



50 Amherst Street & 101 Rutgers Drive Block 1051.01, Lots 36 & 37  
Minor Subdivision to create three lots

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

- 4. SD 1580A Elkana Tress**  
2 Esther Court Block 11.29, Lot 3.01  
Amended Preliminary and Final Major Subdivision to add a retaining wall

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

- 5. SP 2337 Congregation Chasam Sofer Inc**  
490 Manetta Avenue Block 236, Lots 6.03 & 6.04  
Preliminary and Final Major Site Plan for a synagogue

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

- 6. SD 2419 Lakewood Industrial Commission**  
Swarthmore Avenue Block 1606, Lot 9  
Courtesy Review for a Minor Subdivision and gravel parking lot

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

#### **4. ODRINANCE & CORRESPONDENCE REVIEW**

- **Proposed Ordinance** Section 18-200-B

Mrs. Morris said this is a proposed Ordinance for Chapter 18 Section 200, item B. It's redefining Hotels and Resort Hotels from the Committee.

Mr. Herzl asked what is being added to it.

Mrs. Morris read the proposed definition into the record. She assumes this is just an attempt to clarify what falls into the category of hotel.

Mr. Herzl said or they're adding... what was the original?

Mr. Flancbaum said it's expanding the definition.

Mrs. Morris said yes.

Mr. Sabel asked if this definition would go back and apply to prior approvals.

Mrs. Morris said no, it would not look back at previous approvals and she asked Mr. Jackson to confirm.

Mr. Jackson said I don't know the history, but I know there was recently an appeal and a hotel application was reversed by the court on the basis that they didn't say that there was a cocktail lounge or a restaurant or something. Jerry Dasti handled that, I had a conflict on it.



Mr. Magno continued on zoning, that there is an existing non-conforming setback which would be intensified from the building addition from 39' to 30.8'. Also, there is an existing trailer which needs action because it's an accessory structure that requires a variance for setback. And there's also buffer relief needed for the 20' perimeter buffer and for off-street parking located within 5' of the property. We need testimony on off-street parking as to whether any variances would be required. Lastly, a side setback variance is required where normally it's 15', but in this case it's closer because of the right-of-way dedication on the County highway.

Mr. Herzl said what new variances do we have on this application. The plans show just one.

Mr. Pfeffer introduced himself.

Mr. Magno said there are also some design waivers, which the first one the application has already addressed about the shade trees which have been planted. And there's a design waiver for planting curb and sidewalk along the County highway.

Mr. Pfeffer said the Board has seen this congregation before, this is really success at its best. The shul is growing, there are approximately 200 families that use this house of worship. It is located across from Westgate. It's an existing institution. We are here to add approximately 700 square feet for a women's section. Exhibit A -1 was added as the Site Plan sheet 1 of 1, A-2 was marked as the First Floor Plan. As you can see, we're really just adding some bathrooms, an area for the women, and a ramp to help access the building. The majority of the variances were all previously approved. The site works and there is parking. He asked Glenn to walk the Board through the variances to get them on record.

Mr. Lines stated that the first variance was for the existing office trailer which is about 200' back on the property and remains there from when this was a contractor's yard. It's in the rear behind the garage, left over from the prior use and there is no reason to remove it.

Mr. Herzl asked if it's being used.

Mr. Pfeffer said it's being used for storage, tables, chairs, and it's not really visible from the street.

Mr. Lines said the first variances is for front setback. Because of the angle of the building, the old corner was 39' from the property line but the addition on the right side is now 30.8' off the front property line.

Mr. Stern asked from the side or the front property line.

Mr. Lines said the front.

Mr. Herzl said technically in a normal house you would have 30', but here it's required 50'.

Mr. Lines said correct. The perimeter buffer would be required around the property. The property was previously developed, this is basically a big gravel area for parking. There is existing parking that encroaches into the buffer on the east side of the property and the driveway into the handicap parking area extends into the buffer on the west side of the property. Relief for parking is next. There is an existing parking area on the easterly side of the property, about a foot off the property line, where 5 feet would be required. We are not requesting an off-street parking variance. We have sufficient parking from the previous application and are not proposing additional main sanctuary space, which is how we calculate parking, so no additional is required.

Mr. Herzl asked where the parking is.

Mr. Lines said the parking is along the east side of the property, and then you can go around the metal building and then it's a huge gravel parking area that gets used well. The next variance is an existing sign by the main driveway about a foot of the front property line. If we move it further, it would be behind a nice wall of hedges and you wouldn't be able to see it. If we move it to 15' back no one would see it all. Those are the seven variances. Design waivers are street trees which were planted, I was out at the site a month or two ago. We are requesting a waiver from providing curb and sidewalk along Whitesville Lakewood New Egypt road. Currently, the edge of pavement is about 10' off the property line. If we put in curb and sidewalk, the County would require us to dedicate about 10 feet, which would eliminate the new street trees, hedges, and increase or decrease the front setback from 30.8'.

Mr. Herzl asked are there any sidewalks on Whitesville.

Mr. Lines said they end at Corey Court. In Lakewood, there is our lot, a residential lot next door, no sidewalks there, and then there's one last lot that used to be a restaurant that's been torn down and there's no sidewalks there either. Then you're in Jackson and there's no sidewalks from there to the traffic light. This is the last thing people are going to walk to, and there are sidewalks on the corner of Corey court. We have access to the sidewalks from East 8<sup>th</sup> and putting sidewalks here wouldn't accomplish much.

Mr. Fuentes said it would take away from the beauty of the building.

Mr. Herzl asked if there are curbs there now, that's about safety.

Mr. Lines said no, they end on the other side of the driveway.

Mr. Fuentes asked about future plans for County road improvements.

Mr. Lines said the County has a Master plan of roads they will improve, but to his knowledge this isn't at the top of their list. There are others they would worry about.

Mr. Fuentes said he hasn't seen anybody walking here.

Mr. Garfield said coming in from the parking lot there's going to be stone, can you put in a walkway there for people coming in?

Mr. Lines said the parking lot is paved from Whitesville to the back of the metal building. It's just the area behind the building that is gravel and is used that way now. Concrete sidewalk runs through back to Olive Court for a paved walkway.

M. Garfield asked about a drainage swale.

Mr. Lines said the high point is maybe halfway through even with the building, and then it all drains back to the gravel area and everything soaks in there. Its only maybe 60' of the front driveway that goes out to the road.

Mr. Pfeffer asked for the positive and negative criteria of the variances. This is servicing a growing community but what are the negatives?

Mr. Herzl said the front setback is only the new and different variance.

Mr. Pfeffer asked if there is anything in Terry's letter they can't agree too

Mr. Herzl said what are you doing about trash and recycling, number 6.

Mr. Lines said there's a dumpster in the back, next to the metal building, where the truck can get in and pick up and go back out. And there's a yellow recycling can.

Mr. Herzl asked how you utilize the back gravel area with all the trees.

Mr. Lines said you go around the east side of the metal building and the large L-shaped area is all gravel. You enter where it says "white" and then you proceed back, there is an 18" tree, between that and the metal building is a 2-way driveway to access the back parking lot.

