's question was different. What happens when we sell the front lots and the one in the back is still owned by the LLC. At some point the owner says to the heck with it, I don't need it. He closes the LLC and dumps the property on the Township. Is that a possibility?

Mr. Jackson said it's a vacant wooded lot, what's wrong with that? Then it's just wooded. They can't knock the trees down.

Mr. Sabel said but is it a possibility?

Mr. Jackson said yeah, sure. It's no different than any other undeveloped vacant parcel. There's nothing to maintain, it's wooded.

Mr. Herzl said every vacant property is owned by the Township. If someone slips over there, the Township insures it.

Mr. Jackson said no, it's not owned by the Township. It's owned by whoever has the title.

Mr. Sabel said the point is, usually when someone has vacant land, there is always some use of it. Over here, it's creating a lot that will probably never have any use and there's no reason to retain ownership and pay taxes for no reason. So they dump it on the Township. We almost never have this happen because there's almost always roadway access.

Mr. Jackson said well that happens all the time, you're right. Where someone doesn't pay the taxes, and then there's a lien and the Township or a lien holder takes it. But there's nothing wrong with having undeveloped property, in fact there is a lot of good that comes from it.

Mr. Sabel said it costs money, and who is responsible for that financially?

Mr. Jackson said I don't know what it costs, it's like open...

Mr. Sabel said insurance, and if there's any overgrown grass or something...

Mr. Jackson said well the Township doesn't have to take title to it.

Mr. Sabel said is that an option, the Township could say I don't want that?

Mr. Jackson said yeah. It's not a burden on the Township unless the Township takes it.

Mr. Herzl opened to the public.

Mrs. Morris said she hasn't received any emails.

Mr. Herzl said I see a lot of call-ins.

Mrs. Morris said Jilian may need to go through them one-by-one to check.

No one spoke.

Mr. Flancbaum made a motion to approve. He asked to clarify that there is no parking variance being requested.

Mr. Pfeffer said correct, there are no parking variances.

Mr. Herzl said they are giving four per house. Are you ok with the gravel at the existing house?

Mr. Flancbaum said that's what I was unclear about. There is a note on the review for Lot 41.06.

Mr. Flannery said yes, 41.06 we don't have a paved driveway, we have a gravel driveway that provides sufficient parking. We are requesting relief to leave it gravel, and that's the Board's decision.

Mr. Flancbaum said I think it should be paved.

Mr. Meyer seconded.

Mr. Isaacson negative, Mr. Garfield abstained. The rest were in favor.

- 3. SP 2394 Ohr Chaim Meir**
1065 West Cross Street Block 251.02, Lot 88
Preliminary and Final Major Site Plan for a school

Mrs. Morris announced that Mr. Stern has returned.

Mr. Isaacson recused himself for this application.

Mr. Vogt said from our review dated November 3rd, top of page 3, you have topo, contours, manmade features within 200', EIS and architectural drawings. We can support the waivers as noted for hearing purposes only.

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, comment number 2, relief is required with respect to the property buffer. Page 4, our comment 3, relief is necessary for the parking lot to be located within a portion of the buffer. Comment 4, we have to have comment on. There is a possibility that relief may be necessary with respect to loading and unloading area. We will have testimony on that.

Mr. Adam Pfeffer, esquire, appeared on behalf of the applicant. He said this is an application for construction of a new boys high school and post high school building with a dormitory. The proposed building would have a footprint of approximately 16,000 sf for a two story school with a basement. The site plan also proposes about an 8,400 sf gymnasium and outdoor basketball court. This application is seeking no bulk variances. There are some design waivers but other than that we are fully conforming. He had Glenn Lines, professional engineer and professional planner, sworn.

Mr. Lines said we are proposing a boys high school and post high school on West Cross Street with a gym building, a pool, and an outdoor basketball court. We have two accesses onto West Cross Street on either side of the property. There are no bulk variances related to any of the buildings, parking, everything is in compliance with the zoning ordinance.

Mr. Vogt said I want to clarify, I believe you do need relief with respect to the parking buffer.

Mr. Lines said yes but that's a waiver, right?

