**ZONING BOARD OF ADJUSTMENT MAY 4, 2015**

**MINUTES**

Meeting was advertised according to the NJ State Sunshine Law.

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

Mr. Gonzalez, Mr. Halberstam

Absent: Mr. Ingber, Mr. Ribiat

Also present: Attorney – Jerry Dasti

Terry Vogt, Engineer/Planner

Jackie Wahler, Court Reporter

Fran Siegel, Secretary

Salute to the flag.

Motion to approve minutes of April 13, 2015 – Mr. Halvorsen

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Gonzalez

**Correspondence –**

Mr. Penzer requested that **Appeal # 3903, Max Wosner, Shelley Lane & Cedar Court**, Block 423.01 Lots 17, 18 & 29, R-7.5 zone be carried until the June 8th meeting so they can meet with the neighbors.

Motion to carry – Mr. Gelley

Second – Mr. Naftali

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

Mr. Gonzalez, Mr. Halberstam

No further notice and agreed to waive time.

Mr. Dasti received correspondence from Sam Brown, attorney for **Appeal # 3710B, ARM Land** **Group**. The lot numbers have changed and he revised the resolution.

Motion to revise resolution to amend the lot numbers - Mr. Lankry

Second – Mr. Gelley

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

Mr. Gonzalez, Mr. Halberstam

Ms. Weinstein requested to carry **Appeal # 3900. Congregation Maalos Hatorah**, until the next meeting June 8th. No further notice and agreed to waive time.

Motion to carry – Mr. Gelley

Second – Mr. Gonzalez

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

Mr. Gonzalez, Mr. Halberstam

Mr. Chairman announced that **Appeal #3908 Yehoshua Frankel** – there is no paperwork on it and will carry until the June 8th meeting. No further notice

Motion to carry – Mr. Lankry

Second – Mr. Naftali

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

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3898 – Lakewood Automotive Center,** 650 James Street, Block 385 Lot 6, M-1 zone.

Site Plan approval to allow a 18,000 square foot warehouse facility.

Secretary read reports

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**MINUTES PAGE 2.**

**From: Terry Vogt, Engineer/Planner – February 19, 2015**

The applicant is requesting site plan approval to allow a warehouse facility on the above referenced property. The applicant is proposing an 18,000 square foot warehouse with 17 new parking spaces.

Mr. Flannery asked that the approval also allow a multi-tenant building.

Abraham Penzer, represented applicant.

Moshe Lankry recused himself on this application.

Mr. Chairman announced that there were only 6 members and they need 5 affirmative votes.

Brian Flannery, engineer/planner sworn.

Board accepted Mr. Flannery’s credentials.

A-1 rendering of site plan submitted.

A-2 aerial of site

Mr. Flannery – he has automotive sales. There was a house on the property which was converted to an automobile center which is a permitted use and granted by the Planning Board. Came to zoning board to be allowed to sell cars which is not a permitted use. The sales now has a use variance and anything that gets done on the property comes back to zoning board. It is a technicality that this is an expansion of a non-conforming use. Asking for a multi-tenant use.

Reviewed Terry’s report. He will be renting it out. The building will be for contractors warehousing. There is no detriment to the zone plan or zone ordinance.

Mr. Penzer – this is a rateable that could be used for the town.

Mr. Flannery – this will provide more bays, the repair facility is a permitted use. The garage that they are adding is behind the existing garage. The site lot coverage allowed is 40% they have 21%. This will be a contractors warehouse. Tractor trailers will not be going around the building.

Mr. Halberstam was concerned about tractor trailers on the property.

Mr. Penzer - The applicant agreed to put up a sign saying “No Tractor Trailers permitted”

The applicant does not want tractor trailers back there.

Mr. Flannery - A wider road would impact the neighbors and would encourage larger trucks than intended to drive in the site.

Igor Ryabinsky – owner of property, affirmed. His first condition with everyone was that there will not be tractor trailers on the property. Whoever wants to rent the place knows that they cannot have the trailers on the property.

Mr. Gonzalez – will automobiles be stored in back of the building?

Mr. Ryabinsky – right now there is about 15 -20 vehicles for sale and they are parked in the front. Do not anticipate having that may cars.

Mr. Flannery - The car sales is the non-conforming use. The auto repair is permitted and the manufacturers uses are permitted. Looking for a “D” variance to allow the technicality to allow the contractors warehouse building.

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**MINUTES PAGE 3.**

Open to Public. Closed to Public.

