

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. Rennert, Mr. Isaacson, Mr. Meyer, Mr. Raitzik were present.

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

3. MEMORIALIZATION OF RESOLUTIONS

1. **SP 2411AA Shmuel Censor**
615 Bergen Avenue Block 189.31, Lot 154
Change of Use/Site Plan Exemption to convert a house to a school

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

2. **SD 2468 485 Oberlin Owner LLC**
485 Oberlin Avenue Block 1601, Lot 2
Minor Subdivision to create three lots and Amended Site Plan for existing building to remain on reduced lot

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

3. **SP 2402 485 Oberlin Owner LLC**
485 Oberlin Avenue Block 1601, Lot 2 (proposed Lot 2.03)
Preliminary and Final Major Site Plan for a warehouse

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

4. **SP 2403 485 Oberlin Owner LLC**
485 Oberlin Avenue Block 1601, Lot 2 (proposed Lot 2.02)
Preliminary and Final Major Site Plan for a warehouse

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

5. **SD 2120 Mordechai Eichorn**
Oak Street Block 855.06, Lots 24, 24.01, & 27
Extension of Minor Subdivision to create six lots

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

- 6. SD 2121 Mordechai Eichorn**
Oak Street Block 855.06, Lots 18 & 33
Extension of Minor Subdivision to create three lots

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

- 7. SP 2412 Lakewood Cheder School**
South Park Street Block 248.01, Lots 69, 70, & 72
Preliminary and Final Major Site Plan for an addition to an existing school

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

- 8. SD 2471 Yeshivas Ohr Olam**
Vermont Avenue Block 1100, Lots 17, 19, 22, & 23
Minor Subdivision to create two lots

- 9. SP 2410 Yeshivas Ohr Olam**
Vermont Avenue Block 1100, Lots 17, 19, 22, & 23
Preliminary & Final Major Site Plan for a school

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

4. ORDINANCES FOR REVIEW

- **O2021-024** Cedarbridge Redevelopment zone change

Mrs. Morris said we had Mr. Stearns presenting this at the last meeting to the Board. He has done some research and provided documents which are available on the public drive.

Mr. Herzl said was everyone present at the last meeting?

Mrs. Morris said yes, we had a full Board.

Mr. Herzl said and did everyone get the package with the Plan Amendment?

Mr. Sabel said there is no amendment.

Mr. Garfield said yes.

Mr. Stern said yes they sent some stuff in the mail.

Mr. Tom Stearns said I sent a memo and revised DA-1 Ordinance and revised Redevelopment Plan Amendment Report. I think it was Friday. And then Cedarbridge was in conversation I guess with the Chair... to summarize that change, we were proposing to take the hospital and some of those related uses out of it. And then I just sent something like an hour and a half ago to put them back in. The new memo just said we put the hospital back in. The one on Friday...

Mr. Herzl said Mr. Stearns, I think that you heard last time, I think Mr. Stern, me, other members, we have two issues. We want to make sure we have enough parking for all the uses, and the second thing is traffic. What has your office accomplished on that? I know we spoke about banquet halls last time, hospitals...

Mr. Stearns said well let's deal with the hospital first. I know the Chair had asked me previously to look into Kimball Medical Center, and I did. The information I got was from the internet. Supposedly it's a 350 bed, fully-accredited, acute care hospital. I looked at the site with aerial photos. The main hospital is about a 12.5 acre lot, and it has about 270 cars. That works out to be .77 spaces per bed. When you go north of Prospect Street, there are two additional parking lots on approximately 4.5 acres. And there's approximately 260 cars. If I add those into the main hospital site, I have a total of 531 divided by 350 beds gives me 1.5 spaces per bed.

Mr. Herzl said they also have outpatient, not just the beds, right?

Mr. Stearns said to be honest, I don't know. I've never been to Kimball. There is a medical office building north across Prospect Street that I didn't include in this calculation. So this calculation is separate from that medical office building.

Mr. Herzl said where are you proposing to put the hospital?

Mr. Stearns said we are just allowing it to be as a permitted use if someone comes along in the future, whether it's 5 or 10 years, and wants to put a hospital in there, it's a permitted use.

Mr. Herzl said how much parking are you giving in this plan?

Mr. Stearns said I'm providing 4 spaces per bed. In addition, I'm calling out that the medical office is separate, at the rate you have in your Ordinance which is 6.6 per 1,000 or 1 per every 150 sf.

Mr. Herzl said so compared to Kimball, you're going way above.

Mr. Stearns said yes, and as I mentioned in my testimony at the last meeting, this was primarily based on research I did at the two new greenfield hospitals at Princeton and Capital Health in Hopewell, actually Plainsboro and Hopewell. As I mentioned before they opened and both of the facilities were short on parking. The primary reason for that is a lot of the outpatient visits to the hospital. It's kind of a mixed-use medical center. There's fitness centers there, cogeneration plants, clinics, there's a lot of outpatient diagnostic and testing. So what I'm proposing is the four spaces per bed. The Hopewell Township Ordinance was less, they were at 1.5 per bed. And the medical uses between the two don't really line up, the Ordinances for Plainsboro and Hopewell. But I think with that as a count for the inpatient use, and then doing calculations separately for the outpatient and hospital uses, I think they should come close to getting it right. Also it will depend on the application, if one ever does come in, and then you can certainly thoroughly scrutinize it.

Mr. Herzl said and what about banquet halls?

Mr. Stearns said we did some research on those. Scott Kennel is available here if you have questions for him. Basically to summarize Scott's research, using the ITE numbers for the parking requirements for a hotel/banquet/conference facility, you use one space for every three attendees. But that's really based on...

Mr. Herzl said that's besides the parking you need for the rooms?

Mr. Stearns said yes. When you do an analysis for a hotel, you have the number of rooms, which is separate, and I put in 1.1 spaces per room. The extra tenth of a space covers staff. You also would figure the meeting, banquet, and conference facilities separately. But you would calculate it really based on the net square footage of those facilities. That's where you have to go to the architecture plans to see what the occupancy load is calculated for each of those net areas. And then come up with the number of people, and then divide by three to come up with the parking spaces required. I can give a quick example. Let's say you had a 10,000 sf net facility of a banquet hall and a restaurant. So the ITE requirement is 1 space for 3 guests. So the occupant load on that at 15 sf per person which comes out of the building code, ends up being 666 guests or attendees. Divide that by three, you get 222 spaces. That comports to 22.2 spaces per 1,000 sf. That's based on the net median areas. You exclude set up areas, circulation areas, food prep kitchens, etc. Let's say the gross size of the facility was 20,000 sf and that other 10,000 was in breakout space and circulation and kitchens. That would equate to, based on a gross, 11.2 spaces per 1,000 square feet, just as a comparison.

Mr. Stern said on page 2 of your April 15th memo, in the fourth paragraph, you say as we discussed, a banquet hall with a hotel will have shared parking and the number of parking spaces for the call can be reduced on case-by-case condition depending on the size of the hall, the number of hotel rooms, and the number of parking spaces. What does that paragraph mean?

Mr. Stearns said I should provably give you an example. Princeton Forestor Village, which is a mixed-use village of office, retail, and a hotel. There they have shared parking. Some quick numbers, their parking supply in the lot adjacent to the hotel is actually only like 430 spaces. If you do the arithmetic for the ITE requirements for the hotel, for the beds, for the conference facilities, and the restaurants, they probably need 712 spaces. The Plainsboro ordinance required a little over 600. But they're all part of the mixed use development....a walking distance away, there's multiple other multiple office parking lots around there. So there's a lot of other parking nearby there than what's per se right next to the hotel. So that's an example of shared parking, where they were short in the lot right next to the hotel, but right nearby there's plenty of ample parking.

Mr. Herzl said if I read it correctly, we aren't telling them they can have less parking. We're just saying that if the circumstances show that they have another parking lot in the area that can be utilized, then we'll take that into consideration.

Mr. Stearns said exactly.

Mr. Stern said but there really isn't. You've got the office building behind the hotel, to the north, and then the retention basin and the church. I get it for Princeton Forestal, but how is that relevant to this development? For this particular hotel on the corner of Pine and New Hampshire?

Mr. Stearns said I guess I'm not familiar with that site plan. I know there's a hotel proposed there. But that hotel would be a stand-alone, it really wouldn't have shared parking.

Mr. Stern said that's why I got confused. You're right. You're saying in general. Now I understand.

Mr. Garfield said if all these people are going to use shared parking with office buildings, who's picking up the liability? You think these people will want it?

Mr. Herzl said my answer to you, if they don't have parking then they don't get approval by the Planning Board. If they can't work out a deal, then they don't get the approval.

Mr. Garfield said also, it says here somewhere, Cedarbridge has decided not to pursue medical facilities, but the Township already has parking requirements for medical office.

Mr. Raitzik said they put it back in.

Mr. Garfield said is that the same piece of land?

Mr. Herzl said I don't think there's any piece of land that they're talking about. They're talking about the whole Cedarbridge development. I don't think they're talking in particular about one piece of land.

Mr. Stearns said there's 113 acres left that could still be developed in Cedarbridge.

Mr. Stern said it's the big picture.

Mr. Garfield said that's a big if.

Mr. Vogt said I've taken a look at what Tom has done including what was submitted late this afternoon. I think he's done a reasonable job with the numbers. I just wanted to call the Board's attention to his study. I think it's page 21 of the study, where he talks about the various parking numbers. And the whole question under shared parking he has addressed under page 21 of the Amendment Plan. Where it says minimum parking ratios within the DA zone and Redevelopment area... That is where if someone came in with a mixed use, they would be looking at the individual standards or if they could make a case to the satisfaction of the Board, that a shared scenario works, then they could get relief. If they can't make a case, then the Board doesn't grant relief.

Mr. Herzl said that's what I understand.

Mr. Raitzik said I have two questions. Number one, we had spoken about shoulders on that main road if they are trying to put back in medical, hospital usage, would it be something that Cedarbridge would put in shoulders on those roads.

Mr. Herzl said more than shoulders, I think on Pine Street we need a turning lane, especially if there is medical. Ambulances to go through, you need a turning lane over there.

Mr. Raitzik said I don't even mean on Pine, I'm saying on Avenue of the Americas. You zoom through, it's two lanes, there's no shoulder there. We spoke about last time if you have ambulances there it would not accommodate for people to move over if they are putting that back in. If they do want to have hospital usage, it would need a shoulder put in and I want to know that Cedarbridge would take accountability to put that in. That's one point. Second, on the banquet halls, they're saying 1 spot for every 3 seats. Should it be based on capacity rather than how many seats they're saying that can put in there. In other words, if the hall can fit in 500 people, there might end up being some events of that nature, can they possibly put in more requirement for parking spots.

Mr. Stearns said would maybe ask Scott Kennel to address that, but I think the whole purpose of the ITE, they've done multiple studies over multiple facilities across the US and summarized the data, and that's what they've generally found based on parking counts of existing facilities. That's how those numbers and those standards were developed. Scott could maybe elaborate a little more.