Mr. Vogt said for schools its interpreted as a variance because it's in section 900.

Mr. Lines said ok. So we do need variance from two things, a 20' buffer along the property lines. All of our improvements are more than 20' away. We would be willing to provide fencing in areas where the Board Engineer thinks it's necessary. We're out in a nice open area on West Cross Street. The property to the west, that's already been approved for residential development all along that side. Number 3 is the buffer for the parking. Our parking lot is 9.71 feet off the property line where 10 is required. I feel that the benefit of additional parking outweighs the detriment of the .83 feet.

Mr. Herzl said are you proposing any landscaping in that buffer area?

Mr. Lines said we do have landscaping along the parking lot where the sidewalk is.

Mr. Herzl said I want to shield the next door neighbors. You're going to be parking there, lights...

Mr. Lines said we have landscaping shown on the landscaping plan and if more is needed we will add more.

Mr. Herzl said ok.

Mr. Lines said number 4 is the variance with regard to bussing. We are not requesting that variance, we can reconfigure that area so that we have... right now it shows three busses. We have no problem reconfiguring that area to make sure those three busses fit in there without any maneuvering problems.

Mr. Herzl said can you show us the circulation plan, how the busses are going to come in and go out?

Mr. Lines said they'll come in on the one way driveway on the south side of the property, they will go up and park in front of the school. And then proceed back out and make a right or left turn onto Cross Street. And it's the same for cars.

Mr. Herzl said how many parking spaces do you have and how much are required?

Mr. Lines said we have sixty spaces where thirty-one are required. Just about double. But it is West Cross Street and there is no on-street parking so we feel it's necessary.

Mr. Herzl said technically if you didn't violate the parking in the buffer you would still conform to the requirements. As a school, you think you need more parking and that's why you're asking for the relief.

Mr. Lines said correct. We would lose that whole row of parking on the north side, which is 16 spaces. But we would still conform with the 31 required.

Mr. Herzl said I think it's beneficial for a school to give more parking not less, and if you're parking in the buffer I would ask you to shield it with trees, gate (fence), to give privacy to the neighbors.

Mr. Lines said we would definitely do that, we would do that all along that northerly parking where the cars would be pointing right at the neighbors.

Mr. Vogt said what are we talking about for buffer, 6' vinyl?

Mr. Herzl said I would say 6'.

Mr. Lines said 6' vinyl fence.

Mr. Herzl said and bushes?

Mr. Lines said we would put bushes along those parking spaces, I think that would look nicer than the fence.

Mr. Vogt said bushes in lieu of fencing or both?

Mr. Lines said no we'd put landscaping along the parking lot in lieu of the fencing. We'd put the fencing around the building.

Mr. Flancbaum asked for clarification.

Mr. Lines said we show the fencing ending where the handicapped space is.

Mr. Herzl said I have an issue with that. The fence should be around the whole property.

Mr. Flancbaum said yes, I think the fence should be everywhere.

Mr. Lines said we have no objection to that.

Mr. Vogt said the fence will have to be 4' in the front yard setback.

Mr. Herzl said ok, no problem.

Mr. Lines said other than that, if you have any questions...

Mr. Herzl said is there anything in the report that you don't agree with?

Mr. Lines said no.

Mr. Herzl said how many students in the school?

Mr. Lines said 100 high school students and 80 post high school students.

Mr. Herzl said are they coming with cars?

Mr. Lines said no, students aren't allowed to drive. The high school students would be on busses, some would be dormitory.

Mr. Herzl said the dormitory is on the same premises?

Mr. Lines said it's in the main building, yes.

Mr. Pfeffer said if you look at page 5 of our traffic study, it indicates the number of students, the bussing, the staffing, the times, all that information.

Mr. Herzl said I just wanted it on the record. On Cross Street you are putting sidewalks?

Mr. Lines said yes, and widening. It's been submitted to the County and they've given us their preliminary comments.

Mr. Herzl said and garbage, I don't see a pad for the dumpsters?

Mr. Lines said there is, on the front right-hand corner of the building with an enclosure. It would be Township collection.

Mr. Flancbaum said the narrative in the report indicates 38 classrooms. I just wanted to be clear on the number of students.

