

I. CERTIFICATION OF COMPLIANCE

Chairman Banas called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt 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. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: *The Asbury Park Press, and The Tri-Town News* at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Herzl, Mr. Franklin, Committeeman Miller, Mr. Fink, Mr. Neiman, Mrs. Koutsouris, Mr. Akerman, Mr. Banas, Mr. Schmuckler

Mr. Neiman said before the swearing in of the professional, there was a nomination for a vice chairman since Mr. Banas declined and resigned from that position and wants to be just a regular member.

Mr. Akerman made a motion to nominate Carl Fink for vice chairman and was seconded by Mr. Schmuckler

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Banas; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes,

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

Mr. Kielt said there was one change to the agenda. #11- SD 1567A S&H Bldrs. was tabled at the request of the applicant's attorney to the meeting of February 17, 2009.

Motion made by Mrs. Koutsouris, seconded by MR. Fink, to table to February 17, 2009

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

4. NEW BUSINESS

1. SP # 1899 (Variance Requested)
Applicant: Yeshiva Yesodei Hatorah
Location: South Pershing Avenue and Towers Street
Block 806 Lots 1 & 8
Block 821 Lot 5
Block 822 Lot 4

Preliminary and Final Major Site Plan for proposed school, dormitory & faculty housing and subdivision into 15 townhouse units

Mr. Vogt said there are a number of jobs that have past review and what the board has for the applications tonight are the combination of the 2 letters into one. The newer applications will show a whole different format, one letter, with one body of comments by category.

Mr. Vogt prepared a letter dated January 14, 2009 and it is entered in its entirety. The applicant seeks Preliminary and Final Major Subdivision and Major Site Plan Approval to consolidate four (4) lots, (Block 806, Lots 1 & 8; Block 821, Lot 5; and Block 822, Lot 4), and to vacate two (2) segments of right-of-way, 850 linear feet of South Pershing Avenue and 375 linear feet of Towers Street, in order to create fifteen (1) new lots. New Lot 8.01 is proposed with a lot area of 158,666 square feet (3.64 acres) in area, and is proposed to contain a two-story school with basement, two (2) two-story dormitories with basements, stormwater management basin, a private road, associated parking, and buffer areas surrounding proposed townhouse lots for school faculty. New Lots 8.02 through 8.15 are proposed as fourteen (14) fee simple townhouse lots that will range in size from 2,340 square feet (0.05 acres) in area to 4,011 square feet (0.09 acres) in area. The lots are proposed as landlocked lots surrounded by the school lot, Lot 8.01. Access to the townhouse lots is proposed to take access from a private road extending from the proposed school. Access to the school is proposed from Bellinger Street, which is currently unimproved, but will be improved as part of this application for a length of approximately 975 linear feet. The subject parcel is 196,875 square feet in area (4.52 acres), is wooded, and is bordered by three (3) recently approved sites. North and east of the parcel is wooded; to the south of the site are tracts of the recently approved Bais Tova School for girls and recently approved Bais Bnos Rivka; and to the west is the tract approved for the NJ Hand Affordable housing project. The site is in the R-40/20 Cluster Zone District. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated December 1, 2008) Zoning Our office has been in contact with the applicant's attorney regarding the below zoning items listed in the T&M planning letter dated December 1, 2008. It is our understanding that the below stated issues have either already been addressed at the December 2nd, 2008 Plan Review Meeting, or will serve as a basis for testimony at the upcoming Public Hearing. We request that the applicant's attorney provide summary testimony addressing these issues at the Public Hearing. The parcel is located in the R-40/20 Cluster Zone District. Schools are a permitted use in the zone in accordance with Section 18-906 of the ordinance. The dormitories are necessary structures. Per Section 18-902B 1 d, the proposed townhouse use is only permitted if it is a Planned Affordable Residential Development in the R-40/20 Cluster Zone District and in accordance with bulk standards and requirements of paragraph 18-902B.7. The applicant should

verify that the proposed townhouses are a Planned Affordable Residential Development in accordance with the requirements of paragraph 18-902B.7. If not, then it appears a “d (l)” variance would be required for the townhouses. Therefore, we defer to the Zoning Officer and Board Attorney regarding jurisdiction. Per Section 18-902B7b a planned affordable residential development may only be developed on one or more contiguous parcels of land having a minimum gross acreage of four (4) acres. Paper streets, existing rights-of-way or easements shall not be deemed to divide acreage. The initial development tract at the time of approval shall contain a minimum of fifty percent (50%) publicly-owned land. Subsequent additions of contiguous acreage may be made in any acreage amount without regard to public ownership requirements provided such acreage is integrated within the overall design of the initially approved planned development. The Planned Affordable Residential portion of the site (the townhouse lots) totals 0.86 acres, and does not contain 50% publicly-owned land. Therefore, the tract size does not appear to meet Ordinance requirements if this is the only Planned Affordable portion of the development, and this development could not be developed under these provisions. However, if the private school facility is related to the needs of the residents of the development, then it can be included as a permitted use under Planned Affordable Residential Development, per the permitted uses listed in 18-902B7c. The applicant should testify regarding same. If the entire tract qualifies as Planned Affordable Residential Development, then the tract size would meet the four (4) acre requirement, however a minimum of fifty percent (50%) of the acreage would then have to be made publicly-owned land. The plan should be revised accordingly. Per Section 18-902.B.6. of the Ordinance, there is a Cluster Development option for single-family detached dwellings in those areas designated as R-40/20 Cluster Zone District and as provided in Section 18-904. The standards for cluster development shall be in accordance with R-20 Design Regulations. However, the applicant does not propose single family detached dwellings. Therefore, the Cluster Development standards cannot be applied to this application. The applicant should remove all bulk standards for cluster development from the plan. The townhouses will be reviewed under the requirements for Planned Affordable Residential Development identified in Section 18-902.B.7 of the Ordinance. The following variances are required for proposed Lot 8.01: Buffers - Section 18-906A2 requires a minimum buffer of 20 feet to a residential use or zone. The plans should be revised to provide a 20 foot buffer along Wilson Avenue, and abutting the townhouse lots, otherwise a “c” variance is required. Location of Parking - Section 18-906B states that parking is not permitted in any required buffer. The plans indicate parking on Lot 8.01 within 20 feet of the townhouse lots. The parking should be relocated outside of the required buffer or a “C” variance is required. Parking - Section 18-906C requires one (1) parking space for each classroom, tutor room, library, meeting room, and office. The applicant should confirm the number of such rooms proposed in the school. Based on the architectural drawings, we estimate the following rooms relative to parking: Shiur Room, 1,017 square feet; the applicant should clarify if this room classifies as a classroom, tutor room, library, meeting room, or office. The applicant’s parking calculation appears to calculate this as one (1) meeting room. Bais Medrash, 3,277.1 square feet; the applicant should clarify if this room classifies as a classroom, tutor room, library, meeting room, or office. The applicant’s parking calculation appears to calculate this as two (2) classrooms; Three (3) offices as labeled on architectural plan. One (1) staff room, one (1) on the first floor, which will count as a meeting room. Six (6) classrooms as labeled on architectural plan. Therefore, this totals thirteen (13) rooms, resulting in a requirement of 13 parking spaces. The plans provide 61 parking spaces on Lot 8.01, which exceeds Ordinance requirements. However, the applicant should testify regarding the age of the students, and whether students living at the dormitories will be permitted to have a car on campus. The applicant proposes two (2) dormitories that consist of a

total of 58 dorm rooms, and each room appears to be able to accommodate two students, which would result in a total of 116 students living on campus. The applicant should clarify if the dorm rooms are all double occupancy and clarify the number of students living on campus. The plans apply a parking requirement of 0.5 parking stalls per dorm room, which results in a requirement of 29 parking stalls. Once additional information is provided, the Board can review whether this estimate is reasonable. The following variances are required for proposed Lots 8.02 through 8.15 if the tract qualifies as a Planned Affordable Residential Development per 18-902B7: Minimum Tract Area - A minimum tract area four (4) acres is required. The townhouse lots totals 0.86 acres; however, the entire tract totals 4.52 acres. Therefore, as stated in comment A3 above, the entire tract must be included to qualify as a Planned Affordable Residential Development. Residential Unit Distribution – At a minimum two (2) permitted housing types shall be provided, where only one (1) housing type, townhouses, are provided. Therefore, a “C” variance is required. Based on the bulk requirements for townhouses on fee simple lots in Planned Affordable Residential Development per 18-902B7, a minimum side yard of 0 feet for common wall and 10 feet for end units is required, where end units on lots 8.02 and 8.09 provide approximately 4 feet and 7.5 feet to the proposed lot lines, respectively. This should be revised or “C” variances are required. The applicant can avoid this variance by eliminating Lot 8.01 encompassing the townhouse lots. Lot to Abut Street - MLUL 40:55d-35 requires that all lots abut an improved right-of-way, whereas, Lots 8.02 and 8.15 are landlocked and do not abut an improved right-of-way. The lots abut a private street. Therefore, a planning variance is required. Minimum Parking Requirements per Section 18-902B7g(4) shall be per RSIS; however, for townhouses containing four bedrooms or more, the parking shall be 2.5 per townhouse unit. The applicant proposes five bedrooms in each townhouse: The applicant provides two (2) spaces per unit. Therefore, a variance is required. The applicant should testify regarding whether the school lot is available to accommodate overflow parking for the townhouse units. Recreational facilities - Facilities to serve the recreational needs of the residents of the planned development shall be appropriately sized to the scale and type of the development. A minimum recreational open space area equal to five percent (5%) of the tract area of a planned development shall be provided. Common open space areas shall conform to the requirements for such open space, except as modified herein, as contained in Section 18-808. Currently, the plan does not provide recreational facilities or common open space areas. The plan should be revised or a “C” ordinance is required. The positive and negative criteria for the requested variances should be addressed. Review Comments. Per Section 18-902.B7h, entitled “Planned Development Findings”, prior to the approval of a planned affordable residential development, the Planning Board shall make findings and conclusions as required under N.J.S.A.40:55D-45: That departures by the proposed development from zoning regulations otherwise applicable to the subject property conforms to the zoning ordinance standards pursuant to this article. That the proposals for maintenance and conservation of the common open space are adequate in the amount, location and purpose. The applicant should testify regarding the same, currently recreational and open space areas pursuant to Section 18-808 are not identified on the plan. That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment are adequate. The applicant should testify regarding same. In the case of a proposed development, which contemplates construction over a period of years that the terms and conditions intended to protect the interests of the public and the residents, occupants and owners of the proposed development in the total completion of the development are adequate. The applicant should identify the timing for construction of the development. Testimony should be provided in support of the above referenced items. The