Mr. Raitzik said mainly because it's together with hotels. So you could have events that are completely separate from people who are staying in the hotel. I would think we need additional room, not based on just the beds and what the one seat for every three people for the banquet hall. I think we need a lot more than that.

Mr. Herzl said Mr. Raitzik, you have one per bed plus one for every three occupants.

Mr. Raitzik said I think that was the hospital. The banquet hall-

Mr. Herzl said no, banquet also.

Mr. Stern said that was the banquet hall.

Mr. Raitzik said so what about the hospital arrangement?

Mr. Herzl said hospital was four. Four per bed. And Kimball was 1.15 per bed. So it's more than double of what Kimball has.

Mr. Raitzik said ok so for the hotel you'd have 1 per bed-

Mr. Stearns said 1.1.

Mr. Raitzik said 1.1 for the hotel, and in addition to that you would have how much based on capacity for the banquet hall?

Mr. Herzl said one for every three people.

Mr. Raitzik said is occupancy of the banquet hall based on capacity or based on a random number?

Mr. Stearns said it's based on capacity. It's derived from the building codes for the occupancy load. There's a table in the IBC code that generates, based on the seating arrangement, the square foot that you use-

Mr. Herzl said which is the maximum that the building code will allow you to put in that room.

Mr. Raitzik said meaning if they have let's say dividers subdividing the room, and they're saying well the main usage is this primary room, but technically if you take away dividers it could end up doubling the size.

Mr. Stearns said you base it on the net meeting rooms, so typical hotels are going to have a conference facility, a number of smaller rooms, one large banquet room that can usually have dividers that can split it in two, but they're counting all that net area of the meeting space.

Mr. Raitzik said how about that point I brought up about putting in a shoulder on that main road servicing the area. There's no real on-street parking available, you'd only have what you have in the parking lot.

Mr. Stearns said that's correct.

Mr. Herzl said Mr. Raitzik, that could be our recommendation, that we agree with this whole plan, but basically they have to put shoulders on all the roads.

Mr. Raitzik said but part of this thing that they're trying to accommodate that, so I just wanted to hear from Mr. Stearns-

Mr. Stearns said I can give you my view, but I think it might be better for Scott to comment on the widening. Offhand, we've already put those curbs and everything in. I don't think Cedarbridge is going to be widening, putting shoulders in.

Mr. Herzl said what's with on Pine Street?

Mr. Stearns said Pine Street, as I said in my memo, on Cedarbridge is partially paved for a lot of the improvements, to the intersection of New Hampshire and Pine Street. And it isn't really Cedarbridge's responsibility to fix Pine Street. If you go back to your 2017 Township Master Plan, there are a number of recommendations in there of improvements and further studies that need to be done on Pine Street, potential widenings and improvements. That's really not Cedarbridge's responsibility.

Mr. Raitzik said well you want to make a hospital there, you need a shoulder and also the additional street parking. Isn't that part of the improvements to the area that you're saying you're willing to take care of?

Mr. Stearns said I would think any traffic study would maybe suggest that you don't need a shoulder. They don't have shoulders in New York City when ambulances are going down. What if an ambulance goes down there now?

Mr. Raitzik said it's a problem. We have to be prudent about it.

Mr. Garfield said it says Cedarbridge has decided not to pursue medical facilities whose primary occupation is over night. It doesn't say a daytime. If they put a daytime use, it's gonna still need parking lots. It just says overnight they decided not to put in.

Mr. Herzl said they decided to put in overnight also. They rescinded that, not to have overnight. And they're giving more parking. Instead of 1.5 like Kimball has, they want to give 4 per.

Mr. Garfield said it says the Township already has a parking requirement that they have.

Mr. Herzl said I know, and the Township requirement is less than 4 per bed. Cedarbridge is willing to go up to 4 per bed, which I think is a good number. My only question is on Pine Street, make sure that it can handle the traffic.

Mr. Flancbaum said I think we all have the same concerns about traffic flow and the possibility of additional lanes or shoulders. I think at this time, to say what we are going to need in the future, I think we're just shooting from the hip. Instead of dictating now, I mean there's no application before us. When and if a hospital ever came before us, there would obviously be a very extensive traffic study of the entire area, and we might decide that more than one thing is necessary or less. To dictate at this time, what if we decide later on that there should be more? Then they're going to say well you said we could do this if there's a shoulder, so we're not going to do anything else. I think it might be prudent not to dictate at this time what road improvements are going to be necessary, and let's wait until we get an application and there's a full-blown traffic study and we can tell the applicant exactly what we're looking for.

Mr. Herzl said to add on, I do think that our recommendation should be to the Township that any heavy use they want to put on Pine Street, we have to take into consideration the traffic and a traffic study has to say widen the lanes, put another lane in, shoulders, I don't know.

Mr. Flancbaum said I agree. There should be a traffic study, and there's going to be recommendations based on that which are going to then come before this Board, and at that time we can understand the traffic study and possibly recommend additional or other items besides for what's in the traffic study. I think at this point it's just a

little premature to start dictating. We don't even know what the building, how big the building, what it's going to look like, where it's going to be. We really have no idea. We should wait to see that down the road.

Mr. Jackson said also something like a hospital is a public facility, I would think when they do the study to determine if a hospital is feasible, I'd hope the people behind the hospital would study the traffic flows. They have to get ambulances and everything in there. It's not like Joe's hospital opens up. That's usually a pretty big endeavor that has multiple agencies involved. I would hope that would be studied as part of feasibility by the overall entity with something like a hospital.

Mr. Stearns said you're very correct, Mr. Jackson.

Mr. Raitzik said can the language be changed regarding the banquet hall, instead of seats it should say with maximum occupancy. Is that something that's feasible?

Mr. Stearns said that's not what the ITE standard says.

Mr. Raitzik said I know, I'm asking to make a change here. I know that area and I know what they already have is already so overcrowded, more parking isn't going to hurt.

Mr. Herzl said, Mr. Raitzik I'm going to ask for a motion and you can make a recommendation and that's what we will vote on.

Mr. Flancbaum asked Mr. Raitzik to repeat his request.

Mr. Raitzik said instead of saying one per three seats, say one per three people based on maximum occupancy.

Mr. Stearns said that's sort of the same thing. The calculation is based on the maximum occupancy.

Mr. Raitzik said let's say you had standing room only, a jammed-in event. It happens in Lakewood that there are more than can actually sit.

Mr. Herzl said I don't know if we can require more parking than what fire code allows in the building at one time.

Mr. Raitzik said I'm saying if they're using circular tables, and the maximum occupancy is based on that, and they do a lecture instead, there will be a lot more people.

Mr. Herzl said the building code says that you need 1 parking space for every 15 sf. So I think they're calculating that every person uses 15 sf, and based on that, if a room has x amount of square feet, you divide it by 15 and that's the maximum amount they will allow in the building.

Mr. Raitzik said so they're using this net size. It seems like a clause, like there's wiggle room so to speak, to do less than we really want to do.

Mr. Stern said we went to Tom and the Cedarbridge team last meeting and said this is too wide open, this needs some definition. And they came back and went to industry standards and comparable properties, and came back with some pretty specific specs that are justified by comparable properties. Unless our experts are saying there's something fundamentally wrong with the numbers Tom is using, to Justin's point I don't think we should micromanage the details at this junction.

Mr. Herzl said I agree. I think I would ask for a motion.

Mr. Sabel said I want to go back to the shared parking that Mr. Tom is proposing. I just emailed Ally something, if Tom would be so kind to add our words of recommendation to the Committee, that would be helpful. If we can have parking all over, different office buildings providing parking spots for different halls, we're going to have people crossing all over Boulevard of the Americas, Pine Street. I think we have to make sure we have proper sidewalks and lighting to accommodate the pedestrians.

Mr. Herzl said I agree with you, and I think it should maybe be on the same side. You can't cross over a major highway to get to parking.

Mr. Stearns said regarding the bus loading, I did go back and change that in the Ordinance for the daycare and those other related uses, because there were comments last time that you wanted the bus loading left in there. I just said it was like a loading space for parents or whatever, but I left the bus loading in.

Mr. Sabel said you put one loading per school per building. I don't think that's the same requirement for anywhere else. Anywhere else they need to put three according to the number of kids, not one spot per building.

Mr. Stearns said I thought I quoted your Ordinance on that, your existing Ordinance.

Mr. Sabel said you wrote one spot per...

Mr. Raitzik said if they're sharing the parking with other neighbors, how do we know those times won't overlap that they need those parking spaces?

Mr. Herzl said we aren't giving it to them. They have to come to the Board and prove they have enough parking and it works. If they're sharing the parking at the same time, then they're not getting approval from the Planning Board.

Mr. Sabel said that's not right, because if they can do that without coming for a variance on parking, then we have to give it to them. This is what we're approving, that it's not going to be a variance anymore to do this.

Mr. Flancbaum said I hear what you're saying, but even though shared parking is allowed by Ordinance, the details have to be presented to the Board and if the Boards not satisfied, then it's not granted. We've had these situations before with shared parking, and we've made them go back and present us agreements and easements with the property owners. That's not in the Ordinance anywhere, that's things that the Board required. And we can absolutely do that.

Mr. Sabel said I agree with you but the difference is until now they needed to provide certain parking spots and they needed to come up with an idea so they used the lot next door or across the street. Now, this is becoming part of the Ordinance. They don't even have to provide us with anything, they can just do it and this is part of providing parking without a variance. The Board can't even request them to do it because this is now the law.

Mr. Flancbaum said I think, John can correct me, I think we can add to the Ordinance, subject to the satisfaction of the Board. I don't see why not.

Mr. Sabel said exactly. I think that's a good idea.

Mr. Stearns said let me clarify. On daycare, I called what's required in your school ordinance, 18-906B, C, and E, and that requires bus drop off. What I had written in there, I said in lieu of bus drop off, I took that out. So there's still a

buss drop off, plus the one space, is for each full time equivalent teacher or staff person. So the daycare is per the school ordinance. You have the bus drop off per the school ordinance, plus the one spot for each full-time employee. Just to be clear.

Mr. Sabel said I don't think that's what's written in your booklet, page number 20.

Mr. Stearns said I'm looking at the Ordinance.

Mr. Sabel said I'm looking at the chart.

Mr. Stearns said I may not have gotten everything coordinated, is the short answer.

Mr. Sabel said that's why we're helping you.

Mr. Sabel said page 20. Change to 1 loading space per building. I don't know if that's for schools, if that's for warehouse.

Mr. Stearns said that's for the office uses. That's pretty much what everyone in Cedarbridge has been doing. They provide one space for each office building for loading.

Mr. Sabel said where do you talk about where the school buses?

Mr. Stearns said I didn't specify anything for school buses.

Mr. Sabel said we do want to make ... for daycare and childcare.

Mr. Stearns said I think if you look at the Ordinance section, page 4 of the Ordinance, that's where I reference the school section. And in the school section, I think paragraph E, requires for bus loading and unloading areas, but they don't specify a number in there in the Ordinance.