Mr. Lines said that's a mistake.

Mr. Flancbaum said ok I just wanted to make sure. So it's 100 students. And I appreciate the additional parking that the school is proposing. They were conscientious that you cannot park on Cross Street.

Mr. Abe Auerbach appeared and was affirmed. He said the fence around the property is going to be a 6' chain link fence.

Mrs. Morris said earlier testimony said vinyl.

Mr. Herzl said I want privacy for the neighbors.

Mr. Auerbach said we'll do it with the slats, but we're not going to do a vinyl fence because it breaks.

Mr. Pfeffer said Mr. Auerbach, you are the builder? And in your experience you've built several schools, and is it your experience that the vinyl fencing breaks over time with the kids running around?

Mr. Auerbach said yes.

Mr. Pfeffer said and you have no problem with putting up a fence and putting in shrubbery and privacy slats?

Mr. Auerbach said yes, we will put the privacy slats.

Mr. Pfeffer said should the Board approve the application, we would agree to work with the Board Engineer to make sure sufficient buffering is provided.

Mr. Herzl said thank you.

Mr. Sabel said this application is beautiful.

Mr. Stern said out of curiosity, why are there two dining rooms. I've never seen that before.

Mr. Auerbach said to have different times for the post high school and high school so they can divide it up.

Mr. Stern said no future simcha halls?

Mr. Auerbach said no. There may be a school function, but no outside rentals. That's not what we are looking to do over here.

Mr. Sabel said a playground outside anywhere?

Mr. Herzl said there is area between the basketball court and the gym.

Mr. Flancbaum said this is high school and post high school, I don't think the boys need swings.

Mr. Sabel said very good.

Mr. Herzl opened to the public.

Mrs. Morris said I did not receive any emails on this application.

Mr. Isaacson came forward to comment as a member of the public. He said this applicant has always been respectful of the neighborhood, and I am fully confident that he will do everything to accommodate any issues at all so that there are no issues for any neighbors.

Mr. Garfield said where is the entrance and exit on West Cross Street located?

Mr. Lines said the entrance is on the south side of the site, and the exit is on the north side of the site.

Mr. Garfield said ok.

Mr. Lines said the property is 600, 800 feet away from Niemann Road to the south.

Mr. Garfield said do you know if the County plans any traffic lights in the area? I live by Cross and Massachusetts and I avoid Cross Street.

Mr. Lines said this is further towards Jackson than Whitesville. We are a good 1,000 feet past Niemann Road, between Niemann and White and there are no traffic signals at either of those intersections.

Mr. Flancbaum said you said your plans show road widening as well?

Mr. Lines said yes, widening is a County requirement.

Mr. Flancbaum said that should help the traffic flow, I also live right down the street.

Mr. Herzl closed to the public.

Mr. Sabel said the application is beautiful. Suggestion, maybe the in on the south side, if they could make it cement block or something so you can only make a right in, not a left in. If we can. At the entrance to the property. Only a right in.

Mr. Vogt said the Board can make a recommendation, but that's subject to Ocean County.

Mr. Herzl said Cross Street, they want to add a lane to it. A turning lane. It's in the works.

Mr. Vogt said I believe that's in the plans for Cross Street, I don't know whether West Cross Street is included. Is that part of the same highway?

Mr. Lines said the plan for Cross Street is to eventually widen it from Route 9 all the way through to Jackson.

Mr. Vogt said so this is part of where the County is looking to put that center turn lane.

Mr. Lines said yes, and we are providing 25' of pavement from the center line. We basically have half of the turn lane, a travel lane, and a 5' shoulder. Along this property, the County will be basically done widening the road for this 193'.

Mr. Vogt said thank you.

Mr. Sabel made a motion to approve with the fence in the front, the buffer area as discussed. And a recommendation only, to the County, for the entrance.

Mr. Herzl said and the fence should be a privacy fence.

Mr. Sabel said absolutely. Chain link with privacy.

Mr. Flancbaum seconded.

All were in favor.

Mr. Meyer left the meeting and Mr. Isaacson returned.

