

## 1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Acting Chairman Eli Rennert called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and 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. Rennert were present.

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

## 3. MEMORIALIZATION OF RESOLUTIONS

1. **SD 2399 Torah Education of America Inc.**  
Pawnee Road Block 2, Lots 32, 46, 49, 52, & 53  
Extension of Minor Subdivision to create four lots

A motion was made and seconded to approve. Mr. Rennert abstained, the rest were in favor.

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

A motion was made and seconded to approve. Mr. Rennert abstained, the rest were in favor.

3. **SP 2366 Mesoras Hatorah**  
40 Neimann Road Block 251.03, Lot 27  
Preliminary and Final Major Site Plan for a school

A motion was made and seconded to approve. Mr. Rennert abstained, the rest were in favor.

4. **SD 2436 Simcha Birnbaum**  
63 Drake Road Block 251.01, Lot 86.01  
Minor Subdivision to create two lots

A motion was made and seconded to approve. Mr. Rennert abstained, the rest were in favor.

## 4. PUBLIC HEARING

2. **SP 2364 Yeshiva Toras Aron Inc.**  
500 Summer Avenue Block 402, Lot 2  
Preliminary and Final Major Site Plan for a gym

Mr. Vogt said per my letter dated May 1<sup>st</sup>, under submission waivers there are a number listed including traffic study, proof of submission to the County, B waivers for topo, contours and manmade features, plans and profiles, shade tree, EIS, Tree Protection Management, and Landscaping Plan. We don't have an issue with the traffic study on the basis that they aren't adding kids, this is an amenity for an existing site. We believe the project is exempt from Ocean County Planning but could require proof of exemption as a condition of approval. We are generally ok with the site features, we may require additional survey in the vicinity of the gym if approved. We are fine with the survey for hearing purposes. We are ok with the plans and profiles waiver for hearing, we recommend installing shade trees as indicated. We support the EIS waiver since the site is developed. Tree protection they will have to comply during compliance if approved. We recommend a landscaping plan be provided for the gymnasium, and that can be done as a condition of approval.

Mr. Garfield questioned the traffic in the area leading out to Prospect Street and whether any signals are proposed.

Mr. Vogt said I assume we will be hearing testimony shortly. If the Board is concerned with traffic upon testimony, we could table the application and get more information then.

Mr. Flanbaum said our Engineer indicated they are ok with the exemption of the traffic study due to the fact that the gymnasium will service the existing student body. But I would like to hear from the applicant confirming that. I make a motion to go along with the engineer's recommendations.

Mr. Stern asked Mr. Vogt if he saw the letters from objectors and what his thoughts were.

Mr. Vogt said I saw a couple emails referring more to sidewalk along the frontage. There is a letter submitted by an attorney, and my recollection was that if the Board were to act favorably, that there be a condition that there would be no events or new traffic during peak times.

Mr. Stern said yes, the two emails and the letter from a neighboring property owner questioning additional traffic. Justin's point is these are just the students on-site which wouldn't generate additional traffic. But schools rent out their gyms to third parties, so we need testimony on that.

Mr. Rennert said let's act on the waivers and then we can hear the testimony.

Mr. Jackson said we can contingently grant the waivers based on what the testimony is.

Mr. Garfield asked about hours of use.

Mr. Rennert said we will get testimony on the record. Can we go along with the engineer's recommendation for the submission waivers?

Mr. Jackson said I'm hearing different things, let's grant the waivers except for the traffic study and we can do that one after the testimony.

Mr. Flanbaum said I will repeat my motion to go along with the submission waivers in accordance with the engineer's recommendations.

Mr. Stern seconded.

Mr. Garfield abstained, the rest were in favor.

Mr. Vogt said under zoning, the parcel is in the M-1 district and schools are permitted. Front yard setback variances are required for the gym. 52 feet from Railroad Street and from Summer Avenue. The Industrial Commission can grant a partial waiver on that. We will have to have testimony to justify the adequacy of the parking. Reminder that schools in the M-1 zone require 3 spaces per classroom. Similarly, we have to get testimony on the functioning of bus loading, unloading, and stacking. Variance is required from recreation and play areas to be fully fenced, the basketball courts are not fenced. Variance is required for use of a parking area as a recreation and play area. Under design waivers, a design waiver is required from the improvement of Railroad Street and Lewin Avenue including curb, sidewalk, and street trees. Design waiver is required from sidewalk along Summer Avenue, there is no sidewalk elsewhere but they still require a waiver and input is recommended from the Industrial Commission. Waiver is required from street trees as well as shade tree and utility along Summer Avenue. No lighting has been provided at this time and no landscaping has been provided, those would have to be waived.

