**ZONING BOARD OF ADJUSTMENT JUNE 20, 2016**

**MINUTES**

Meeting advertised in accordance with the NJ Sunshine Law.

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

Mr. Gonzalez, Mr. Halberstam

Absent: Mr. Lankry, Mr. Mund

Also attending: Jerry Dasti, attorney

Terry Vogt, engineer/planner

Jackie Wahler, Court Stenographer

Fran Siegel, Secretary

Salute to the Flag.

Motion to approve minutes of May 9, 2016 – Mr. Gelley

Second – Mr. Ingber

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

**Correspondence –**

Letter from Mr. Penzer requesting an adjournment for **Appeal # 3965, D & L Management** to the July 11th meeting.

Motion to carry – Mr. Halvorsen

Second – Mr. Gelley

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

Mr. Halberstam

No further notice and agreed to waive time.

Chairman announced that **Appeal # 3965, D & L Management** will be carried to the July 11th meeting.

Letter from Mr. Pfeffer requesting tocarry **Appeal # 3966, Newport Estates.**

Motion to carry until July 11th - Mr. Ingber

Second - Mr, Halvorsen

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

Mr. Gonzalez, Mr. Halberstam

Mr. Dasti **–** speaking with Miriam Weinsteinon an application that was approved 7 or 8years ago she was asking that **Appeal # 3585A** , a condition of the resolution was that there would be 1,740 square feet on the first floor and 1,718 on the second floor and also that the foundation be 30 inches off the ground be removed. The conditions of resolution were modified to allow 1,740 square feet also on the second floor and that the 30 inch condition be removed.

Motion to approve resolution - Mr. Gelley

Second – Mr. Gonzalez

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

**Appeal # 3840A** – **Finchley Holdings**, amended resolution to move a/c units from the rear to the side of the building and will have 5 foot clear and the trash cans will be in the rear.

Motion to approve- Mr. Gonzalez

Second – Mr. Gelley

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

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

to allow duplexes and an existing commercial warehouse to remain on site.

Chairman announced that he has one hour to present his case.

Sam Brown, attorney for applicant. This residential use would act as a buffer from the school and the other residential areas. This property is uniquely suited for this proposal.

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**MINUTES PAGE 2.**

Brian Flannery, Engineer/Planner, sworn. The application is for a 16.9 acre property. It has an existing warehouse on it.

A-1 sketch submitted with existing warehouse and possible layout for the duplexes

A-2 copy of tax map with zones.

Mr. Flannery – this is a less intense use than the permitted uses in the M-1 zone. This property is not in the CAFRA zone. The existing, warehouse will stay as a warehouse. Asking only for use. They will bring in sewer. Across the street from residential. The warehouse is a very quiet operation. Deliveries are in the back. There is an office in the front and there is no impact on the use. They will come back with subdivision and site plan. The school needs a transition. There was a letter from the school, Bnos Melech.

Secretary did not have a copy of the letter on file.

Mr. Gasiorowski did not have a copy of the letter.

Mr. Dasti recommended that the letter not be discussed now.

Mr. Brown – there will be a maximum of 56 doors.

Scott Kennel, traffic engineer, sworn. The intent is to do a trip generation for 56 doors. Basement apartments were considered. Other uses would generate more peak hour trips than the residential. They are also subject to Ocean County Planning Board approval.

Ron Gasiorowski, attorney for adjacent property owner – in opposition to this application.

O-1 aerial photo of site

O-2 copy of page 18 from Smart Growth Plan

Mr. Gasiorowski cross examined Mr. Flannery.

Mr. Gasiorowski cross examined Mr. Kennel.

Mr. Kennel – his client will comply with RSIS

Mr. Gelley – what is the use of the existing warehouse?

Mr. Flannery – It is a hotel supply company, parking lot in front of the building, deliveries in the rear of the building. 7.6 undeveloped acres would be duplexes only. The Smart Growth Plan specifically mentions that there is a need for housing. The applicant will be subdividing the lot if the duplexes are approved. The contract purchaser is purchasing the entire property including the warehouse.