4. SP 2392AA Emunas Yisroel Lakewood
15 Clover Street Block 244, Lot 19
Change of Use/Site Plan Exemption to convert a house to a synagogue

Mr. Vogt said from our October 5th review, beginning with waivers on page 2, we have several submission waivers. We support those for hearing purposes. We've identified the design waivers based on the concept. The Board may want to hold off on waivers until they're comfortable with the proposed site improvements, if any.

Mrs. Morris said I have a November 23rd letter, I think you're reading from an older letter.

Mr. Vogt said the waivers on page 2 look unchanged from what I previously read. The submission waivers under 1, we don't have an issue with in terms of hearing. We recommend holding off on the design until the Board has heard the application. Beginning on the next page, under zoning, as indicated comment 2, front yard setback should be reaffirmed, it is an existing condition. Similar to the side yard setback, the accessory setback, the accessory rear yard setback. Perimeter buffer will have to be acted upon because it is triggered by the change of use. Everything is existing currently, the buffer relief comes into play because you are changing the use where that buffer relief is now triggered. That's our comments and the relief.

Mr. Gerald Klein, esquire, appeared on behalf of the applicant. He presented Mr. Glenn Lines, professional engineer and professional planner, who was sworn. Mr. Klein said this is for an existing property which is currently a residential use. We are asking for the waiver to change the use to a synagogue. The neighborhood has, there was a previous application for adding residential housing in this neighborhood, and as everybody knows this entire neighborhood has been transitioning to residential. Thus, the neighborhood does need more synagogue space. This is not for any big synagogue, just literally for people in the neighborhood that are gathering together. There are a lot of neighbors on the call that want to opine about this. This would be a benefit to the neighborhood as Mr. Lines will testify. We are asking for the existing structure to be kept the same, we aren't putting down some huge building or anything like that.

Mr. Lines said the letter points out 5 variances that are required for this application. They are all related to the existing house, the sheds, chicken coop in the backyard. All those are existing conditions. Those are the first four variances. The big one is for buffer relief. It's an existing house, it's not possible to provide the 20' buffer. It's a narrow lot, only 50' wide. With 20' buffers on each side we'd end up with a 10' wide lot. There's some fencing around the property, which acts as a buffer. In general it's going to be a very small neighborhood synagogue. We anticipate everybody is going to walk. It's understood there is no parking on Clover, which is a very busy street. The neighborhood is already very crowded with people parking on the street already. We are just looking for a smaller synagogue so a smaller group can get together, they can walk from their homes to get to this synagogue and pray. We are putting in a wooden handicapped ramp to make it accessible. We showed three parking spaces on the lot, that's the existing driveway. We don't anticipate they will be used by the congregants, maybe the Rabbi. But it's really not meant to provide parking for anyone coming to the site.

Mr. Herzl said we definitely need, in front of the building, some handicapped spaces.

Mr. Lines said we could, if we need one, we could fit a handicapped parking off the street in the front yard of the property if you widen the driveway apron. But if handicapped is necessary, where the space is with the "3" in it...

Mr. Herzl said most of the congregants are going to walk, but we have to take into consideration someone who is handicapped.

Mr. Lines said right. If we make one handicapped spaces, that's really going to be all the parking that we can have on site. Because that handicapped space will block any access to the rear of the property. So the rest of the property, as far as use and buffering, it will really be unused and inaccessible because of the handicapped space.

Mr. Vogt said talking about handicapped space, how is that going to be oriented? It looks like there is a 16.5' front yard setback.

Mr. Lines said about 16' between the property line and that front porch. That's probably wide enough to get a handicapped space and the aisle next to it. And then we have to provide an all weather surface going back to the ramp in the back of the building.

Mr. Lines said you're not talking about head-in off of Clover, correct?

Mr. Lines said yeah we would have one head-in space on the property.

Mr. Vogt said ok. Are you talking about converting that space into handicapped?

Mr. Lines said if we make a fully handicapped van accessible space which is 8' wide, and an 8' wide aisle, we would have to widen the apron, which will impact the on-street parking, but you would have one handicapped space with an access aisle.