Mr. Adam Pfeffer, Esquire, appeared on behalf of the applicant and said this is for a gymnasium. Currently on the site the existing students, there are some outside basketball hoops that they use however when there is inclement weather they have no where to play. This is for the existing school, there won't be more students or more traffic coming to the site. It won't be rented out during school hours for any other use. I did check with the dean of the school and he said the only time it would be rented out would be like a Saturday night and it wouldn't cause disruption to any of the businesses surrounding the school. As far as the location, this was the detention basin for the property which is no longer in use. They upgraded to an underground recharge system, so we aren't talking about taking away an area of land that was being used for a different purpose. Our testimony is this is not going to be used or rented out for daily uses for other schools or to have events during school time. It is solely for gym activities during school, and if it were to be used otherwise it would be on a Saturday night. He had Glenn Lines, Professional Engineer and Professional Planner, sworn in.

Mr. Lines said it's an existing school building with associated parking. It's located on the end of Summer Street. To the northside is Railroad Avenue, it's unimproved in both directions so Summer Avenue just ends at our northerly property line. The other right-of-way is Lewin Avenue to the rear of the school, also unimproved and used for access to a building on the west side but it's basically unimproved at this time. The proposed gymnasium is the northeast corner of the property in a low area that was previously a detention basin on the right-hand side of one of the entrance driveways. The existing school is 97' from the property line and the proposed gym is 52' from Railroad Avenue which again is unimproved and it's 95.62' from Summer Avenue. The whole frontage of the property between Summer Avenue and the gym there is about 50' of trees between the parking lot and the side of the gym so it's well buffered from the road. I believe when this was originally approved they did approve the variance, the Industrial Commission had no objection. As far as parking, we have 377 spaces which would allow us to have 120 classrooms. The school has at least 60 classrooms with about 20 offices, so it's around 80. We do have excess parking and we will demonstrate that in resolution compliance. We don't need a variance for that.

Mr. Vogt confirmed that is based on the 3 spaces per classroom requirement.

Mr. Lines confirmed. We exceed what would be required at 3 per classroom. The bus loading and unloading, the existing pattern is the buses come in on the southerly driveway around to the back of the property. There is a long sidewalk in the rear where buses stack and unload, and then go back out on the northerly driveway.

Mr. Garfield asked about sidewalks, and said the waiver on sidewalks is a question of do it now or hopefully no one gets hurt. It will have to be done eventually.

Mr. Rennert said the engineer hasn't gotten up to discussing that yet.

Mr. Lines said a variance for a fenced in play areas, the gym will allow us to bring the basketball nets in the parking lot into the building, so the temporary nets in the parking lot won't be used in the future so we don't need that variance.

Mr. Sabel said Mr. Pfeffer mentioned those were staying and the gym is only for indoors based on weather.

Mr. Pfeffer said no what I indicated is right now they are outside and there is no where to play when it rains. When they build this, they'll be able to have the gym inside.

Mr. Sabel said the gym is only providing two hoops, the parking lot has nearly 20 of them. Well it has more, there are 10 inside.

Mr. Rennert said the question is are you requesting this variance be granted.

Mr. Lines said no.

Mr. Rennert said so you will have to take it down or fence it in to comply.

Mr. Lines said we will.

Mr. Jackson asked what age the students are.

Mr. Lines said up to 8<sup>th</sup> grade.

Mr. Jackson said in your experience as a planner, have you been to a lot of public schools that don't have a gymnasium very similar to this?

Mr. Lines said this would be a typical gymnasium. Typically in a public school you have two gymnasiums this size, one for boys and one for girls. This is a typical sized gymnasium.

Mr. Jackson said this is a very common amenity. It is not out of the ordinary.

Mr. Lines continued, we are requesting waivers from doing any improvements to Railroad Street and Lewin Avenue. They are not improved streets, there really is no need for curb, sidewalk, street trees. Currently there are no sidewalks along Summer Avenue. We did not propose sidewalks because there is a very substantial landscape buffer in front of the school. There is no other sidewalks, none on the industrial side or on the next property. If we put sidewalks in, it's just inviting kids out there when they should be staying on the property.

Mr. Pfeffer said is it your testimony that the landscape buffer that's there protects kids from wandering off the property?

Mr. Lines said yes. I believe there is a fence there also. We'd have to take down trees, move the fence, to put in sidewalks that have no extension. There's no pedestrian traffic from the warehouse next door. I feel it's better the way it is but if the Board feels sidewalks are necessary we would have no objection.

Mr. Rennert asked Mr. Flancbaum if he knows the Industrial Commission's take on this.

Mr. Flancbaum said I don't recall this being discussed so I don't know. In general, in the Industrial Park off New Hampshire the position was originally no sidewalks but now we've come to an understanding for walking asphalt paths. Summer Avenue is different, there's a lot more traffic and this is a different area.

Mr. Garfield said what about on Railroad?

Mr. Lines said there is no road there. It's a paper street. Same with Lewin.

Mr. Garfield asked where the entrance is to come to the school?

Mr. Lines said Summer is paved, it extends out to the County road. Our northerly property line is a dead-end street. Cars aren't driving at high rates of speed or they would drive into the railroad.

Mr. Garfield asked if there is a sidewalk on Lewin.