Mr. Sabel said would you agree to submit this recommendation to the Committee, the email I sent to Ally.

Mr. Stearns said Ally put that back up.

Mr. Herzl said you can make that recommendation part of your motion Chaim.

Mr. Sabel said maybe we can ask for 2, 3 more items from other Board members, and then we can submit this and get this over with.

Mr. Stearns said I'm a little nervous about this 30 year lease. I'm not sure I understand that.

Mr. Sabel said I was going to say 99 year.

Mr. Herzl said that's how we do it all over town.

Mr. Stearns said isn't that required in your Ordinances now? Isn't that generally addressed at Site Plan approval?

Mr. Herzl said no. You have to give us enough parking. If you don't have enough parking, then if you have a lease-

Mr. Stearns said not the parking, but all the circulation. That's the paragraph I was reading.

Mr. Rennert said it feels like I'm in the minority over here. I just wanted to voice the way I feel about this plan. I don't feel the plan addresses the concerns. When we talk about the banquet, and using national standards of one space for every three, I don't believe I ever was at a banquet wedding where three people came in a car.

Mr. Isaacson said I second that.

Mr. Rennert said 99% of the people come one person in a car. We are not the same type of community like other communities, we cannot be compared to national standards. I think it's going to turn into a terrible disaster, talking about the parking. Which again, I'm concerned about, not overly concerned about, but I do feel it's extremely important and it's not addressed, is the Pine Street. Yes, it's not Cedarbridge's requirement to improve Pine Street and we do appreciate whatever they put in already. The traffic light there is an improvement, a lot they got the grant money for it. And we say thank you for that. But what we are doing over here, is changing the use. So they are coming to us to change the use and allow hospitals, allow banquet facilities, allow a lot more traffic to come into this area. And anyone that comes from the west side is going to use Pine Street to get there and to leave. Currently, there's probably 2 hours during the day that you wait a half hour to get from where Cedarbridge park starts now, by that new traffic light, to get to Route 9. I'm not talking about going towards New Hampshire, which is also sometimes during certain hours a disaster. I'm talking about going west, towards Route 9. I don't know how to make it work. I want to make it work. I don't care so much about setbacks, or how high you build the building. Let's just make it work for the town. No, it's not your responsibility to fix Pine Street. But it's our responsibility to say that if you want to put additional uses that are currently not permitted in the Cedarbridge park, we have a right to say no, we're not going to give you that unless it's going to work for the town. Why should people sit for hours in traffic. And this use is necessary, but let's fix the road that feeds into Cedarbridge. Maybe I'm very emotional about it because I live right off Pine Street, so I live it every single day. But if I don't leave early in the morning, it takes me a half hour to get from Washington Street to Route 9. I don't know why we're rushing this through. We got a plan a couple weeks ago, we got an updated plan about an hour and a half ago. Why are we rushing this through. Why can't we figure out what kind of improvements. Maybe there's no on-street parking on Pine Street. I don't know if everyone is going to agree to that. But maybe no on street parking. Maybe we could put two lanes in each direction, with no on-street parking on Pine Street. I just don't understand why we are pushing something through over here that's not going to work. Thank you.

Mr. Garfield said I'd like to reiterate, shared parking with other businesses, almost without their approval, I can't vote for something that's an if. If they all say no, where are you going to park?

Mr. Herzl said they won't get approvals.

Mr. Stearns said the idea is this is a mixed use development. Say with an office, hotel, retail. It's not that you're going to build a hotel and everyone is going to run next door and park in the office. I mean I guess that's possible. The intention is if an application came in like that, it would be part of a mixed use concept with hotel and office.

Mr. Stern said Dave, you would have to have cross easements between the owners. It's allowing it, it's not mandating it. It's allowing a more efficient use of a given piece, a given parking lot.

Again I'd like to see it on paper and I'd like to see where the liability, if something happens, who has the liability of this?

Mr. Stern said you would have that specified. You can't just park on someone's property.

Mr. Herzl said and when the application comes in, you'll see it. We're not granting them anything right now.

Mr. Jackson said I think this is going a little bit sideways. Cross... That's a pretty common thing, where when people have off-peak uses for their property, that they can join forces more or less, and it's a more efficient way to use the property. So that you don't have a lot next door that's empty. Two businesses can make an application and say there are peak demands or different times. That would ultimately be subject to the Board review and the Board would have to be satisfied that it actually does work. And it's not uncommon, like if you go where Lowe's is in Brick town, and the furniture store, those are all cross-parking agreements. Everyone can park anywhere on there. So it can work and it is a fairly common thing, it just makes it a more efficient use. It doesn't increase the demand, it just lets you use the existing spaces more efficiently.

Mr. Herzl asked for a motion.

Mr. Rennert made a motion to recommend to the Township Committee to not approve this plan as presented.

Mr. Garfield seconded.

In favor: Mr. Garfield, Mr. Rennert, Mr. Isaacson, Mr. Raitzik
Against: Mr. Stern, Mr. Flancbaum, Mr. Herzl, Mr. Meyer

Mr. Sabel said what happens in a tie?

Mr. Jackson said under Robbin's rules of order, if it's a tie vote, it does not pass. But that sends a message to the governing body that the Planning Board was split. But it's not a majority vote. It needs a majority in order to pass. So a tie vote, essentially it loses.

Mr. Sabel abstained.

Mrs. Morris said the motion doesn't pass. That means we're open to other motions.

Mr. Jackson said that means the motion to deny it failed. So somebody could make a motion to approve it. I would imagine the votes would go the same way.

Mr. Herzl said can somebody make a motion with any conditions with what you want to add to it.

Mr. Rennert made a motion to advance this to the Township Committee with the following conditions: where it says one space per every 3 seats for banquet halls or conference centers, it should be one space for one seat. And regarding the Pine Street traffic, nothing should be implemented on this plan until the entire Pine Street is dualized and there's no on-street parking. So it's two conditions.

Mr. Herzl asked for a second.

Mr. Isaacson seconded.

Mr. Raitzik asked for the motion to be repeated.

Mrs. Morris said can I repeat for you Eli?

Mr. Herzl said yes.

Mrs. Morris said I have the following conditions: the one space for every three seats in the banquet hall should be one space for every one seat. And further, nothing should be implemented until Pine Street is dualized for its full length with no on-street parking.

Mr. Herzl said we have a motion and a second. Roll call.

In favor: Mr. Stern

Against: Mr. Garfield

Mr. Sabel said I would ask Mr. Renner to check his email and see if he would amend his motion per that.

Mrs. Morris so for now we're going to say Mr. Sabel is an abstain. Mr. Flancbaum?

Mr. Flancbaum said no.

Mr. Herzl said yes.

Mr. Jackson said hold on one minute Ally. Mr. Sabel, you have a right to ask someone if they will amend their resolution. Did Mr. Rennert say no to that?

Mr. Rennert said no. I'll agree to incorporate what Mr. Sabel put in his email. It's the same email he put up on the screen before.

Mr. Jackson said if the motion will be amended as Mr. Sabel said and agreed to by Mr. Rennert, you have to go through it again because now it's an amended motion. We have to vote on the amended motion.

Mr. Raitzik said what is the amendment?

Mrs. Morris put it up on the screen.

Mr. Rennert said I'm going to repeat my motion. No Ordinances should be put into effect from this plan amendment that we are doing here until the entire Pine Street is dualized both ways, and there's no on-street parking. And that banquet halls should change from one parking space for every three seats. And then Chaim Sabel added to the motion, language stating that if there's any shared parking that it would be legalized, the applicant should provide a 30 year lease, proper sidewalk connection, it shouldn't cross over any main street, it should have proper lighting, it should be brought in front of the Board to their satisfaction, any daycare or childcare shall provide proper bus loading according to what is required in any other area in Lakewood.

Mr. Raitzik said can you add a shoulder to that?

Mr. Herzl said you have dual lanes.

Mr. Rennert said in all honesty, the shoulder part I don't necessarily agree with.

Mr. Raitzik said not on Pine, on Avenue of the Americas.

Mr. Rennert said I understand, I don't necessarily agree with that.

Mr. Raitzik said you're including the hospital in this ordinance.

Mr. Rennert said understood. I think that with two lanes, there's sufficient room for cars to pull over if an ambulance comes through.

Mr. Herzl said I think we spent enough time. We have a motion on the table. Levy, do you agree with everything, do you second the motion?

Mr. Isaacson said I second the motion, yes.

Mr. Herzl asked for a roll call:

In favor: Mr. Garfield, Mr. Sabel, Mr. Herzl, Mr. Rennert, Mr. Isaacson,
Against: Mr. Stern, Mr. Flanbaum, Mr. Meyer, Mr. Raitzik

Mrs. Morris said we have four no's and five yes's, so the motion passes.

Mr. Rennert said it's really just a recommendation to the Township Committee. And the way I worded it, no ordinances should be put into place based on this plan until all of that.

Mrs. Morris said until Pine Street is dualized.

Mr. Stern said the reason I voted against it is I wasn't... I think the first sentence is overly broad. If you're saying none of these changes can happen, even on the Cedarbridge side, until Pine Street is dualized... Is that your intent?

Mr. Rennert said yes, because anyone that travels west... If we put a building on the corner of Cedarbridge, anyone that wants to travel west towards Jackson is going to use Pine Street. By putting a hospital or nursing home, we are inviting people from, and I'm happy to invite people from all different communities west of Lakewood, I want the traffic to work.

Mr. Stern said basically you're saying you don't want to densify Cedarbridge until Pine Street is dualized. Ok, I get it. I disagree with that, but I hear your point.

5. PUBLIC HEARING

- 1. SP 2408 Mactavish Partnership**
100 Airport Road Block 1160.12, Lot 1
Preliminary & Final Major Site Plan for an office building

Mr. Flanbaum stepped down.

Mr. Vogt said per our letter dated March 25, submission waivers include topo, contours, and manmade features, as well as utilities. We can support the waivers as noted in the review.

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, the first two variances identified relate to the existing property. You have an existing non-conforming lot area of 1.676 acres versus 3 acre minimum, as well as the lot width being 385'

compared to the 300' minimum. A minimum front yard setback variance is required, 44.66 versus 50. A height variance is required, 69' versus 65, which is less than 10% so the Planning Board can retain jurisdiction of that request. Comment 6, we will hear testimony on. Our interpretation is that the applicant requires parking relief. Comment number 7, we'll need testimony as to the signage. It appears that corrections are necessary or a variance may be required. Under design waivers, seeking a waiver from sidewalk along Airport Road, as well as the buffer requirements from 18-803E, as well as street trees and shade tree and utility easements. And a partial design waiver may be required for sections of curbing in the parking lot.