Mr. Vogt said so the handicapped space is going to be one of those three existing stacked spot shown on your plan.

Mr. Lines said correct.

Mr. Herzl said how big is the synagogue?

Mr. Lines said I believe it's 748 sf, less than 800 sf, so parking is not required. The new bais medrash is 784. Which would really be the existing living room, kitchen, and those three rooms combined together.

Mr. Herzl said the basement is staying unfinished?

Mr. Lines said yes, there are no plans to do anything with the basement or the second floor.

Mr. Herzl said so you're not renting out the second floor, you're not doing any construction whatsoever.

Mr. Lines said just some first floor renovations to remove walls basically.

Mr. Herzl said is there anything in the report that you don't agree with.

Mr. Lines said no.

Mr. Herzl said do you want to give on the record reasons for the variance?

Mr. Lines said all the variances are existing.

Mr. Herzl said so you don't have to give reasons?

Mr. Lines said we can't move the house, we'd like to keep the sheds and the outbuildings where they are for the time being. There's no reason to remove them, they've been there for years. And the only other variance is the buffer variance and I believe I addressed that, if we provided the buffer we'd only have a 10' wide building envelope. And that would require demolition of the existing house. So I feel a buffer variance is justified in this case. Based on the use and no one driving to the site, there won't be any great impact on the neighbors from vehicles.

Mr. Herzl said should you throw down the building and want to build a new building, you will have to come back to the Board?

Mr. Lines said yes. This is just a change of use for this building.

Mr. Herzl said it's basically a temporary change of use, because such a small synagogue is not going to last you too long.

Mr. Lines said it's necessary and what they'd like to do.

Mr. Vogt said it looks like you have an existing buffer along the southern property line. It looks like there is a fence there already.

Mr. Lines said yes. I don't know what kind of fence it is.

Mr. Vogt said so you have some form of buffer there now.

Mr. Lines said yes. And there is also a fence shown on the northern property line, I think. So there is some fencing.

Mr. Sabel said I'm looking at Google maps. It's showing that the backyard, we can fit a lot more parking... I know we only have one way in and out, so it might be a cluster issue, but it's better than nothing. And if we take away those sheds, if needed we can have 10, 15 cars parking there.

Mr. Klein said the applicant would not be adverse to graveling the rear so if necessary there could be some parking there.

Mr. Sabel said that would be great.

Mr. Stern said those sheds are not architecturally pleasing, why not just get rid of them.

Mr. Klein said the applicant has no objection to that either.

Mr. Stern said there is a lot of garbage in the back now. Why don't we get rid of the sheds, make it a nice clean gravel lot. There is no parking on Clover, just in case there is a random person, it's bad weather and someone decides to drive, we could get at least 10 parking spots back there.

Mr. Herzl said if you get 10 spots it's a small shul, it's variance-free according to the parking.

Mr. Sabel said there might be an issue going in and out, but...

Mr. Herzl said how wide is that driveway?

Mr. Sabel said 7.8.

Mr. Stern said enough for one car.

Mr. Lines said space between the building and the property line, the side setback, is 15.2 feet. It's 87 feet from the back of the deck to the rear property line, which is about a handicapped space and maybe 7 other spaces.

Mr. Stern said why don't we do that, get rid of the sheds.

Mr. Lines said if that's what the Board would like...

Mr. Stern said we asked very nicely.

Mr. Herzl said we have to try to be accommodating to the neighbors. We can't park on Clover. I know it's a very small shul, it may not be required to put any parking in, but like Bruce said if it's bad weather you're going to have a few guys come with cars, let's give them the few spaces.

Mr. Herzl opened to the public. He said there are a lot of call-ins.

Mr. Jackson said I've taken a look at all of those. My sense, I think we should make an inquiry first whether there is anyone on the line who is in opposition to this application. We received numerous letters that were positive and I see many people on the phone. The letters were in support of it, stating that they wanted to pray there and they thought it would be a good asset to the community. We can make all that part of the record. The Board has had the opportunity to review all those. I would first ask that if there is anyone...

Mr. Herzl said we have two, I think Mrs. Kirkland and Mrs. Crews, that are waiting. I did look through some of the emails, I think most of the people are saying they live in the vicinity and are going to be walking. It would be faster to walk than to drive.