Motion to continue on July 11th – Mr. Gelley

Second – Mr. Gonzalez

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

Mr. Gonzalez, Mr. Halberstam

No further notice and Mr. Brown agreed to waive time.

**Appeal # 3947 – Elad Gebus,** Oakland Street & Cherry Street, Block 189 Lots 128, 180 & 181

R-10 zone. 4 duplexes

**From: Terry Vogt, Engineer/Planner – February 23, 2016**

The applicant is requesting a use variance and preliminary and final major subdivision approval to construct a major subdivision including 8 duplex dwelling units. The applicant proposes to subdivide the existing lots into 8 separate zero lot line lots with a duplex proposed on each for a total of 8 dwelling units.

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Duplex development is permitted in the zone provided that a minimum lot size of 12,000 square feet and minimum lot width of 75 feet is provided. Zoning Board relief is required for the duplex lots since the lot area requested is 9,677 square feet to 9,859 square feet.

Adam Pfeffer, attorney for applicant. The street is an older street and duplex housing works in the area.

Brian Flannery, engineer/planner sworn.

A-1 Map submitted

A-2 tax map which show the subject property and the duplexes that are under construction

Mr. Flannery – this area is in the Master plan to be R-7.5 zone. The applicant will be bringing in sewer. Trash will be in the rear. There will be a 10 foot road widening easement and will provide curb and sidewalk. Will submit detailed architecturals and come back July 11th .

Motion to continue on July 11th – Mr. Gelley

Second – Mr. Halvorsen

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

Mr. Gonzalez, Mr. Halberstam

Recess.

Will hear both **Appeal #3949** and **Appeal # 3950** together but will have separate votes.

**Appeal # 3949 – Moshe Blech**, 135 Forest Drive, Block 12.01 Lot 8. To construct a single

Family home with variance requested for side yard setback; required 10 & 15 –

Proposed 10 & 5.

**From: Terry Vogt, Engineer/Planner**

Property is located in the single family R-12 zone. Single family dwellings are permitted in the zone. The applicant is requesting bulk variance relief for side yard setback 5 feet proposed – 10 feet is required. Aggregate side yard setback 15 feet proposed 25 feet required.

Brian Flannery, engineer/planner, sworn.

A-1 application submitted showing proposed house and the lot

A-2

A-3 map buy right application. They could build a 25 foot wide house with 30% lot coverage.

A-4

A-6 architectural plans for both houses.

Mr. Flannery - Applicant is asking for a 5 foot setback to the vacant lot next to it and a 10 foot setback to the adjoining lot. This is an existing lot with an area of 11,696 square feet where 12,000 square feet is required. There will be minor differences but both houses will be the same

35 foot wide house. The design is a 6 bedroom house. Asking for a C2 variance. There was an ordinance passed that allowed the construction of single family homes on an undersized lot. There is an approved sewer plan. There are 26 lots on Forest Avenue, 6 are vacant 3 are 50 foot wide. The door to the basement would be on the 10 foot side or the front or the rear of the house. It will not be on the 5 foot size. They could put 7 ½ on each side but they wanted to leave the 10 foot side to the neighbors. A 35 foot wide house would be ideal.

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Roberta Ann Burez, attorney representing objector, Linda Kelly. This is the 4th and 5th application before this board for these two pieces of property. The reason for self created hardship was denied even though the applicant was applying for a C2 variance. Asked if this was res judicata.

Mr. Dasti - This is not res judicata because the ordinance was changed by the Township Committee.

Ms. Burez - It applies except where the setbacks could not be honored. The history of the lot ownership has not changed. They fail to comply with the ordinance that says that they could build provided they meet all the setback requirements.

Mr. Dasti – the lots now are individually owned. Each lot could be buildable if they meet all the setbacks. This is not res judicata.

Linda Kelly, 60 Forest Drive, sworn. Her lot is next door and her lot is 100 feet wide.