Mr. Adam Pfeffer, Esquire, appeared on behalf of the applicant. He said we are seeking approval for a 4 story office building. I will clarify though that the first floor is parking and an elevator shaft. The balance of the next three floors are the office. As Terry indicated, it's a very unique site on a pre-existing lot. There's only 1.67 acres where 3 acres is required. It's on Airport Road, right near the entrance to the parkway, in a very unique property. He had Mr. Brian Flannery, Professional Engineer and Professional Planner, affirmed.

Mr. Flannery said the site is an existing lot on Airport Road. It's at the corner of the Garden State Parkway exit ramp, and as indicated in the report it's an undersized lot for the M-1 zone which requires 3 acres. Also the width is deficient from the Ordinance. The property is in the Airport Business Commercial Zone. 1.67 acres where 3 acres is required. It's an existing condition. There's developed properties adjacent to it, there's no way to remediate that. Minimum lot width, 185' where 300' is required. Again, an existing lot, there is no way we can do anything with respect to that. Front yard setback, we're asking for 44.66' where 100' is required. With approval from the Industrial Commission, that generally can be reduced to 50'. So we're looking at 44.66' where 50' is required. Due to the size of the building and what we're trying to accomplish here, it's my opinion that the variance would be justified. It's a beautiful building. If you look at the rendering that's provided, it's a building that has parking on the first floor, three stories of offices, and then a penthouse suite above that. Item 5 in the report is with respect to the building height – 69' where 65' is permitted. And the 69' is just for the penthouse. When you look at the rendering that's provided, that's something that no one is going to notice when they're coming off the Parkway. What they're going to see is a beautiful building that's a good ratable, and again I will provide the justification further in my testimony with respect to the reasoning for those variances. Item 6 with respect to off-street parking relief, we understand that parking variances aren't something that the Board is in favor of granting. My testimony is that a parking variance is not required for this building. The building itself, the office stories, the three stories of office and then the penthouse, are 20,476 sf. We are using the new ordinance standard of 1 per 250 sf which comes to a total of 82, and 84 spaces have been provided. The RVE report is suggesting that the lower level, the parking area where it's enclosed for the stairs and the elevators, be included in that area, which is how they come up with 85 parking spaces required. That area is 25.8' by 5', for a total of 461 additional square feet on that level, if you included it on that level, it would be 21,117 sf, divided by 250, it's 84 and a small fraction. So my testimony is we comply even if you include that, but my testimony is that should not be included because that's not part of the gross floor area of this office building. Item 7 says relief may be required for proposed signage. My testimony is that we will not request signage relief. To the extent that any signage doesn't comply with the ordinance, that will be changed. When it gets to design waivers, the report points out a waiver from proposing sidewalk along Airport Road. The applicant's position is any sidewalk that the Board feels is required, we would provide sidewalk.

Mr. Herzl said are there any other sidewalks on Airport Road?

Mr. Flannery said no. But if the Board wants sidewalk, sidewalk is not a reason not to move forward with such a-

Mr. Herzl said I think by the last application we did require sidewalks on Airport Road, no?

Mr. Flannery said and again, whatever the Board decides the applicant will go along with. The second item on the design waivers is buffering requirements. If you look at the site and where it is, a little history on this, this is the

area where the forest fire occurred. So if we had done this approval a year sooner, and it was built, maybe we would have helped in not having that forest fire. So as I've indicated in the past, forests are something that aren't appropriate in Lakewood. This building is something that will be very appropriate and will be a very good ratable. Item 3 is with respect to design waivers for street trees. We will provide street trees to the extent they fit. I think we comply with the intent of the Ordinance by the landscaping that is proposed. Item 4 is a partial design waiver may be required from providing curb throughout the parking lot. There are areas in the parking lot where we are proposing to not have curbing. It's something to make the drainage work and, in my opinion, complies with the intent of the Ordinance and is something that's appropriate for what's being proposed. With respect to the justification for what I think is very minor relief for an application of this magnitude, and when you look at it in totality it's certainly a good application, a good use of the property, and a good ratable for the Township, if you look at the Master Plan of 2017, the Vision Statement, says encourage growth and redevelopment in appropriate locations consistent with established land uses. This is in the area of the airport, we have office buildings around us and this certainly is an appropriate use. The Municipal Land Use Law, NJSA 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 does this. G is to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses. And this provides a commercial use in an areas that's zoned that way by the Township. The variances that we're requesting for the existing lot non-conformities, and for the 69' rather than 65' for the penthouse portion of the building are C2 variances. We need to show it relates to a specific piece of property. This property being on the corner of the Garden State Parkway and Airport Road is certainly a specific piece of property. The purposes of the Municipal Land Use Law would be advanced, the variance can be granted without substantial detriment to the public good, and it's my testimony is there would be no detriment to the public good. The variance will not impair the intent and purpose of the zone plan and zoning ordinance, and since it's virtually conforming it's my testimony that is correct. And the benefits have to substantially outweigh the detriments. And my testimony is that the benefits of the beautiful development of this site, with virtually no detriments, certainly qualifies under that situation. Looking through the remainder of the report, the testimony that's required on the HVAC, it will be roof mounted. All of the items that are required we will satisfy the Board Engineer if the Board acts favorably on this application.

Mr. Herzl said thank you.

Mr. Jackson said I have a question for Mr. Flannery. During your testimony, you said something to the effect that there was a portion of the building, in your opinion, that should not count toward the parking calculation area. I was wondering did I hear that correctly, and I thought you said it was the lobby area.

Mr. Flannery said on the lower level, which is the parking level, there is an enclosed portion. So it's an enclosed portion of the parking, where it provides access to the stairs and to the elevators. My testimony is that I don't think that should be counted as part of the gross floor area of the office building. But in the event that the Board disagrees, my testimony is that it was an extra 641 sf which takes the parking requirement which I calculated at 82 up to 84, and we have 84 parking spaces. So in either event, it's my testimony that it complies and no variance is needed.

Mr. Jackson said so either way it complies. Thank you.

Mr. Pfeffer said Ally brought up the rendering, we'll mark that as A-1. Is the area you described that little square in the center?

Mr. Flannery said yes. The little square on the bottom, in the parking area underneath the office building.

Mr. Jackson said if it complies with the parking regardless, then it doesn't matter.

Mr. Herzl said that's not useable space, right?

Mr. Flannery said correct. My opinion is it does meet the parking. 641 plus the other number, when you divide by 250 it comes out to 84 and a small decimal, so it's 84 parking spaces.

Mr. Jackson said we don't have to dig into that issue because either way you meet the requirement.

Mr. Flannery said that is my testimony, yes.

Mr. Herzl said and why did Terry say that it is a variance? Because he's counting that area?

Mr. Flannery said possibly it as a broad look at that, that brought it from 84 and a small fraction to 85...

Mr. Isaacson said why don't we ask Terry why he said that.

Mr. Vogt said I believe what happened for purposes of our review is we rounded up. 85 compared to what Brian said, which is 84 and change. I think if you look at the way the parking is defined, it talks about gross floor area. I understand Brian's got a point because of the unique design of the architecture. You have a section of the building which is not being used as floor area, it's being used as a passage way in between the parking lot and the first floor. I can understand the rationale as to why you would not include it. It's not my application and I'm not an attorney, my understanding of the law is it's incumbent upon the applicant to identify and obtain all necessary variances. If they want to proceed without a variance and someone challenges, that's on them. I think it's de minimis either way.

Mr. Jackson said so you disagree, you think that the counts are not met if you count in that area.

Mr. Vogt said I understand where he is coming from with regard to the intent of the law.

Mr. Jackson said those are two different things. He's saying if you count the 600 some odd square feet, it meets the requirement and it was a rounding difference.

Mr. Vogt said I think what we did in our number is round up. 84 vs 85, worst case.

Mr. Herzl said I think Brian asked for a variance regardless, just in case.

Mr. Flannery said if the Board feels we need a variance, I gave the justification for the variance.

Mr. Herzl said thank you.

Mr. Sabel said regarding the garbage, it's going to be all the way in the corner closer to the Parkway?

Mr. Flannery said yes.

Mr. Sabel said is that going to be fenced in?

Mr. Flannery said there will be a fenced enclosure around the trash area.

Mr. Herzl said Mr. Sabel, what's your opinion on Airport Road sidewalks?

Mr. Sabel said I don't know. The building next door does not have sidewalk.

Mr. Herzl said the other building, that we had the last application, didn't we require sidewalks?

Mr. Sabel said I hope we did. I don't know. Can we maybe ask for meandering pavement? I don't think we're going to have a lot of pedestrian traffic there.

Mr. Flannery said the applicant will agree to put whatever the Board wants.

Mr. Sabel said is there going to be a fence around the entire property? In particular between that water basin and the driveway. The basin doesn't currently have a gate based on Google maps.

Mr. Flannery said my review of the plans is that no fencing is proposed and my opinion is that no fencing is required. If it's in a residential area, I look at it a little differently than an office complex. The water and stuff is not an issue. So my opinion is it's not needed. If the Board wants fence, we'll do fence. This is a beautiful application and we're not going to fight the Board on issues that are subjective in that some people like fence, some people don't. If the Board thinks fence is appropriate, sidewalk is appropriate, the applicant will accommodate that.

Mr. Herzl said I think Ally is showing you that there is a fence there. Proposed retaining wall with fence.

Mr. Flannery said yes. As always, Ally is correct.

Mr. Sabel said can we do no parking signs on Airport Road?

Mr. Flannery said we would be agreeable to asking the Township Committee to put them in, they have the jurisdiction there. The applicant would happily write a letter saying we received approval from the Board, one of the conditions was to request no parking signs on Airport Road, and we would make that request.

Mr. Jackson said does the Industrial Commission have any say over that?

Mr. Flannery said I don't think the Industrial Commission would have any say, but the Township Committee would certainly ask the Industrial Commission's recommendation.

Mr. Raitzik said what is the capacity of the building. How many people can fit.

Mr. Flannery said I don't think the architectural plans indicate a capacity limit. I assume based on that you're looking at if the parking would be sufficient. I assume the Board is aware that in the M-1 zone, it used to be a requirement of 1 space per 400 sf. In most of the town it was a requirement of 1 per 300 sf. And that's what's been built in most places. The Ordinance was recently changed to 1 per 250 sf and that's the requirement that we're going with. And that is consistent with appropriate standards for general office type of building.

Mr. Raitzik said can you fit any more spots on that lot. Is it possible.

Mr. Flannery said no.

Mr. Raitzik said that center area, can that be made smaller, does it have to be that size?

Mr. Flannery said I think the design and layout is very well balanced and I think doing anything else would be counter productive.

Mr. Herzl said I think, like you testified before, you're going with the standards that we're doing all over for Lakewood.

Mr. Flannery said the new standard, as opposed to the old standard that I think people are familiar with, that sometimes worked and sometimes didn't. So we increased the standard by 20%, if this application had been made last year, 20% less parking would be required and what you would have would be 20% more building area.

Mr. Rennert said I'm not going to ask you to repeat this after me, but you know the covering that goes on the hut during Sukkos? What's the top of this building made of? Did you see the rendering?