Mr. Pfeffer said this is an existing building that is used throughout the day, we are here to add an approximately 700 square foot women's section, bathroom, and handicapped ramp.

M. Stern asked if there are is another shul in the area on this side of the road.

Mr. Raitzik said there's a school further east by Route 9.

Mr. Stern said there appears to be a parking or ingress/egress issue when he's gone past before.

Mr. Pfeffer said we've asked the congregants to use the parking lot instead of the street. There is on-street permitted but there is sufficient parking in the back. A few like to park in front.

Mr. Herzl said it's hard to get to the back, it's not direct.

Mr. Fuentes asked for signs to direct cars.

Mr. Pfeffer said they have no problem adding signs to get to the back

Mr. Sabel asked about trailers getting into the backyard.

Mr. Lines said there's room to get two dump trucks back there, it just looks small on the scale of this driveway.

Mr. Sabel asked if they can relocate those trailers to the other corner of the property.

Mr. Herzl said with that 18" tree right in front, that wouldn't help.

Mr. Sabel said what's next to the trailer.

Mr. Lines said a raised patio.

Mr. Sabel asked what the brown thing is on the plan. He said it looks very narrow. He said the plan doesn't require any additional parking, is that why it doesn't show it?

Mr. Herzl said this is for the ladies, the parking is based off the main sanctuary.

Mr. Herzl opened to the public

Mr. Raitzik asked what's with the partial sidewalk, they don't want to continue it in the other direction?

Mr. Pfeffer said that on Google Earth is a walkway into the site, not sidewalk.

Mr. Lines said it doesn't go further down Whitesville.

Mr. Raitzik asked how it is with draining in the front.

Mr. Herzl said it goes right out to the road

Mr. Herzl opened to the public and no one came forward.

A motion was made and seconded to approve. Mr. Sabel said he wants confirmation that the trailer is not in the way. Mr. Pfeffer said that trailer is there, it's existing. Mr. Sabel said that's showing to the north of the parking lot, whatever the object on the map further into the parking lot, shouldn't be there.

Mr. Herzl said they are testifying on record that there is nothing there.

Mr. Jackson said he can put in the resolution that trailers are prohibited

Mr. Herzl said no.

Mr. Pfeffer said there is an existing trailer that is used as storage.

Mr. Sabel made a motion to approve and Mr. Fuentes seconded. All were in favor.

#### **4. ODRINANCE & CORRESPONDENCE REVIEW**

- **SD 2396, Block 417, Lots 20, 21, & 23:** changes to variances for previously approved subdivision

Mrs. Morris said this is a recently approved subdivision that hasn't yet been filed, and the applicant is looking to revise some of the variances that were approved.

Mr. Pfeffer said this is a small minor change. We were recently before this Board. Basically we are looking to make the footprint of the house 24.5' whereas 23.25' was previously approved.

Mr. Brian Flannery, P.E., P.P., was sworn. He said this is the application that was on Route 9 between Henry and Birch, 1 duplex on Henry and 2 on Birch. We came in conforming with respect to lot areas and side setbacks and front to the existing structures on River Avenue. The structure on River Avenue that is on Henry Street was closer to Route 9 than the one that's on Birch Street. So the application was submitted by the engineer using that, but the width of the duplexes on Birch Street were 23.25'. When the applicant went to his architect he said it's not going to be consistent with the neighborhood. If we had an extra 2.5' feet we would have units that are the same as those on the other side. He explained the exhibit that he brought where he indicated in blue what was approved and what they are asking for is the pink, which is to move over 1 foot and change the middle lot line, and 2.4' the other line. It's setback still further than the other one on Henry Street so no one is going to see this. This is de minimus and should have been submitted with the application but he didn't go to his architect until after.

Mr. Herzl asked how many more bedrooms they are getting out of this.

Mr. Flannery said no additional bedrooms, it will be the same square footage just wider and a little less deep. It will be consistent with the others. The biggest thing that makes it de minimus is that it lines up with the others.

Mr. Herzl opened to the public.

Mr. Moshe Zeines was sworn in. In the original review, there was a comment about widening Route 9.

Mr. Flannery said all of that is still included. All of the original conditions are still valid, we are just asking to make these units wider.

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

## 5. PUBLIC HEARING

### 1. SD 2082A MC Tuscany II Property, LLC

E County Line Rd Block 194; 195; 196; 197; 198, Lots 1 & 4; 1-3; 1-5; 3, 5, & 8; 10

Amended Preliminary and Final Major Subdivision to revise tract boundaries and setback variances

Mrs. Morris said this is an amended subdivision, the layout is pretty much the same but there is an adjustment to the lots included as part of the application as well as a change to the setback variances that were approved.

Mr. Flanbaum recused himself from this application.

Mr. Magno said the scope of the project has changed. Variances were approved allowing minimum lot areas of 12,000 square feet where 15,000 was required. Additional lot area variances are for 4 properties less than 12,000 square feet, the smallest of which would be about 10,400 square feet.

Mr. Herzl asked if they were getting any more lots.

Mr. Magno said no. The scope of the project has changed so that it goes out to the west to Bogart Street and the County road has required additional right-of-way taking than what they were initially approved for. That's why they're here for the amendments. The lots are smaller and the variances are more intense.

Mr. Stern asked how many feet the County is taking.

Mr. Pfeffer said they would address that with their testimony.

Mr. Magno said it's probably about 10 more feet than before. The other thing that is needed is minimum front yard setback variances, 15' from East County Line Road for Lots 1.01 and 1.10, and front setbacks of 16.6' from Stillwell Lots 1.05 and 1.06, also front yard setbacks of 24' feet from East County Line Road for new Lot 1.01 in Block 194 and Lot 5.01 in Block 197. In all instances, 30' are required. The last item is a design waiver for Bogart Street to the west which is unimproved and they are requesting a design waiver from improving it.

Mr. Pfeffer said I know it sounds like a lot is happening but a lot of it is caused by the County changing their mind. We took into account their original plans, but they came back and changed it more which caused these new variances. Additionally, on the previous application the wetland delineation line was an estimate and now it's the exact line.

Mr. Graham Macfarlane, P.E., P.P., was sworn. Mr. Macfarlane marked Exhibit A-1 as the Development Plan of the original approved application dated 11-11-15. It shows the original application approved by the Board in December 2015. It showed 20 lots, and the lots with the frontage along County Line Road with the dedication required by the County at 25' half width at the time. The County Master Plan has since been updated and they now require more. They require 43', but we sat with them and they agreed to a 36' dedication here. A-2 is the coversheet submitted with the revised plans. The original development is highlighted in the orange and the blue is the new portions added based on the final assemblage done by my client. There are two pieces on the western edge, part of lot 5 and part of lot 8 have been added to the project. A-3 is the Development Plan submitted to the Board, sheet number 3.

Mr. Herzl asked if the chart of the plans is correct.

Mr. Macfarlane said no it hasn't been updated. The lots on County Line Road will range from 10,523 up to 11,139 square feet. The other lots will all remain a minimum of 12,000 which is consistent with the original approval.

