**ZONING BOARD OF ADJUSTMENT OCTOBER 19, 2015**

**MINUTES**

Meeting properly advertised as per sunshine law.

Roll call: attending: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Mund, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

Absent: Mr. Naftali, Mr. Ribiat

Also attending: Terry Vogt, Engineer/Planner

Jerry Dasti, Board Attorney

Jackie Wahler, Court Reporter

Fran Siegel, Secretary

Salute to the Flag.

Motion to approve minutes of September 21, 2015 – Mr. Halvorsen

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Mund, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

Correspondence from Brian Flannery Re: **Appeal # 3694A, Stamford Hills, Chestnut Street** to modify the fencing plan. Original plan was to have fencing around the basin and along the top of the bank. Proposing to eliminate some of the fence along the top of the bank and put another piece along the basin to the top of the bank. They fenced it in so the children cannot get to the stream.

Mr. Magno – no safety issues involved.

Motion to approve – Mr. Gelley

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Mund, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3933 –** Interpretation request from Abraham Penzer, attorney on the OT (Office Transitional Zone).

Mr. Dasti – did not have a chance to review. Would like to carry to the next meeting so that he has time to review. There was a house that pre-dates the OT zone - the house has been demolished. A new house has been proposed will not violate any bulk requirements. He wants to know if it is grandfathered since single family dwellings are not permitted in the zone.

This was a single family house that existing when the OT went into effect. He wants to build a single family with now setback violations. It is his opinion that it is grandfathered. If the board agrees with his interpretation he wants the board to empower Fran to approve a building permit.

Mr. Dasti - He will review and give his opinion. Single family homes are not permitted in the OT Zone.

Mr. Flannery sworn. The OT zone was adopted in 1984.

Letter from Terry Vogt, Engineer, Planner says that he believes that it would be permitted to construct a new house if it meets all the bulk requirements.

A letter from Mr. Hensel, Township Attorney was submitted and his opinion his different from Mr. Vogts.

Mr. Dasti – need time to review both letters and give his opinion.

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**MINUTES PAGE 2.**

**Appeal # 3917 – Primeland Holdings, LLC**, James Street, Block 366 Lot 1. M-1 zone. Use

variance for duplexes with an existing commercial warehouse to remain.

Sam Brown, attorney for applicant requested that this be carried and he will renotice. There will be no changes to the application. We are contract purchasers and there are difficulties. They will agree to extend the time.

Motion to carry until December 7, 2015 – Mr. Gelley

Second – Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Ingber, Mr. Halberstam

Nayes: Mr. Gonzalez

**Appeal # 3912 – 126 Forest Developers,** 1255 Prospect Street, Block 396 Lot 1.01, M-1 zone.

Use & site plan variance for a retail/office building.

**From: Terry Vogt, Engineer/Planner – Revised submission – October 14, 2015**

The applicant is requesting use variance and preliminary/final site plan approval necessary for redevelopment of the existing self-storage facility into a new multi-use facility. Proposed facilities as identified on the Site plan and zoning application include a 28,373 square foot supermarket/retail building, a two-story 7,000 square foot retail building, and a two-story 63,895 square foot retail/office building.

Abraham Penzer, attorney for applicant. They redrew the plan. There will be two accesses to the property, one access limited to trucks and two for the cars.

Ron Gasioroski represented adjacent property owner, objector.

Brian Flannery, Engineer/Planner sworn. This application is for a commercial retail site in the M-1 zone. The Board had concerns with access. The plan has been revised to show a second egress point at the westerly portion of the site. They have met with the county and they will build a traffic signal on the corner. They will need Ocean County’s approval. They also need a DOT approval. The plan now provides 3 access points to the site. Truck entrance will be on Lewin Avenue. Directional spikes will be at the entrance from Lewin Avenue and will be 18 foot wide and one way in. Lewin Avenue is paved about 6 or 7 hundred feet. Described route of the trucks for the supermarket and trucks for the commercial property. All the commercial trucks will go through the employee parking lot.

O-1 dated August 2015. Prepared by PDS.

A-7 revised plan.

Mr. Flannery – Lewin Avenue is a township right-of-way. There is sufficient room for turn a-rounds.

Mr. Halberstam - The area could use a shopping center – this size shopping center should be on a corner so that there are two roads. You cannot have trucks and cars coming out of the same place. Have a problem with the major supermarket in the back.

Mr. Penzer – the people who will be living there are not here to object. This is a need for the neighborhood.

Mr. Halberstam – this is a disaster happening. We have approved projects that don’t work and don’t want to make that mistake again.

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Mr. Flannery – Mr. Gasiorowski is only concerned with the access on Lewin Avenue. The trucks will exit onto Lewin Avenue. Retail trucks going out on Lewin Avenue. There is 2 lanes going out onto Prospect

Scott Kennell, sworn. McDunnough and Rea. Traffic engineer. There will be a traffic light at the front entrance. There will be 1 or 2 semi-trucks a day and should not cause any disruption to the parking activity.

Mr. Lankry – satisfied with the plan.

Mr. Kennell – there are 3 exits out onto Prospect Street. There will be sidewalks along Prospect Street.