Motion to approve – Mr. Naftali

Second – Mr. Gonzalez

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

Mr. Halberstam

**Appeal # 3902 – Chaim Burstein**, 1797 Lanes Mill Road, Block 187.15 Lot 18, OT zone. Use

variance for an office for a mechanical HVAC contractor and to park

commercial vehicles.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – March 18, 2015**

The applicant is requesting a Use Variance to change the use of the existing single family residence to an office for a mechanical HVAC contractor and to park commercial vehicles. Per review of the area, it is minimally-developed with a wooded stream corridor associated with the North Branch of the Metedeconk River behind the property.

Brian Flannery, engineer/planner, sworn. The only other use near this property is a house to the east. In his opinion he does not need a use variance since the zone permits professional offices. He is an HVAC contractor which is a recognized profession. He has commercial vehicles but they are small vans. The site has a gravel parking area. He does not see clients there. Not proposing any façade improvements. There is no equipment stored outside. No repair work is done on the site or in the building.

Chaim Burstein, affirmed. Everything gets delivered to the site. The guys come in the morning, check in, get the paperwork and then go. There is a 6 foot chain link fence up with privacy. The other side is vacant land.

Mr. Flannery - He has 10 vans and they are in the back and in the driveway. The property behind is County property and wetlands. Nothing will be developed there.

Mr. Burstein – cars will be on the side and the front.

Mr. Lankry - He would like to see a parking plan.

Mr. Flannery – will do some kind of screening, low shrubs to Terry satisfaction.

Open to Public. Closed to Public.

Motion to approve with the condition that there be adequate screening in the front, 10 vans, no storage outside, no repairs on the premises – Mr. Lankry

Second – Mr. Gelley

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

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3903 – Max Wosner,** Shelley Lane & Cedar Court, R-7.5 zone. Carried to June 8th.

**Appeal # 3900 – Congregation Maalos Hatorah, Inc.** Gates Avenue off New Hampshire Ave.

Carried to June 8th.

**Appeal # 3884 –DRMY Holdings,** River Avenue, Block 534 Lot 7, HD-7 zone. Proposed 15

residential units. 12 of the units will be duplex units and the other 3 will be

located within one multi-family building. Existing building to be a Mikvah.

Secretary read reports.

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**MINUTES PAGE 4.**

**From: Terry Vogt, Engineer/Planner – March 19, 2015**

The applicant proposes to subdivide Lot 7 into 18 lots resulting in 18 proposed zero lot line lots, with lot sizes ranging from 3,300 to 4,000 square feet. 15 dwellings are proposed to be construct on the lots. Duplexes are proposed to be construct on proposed lots 7.01-77.12. Triplexes (3 unit townhouses) are proposed to be construct on proposed lots 7.13-7.15.

There are 3 existing structures on site, including a former gas station/garage, a boarded up residential structure and a former one-story masonry commercial building. The residential structure is proposed to be removed. Two existing structures are to remain on site. The canopy on the existing one story masonry building on proposed lot 7.16 is to be removed and the building renovated and converted into a Mikvah. The existing one story masonry building on proposed lot 7.16 will remain a garage. A 60 x 40 tot lot is proposed and a private road is proposed to access the units.

Miriam Weinstein represented applicant. Duplexes are a permitted use in the HD-7 zone but they are smaller than 8,500 square feet.

Graham Macfarlane, engineer/planner sworn. The application is to rehabilitate the 2 existing buildings on the property. To subdivide the lots to 12 duplex units and 3 townhouse units

A-1 6 photo display which shows the condition of the property

A-2 aerial map

Mr. Macfarlane – there was a prior approval by the Planning Board in 2006 for 20 townhouse units. Now proposing 15 residential units. Proposing 4 parking spaces per unit. This proposal is for the redeveloping the existing buildings on the premises. They will refurbish the existing vacant buildings. Reviewed Terry Vogt’s letter. Bulk variances are requested for the duplexes and townhouses. Rear yard setback requested for the commercial building. There is a salt dome behind this property.

Ms. Weinstein - Applicant did meet with the doctors from the medical office adjacent to the property. They asked for a fence to be installed prior to the construction. The also asked for an 8 foot fence along the property and if possible to move the tot lot.

Mr. Macfarlane – the tot lot is located in the best location for the project. The original application was for 20 townhouses.

Mr. Dasti - Did the prior approval allow for the 3 existing buildings?

Mr. Macfarlane – they were to be taken down.

A-3 development plan for the previous approval for the townhouses.

Ms. Weinstein – this plan is still valid by the permit extension act.

Mr. Macfarlane - The former oxygen supply company will be converted to a day care on the first floor and a mikvah on the second floor. The other building will remain and be refurbished as a commercial garage.

Mr. Halberstam asked for the applicant to rework the plan and come back.

Mr. Gonzalez – prefer duplexes to townhouses.

Ms. Weinstein – this is a nicer application than the previously approved application. There is no requirement for a community center. They offered to take out a unit.

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**MINUTES PAGE 5.**

Open to Public. Closed to Public.