Mr. Herzl said the only changes are to those four lots

Mr. Macfarlane said correct, with a caveat. On A-1 you can see the home on the western edge, this one lot was pushed way back based on the geometry at the time this was approved. We don't have that anymore. They'll all be located in a more normal fashion along Briggs street. Big picture, it was 20 lots and is still 20 lots, impacted by changes to the County Master Plan that required additional right-of-way. That changed lot sizes and lot width and front yard setback variances. We are essentially treating those as side yards so the homes can be constructed of a similar size to the others in the development.

Mr. Fuentes asked about the white lots near the blue on the exhibit.

Mr. Macfarlane said those lots are not part of the application, the buyer wasn't able to obtain those.

Mr. Stern asked what the blue is.

Mr. Macfarlane said those are the additional pieces that were added with this application.

Mr. Stern asked why they needed to acquire those.

Mr. Macfarlane said they didn't need to acquire those. The client went to various land owners to acquire all the pieces to assemble this application. When they got the original approval, those two pieces weren't included.

Mr. Pfeffer said no additional lots are proposed.

Mr. Stern said then why did you buy it? How does it help you?

Mr. Macfarlane said his client spent a significant amount of time to buy parcels to put the application together. Referring to A-3, that's the limit of the riparian buffer, anything below that is essentially not developable.

Mr. Sabel said that's a huge lot.

Mr. Macfarlane said yes, it is 31,000 square feet, most of it is occupied by the riparian buffer.

Mr. Pfeffer said they'd have to go to the DEP to develop that.

Mr. Stern said he didn't just buy it because he wanted to, there has to be some reason.

Mr. Macfarlane said the riparian buffer is also the reason we are asking for the design waiver from the improvement from Bogart Street, 100' of frontage is all within the category one buffer.

Mr. Pfeffer said special permits from the DEP are required.

Mr. Sable questioned the funny-shaped white spaces left behind.

Mr. Macfarlane said on A-2, Lot 4 and Lot 7 are owned by someone else and are not under our client's control.

Mr. Sabel said they used to be owned by the same owner as Lot number 1. Why did he sell them? Why did the applicant buy them, it's creating two unbuildable lots?

Mr. Pfeffer said they are existing lots, we aren't creating them. Lot 7 and Lot 4 are owned by separate people and those are on the tax maps today.

Mr. Sable said so we aren't creating that.

Mr. Pfeffer said no.

Mr. Herzl said so there are new variances on the first four lots, everything else stays the same.

Mr. Macfarlane said yes.

Mr. Pfeffer said they met with the Stillwells and agreed that they would first go out and mark construction fences prior to clearing and construction to protect the trees that are supposed to stay. They also agreed that there would be notice in the contract that the backyards can't be built on without a DEP permit (for those in the buffer). They asked for bollards to be installed on the dirt road between Aiden and Stillwell, and Briggs and Stillwell, so that dirt bikes can't go through there. It can't be built anyway because of the C-1 buffer.

Mr. Raitzik asked if it opens up onto County Line.

Mr. Pfeffer said County Line is on top. Yes, it pulls in off County Line.

Mr. Raitzik said but currently those streets are not existing.

Mr. Pfeffer said no, to the best of my knowledge.

Mr. Raitzik said and what are you putting in with this development.

Mr. Pfeffer said 20 houses.

Mr. Raitzik said, and County Line is one lane in each direction?

Mr. Macfarlane said yes.

Mr. Raitzik asked if a traffic study was done.

Mr. Macfarlane said a traffic study was done when the project was originally approved. It has been reviewed and accepted by the County.

Mr. Raitzik said, and they've approved these changes?

Mr. Pfeffer said it's still 20 units.

Mr. Raitzik said so you're just changing the size of the lots?

Mr. Macfarlane said the original approval was given in December of 2015.

Mr. Pfeffer said, and we've been working on that with the County since then.

Mr. Raitzik said so you don't have to go back to the County regarding this.

Mr. Macfarlane said we resubmitted this to the County a few months ago and they approved it.

Mr. Stern asked about Bogart waivers

Mr. Macfarlane said technically this application has street frontage on Bogart which is unimproved, and technically they have to improve those frontages. Again, there's a category one buffer, the strip is only 40' wide, it doesn't make any sense to have someone improve a road that isn't going anywhere.

Mr. Stern asked if they bought the finger, could they do anything with it?

Mr. Macfarlane said yes if he was able to buy lot 4 and lot 7, they would probably come back for a minor subdivision to build more lots.

Mr. Pfeffer said no, it would be one additional conforming lot.

Mr. Stern asked where that house would have access.

Mr. Pfeffer said it would be on Bogart which would have to be improved from County Line to that house.

Mr. Stern said so by granting your waiver now, we aren't releasing you from future requirements for sidewalks?

Mr. Pfeffer said no, right now it's a road that goes to the backyard of a property.

Mr. Raitzik said there are access roads to County Line.

Mr. Fuentes said yes it goes to County Line.

Mr. Macfarlane said it is essentially a loop road with two access points to County Line.

Mr. Sabel asked who owns Lot 4 and 7.

Mr. Pfeffer said something indiscernible.

Mr. Sabel asked who owns Lot #2

Mr. Pfeffer said that's probably the old list on the plans.

Mr. Fuentes asked who owns 7 and 4.

Mr. Pfeffer said they are Casanova today.

Ronald Wronko represents owners of Lot 7. He presented follow-up questions for the engineer. On Bogart Street, if you proceed down away from County Line, you would be heading into the C-1 riparian zone, correct?

Mr. Macfarlane said yes.

Mr. Wronko said there was no Riparian Zone disturbance plan, correct?

Mr. Macfarlane said no, we aren't disturbing it.

Mr. Wronko said with regards to the two houses furthest away from County Line, in the original plan it shows the riparian zone going through the two houses. In the revised plan, it shows the zone making a right turn around these houses. You are relying upon a survey created by New Lines dated 2017 and revised in 2018.

Mr. Macfarlane said his office also did field work out there, and his surveyor and their surveyor worked together out there.

Mr. Wronko said for the original plan, there was an indication that it was estimated. You didn't go out at that time and survey it?

Mr. Macfarlane said it was an estimated line not based on a detailed field survey.

Mr. Wronko asked when the field survey was done.

Mr. Macfarlane said last year some time in 2018.

Mr. Wronko said in reference to your plan, you make no reference to you conducting a field study. It references only the New Lines survey.

Mr. Macfarlane said they utilized both sources. New Lines was also requested by his client to confirm the location of that stream. They were doing work in other parcels in the area.

Mr. Wronko said the New Lines survey relates to Block 207 Lot 1.01 and 3, which is to the west of this project.

Mr. Macfarlane said yes.

Mr. Wronko said are you aware that New Lines submitted that application and then withdrew it after my firm submitted our own survey that showed their line was wrong?

Mr. Macfarlane said I'm not aware of that. He said the line shown on A-3 is an accurate representation of where the 300-foot buffer is located related to both the property and top of bank.

Mr. Wronko said if you were right the first time, wouldn't there have to be as part of this application a riparian zone disturbance plan.

Mr. Macfarlane said that line was estimated, and at this time we are not proposing any disturbance.

Mr. Wronko asked for an answer to his question.

Mr. Macfarlane said that was not an accurate line.