Mr. Auerbach joked, it's a big sukkah, Eli.

Mr. Pfeffer said I have two questions to clarify. Number 12 in the review letter, he said a shade tree and utility easement is proposed only along the Airport Road frontage. Unless a waiver is granted, a proposed easement shall be added along the GSP ramp frontage. Are we asking for that waiver?

Mr. Flannery said we are asking for that waiver, but we can provide that easement along that frontage. I think it's unneeded but we can certainly add it if the Board feels it's necessary.

Mr. Flannery said how common are these elevated buildings with the parking underneath. Are there a lot of them in town.

Mr. Herzl said no.

Mr. Flannery said they built one similar to this on Airport Road.

Mr. Rennert said right next door to this, 30 Airport Road.

Mr. Herzl said there's an old one on Fourth and Forest.

Mr. Pfeffer said one other comment, to address the Airport Road no parking, I believe this section of Airport Road is County. We have no problem sending the request to the Township or the County, we'll send it to whoever the appropriate authority is.

Mr. Herzl said thank you. He opened to the public.

Mrs. Morris said I haven't received any comments.

Mr. Herzl closed to the public and asked for a motion.

Mr. Sabel said sidewalk, are they doing cement or wandering, or what is the Board...

Mr. Herzl said personally I'm in favor for meandering. I think that's what we did in other places in the Industrial Park, but I would leave it up to the Board and we'll vote.

Mr. Sabel said should we ask the Board?

Mr. Herzl said Mr. Stern, do you want sidewalks and should it be regular concrete or meandering asphalt?

Mr. Stern said I think it's a corporate function, it should not be meandering, it should look professional.

Mr. Herzl said ok. Mr. Garfield.

Mr. Garfield said concrete.

Mr. Isaacson said concrete.

Mr. Meyer said concrete.

Mr. Rennert said I'll go along with the majority.

Mr. Herzl said I think we heard the majority. I will ask for a motion.

Mr. Sabel made a motion to approve the application, with a cement sidewalk and request for no parking on both sides of Airport Road.

Mr. Meyer seconded. All were in favor.

- 2. SD 2459 Haim Aaronoff**
92 Oak Street Block 1014, Lot 1
Preliminary and Final Major Subdivision to create six lots

Mr. Meyer left.

Mr. Isaacson stepped away for a few minutes.

Mr. Flancbaum returned.

Mr. Raitzik said I have to leave by 8.

Mrs. Morris took a roll call. Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Raitzik were still present.

Mr. Vogt said per our letter dated April 7, submission waivers are topo, contours, manmade features within 200', EIS and soil erosion plan. We can support the waivers for hearing purposes as indicated in the letter.

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

Mr. Vogt said continuing under zoning, no bulk variances are being requested however per our review of the architectural plans variance relief maybe necessary for parking spaces. I believe that's all of the potential relief.

Mr. Rennert asked about hearing this application together with the next one.

Mrs. Miriam Weinstein, Esquire, appeared on behalf of the applicant and said I was going to suggest that, because they're both for the same applicant and they're virtually identical, they're just on opposite sides of the street. We'd need two separate motions, but in the interest of time we could do them together.

Mr. Herzl said Terry, is your review letter on 2460 the same? Are there any different variances?

Mr. Vogt said I think you should probably review it for the record.

Mr. Jackson said I think they're two different applications though. These are not like a subdivision and a site plan.

Mr. Vogt said they appear to be very similar projects, but they're two stand alone projects.

Mr. Jackson said yeah. They stand alone.

Mrs. Weinstein said let's do them separately. This is a major subdivision to subdivide the subject property which fronts on Hamilton Avenue, between Oak Street and Audubon Avenue, into 6 new lots upon which 3 duplex structures will be constructed consisting of 6 units on zero lot line lots. This property is in the Oak and Vine section of the R-10A zone where duplexes are permitted. It's actually pretty simple. I want to make it clear, the only variance we are seeking is for rear yard setback. In the R-10A zone, a 20' rear yard is required and applicant is requesting a variance for 16' on some of the proposed lots due to the landings of the raised patios protruding into the rear yard setback by 4'. She had Mr. Joseph Kociuba, professional engineering and professional planner, affirmed.

Mr. Vogt said I want to raise something procedurally. Miriam mentioned that there were rear yard setback variances required. Those are no identified on the subdivision plans. Did you advertise for variance relief?

Mrs. Weinstein said yes we did. It was pointed out in your review letter and we did advertise for it in our notice.

Mr. Vogt said I'm reading from our revised review, and we're not identifying rear yard setback variances nor are they identified on the plans.

Mr. Kociuba said they were not identified on our plans. In your review letter it was brought up in a comment, not necessarily in the zoning section, to clarify whether relief was required. In an abundance of caution, we did notice for it and I'm prepared to testify to it.

Mr. Vogt said that's fine. Thank you.

Mr. Kociuba said the application is the east side of Hamilton Avenue, a 50' wide paper street. The lot we are subdividing is 100 by 302, for an area of 30,200 sf, which allows it to be subdivided for three fully conforming duplexes. The proposed street was approved, the construction was approved by engineering. All lots will have frontage on this street. Sewer exists, water will be installed. The surrounding uses are all duplexes fronting on Vine Street to the east, there's existing single family residential surrounding the property. Again, the lots are fully conforming in size, between 10,050 and 10,100 sf. The only minor exception is that rear yard setback. By definition, the Board's aware there was an amendment to the UDO indicating that the definition of rear yard is that decks are considered part of a rear yard setback, and by definition a deck is anything that's made of wood and supported by posts. In reality, it's a landing outside the rear door that allows steps to go down to a raised patio. Patios are permitted in the rear yard, so the relief is only for the small landings to allow access to get down to the patio. By definition, the definition would consider this a deck but in reality it won't be utilized as a deck, it's not large enough. It's only 4 by 6, it's just to provide an access and stairs down to the patio. That's the only relief requested in this application. The

grading as shown conforms with the area. All the lots will drain out to the new street, Hamilton Avenue or Oak Street. Lighting is being installed as part of the street construction, landscaping-

Mr. Herzl said sidewalks, you're putting in?

Mr. Kociuba said we are putting sidewalks everywhere.

Mr. Herzl said how many parking spaces per unit?

Mr. Kociuba said each unit will have 4 parking spaces. There was in the architectural plans an optional bedrooms in the attic. There is space on the corner units to add a fifth parking stall if necessary. This is a major subdivision, so each of these lots will require plot plan approval by the Town. And if the attic bedrooms are exercised, then the plot plan will have to identify that additional parking stall. We have the room for a fifth parking spot on those corner units.

Mr. Herzl said and you agree with everything in the report.

Mr. Kociuba said we have no objection to anything in the report. The setback variance is de minimis. It's a small landing, and rather than push the buildings right up against the parking, we thought better air, light, and open space, have a little bit more space in the front.

Mr. Stern said Joe can you go through the landing again? There is or is not decks?

Mr. Kociuba said in my opinion we require the relief and we've noticed for it, but in reality the intention is not having decks in the rear yard, because obviously the outdoor decks have elevated intensity outside. In this particular case it's purely just access to stairs that go down to a patio. There's not room to utilize it for entertainment or put furniture out there, it's purely just so you can have a space to walk out the door onto a landing, turn, and walk down the stairs.

Mr. Herzl said I think when there's a patio below three feet, there's not any setbacks to it.

Mr. Kociuba said in previous instances I've run that by the zoning officer, she has required relief in certain cases but not every. In an abundance of caution we've listed a variance and requested relief, but in reality it does not function as a deck, it does not damage the Ordinance to try and keep decks out of the rear yard.

Mr. Stern said I know there are some houses that got built on Oakland Street, and they intentionally did not have decks, they had sliding glass doors leading to nowhere. And I guess the concept was that after approval and after construction, the decks were built by the owners. I'm not implying that's what's going on here, but can you assure us that's not the plan?

Mr. Kociuba said that's not the plan and to the contrary, we're showing you what we're doing. We're showing you that we're going to have a small landing, that goes down to a patio. So what's on the plan is what's intended to be built.

Mr. Herzl said we'll make a motion that you're not building a porch on these.

Mr. Stern said and they will not be allowed.

Mr. Kociuba said we're stipulating that the small 4 by 6 deck that we show will be the extent of the raised deck permitted in the rear yard.

Mr. Vogt said technically you are seeking the variance, just out of an abundance of caution. Is that correct?

Mr. Kociuba said correct.

Mr. Jackson said we'll have to make clear in the resolution that the setback is not the end of that deck or landing for the whole length of the house, it's only for that landing.

Mr. Kociuba said it's the only part that exceeds the setback.

Mr. Jackson said it's the only part that's allowed. They would go to the Board of Adjustment for anything additional.

Mr. Sabel said what's the fifth parking spot?

Mr. Herzl said they have another room in the attic.

Mr. Kociuba said there's an optional room in the attic. It's not necessarily going to be exercised on any of the units. It was only on the corner units. But if there is an extra bedroom in the attic, then there'll be an additional parking spot.

Mr. Sabel said the parking is in the front. Any way we could get a separate walkway from the street to the basement, not including the 9 by 18 four parking spots?

Mr. Kociuba said we have a separate walkway to the side from the main walkway in front. The applicant has reviewed that and likes this layout the way it is. The interior units don't have the separate access, the corner lots do.

Mr. Sabel said if you have four cars parked, then you have no way to walk from the house to the street. Can we add on the side, another three foot sidewalk?

Mr. Kociuba said we could do a three foot walk across the face of those parking stalls. It would increase the impervious coverage, but we certainly could.

Mr. Sabel said I think that would be nice. And window well covers, can you add those?

Mr. Raitzik said how high up is that deck, platform, in the back?

Mr. Kociuba said generally speaking, about 4 feet.

Mr. Raitzik said is there room for storage underneath that?

Mr. Kociuba said there will be about 3 feet of space. Not enough to put garbage cans or anything. About 3 feet tall underneath there.

Mr. Raitzik said and you're putting a railing to go up and down to hold onto?

Mr. Kociuba said there will be fencing on the landing, yeah. A railing will be required by building code.

Mr. Herzl opened to the public.

Mrs. Morris said I didn't receive any comments.

Mr. Herzl closed to the public and asked for a motion.

Mr. Sabel made a motion to approve it as presented, require the applicant to put window well covers and provide a safe walkway from the building not including the four 9 by 18 parking spots.

Mr. Garfield seconded.

All were in favor.

3. SD 2460 Haim Aharonoff
Oak Street & Hamilton Avenue Block 1012 & 1013, Lots 1.02 & 5
Preliminary and Final Major Subdivision to create six lots

Mr. Vogt said this is very similar to the prior application. We have an April 7th review. Submission waivers, topo, contours, manmade features within 200', EIS, tree protection and soil erosion, and we can support those waivers for hearing purposes as stipulated in the letter.

A motion was made and seconded to approve the submission waivers in accordance with the engineer's recommendation. All were in favor.