Mr. Lines said there is nothing on Lewin but trees.

Mr. Sabel said in 2018 the Board approved SP 2295 and we required them to put sidewalk on Summer Avenue. So we are getting that. I think this property is the only on the west side that would finish Summer Avenue.

Mr. Pfeffer said the applicant has no objection to putting sidewalk in on Summer Avenue in front of the property.

Mr. Lines said I forgot about that, I'm sorry. The last two waivers are for landscaping and lighting plans. We aren't proposing any changes to the parking lot lighting, it was previously approved and is operational. We aren't proposing any landscaping but if the Board wants us to take down trees and put in shade trees, then we would provide a landscape plan but it's not necessary at this time.

Mr. Vogt said as far as lighting goes, since they're adding a new gym to be used at light and some pedestrian access in and out, I would recommend that they provide a lighting design in the vicinity of the proposed gym and parking lot at a minimum. They may be giving us the original design, and showing that that still works. I'm guessing you have blind areas that need some new lighting.

Mr. Pfeffer said we have no objection to submitting that during resolution compliance.

Mr. Vogt said landscaping is up to the Board.

Mr. Pfeffer asked Mr. Lines if there are any other items in the review letter he has issues with.

Mr. Lines said no, we can comply with the rest of the conditions and address them during resolution compliance.

Mr. Rennert opened to the public.

Mrs. Morris read them into the record. The first was from Meir Stern of Capital Lane. He said,

I am writing this to the planning board for public comment regarding SP 2364, Yeshiva Toras Aron.

This school is located at 500 Summer Avenue and they are requesting a waiver from providing a sidewalk on Summer Avenue.

I am against this waiver.

I believe that a sidewalk is necessary.

I live across the road and I often see many students from this school who are walking on Summer Avenue.

The adjacent lot (at the corner of Summer and Prospect) was approved under SP 2295 for Bnos Hadassah and that school will provide a sidewalk along their frontage of both Prospect and Summer.

I believe it is in the best interest of safety and welfare of the students that Toras Ahron also provide a sidewalk with their current application.

Thank you for your consideration.

Mrs. Morris continued, the next is from Dovie Schwartz, also Capital Lane,

Please give this letter to the planning board as public comment regarding SP 2364, Yeshiva Toras Aron.

I request that the board condition the approval on the applicant providing a sidewalk on Summer Avenue as is required under the UDO.

There are many students that walk in this area and along Summer Avenue and they should have a sidewalk to walk on.

The adjacent lot (at the corner of Summer and Prospect) was approved under SP 2295 for Bnos Hadassah and that school will provide a sidewalk along their frontage of both Prospect and Summer.

There is no reason that Toras Ahron should not provide a sidewalk.

Mrs. Morris continued, the last is from an attorney Accisano Law Offices, Francis Accisano. It was copied to the applicant's attorney. She read,

Please be advised that I represent Excel Corporate Park II, LLC, the owner of Lot 1 Block 409 a property which currently suffers adverse effects as a result of the school operation located across the street from our property. There is currently an enormous traffic problem on Summer Avenue occasioned by the operation of school buses servicing the school which make it extremely difficult for our tenants to enter and exit the lease spaces in our buildings because of the congestion which they cause. It is safe to say that the addition of the gymnasium facility will only exacerbate this problem if any additional traffic is generated during the times that our tenants are doing business. Therefore, on behalf of my client, we object to the granting of the site plan approval and any associated variances or waivers sought unless the Board attaches conditions to any such approval assuring that there will be no increase in traffic during our regular business hours weekdays 7:00am to 5pm. If the school intends to schedule events in the gymnasium which generate additional traffic, those events must be at times at which traffic on Summer Avenue is at a minimum. Certainly, no events should be scheduled during those times when school buses are operating on the street. Such a condition should be attached to the grant of any waivers or variances on this application. Thank you for your consideration.

Mr. Rennert closed to the public and offered for Mr. Pfeffer to respond.

Mr. Pfeffer said the applicant has no problem complying with sidewalks along Summer Avenue.

Mr. Garfield asked where the buses come in and whether a cutout along Summer Avenue is required for a pull off.

Mrs. Morris said the buses are pulling in an access drive on the southern end of the property and are pulling all the way behind the building to unload.

Mr. Garfield said ok so we don't need a cutout.

Mr. Sabel said when we install sidewalk to Summer, we need sidewalk inside the property leading to the building. Can we do that somewhere on the south side?

Mr. Pfeffer asked Mr. Lines where he thinks he could put that.

Mr. Lines said we will definitely provide a safe route from the road to the building. I think the northerly side is a little steeper, so the southern side is better. We will provide access from the street to the building. That will also keep the kids from walking in the driveway.

Mr. Sabel said can we do a speed bump in the front where there are no buses? Where the 25 cars are?

Mr. Pfeffer said the applicant doesn't have any objections, I request that Glenn work with Terry to get some extra walkways and safety for the children.

