**ZONING BOARD OF ADJUSTMENT JULY 10, 2017**

**MINUTES**

Meeting advertised in accordance with the NJ Sunshine Law.

Roll call: attending: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

 Absent: Mr. Lankry, Mr. Naftali

 Attorney: Jerry Dasti

 Engineer: Dave Magno

 Court Reporter: Jackie Wahler

 Secretary: Fran Siegel

Salute to the flag.

Motion to approve minutes of June 12, 2017 – Mr. Halvorsen

Second – Mr. Ingber

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

**Correspondence**

Request from **Appeal # 3940, Yosef Weiss,** Block 536 Lot 181, 236 CloverStreetfor a one-year extension to file map.

Motion to approve one –year extension - Mr. Gelley

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

Request from **Appeal # 3563, Aaron Ginsberg,** Block 774.04 Lot 13, 307 Pine Street for twoone-year extensions to file map.

Brian Flannery, sworn. This applicant received a subdivision approval and they are having a problem marketing single family homes. No wetlands on this property. The zoning has not changed.

Motion to approve one –year extension – Mr. Gross

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

Sean Gertner, Attorney for **Appeal # 3743A, David Seebag** requested that the application be carried to the July 24th meeting. Notice was not given to the newspaper on time. Notice was given to the neighbors.

Motion to carry to the July 24th meeting - Mr. Gelley

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

Notice has been corrected.

Applicant agreed to waive any time.

**Appeal # 4027 – Drake Development**, Drake & Cross Street, Block 251.02 Lots 90 & 98, R-40

 zone. Use variance for single family homes on undersized lots.

Mordy Gross recused himself from this application.

Secretary read report.

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**MINUTES PAGE 2.**

**From: Terry Vogt, Engineer/Planner - May 3, 2017**

The applicant requests bifurcated use (and density) variance relief to construct up to 29 single family homes within the R-40 zone.

A previous application (# 4003) was made for 30 single family residential homes as presented at the February 6, 2017 zoning Board meeting and withdrawn.

Adam Pfeffer represented applicant. Since there was only 6 members present and they are entitled to a full board, they would like the application to be heard and there will not be a vote so that they can have all 7 members available. Asking for use only. No lot will be not less than

12, 0000 square feet. Only locked into the R-12 standards.

Brian Flannery, engineer/planner, sworn. Mr. Flannery reviewed Mr. Vogt letter.

A-1 plan submitted showing 12,000 to 15,000 square foot lots

A-2 map of area

A-3 copy of tax map

Mr. Flannery testified that the applicant will be bringing sewer into the area. There are schools in the area now that are on septic and this will benefit the schools. The Master plan suggested duplexes in this area and they recommended 7.2 units per acre. This plan is consistent with the Smart Growth Plan. When they come back they will have a traffic report. There will be a mix of 12,000 – 15,000 foot lots, they are asking for a use variance for density in the R-40 zone. The density would be 2.7 units per acre. Traffic on Drake Road is horrendous. There will be more houses but less impact than the schools. No lot will have frontage less than 90 feet.

Mr. Halberstam - Did you take into account the widening of Cross Street?

Mr. Flannery – It would be an additional 7 feet. They will not come back until they had something definite from the County. Bulk setbacks are the same for the R-12 and the R-15 zones.

None of the lots will have frontages less than 90 feet. He will bring public sewer to the property.

Open to Public.

Shloime Klein, affirmed. The attorney for this application is the same attorney that sits on the Master Plan. This application is spot zoning.

Mr. Dasti – they do not have to prove hardship for a density (use) variance.

Robert Salter, 2 Maplehurst Avenue, sworn – This is just adding to the congestion in the area. Asking that the board come up with an appropriate number of units.

Dovid Bender – 160 Colonial Drive, affirmed.

Walter Lucas, sworn, Newport Avenue. This area needs family homes and no more schools.

In favor of this application.