Mr. Vogt said under zoning, again very similar to the prior application. Joe are you going to be seeking the same variance for the landings?

Mr. Kociuba said correct.

Mr. Vogt said I believe that's it in terms of relief.

Mr. Herzl said and the parking again. If they have a fifth bedroom, they're going to give five spaces.

Mr. Vogt said correct. Just so everybody knows, when the application goes to the engineering department for plot plan review, they do a separate review based on the number of bedrooms identified. So if additional parking is needed for any building, that's going to be required at that time as well.

Mr. Kociuba said I want to make clear it's the sixth and seventh bedroom, not the fifth that triggers it.

Mr. Herzl said ok. Mrs. Weinstein?

Mrs. Weinstein said this is extremely similar to the previous one. It's again going to be six duplex units in three buildings. We're requesting the same relief which we once again did notice for, for the rear yard setbacks due to those porches. She had Mr. Kociuba affirmed.

Mr. Herzl said is there anything different in this application than the last one you testified on?

Mr. Kociuba said I believe my testimony for this application is "ditto."

Mrs. Weinstein said it's the other side of the street.

Mr. Herzl said there's nothing new or different from the last one.

Mr. Kociuba said it's the same testimony.

Mr. Sabel said will the applicant agree to the same conditions as the last application?

Mr. Kociuba said we have no objections.

Mr. Stern said is the door leading to the back a sliding glass door or a normal door?

Mr. Kociuba said I believe it's a sliding glass door.

Mr. Stern asked if there were any plans showing that.

Mr. Kociuba said I don't know, I'd have to check the architectural plans.

Mr. Stern said it's highly unusual that a sliding glass door goes to a landing and a stairwell. A sliding glass door usually goes out to a deck. Would you agree?

Mr. Kociuba said we've done many applications where it goes out to a landing and down to a patio. In this case, we're required to do so by ordinance. If we were to expand that beyond what's shown, that would violate the terms of the approval and create a variance condition. I have done applications in many municipalities where we have a sliding glass door. The intent of that is to allow more light into the room and the kitchen dining room area, but also have it out to a landing and then a lower area. I can't say it's that unusual in my opinion.

Mr. Stern said Ally can you zoom in on the plans again where the landing is.

Mrs. Morris said yes, I also pulled up the architectural plans but they're not showing a landing, they're just showing the stairs down.

Mr. Stern said can we see the back of the building?

Mrs. Morris pulled up the architectural plans.

Mr. Kociuba said it shows a 36" high railing, and I was incorrect it is a single door not a sliding glass door.

Mr. Stern said so it's a door going to a landing, and where's the stairs?

Mr. Kociuba said the stairs are to the left. They show one, and then indicate the number of risers to be determined in the field.

Mr. Stern said then I am ok.

Mr. Herzl said I think you need a landing legally, when you're opening up the door, you can't go straight down steps.

Mr. Stern said I just felt like a chump when I saw these houses with sliding glass doors going to nowhere, and then a couple months later all of a sudden there's decks. But I'm not accusing this applicant, we just need to scrutinize it a little bit more. This satisfies me. In the motion, specifically there will not be decks allowed coming in the back.

Mr. Jackson said I'd like to hear what Mr. Pepe has to say, I don't know if he has objection to the jurisdiction or to the notice.

Mr. Pepe said I'm here in opposition to the application on behalf of Tamara Levy. Two preliminary issues that I wanted to raise, one concerned the fact that this application, as carried through in Remington Vernick's review letter, reflects that we're dealing with two lots here, Lot 18 and 19, in Block 76. I asked Mr. Jackson to pontificate on why these lots are not merged. Both lots are in single ownership, in fact the existing home goes over the existing lot line. Both lots are non-conforming. My understanding of the law is that they merge by operation of law, so the appropriate presentation of this should be as a single lot that the applicant is now seeking to subdivide. Not a lot line adjustment. That was my one issue.

Mr. Herzl said it's right now two separate lots.

Mr. Pepe said no, it may reflect that on the Township's records, but by operation of law, when those two lots come into single ownership, they merge. No matter what happens.

Mr. Herzl said I don't think they merge automatically. Mr. Jackson, is that correct?

Mr. Jackson said if there are undersized lots that are contiguous, and they're in common ownership, that were created before the, I forget if it's the municipal planning office or the municipal land use law, in other words... they can be deemed to have merged together, but they have to be undersized and they have to have common ownership. I don't know what the title history is of this, I don't know when the two lots were formed, I don't know if they're undersized, etc.

Mr. Kociuba said they are showed as two lots on the tax maps. One of the lots is 100 by 150, so I don't believe that lot is undersized. There is one undersized and one conforming.

Mr. Pepe said also significantly, the existing building straddles the lot line which is another item in case law that is dictated the lots have to merge by operation of law.

Mr. Jackson said so they're seeking to subdivide them now.

Mr. Pepe said they're seeking to move a lot line.

Mr. Jackson said well that's a subdivision.

Mr. Pepe said no, it's not a distinction without a difference.

Mr. Jackson said in my view, moving a lot line is a subdivision. When they're finished with this application, whether the lots merged or not, they're seeking to take all the lots involved and create a new lot.

Mr. Pepe said ok, I'm fine with that.

Mr. Jackson said is there another objection?

Mr. Pepe said yes. This application, a substantially similar application was placed before this Board in 1990 by a prior owner. I think that the precepts of judicial estoppel require this Board to make a preliminary determination if the applications are substantially different. And I'd ask the Board to make that determination.

Mr. Herzl said Mr. Jackson, is that correct if it's a different applicant?

Mr. Jackson said well the concept of res judicata is complicated and nuanced. If the Board's declined to hear a second similar application... 1990 is a long time ago. I think that Lakewood in 2021 does not bear a resemblance to Lakewood in 1990. I would say that the conditions, character, of the community has changed over the last 30 years, the zoning. It has since I've been involved in this Board. We'll let the applicant go forward and they can present their proofs during the case so the Board can make a call on it.

Mr. Herzl said I agree.

Mrs. Sutton said I'd like to hear Mr. Barr and his professional's testimony first, and I reserve comment.

Mr. Herzl said Mr. Kociuba, were you sworn?

Mr. Kociuba said yes. And the applicant is here, he can certainly introduce himself and identify the application so the record is clear.

Mr. Jackson said Mr. Herzl, we have some substantial issues, a mile long of public participants in this, Mr. Kociuba I think you're a little outgunned. You have two attorneys, you're not an engineer, I would urge your client-

Mr. Kociuba said I am an engineer, I'm not an attorney.

Mr. Jackson said did I say it the wrong way? That was a Freudian slip and I apologize, I meant no disrespect. I think that the issue of res judicata is significant. I want to sort out whether the lots have merged. I would like counsel to submit a memorandum on that, Mr. Pepe. And also submit a memorandum on the issue of res judicata. He would have to provide us with the former resolution of the Board. I'd also like to know what the zoning was in 1990, whether the lot sizes or the density has changed since then, and I suspect it probably has.

Mr. Herzl said can we recommend to the applicant to retain an attorney?

Mr. Jackson said yes, and I think this should be adjourned in any case so that we can look at the issues that have been raised tonight.

Mr. Kociuba said my client is here, we've had discussion along these lines. This is not a new issue.

Mr. Herzl said Mr. Kociuba, you have two opposing attorneys. I do think it's best interest for your applicant to retain an attorney.

Mr. Kociuba said not that I disagree with you, but my client has even had a chance to speak.

Mr. Herzl said ok, where's your client. He has to be affirmed in. Mr. Barr, are you there? It's Mrs. Barr?

Mr. Jackson said are you the property owner?

Mrs. Barr said I am, but I'm in hospital now so my husband is representing me.

Mr. Jackson said whose name is on the deed?

Mrs. Barr said both of ours, but I'm sick in hospital now so my husband is running most of it tonight. I'll be listening.

Mr. Kociuba said Mr. Barr is trying to speak, we can't hear him.

Mr. Jackson said Mr. Barr, I would urge you to adjourn this matter and retain counsel to represent you.

Mr. Herzl said Mr. Barr, Rabbi Barr, you may be muted.

Mr. Jackson said Ally, how are we on time with this?

Mr. Kociuba said it's been some time, I would imagine we'd have to agree to an extension.

Mr. Pepe said this application has been on twice before, and we've showed up with planners, attorneys, witnesses, individuals, twice now. The last time it was adjourned, the applicant knew what they were up against and they elected not to-

Mr. Jackson said have you advised the Board to raise the doctrine of merger-

Mr. Pepe said we had not previously.

Mr. Kociuba said we were not advised of the doctrine of merger or the res judicata issue.

Mr. Herzl said I think there are substantial issues which have to be straightened out before we can listen to it. I think Mr. and Mrs. Barr should retain counsel and it should be rescheduled.

Mr. Rennert said also I don't feel, it's their prerogative, but I don't feel comfortable having John Jackson fight... he's supposed to be impartial, he's the Board's attorney.

Mr. Isaacson said Eli, can you repeat?

Mr. Rennert said I don't feel comfortable. John Jackson is the Board attorney, he's supposed to be who we turn to when we have a question. Over here, he sort of has to fight, he's responding to what should be the applicant's response. This is not the way it should be. I assume the applicant has a right not to retain counsel, but it shouldn't be John Jackson against the opposing counsel.

Mr. Stern said what I think John is anticipating, since there are serious legal issues, that those need to be better vetted before the vote. They are preliminary matters that need to be resolved first.

Mr. Herzl said I agree. I don't think we are going to get anywhere if we listen to it now, with some legal issues which we don't know which direction to go.

Mr. Jackson said I think it should be submitted in written form so the applicant can respond to it. They might revisit whether they need counsel in light of a legal argument, but the Board deserves to have that information and it provided in advance as well.

Mr. Herzl said I want to give the courtesy to Mr. Barr, if you could affirm him.

Mr. Benjamin Barr was affirmed. He said I'm hearing what the mood of the Board is, that it would be best for us to have an attorney and I think that's what we need to do. We didn't think that was necessary because we just applied to adjust the lot line and so I will yield to your advice.

Mr. Herzl said currently it's two separate lots?

Mr. Barr said as it was pointed out before, in the Township's maps they appear as two lots and when we bought the house it was mentioned clearly that we were buying two lots. So we were applying just to move and adjust the lot line, in order to keep the current house, which is a perfectly good house, and then utilize a completely wasted space on the side which is a waste of space and attracts a lot of mosquitos. We thought that due to the shortage of houses in Lakewood, it would be a good idea to add another family house there.

Mr. Herzl said do you agree to table this to the next meeting to get some clarification and maybe retain an attorney?

Mr. Barr said yes, I think given what was said I think we will have to do that.

Mr. Jackson said ok Mr. Barr, do you waive the time period?

Mrs. Morris said the time period was waived at the last public hearing.

Mr. Herzl said Mr. Jackson, Ally put up before the tax map and we see clearly that it's two separate lots.

Mrs. Morris said that was the survey provided by the applicant, that was signed by a licensed surveyor. I imagine that they did the deed research for that.