Mr. Jackson said let's see if anyone is in opposition first and see what they have to say.

Mr. Herzl said Mrs. Crews and Mrs. Kirkland?

Ms. McLeer said John do you want me to unmute everyone?

Mr. Jackson said yes, I'm going to ask everyone to cooperate here. This is new territory so please try to cooperate with the process. We are going to unmute everyone. Jilian, do you have the ability to do that?

Ms. McLeer said yes, and again it's saying "request sent" so I think that everyone at their end also needs to unmute.

Mr. Jackson said yes, only if you want to speak in opposition only. Right now when you get the invitation, accept the invitation to unmute.

Mr. Herzl said please one at a time, I will acknowledge you and please state your name for the record.

Ms. Willie Kirkland of 25 Clover Street spoke and was affirmed. She said I live on this street. This street is already congested. And he's saying that people won't be driving here. Yes they do, they come and block my driveway every day. I have to fight to get into my own driveway. I don't think it would be a good thing to put a shul up there, that's my opinion.

Mr. Jackson said what do you think about the idea of having parking in the back yard?

Ms. Kirkland said the backyard is so small, I have a backyard like that. People don't park in the back, they park in the street. We could say what about the backyard all day, but they park on the streets.

Mr. Jackson said I was more concerned whether you think that would be... I wondered whether that would be a bother to you.

Ms. Kirkland said we have people on our street that want peace in their homes just like everybody else. People are going to be blocking the way.

Ms. Crews of 25 North Clover spoke and was affirmed. She said I have the same concerns as Ms. Kirkland. The street is already overpopulated. We've got new homes with big families and a lot of traffic. My house sits directly across from the shul and I would be the one that would be inconvenienced. I think that one or two homeowners that are there are right directly by the shul. Unless they are tearing down two houses or the house right next to the shul on the righthand side, I'm not seeing parking. I don't know how they would park 10 cars in that backyard, and no way in and no way out. That would be... we deal with busses, working vehicles, the traffic is horrific and I have to wake up to this day in and day out, the noises going on. I'm already going from living there over 30 years from what was once a quiet slow street to now a busy congested zone. The noise, the congestion, it's becoming a lot. The people that are saying they are going to walk, that's fine but there's still a lot of congregating around my property. Everybody else has their privacy where they live, now my home will become a place where business is conducted, people are gathering. I just can't move about. I don't have that, and I've lived there 30 years and seen how this neighborhood won't be residential any longer for me. That's my concern about a shul directly across from me. I will not have peace and quiet or my privacy. What little bit I do have, I want to try to keep.

Mr. Stern said the nice ladies, what are they advocating? We are not the Township Committee, we have certain parameters that we can and cannot do. What are they asking this Board to do or not do.

One of the ladies said put it in your neighborhood.

Mr. Herzl said thank you, that's not fair.

Mr. Jackson said I think there was a misunderstanding. I think what Mr. Stern was getting at, sometimes there are things that you can ask for, whether it be buffering or screening, no lights, entrance a certain way... I think Mr. Stern is asking, is there anything specific that you would request that could possibly make this work or maybe less of an impact. And maybe your answer is I don't want it here at all, and I hope for you to deny it. I think that's what the inquiry was.

Mr. Stern said thank you, that's exactly what my question was.

Ms. Crews said so we understand, that's what she basically said. I don't see a way that this would work because like I said, it sits directly across from my house. There's a lot of traffic going in and out. I just want it to stop.

Mr. Jackson said I think we get the point of your question.

Ms. Kirkland said and another thing, then our taxes go up and you guys don't have to pay taxes on that.

Mr. Herzl said ok thank you.

Mr. Jackson said one of the comments that Mr. Stern made is the reality, which is this is permitted in the zone. And it is something that the law considers to be inherently beneficial. And the Board's hands are somewhat tied on an application like this. I think the Board members can relate and they understand it's an imposition when a facility is right next to your house, but they are allowed and the Board has to work within the confines of the law.