Michael Czermak, Serenity Way, affirmed. Residential homes is better than the schools. The traffic is generate by the schools. Asked to improve the curve on Drake Way.

Menachem Lefkowitz, 23 Olive Court, affirmed. In favor of residential.

Sam Schulman, 59 Drake Road, affirmed. In favor of residential not schools.

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Ariele Schulman, affirmed, 59 Drake Road. Would much rather see residential dwellings than schools.

David Indik, 55 Chicanos Drive, affirmed. In favor of smaller lots, nobody would be able to afford the taxes on a 40,000 square foot lot.

Chaim Grumberger, 6 Serenity Way, would like to see more residential homes than schools.

Closed to Public.

Mr. Ribiat – would like to see 15,000 square foot lots.

The applicant decided to go for the vote with 6 members.

Motion to approve use variance for lots no less than 12,000 square feet - Mr. Gelley

Second – Mr. Ribiat

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

 Mr. Halberstam

Request to carry **Appeal # 4024 – Zissel Morris –** notice was not given in time.

Motion to carry to July 24th meeting – Mr. Gelley

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

**Appeal # 4030** – **Shmuel Zeffren,** 644 Stirling Avenue, Block 189.05 Lot 149, R-10 zone.

 Construct a duplex on an undersized lot.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – May 24, 2017**

The applicant is seeking minor subdivision approval and variance relief to construct one duplex structure on two zero lot line properties The applicant is seeking variance relief for the lot area, side yard setback and building coverage.

Miriam Weinstein, attorney for applicant. Asking for a duplex on 10,141 square feet where 12,000 square feet is required. Additional bulk variances are requested. The property is an odd shape and therefore necessitate bulk variances. Mr. Zeffren will occupy one of the units.

Brian Flannery, engineer/-planner.

A-1 tax map showing subject property

Mr. Flannery – the Master plan slates this area for the R-7.5 zone. There are many duplexes in this area. The end user has a large family. One unit is larger than the other.

Ms. Weinstein – he has a large family and elderly parents that will be living with him and a sister who has issues. There will be 1 access outside to basement and there will be one apartment in the basement.

Mr. Flannery – There will be 4 parking spaces per unit.

Open to Public.

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Shloime Klein, affirmed.

Shmuel Yaakov Zeffren, affirmed. They just had their 10th child. Want to live in their own house. His father in law owns this property. He will sell the one-half. He has elderly parents and he is the oldest of 10 children. His parent will move in with them. His sister is sick and comes to his house quite often with her husband and child.

Motion to approve – Mr. Gelley

Second- Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

Recess

**Appeal # 3971A – KG Investments**, 742 Ocean Avenue, Block 548 Lots 66, 281, 282, R-20

 zone. Preliminary and final major subdivision and site plan

Secretary read report.

**From: Terry Vogt, Engineer/Planner – May 8, 2017**

The applicant received a bifurcated use variance approval to allow for the construction of a two-story office building with a catering facility in the basement, parking and amenities on the subject property under Resolution # 3971. The applicant is seeking preliminary and final major site plan approval for the construction of a 3 story office building with 2 simcha halls in the basement.

Adam Pfeffer represented applicant. Use variance approved for a 2 story office building with 148 parking spaces and a catering facility in the basement. Now asking for a 3 story building with 2 simcha facilities in the basement. These will be used for smaller catering events. Original application will be no larger than 6,000 square feet including the kitchen, it is now about 7,000 square feet. One kitchen will be utilized for the 2 rooms. Restriction that the downstairs facilities will not be used during the day. Until 5 P.M. the catering facility cannot be used. Taking out the common areas and the basement they have more than sufficient parking.