Mr. Jackson said that doesn't answer the question. If that line was accurate, would it require a riparian plan?

Mr. Macfarlane said if the project was proposing disturbance within the buffer, a permit would be required.

Mr. Jackson said so then yes a permit would have been required.

Mr. Macfarlane said that line wasn't a survey. It was estimated from other sources.

Mr. Magno said the answer to the theoretical question would be yes.

Mr. Wronko asked what sources were relied upon for the original plan.

Mr. Macfarlane said he didn't prepare the map so he isn't sure.

Mr. Wronko asked if the Board was notified with the original application that that line was an estimation.

Mr. Jackson said these questions need to be asked one at a time.

Mr. Pfeffer objected, these questions are being asked regarding a previous approval.

Mr. Wronko said, you gave testimony for the original approval?

Mr. Macfarlane said no.

Mr. Wronko asked if deed restrictions are required for the lots that extend into the buffer.

Mr. Macfarlane said they aren't proposed but the Board certainly has the right to require them.

Mr. Wronko said these lots now have backyards going into the riparian zone. He asked if none of the vegetation is going to be impacted by construction where they are very close to that riparian zone.

Mr. Macfarlane said correct, no disturbance is proposed

Mr. Wronko said for Block 197, Lot 8, that's going to be unimproved?

Mr. Macfarlane said no it is going to be incorporated into Lot 5.03.

Mr. Wronko asked what benefit that gives to the applicant.

Mr. Macfarlane said it just becomes part of the parcel.

Mr. Wronko said as part of the parcel, is the applicant going to level all of the trees?

Mr. Macfarlane said no, part of the plans submitted show the limits of the clearing proposed, and that lot is not proposed to be cleared.

Mr. Wronko asked with regard to traffic has there been a determination about one- or two-way traffic going around Briggs, down to Stillwell, and back onto County Line?

Mr. Macfarlane said they are public streets designed in accordance with RSIS for two-way traffic.

Mr. Wronko said this lot is in close proximity to the intersection of Brook and County Line.

Mr. Macfarlane said it is relatively close.

Mr. Wronko said you could potentially have people coming in and out of both of these intersections with County line at the same time.

Mr. Macfarlane said yes, we could.

Mr. Wronko asked if any analysis had been done with regards to rush hour traffic at 5 o'clock.

Mr. Macfarlane said his office did not prepare the traffic study, it was prepared by a traffic engineer. It was submitted to the County and accepted.

Mr. Wronko said but there's been no update to the traffic study with this application, correct?

Mr. Macfarlane said he wasn't sure.

Mr. Wronko asked if there was an environment impact study.

Mr. Macfarlane said he wasn't sure.

Mr. Wronko asked why one wasn't prepared in consideration of the proximity to the riparian zone.'

Mr. Macfarlane said there is no impact to the riparian zone proposed.

Mr. Wronko said there is a stormwater runoff plan and a soil erosion plan.

Mr. Macfarlane said yes.

Mr. Wronko said that hasn't been part of a unified study to ensure that soil erosion and water runoff isn't going to impact the riparian area?

Mr. Macfarlane said no. Our plan is prepared in accordance with State rules as to the stormwater and in accordance with the Soil Conservation as applicable to this project.

Mr. Jackson said Mr. Wronko intimated that his client has a survey that shows the riparian buffer in a different location.

Mr. Wronko said his survey was limited to only where the line fell on his lots, Block 207 Lots 1.01 and 3. He is unaware of any New Lines Engineering plan that this engineer is referring to, none was submitted it was only referenced. His office had submitted their own plan of the line, and after that was submitted the application was withdrawn.

Mr. Jackson said maybe I misunderstood, I thought you said that you had a survey that showed the line in a different location. Do you have a riparian buffer line that is different from this that you are prepared to enter into evidence?

Mr. Wronko said that what I am representing is the riparian line that is different was on Lots 1.01 and 3 of Block 207.

Mr. Jackson said I don't know where on this map you are talking about.

Mr. Wronko said that is to the west of Bogart.

Mr. Macfarlane said they are not part of the application.

Mr. Jackson said the reason I am asking is you seem to be indicating that the line is wrong, and if you have a survey, I'd like to see that. If you don't have a survey, then I think the Board may want to move on.

Mr. Wronko said what I do have is a survey that relates only to Lots 1.01 and 3 in Block 207, which is what this apparently makes references to. If in fact he is relying upon a survey that shows an extension of this riparian line that goes all the way out to these other lots, because by its own definition within the citation, it is relating only to those lots which is to the west of this application.

Mr. Jackson asked Mr. Macfarlane how a riparian buffer line is established.

Mr. Macfarlane said the category one buffer is established from the top of the stream bank. We went out and had to survey the top of the stream bank. Our guys took a bunch of shots relative to the stream, then we plot that relative to the property lines, and then we set the line 300' from the top of the bank. When the project was approved in 2015, that top of bank was not specifically located far enough along. So the line was estimated. Our survey didn't extend that far.

Mr. Jackson said so the survey and the information up there is based on the latest information, signed by a surveyor, and based on field measurements?

Mr. Macfarlane said yes.

Mr. Stern asked Mr. Wronko did he state that the two lots, new lot 10.02 and 10.01, now the line goes right behind them, did you state that you have another recent survey that says the line goes through these houses.

Mr. Wronko said no sir, what I stated was the survey I referred to is the one referred in the plans themselves, which says "Top of Bank Plan, Block 207, Lots 1.01 and 3." When that application to develop those, we opposed it, hired our own surveyor, and submitted where the riparian buffer lies and showed that they were inaccurate in that area west of this project. At this point we have not retained our own surveyor to address that area with the two houses.

Mr. Stern asked Mr. Macfarlane how the 2015 plan with the estimated line was approved if, by his own estimation, the line went through the two houses?

Mr. Macfarlane said the plan identified that an individual Flood Hazard Area permit would potentially be required. When we prepared this amended plan, we determined a permit would not be required. We went out and surveyed the area, New Lines had to do some work in the area so our surveyor got together with their surveyor to make sure the geometry was complete. We ended up with an exact location of where the line lies today.

Mr. Raitzik said so even though New Lines withdrew their submission, you still stand by your assessment?

Mr. Macfarlane said we had shared some information with New Lines.

Mr. Raitzik said so you don't feel a new survey is required?

Mr. Macfarlane said no, it's already complete.

Mr. Raitzik said, and the other attorney feels that a new survey is required?

Mr. Wronko said yes.

Mr. Pfeffer said that other application that was withdrawn is a completely different application. It's not the application we are discussing tonight, it's not the original application that was approved previously.

Mr. Raitzik said obviously the neighbors in the area who hired him think there is an issue.

Mr. Jackson said the applicant has done the survey, and that's the survey we are relying on.

Mr. Raitzik said why was it withdrawn by New Lines?

Mr. Jackson said it wasn't withdrawn.

Mr. Magno said the 300' riparian buffer just has to be established on the map with survey information and tied to the property. That should be a condition of approval. So that line can be established in the field and so that it can't be crossed. The attorneys and engineers are arguing about something that doesn't have the numbers on it yet. It's not getting by us or you if it's not done. If it's wrong, he's going to be back here, or he loses a lot maybe because he can't build on it.