applicant should clarify the nature of the proposed townhouses relative to the school. The applicant should clarify how the uses are linked. The Environmental Impact Statement indicates that the townhouses are for the faculty of the school. Testimony should be provided concerning the number of classes and faculty size. The applicant should clarify how ownership of these affordable units will be restricted. Testimony should be provided. The configuration of Lot 8.01 relative to the townhouse lots should be revised. Currently, Lot 8.01 encompasses the townhouse lots. The Lots should be reconfigured to avoid this configuration. The applicant should provide testimony to justify the requested lot configuration. The proposed layout results in Lots 8.02 through 8.15 being landlocked. The applicant should testify regarding whether this configuration is in accordance with good planning principals. Given the proposed layout, an access easement and a utility easement are required on Lot 8.01 for all the fee simple townhouse lots. We defer to the Board Attorney for further comment. An access and utility easement should be added to the final plat. Section 18-906E, relative to schools, states that bus loading and unloading areas shall be situated in a manner so that children do not cross any traffic lane or parking areas whatsoever. The applicant should clarify if any students will be bused. If so, the loading and unloading areas should be depicted on the plans. Testimony shall be provided on whether any busing of students will occur. Section 18-807C9 states that where a residential subdivision is designed so as to not permit on-street parking in accordance with RSIS, then the developer shall post "No Parking" signs through the development. The plan should be revised to indicate the locations of said signage. The locations of the signage shall be added to the plans. The applicant should clarify if refuse collection and snow plow activities for the two private roads and proposed townhouses, school, and dormitories will be by private hauler. The applicant should clarify if these services will be shared among all uses, or will be separate. Testimony shall be provided regarding proposed refuse collection and snow plowing. Each townhouse lot has two proposed driveways to accommodate parking. The applicant should testify regarding the proposed number of curb-cuts. Additionally, many of the units provide less than 18 feet to the right-of-way, from the front of the townhouse. This may result in car overhang blocking the sidewalk. The applicant should discuss safe circulation from the townhouse to the school. The revised plans reduce the number of driveways and add a parking lot. If feasible, we recommend the townhouse units be moved back 1 (one) foot to allow the driveway spaces to fit entirely within the townhouse lots. The architectural plans indicate two doors on the front of each townhouse. The one door leads only to the basement. A second basement access is proposed at the rear of each dwelling. The applicant should justify the need for the basement access along the front of each dwelling. Testimony should be provided. The applicant should testify regarding whether the large wooded area toward the rear of the proposed Lot 8.01 could be used for recreational areas. Testimony should be provided. Based on the total average daily traffic, RSIS classifies the street type, and identifies widths and whether sidewalk is required. The applicant should discuss the class of Bellinger Street. Testimony should be provided. The applicant proposes to improve Bellinger Street for approximately 975 linear feet to provide access to the property. The Board should determine if sidewalks should be provided along the roadway and property frontage. Sidewalks have been added along the property frontage. The applicant proposes decorative lighting throughout the tract. The applicant should identify the entity responsible for maintenance. It should be noted that due to the number of curb-cuts in the townhouse portion of the development, the proposed fixtures are in close vicinity to curb-cuts for drives as indicated on sheet 8 of the plans. Our office assumes the lighting will be owned and maintained by the property owner. Confirming testimony should be provided. Light fixture foundations shall be Class B concrete since Class C is no longer used. Additional lighting appears to be necessary in the townhouse area. The

applicant should shield the lights from the townhouse units. Plan revisions are still required to shield the lights. The plan should be revised to provide street lighting for the 975 linear feet of improved Bellinger Street. Testimony should be provided regarding the proposed lighting of Bellinger Street. The applicant must obtain approval from the governing body to vacate 850 linear feet of South Pershing Avenue and 375 linear feet of Towers Street. Fact – this must be a condition of approval. The limits of tree clearing are identified on sheet 4 of the plans. The Board should determine if additional information relative to the number of trees to be removed is required. Testimony should be provided. The requirements for townhouse requirements per 18-1010 should be removed from the plans since this is only for zones where townhouses are a permitted Conditional Use. Townhouses are not a permitted Conditional use in the R-40 Zone. Testimony should be provided. The plans indicate a dirt trail leading to the townhouse sidewalk. The applicant should clarify where the trails leads. Since this trail appears to align with the right-of-way, the applicant should confirm that it is not used for vehicular traffic. If so, then the trail should be eliminated to the sidewalk. The plans have been revised. The Board should determine if a shade tree easement and shade trees should be provided. Testimony should be provided. The Fire Official should review the plan relative to emergency access. Fact – Fire Official's review should be provided. The Environmental Impact Statement (EIS) identifies the school as a conditional use in the zone. This is incorrect. The school is a permitted use. The E.I.S. should be revised accordingly. A revised EIS must be submitted. The Tree Protection Plan is subject to review of the Shade Tree and Environmental Commissions. Fact – Shade Tree and Environmental Commissions reviews shall be provided. The Lot numbers on the plan should be consistent with the lot numbers assigned by the Township Tax Assessor. Fact – proof of lot number assignments shall be submitted. Compliance with the Map Filing Law is required. Fact – no further information is necessary prior to perfecting the subdivision. Agency Approvals. The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; Sewer and water utilities; Soil Conservation District; NJDEP for water and sewer extensions; and, Any other required Outside Agency approvals. Fact – testimony should be provided on the status of regulatory approvals. Engineering Review Comments (T&M letter dated December 1, 2008) General. The consolidation of the existing lots and vacated right-of-ways should be made a condition of approval. Evidence of the vacation of the rights-of-way shall be provided. Fact – evidence of the vacation of the right-of-ways shall be provided. The applicant has provided a Tree Protection Management Plan and indicated with a note on the plans that no specimen trees were located within the project area. The applicant should confirm this in testimony to the board. Testimony shall be provided. Outside agency approvals from Ocean County Planning Board, Ocean County Soil Conservation District, and NJDEP for Treatment Works Approval (TWA) will be required. Evidence of the approvals will be made conditions of Planning Board Approval. Testimony shall be provided on the status of regulatory approvals. The proposed school and townhouses will be served by public water and sewer. Fact – no additional information is necessary. The applicant has provided 61 parking spaces, including three (3) handicapped parking spaces, along site access Road "A", which conforms to the Ordinance requirements for the school. The applicant should provide testimony regarding whether all of these proposed spaces are for the school and dorms or if some of these spaces are for the proposed townhouses. The number of parking spaces has been increased on the revised plans ninety-three (93) spaces are proposed per the site plan. However, there is conflicting information on how many spaces are required and the number of spaces provided. This must be clarified and coordinated among the various plan sheets. It appears that the applicant has provided at least one and possibly two off-street parking spaces for the proposed townhouses, approximately 22 parking spaces but upon further inspection, most of the off-

street parking is undersized. The applicant has provided six (6) off-street parking spaces that conform to the size requirements set forth in the Ordinance and the Residential Site Improvement Standards (RSIS). According to the RSIS, the applicant should be providing 2.4 off-street parking spaces per unit, for a total of 34 required parking spaces. And with each unit having a separate basement entrance, the board should determine how many parking spaces should be required for the proposed townhouse development. It appears the revised plans address the parking issues. However, testimony shall be provided regarding the latest plans. The applicant has provided a trash enclosure for the proposed school and for the proposed townhouse area, but the trash enclosure for the townhouse area has poor accessibility for refuse collection vehicles. The applicant should relocate this area south of the proposed townhouses. It is our understanding that the applicant's engineer has met with the director of Public Works. The revised plans reflect curbside pickup for the townhouses and dormitories. A trash and recycling storage area has also been provided behind the dormitory buildings. The applicant shall provide testimony on if there is an identification sign proposed on site. Testimony shall be provided regarding a site identification sign (if proposed). The applicant should provide the Homeowner's Association (H.O.A.) documents for the townhouse portion of the development to the Board's Professionals for review. Fact – documentation should be provided. The applicant should revise the plans to label Road "A" as a private road. The plans have been revised. Plan Review. It appears that the applicant is not providing new concrete sidewalk along the site's frontage to Bellinger Street, but is providing new concrete curb and sidewalk throughout the site and along proposed unnamed site access Road "A". The applicant is also providing curbing and paving along Bellinger Street from Funston Avenue to Road "A". The plans now include sidewalk along the site's frontage. Handicapped parking signs should be shown on the site plan. Handicapped parking signs have been added. However, no van accessible signs or spaces are included. At least one space is required. A proposed handicap ramp entrance is shown on the plans at the back of each of the proposed dormitories. The applicant should provide a detail of these proposed entrances to show that they are in conformance with the ADA standards. The site plans and architectural plans require coordination such as elevations and locations of landings. The applicant should provide testimony regarding whether a site identification sign is to be installed along the site's frontage to Bellinger Street. Testimony shall be provided on a site identification sign. The applicant should revise the plans to provide a cul-de-sac or other means of turnaround for emergency vehicles, which conforms to RSIS standards. It is our understanding that the applicant's engineer has met with John Franklin on the turnaround matter. Testimony shall be provided on the latest proposal shown on the plans. The applicant has provided a 40-foot right-of-way corresponding to Road "A" adjacent to the townhouses, which does not conform to RSIS standards. The applicant should address this discrepancy. Testimony is required on the private road width. The applicant should provide a "NO OUTLET" sign at the intersection of Bellinger Street and Road "A" and a detail of the sign on the plans. The "NO OUTLET" sign has been provided on the revised plans. Details of all signage must still be provided. The plans show a proposed pump station to be constructed "by others" situated on adjacent Lot 1, Block 805 that the site's sanitary system will be tied into. The completion of all off-site utility work should be a condition of approval. Fact – off-site utility work is required for the construction of this project. On the Grading Plan, there appears to be a low spot elevation (86.20) adjacent to the northwest corner of the western dormitory. The applicant should address this issue. The grading has been corrected on the revised plans. It appears that the basement floors for the proposed school and dormitories is within two (2) feet of the seasonal high water table (SHWT) of the two closest soil boring locations. The applicant should address this discrepancy. The

applicant shall provide testimony on the seasonal high water table matter. There are missing contours in the site's frontage to Bellinger Street. The applicant should address this issue. The revised plans have accounted for the previously missing contours. The applicant should revise the Stormwater Drainage Plan to include any and all proposed roof drains, cleanouts and other stormwater collection and conveyance piping and how it connects into the system already shown on the plans. It appears the revised plans properly connect all proposed roof drains to the storm water collection system using 6" conveyance piping with the appropriate cleanouts. The applicant should revise the Stormwater Drainage Plan to match pipe crown elevations. Testimony should be provided on the drainage pipe elevations. The applicant should revise the Stormwater Management Plan to include labels for the systems' pipe inverts. The structures with multiple pipe inverts must be better clarified. There appear to be pipe crossing conflicts with respect to the proposed water main and the proposed sanitary sewer main with the proposed infiltration trenches that cross Road "A". The applicant should address these issues. It appears the pipe crossing conflicts have been corrected on the revised plans. Our office recommends adding the water main to the profiles to help determine where to loop under other utilities. The applicant should provide a drop manhole for proposed sanitary manhole #5. The drop manhole has been provided on the revised plans. The applicant should relocate several street trees away from the proposed infiltration trench. It appears the street trees have been relocated away from the proposed infiltration trenches on the revised plans. The applicant should include the location of all service laterals on the Landscape Plan to assure there are no conflicts with any of the proposed street trees. The service laterals have been added on the revised Landscape Plan to assure there are no conflicts with proposed street trees. However, there appear to be conflicts with the proposed roof drain conveyance system. The applicant should revise the Lighting Plan to reduce the amount of light spilling onto the adjacent lot to acceptable levels, per the Ordinance. Testimony must be provided regarding light spillage onto the adjacent lot. The applicant should revise the Lighting Plan to provide adequate lighting at the intersection of Bellinger Street and Road "A". It appears the Lighting Plan has been adequately revised. Testimony shall be provided. The applicant should revise the Lighting Plan to include additional lighting between Road "B" and the southern face of the proposed school. It appears the Lighting Plan has been adequately revised. Testimony shall be provided. The applicant should provide lighting along the entire length of Bellinger Street to be improved. Lighting has not been provided along Bellinger Street. Testimony is required. On the Profile plan, the information for the pipe run between Storm MH #1 and Inlet #1 is not included, and some information does not match the information shown on the Stormwater Management Plan. The applicant should address these discrepancies. It appears the profile information and discrepancies have been corrected on the revised plans. On the Bellinger Street Plan and Profile plan, the proposed pipe run between inlets #B-4 and #B-3 is reverse pitched. The applicant should address this discrepancy. It appears the reverse pitch has been corrected on the revised plans. The applicant is providing infiltration trenches within the right-of-way of Bellinger Street. The applicant should include a note on the plans outlining ownership and maintenance responsibilities for this proposed system. The revised plans note that the Township of Lakewood will be responsible for ownership and maintenance of the proposed drainage system. The proposed infiltration system in Bellinger Street ties into the existing stormwater system for the adjacent Bais Tova School for Girls. The applicant should provide evidence of approval from the adjacent property owner regarding this connection. Fact – evidence of acceptance of the drainage connection is required. The applicant should include the appropriate sight triangle easements at the intersection of Road "A" and Bellinger Street. The sight triangle easement has been added, but must be included on the final plat. Stormwater