Mr. Sabel said from the main building to the gym room and the pool, can we extend is somehow?

Mr. Lines said we can put a painted crosswalk on the pavement. We will work that out with Terry.

Mr. Pfeffer said back to Mr. Accisano's letter, the testimony that we have given is that this is not going to generate any additional buses to the site during 9 to 5. It's for existing students, not any additional. Any additional cars would be maybe on a weekend or Saturday night when businesses are not in operation. We again ask that the waiver be confirmed from having the traffic study completed.

Mr. Stern said Adam, the letter asks that it be a condition of granting the waivers. You were stating that you're going to comply, but are you ok that that's a condition?

Mr. Pfeffer said the condition that it won't be used for outside uses during 7-5 during business days, yes we have no objection.

Mr. Garfield said this is an area with a lot of kids. Are there provisions for garbage?

Mr. Pfeffer said there is already a garbage enclosure. Terry's letter had a comment that we said we would comply with. Comment 5, we will comply with that.

Mr. Sabel made a motion to approve with the conditions that no variance is given for fencing in the basketball area, sidewalk throughout Summer Avenue, provide a better lighting solution, not business hours and no rentals. The storage trailer has to be removed.

Mr. Lines said those are where the gym is going.

Mr. Pfeffer said to clarify, you said no rentals. If the school wants to use it on a Saturday night, I want to make sure there is no restriction on that rental. But during the school hours, 7-5, it's only for school use.

Mr. Sabel said correct and made a motion on that to approve, and Mr. Flancbaum seconded. All were in favor.

Mr. Sabel said do we have to vote on the submission waivers as well?

Mr. Jackson said they were already voted on at the outset. The determination was that we would revisit them. Inherent in the motion approving the application is that the submission waivers were approved.

- 1. SP 2365 140 E Kennedy Boulevard LLC**  
140 East Kennedy Boulevard                      Block 105, Lot 5  
Preliminary and Final Major Site Plan for a mixed use building

Mr. Meyer arrived. Mr. Rennert stepped down for this application. Mr. Stern took over as acting Chairman.

Mr. Vogt said per our review under submission waivers, waivers are required for proof of submission to Ocean County Planning, topo, contours, and manmade features within 200', plans and profiles of utility layouts, an EIS. We can support the waiver of the proof of submission based upon the completion of the traffic study which the County is going to review. We can support the B waivers based upon the information on the plans. Regarding plans and profiles, we have sufficient information on the revised plans. Finally, we support the waiver for EIS since the site was previously built.

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

Mr. Vogt said under zoning, based on our review of the architectural plans and site plans, front yard setback variances appear to be required.

Mr. Sabel said your comment number one said retail uses are permitted, how about office? This is mixed use, isn't it?

Mr. Vogt said I believe so, I believe they are permitted as well. We will get testimony from the applicant to make sure.

Mr. Stern said this is the old Kentucky Fried Chicken?

Mr. Vogt said I believe so, yes. Block 105, Lot 5. Side yard setback variance is required, 10' proposed and 30' required. Maximum building coverage variance as well, 30.5% proposed, 25% allowed. Again, we are going to ask for testimony justifying the adequacy of parking per UDO standards or the applicant will have to seek a variance. Under design waivers, they are required from providing street trees as well as shade tree and utility easements. Also from landscape buffer.

Mr. Abraham Penzer, Esquire, appeared on behalf of the applicant. He said our position is there no variance on parking. This is the famous Kentucky Fried Chicken area. For many years there were complaints of the smell of chickens. This is also the area where there were several murders. The Committee has been looking for years to do an urban renewal in this area. It's the outskirts of downtown Lakewood. My client has the vision and the guts to come forward and put stores in the area. It fits it like a glove and you'll hear testimony that will persuade you as to

why the design will fit in good for the area. He had Brian Flannery, professional engineer and professional planner, sworn in.