Mr. Lankry suggested to carry and redraw.

Motion to carry until the June 8th meeting – Mr. Mund

Second – Mr. Halvorsen

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

Mr. Gonzalez, Mr. Halberstam

Mr. Dasti - If the application is remodified they should renotice.

**Recess.**

**Appeal # 3907 – Michael Fish**, Maplehurst Avenue, Block 494 Lots 52 & 53, R-40 zone. 10 lot

subdivision for single family homes on undersized lots.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – April 1, 2015**

Applicant is seeking a use (density variance) to allow the construction of 10 single family homes on lots of 12,060 – 15,256 square feet where 40,000 is required.

Abraham Penzer represented applicant.

Brian Flannery, engineer/planner, sworn. Asking for a Density variance for the lots have less than the required 40,000 square feet. Last year the Planning Board recommended that duplexes be permitted on 12,000 square foot lots. The Township committee adopted an ordinance. The ordinance was contested. Mr. Fish, the applicant prepared plans and was in the process of going before the Planning Board for approval. They are now asking for single family dwellings.

A-1 – existing plan

A-2 – tax map

A-3 – revised plan changing to single family

A-4 – zoning map R-40 zones that currently existing

A-5 – zoning map from 1990’s

Mr. Flannery – asking to bifurcate the application and ask only for the density variance. Not asking for any subdivision approval. The use variance relief is for 10 units on 3.3 acres. The neighbors prefer the A-3 plan. He described the area. Asking for 3 units per acre. They will be able to connect to public water. This approval will have no impact on the Master Plan or the area. Reviewed Terry Vogt’s report.

Open to Public.

Bruce Snyder, attorney representing Mr. & Mrs. Weinberger who reside at 38 Drake Road for residence in the neighborhood. This piece would be rezoning.

Mr. Penzer – these lots are unique – they are non-conforming – they are at least 12,000 square feet – nobody wants a 40,000 square foot lot. This board has the right to make the decision.

Mr. Flannery – also unique because it is on a County Road.

Robert Salter, 2 Maplehurst Avenue, sworn. His lot is non-conforming. The majority of the lots are an acre. Not opposed but concerned about the driveways and parking on Maplehurst and traffic. Maybe they need to widen Maplehurst Drive.

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Mr. Lankry suggested that he meet with the applicant.

Yefim Khaytman, 6 Maplehurst Avenue, affirmed. Concerned about the driveways on Maplehurst Avenue. Every lot should have a long enough driveway.

Mr. Flannery – testified that when they come back for site the driveways will be 36 feet long so that 4 cars will fit in the driveway and Maplehurst cartway will be widened to 32 feet.

Gregg Stafford-Smith, 1200 West Cross Street, sworn. They lived in a 2 acre zone which has now been changed to 1 acre. There are 3 main schools on Cross Street. There used to be horses on Cross Street. This plan lends itself in the direction in which Lakewood is going.

Mr. Gonzalez – a project like this makes sense.

Motion to approve a use variance for no more than 10 single family homes with access off Cross Street - Mr. Lanky

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Lankry, Mr. Mund, Mr. Nafatli,   
 Mr. Gonzalez, Mr. Halberstam

**Appeal #3772A – 170 Melville Holdings, LLC,** Block 1081 Lot 5.01, B-5A & R12/20, 150

Locust Street. Preliminary and final major subdivision for 74 lot residential

units.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – April 30, 2015**

The applicant is seeking a bifurcated preliminary and final major subdivision approval. The Zoning Board granted a use variance for duplexes July 25, 2011. The density of the project and necessary bulk variances were deferred to this subdivision application. The plan proposes the subdivision of the one existing lot to create 76 lots. Seventy four of these lots will be developed with 37 duplex structures. The other 2 lots will be for a proposed one-story shul and a tot lot with a storm water management basin.

Miriam Weinstein represented applicant. This application was approved for a use variance for duplexes. Asking for site plan and subdivision approval for 37 duplex units as well as a community center. Not here for use variance because it was already obtained. This plan has been redesigned.

Ian Borden, Professional Design Services, Engineer/Planner, sworn.

Board accepted his credentials.

Mr. Borden – fully conform with parking.

A-1 final plat for subdivision – all lots are greater than 8,500 square feet.

Mr. Borden – they are proposing a community center lot, asking for front yard setback to Locust Street. Provide 13 parking spaces where 25 are required. Proposing a tot lot. Proposing 32 foot wide roads. There was a brief meeting with some of the neighbors and they have requested a 6 foot fence and the applicant agreed, lots 6.02, 6.03 & 9.The use variance granted was in the B-5 A standards and is about 25% of the lot. They provided cul-de-sacs which have adequate radius for busses.