Report Review. A revised Stormwater Report has not yet been submitted. We have discussed the status of the revised report with the Applicant's Engineer and it is our understanding a report will be submitted to comply with the following review comments: The applicant should provide additional spot elevations and contour lines along the site's western property line to assure that any stormwater runoff flowing in that direction is captured by the proposed system as it is shown on the Post Developed Drainage Area Map or revise the plan and calculations accordingly. In Section I-Project Description, the lot on Block 821 is incorrectly identified, and there is no mention of the proposed townhouses. The applicant should address these issues. In Section II-Existing Hydrology & Soils, the applicant indicates that the existing topography slopes from south to north, but the plans show that the site slopes from north to south. The applicant should address this discrepancy. In Section II-Existing Hydrology & Soils, the applicant indicates that the site soils are DoB - Downer loamy sand, but Figure #3, Soils Map shows site soils to be DoA. The applicant should address this discrepancy. In Section V-Stormwater Management Plan, the applicant should revise the report to indicate that project certification is required from Ocean County Soil Conservation District, not Freehold Soil Conservation District. The applicant should revise the Existing Conditions calculations to use "Woods" for the ground cover. This revision should be made for all three storm intensities. In the Existing Conditions calculations, the slope used for the Sheet Flow length does not match what is shown on the plans. The applicant should address this discrepancy. This revision should be made for all three storm intensities. In the Proposed Conditions calculations, the applicant should compute the runoff volumes for the impervious and pervious coverages separately, per the requirements in the New Jersey Stormwater Best Management Practices (NJBMP) Manual. This revision should be made for all drainage areas and all three storm intensities. In the Proposed Conditions calculations, the slopes used for Time of Concentration calculations (Tc) for Drainage Area #1 do not match what is shown on the plans. This revision should be made for all three storm intensities. The applicant should provide Infiltration Trench sizing calculations to the Board Professionals for review. It does not appear that any infiltration testing was performed on-site. In-situ permeability testing is required under all proposed infiltration areas. A safety factor of two shall be applied to the test results when incorporated into the calculations. Per NJ BMP manual, stormwater runoff from parking areas shall be pre-treated prior to discharge to an underground stormwater recharge system. The applicant shall address this requirement. The applicant shall provide Groundwater Recharge calculations in accordance with NJBMP Manual requirements to the Board Professionals for review. The applicant shall provide Total Suspended Solids (TSS) Removal calculations in accordance with NJBMP Manual requirements to the Board Professionals for review. The applicant should submit a Stormwater Maintenance Plan, which is required, to outline the maintenance requirements and it should also identify who is the party responsible for carrying out the maintenance. Environmental Impact Statement Review A revised Environmental Impact Statement has not yet been submitted. We have discussed the status of the revised report with the Applicant's Engineer and it is our understanding a report will be submitted to comply with the following review comments: As indicated on the plans, site grading is proposed. However, the report does not indicate whether soils will be imported from an off site source. The applicant should state whether fill will be imported to the site. If fill is to be imported, we recommend that the applicant perform analytical testing, in accordance with N.J.A.C. 7:26E-6.4(b)2.iii through iv, N.J.A.C. 7:26E-6.4(b)3, (d) and (e), on the fill at a frequency suitable to demonstrate that contaminants are not present within the fill soil at concentrations above the relevant NJDEP Soil Cleanup Criteria. The proposed stormwater management basin will probably receive nutrients and fertilizers from the storm water runoff. The applicant should provide a Maintenance and

Cleaning Plan for the proposed basin that takes these concerns into account. (Section 18-820B.3a.7) The NJDEP GIS mapping indicates northern pine snake, coopers hawk, red headed woodpecker, and barred owl were sighted in the area. We recommend that the applicant provide additional information as to the suitability of habitat and the existence of these species at the site and adjacent area. (Section 18-820B.3b.2) We recommend that the applicant consult the NJDEP Natural Heritage Program database to determine whether other species or suitable habitat for these species exist at the site. A copy of the database findings should be presented to the Township and Board. (Section 18-820B.3b.2) Construction Detail Review The applicant should revise the Allan Block Typical Section detail to include the post and rail fence to be installed at the top of the wall. The detail must be further revised to show the fence directly behind the wall, not on the wall. The final design of the wall must be provided prior to obtaining any construction permits. The handicapped parking sign should be shown at a larger scale to verify that all of the provided text is correct. The signage is adequate on the revised plans. The plans shall be amended to include handicapped ramp details from sheet 37 of the 2001 NJDOT Standard Details to account for the multiple types of ramps on the project with truncated domes. The Stop Sign detail should be revised to include the reflectorized strip that should be installed the length of the post. The reflective strip has been provided on the revised plans. The Parking Stall paving detail should be removed so that all paving provided on-site uses the paving course thicknesses shown in the Road & Drive Aisle paving detail. Testimony shall be provided since the revision has not been made. The applicant should include a gate detail with the Refuse Area Board on Board Fence detail. The gate detail provided lacks hinges and closing mechanisms. The applicant should revise the Construction Details plans to include a Sanitary Manhole detail and a Sanitary Drop Manhole detail. The revised sewer and water details provided must be reviewed and approved by the appropriate servicing Utility. All inlet details should be revised to provide bicycle-safe grates. Reference to frame and grate # 2548 shall be removed, in this manner all grates listed will be bicycle-safe in nature. Concrete classes "C and D" on any details shall be corrected to "B and S" respectively, the current standards. Sand is not an acceptable safety surface for the playground area. Our office recommends the applicant coordinate providing the proper safety surface details with "Game Time" since they will be providing the playground equipment. In addition, playground accessibility must be addressed along with any associated details. Map Filing Law. In general, it appears most of the following Map Filing Law comments must still be addressed, which can be accomplished prior to perfecting the subdivision: Provide coordinates for a minimum of three outbound corners. Provide the correct surveyor's certification. Show and set the outbound corner markers prior to signature of the final plat, only interior monuments may be bonded. Remove the Clerk's monument certification unless monuments are proposed to be set within the subdivision. If monuments are proposed to be set within the subdivision, provide the correct certification. Show the bounding Lot and Block numbers on the north side of the property. Provide complete curve data for the curved eastern property line of Lot 8.03. Verify the right-of-way width of South Pershing Avenue, shown as 50' wide on the plan. Correct the Township Clerk's certification to indicate that all roadways are approved by the municipal body, not the Planning Board as shown. Provide dimensions of the Proposed Stormwater Management Area and indicate the entity that will be the responsible party. Provide streets approval certification by Township Clerk.

Mr. Penzer Esq. appeared on behalf of the applicant and said he had the minutes which he provided to the planning board engineer. The summation of those minutes are that the legal issues were that one part of the property was bought as part of a school parcel and the second

part was bought by Mr. Krupnick and the part where the school is will have no townhouses. This application has a school and has a 58 room dormitory and 15 townhouses. The 15 townhouses are adjoining and are restricted to alumni, faculty and anyone associated with the school. The concerns of the board were the garbage collection and the organizing of the road.

Mr. MacFarlane was sworn in and stated he met with Mr. Franklin and they have revised the plans to include collection for each component of the project and includes dumpsters to service the school, a trash can and recycling storage area to service the 2 dormitories and the center of the site will allow storage of trash cans and recyclable cans in a fenced in area. The trash cans and recyclable cans will be put out to a concrete pad on the private access road which will be picked up by the township vehicles. They have added a hammerhead turnaround for the residential portion of the project and there are a series on concrete pads provided between the curbs and sidewalk to allow for storage of the cans on trash day. Mr. Franklin asked how deep the hammerhead was and Mr. MacFarlane stated it is 15 ft. deep on each side and 14 ft. wide and Mr. Franklin said he needed it a little deeper because his trucks are over 30 ft. long and he has to get the whole nose in straight before he can back up to the other side. Mr. MacFarlane said he is hesitant to get closer to the units but if that what the dimension he requires, he will provide it. Mr. Vogt asked if there was a template available for the Township truck, because that is the easiest way to do it and Mr. MacFarlane said he could put a template for a trash truck on there.

Mr. Penzer said the other issue he is stating for the record is there are no buses because the boys leave once every 4-5 weeks; they are there 24 hours a day on site and the purpose of the dormitory is to keep the kids there and the houses are there to interact with the members of the school and in ancillary to the school. The townhouses are not on the school property. He also stated that because it is a campus they will be stating to everyone that they will be selling a townhouse to it is their responsibility to maintain the road; it is not going to be on the Township because they want to maintain the campus.

Mr. Neiman asked if it will be a private road and Mr. Penzer said yes it is and not a right of way. Mr. Neiman said as the Planning Board they are trying to shy away from private roads and Mr. Penzer said that is why this is a campus. Mr. Neiman said they were also trying to shy away from hammerheads but because this is a campus, it would explain things for the board. Mr. Neiman asked if there was going to be parking in the street in the area of the townhouses and

Mr. MacFarlane said yes, the way the site is layed out each townhouse will have either a single or a double driveway to provide parking along will leaving some green space in front of the units. Also on Row "C" there is a separate parking area that was added to the plans for additional parking and they have 93 spaces provided on the site and said they exceed the required amount of 84. Mr. Penzer said they do not want the students driving and if they are caught driving or have a car, they will be suspended. Mr. Neiman asked about basements and Mr. MacFarlane said the townhouses will have basements with access through bilco doors in the rear. Mr. MacFarlane said they have also added the tot lot / recreation area to the plans.

Mr. Vogt went to the review letter and asked about the layout of the driveways to the townhouses and it appears there is an encroachment in the front. He said if they shifted them back 1 foot it takes that issue away and Mr. MacFarlane said he would rather not adjust the Site Plan unless he felt strongly that is was an issue and Mr. Vogt said he is interpreting it as being less than 18 ft. and Mr. MacFarlane said it just meets the sidewalk and meets the RSIS. Mr. Miller said looking at the plans and the way it is jogged in and out, aesthically it looks better as it is and it is his opinion to leave it as it is.

Mr. Vogt asked if the applicant will be improving Bellinger Street to RSIS standards and Mr. MacFarlane said yes. Mr. MacFarlane they have shown sidewalk along their frontage of Bellinger Street along with lighting. Mr. Vogt said there was a conflict on some the plans in terms of the # of parking spaces and verified there are 93 spaces proposed. Mr. Vogt requested the applicant include the location of all service laterals on the landscape plans and Mr. MacFarlane agreed.

Under zoning, Mr. Vogt asked if they required any variances under parking and Mr. Penzer said no.

Mr. Vogt asked if they had any objections to the recommendations he is asking in his review letter and Mr. MacFarlane said they would comply with the comments

Mr. Akerman asked about the playground and Mr. Penzer said there is a comment in the engineer's report that stated the applicant coordinate the proper safety service details with Game Time and they will comply.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Akerman, seconded by Mr. Fink, to approve based on everything they discussed.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

2. **SP # 1878A (Variance requested)**
Applicant: Congregation Sanz of Lakewood
Location: River Avenue, north of Sterling Place (Gila)
Block 423.14 Lots 13 & 77
Preliminary & Final Site Plan for construction of 2 story synagogue