Mr. Pfeffer said I agree. In the original application we understood that these lots would not get built without either approval for a DEP permit or determining exactly where the line lies.

Mr. Herzl said so we're talking only about those two lots, 10.01 and 10.02?

Mr. Pfeffer said correct.

Mr. Raitzik asked if any of the streets could be a one-way. We are concerned about two streets exiting at once.

Mr. Herzl said the County approved it, they are 32' wide, we are subject to them.

Mr. Raitzik asked for the distance from one street to the next.

Mr. Macfarlane said it is 300' which is in excess of the County requirements.

Mr. Herzl opened to the public.

Ms. Catherine Stillwell of 950 Brook Road appeared and was sworn.

Mr. Jackson asked if she was represented by Mr. Wronko.

Mr. Wronko said he represents his parents Ronald and Carmella.

Ms. Stillwell said there is misrepresentation of where this is with the County. She spoke with the County Planning Board and they said it hasn't been approved yet. It had previously been submitted and was always found deficient. In April they had 8 issues outstanding and they have not been back since.

Mr. Jackson said let me just clarify, the County is one jurisdiction and we are another. If the County makes it one-way, they may or may not take our input.

Mr. Raitzik said Thorpe is a Township road.

Ms. Stillwell said there is no Thorpe on the application.

Mr. Raitzik said we are talking about entering off of a County road.

Mr. Jackson said the County has jurisdiction over the intersection, but we also have jurisdiction. The County might be influenced by a local preference.

Ms. Stillwell said it is very close to the intersection with Brook and County Line. Briggs is the first one and Aidan is the second. They are close to the intersection where the light is, and you are going to have two very close intersections with ingress and egress to those streets. It's for the safety of the people that are going to be living there to have one-way in and one-way out, which is what we were discussing with the County and they seemed to be interested in that.

Mr. Herzl asked which one would she suggest be in.

Ms. Stillwell suggested Briggs going one-way in, and Aidan going one-way out.

Ms. Stillwell said the riparian buffer should be deed restricted for the people purchasing there. She is concerned about those two lots with the back corner of the homes right where the riparian buffer ends. It seems a little convenient that it's right there at the back of the homes. She wants to make sure that people understand that they can't clear anything there, they will have no backyard. One of the suggestions she made is to combine those two lots, build one lot, and the other lot could stand as a back yard or side yard for the family. The two lots on Stillwell.

Mr. Sabel said whoever buys that, maybe they don't want a back yard.

Ms. Stillwell said the problem is, people come in and they don't know. It's all a blur, they sign the mortgage, they get there, and then the kids have nowhere to play. Then they find out they have to go through this expensive process to get a permit to do anything in there, and/or they may be coming to one of the Board's asking for a break. I'm saying that you as a Planning Board can plan ahead.

Mr. Herzl said we could require them to put it on the purchase sale.

Mr. Stern said no, as a deed restriction.

Ms. Stillwell said I think it should also go on the purchase agreement. This way the people buying know that they can do nothing.

Mr. Stern said if they have an attorney, he's going to read the deed.

Ms. Stillwell said you don't have to have an attorney.

Mr. Sabel said they aren't allowed to use it as a back yard?

Mr. Herzl said they can't do anything, they can't cut the grass...

Ms. Stillwell said there is no grass, it's weeds, briars, you can do nothing right from their back door out.

Mr. Sabel asked if they are making a fence back there.

Ms. Stillwell said they can't put any structures back there. If you look at the survey, it goes right to the corner of the back of those homes. If you combined those two and made one lot, they would have at least a side yard that would be useable.

Mr. Herzl asked Mr. Jackson, those two houses were approved already. What are we dealing with tonight? Just changing the front setback and the area variances, or are we looking at the whole application.

Mr. Stern asked if they have standing to do what Ms. Stillwell is asking.

Mr. Jackson said it is an amended application, anything is on the table. You could look back, but the issue is do you want to. What's the issue, you're 300 feet away from the stream bank?

Mr. Sabel said you can't do anything back there, you can't cut the grass.

Mr. Jackson asked the applicant to address that.

Mr. Pfeffer said they have no objection to putting into the contract of sale that a DEP permit is required to do anything with the back yard. To deed restrict, it would need a court to undo it. If that buyer wants to go to the DEP to put up a deck or something, now they need a court to allow that.

Mr. Stern said they aren't going to go to the DEP to put up a deck.

Mr. Jackson said I don't know what this riparian line means in terms of how useable the rear yard is. Sometimes you can put a fence in it.

Mr. Fuentes asked how many feet it is.

Mr. Flannery, P.E., P.P., was sworn in and said, as Adam has indicated we had a conversation with the Stillwells prior to this meeting and the fair thing to do is notify the buyers of these conditions because there are buyers that

would be ok without having a backyard. His house has a riparian buffer and he's the happiest guy in the world. Another possible solution, if the Board feels there should be some area in the back, we could also request a front yard setback variance and move the houses up a little and leave an area in the back. Where the two lots are, there's going to be nobody anywhere else around. When I was a kid, we had probably 10 feet of grass in the backyard and then woods. I was never on the grass, always in the woods. I know the area, Tony Mannik used to live there, I've been there with Tony and that's a beautiful area to walk. The only thing you're going to see back there are deer, it's a beautiful place. We are talking about two lots that were approved this way initially, and if the buyers are notified when they are coming in, they will know this is what they have. If the Board really feels you need more area in the back, the 20' setback there nobody is going to notice. To me, that would be a de minimus exception. I think it's good the way it was approved, but if the Board feels something needs to be done, that would be my recommendation. The other thing that Mrs. Stillwell indicated was making the roads one-way. The applicant would have no problem with that. If the County is happy with it, one-way in and one-way out, the applicant is happy to go along with the wisdom of the Board, the wisdom of the County, and the request of the neighbors. The applicant is in this position because late last year they changed the right-of-way width from 60' to 86', so that's a 13' increase on each side. If this application had been finalized sooner, the houses would have been built and the County would have had to pay for that extra area and the houses would be closer to the road. The applicant, by taking longer, has actually afforded an opportunity for the Board to have some input and for the County not to have to pay for the right-of-way.

Mr. Pfeffer asked Mr. Flannery to go over the process for these homeowners if they wanted to do anything within the C-1 buffer area.

Mr. Flannery said they would have to apply for an individual permit from the DEP.

Mr. Herzl asked if it's possible the DEP would give them clearance in the back.

Mr. Flannery said he thinks it's possible, and a lot of factors are going to factor into it. The type of environmental conditions in the area... it's going to be a lot of work to go into it. Me, I wouldn't even bother. I think the two families that would buy these houses aren't looking to have a big back yard. You're talking about recreation, the Brook Road sports complex is around the corner, Ocean County Park is not far away. As a kid that played in the woods, those woods that are there with that whole 300' buffer, which was an arbitrary number picked out of the air, but that creates more than a 600' wide swath of open space and passive recreation area.

Mr. Stern said we stepped on Mrs. Stillwell's time.

Ms. Stillwell said we live in the area. We hear and see the kids. We are happy that they are there, they bring life to the neighborhood. They need a backyard. It's your community that's going to be living there and your families, and you're going to be hearing from them when they can't do anything in their backyard.