A-2 grading plan

Mr. Borden – The roads are 32 feet wide.

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**MINUTES PAGE 7.**

Mr. Naftali – are we stuck to approve something that was approved 2010.

Mr. Dasti - If the zoning requirements have changed than you do not have the right to building on 8,500 square feet.

Ms. Weinstein – they received a use variance only.

Mr. Dasti – it is for the board to determine how many units are appropriate. The zone today is 8,500 square feet for a duplex.

Mr. Halberstam – this is conforming to the current zoning.

Mr. Dasti – The number of units will be determined at the time of site plan. It is for the board to determine how many units.

Mr. Gelley asked if there could be another exit/entrance out of this?

Mr. Borden – maybe they could do an emergency access road.

Ms. Weinstein – the neighbor would possibly object to that.

Mr. Borden – providing 4 spaces per unit. Described the way a school bus would travel through the property. Vermont Avenue is a County Road. This property abuts Toms River Township. They have no improvements proposed to Toms River Township.

Mr. Dasti – the resolution says that the applicant would require approval from Toms River Township for a portion of the property.

Mr. Borden - The approved plan had a community center in Toms River.

Mr. Lankry – now it is 74 units plus a community center.

Mr. Borden – the vast majority of this property is in the B-5A zone. The community center is one floor and a basement.

Mr. Gonzalez - This will be another huge development on Locust Street. There is only one way in and one way out.

Mr. Lankry asked if the units can be upped to 8,500 square foot lots?

Ms. Weinstein - the initial approval was on 10,000 square foot lots. Todays ordinance permits 8,500 square foot duplex lots.

Mr. Dasti – 11.36 acres was approved including the Toms River property.

Ms. Weinstein - The old application was for 20 acres. Nine acres located in TR. The synagogue with other facilities were to be located in Toms River.

Mr. Halberstam – the use variance was given for 20 acres.

Mr. Dasti – the entire tract including the area with the community center was 11 acres.

Mr. Borden – the Lakewood portion is 10.6 acres where they are seeking subdivision approval.

They did apply to Toms River, but Toms River opted to purchase the property.

Mr. Dasti – the approval was never perfected - half the size with the same number of duplexes.

They did not fulfill their approval from Lakewood.

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**MINUTES PAGE 8.**

Mr. Lankry - 74 units on 20 acres and now they want the 74 on 11 acres.

Mr. Halberstam – Our attorney is telling us that the use variance from 2011 is now out the window.

Mr. Naftali - The resolution is very clear – they should clarify what is going on. They should come back.

Ms. Weinstein – They are saying that the use variance was granted for about 25% of the property and they don’t even need the use variance. Asking for site plan subdivision.

Mr. Dasti - Duplexes were approved on 20 acres not duplexes on 11 acres.

Ms. Weinstein - The unit count was not determined.

Open to Public.

Moses Schwartz, own a house on 7 Salvatore, affirmed. Represent Bells Community that are moving out from Brooklyn. In favor of this development.

Closed to Public.

Mr. Naftali – they should come back with a new application distributed properly. Not comfortable with the application.

Mr. Halberstam – if they came back it would still be the same idea.

Mr. Lankry - Would you be willing to make the lots a little bigger? Asking for $9,000- $9,200.

Mr. Halberstam - All the 8,500 should be 9,000.

Mr. Borden – 16 units are over 10,000 square feet, 16 are over 9,000, the rest are 8,500.

Mr. Halberstam – could you take out 2 duplexes which would be 4 units?

Ms. Weinstein – we would have to remove 6 units.

Mr. Gonzalez – do not have a problem with this.

Motion to approve – Mr. Gonzalez

Second – Mr. Halvorsen

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

Mr. Gonzalez, Mr. Halberstam

Chairman announced that **Appeal # 3874A – Rishon Associates,** **Appeal # 3901 - 363 Chestnut** **Street** and **Appeal #3909 Harriet Zitter** will be heard on June 8th with no further notice.

Resolutions

**Appeal # 3906 – Bais Tova, Inc.** 555 Oak Street, Block 792 Lot 1, R-40 zone. Resolution to

approve the construction of a 16 foot high privacy screen fence to provide privacy between boys and girls private schools.

Motion to approve – Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Gonzalez, Mr. Halvorsen

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**MINUTES PAGE 9.**

**Appeal # 3904 – 47 Holly, LLC,** Holly Street, Block 189.02 Lots 166 & 167 R-7.5 zone. Resolution to approve the construction of 2 duplexes on 4 zero lot lines lots with lot area deficiency, 10,000 square feet required 9,690 approved.

Motion to approve – Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Gonzalez, Mr. Halvorsen

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor

Meeting adjourned at 11:20 P.M.

Respectfully submitted,

Fran Siegel, Secretary