Mr. Vogt prepared a letter dated January 15, 2009 and entered in its entirety. The applicant is seeking Preliminary and Final Site Plan approval. The applicant proposes to construct a 3,202-square foot synagogue with a total of eighteen (18) parking spaces at the above-referenced location. The two-story synagogue will consist of a 1,745-square foot sanctuary, associated facilities, and an unfinished basement. Related site improvements are also proposed. Access to the proposed development will be provided by a driveway from River Avenue (Route 9). The tract consists of two lots that total 0.46 acres in area and contains two (2) existing residential dwellings. The residential dwellings will be demolished. The property is located in the south central portion of the Township on the west side of River Avenue (Route 9). The property also fronts Rena Lane. Many of the surrounding land uses on the west side of Route 9 are residential dwellings. The site is situated within the HD-7, Highway Development Zone. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated November 24, 2008)Zoning As the Board is aware, the site plan application, SP-1878, was

denied. It appears that the main change between the denied application and the current application is the size of the synagogue, which was revised from approximately 5,464 square feet to 3,202; however, the size of the sanctuary was only reduced from 1,810 square feet to 1,745 square feet. The porch of the synagogue was also removed from the application. In addition, the setback on the north side of the lot has been increased from 10 feet to 41.7 feet. The Planning Board has allowed the applicant to return to the Board for reconsideration of a revised site plan. The Board's denial has not been memorialized. Fact. The applicant should testify regarding how the current application addresses the concerns of the Planning Board, which were the basis for denial of SP-1878. Testimony necessary (if not previously provided). The parcel is located in the Highway Development Zone District (HD-7). Places of worship are permitted in the HD-7 Zone provided that the requirements of Section 18-905 are met as well as the HD-7 Zone District bulk standards. Fact. The following variances are required for the application: Lot Area (Section 18-903.H.): A minimum lot area of one (1) acre is required. The proposed lot area is 0.46 acres. Fact. Lot Frontage (Section 18-903.H.): A minimum lot frontage of 150 feet is required. The proposed lot frontage is 135.11 feet. Fact. Front Yard Setback (Section 18-903.H.). A minimum front yard setback of 50 feet is required. The proposed front yard setback from Rena Lane is 10 feet. Fact. Non-residential development fronting a State Highway requires a minimum 150 foot front yard setback. The proposed front yard setback from Route 9 is approximately 100 feet. Fact. Side Yard Setback (Section 18-903.H.). A minimum of 30 feet is required. The proposed side yard setback is 10 feet from Lot 10.61. However, the applicant indicates in the zoning table side yard setbacks of 5 feet and 26.6 feet. It is unclear how the applicant calculated these side yards. Please clarify. The revised schedule appears to indicate the correct side widths. Buffer Requirement (Section 18-905.B.): A minimum landscape buffer of 10 feet is required for adjoining non-residential uses and districts and 20 feet is required for adjoining residential uses and districts. The applicant has not provided the required landscape buffer with the adjoining Lot 10.61 which is zoned in the HD-7 Zone and is vacant. There is a 10-foot wide separation between the lot line and the building; however, this is not a landscaped buffer. The Planning Board should decide if a buffer is appropriate at this location. In addition, the applicant does not meet the buffer requirement for the side yard setback from Lot 10.02 which appears to be a two-family residential use. A 20-foot wide buffer is required. Per the applicant's engineer's response letter and as indicated on the revised plans, additional landscaping has been provided on the Landscaping and Lighting Plan (Sheet 5). We defer to the Board regarding the overall adequacy of landscaping. A minimum five (5) foot buffer is required for parking areas on side yard property lines. The applicant should demonstrate conformance with this standard. Currently, the plan indicates a retaining wall within this required buffer area, and the proposed landscaping does not extend to the street. Per the applicant's engineer's response letter and as indicated on the revised plans, additional landscaping is proposed in the front of the Parking Lot, as well as landscaping proposed along the northerly lot line. The adjacent lot (10.61) provides buffer facing Sterling Place. We defer to the Board regarding the overall adequacy of landscaping. Parking Requirement. Section 18-903.H.6.: Parking is permitted within the 150 feet front yard setback provided that the principal building has a 150 foot setback and a 10 foot buffer requirement is provided between parking and the public road. The applicant does not appear to meet this requirement to the NJDOT typical section, however, the applicant meets the requirement based on the NJDOT right-of-way. Therefore, it does not appear that a variance is required. However, the applicant should add additional buffer plantings in front of the parking lot. Per comment 3e(2), above, additional parking lot plantings are provided on the revised plans. The positive and negative criteria should be addressed. Testimony to be provided. Review Comments. Section 18-905.A.: As the

main sanctuary area is 1,745 square feet, a standard of 1.0 spaces for every 100 square feet is required. Based on this standard, the applicant is required to provide 17.45 parking spaces. The applicant provides 18 parking spaces which meets Ordinance requirements. Fact. Site Plan. The applicant should revise its bulk schedule to be consistent with the engineering drawing of the proposed synagogue. There appears to be inconsistency with the drawing and the bulk schedule relative to the side yard setback. The bulk schedule should be revised accordingly. The schedule has been revised. Lot Consolidation. We recommend that Lots 13 and 77 be consolidated by deed. As noted on the plans (note #23 on site plan) and in the applicant's engineer's response letter, lots will be consolidated as a condition of approval. Grading. We defer to the Board Engineer relative to the drainage aspects of the grading, however, from a planning perspective, we find that it is important to note that the applicant proposes to raise the grade of the site close to 5 feet in the vicinity of the synagogue, and over 3 feet in the parking area, which will cause the height of the parking lot and other features to be at higher grades than the abutting properties. The applicant should testify regarding the visual impacts of same. Testimony must be provided (if not provided already). Architectural Plans. The architectural plans indicate that the height of the synagogue will be 23 feet. The plans indicate the height of the architectural details on the side of the structure will be 32 feet, however, the plan should also indicate the height of the other architectural details on the synagogue. Since the tract is surrounded by residential uses, we recommend that all roof-mounted HVAC equipment (if applicable) be appropriately screened. We note that the handicap access rail is in the front yard setback of Rena Lane which is insufficient. The applicant should be prepared to indicate how the synagogue will be accessed by handicapped individuals and whether the handicap ramp could be placed in front facing Route 9 instead. The applicant should provide testimony on the intended use of the basement and confirm that the basement is intended for synagogue-related functions. Per the applicant's engineer's response letter, testimony regarding the above referenced architectural comments (a-d) will be provided by the Architect. Landscaping. We recommend the applicant provide more landscaping along the side yards. Additional landscape material may be required on this site to comply with Township standards. As stated previously, additional landscaping including along side yards has been provided. The buffering of the synagogue does not conform with the requirements of Section 18-905 for places of public worship. Testimony required to address this issue. The applicant must also comply with the requirements for tree protection and removal as applicable on the site. Testimony required to address this issue. Additional foundation plantings should be indicated. Additional foundation plantings are provided on the revised landscaping and lighting plan. Signs. The architectural plans do not indicate any signage. All signage shall comply with Township ordinance. Fact. Trash Removal. The applicant should address provisions for solid waste management for the proposed building. A note (#22) has been to the site plan, indicating that trash receptacles will be rolled to the curb for trash removal. Lighting. Any proposed building-mounted lighting should be identified on the site plan with the appropriate lighting levels. Limited lighting information is provided on the Landscape and Lighting Plan. Additional information must be provided to demonstrate adequate lighting in accordance with Township standards. This issue can be addressed as a condition of site plan approval if desired by the Board. The plans indicate that public water and sewer services will be provided by the NJ American Water Company. Fact. Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. Per the applicant's engineer's letter, guarantees would be provided. The required outside agency approvals include, but are not limited to: Ocean County Planning Board; Soil Conservation District, prior to construction permits; Sewer and water utilities, prior to construction permits; and, NJDOT, if required All other required

approvals. Per the applicant's engineer's letter, said approvals will be obtained. Engineering Review Comments (T&M letter dated November 24, 2008 General The applicant has requested the following variances: Minimum lot area; 0.46 AC is proposed, where 1.00 AC is required. Minimum lot frontage; 135.11 FT is proposed, where 150 FT is required. Minimum front yard setback from a state highway; 99 FT is proposed, where 150 FT is required. Rear yard setback (Rena Lane); 10 FT is proposed, where 50 FT is required. Minimum side yard setback; 10 FT is proposed, where 30 FT is required. Minimum landscape buffer; 0 FT are proposed to the residential use where 20 FT are required and 0 FT are proposed to the non-residential lot where 10 feet are required. Parking in the front yard setback for a non-residential use where the principal building is closer than the required 150 FT. Acknowledged in the applicant's engineer's letter. The applicant should consolidate the two existing lots as a condition of Site Plan approval. As indicated previously, the applicant agrees to this condition. Outside agency approvals from Ocean County Planning Board, Ocean County Soil Conservation District, and a NJDOT Access Permit will be required. Evidence of the approvals will be made conditions of Planning Board Approval. As indicated previously, the applicant agrees to this condition. The proposed synagogue will be served by public water and sewer. Fact. The applicant has provided 18 parking spaces, including one handicapped parking space, which conforms to the Ordinance requirements. Fact. The applicant has provided a note on the plans indicating that trash receptacles will be rolled to the curb for trash removal, but has not indicated whether the trash receptacles will be stored inside or outside the building. The applicant should provide a screened storage area if the trash cans will be stored outside. As indicated on the revised plans, a 4' high refuse area, matching building materials, will be provided for screening purposes. This amenity must be provided on the final architectural plans as well. The applicant shall provide testimony on if there is an identification sign proposed for the site. Testimony required (if not provided already). Plan Review. The datum on which the existing contours are based on shall be provided. Per a note provided on the revised Grading plan, the datum is assumed. The applicant should revise the Existing Conditions Plan to label all existing items to be removed as "TO BE REMOVED." The plan has been revised accordingly. It appears that the applicant is providing new concrete sidewalk along the site's frontage on River Avenue, although it is not clear what is existing and what is proposed. The applicant shall clearly label and add to the legend existing and proposed curb and sidewalk. In addition a note shall be added to the plans stating any existing concrete curb and sidewalk that is deteriorated or damaged shall be replaced as directed by the Township Engineer. The revised site plan delineates both existing and proposed sidewalk and curbing. A note (#24) has been added to the plans indicating that any existing deteriorated or damaged curb or sidewalk will be replaced as directed by the Township Engineer. The applicant has not provided a six (6) foot shade tree and utility easement along the property frontages. The applicant should add the easements to the Site Plans and provide legal descriptions and easement language for review. The easements shall be filed as a condition of approval. The revised site plan depicts a 6'-wide easement along the Route 9 frontage, and a 5'-wide easement along Rena Lane (abutting a proposed handicap ramp). The applicant's engineer agrees to provide easement information as a condition of Board approval. The applicant has provided a four (4) foot high privacy fence along Rena Lane and the two side yards. We recommend the fence height be increased to six (6) feet tall to provide screening, although this would require a height variance along Rena Lane. A detail for the fence shall be provided. The site plans has been revised accordingly. A fence detail must still be provided. The applicant should revise the Landscape and Lighting Plan to reduce the amount of light spilling onto adjacent lots to acceptable levels, per the UDO. The landscape and lighting plan was revised. The only significant spillover now proposed is onto Route 9. This is

satisfactory. Stormwater Report Review In Section II-Existing Conditions, the site is identified as "Block 423.14 * Lot 13 & 17" which does not match what is shown on the plans. The applicant should address this issue. The revised report includes this correction. In Section III-Proposed Conditions, the synagogue is shown as having a footprint of 3,800 SF, which does not match what is shown on the plans. The applicant should address this discrepancy. The revised report includes this correction. In Table I-Total Site Runoff, there is a superscript "(1)" connected to the proposed flow for the 2-year storm, but the corresponding footnote has not been included. The applicant should address this issue. The revised report includes this correction. In Section IV-Storm Management Methodology, the applicant indicates that the infiltration system is made up of 36-inch perforated HDPE pipes, but the plans indicate that the system is made up twin, 24-inch perforated HDPE pipes. The applicant should address this discrepancy. The revised report indicates the proposed infiltration system as made up of triple 24" diameter pipes. In Section IV-Storm Management Methodology, under Recharge Rate, the infiltration rate is calculated based on an incorrect area for the trench. The applicant should address this discrepancy. The revised report includes this correction. In Appendix C, Existing Conditions, the applicant provides a sheet flow for Area 1 of 152 feet. The maximum length for sheet flow allowed is 150 feet. The applicant should address this issue. The revised report includes this correction. In Appendix D, Proposed Conditions, the total proposed drainage area (0.45 AC.) is less than the existing drainage area (0.46 AC.). The applicant should address this discrepancy. The revised report includes this correction. Construction Detail Review The applicant shall revise the Detectable Warning Surface Detail to show the length and width of the warning surface. This detail has been revised as requested. The applicant should provide a detail of a Type 'E' inlet on the plans. A Type "E" inlet detail has been provided on the revised plans. Additional comment/recommendation (RVV) Shallow (segmented) retaining walls are proposed along the northerly and southerly property lines as depicted on the plans. A submittal for the selected wall system should be provided for Township review and approval prior to installation of the wall. This item can be addressed as a condition of site plan approval if/when granted by the Planning Board.

Mr. Neiman said they board will hold the applicant to anything in the letter that they do not discuss and Mr. Penzer said he had no problem with that unless they voice something else.