O-1 & O-2 existing houses on Forest Drive

O-03 realtors card

O-4 Deed for lot 24

O-5 deed for lot 25

Ms. Kelly – her lot is 100 feet wide. This neighborhood is small homes on large lots. The largest house is about 2,700 square feet. In order to construct these 2 homes there would be a significant loss of woods. There are 3 lots that are 50 feet wide and there are 22 lots on the block.

The neighborhood is wooded. Most of these houses have a significant amount of trees with many birds, etc. She is 11 feet from that property line. Hers is a single family house and a big house will just shut out all the light. It is a narrow road at about 26 feet wide and does get narrower.

O-6 Tax Map

O-7 two photos

Ms. Kelly – there are 2 water hook-ups for each of these lots. There was one hook-up per lot and then they came back and put in the other hook-up. Since 1985 there have been one new house built on the block and it was a conforming lot.

Open to Public.

Eliezer Blech, 75 Adams Street, affirmed. Formerly lived at 45 Forest Drive and rent it out now. Looking for further development on the block.

Michael Manno, 52 Forest Drive, sworn. Lived there for over 20 years. He has moved in large amount of questionable renters.

Mr. Flannery – don’t need a septic because they will be bringing in sewer.

Mr. Manno – he checked with the water company and there have been no applications to bring in sewer. His house is about 15 feet from the property line.

Mr. Flannery – FWH Associates submitted an application NJ American for sewer down the street. The applicant will pursue this application if they approve a 35 foot wide house. There will be two houses there just the width of the house is not decided.

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**MINUTES PAGE 5.**

Johni Manno, 52 Forest Drive, sworn. There will be a lot more traffic there. The busses cannot get through. It will be a problem.

Ingred Kangur, 80 Forest Drive, sworn. Have the property with the pond. There are grey herons that nest there. Houses all kinds of birds and vegetation.

Ms. Burez asked if approved there should be conditions for height, basement apartment, etc.

Mr. Flannery – the property does slope to the back when a house is developed there will be storm water management put in. When the house is developed the driveway will slope to the street. They will put in drywells to direct the water from the roof. They will be putting in curb and sidewalk and widen the roadway. They offered 10 feet to the neighbor and will have 7 on the other side. The attic will have no access from the outside.

Mr. Gonzalez – would like to see 10 foot side setbacks.

Mr. Magno - Plot plan review – they check the run off.

Mr. Flannery – the applicant offered sanitary sewer condition only if there was a 35 foot wide house.

Motion to approve 10 foot side yard setbacks – Mr. Halvorsen

Second – Mr. Gonzalez

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

Nayes: Mr. Naftali, Mr. Ingber, Mr. Ribiat

**Appeal # 3950 – Yechezkal Eider,** Forest Drive, Block 12.01 Lot 24. To construct a single

family home with variance requested for side yard setback required 10 & 15 –

proposed 10 & 5.

**From: Terry Vogt, Engineer/Planner**

Property is located in the single family R-12 zone. Single family dwellings are permitted in the zone. The applicant is requesting bulk variance relief for side yard setback 5 feet proposed – 10 feet is required. Aggregate side yard setback 15 feet proposed 25 feet required.

Motion to approve 10 foot side yard setbacks – Mr. Gelley

Second – Mr. Gonzalez

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

Mr. Halberstam

Nayes: Mr. Naftali, Mr. Ribiat

**Appeal # 3955 – Obed Gonzalez,** Florence St. & Evergreen Blvd. Block 1093 Lot 10, B-5 zone.

Use variance to construct a duplex.

# **From: Terry Vogt, Engineer/Planner**

Property is located in the B-5 Highway development zone. Duplex residential housing is not a permitted use in the zone. Bulk variance relief is necessary for the project for B-5 zone bulk standards. The variance plan contains a bulk requirements table which also compares bulk standards for the R-10 zone where duplexes are permitted on 12,000 square foot lots.