Mr. Stern asked what Mrs. Stillwell thinks about Brian's idea of moving the front setback.

Mrs. Stillwell said I find that interesting, because Brian neglected to mention that the real setback is supposed to be 30'. So it went from 30' to 20' in the last application, and now it's down to 16', so I'm not sure how much further back...

Mr. Flannery said those particular lots are shown at a 30' setback. The 16' setback is next to the lots that are on the northerly side of Stillwell, and those were approved at 16' last time. Those are side yards. Those were approved, and the only new variances we are asking for are for those lots in blue along County Line. The other lots remain at

16' which was approved as a side yard. These lots are already set back at 30'. I said 10', but you could go to 16', the same as those on the other side, and that would give a 14' backyard.

Mrs. Stillwell said is that going to set a precondition for future development down further, on other lots if that road goes through.

Mr. Flannery said every lot comes in and presents the facts, and the benefits and the detriments, and you can see the green 300' buffer line that's going in a diverging way from County Line Road, so any of the lots down the street they would provide their information, they would hire me or Graham to get up and testify. There is no precedent being set by that.

Mrs. Stillwell said so these that are shown here are a 20' setback,

Mr. Flannery said 30'.

Mrs. Stillwell said ok so you would move them up by 10'.

Mr. Flannery said 10' originally, I just upped it to 14', consistent with those across the street. In that particular case I think that would be ok.

Mrs. Stillwell said except it would create a precedent for the view on the street.

Mr. Flannery said there would be no view west, toward your house, because the stream buffer is there. Toward the east, each application would stand on its own.

Mrs. Stillwell said she wanted to hit the three things she is asking for. One is that you do a deed restriction and that it is noted in the sales contract. The one-way in and one-way out is extremely important. And these two lots should be addressed in a fashion that is going to give a better quality of life to the people purchasing there.

Mr. Flannery said something away from the mic.

Mr. Herzl opened to the public.

Mr. Jackson asked what would be at the ends of the streets.

Mr. Flannery said bollards so people couldn't go onto the dirt roads.

Mr. Jackson asked if they had the authority to put those in the public right-of-way.

Mr. Flannery said we would have to request that the Township allow that. Just like we are amenable to asking the County to make the roads one-way, we are amenable to asking the Township for bollards. I don't see that the Township would have any problem. One side goes into the buffer, and the other paper streets, in my opinion, should be vacated because they go to lots that aren't going to be developed.

Mr. Sabel said the corner Lot, 1.01, could be developed at some point.

Mr. Flannery said yes.

Mr. Sabel asked are you planning to put sidewalk on your side at least?

Mr. Flannery said we are going to put sidewalk on both sides of the street. We're going to stop ours at the right-of-way. If the Board wants us to go halfway across the street, we'll go halfway across the street. Paulding can't be developed, so we stop it there. It's possible lot 1.01 wants a side entry driveway, but whatever the Board wants, we will do.

Mr. Avrohom Schubert, 18 Gefen Drive, was sworn in. He lives on the opposite side of the stream. He said there's a couple of things he's scratching his head trying to make sense of. He said this is in an R-15 zone and they managed to get it to be R-12.

Mr. Herzl said they didn't change the zone, they got an approval to build the size of an R-12. They got a variance to build 12,000 square foot lots.

Mr. Schubert said if they had come to the Board with what they are coming today, 10,000 square foot lots, would the Board have approved it? That needs to be thought about. That doesn't belong in this neighborhood for proper planning. 10,000 is totally unacceptable for this neighborhood. Many people coming to purchase properties come from out of State and they are unaware of what you can't do in the backyard. They aren't allowed to have a deck.

Mr. Herzl said they agreed to tell them in the purchase agreement.

Mr. Schubert said but there's no deed at all. The neighbors are all saying there should be a deed. We don't even have a firm delineation of this highly-sensitive environmental area. Those two will not have a deck. They'll come and ask for a variance to the zoning, and zoning will have no idea what's going on.

Mr. Herzl said you cannot give a variance on the wetlands.

Mr. Schubert said this area is on County Line Road, there is a variance that was given for the mall, parking variances and other variances, for Brook and Ridge which is a beautiful building with shopping and an office complex. It seems like over here there was some type of variance or something, it's not an R-15. In the future, there is planning to be another 45 houses on the other side. It's going to be a very busy, dense area. It is environmentally sensitive. The traffic is going to be out of control. What goes on on Somerset is going to happen on Brook Road. Going to 10,000 square feet is not a joking matter on these lots on County Line Road. This isn't a simple request from the applicant. It's going to have serious ramifications to the neighborhood, the proposed buyers, and sometimes these builders get ahead of themselves asking for all these variances and then they get stuck. Perhaps it's more prudent to give up one lot like Mrs. Stillwell said. 10,000 is inappropriate for this neighborhood. You're getting ahead of yourself here. The buyers aren't going to run to these houses with all these problems.

Mr. Sable said whatever the buyer purchases, this is his property, he will see that.

Mr. Schubert said he is all for putting a deed restriction on those two lots that are near, there's no reason it shouldn't be done.

Mr. Jackson said instead of a deed restriction, a notification could be put in the chain of title that there is a 300' riparian buffer and no activities can take place there. It doesn't create a deed restriction but it puts people on notice.

Mr. Herzl said it has to be in the purchase agreement contract.

Mr. Moshe Zeines, 112 Elmhurst Boulevard, appeared and was sworn. He said, I know we always say everything is case and site specific, but just a few blocks down from here on County Line, brand new homes were sold to people from out of town who didn't think they'd be duped. The realtors told them they had a technical issue putting in a deck, and after they closed they would be able to put in a deck with no issues. They had to appear at the Zoning Board afterwards to try and fix up the mess with the decks installed illegally. He said he is in favor of a deed restriction. He said he is under contract to buy a house and at the very early stages you really don't see much. It's all textbook, boiler plate. Without a deed restriction you don't find out about it until after you sign on the dotted line.

Mr. Sabel asked Mr. Flannery if all the properties do have decks except for these two.

Mr. Flannery said these two could have decks if you built the houses a little smaller.

Mr. Herzl asked what size footprint the plans show.

Mr. Macfarlane said they are about 50x40 on the plans.

Mr. Jackson said they building envelope doesn't mean that the design of the house will conform to take up every inch of that envelope.

Mr. Herzl said so technically you are showing a 2,000 square foot envelope, and you could shrink that to 1,500 and have a deck.

Mr. Flannery said yes.

Mr. Sable asked if Mr. Flannery is aware of any other 10,000 square foot properties in the area.

Mr. Flannery said no. When the County goes through and condemns right-of-way from the other people, some of the other houses that front on there will lose 1,500 square feet and will be smaller lots as well.

Mr. Sabel said but you don't think it will go down to 10,000 square feet. 15 or 14,000...

Mr. Flannery said there are lots further down the street that are also 12,000 now. And those were done with the 60' right-of-way. For the foreseeable future, anyone that drives down isn't going to see that this is a 10,500 square foot lot. It has an additional 13' of untouched right-of-way more than everybody else. It was 60 feet, it went to 86'. But when that additional 13 feet is taken off those 12,000 square foot lots down the road, it will be the same condition. We have one that's 11, one that's 10.8.