Mr. Jackson said what the objection is, is under the ___ doctrine, they merge by operation of law. Shout out to Mr. Doyle, although I did know the name of that case. They merge by operation of law. If they are undersized and contiguous and in common ownership. There's more nuance to it than that. But my point is lot line adjustment anyway, I think they're applying for a subdivision. So I don't think it matters. That's why I'd like to see it briefed.

Mr. Herzl said Mr. Barr, when do you feel that you can have, are you ready to go forward.

Mr. Barr said my guess would be the next meeting. We are completely prepared. Do we need a new notice though?

Mr. Herzl said not if we announce it today. I think if we establish a date now, when we announce it, then you don't need new notice.

Mr. Barr said we should be ready with a new attorney in the next few days, so we should be ready for the next meeting.

Mr. Herzl said Ally, when is the next available meeting?

Mrs. Morris said May 4th and May 25th.

Mr. Kociuba said May 25th would probably be preferable, to give us time to vet out the res judicata issue as well as the merger issue. Mr. Jackson, to be clear are you looking for a brief from both applicant's counsel and objection counsel on that?

Mr. Jackson said it's an objection, so I think they should lay out their objections factually and legally on why they think the lots have merged and the dates when the deeds and my understanding of it is if the lots were under common ownership before the Municipal Planning Act or it might be the Municipal Land Use Law, I'm not sure which enactment, then they merge by operation of law. I also want to explain why it matters, since this application is for a lot line readjustment which is another way of saying a subdivision. So if the Board approves this, they are realigning the lot lines and recognizing it as separate lots anyway. I also heard a comment about the building overlap that creates a de facto merger. I don't know that to be the case, I'd like to see the authority for that. And then I'd also like to see a memorandum on the other objections on the basis of res judicata. They are asking a lot of nuanced principles governing res judicata, cite some of that. I'd like those factors addressed, they're laid out in Cox pretty comprehensively. So that I can make a recommendation. I'd like to see the history of the Ordinances since 1990, it's probably apparent on the zoning table, why the circumstances haven't changed. He'll know what the legal criteria is. If we can get that in 10 days before the hearing date, and the applicant can respond.

Mr. Herzl said ok, do we need a motion to move it to the 24th? Or just an announcement.

Mrs. Morris said 25th.

Mr. Jackson said you can just ask the Board to consent.

Mr. Herzl said does everybody consent to advance this to the 24th? 25th, I'm sorry.

The Board voiced consent.

Mr. Pepe said my clients don't consent, because again this is the third time, the fourth time this applicant's been-

Mr. Jackson said we heard you the first time, we are moving on. He made a legal announcement to carry the application to the May 25th public hearing with no further notice.

5. SP 2406 River Ave Properties II LLC
Chestnut Street Block 1077, Lot 45
Preliminary and Final Major Site Plan for an office building

Mr. Vogt said from our April 5th review, under submission waivers, you have several identified. Topo, contours, manmade features within 200', plans and profiles, shade trees, EIS. We can waive these features for hearing purposes for reasons identified in the review.

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

Mr. Vogt said continuing under zoning, lot area variance is required. It's a preexisting condition due to the property size, .29 acres versus the 1 acre minimum. Lot frontage again, they have 83.33' versus the 150' minimum. A rear yard setback variance is required as identified in our comment 4. And minimum side yard setback variance is required as well. Under design waivers, buffer relief is necessary as well as a design waiver for trash recycling enclosure with fencing instead of walls as identified in 18-809E. And a partial design waiver is required for curbing along portions of the Chestnut Street frontage. And a waiver is required from providing street trees.

Mr. Adam Pfeffer, Esquire, appeared on behalf of the applicant. He asked to confirm a quorum.

Mrs. Morris said we have Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Isaacson.

Mr. Pfeffer said as Terry indicated, we are seeking approval for an office building on an undersized lot, a little similar to my previously application. A lot of existing variances for the undersized property.

Mr. John Doyle, Esquire, appeared on behalf of neighboring property owners. He said we have concerns, We would suggest to the Board that Terry's report be put into the record as an exhibit, where it calls for a less intense design, where he recommends a reduction in size of the building footprint. We support your zoning, particularly where the applicant seeks to have less than a quarter of what is required by side setbacks, rear setbacks, and provides absolutely no buffer and not one tree. It is far different, in that sense, than Adam's earlier approval which was appropriate. Not here.

Mr. Pfeffer said we will put our testimony forward to address Mr. Doyle's concerns. We have no objection to Terry's review letter being marked as an exhibit. We are fine with that. He had Mr. Brian Flannery, professional engineer and professional planner, affirmed.

Mr. Flannery said this application, exhibit A-1 is the tax map that shows this existing undersized lot. The lots around it are all totally developed. The property is .29 acres. The HD-7 requires a 1 acre lot. We'd like to have a 1 acre lot, but it's not available. Mr. Doyle points out that the side setbacks are a quarter of what the Ordinance stipulates, but the lot is also a quarter of what a typical HD-7 lot would be. The applicant did meet with the residential neighbors to the rear, and did read Terry's report. And based on that, we'd like to indicate that we are proposing to reduce the scope of the application as indicated in Terry's report and as requested by the neighbors to fit better into the area. The specifics are as indicated on the map...

Mr. Herzl said you're proposing a building much smaller?

Mr. Flannery said we're proposing, the neighbors behind asked for more rear setback. So to provide that we need to eliminate two parking spaces. And that takes us from a 9.75' rear setback to an 18.75' rear setback. And we have to either request a parking variance, which we know won't get approved, or reduce the size of the building. So we're proposing to reduce the width of the building by 5.8'. We would add that 5.8' to the westerly side of the building, adjacent to Mr. Doyle's property, so we will have a building that requires no parking variance and increases that side setback. And then I'll go through the report to indicate the variance relief we are requesting and the justification for that.

Mrs. Morris said Mr. Rennert is stepping down for this application. She took a roll call. Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Flancaum, Mr. Herzl, and Mr. Isaacson were still present.

Mr. Doyle said if I may note that the plan that Mr. Flannery is speaking to was not with the Board at least 10 days in advance to my knowledge, and we would reserve the right to object to it or seek a continuance so we can better study it and prepare for what has been put in front of us.

Mr. Herzl said Mr. Jackson, if the parking count changes, the buffer changes, the size of the building changes. Isn't that a substantial change and the Board should see the plan.

Mr. Jackson said that is a discretionary call on the Board. Under the MLUL the plans can be supplemented at the hearing, objectors present things at the hearing, and you adapt to them. If you think there is a change that is material in your judgement and it's something where the public might have been misled, might not have come out and objected, or might evaluate this application differently because of the extent of the change, then you could ask for it to be re-noticed.

Mr. Herzl said I want to be realistic. There's a lot of objectors here. I think it would be beneficial for everyone to have the actual plan and see it before we vote on it.

Mr. Jackson said it's your judgement call.

Mr. Herzl said it's not mine, I think we should ask the Board.

Mr. Pfeffer said we could have gone through the pro forma of showing the plan, and going through Terry's report, and heard all the comments. We know, because we recently met with the objecting neighbors who are behind, I believe if we get to it, I believe that we've addressed almost all their concerns. I could have gone through the whole night and then said oh, ok well we will shorten up the rear of the building and the side of the building. We're trying to say that we worked last minute to try to show something to the Board. We want to at least give our testimony. If the Board at the last minute wants to reserve comment, I have no problem. I understand this wasn't provided 10 days before the hearing. We've noticed, everyone is here, let's go through, maybe the Board might have more comments or concerns that we didn't realize, and we're going to waste more time with the Board. I'd rather we go forward-

Mr. Herzl said we may not even have a quorum to go the whole night. If there's a lot of objectors, we may not even get through this whole application. Mr. Stern, how late can you stay tonight?

Mr. Stern said I will defer to the rest of the Board.

Mr. Sabel said I'd like to leave at 9.

Mr. Garfield said I prefer 9.

Mr. Isaacson joked, I can stay til 6:30... 9 please.

Mr. Herzl said I don't think we'll get through this application. I think we need more than 20 minutes, especially when there's an opposing attorney and we don't have the clear plans in front of us.

Mr. Jackson said what I'm hearing is the Board isn't comfortable with proceeding without having it been on file so everyone can look at it, and based on that-

Mr. Herzl said Mr. Stern, what's your opinion? Should we wait until we have full plans?

Mr. Stern said more importantly, I see a lot of people on. Do we have a lot of people wanting to make public comment?

Mrs. Morris said I do have seventeen emailed comments, about half in favor and half have various complaints and requests that vary. So there are a lot of different concerns to look at.

Mr. Stern said we're going to want to read all 17 of those unless their entirely duplicative. So that's about 17 minutes right there just to have the public input. My gut is that we need to push this off and we're sorry that everybody got geared up and incurring extra expense, but it sounds like we have too many moving pieces.

Mr. Herzl said I agree with that. Mr. Pfeffer, this is a complicated application. You have opposing counsel. Come back with complete plans showing the least variance possible.

Mr. Pfeffer said can we move to the May 4th meeting?

Mr. Herzl said that's up to Ally.

Mrs. Morris said that's fine with me, but are you looking for Terry to review the revised plans that haven't been submitted yet?

Mr. Vogt said that was going to be my question. We don't have revised plans.

Mr. Flannery said we can get revised plans within a couple days. Does that give Terry enough time to review?

Mr. Vogt said I'm not sure at this time, because lots of people are asking things of me.

Mr. Pfeffer said I ask that we move to the May 4th meeting with the understanding that we have to get the plans into the Township asap. And if Terry doesn't have time to review it, we'll move to the May 20 something meeting.

Mr. Herzl said I want to be fair to all the opposing attorneys and people here logged on. I don't want them to have to come back the 4th and the 25th again. If we don't feel that we will get to it at the 4th, then we go straight to the 25th. I just want to be fair to all parties. Mr. Doyle does it make a difference to you, are you available both?

Mr. Doyle said I'm available both. But I think for Terry to have enough time to issue a complete report, as well as for us to give another shot, me with Mr. Pfeffer. I think it could be helpful.

Mr. Herzl said I would recommend the 25th.

Mr. Sabel said I'm looking at Scott Kennel's report, page number two, it says this report was done on May 2016.

Mr. Pfeffer said we have Mr. Kennel to address that with testimony, and there were multiple dates where traffic counts were-

Mr. Flannery said Mr. Kennel can send a letter addressing that when the revised plans are submitted, so that the Board has that information.

Mr. Herzl said ok. So Mr. Jackson, can you announce it for the 25th? Ally, when does the plans have to be in for Terry to make a review for the 25th?

Mrs. Morris said I can't speak for Terry.

Mr. Vogt said can they be in three weeks prior?

Mr. Herzl said so in about a week. Brian can you have it in a week?

Mr. Flannery said yes.

Mr. Vogt said well no, 3 weeks prior is May 4th. That's two weeks.