Mr. Penzer Esq. appeared on behalf of the applicant and said the board had several issues with this application. Mr. Flannery appeared as engineer for the applicant and said the application is for a proposed synagogue with associated parking that has vehicular access on River Avenue and the property also fronts to the rear on Rena Lane. Mr. Penzer said most of the neighbors are present and live in Sterling Place. He read into the record at the last meeting a long agreement made with the Rabbinical court to make the residents happy and they still agree to the same terms and conditions they did at that time. What was read into the record was a schedule of how many quorums of prayer times, etc. The problem the board had was size of the building had to be reduced, so they got rid of the porch and they believe it is about a 20-25% reduction. Mr. Flannery said the prior building was 70% bigger than the proposed one (5,464 sf before and 3,202 sf now). Another problem was traffic and they changed it to be right in and right out only and the other problem was whether they were in the Highway 9 right of way and if it is expanded, how many parking spaces are impacted and Mr. Flannery said they are in the setback and do need variances. The other question of the DTS and that is indicated on the plans and they do not have any encroachment into that DTS and it the highway can be widened without any impact on this site plan.

Mr. Flannery said the application was previously denied and they have changed the size of the building: they have also shifted the building to the south and he showed them a rendering showing that south of the site is an open space and to the north of the site is also an open space and this site touches a residential lot at one point on the line, so there are buffers and as much separation from the residents in the neighboring development.

Mr. Neiman wanted to talk about the parking in the front and said if he pulls into the lot and there is no parking, he asked where is he going now for parking and Mr. Flannery said this being a neighborhood schul he would assume the neighbors would understand when there is and isn't parking. He said they can probably go back and park in their driveway and walk which is probably what they should have done in the first place. Mr. Penzer said they also limited the times and staggered when the prayer quorums are so there is not going to be too many cars and also almost all of the townhouses from Sterling Place are the people immediately next door so they will probably have more parking than they need based on the staggering of time and the people next door. Mr. Neiman said he just wants to be practical and said Coventry schul is just for Coventry and yet there is parking on Kennedy Boulevard where they can park. There is no parking on Route 9. Mr. Flannery said they are not seeking any variances for parking.

Mr. Schmuckler said when they were looking at this 6 months ago they were also talking about self contained communities and the synagogue for Sterling Place will not be built for about 4-5 years so this will be become that communities' and so this will not be an outside synagogue, it will be an internal one. Mr. Fink asked what buffer they were going to use on the side where close to the home and Mr. Flannery said trees were going to go there, they do not go through the entire property it goes halfway down where the parking lot is: the lot line in the front of the property has a 20 ft. buffer and it moves away from the property line.

Mr. Flannery said the application requires variances for lot area. One acre is required and they have proposed 0.46 but they cannot do anything about it because the property to the south is owned by a homeowners' association and is open space and the property east and west are roadways. The same is said for lot frontage; there is no way to increase it, it is a situation that remains today with two lots that have two homes on it so this is an improvement on it as well.

The minimum front yard setback from Rena Lane from 50 ft. which is what is required for the HD 7 zoned to 10 ft. which is what they have proposed and here they did a balancing act trying to fit a building that made sense and the parking on 150 ft. depth. If they were to stick to the zoning parameters, nothing could be built there and the existing homes that are there would remain and that would create a hardship. They feel the plan that is submitted is a good balancing act and provides an inherently beneficial use. Non residential development on a State Highway needs 150 ft. front setback but the lot is only 150 ft. so they went with the requirements for residential building which is 100 ft. and it is also consistent with the other development along Route 9. It is also a hardship variance and the board can grant without any detriment to the zone plan or zoning ordinance and it allows them to provide an inherently beneficial use. On side yard setbacks a minimum of 30 ft. is required and they are asking for relief on the southerly side where they have provided 10 ft. but there is nothing there but open space. It is his professional opinion that it can be granted without any detriment to the public good or zone plan or zone ordinance. Mr. Flannery said they need some relief with respect to the buffer requirements, they have provided 40 ft. on the northerly side which is the side that abuts the residential dwelling and they have 10 ft. on the southerly side which goes to an open space lot. They have added additional landscaping and will add more if needed. As far as parking, a 10 ft. buffer is required and they don't have a 10 ft. buffer, they have 5 ft. on each side, but those are

to open space lots and it is his opinion that the circumstances are a little different and the parking they add certainly is a benefit that outweighs any detriment. As far as the review comments Mr. Flannery said the only one that they would not agree to comply with is the handicap ramp and they had expressed that at the technical meeting that the ramp is on the other side of the building away from the parking lot and it is his opinion that it is in an appropriate spot and at the time of discussion he felt the board gave a nod on that as well. They agree to comply with the remaining items.

Mr. Franklin said being this is for the residents over by Rena Lane he asked if they could take the driveway off River Avenue and put it off Rena Lane up the side of the property and you would gain 5 parking places in the parking lot on the north side of the property. He said you are going to have all these cars jammed up on the highway. They just put a synagogue on E.7th Street and it was supposed be enough parking and every morning when he goes by there is anywhere from 25-40 cars parked in that area for that synagogue. Mr. Flannery said from an engineering standpoint they can do that and if that is what the board would direct them they would revise the plans accordingly. Mr. Fink agreed and said it would be so much safer.

Mrs. Koutsouris said if you are going to move the driveway onto Renal Lane would it be possible to shift the building to the right because then the driveway is right next to that property on the right side of the building and Mr. Flannery said move the building northerly and have the driveway on the other side and Mrs. Koutsouris said yes and Mr. Flannery said yes he could.

Mr. Schmuckler asked if they needed permission from the homeowners association of Sterling Place before they did that and Mr. Flannery said it is a public right of way. The public is allowed to speak and give their opinion. Mr. Vogt said the one benefit is that the people with cars will not have to access Route 9 to get to the synagogue but a local road. Mr. Neiman said that is a valid concern and to back out onto Route 9 he would so much rather see the driveway the other way. The board members agreed.

Mr. Neiman opened the microphone to the public

Mordechai Breskin, 12 Gila Place, Lakewood was sworn in. He said he is not willing to make an entrance from Rena Lane; as it is they have 70 homes x 4 cars per home so they are not willing to make an entrance from Rena Lane.

Mr. Penzer said he is the leader of the homeowners association.

Mr. Schmuckler asked if the homeowners association can block them from accessing the right of way and Mr. Jackson asked Mr. Flannery the status of that. Mr. Flannery said it was a township right of way that was dedicated to the town when the map was filed. The process is then the developer builds the road, and when it is built the township accepts the road but the roadway has not been accepted yet. Mr. Jackson said the homeowners association would have the right to block that but Mr. Miller said it is still a private roadway and Mr. Vogt agreed.

Mr. Kielt said what Mr. Flannery said is correct; however, it is not going to happen until they (the developer) do what they have to do to be released off their bonds. What people are saying is that they (the developer) is in distress right now and it may not happen for 3yrs., 5 yrs., etc. but eventually it a mapped road on the tax map, however it has not been deed over and may not be for several years which is the concern. He said he has had people come to the counter with

concerns with the entrance off Rena Lane because of cars blocking their driveways and using the on street parking that is really scarce. Mr. Jackson said his understanding is that the town never takes a deed to a roadway and Mr. Miller said not a deed but it has to be accepted by the township and Mr. Kielt said they have not accepted it yet because of the status of the construction and it may be several years. Mr. Jackson said once they filed their map and perfected their subdivision and approval and that map is filed and it has this public right of way shown on it then other people then have rights to that. He said you could make it a condition of approval that it be accepted and he understands what the point is.

Mr. Fink asked Mr. Penzer how many people here actually live in Sterling vs. going to attend the schul and Mr. Penzer said the problem is he signed an agreement with rabbinical court to settle a dispute about it. Mr. Breskin is not happy and he is telling him that he is the head of the group and even though he does not agree it is a public road and it is going to happen that way anyway so it is out of his control but Mr. Breskin is saying it is against the spirit of the agreement. Mr. Penzer suggested that until it becomes a public road they leave it like this and when it becomes a public road, then it is out of his control. Mr. Fink said why don't they just change it with no parking and make everyone happy and they will all have to walk. Mr. Neiman said it is only 18 spaces, let them all walk.

Mr. Banas said the plan that is proposed prior to the elimination of the parking was a good plan and it meets the constraints of what the board has been looking for in this project and he does not think they should forgo and consider something that might happen. What they should do is look at the plan and the plan is a good plan and it meets the constraints of what the board wishes, then that is what the board should approve and nothing else. The board should not curtail and eliminate the ordinances. Why expose all the traffic onto Route 9 and all the hazardous of Route 9 where there is no traffic on Rena Lane. The congregants are there and it sounds like a home run.

David Tessler, 47 Rena Lane, Lakewood was sworn in. He said there is no room at the existing schul now and it is bursting at the seams. They walk to schul now. Mr. Neiman said the only concern the board has is the safety of the cars coming in and out of Route 9. They want the schul, they know it is needed but they want the homeowner's opinion on the entrance. Mr. Miller asked if he would be driving or walking to schul in the rain and Mr. Tessler said he would be walking and Mr. Franklin said it would be an advantage for him if the entrance were off Rena Lane.

The board took a 5 minute recess.

Moshe Pachtinger, 182 Hadassah Lane, Lakewood was sworn in. He said this schul is very important to Sterling Forest neighborhood. They do not have anymore space and they need relief and 80% of the people are attending the schul live there. They understand the problem of Route 9 and the importance of walking vs. driving to the schul.

Nathan Harkavy, 184 Hadassah Lane, Lakewood was sworn in. He said as a resident of Sterling Forest their schul is the central synagogue for a the entire area which includes from Chestnut, Presidential Estates, Chateau Park, Elmwood Village, the entire Spruce area does not have a single schul. Maybe there is 1 or 2 basements but the majority of people rely on Sterling Forest for their schul. As far as the parking issues and the nitty gritty things, if you look around Lakewood, every single schul has the identical problem with the parking and most people in the

area who will benefit from the schul are immediately in walking distance. There are going to be some drive ups as expected or extreme bad weather. The crowd here is sick and tired of bickering here, we need the place and we beg you to give it, affirm it and accept the plans as is and move on.

Ayeh Weinstein, 120 Caranetta Drive, Lakewood was sworn in. He said he came before this board with the identical application on this identical property and for 2 years we were bickering back and forth, 100 ft. setback, you could build, you can't build, speak to Simpson, Ed Mack, it went all over the place, and finally they allowed him to build a duplex. Now the purchaser of the property for the synagogue came and told him they were desperate for a synagogue and if he could let them have the property for one he was in utter shock to hear yesterday morning when somebody called him and said it is still going on. He cannot believe it is still not done. He gave up this property several years ago to see this project go to fruition and it didn't go anywhere. Please stop the games and let's get this done.

Larry Simons, 7 Schoolhouse Court, Lakewood was sworn in. He said he is in favor of the synagogue but he is also concerned with traffic on Route 9 and when they say people in Sterling will walk to the schul he can understand. He cannot understand what will happen if there is an accident. Route 9 is a horror and anything that affects Route 9 will be horrible and if there is another community that will be put in there and the people decide to ride, where are they going to park. To say stop playing games: you are not playing games with people's lives, not praying per se, because praying we all want that, we are concerned about safety. Don't just jump on it because one synagogue is overcrowded and we need another synagogue; don't neglect safety because it can affect someone in your family and then it will be too late.

Noreen Gill, 192 Coventry Drive, Lakewood was sworn in. She said she lives in Coventry Square by the Coventry schul and 5 years ago she was coming out of Coventry Square and it was Passover and she almost got killed. She keeps reiterating to this planning board what happened: that schul was given permission for 18-22 parking spaces and they back out of the driveway and a couple of years after they built it they added on to it and now there is 52-56 cars on Kennedy Boulevard and it took her 2 years to get a No Parking Sign so she could pull out of Coventry. It is imperative that the board consider the safety. Route 9 is treacherous and she wants the board to consider the safety. She is not against this.

Bill Hobday, 30 Schoolhouse Court, Lakewood was sworn in. He said the township has developed ordinances for the public benefit and he has seen from time to time it is better to approve something even though there might be a doubt than not approve it for the public good. In this case, he would bet there is property somewhere in the vicinity that is safer than this. We all know the downside of Route 9. Because these statutes are for the public safety, don't err on the side and say "well we are going to do them a favor" you don't do them a favor by putting them at risk. Those ordinances are in place for a reason and it is for their safety as well as my safety and your safety.

David Mashinsky, 126 Hadassah Lane, Lakewood was sworn in. He said he is a resident of Sterling Forest and was involved in all the proceedings of this schul and they made a gate for Sterling Place so they could come and pray and they could walk through the gate. There is very little parking at the Sterling Forest schul and rain or shine they walk and they use the gate. He said if there are any complications down the road they will settle it with Sterling Place. It is just meant to have more praying space in the whole neighborhood.