Mr. Wronko said Lakewood has adopted the model ordinance relating to riparian lands, Ordinance 2017-24 Section 2. In that model ordinance it does require deed restrictions. I think that the Board should review that Ordinance before acting on the application.

Mr. Herzl closed to the public.

Mr. Pfeffer said the application here is very similar to the one that was previously approved several years ago by this Board. The County came along and took a few extra feet, based upon that the 4 lots have shrunk a little bit. We have clarified and done what we said we were doing to do anyway, and actually clarified where the wetlands line goes. We've indicated we have no problem putting into the contract, notice to all the buyers, a memorandum

to be recorded for all these lots, if the Township Ordinance requires it to be in a deed we will do that. We ask that should any future buyer seek to get a permit from the DEP, it should be self-extinguished.

Mr. Sable said they could put a deck on the sides.

Mr. Pfeffer said yes but if they want to go into the wetlands buffer, the DEP could say no problem. Otherwise we have no problem and the other conditions are agreed to on the record.

Mr. Jackson said there are different things, you can do a conservation easement, you could do a deed restriction. The thing that concerns me is with a deed restriction you are creating something that says you can't use that property. Maybe the Board would like them to use that property and maybe they can convince the DEP someday to move that line, maybe for whatever reason, the topography there, that land is useable. My recommendation is that the concern is that you just want to alert people to this, put in the chain of title a notice that there is a riparian buffer and they are on notice that there are environmental constraints within that buffer and they should consult with the DEP. It doesn't create...

Mr. Herzl asked a question, why can't we just say that building envelope should be a maximum of 1,500 square feet and that they should leave room for a backyard, playground, porch, whatever they want?

Mr. Jackson said that would require some finesse by the Engineer, they'd have to redraw that building envelope and you'd have to say that you could put a deck in that 2,000 square foot envelope.

Mr. Herzl said so we could make a motion that we agree building envelope should be maximum, allowing a deck.

Mr. Jackson said maybe the deed notice could say that the building envelope is the maximum, no decks or improvements will be allowed outside the actual building envelope.

Mr. Herzl said ok.

Mr. Meyer said I agree with that.

Mr. Stern said I like Mr. Pfeffer's idea, because if you put the deed restriction it's got teeth. And any semi-competent attorney reading it is going to see it. But if you really want to go back to the DEP and get your approval, then we have built-in language that is self-extinguishing. So we achieve our objection.

Mr. Jackson said I think that's a really great idea. I don't know if that's legally sustainable. I'll look into that and I'll make a recommendation when we do the resolution adoption. I know what you want to do. It's the same thing I said, put a notification in there that if they got the line moved...

Mr. Stern said yeah, but we want to really scare them a little bit and the deed restriction will stick out.

Mr. Jackson said I will look into the feasibility of self-extinguishing language and will let you know; I don't see why we couldn't do that.

Mr. Jackson asked Mr. Pfeffer to provide proposed language for that, and then he will review it.

Mr. Herzl said any motion to approve would be based upon all that was agreed upon, all the conditions stated by Mr. Pfeffer and Ms. Stillwell.

Mr. Jackson asked about one-way vs full movement traffic.

Mr. Sable said I don't think it's a good idea to give 10,000 square foot properties, but if we can make it contingent on one-way traffic then I'd be ok with it. If the County doesn't want one-way traffic then the whole approval is not approved, is that an option?

Mr. Jackson said you should poll the Board and see what the majority wants on the circulation.

Mr. Raitzik said one street has to be one-way going in, going south off of County Line, but the other could be two-way. Bogart, it would be very inconvenient for that to be a one-way especially if it's going to continue south.

Mr. Stern said isn't this a big U?

Mr. Sabel said Bogart isn't going to be improved. Only Briggs and Aidan.

Mr. Herzl polled the Board.

Mr. Fuentes said he prefers two ways.

Mr. Garfield said one-way.

Mr. Sabel said one-way.

Mr. Stern said one-way.

Mr. Meyer said one-way.

Mr. Raitzik said one-way.

Mr. Jackson said we have to make that request to the County, and if the County says no you can't have it...

Mr. Pfeffer said and the Township.

Mr. Herzl said the majority of the Board would like to see one-way.

A motion was made by Mr. Sable to approve on the condition that it is one-way, and if they can't get that for some reason then they have to return to the Board. Mr. Herzl said and the back lots, we have to put the wording... Mr. Sabel said we discussed that already.

Mr. Fuentes said the one-way that we are talking about is what street?

Mr. Herzl said going in at Briggs Street and coming out at Aidan.

Mr. Macfarlane said that is counter-clockwise circulation.

Mr. Jackson asked Mr. Macfarlane and Mr. Flannery if they see any issue with that.

Mr. Flannery said he is optimistic they will get the County to agree to it. Every traffic engineer you talk to is going to have a different idea. I think you could accomplish the same goal by making the entrance closest to Brook right-

in, right-out only, because I don't think it causes any problems at that street if somebody comes out and makes a right turn.

Mr. Jackson said no one will listen to the sign.

Mr. Herzl said we have a motion on the table for a one-way.

Mr. Stern seconded Mr. Sabel's motion, and we are putting in the deed restriction for the two bottom lots that would be expunged if somebody makes a DEP application and is successful.

All were in favor.

**2. SD 2357 Mark Properties, LLC**  
Pine Boulevard Block 423, Lot 76.02  
Preliminary and Final Major Subdivision to create eight lots

Mr. Herzl said for the record Mr. Stern has left.

Mr. Magno referenced submission waivers that need approval, which he supports because everything can be taken care of during resolution compliance. He asked the Board to act on those.

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

Mr. Magno said as far as zoning, the only issue is off street parking and the number of spaces. Whether they are going to ask for a variance or not, or amended the architectural plans, or amend the driveways.

Mr. Doyle said the architecturals will be provided at time of plot plan and at that time they will provide parking in accordance with RSIS standards and the Township Ordinance. The lots are exceedingly deep and they have alternatives to accommodate additional parking.

Mr. Herzl asked how many spaces are needed.

Mr. Magno said based off the architecturals provided they need 5, and they're only showing 4, that's why he asked.

Mr. Flannery appeared and was sworn. He said the only question on variances is with respect to parking and they aren't requesting that. They have plenty of depth and can add all the parking they need, even 6 or 8 spaces each if needed. So it is totally conforming. They are allowed to have 8,500 square foot duplex lots and these are 12,000, they are exceeding it. The lot widths we slightly exceed. It provides nice lots with plenty of parking and nice rear yards.

Mr. Herzl said they don't need any of the variances in the letter.

Mr. Doyle said yes.

Mr. Herzl asked if there is anything in the report that they can't agree with.

Mr. Flannery said we aren't providing a homeowners' association, the drainage will be owned and maintained by the adjacent property owners, they will do all the standard Lakewood items. Trash and recycling we know we need

DPW approval and it would be roll out containers. We are not proposing trash enclosures in the front, because these are duplexes everyone has access to the back. They will comply with all the requested information. With respect to Shade Tree Commission, we would do everything that is required by Ordinance and anything deemed practical by your board professionals.