Mr. Flannery said this application as was indicated is for a one-story retail building. I don't know where the mixed-use came in. I have exhibits of the tax map showing where the property is. I'm sure the Board members are familiar with this area. There is some history to it. It's in between two very busy County roads, Kennedy Boulevard and County Line Road. To the east, the Township changed it to an Office Transitional because they'd rather have office type uses there, and to the west as you cross Madison Avenue again it is Office Transitional. This particular area is B-3. It's heavily developed and retail stores are appropriate. In the past, the Township made a conditional use for properties along County Line Road that would encourage them to develop as neighborhood commercial so that the high intensity residential development in this area has places to go that they can walk to. It's part of Smart Growth so everybody doesn't have to get in their car and drive. This is an area where the Township targeted for retail. The Ordinance allows us to build many floors higher. We are going for a one-story retail building which fits this site like a glove. We are asking for some big front setback variances, but those are generated by the hardship of this property. Normally I only talk about the C2 variances, where the benefits outweigh the detriments, and I think when I'm finished you'll agree with that, but this property is also impacted by a hardship that per the Ordinance you need a 50' front setback on both sides, which would take away half of the property. Normally a property has a front, two sides, and a rear. This property has two fronts, two sides, and no rear. In order to meet the setbacks as best as possible it would require a building in the middle and a parking lot on each side, and that's what you have to the west with Good Friend Electric and the Stitch and Sew, and it's really not a good utilization of the property. What we are proposing is that we ask for the front setback variances to both Kennedy and County Line. Other buildings in this area have gotten those variances as well. I think the Kentucky Fried Chicken is the only one that was close, and that's because it was built a long time ago when the area was different. To the north of us, the big lots are all apartments, then you have Coventry Square, then you have the whole residential area running down to the central business district. Looking at the Ordinance, it is set up...typical for Townships, they have a B-1 zone, but then they have all the way through B-5, and then HD-6 and HD-7. Those all say development, as opposed to the B-3 which is Highway Business. So clearly the intent is to have businesses here, which is what we are trying to provide. We aren't trying to overbuild the site, we aren't trying to put in a tall building. We are trying to put in something which is a great ratable for this site, something that fits in with the area. If we look at Terry's report, he indicates retail is permitted. Then he indicates we need a front yard setback from Kennedy of 9.5', and we are proposing 16' to County Line Road. The 9.5' is to the columns on the front. There are jogs in the building, there's a lot of glass. It's going to be beautiful and will fit nice in the area. I could argue that the columns are architectural features and we don't have to count to there, but I think whether we ask for 9.5' or 11.5', I think the Board has to look at how it fits in the area. That's shown on the aerial exhibit that was provided. If you look at our neighbors to the left and to the right, they have cars parked along our property line. Look in the front and there's cars parked close to the road. We are proposing a parking lot that fits all of the vehicles that are needed. We aren't going to ask for a parking variance for two reasons. First, it wouldn't be appropriate and secondly it would be crazy because the Board wouldn't grant it. We are indicating that 57 are required and 57 spaces are provided. For a B-3 zone, the permitted uses are all those in the B-1, additionally places of worship, schools, community healthcare facilities, and then there's conditional uses that allow motels, townhouses, and digital billboards. None of that fits here. What fits is what we are proposing. The Ordinance allows us to go higher but we aren't doing that. We want to put what makes sense to the area. It's a corridor that's heavily residential and it needs these retail opportunities.

Mr. Sabel said you're not doing higher because you don't have the parking, not because you don't want to.

Mr. Flannery said we could go higher and park underneath it and do all kinds of things that don't make sense, but we balanced a one-story building with what fits with the parking. We could go three stories and have one story of parking. But I don't think that would be good for anything. It's possible to fit more parking or have a site that generates more traffic while still being a permitted use. But that's not what we are trying to do. We are trying to

convince the Board that it's a unique piece of property, that the setbacks that are proposed are for a highway business type of use, more like a property that's sitting on Route 9. If you look at the other highway business type of uses... Lakewood is split into like 4 separate business areas and that's what we are dealing with. We are asking for variances that at face value sound kinda big, but when you look at what fits in with the neighborhood, it's my opinion that they're not that big and the building would be a good ratable and a benefit to everybody involved. The second item in Terry's report is the side yard setback. We are asking for 10 where 30' is required. If you look at the other buildings in this area, it's very rare that anyone has the 30'. And 30' isn't needed. What we are proposing is a building that fits in between two existing commercial buildings and provides adequate parking for it. Maximum building coverage, we are asking for 30.5% where 25% is allowed. It's my testimony that the benefits of providing a good ratable, something that has the parking and complies with items in the Master Plan, which I will get to, makes sense. The last thing is for the number of off-street parking. What the report indicates is if we add a Shade Tree and Utility easement, a couple of the parking spaces would be in that. This is not uncommon, to have parking in that easement. There is nothing in the Ordinance that indicates you can't have parking in there. We are providing a building that's going to have nice landscaping. If you look at our neighbor on either side, they have parking in the shade tree and utility easement area, if they had it, and if you look at the purpose of the easement it is for the utilities so that there is a place for it to run. This is a developed site, the utilities are there. And with respect to the landscaping we've provided a landscaping plan and we think this will be landscaped as nicely as any of the buildings in the area and based on the architectural we think it's going to be the nicest building in the area. Looking at the Master Plan of 2017 with respect to the reasons for these variances from both a C1 hardship standpoint and a C2 benefits outweigh the detriments standpoint, on page 7 under the vision statement it says encourage development and redevelopment based on smart growth planning principles. We are taking a KFC that never was a winner in Lakewood and replacing it with retail stores that will serve the needs of the residents. On page 8 of the same report, under the Master Plan strategies, it indicates strengthen and direct development toward existing communities. I pointed out before the apartments that are there, and Coventry Square, and residential that's there to the south. It's my testimony that this does this. 7 on that same page is encourage redevelopment of existing underutilized sites. And this KFC has been underutilized for many years. On page 23 of the same report it talks about traffic congestion and a shortage of parking, and the indication is that this can be done in part with sound land use planning that promotes reduced reliance on private vehicles through compact development footprints and this will because it has a neighborhood where people can walk. It will accomplish that goal of the Master Plan. Then we look at the New Jersey Municipal Land Use Law NJAC 40:55D2 under purposes of the act, it 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. And it's my testimony that this does that. Then to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, industrial, and commercial uses, and it's my testimony that this does that. There is a need for this retail use on this particular site based on the surrounding properties. The hardship as indicated is that if you take a property that's 200' deep and you take 50' off one side and off the other, you've eliminated a substantial portion of the property, and then you create a situation where the parking lots are separated as they are to the west and that doesn't work well either. Here we've limited it to one driveway entrance on each road, they are controlled exits and entrances, and it provides traffic safety as it says in the report that was submitted, that it works and creates a situation that from the morning peak hour trips we don't have an increase and the others are, as in a lot of places, they are heavily traveled intersections, but this is going to be taking people that aren't necessarily just making a trip there, and it's going to have walking traffic. If we look to the C2 variances we have to show that it relates to a specific piece of property. And this certainly is a piece in between two other developed sites and between two major County roadways. I think it's as specific as you could find. The purposes of the Municipal Land Use Law would be advanced, which is what I indicated, the variance can be granted without any substantial detriment to the public good, and it's my testimony that there's negligible impact on the public good. We are providing sufficient parking and a building that fits in with the area and meets the goals of the Master Plan. The variances will not impair the intent of the Zone Plan and Zoning Ordinance, and this is consistent with those. And the benefits will substantially outweigh the detriments and it's my testimony that this does that. If we continue to the design waivers, as far as providing street