Open to Public.

Sol Siegman, 8 Shemen Court, affirmed. His business is on Lewin Avenue. Lewin Avenue is barely a driveway. To back in a 50 foot trailer is almost impossible. With traffic on Lewin Avenue it will be impossible to run a business. They have 2 loading docks on Lewin Avenue.

Right now it is just his business and one other one on Lewin Avenue.

Mr. Flannery - They could widen Lewin Avenue. There will be a sign commercial trucks only – there will be no cars.

Closed to Public.

Mr. Gelley – there will be hundreds of families in this area and concerned about the trucks going through the parking lot.

Mr. Lankry – okay with this project.

Motion to approve – Mr. Lankry

Second – Mr. Mund

Roll call vote: affirmative: Mr. Lankry, Mr. Mund, Mr. Ingber, Mr. Gonzalez

Nayes: Mr. Gelley, Mr. Halvorsen, Mr. Halberstam

Motion denied.

Adam Pfeffer, Esq. re: **Appeal # 3925 – Kochev, LLC** – would like some time to meet with the objectors and would like to carry until the December 7, 2015 meeting.

No further notice and agreed to waive time.

Motion to carry until December 7th – Mr. Gelley

Second - Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Mund, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

Sam Brown, Esq. Re**: Appeal # 3922 – 1500 Prospect Street, LLC** requested to carry to meet with objectors. Agreed to a waiver of time.

Motion to carry until November 9, 2015 – Mr. Gelley

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry. Mr. Mund, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

No further notice.

Recess.

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**MINUTES PAGE 4.**

**Appeal # 3920 – Mordechai Eichorn,** Oak Street, Block 855.06 Lots 18, 24, 24.01, 27 & 33,

R-20 zone. Use variance to construct duplexes.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – revised submission – October 14, 2015**

As indicated on the revised plans, the applicant now proposed 8 single family homes on lots ranging from 13,622 square feet – 13,657 square feet in size. The original application was for 10 duplexes (20 residential units)

Paul Schneider, attorney for applicant.

Ed Liston attorney for objectors. He would like to withdraw as attorney for the objectors. Was retained by Zvi Rottenberg, 1424 /Towers Street. He was provided a list of 200 names of people that were objecting to this application. Mr. Rottenberg told him that they worked out a deal with the applicant. Mr. Rottenberg and the attorney for the applicant was advised by him not to have any contact with Mr. Eichorn. He cannot represent that there was a deal made or an agreement. Under the circumstances he is asking the board to allow him to withdraw from representing the objectors since this is now a conflict situation.

Mr. Schneider – Originally this application was for the subdivision of 5 existing lots into 10 duplex lots. His client communicated with the objectors and has revised the application. They are now asking for the subdivision of 4 existing lots into 8 single family lots. 20,000 square foot lots are required and they are asking for 13,220 – 13,600 square foot lots. They are not asking for subdivision approval tonight – they are asking for the application to be bifurcated. Asking for an approval of not less than 13,220 square foot each lot.

Mr. Halberstam - If you want no more than 8 lots than therefore at subdivision I have to give you the 8 lots. Why don’t we do both?

Mr. Dasti – they did not advertise for the subdivision. If the application is approved tonight you have to give him 8 lots. The Board can consider less than 8 lots tonight, whatever is approved tonight is what you will see at subdivision.

Mr. Schneider – asking for side yard setbacks of 10 feet and 10 feet where 25 combined is required.

Brian Flannery, engineer/planner sworn. Asking for not more than 8 lots. This application is for 4 lots and 8 single family lots. The previous was 5 lots and 10 duplexes. The applicant was a contractor purchaser of the 5th lot and no longer in contract. This is for single family lots. Most of the lots in this area are 1/2 acre lots. Oak Street is a major collector road. This area is looking for redevelopment. The applicant made an agreement with the neighbors for single family homes and not duplexes. The planning board has approved 65 foot wide lots in this area. This area is in the Oak Street Core. This provides the housing opportunities that Lakewood needs. Single family detached is consistent with the area.

Reviewed Mr. Vogts report.

Mr. Flannery – Asking for a 13,600 square foot minimum, lot width of 70 and an aggregate of 20 feet. This area is R-20. The property is impacted by the Oak Street Core. The typical lot on Oak Street is 113 feet x 192 feet. The ones behind it ranges from 75 -90 width and are closer to 20,000 square feet. The density that is permitted by ordinance is 2.2 dwelling units per acre asking for 3.2 dwelling units per acre.

Mr. Dasti - These lots are showing houses 3,000 square foot per floor.

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Mr. Flannery - Applicant not asking for 50 x 60 houses, that is just a building box. The Board can limit the size of the house. A 50 foot width is common for houses. Asking for variance for side yard setback.

Mordechai Eichorn, applicant, affirmed. Bought these properties about 12 years ago with the intention of building luxury homes. This is now a connector road and a very busy road. That is why we thought that there was some sort of verification for duplexes. Spoke to the people in the neighborhood and took their recommendations. They wanted 50 foot wide houses and that is why they are asking for the variance. They took everyone’s comments into consideration.