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Brian Flannery, engineer/planner sworn. The application is for a duplex in the B-5 zone, Highway business zone. The property is on paper streets and there is wetlands all around it. The only logical use would be for residential based on the size of the lot a duplex makes sense.

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Duplexes are not a permitted use. This board has approved other duplexes in this zone because it is an only reasonable use of this property. The proposed lot is 12,500 square feet and they are asking for 1 duplex.

A-1 – duplex

A-2 tax map

Open to Public. Closed to Public.

# Motion to approve use variance for a duplex – Mr. Halvorsen

# Second – Mr. Gelley

# Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Naftali, Mr. Ingber,

# Mr. Halberstam

**Appeal # 3952 – Lakewood Investment, LLC**, James Street, Block 344 Lots 1.01 & 1.02.

R-12 zone. Use variance for duplex housing.

**From: Terry Vogt, Engineer/Planner - May 3, 2016**

The applicant is requesting a use variance and preliminary and final major subdivision approval to construct a major subdivision including 8 duplex lots and an open space lot. Duplexes are not permitted in the R-12 zone. These duplex lots were designed with the R-10B zoning requirements for two family housing units.

Adam Pfeffer, attorney for applicant. Asking for use only. Met with neighbors today and have rotated their plan to have all the duplexes fronting on James Street instead of the cul-de-sac. They would like to bifurcate the application and asking for the use.

William Stevens, Engineer/Planner sworn. Reviewed Mr. Vogts letter. This area was previously zoned R-10B which does allow duplex housing. The ordinance was overturned by a judge and this area now falls back to an R-12 where duplex housing is not permitted. They originally proposed a cul-de-sac with the duplexes coming off it. The adjacent neighbors did not want the four duplexes facing their entire back yard. James Street is a county Road and they will need County approvals.

A-1

Open to Public

Yitzchok Glatzer, 253 James Street, affirmed. The back of the houses would face their backyard.

There is 20 feet to the property line and that is without their deck. They will be in his backyard.

The Board members did not like the duplexes facing James Street.

Mr. Stevens suggested that the Boar just approve the use of duplexes and they will come back with a plan that would satisfy the Board and the neighbor.

Closed to Public

Use variance only no restrictions.

Motion to approve use for duplexes in the R-12 zone and will return for site plan. Mr. Gelley

Second – Mr. Ingber

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

Mr. Halberstam

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**MINUTES PAGE 7.**

Chairman announced that:

Appeal # 3958 – Success Homes

Appeal # 3961 – Tower Builders

Appeal # 3964 – Madison Holdings

Appeal # 3960 - Brookside

Appeal # 3970 – Success Homes

Appeal # 3874AA- Rishon

Appeal # 3967 – Cong. Maalos Hatorah

Appeal # 3968 – David Donner

Appeal # 3973 – Evelyn Vago

Will be carried to July 11th with a waiver of time and no further notice.

Motion to carry – Mr. Gelley

Second – Mr. Gonzalez

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

# Resolutions

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**Appeal #3936 - Mordechai Zafrani –** 464 Manetta Avenue, Block 236 Lot 12, R-10 zone.

Resolution to deny a use variance to construct a duplex on a 9,000 square foot lot where 12,000 is required.

Motion to approve- Mr. Ingber

Second – Mr. Gonzalez

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

**Appeal # 3962 - David Donner**, 825 East End Avenue, Block 208 Lot 175, R-10 zone. Resolution to approve the construction of a duplex. Side yard setback variance approved for 7 ½ feet where 10 feet is required.

Motion to approve - Mr. Ingber

Second – Mr. Gonzalez

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

**Appeal # 3963 – Mordechai Eichorn,** 85 Williams Street, Block 420.01 Lot 28, R-7.5 and

Hospital Support Zone. Resolution to approve a subdivision to construct 2 single family homes.

Motion to approve- Mr. Gonzalez

Second – Mr. Gelley

Roll calI vote: affirmative: Mr. Gelley, Mr. Ingber, Mr. Gonzalez

Motion to pay bills.

All in favor.

Respectfully submitted,

Fran Siegel, Secretary