trees and shade tree and utility easements, we will provide the easements. They will run along both frontages and will provide an area if the utilities ever need to be moved further back, because what we are doing is dedicating 6' along East County Line so that the County can widen. I don't expect to see that in any hurry, but this property will give that land so that it works. The easement will go through some parking spaces but it leaves other areas where landscaping can go and is proposed. The waiver from proposing landscaping buffers, if you look at the aerial we submitted, you can see that a landscape buffer to the east would be just to those cars that are already planted there. To the west would be the loading area. It's compatible uses. My testimony is that there's no need for buffering. The Ordinance, under buffering in 18-803E2 says buffering shall be required where topographical or other barriers do not provide reasonable screening and when the Board determines that there is a need to shield the site from adjacent properties. My testimony is that there's no need to shield this site from adjacent properties. The other items in Terry's report we will certainly comply with. There was a comment number 8 that there seems to be insufficient room for the light poles. It's my testimony that we can make that work and will do that under resolution compliance. Terry asked for testimony on the architectural which I've already touched on, and it's going to be a combination of materials, it has jogs in it, it's done with a modern flair that's going to fit very nicely in the area. Everything else in the report we will comply with.

Mr. Vogt said I'm not sure if you testified on loading.

Mr. Flannery said there is a loading area in the front. The front of the building jogs. It shows a loading area in the first jog, and provides for handicapped parking in the second jog.

Mr. Vogt said and that is adequate for the trucks...

Mr. Flannery said yes, for the type of uses that are proposed, yes.

Mr. Garfield said you have an entrance/exit coming on to County Line and onto Kennedy correct?

Mr. Flannery said yes.

Mr. Garfield said those are heavily trafficked. Can those be made into right turns?

Mr. Flannery said that would be up to the County Engineer, but we would certainly recommend that it be right-in and right-out.

Mr. Penzer said Mr. Garfield, we agree with you but since it's a County road it's up to the County to decide.

Mr. Garfield said can you send some correspondence, I don't see why they would turn it down?

Mr. Flannery said we would agree that if the Board acts favorably, we would make that request to the County Engineer.

Mr. Garfield said thank you.

Mr. Stern said it looks like you have a traffic island on the County Line side, but not Kennedy. Why the difference?

Mr. Flannery said County Line is more heavily trafficked, and the geometry is subject to the County approval. I don't think you need the island to make it right-in and right-out. If the County feels we need an island, we can certainly put one there as well.

Mr. Stern said counsel has pointed out that Kennedy was called speedway.

Mr. Penzer joked, that was before John Kennedy was assassinated.

Mr. Stern said cars are faster now. Would it make sense to put an island, I mean Kennedy is pretty busy too. I'd hate to see someone waiting on Kennedy trying to make a left into this development.

Mr. Meyer said I agree with Bruce.

Mr. Flannery said if the Board acts favorably, we will make that proposal to the County Engineer. I don't see why he would not agree, but he has surprised me in the past so I can't speak for him.

Mr. Stern said on the Google aerial, there are a bunch of random cars parked in the dust of your site. What's that about?

Mr. Flannery said they are trespassers that found a place to park in Lakewood where nobody bothers them.

Mr. Stern said they live there? Or they're visiting Stitch in Time?

Mr. Flannery said I don't know. I saw that as well. They will be gone when we develop this site.