Mr. Herzl opened to the public.

Mr. Yitzchak Goldsmith appeared and was sworn. There is a piece of the property in the R-12, the engineering report calls it a sliver. He said we were here two years ago on this property. When I brought up an objection then, they said they weren't asking for anything then. Now you are putting a duplex in an R-12 zone. It should be in front of the Zoning Board.

Mr. Flannery says the map shows a that 18' of the property is in the R-12, the majority is in the HD-7. The Ordinance provides that if you have a lot that's in a split zone, you can take 20' on the other side of the split zone and use the HD-7 zone. We only have 18, the 20' overlap covers that.

Mr. Magno said virtually the whole property is in the HD-7. As Mr. Flannery mentioned it is only 18' that encroaches into the R-12, it doesn't make sense to review the application under that.

Mr. Jackson said does our Ordinance allow on a split lot where the use doesn't spill over...

Mr. Flannery said I can give you the Ordinance.

Mr. Herzl said the question is, is this before the right Board.

Mr. Jackson said what Mr. Flannery is indicating is there is an Ordinance for this circumstance so that it doesn't become a D variance. I've heard it argued that when the activity doesn't go over into the other zone...

Mrs. Morris said the building is going over the line.

Mr. Goldman said but it does. The house is on the R-12. It's not just a sliver. Half the house is on the R-12. If you split the lots, it's not a sliver of the whole thing. It's 25% of that lot.

Mr. Jackson said if it's in the wrong zone, that's an issue, unless this Ordinance somehow removes it.

Mr. Doyle said typically in other towns, that would be appropriate. In this municipality, the subject site is located mostly within the HD-7. An 18' sliver is in the R-12. Terry says the site is generally surrounded by wooded area and residential development. Terry concludes that no variances appear necessary for this proposed major subdivision.

Mr. Jackson said that's what Mr. Vogt says, but I'd like to see the Ordinance. Normally if you're creating a lot that's undersized for the zone and the zone line goes through the middle of the structure, that would be an issue. But Mr. Flannery is still trying to find the Ordinance section that says in that circumstance you can encroach into... It would also be unusual to have a zone line down the middle of the property.

Mr. Goldsmith said well they did that.

Mr. Doyle said the zoning line was developed by reason of the Master Plan and Zoning Ordinance. The subdivision was created by this Board. They knew what they did then was correct and I think this application has been determined to this point is correctly before this Board.



Mrs. Miriam Weinstein appeared on behalf of the applicant, Imperial Dynamics, LLC. This application is for a minor subdivision of an existing oversized lot on Read Place, which is in the Albert Avenue neighborhood in the R-20 zone. We are proposing to subdivide that into two lots. Each of the lots will have greater than 20,000 square feet, so the lots are conforming as to lot size in the R-20 zone. The only relief we are seeking is for lot widths of 75' and combined side yard setbacks of 20', whereas 25' would be required.

Mr. Glenn Lines, P.E., P.P. appeared and was sworn. He said this particular block, there are 18 75' wide lots, there are other possible 14 75' wide lots. This whole block is 150' wide lots and it's already started to be subdivided all those lots in half. This is continuing the existing pattern on the block. When the lot is supposed to be 100' wide and you're pushing it down to 75, you're really constricting the building envelope so we are asking for the combined side yard setbacks. 10 on each side is a 55' wide house.

Mr. Herzl said, and the side yard setbacks fits into the neighborhood?

Mr. Lines said yes, on this block.

Mr. Herzl asked if there was anything in the report they couldn't agree with.

Mr. Lines said no, we can comply.

Mr. Meyer made a motion to approve, Mr. Flancbaum seconded. All were in favor.

5. **SP 2345AA Beth Medrash Govoha of America**  
619 & 633 7<sup>th</sup> Street, 610 8<sup>th</sup> Street      Block 46, Lots 2-6 & 22-24  
Change of Use/Site Plan Exemption to convert an existing house into a school campus

This application was tabled to the November 26, 2019, public hearing. A public announcement was made as to the same.

6. **SD 2404 Ave of the States Office Urban Renewal LLC**  
Avenue of the States      Block 961, Lots 2.07 & 2.12  
Minor Subdivision to realign lot lines

Mr. Magno said this is a minor subdivision, to realign the lot lines. The problem originally was when this was subdivided the first time there was a title problem and that configuration was because they didn't have title to a portion. Now they are gaining title to that. They don't need any variances, they only need design waivers for street trees but that would be taken care of once the site plans come in for those two lots.

Mrs. Miriam Weinstein appeared on behalf of the applicant. She said this is a simple minor subdivision to create the lots, we will be back with a site plan application for a new state of the art office building. Both lots are fully conforming. To elaborate, there was an issue with the Garzo matter with the title. That's it.

Mr. Herzl opened to the public and no one came forward.

Mr. Isaacson motioned to approved and the motion was seconded. All were in favor.

7. **SD 2397 453 Ridge LLC**  
453 Ridge Avenue & 121 Highgrove Crescent      Block 223, Lots 9.06 & 78

Minor subdivision to realign lot lines

This application was tabled to the November 26, 2019, public hearing. A public announcement was made as to the same.

**8. SD 2412 10 Emerald Court, LLC**

Emerald Court

Block 187, Lots 45 & 100.03

Minor subdivision to realign lot lines

Mr. Magno said this is a realignment as well. There is a variance required for minimum lot width, the site is on an existing cul-de-sac and the other property fronts on County Line Road. They are taking the backyard area from the larger lot on the County road and moving it to the lot that is on the cul-de-sac. That lot needs a minimum lot width variance of 62.01' where 100' is required. That was previously granted for the subdivision when it was originally filed. The only other item...

Mr. Herzl said there are two lots, and it is staying two lots. Correct?

Mr. Magno said correct. The rear yard of the larger lot is moving to the lot on the cul-de-sac, and they are leaving enough area for the lot on the County road to be conforming.

Mr. Isaacson asked what the variance was.

Mr. Herzl said you need 100' and they are only giving you 62.

Mr. Isaacson said, and the lot is very wide in the back.

Mr. Magno said the only other thing to clarify is off street parking, regarding the existing lot that fronts the County road.

Mr. Herzl asked what they are proposing on the County lot. There are no parking calculations at all.

Mr. Magno said it looks like there is only room for 3 spaces and they might need 4.

Mr. Samuel Brown appeared on behalf of the applicant. He said anything being requested by way of a variance is a pre-existing condition, we are simply moving the lot from one current existing lot which is 30,000 square feet to give approximately 15,000 square feet additional to the lot that is going to be improved. Everything else stays the same, the bulk requirements are all in place. For technical purposes we need to be before you to make this adjustment formal. The spaces as indicated on the plans, there are 3 proposed but the lot can hold another many spaces and there will be sufficient parking.

Mr. Herzl said we need one more space.

Mr. Brown said we can widen the driveway and fit another one or two spaces as needed.

Mr. Magno said if you add to the plan to make it comply, we're good.

Mr. Brown said the revision will be submitted during compliance.

Mr. Herzl opened to the public and no one came forward.