Mr. Dasti – This is a new use variance application

Brian Flannery, engineer/planner sworn. Now asking for 3 floors, 45 feet high (required 35 feet) with 148 parking spaces. 150 parking spaces would require a CAFRA permit. The ordinance required 231 parking spaces. The offices will be closed in the evening. Need new use variance for 3rd floor and 2 simcha halls. Each simcha space is about 3,000 square feet. The footprint of the building is 17,426 square feet for the building – the useable area is 15, 345 sf on the 2nd and 3rd floors. The first floor is less because of the lobby and unuseable space. Doesn’t make sense

for this to be in a OS zone. If the board votes no on this application than they can go back to the original approval.

Mr. Pfeffer - The square footage of the simcha halls is 6,000 for both. 3,000 square foot each.

Mr. Flannery - they will reduce the square footage of the building from 17,400 sf to 14,864 sf.

Will be making the building smaller. They can only add one more parking space to 149, at 150 they have to go to CAFRA. There are no neighbors that are impacted by this approval.

Mr. Gonzalez - This application is not what we approved.

Mr. Halberstam suggested that they leave the original approval.

Mr. Dasti - Withdraw the application with prejudice and come in with a new application.

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Mr. Pfeffer – Will withdraw application and their previous application stays.

Jesus Collazo, attorney for Church. Concerned about parking. Not concerned about the height of the building.

Motion to accept withdrawal – Mr. Gross

Second – Mr. Ribiat

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Ribiat, Mr. Ingber, Mr. Gross,

 Mr. Gonzalez, Mr. Halberstam

**Appeal # 4031 – Gerald Posen,** 45 Sunset Road, Block 76 Lot 17, R-12 zone. To construct a

 single family house with side yard setbacks requested for 4.36/10.70 where

 10/15 are required.

Secretary read report.

**From: Terry Vogt, Engineer/Planner – May 24, 2017**

The applicant is seeking approval to remove an existing two-story dwelling and appurtenances and construct a larger, two story single family dwelling and basement. New bulk variance relief is necessary for side yard setback (4.3 feet proposed, 10 feet required) and aggregate side yard setback (15 feet proposed – 25 feet required.

Brian Flannery, engineer/planner, sworn. Applicant wants to knock down the old house and build a new house that meets his needs. The existing side yard setback is 4.3 and applicant is

proposing to keep that setback. The other side would be 10.7 feet from the property line. He would like to build a 35 foot wide house. The existing house is 29 feet wide. The existing house is 1,700 square feet. Proposed house is 1,700 square feet per floor.

Mr. Halberstam - Make the house smaller and center it on the lot.

A-1 tax map

A-2 submitted plan

A-3 picture of property

Mr. Flannery – wants to demo existing house and construct a new house. Current house is 1,700 square feet. If he centers the house he will have 7.5 feet on each side. There will be one exterior basement entrance.

Mr. Halberstam –have a problem with the feet from the window wells.

Mr. Flannery – he could build 29 feet without a variance.

Gerald Posen, affirmed. He has neighbors here that want to keep him in the neighborhood. Would like to take the house down and spent a lot of money on plans for 35 feet wide house. Asking for a 35 foot wide house. Everybody said that a 35 foot wide house was not an issue. Will center the house. Have the funding and cannot afford to change the plans.

Mr. Halberstam 7 ½ feet on each side is not enough in the R-12 zone.

Open to Public.

Shloime Klein, affirmed. Asked if the garage is included in the lot coverage?

Mr. Flannery - yes

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Naftali Greenwald, 30 Sunset Road, affirmed. Across the street. In favor of this application. If this does not get approved he will move out. Do not want renters.

Naftali Gurwitz, 419 Central Avenue, affirmed. There is one backyard between his house and the proposed house. In favor of this application.

Mordechai David Siegfried, 405 Central Avenue, affirmed. Live in a house that was built in 1929. There is not enough room and space for his community to live. In favor of this application.

Closed to Public.

Mr. Flannery - applicant agreed to 8 ½ feet and 8 and ½ feet which would be a 33 foot wide house. The benefits outweigh the detriments. He already spent the money on plans for a 35 foot wide house.