Mr. Stern said Terry, Brian's testimony is that 57 parking stalls is adequate for this retail use. Do you agree?

Mr. Vogt said based upon the testimony relative to what they are showing with the landscaping and the easements, yes.

Mr. Stern said how many parking stalls per 1,000 sf of retail is this?

Mr. Flannery said 5.

Mr. Stern said Terry you agree with that?

Mr. Vogt said yes. And based upon that ratio they have adequate parking.

Mr. Stern said this is a beautiful project. My only concern is it's pretty squishy. You're double or tripling the footprint of the existing KFC. I support it...

Mr. Sabel said if you look at the neighborhood, there's not even one building with so much as a footprint... Thee Good Friend Electric obviously is a lot smaller, the building to the east is bigger than that but still not as big as this one is going to be. It's going to be gigantic. I think retail use is perfect but I think the building is going to be huge. My biggest problem is it's going to become another street. There's going to be Clifton, there's this building, and then there's Lexington, for cars to go through back and forth. Clifton has a red light, Lexington is busy, it's going to be another drive-through. I think we have to reconfigure the parking lot to avoid that.

Mr. Stern said I think in 23 years I've never used the KFC as a cut-through. I've never even thought about it.

Mr. Sabel said is it open now?

Mr. Stern said yeah, look at the aerial. You can drive right through. I'm not worried about that. It just seems, like you say, a lot of building for... How many feet long is this?

Mr. Flannery said 166.

Mr. Stern said so the distance for the setback from Kennedy and the setback from County Line is how much?

Mr. Flannery said the Kennedy setback is 16', after we gave them 6 additional feet. So it's 22' from where the property line is now. And the Ordinance says 50.

Mr. Sabel said so like 60% you're asking for a variance.

Mr. Flannery said yes, and I was hopeful that my testimony on the C1 and C2 variances was compelling. I think when you just look at the footprint it makes it look bigger. And that's why the architect has those steps in the building and the different side heights to give it a different look. We're looking in just these two blocks, but if you look across the street to the north there's big buildings over there, I don't think this is going to look out of place. Being close to the street, on the corner of East County Line and Clifton that building is probably right on the property line. I've been through there many times and it looks appropriate to me. It's a use for this type of area that looks appropriate.

Mr. Stern said that building has never looked appropriate to me. It's a truncated rump of a parking lot right next to TD bank and it's way under-parked.

Mr. Flannery said under-parked I would agree with you. I'm assuming they get a lot of traffic or people are parking in other people's parking lots. We don't have an under-parked problem, we are providing sufficient parking.

Mr. Vogt said back to it being squishy, looking at the coverage they are requesting a little more than 30%, it's over what the zone allows. If anything would change, if that would come down a little... the other factor on the Board's part is this is redevelopment, there are additional costs including but not limited to demo of the building, removal of an old parking lot and utilities. I'm sure this building has to be a certain size for the project to be viable. I would ask to question is there any latitude between the 25 zoning and the 30 proposed.

Mr. Flannery said that's a question for Mr. Penzer or the applicant.

Mr. Penzer introduced Mr. Benjamin Kott. He said the Board is asking if it could be made a little smaller, by 5%.

Mr. Flannery said 5% would be 560 sf. And that would be almost 10' less of building.

Mr. Kott said I would be willing to do that. But if you take off 10' you're losing one complete store, because there isn't enough frontage left. So you're getting only 5 stores instead of 6.

Mr. Jackson swore in Mr. Kott.

Mr. Kott said it's fine, I'm fine. If you want, it fits. I'm ready to give up the 10'.

Mr. Penzer said he's agreed to reduce it. Whatever the configuration needs to be so that he can salvage this store, but he will be at the 25% mark. Is that fair?

Mr. Flannery said he will do the reduction of 560 sf off the building.

Mr. Penzer said correct. He will make it work so that he doesn't have to lose a store, whatever that needs to be.

Mr. Flannery said we are reducing the building size by 5%. That's what we're agreeing to.

Mr. Stern said to me, I'm not so concerned about shrinking the square footage. I appreciate Terry's input. But the real issue is the setbacks. It's an aesthetic thing. It's so close to the roads on each side. To me that's more important. You can make it deeper and keep the square footage.

Mr. Flannery said deeper doesn't work with the parking. So what we've indicated is we will take 10' off the length.

Mr. Stern said thank you.

Mr. Jackson said would that affect the front yard setback though?

Mr. Flannery said the setback would be increased on each road by 5'.

Mr. Jackson said Mr. Stern, does that satisfy your concern?

Mr. Stern said we are 5' further on away each side. That would make me happy. I'm one of six or seven.

Mr. Penzer said you're one of five.

Mr. Stern said so I've got 20% of the vote. I'm less concerned about the percentages, so if you need an extra percent and go to 26% or whatever...

Mr. Sabel said so the front yard setback will be for 25' and how much in the back?

Mr. Flannery said the rear stay as they are. We are taking 10' off the length and providing 5' on each side.