Shlomie Klein, 189 Chateau Drive, Lakewood was sworn in. He said zoning approved Sterling Place and it was subject to the approval that the 2 story community center plus a basement with a 9 ft. ceiling for a total of 9,000 sf should be on the property of Sterling Place. Obviously as the gentleman before said the rules and regulations how the township protects the community centers should be built and it was not here because somehow something got messed up. Then it goes from the people and the private money they want to and bought up the expensive lot and they are trying to make the nice community center for the residents, not with the township's money that they are responsible for. He understands that this lot is a nicer lot than the lot for the community center because it is off Route 9 but as far as he is concerned with traffic, people in this neighborhood are traveling to the other side of Route 9 because they don't have space in the middle of the week so there is going to be less traffic traveling to other places if there is going to be a central schul over here. He thinks it is going to take traffic off of Route 9 more than create more traffic.

Seeing no one else, this portion was closed to the public

Mr. Penzer said this application is difficult for him because he has done many schuls but this one took place one month before the passing of his mother. His moral dilemma was he would rather go through 200 hrs with neighbors to make peace than go to war. His life is Lakewood and he does not want to hurt anybody and this is the first synagogue where there was much turmoil. There are people from Sterling Place which is the adjacent property and Sterling Forest which is the property next door. He understands what the boards view is with regard to safety and he respects it. What he is personally torn is by what he agreed to and what the besden says and what he signed and is morally bound to and the board is not morally bound by that. He asked the board to vote their conscience and please approve the application and to the right thing.

Mr. Miller said the board knows the importance of this schul and that it is a necessity. Mr., Penzer agreed to have the entrance on Route 9 but at the end of the day Mr. Penzer is not the ultimate decision maker. That ultimate decision maker is the board and as much as Mr. Penzer wanted to see the entrance on Route 9 because that is the deal he made with the homeowners association and the rabbinical court, the safety belongs to this board. If the board chooses another entrance, Mr. Penzer kept his end of the bargain; he presented it with the rendering and appealed to the board with the entrance on Route 9 but the ultimate decision falls on the board.

Mr. Akerman said he remember another schul and told Mr. Breskin that when you have the entrance on Route 9 there may be a lot more cars coming in to Rena Lane because it is much more inviting to the outside people. If the entrance is on Rena Lane, and there is buffering and trees behind the parking lot it won't be as visible from Route 9 and will be a lot less traffic and it might work out better this way. When it is not on the outside of the community, it becomes a community schul.

Motion was made by Mr. Akerman, seconded by Mr. Miller, to approve the application with everything that was discussed and the entrance on Rena Lane

Mr. Schmuckler wanted to make sure the applicant's engineer work with the board's engineer on the buffering between Rena Lane and the schul.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

Mr. Neiman said he did not think they would get past application #6 this evening and asked to table the remainder of the applications

Mr. Neiman asked for a motion to table item #10 - SD 1655 Aryeh Weinstein for February 17, 2009. The attorney for the applicant agreed to waive the time period for the application.

Motion was made by Mr. Herzl seconded by Mr. Akerman to table the application to February 17, 2009

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

Item #9 – SD 1654 Shmuel Perlman was tabled to February 17, 2009 and Sam Brown, attorney for the applicant agreed to waive the time period

Motion was made by Mr. Akerman seconded by Mr. Schmuckler to table the application to February 17, 2009

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

The next 2 applications were heard together because they are the same applicant.

3. SD# 1651 (No variance requested)
Applicant: Congregation Chanichei Hayeshivos
Location: 142 & 150 Hollywood Avenue - across from Robin Drive
Block 284.17 Lot 6
Block 284 Lot 88
Minor Subdivision to relocate existing lot lines

Mr. Vogt prepared a letter dated January 12, 2009 and entered in its entirety. The applicant seeks minor subdivision approval to revise the lot boundaries between Block 284.17, Lot 6, and Block 284, Lot 88. The subdivision will create two (2) lots, as indicated on the subdivision plan; however, it should be noted that the applicant currently has an application before the Board to construct a synagogue on Lot 6.01 as application SP-1906. The site consists of a segment of vacated Kohl Drive right-of-way and is located on the west side of Hollywood Avenue, just south of Robin Drive. The surrounding land uses are predominantly residential. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated November 20, 2008) Zoning and Variances. The parcel is located in the Single-Family (R-12) District. Fact – no additional information necessary. No variances are required from the ordinance requirements of the R-12 Zone. Fact – no additional information necessary. Review Comments. The plat should be revised to reference the ordinance number of street vacation of a portion of Kohl Drive. A copy of the ordinance should be provided to the Board professionals. The plat has been revised as requested and a copy of the ordinance provided. This item has been addressed. Parking for Lot 6.01, Block 284.17: R.S.I.S. does not list a parking requirement for a one-

bedroom, single-family dwelling; however, 1.5 spaces are required for a two-bedroom dwelling. The plan states that Lot 6.01 has one bedroom and provides 2.5 spaces. The plans should clarify that the area in front of the dwelling is a driveway. Additionally, this area only appears to be 36 feet in length and, therefore, would equate to two spaces, not 2.5 spaces. The plans should be revised accordingly. The parking meets RSIS. The plans have been revised to include the noted parking numbers, however the driveway area has not been revised for clarity. Parking for Lot 88.01, Block 284: R.S.I.S. requires 2 spaces for a three-bedroom dwelling. The plan states that Lot 88.01 has three bedrooms and provides 2.5 spaces. The driveway only appears to be 36 feet in length and, therefore, would equate to two spaces, not 2.5 spaces. The plans should be revised accordingly. The parking meets RSIS. Per the applicant's cover letter, the existing dwelling has a one-car garage and a 36' long driveway. Per RSIS this equates to three spaces, where the requirement is two spaces. The plans should be revised accordingly. The parking meets RSIS standards. The plan indicates an existing monitoring well. The applicant should clarify the purpose of same. Per the applicant's cover letter, the monitoring well has been removed since the property was surveyed and has been removed from the map. This item has been addressed. There is existing sidewalk along Hollywood Avenue. Fact – no additional information necessary. The applicant should clarify that there are no existing utilities within the vacated portion of Kohl Drive that would necessitate a utility easement. The applicant proposes a twenty (20) foot wide sanitary sewer easement to surround the existing sanitary sewer located at the existing lot line which is proposed to be removed. The existing sanitary sewer line should be labeled. Compliance with Map Filing Law is required. Fact – no additional information necessary. Performance guarantees should be posted for all improvements in accordance with ordinance provisions. The only improvement appears to be the removal of the shed. The applicant's cover letter states no objection. The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; and the applicant's cover letter states no objection. The applicant should be prepared to provide testimony as to the status of this item. All other required outside agency approvals. Fact – no additional information necessary. Engineering Review Comments (T&M letter dated November 30, 2008) It appears that the applicant does not need any variances for this application. Fact – no additional information necessary. Outside agency approval from Ocean County Planning Board is required. Evidence of the approval shall be made a condition of the Planning Board approval. Fact – no additional information necessary. The applicant should revise the plan to include the existing sanitary sewer line that runs through proposed Lot 6.01, Block 284.17, and the necessary easement that should surround it. The plans have been revised to depict the existing sanitary sewer line and a twenty (20) foot wide easement is proposed to surround it. As noted above, the sanitary sewer line should be labeled. All proposed easements will have to be filed with proper documentation. The applicant shall provide a copy of the ordinance granting the vacation of Kohl Drive. The applicant has provided a copy of the ordinance. This item has been addressed. The applicant has provided a six (6) foot shade tree and utility easement along the property frontage. Fact – no additional information necessary. Curb and sidewalk are exists along the property frontage. Fact – no additional information necessary. Comments pertaining to the New Jersey Map Filing Law will be provided prior to the Public Hearing for this application. The applicant's cover letter states no objection.

4. **SP# 1906** (No variance requested)
Applicant: Congregation Chanichei Hayeshivos
Location: 142 Hollywood Avenue - across from Robin Drive

Block 284.17 Proposed Lot 6.01
Preliminary & Final Site Plan to construct synagogue

Mr. Vogt prepared a letter dated January 15, 2009 and entered in its entirety. The site is included in a minor subdivision application currently before the Board, Application #SD-1651. The applicant is seeking a Preliminary and Final Site Plan approval to construct a two-story synagogue and associated site improvements on Lot 6.01, Block 284.17. This site is contingent upon the approval of the minor subdivision. The existing Lot 6 contains a single-family dwelling, which is proposed to be retained for Phase One, and razed in Phase Two. It appears that Phase One will consist of construction of approximately 75% of the synagogue, retaining the single family dwelling, and all other site improvements. Phase Two appears to consist of razing the dwelling, and constructing the remainder of the synagogue. The surrounding land uses are predominantly residential. The synagogue will contain two (2) floors. The 1,992.4-square foot sanctuary will be situated on the second floor. The site improvements include an off-street parking area for twenty-three (23) vehicles, one driveway from Hollywood Avenue, and three (3) lighting fixtures in the parking area.

The site consists of a segment of vacated Kohl Drive right-of-way and majority of site is located at the frontage along Hollywood Avenue. It is situated within the R-12, Single Family Residential Zone. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated November 24, 2008) Zoning and Variances. The parcel is located in the Single-Family (R-12) District. Places of worship are permitted in the R-12 District provided that the requirements of Section 18-905 are met as well as the R-12 District bulk standards. **Fact – No additional information necessary. Section 18-905A2 states that no parking area shall be located closer than five (5) feet to any side or rear property line. Whereas, the parking area scales just under 5 feet from the side and rear property lines. The applicant should verify the setback. If less than 5 feet is provided, then a 'c' variance is required. Per the applicant's cover letter and review of the revised plans, the parking has been revised to eliminate the need for this variance. Section 18-905B1b requires a 20-foot buffer from residential uses or districts. The applicant does not provide a 20-foot buffer from all residential uses. Therefore, a 'c' variance is required. Per the applicant's cover letter, a variance is requested from the 20-foot buffer requirement. Section 18-905B2 requires a board-on-board fence six (6) feet in height and four (4) foot arborvitae every four feet on center along all property lines abutting the parking area unless a buffer of 20 feet is provided. The plan indicates a 6-foot board-on-board fence with no landscaping on the side property line abutting the parking area, and does not provide a fence nor landscaping at the rear of the parking area. The plans should be revised to comply with the Ordinance or a 'c' variance is required. The proposed 8-foot vinyl fence depicted on the north, west and south property lines satisfies the fencing requirement, though the included detail is for a 6-foot wooden fence. The detail should be revised. The requirement to provide *arborvitae* along the property lines abutting the parking area has not been met. Our office defers to the Board's discretion in this matter. Section 18-905B3 states that a required buffer shall be landscaped with trees, shrubs, and other suitable plantings for beautification and screening. An adequate screening of at least six (6) feet in height shall be provided to restrict view. The buffer shall be supplemented with fence of a solid material where necessary. The applicant does not provide landscape buffering around the synagogue, and proposes to retain the chain link fence on the rear and northerly side property line. The plans should be revised to buffer the side and rear yards surrounding the synagogue, and to propose a solid type fence, or a 'c'**