Mr. Posen – 33 feet will allow him to build vs. not to build. To go down to 30 he will have to redo the entire plan.

Motion to approve 33 foot wide house with 8 ½ feet side setbacks – Mr. Gross

Second – Mr. Halvorsen

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

 Mr. Halberstam

**Appeal # 4029 – Congregation Maalos Hatorah,** Block 1159, Lots 31, 32, 33 & 48, Block

 1159.04 Lots 29 & 30, Gates Avenue, R-20 zone. To construct 12 duplex

 housing units and 1 single family.

Secretary read report.

**From: Terry Vogt, June 27, 2017**

This application was previously bifurcated and received use variance approval under resolution # 3900. The applicant is seeking use variance relief to construct a major subdivision on the 4.49 acre property. The applicant appeared before the Board on November 14, 2016 to propose 5 duplexes and 2 triplexes. The applicant was denied.

The current application is less intense that the initial application regarding the number of proposed units.

Mr. Gonzalez lives in this neighborhood but not within 200 feet –

Mr. Dasti – he does not have to recluse himself

Miriam Weinstein, attorney for applicant. This application received a use variance in 2015 for duplexes and triplexes. The board approved the use variance with the board making not any determination as for the number of units. Applicant came back for site plan approval for 5 duplexes and 2 triplexes and the board denied it. Applicant is now back with site plan approval for 12 duplex units. Denied the site plan but did not lose the use variance. Voting now on the site plan and the unit count.

Graham MacFarlane, engineer/planner, sworn. Here for site plan and subdivision for 6 duplexes – 12 units. No bulk relief requested. Used the standards for a duplex at 10,000 square feet per duplex. Reviewed Mr. Vogt’s letter. No triplexes proposed. Single family lot will comply to

R-20 zone. Asking for a waiver of curb and sidewalk along South Street. There will be no bedroom in the attic. Lot 4 will be storm water management. There is no HOA associated with this application.

Ms. Weinstein - Golders Green Road is a township public right of way

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Mr. Macfarlane – Lot 3 is a vacant lot with no development shown on it. He would like to put a single family house on the lot but it is not on the plan. The vacant lot is 10,000 square feet. The Board recommended 6 foot vinyl fences. The cul-de-sac is RSIS compliant.

A-2 plan submitted

Mr. Macfarlane – the adjoining property owner, there is an existing retaining wall – the neighbor is concerned about water run-off – they will extend her retaining wall, eliminate a portion of her retaining wall so the 2 lots will be at the same grade. It will benefit both properties. The water flow will be directed to the street into the detention basin. This will eliminate 2 retaining walls back to back.

Mr. Vogt - Without seeing the plans and the design he can’t tell if it will work.

Mr. Halberstam – they also have a traffic expert.

Motion to continue on July 24th – Mr. Gelley

Second – Mr. Ingber

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

 Mr. Halberstam

Resolutions

**Appeal # 3972 – Andrew Green,** 910 Woodland Drive, Block 12.04 Lot 99, Resolution to approve the construction of a 6 x 6 landing and steps in the rear yard setback.

Motion to approve – Mr. Gelley

All in favor.

**Appeal # 4023 – Elyon Capital,** 110 East Harvard Street, Block 227 Lot 3.01, R-10 zone. Resolution to approve side yard setback variance.

Motion to approve – Mr. Halvorsen

All in favor.

**Appeal # 4026 – Solomon Mikel**, New York Avenue, Block 224 Lots 10.01, 10.02, R-10 zone.

Resolution to approve the construction of 2 single family homes with side yard setback variances and lot coverage.

Motion to approve – Mr. Ingber

All in favor.

Motion to pay bills - Mr. Gross

All in favor.

Motion to adjourn

All in favor.

Meeting adjourned at 11:15 p.m.

Respectfully submitted,

Fran Siegel

Secretary