Mr. Sabel said currently we have 15 or something in the front where 50 is required. How much are we providing in the back and how much is required?

Mr. Flannery said you're throwing me off with the back because we have two fronts.

Mr. Sabel said Kennedy Boulevard to the building, you need 50'. County Line to the building, how much do you need?

Mr. Flannery said also 50'. We proposed 16 after a 6' dedication. So we gave away 6' of our property and are going another 16'. We are adding 5' to each of them so the 16 will go to 21.

Mr. Sabel said so County Line will have 21 where 50 is required. And Kennedy will have 21 where 50 is required?

Mr. Flannery said Kennedy we had set up as 11.5 to the building. The columns stuck out another 2'. So adding 5 would be 16.5' to the building where 50 is required.

Mr. Sabel said and the back is going to be 21 where 50 is required.

Mr. Flannery said correct.

Mr. Sabel said and if we made it the same size as the building to the east, what would that mean?

Mr. Flannery said it would mean that the project doesn't work.

Mr. Stern said I think the rear setback between this building and Lot 6 is not essential.

Mr. Sabel said I'm just trying to see the image of driving down.

Mr. Penzer said look at the buildings to the left, Stitch and Sew. All of them are parking in the front, they're backing onto County Line Road. That doesn't work.

Mr. Sabel said not necessarily. That parking lot is very big and I make beautiful U-turns. You don't have to back onto County Line at all.

Mr. Penzer said you can do surgery and cut a little bit, but at some point the patient dies.

Mr. Stern said we don't want that.

Mr. Penzer said we tried to show we are cooperative. We understand your concern, please understand our concern. I respect what you're saying. You're right, and you have to make the decision ultimately. But this is urban renewal in the area. There is additional cost. I don't meant to be disrespectful, but unfortunately either it works or it doesn't. We want to give a beautiful building with a perfect use, unfortunately we came down a little bit where we could and we got rid of one variance but that's the most we can do. I apologize.

Mr. Jackson said sometimes we devolve into a debate. Make your adjustments and your concessions, and then the Board will vote the way it votes.

Mr. Sabel said I have concern if the parking is going to work, with those spaces on the west side, getting into and out of those spaces. I can think of other businesses that have similar and it's challenging. Maybe we can suggest one-way in and one-way out.

Mr. Vogt said I'm listening to the discussion about parking. I believe the applicant has agreed to reduce the building, 560 sf.

Mr. Flannery said that is 2+ parking spaces less needed. We'd certainly rather leave excess parking spaces in.

Mr. Stern said I think the question was the design, not the number.

Mr. Vogt said I think the parking lot functions as designed. It meets design standards. As far as the orientation or one-way through, that's really going to be driven by the County along County Line Road more than anything. My personal opinion, I think the 5% building reduction is a reasonable compromise. Looking at the parking, it should function a laid out.

Mr. Sabel said regarding the trash, it's stacked in right after a parking spot. If someone leaves a car there for hours, then there's no garbage removal. Someone's car could break down... For trucks to go in there, you need to remove a couple of spots.

Mr. Flannery said we can remove those spots and leave the pavement the way it is, cross-hatch that as no parking. If all the other spaces are taken, someone is going to park there, but at least it won't be someone leaving their car there over a holiday because they know it would be towed. That would be a worst-case situation.

Mr. Sabel said can we move it to the side of the building or something?

Mr. Stern said not really because you wouldn't have access. Why don't you take one of those spots and cross-hatch it. I think then we still have one extra parking spot and Mr. Sabel's valid concern is addressed.

Mr. Flannery said we would agree to that.

Mr. Stern opened to the public.

Mrs. Morris said I did not get any comments by email. I received a call yesterday from a neighbor who had some questions about how to access the plans. She has my phone number and my email. I didn't hear back from her so I assume everything was ok with her. That was a Ms. Ringel who owns a number of properties in the area.

Mr. Stern said everything is on the web and if she didn't respond we can't infer any comments. He closed to the public.

Mr. Flancbaum made a motion to approve with the reduction of 5% of building coverage.

Mr. Stern said are we clear that the 5% also means 5' from the two setbacks?

Mr. Vogt said based upon Brian's testimony, that is correct.

Mr. Flannery said reducing the building area by 5% is almost 10'. Our agreement is that we would reduce the length of the building by 10' and the square footage by 5%.

Mr. Stern said and you will discuss with the County putting a second traffic island on the north side.

Mr. Flannery said we will submit it to the County that way and if they have any comments we will express that is the Lakewood Planning Board's preference.

Mr. Sabel said and he said it would be 5 stores instead of 6.

Mr. Flancbaum said the motion was to reduce the building coverage by 5%, the amount of stores is up to the applicant.

Mr. Stern said right, it is your motion.

Mr. Garfield seconded. All were in favor.

**5. APPROVAL OF MINUTES**

**6. APPROVAL OF BILLS**

**7. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Ally Morris  
Planning Board Recording Secretary