variance is required. As noted above, the proposed 8-foot vinyl fence satisfies the requirements in terms of restricting view, however the requirement for suitable plantings for beautification and screening does not appear to have been met. Our office defers to the Board's discretion in this matter. Section 18-905C requires the front yard to be landscaped with grass, trees, shrubs, groundcover, and flowers. The plan indicates four (4) proposed trees. The plans should be revised to provide additional landscaping in accordance with the Ordinance. The plans now depict additional plantings along the front of what will be Phase II of the project. The applicant shall provide testimony as to when these plantings are proposed to be installed. Additionally, the planting list should be revised to reflect the quantity of plantings shown on the plan. Review Comments. Per Section 18-905A1a, the parking area for a synagogue is based on the main sanctuary area and shall not include any secondary sanctuary area. Parking is calculated at rate of 1 space per 100 square feet of sanctuary for 800 square feet to 1,999 square feet; and 1.25 spaces per 100 square feet of sanctuary for 2,000 square feet to 2,999 square feet. The proposed main area is the second floor sanctuary which has an area of 1,992 square feet, resulting in a parking requirement of 20 spaces. A total of 22 spaces are proposed which satisfies the parking requirement. Fact – No additional information necessary. The architectural plans indicate stairs to the second floor of the building. The front elevation of the building should be revised to depict these stairs. Additionally, the roof lines on the architectural elevations appear to not comply between the front and side views of the building. The applicant should revise the elevations, and confirm the height on each elevation. The architectural plans have been revised as requested. The zoning table appears to only address Phase One. The zoning table should be revised to reflect Phase One plus Phase Two construction. It appears that this would result in a front yard setback of 30 feet, and a building coverage of approximately 24.5%. However, the applicant should confirm the building coverage, which should include any roofed porch or unroofed platform over 3 feet above grade. Per the applicant's cover letter, the zoning schedule has been revised to show Phase I and Phase II separately as requested. The applicant should clarify the duration of time expected between Phase One and Phase Two construction. The applicant should also clarify the items that will be constructed under each Phase. Per the applicant's cover letter, testimony was provided at the December 2, 2008 Plan Review meeting to the effect that the expected time between the two phases was approximately 5 years. The applicant should clarify if the synagogue will remain in operation during Phase II construction. Per the applicant's cover letter, testimony was provided at the December 2, 2008 Plan Review meeting that the synagogue will remain open between Phase I and Phase II. The applicant should clarify the reasons for phasing construction. Additionally, the applicant should testify regarding the purpose of retaining the dwelling during Phase One construction. The use of the dwelling during Phase One should also be clarified. Per the applicant's cover letter, testimony was provided at the December 2, 2008 Plan Review meeting that raising of funds is the reason for the phasing of the project. The applicant should provide a brief testimony affirming the testimony previously given for items 4-6. The applicant should clarify how the phased construction will affect the synagogue layout. The Board should determine if phased architectural drawings should be provided. The applicant has provided revised architectural plans to more clearly depict the proposed phasing of the project. The plan indicates an existing monitoring well. The applicant should clarify the purpose of same. Per the applicant's cover letter, the monitoring well has been removed since the property was surveyed. Therefore the monitoring well has been removed from the plans. The front yard of the synagogue is required to be landscaped per Section 905.C. Please revise the site plan. The plans have been revised to include the requested landscaping. Given the adjoining residential use, the light fixtures on the south side of the parking lot should be shielded to minimize light

spillage to adjoining Lot 88.01. The light fixtures have been revised as requested. The applicant should clarify how refuse will be handled. Two dumpsters have been added to the plans, no screening or enclosure is shown. Screening should be provided as applicable per Township requirements. The proposed trees should be relocated to the shade tree easement. The plans have been revised as requested. The plans should provide a note that any existing sidewalk along the site's frontage that is in disrepair will be replaced. Additionally, ADA ramps should be provided at each side of the driveway curb cut. The plans have been revised as requested. The plans should clarify that the existing driveway and sidewalk to the existing single-family dwelling will be removed. The plans have been revised as requested. Performance guarantees should be posted for all improvements, including demolition of the dwelling, in accordance with ordinance provisions. Per the applicant's cover letter, no objection from the applicant. The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; Sewer and water utilities, prior to issuance of construction permits; and, All other required outside agency approvals. Fact – No additional information necessary. Engineering Review Comments (T&M letter dated November 30, 2008) Requested Variances. The applicant should request the following variances: Parking within five (5) feet of a side property line: the applicant is providing parking spaces within four (4) feet of a side property line. Per the applicant's cover letter and review of the revised plans, the parking area has been revised to eliminate this variance. Providing less than the required number of parking spaces; 23 spaces are provided, where 27 spaces are proposed. The revised parking calculations indicate a parking requirement of twenty (20) spaces where twenty-two (22) are proposed. The parking complies. See Item #5 below. The applicant should revise the Schedule of Bulk Requirements to include the existing dwelling in the calculated building coverage, for the situation between the completion of Phase-I and Phase-II. The plans have been revised as requested. Outside agency approvals from the Ocean County Soil Conservation District will be required. Evidence of the approval will be made a condition of Planning Board Approval. Per the applicant's cover letter, the applicant has no objection. The proposed synagogue will be served by public water and sewer. Fact – No additional information necessary. The applicant has used 1.0 parking spaces/100 SF of sanctuary space (800-1999 SF) as the design number, but it appears that the sanctuary area is greater than 2,000 SF, which would require the parking space design number to 1.25 parking spaces/100 SF of sanctuary space. With the revised design number the applicant is required to provide 27 parking spaces. The board should determine whether a variance should be granted regarding this issue. Per the applicant's cover letter, the net square footage of the sanctuary has been calculated by subtracting the square footage for two permanent structures within the synagogue, the Bima and the Aaron Kodesh. The resulting net sanctuary size is listed as 1,992 square feet, resulting in the parking requirement of twenty (20) spaces as shown on the revised plans. Our office has no objection to this interpretation and defers to the Board in regards to the parking requirement. The applicant shall provide testimony on how solid waste generated from the proposed development will be stored and how it will be removed from the site. The site plans have been revised to include two (2) 10' x 10' dumpsters at the rear of the parking area. The applicant shall provide testimony on if there is an identification sign proposed on site. Per the applicant's cover letter, no ground signs are proposed with this application, and the identification sign will be building mounted in accordance with ordinance requirements. The applicant has provided a 6 FT shade tree and utility easement along the property frontage along Hollywood Avenue under the subdivision application. Fact – No additional information necessary. Plan Review. The applicant is providing new concrete sidewalk and curbing throughout the site and intends to connect the site sidewalk with existing sidewalk that is situated along the site's frontage on

Hollywood Avenue, which will remain. Existing concrete curbing is also present along the site frontage. A note should be added to the plans stating any existing concrete curb and sidewalk along the property frontage that is deteriorated or damaged will be replaced as directed by the Township Engineer. The plans have been revised as requested. The applicant shall show on the site plans all existing and proposed easements. Per the applicant's cover letter, all easements shown are existing as per the minor subdivision (SD#1651). The applicant should provide a Stop Bar adjacent to the proposed stop sign and should include a detail of the stop bar on the plans. The plans have been revised as requested. The applicant should revise the Grading and Drainage Plan to include all required contour lines and should provide additional spot elevations to demonstrate how the sites' entrance and the front yard will be graded. The plans have been revised as requested. On the Site Plan, there is a dotted line situated above the existing dwelling, in front of the proposed synagogue with no description. The applicant should identify this line. Per the applicant's cover letter, this line is the cantilever from the roof of the existing dwelling. The plans have been revised to clarify this item. The applicant should revise the Grading and Drainage Plan and Detail Sheet to indicate that the HDPE pipe is perforated to allow for infiltration. The plans have been revised as requested. A Stormwater Management Report should be provided to the Board Professionals for review. It appears that more than 0.25 of new impervious coverage is being provided as a part of the site development. We have reviewed the submitted Stormwater Management Report and find it to be generally well-prepared. We accept the author's conclusion that the designed stormwater system meets the requirements of Lakewood UDO, NJDEP Stormwater Management Rules and the NJDEP Best Management Practices (BMP) Manual. The applicant should provide a note on the plans indicating the ownership and maintenance responsibilities regarding the on-site stormwater collection and conveyance system. A note has been added to the plans that the ownership and maintenance of the stormwater collection and conveyance system will be the responsibility of the congregation. Our office notes that the proposed 24" reinforced concrete pipe will cross over directly above the existing sanitary sewer line, the applicant's engineer shall provide testimony as to any potential conflicts at this crossing. The applicant's engineer shall also acknowledge the potential for maintenance work on the sanitary line within the easement impacting the stormwater line, which repair would be the responsibility of the Owner. Additionally, the Stormwater Management Report indicates that a Stormwater Maintenance Manual will be prepared for the stormwater management system for use by the Owner. Our office recommends that submittal of this manual for review and approval be included as a condition of any forthcoming approval. The applicant should provide soil borings within the infiltration trench footprint to determine if the underlying soils are suitable for infiltration. A test pit and laboratory data has been submitted in the Stormwater Management Report. We concur with the author's conclusion that the soils are suitable for infiltration and note that the infiltration rate used for the report is one-half of the laboratory result, which is correct practice. On the Lighting and Landscaping Plan, the applicant should provide additional plantings within the side and rear yards to adequately screen the site from the adjacent residential dwellings. The applicant has provided an 8-foot vinyl fence along the property lines. As noted above, our office defers to the Board in regards to any additional landscaping to be required. The applicant should revise the Lighting and Landscaping Plan to reduce the amount of light spilling onto the adjacent lot to acceptable levels, per the Ordinance. The plans have been revised as requested. The applicant should label all isolux lines so a determination can be made whether the parking area and site are adequately lit. The isolux lines have been labeled as requested. The applicant's engineer shall provide confirming testimony demonstrating that the proposed lighting complies with Township standards, including shielding adjacent properties. The detail

for the handicapped parking should be revised to include the correct fines. The plans have been revised as requested. The Stop Sign post detail should be revised to include the reflectorized strip that should be installed the length of the post. The plans have been revised as requested. The Type 'B' inlet detail should be revised to include the Type 'N' Eco curb piece. The plans have been revised as requested. The applicant is required to pre-treat the stormwater runoff from paved areas prior to discharge to the underground infiltration system. The applicant's cover letter lists this item as statement of fact, thus accepting this requirement confirming testimony required. The applicant shall provide a Detectable Warning Surface Detail and provide the installation location on the plans. The plans have been revised as requested.

Mr. Penzer Esq. appeared on behalf of the applicant said the concerns from these applications are for buffering and trash. They agree to almost every single thing in the reports. There was an issue that the applicant had asked for phasing. They ask for 2 phasings that are separate and apart and would take 5 years and the board's question was what was the reason for the phasing and that is to raise money. He requests that they do the fencing and buffering in the second phase.

Mr. Lines is the engineer for the applicant and stated it is a 2 story synagogue with 23 parking spaces. The variance that has been eliminated the 5 ft. setback of the parking spaces to the side property line. They are still asking for a variance for the 20 ft. buffer which Mr. Penzer said they would supplement by installing a fence. Mr. Lines said the ordinance does provide for a 6 ft. fence and landscaping and they are proposing an 8 ft. tall vinyl fence in lieu of additional plantings on the synagogue side of the fence. They have 2 trash containers and will provide screening. They can meet the remaining comments in the reports.

Mr. Neiman wanted them to discuss the 2 phases and the buffering during the 2 phases and Mr. Penzer said yes. Mr. Lines said the first phase is an addition on the back of the existing house. Because it is an existing bi-level house and the way the construction is going to go, they did not feel the proper to put the landscaping in now, it would not look right and it would be difficult to work around the existing house. They want to put the landscaping in front of the building during phase 2. Phase 2 will be knocking down the front building and leaving the building behind stand.

Mr. Vogt asked about the screening and Mr. Penzer said Mr. Lines would meet with him to discuss and they will put the screening up per the township codes.

Mr. Schmuckler asked if they were talking about the landscaping in front of the building or the landscaping and buffering around the site and asked if the fence was going up in phase 1 and Mr. Lines said phase 2 because funds are hard. Mr. Neiman asked them to address the variances for the record and Mr. Penzer said there were for the 20 ft. buffer which this board has allowed a supplanting by the fence. He said there is no other variance. Mr. Jackson asked them to testify the reason for the variances. Mr. Lines said they requested the variance from the buffering because on the south side they have 5 ft. between the parking area and the fence and they have provided a taller fence but it is too narrow to provide the type of buffer the ordinance requires. He does not believe it will impact the zone plan or zoning ordinance because they do have the taller fence. He said to the westerly side and the north side they have the same basic problem; if they put in a 20 ft. buffer in, they have a 20 ft. setback so they would have buffer plantings right from the fence up to the back of the building and that would take any open space

that there is between the building and the fence and it would be all plantings and over time they would be overgrown or ill maintained and he does not think it is a detriment to the zone plan to eliminate that. There is no active use on the rear of the property, they have a sidewalk on the northerly side but does not feel that would impact the neighbors negatively and they are providing a fence taller than what is requested.