Mr. Lankry – do not like the variance for the side yard setback.

Mr. Halberstam – agreed. A house 40 foot wide on a 75 foot lot is enough.

Mr. Snyder – no longer requesting the side yard setback variance.

A-1 copy of tax map

A-2 initial plan with duplexes

A-3 showing zoning approved in the vicinity

A-4 showing the plan submitted

Open to Public.

Moshe Botnick, 784 Marlin Avenue, affirmed. There was a settlement however it was not clear in the settlement about going from 5 lots for duplexes to 4 lots for singles. He thought that the 8 single lots would still be on the original 5. Did not know that the final lot size would be 13,000 square feet. People that move to an R-20 zoning want the larger lots.

A-5 settlement agreement

Zvi Rottenberg, 1424 Towers Street affirmed. Greatly appreciate the effort of applicant. The neighborhood was furious with duplexes. When you drive around you cannot see the depth of the lots. This will be nice single family houses. On Oak Street and only on Oak Street they will keep the width at 70 feet.

Cheryl Getta, 1464 Oak Street, sworn. Lives across the street from this proposal. Not opposed to single family. It is a nightmare to try and get out of her driveway Oak Street is a mess. Worried about the effect more people with the wells and septic.

Michael Berger, 1460 Oak Street, affirmed. Agree fully with everything Mr. Botnick said. They moved here because they wanted 20,000 square foot lots. Traffic is mainly by the light on Oak and New Hampshire. This is a nice quiet neighborhood. They were told that they would not win anyway. Most lots are mostly wider than 75 feet.

Mr. Gelley – Oak Street has become so busy that you should have less houses not more.

Motion to approve no more than 7 lots and no side yard variances as close and conforming to an R-15 requirements – Mr. Ingber

There was no second.

Motion to deny – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Ingber

Nayes: Mr. Lankry, Mr. Gonzalez, Mr. Halberstam

Motion to deny approved.

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**MINUTES PAGE 6.**

**Appeal # 3914 – Moshe Moskovitz,** Bergen Avenue, Block 245 Lots 11, 12, 13 &15, R-7.5

zone. Use variance for 5 undersized duplex lots from 9,157 sf to 9,648 sf

where 10,000 is required.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – September 10, 2015**

The property is located in the R-7.5 single family residential zone. Duplexes are permitted in this zone, provided that newly created lots have a minimum lot size of 10,000 square feet and have a minimum lot width of 60 feet. Lot areas per duplex are proposed in the 9,157 sf - 9,648 sf range.

Moshe Moskovitz, 314 8th Street, applicant, affirmed.

Glenn Lines, Engineer/Planner, sworn. Here to subdivide several existing lots into 5 duplexes. Described the area.

A-1 subdivision map – revision # 2 dated 9/18

Mr. Lines – There are duplexes in the area. Requesting lots that are above 9,000 square feet for the duplexes where 10,000 are required. Approximately 5% under the required. There will be a 25 foot width duplex on each lot. The trash, ac, basement stairs in the front of the building or if they are on the side they will be internal in the building. There won’t be any obstructions on the side.

Mordechai Finkelstein, affirmed. There will be no obstructions on the side. Staircase to the basement will be in the building if it is on the side. There will be shrubbery in the front. There will be an irrigation system. There will be a 5 foot clear to the back. Can move the driveway further away from the corner.

Open to Public. Closed to Public

Motion to approve – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Mund, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

Resolutions

**Appeal # 3673, Cong. Etz Haim, Pine Street & Warren Avenue –** Resolution to remove the condition of 30” from outside grade on the 7 single family homes being constructed.

Motion to approve – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Ingber, Mr. Gonzalez,

Mr. Halberstam

**Appeal # 3921 – Gefen Construction**, 645 Stirling Avenue, Block 189 Lot 137. R-10 zone. Resolution to approve the construction of a duplex with variance for sideyard setback approved.

Motion to approve – Mr. Halvorsen

Second – Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Mr Halvorsen, Mr. Mund, Mr. Ingber, Mr. Gonzalez,

Mr. Halberstam

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**MINUTES PAGE 7.**

**Appeal # 3923 – Prospect Land Development**, Block 474 Lot 1, Prospect Street, A-1 zone. Resolution to approve use variance for 9 duplexes and one single family.

Motion to approve – Mr. Gonzalez

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Ingber, Mr. Gonzalez,

Mr. Halberstam

**Appeal # 3926 – 5 Oak Street, LLC,** Block 782.01 Lots 5 & 11, HD-7 zone. Resolution to approve the construction of 9 duplexes and 1 single family.

Motion to approve – Mr. Gonzalez

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Ingber, Mr. Gonzalez,

Mr. Halberstam

**Appeal # 3927 – Yechiel Rivlin** – 236 Hudson Street, Block 108 Lot 2, R-10 zone. Resolution to approve a use variance to construct a duplex on a 11,250 square foot lot where 12,000 is required.

Motion to approve – Mr. Halvorsen

Second – Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Ingber, Mr. Gonzalez,

Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Respectfully submitted,

Fran Siegel, Secretary