Ms. Kirkland said there are already a lot of them on the street, there's one on Bergen Street, there's one on Ocean Avenue, they could walk there. Why would you put one right across the street from my house, it's not like there aren't temples around here. They're putting them everywhere.

Mr. Sabel said we can only have 10 people in the shul because of COVID, so we need more shuls.

Mr. Herzl said Mr. Jackson, I think it would only be fair if there is anyone, since we listened to the opposition, if we could listen to some in favor.

Mr. Jackson said you're right, I'm going to ask Mr. Klein to select three people. It seems the rest of the callers are in favor. Mr. Chairman, you have the right as the Chairman to limit...

Mr. Herzl said it's going to be repetitious to go through them all.

Mr. Jackson said Mr. Klein, do you want to pick three people to speak or do you want to take them at random?

Mr. Klein said there is a Mr. Hasenfeld, I propose he should be the first speaker.

Mr. Jackson said Jilian, I ask that you give everyone the opportunity to unmute themselves and I ask that Mr. Hasenfeld speak.

Mr. Hasenfeld called on behalf of his father, LHH LLC, which is next door.

Mr. Jackson said if you're calling on behalf of your father, unless you're an attorney you don't have standing and can't speak on his behalf.

Mr. Klein said so I propose we take at random any three people.

Mr. Herzl said anyone that would like to speak, please unmute yourself. Is there anyone who would like to speak?

No one came forward.

Mrs. Morris said we could read one or two of the affirmative emails that came in instead.

Mr. Herzl said please.

Mr. Jackson said yes, why don't we do that. I've reviewed all of them, I think they were all positive and said the same general thing.

Mrs. Morris read from Eliezer Lipschitz of 508 Sterling said this shul is important to me and I approve of it being here. Another comment, from Mis Blimi Klinger of 819 East End Ave, said this shul is very important to me and I look forward to it being here, please give this matter your utmost attention. And the first comment that came in

yesterday from Sholom Gerendasy of 357 Bergen, he said this shul is important to me and I approve and look forward for it being here.

Mr. Herzl said ok. The only thing I would ask, Mr. Klein, I would ask the applicant to be considerate of the neighbors. I would like to have as much parking as possible with a gravel parking lot. I would like if the property is fenced with a privacy fence to shield all the cars, the lights shining to the next door neighbors. It is a residential neighborhood, we have to try to keep it as peaceful as possibly.

Mr. Klein said absolutely. I want to make a point again that this is a full use variance, so we will be doing some work on the property to make it more pleasing to the neighborhood as well, because quite frankly it's pretty decrepit. And we are going to do this aesthetically pleasing for the neighborhood, too.

Mr. Herzl closed to the public. He said you have sidewalks in front of the property on Clover Street?

Mr. Klein said yes.

Mr. Herzl said and garbage will be the Township with roll out containers?

Mr. Klein said correct.

Mr. Herzl said should you make any expansion, if you want to throw down the building and build new, you will have to come back to the Board and show the parking.

Mr. Klein said absolutely.

Mr. Herzl said it's only a change of use on this property. He asked for a motion.

Mr. Stern made a motion to approve with the following condition: shed 1, 2, 3, and coop are removed.

Mr. Herzl said and gravel and as many parking spaces as possible.

Mr. Stern said exactly. All three sheds, the coop and associated chickens go bye-bye.

Mr. Herzl said and the fence.

Mr. Stern said and a privacy fence, how high?

Mr. Herzl said I'm ok with 4 feet as long as the lights don't shine over to the neighbor.

Mr. Stern said and it would be preventing lights shining to next door. And as many decks (parking spots) on the gravel parking lot as the law allows.

Mr. Sabel said can you recommend putting gravel from the back to the front of the property? On the driveway?

Mr. Stern said I think it already is.

Mr. Sabel said there is some grass, I think we can put gravel over there to make it a safe pathway.

Mr. Stern said yes, I would amend my motion to include that as well.

Mr. Flancbaum seconded.

Mr. Sabel abstained, the rest were in favor.

- 5. APPROVAL OF MINUTES**
- 6. APPROVAL OF BILLS**
- 7. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Ally Morris
Planning Board Recording Secretary