Mr. Pfeffer said even better.

Mr. Jackson made the legal announcement carrying the application to the May 25th public hearing with no further notice.

Mr. Pfeffer said with a waiver of time.

6. SD 2474 Alexander Goldring
34 Engleberg Terrace Block 174.08, Lot 13.58
Minor Subdivision to create two lots

Mr. Vogt said per our letter dated April 5th, under submission waivers, we have proof of submission to the County Planning Board. We are ok for hearing purposes, if they get approved the County will have to sign the plans anyway.

A motion was made and seconded to approve the submission waiver request. All were in favor.

Mr. Vogt said under zoning, the applicant requires a minimum lot area variance for Lot 13.65, a minimum lot variance for new Lot 13.64, and possible parking relief on 13.64 which we will get testimony on. Under design waivers, you have necessary from providing curbing along the frontages as well as street trees.

Mr. Goldring appeared and was affirmed.

Mr. Flannery appeared and was affirmed. He said the application is for a very large lot in this neighborhood. It's 29,559 sf in the R-15 zone. A tax map exhibit was submitted which shows the lot on a bend in Engleberg Terrace. When you look at the lots along Engleberg, we used to do a Percal map and color them all in blue. Of the 46 lots along Engleberg, 29 of them, 63%, are 12,751 square feet. So this is a very large lot in this neighborhood and we are proposing to subdivide so there would be one lot, the existing house fronting on Engleberg, and nothing changes with that house, it's just the excess property in the rear which has frontage on an improved Kennedy Boulevard will be a building lot so that another dwelling can be built.

Mr. Herzl said and it's far greater than most of the lots in the area, I see it's 14,500.

Mr. Flannery said yes. And that lot at 14,500 will be larger than a majority of the lots in the neighborhood. The only construction proposed as part of this application, since we have the existing home in the existing neighborhood, that after the subdivision will conform and be larger than most of the lots in the neighborhood, would be a driveway and a dwelling built on Kennedy Boulevard, which is existing. We did submit an aerial exhibit that shows it's all houses, with this particular property, Mr. Goldring, has the large back yard. Going through the report, we're asking for the minimum lot area for Lot 13.65, 14,557 where 15,000 is required. But where the typical lot size is 12,750. Minimum lot width on 13.64, which isn't changing, at 90.13', where 100' is required. A minimum lot width on new Lot 13.65, at 77.31' where 100' is required. Again, nothing is changing there. Those lots and frontages already exist. Off-street parking relief, as indicated, is required for the existing home. The existing home is a driveway which has for many years accommodated the existing house. Nothing is changing on the house, nothing is changing on the driveway, if someone was to come in and want a bigger house that needs more parking, they would have to comply with that requirement. My testimony is these are typical C2 variances, the relief that's requested is de minimis.

Mr. Herzl said on the new lot, how many parking spaces are you going to have?

Mr. Flannery said the new lot will have at least four parking spaces. It has room for as many as needed based on the house. If a larger house is built that needs more parking, it will comply. No relief is requested for the new lot. Based on the 2017 Master Plan, the background information, goes on about all the development. It concludes on page 3,

therefore it's important Lakewood plan for residential development to house its growing population. This will help in that regard. The Vision Statement, page 7, says encourage development and redevelopment based on smart growth planning principles, it's my testimony this does this. The Municipal Land Use Law, NJSA 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 does this. We are requesting C2 variances, it's minimal relief. We need to show it relates to a specific piece of property. We have a 29,000 sf lot in a neighborhood that's typically 12,750. The purposes of the Municipal Land Use Law, I indicated. The variance can be granted without substantial detriment to the public good. And it's my testimony that there is no detriment to the public good. The variance will not impair the intent and purpose of the zone plan and zoning ordinance, it complies with the density for this specific zone and it exceeds the area of the surrounding lots. And the benefits outweigh the detriments.

Mr. Herzl said I think this is one of the only pieces of property over there that's so big and can be subdivided.

Mr. Flannery said it's the only piece. The other lots that are more than 12,750 sf are marginally larger. This one is more than double and it's the only one that an applicant could come to the Board in good faith and say that it fits into the neighborhood and there's minimal relief required. We will satisfy all of Terry's comments in the report.

Mr. Herzl said are there any other variances? You're not showing the envelope, where are you putting the house?

Mr. Flannery said the house will fit in the building envelope for the R-15. It's a 30' front, the setback lines are shown on the plan. 10' one side, 25 combined. The setback lines are all shown and it will be a custom lot and someone will build a house within that building box.

Mr. Goldring said I met with all the neighbors, I believe some of them sent some emails. Everybody's ok with it, I have some personal arrangements with some people who wanted some fencing or some evergreens, because the property is kind of in the back.

Mr. Herzl said I don't see anybody on the screen here. Are you ok with the way this is situating, the house?

Mr. Goldring said I'm ok with it. The one request that I did have with the neighbor, that I think they emailed a request. Because it's in the back and the way it's situated, some neighbors requested, since they have Kennedy Boulevard in the front of this lot which is a massive nother 4 or 5,000 sf area, that perhaps the house can go for a 20' setback in the front. That will help them because by doing that you're taking the house away from their backyards, and they asked me if I could present that to the Board. That just came up the last couple days. They told me they sent emails with this request.

Mr. Herzl said I have my store over there, Kennedy Boulevard is very, very wide over there.

Mr. Flannery said it's 120' wide right-of-way.

Mr. Herzl said how much is a typical right-of-way.

Mr. Flannery said a typical residential right-of-way is 50', the biggest one the County asks for is maybe 86'. This was a County right-of-way. There was a plan to put a major highway in this area. The County gave the land to Lakewood, and Lakewood left it in this configuration. Unfortunately for Mr. Goldring, we did not advertise for that so I don't think the Board could grant that at this time. It is something that, when a house is going to be built, he could certainly apply for front setback relief with respect to that.

Mr. Herzl said you don't do the catch-all?

Mr. Flannery said we have a catch-all, but in my legal opinion this isn't the appropriate time to use that.

Mr. Sabel said I think what the applicant is referring to is a letter from Mr. Ungar, the CEO from New Lines. I think it's appropriate now, so we don't have to come back 5 minutes from now, to read his letter and see-

Mr. Herzl said I will. I went out over there and I saw how wide it is. To me it also made sense to move the house forward as much as possible, to not be next to any neighbors. He opened to the public.

Mrs. Morris read:

To whom this my concern

I, Robert Schachter trustee of the Schachter Residence trust fully agrees and approves the subdivision of Lot 13.58 in

Block 174.08 into two lots 13.64 and 13.65. All the best!

Sincerely,

Robert Schachter

I, Thomas Snyder, owner of Block 174.04 Lot 24.01, have reviewed the subdivision plans that Alexander

Goldring has submitted for Block 174.08 Lot 13.58, also known as 34 Engleberg Terrace. I believe that this added lot will have a positive impact on our very quiet neighborhood, and I therefore, approve this subdivision.

If you have any further questions, feel free to reach me on my cell phone 732-600-9197.

Thomas

To the honorable members of the planning board, secretary and professionals; The applicant in question is property address # 34 Engleberg Terrace and my property is adjacent on the right at # 36 Engleberg Terrace, we share that lot line from front to back. I'd like to share with you the following comments, suggestions and views:

1. I fully support this application and its intended subdivision

2. In addition, I believe this application conforms with the overall residential neighborhood and adding an extra lot

where much housing is needed should be welcomed

3. In regards to the variances, I think they are de minimis in nature and conform with many of the other lots development.

a. Most lots in Brookhill are more aligned with the R12 zone as they are under 15,000 square feet

b. Regarding the frontage: My lot next door in fact only has a frontage of 77' wide and is perfectly comfortable.

Many of these issues are reasonable due to the roadway curves and beauty of this development that created some of these variance. It's what we all love about Brookhill. I would like to suggest perhaps a positive variance here (either way, my support for this application remains). Perhaps the new lot can have an additional front setback variance on Kennedy Blvd to allow for it to be only 15 or 20 feet from the front lot line. There is so much space there and allowing the house to be further forward, would provide more space in the rear where the other houses are, and they would still be much further from the road than most houses in Lakewood (and certainly in the Brookhill area).

Thank you very much for reviewing this email.

-Yehuda Ungar, New Lines Engineering President & CEO

Re: Subdivision number SD 2474

Alexander Goldring

Block 174.08 Lot 13.58

To whom this my concern,

This communication is to express support for the above mentioned subdivision. The said property is located directly across the street from my house. Although the subject property is located in a R15 zone, it is within the Brookhill community where the majority of the lots are 12,750 sq ft. Therefore, it is of my opinion that this minor variance should definitely be granted as it is conforming within the rest of the community.

Yours truly,

Ben Weber

Mr. Flannery said I'd like to add that if it's a neighbor requesting the building to be slid up as a benefit, and the Board wants to accommodate that, then I think the catch-all would accommodate that.

Mr. Herzl said I personally would like to move it up, to give more privacy for any neighbors on Kennedy Boulevard or Engleberg Terrace. If you move it forward, Kennedy Boulevard is extremely wide. If you move it up closer, you have more privacy to the neighbors. He closed to the public.

Mr. Vogt said do we want to put on the record how far up the house is moving?

Mr. Herzl said I think he asked for 20'.

Mr. Goldring said correct.

Mr. Rennert made a motion to go along with the request and approve the application.

Mr. Goldring said I'm showing a 4' walkway on the property because my lot is the biggest lot and connects other developments behind me. So for all the years, the last 20 years, people have been walking through my property. It was an honor for me to be able to give that to the public. I'm showing that on the application as a courtesy, I still want to work that out with the neighbors. I want to show that, but I don't want that to be a binding walkway.

Mr. Herzl said I think it's very nice of you to pave a path. It's on your property, so I don't care.

Mr. Rennert said yes, with the 20'.

Mr. Isaacson seconded. All were in favor.

7. SD 2052 Jacob Mermelstein

1460 South Street

Block 855.06, Lot 28

Extension of Minor Subdivision to create two lots

Mr. Rennert and Mr. Isaacson stepped down.

Mr. Flannery appeared and was affirmed. He said this application is very similar to the one that was done last month. A minor subdivision was submitted. The approval expired. We're requesting three one-year extensions, and we would need to file it before the state of emergency by the governor is lifted. It's a minor subdivision on South Street, the same neighborhood as the Oak Street one that was extended last month.

Mr. Sabel said is there going to be sidewalk in front of the property?

Mr. Flannery said yes. Sidewalks will be installed. And I didn't look through the resolution, but I know in order to build a house you need sidewalks so the applicant will build sidewalks.

Mr. Sabel said I see the resolution, it does not state that from 2015.

Mr. Flannery said we certainly would be happy with an extension that indicates sidewalks need to be included.

Mr. Sabel made a motion to approve, Mr. Garfield seconded. All were in favor.

6. APPROVAL OF MINUTES

7. APPROVAL OF BILLS

8. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Ally Morris
Planning Board Recording Secretary