Mr. Banas said he is interested in the buffering and asked what the maximum height that a fence can be established in this zone and Mr. Penzer said in the rear, 8ft. and anyplace else, 6 ft. Mr. Banas said according to what he reads, they are going to be completely surrounded by 3 sides when you have this building and asked if they are trying to exclude the vision from the outside or the vision from the inside and Mr. Penzer said it was the board's request that wanted the buffering in the zone, he would prefer not to have that much fencing but at the tech meeting it was felt that they wanted to have buffering one from the other. He has no problem if the board changes its position. Mr. Banas said he is looking at the engineer's comments and he makes some strong points that differ with the board's decision and he would like to hear from him as to why he might make these points.

Mr. Vogt said the first part of his response is that there was a difference between what is depicted and the detail on the plan, that has to be clarified. The second is the requirement, which was a prior comment made from T&M, about providing arborvitae, and if he understands the testimony, there is no room to provide the 20 ft. wide buffer that the code requires and they are compensating with the fence. Mr. Penzer said that was correct. Mr. Banas said an 8 ft. high fence in this area is mighty tall and Mr. Penzer said they had no problem if the board wants 6ft. and Mr. Banas said it is the board's decision. Mr. Banas asked if there were any 8 ft. fences in the area and Mr. Penzer said no but the board, at the tech meeting was concerned with the buffering. Mr. Vogt said the code requirement is 6 ft. fence and 4ft. arborvitae every 4 ft. along property lines abutting the parking areas unless a buffer of 20 ft. is provided which they obviously can't do here. Mr. Banas asked how much space is there and Mr. Lines said on the south side there is 5 ft. between the face of the curb and fence, in the rear they provide the 20 ft. required setback and on the north side it is 10 ft. setback between the property line and the building. Mr. Banas said he believed arborvitae could grow in a 5ft. and certainly in a 10 and a 20 ft. and Mr. Penzer said do they want arborvitae instead of a fence and Mr. Banas said he did not read it that way, it said 6 ft. fence and 4 ft. arborvitae every 4 ft. and Mr. Penzer said either way and Mr. Banas said he would rather see both but he is just one member and Mr. Fink said at the last meeting they asked for arborvitae and fence on the north side and just a fence in the back and the north side and they agreed on that. Mr. Schmuckler said he would like to hear public comment from people particularly on Lot 7 or Lot 5 if they would rather have a 6 or and 8 ft. fence if they are present.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Mr. Neiman said the question is the fencing and Mr. Banas said aesthetically, and 8 ft. vinyl fence on 3 sides looks terrible. Mr. Banas said if there is a sore thumb, that is it. Mr. Jackson asked Mr. Lines how tall the overhang was below the step and Mr. Lines said it was the overhang

between the podium and the overhang is about 8 ft. maybe a few inches more. Mr. Penzer announced that the neighbor to the south is putting up an 8 ft. fence himself.

Motion was made by Mr. Fink, seconded by Mr. Akerman, to approve the application with the fencing they discussed (6 ft.) and the arborvitae on the north side only as originally stated

This motion is for the subdivision and the site plan

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

5. SD # 1652 (Variance requested)
Applicant: Congregation Beth Medrash Govoha
Location: 901 Madison Avenue-between 9th & 10th Avenues
Block 98 Lot 2
Minor Subdivision to create 2 lots

Mr. Penzer said he already spoke with Mr. Vogt and the agreement was already put into the report. Mr. Penzer said the issue was to move the lot line for financing.

Mr. Vogt prepared a letter dated January 15, 2009 and entered in its entirety. The applicant is seeking Minor Subdivision Approval to subdivide one (1) existing lot into two (2) new lots. An existing 3-story masonry building will remain on proposed Lot 2.02. Proposed Lot 2.01 will contain an existing school and a second school building was previously approved by the Planning Board. The proposed lots have frontage on Clifton Avenue, Madison Avenue, Ninth Street, and Tenth Street. The property is situated within R-OP, Residential Office Park Zone. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated November 21, 2008) Zoning and Variances.

As noted, the parcel is located in the ROP Residential Office Park Zone District. Schools are a permitted use in the zone. On the prior application, SP-1895, the dormitory building was cited as an ancillary use to the school. However, the proposed subdivision will create a lot that contains only the dormitory building. The applicant should provide testimony concerning the uses within the 4-story masonry structure, if any, in addition to the dormitory use. As a result, if the dormitory is the only use of the structure, then it will become the principal use of Lot 2.02. Dormitories are not listed as an approved principal use in the ROP Zone. If considered a use not permitted, then a d(l) variance may be required. Additionally, the dormitory received a 'c' variance for height since it was an accessory structure at that time. As a result of the subdivision, it becomes a principal structure, and a d(6) variance may be required for height based on a height of 54 feet when a maximum of 35 feet is allowed. Based on the above, we defer to the Zoning Officer and Board Attorney regarding jurisdiction of this application. Per consultation with the applicant's professionals and Lakewood Township officials, Cox's "NJ Zoning & Land Use", the Lakewood Board of Education and several other school campuses, including Georgian Court University, the dormitory can still be considered an ancillary use due to being located within a campus setting. Therefore the dormitory will not require a use variance. The applicant has agreed to provide documentation and summary testimony in

support and confirmation of this interpretation. The following variances were granted under application SP-1895: Front Yard Setback - a minimum of 25 feet is required, and 6.5 feet is proposed on Tenth Street. As noted, this variance was previously granted under the prior site plan application, and is unchanged. Side Yard Setback - a minimum of 12 feet is required, and 0 feet is proposed on the west side of Lot 2.01, adjoining Lot 5. As noted, this variance was previously granted under the prior site plan application, and is unchanged. Building Coverage - a maximum of 25% is permitted and 54% was proposed for entire lot 2 which is now proposed to be subdivided. Our office notes that the subdivision will result in a decrease in the intensity of the required building coverage variance(s). The following variances are required for proposed Lot 2.01 as a result of the subdivision: Front Yard Setback - a minimum of 25 feet is required, whereas 9.8 feet is provided to Ninth Street, and 18.5 feet is provided to Madison Avenue. These are existing non-conformities. Additionally, the plan indicates a trailer in the front yard setback, it appears a 'c' variance would be required for the accessory structure in the setback. Our office notes that the 9.8-foot setback was granted a variance previously under SP-1895, and the 18.5-foot variance was granted as a 24.7-foot variance under the same application. Testimony should be provided in regards to the trailer located nearest to Clifton Avenue. Side Yard Setback - a minimum of 12 feet is required, and 4.8 feet is provided on the north side of Lot 2.01, adjoining Lots 1 and 5. This is an existing nonconformity. This setback was listed as an existing non-conformity at 4.9 feet on the previously approved site plan. Rear Yard Setback- a minimum of 15 feet is required, and 0.3 feet is provided on the east side of Lot 2.01 adjoining proposed Lot 2.02, and 7.6 feet is proposed between the existing and approved buildings on Lot 2.01. The 0.3-foot setback is a proposed condition, and the 7.6 feet is an approved non-conformity. As noted, the 0.3-foot setback variance is caused by the subdivision, and the applicant has requested the appropriate variance. Maximum Lot Coverage- a maximum of 25% is permitted, whereas 34% is proposed. As noted above, the previously approved site plan application included a 54% building coverage. Therefore the intensity of the required variance for this lot decreases as a result of the subdivision. Maximum Building Height- a maximum height of 35 feet is permitted, whereas the zoning table indicates that 54.3 feet is proposed for an accessory building. The applicant should confirm that this is accurate. It is our understanding that the 54.3 feet applies to the dormitory on proposed Lot 2.02, not the structures on proposed Lot 2.01. The applicant should clarify which structure is 54.3 feet, and testify as to whether the structure is an accessory structure. As discussed above in Item #1, the height variance was previously applied for and granted as an accessory structure under the site plan application. As the structure is still considered an ancillary use, the previously approved variance for height of an accessory structure remains valid. The applicant shall provide testimony to clarify the building heights on both Lots. The following variances are required for proposed Lot 2.02 as a result of the subdivision: Front Yard Setback - a minimum of 25 feet is required, whereas 9.9 feet is provided to Ninth Street, and approximately 22.2 feet is provided to the overhang on Clifton Avenue. These are existing non-conformities. The zoning table should be revised to list the correct setback to Clifton Avenue. As noted, these are pre-existing non-conformities. Appropriate revisions to the zoning table have been made. Side Yard Setback - a minimum of 12 feet is required, and 0 feet is provided on the west side of Lot 2.02, adjoining Lot 2.01. This is an existing non-conformity. As noted, this is a pre-existing non-conformity. Maximum Lot Coverage- a maximum of 25% is permitted, hereas 39% is proposed. As noted above, the previously approved site plan application included a 54% building coverage. Therefore the intensity of the required variance for this lot decreases as a result of the subdivision. Maximum Building Height- a maximum height of 35 feet is permitted, whereas the zoning table indicates that the building is less than 35 feet. The applicant should confirm that

this is accurate. It is our understanding that the 54.3 feet variance obtained under SP-1895 applies to the dormitory on proposed lot 2.02. If this is the case, a new height variance applicable to a principle structure would have to be obtained, which would require a d(6) variance, whereas only 'c' variance was previously obtained. The applicant should clarify which structure is 54.3 feet. This may result in a jurisdictional issue. As discussed above in Item #1, the height variance was previously applied for and granted as an accessory structure under the site plan application. As the structure is still considered an ancillary use, the previously approved variance for height of an accessory structure remains valid. The applicant shall provide testimony to clarify the building heights on both Lots. Section 18-906 identifies requirements for public and private schools. Section 18-906A requires a buffer of 10 feet from a school to a non-residential lot. The applicant does not provide the required buffer from proposed lot 2.01, which contains the school, to proposed lot 2.02 which contains the dormitory. A 'c' variance is required. Per the applicant's cover letter and the revised plans, the appropriate variance has been requested. Section 18-906A3 requires landscaping in the required buffer, however also states that where the buffer is inadequate it can be supplemented with a fence of solid material. The plan should be revised to include a solid fence along the proposed interior lot lines of lot 2.01 or a 'c' variance is required. Per the applicant's cover letter and the revised plans, the appropriate variance has been requested. Section 18-906B states that parking shall not be provided in any required buffer. The plans do not depict parking in the required buffer area, however, this area is indicated as existing asphalt on the plan. Therefore, the applicant should testify that parking will not occur in any required buffer, or a 'c' variance is required. Per the applicant's cover letter, testimony will be provided at the hearing. Per Section 18-906, one parking stall is required for each classroom, tutor room, office, library, and meeting room. The applicant should provide a parking calculation for proposed lot 2.01, and the number of parking stalls provided on proposed lot 2.01. A bulk "c" variance may be required. Copies of the previously approved Site Plan have been provided indicating sufficient parking for the development. The Ordinance does not provide a parking requirement for a dormitory. Therefore, the applicant should testify regarding the number of dormitory rooms and where parking will be provided for the dormitory. It does not appear that a 'c' variance will be required per Ordinance. Per the applicant's cover letter, testimony will be provided at the hearing. The positive and negative criteria for the requested variances should be addressed. Per the applicant's cover letter, testimony will be provided at the hearing. Review Comments The applicant should clarify the reasons for the proposed subdivision. Since the applicant proposes to subdivide the dormitory from the school use, the applicant should clarify if all services will be separate. Specifically, will the two lots share such items as parking facilities, and refuse areas? If so, access easements may be necessary. We defer to the Board Attorney for further comment. Per the applicant's cover letter, access easements will be provided as necessary. The locations of utilities should be reviewed by the Board Engineer. If any utilities pass through both lots, then utility easements may be necessary. Per the applicant's cover letter, utility easements will be provided as necessary. The applicant should revise the application to provide the correct block number on the application form. The application has been revised as requested. The location of the solid waste collection for proposed lot 2.02 should be addressed. Per the applicant's cover letter, testimony will be provided at the hearing. The applicant should confirm that no site improvements are currently proposed under the subdivision application. Per the applicant's cover letter, testimony will be provided at the hearing. The Board should determine if a shade tree easement and shade trees should be provided. Per the applicant's cover letter, the applicant has no objection. The fire official should review the plan relative to emergency access. Per the applicant's cover letter, the applicant has

no objection. The lot numbers on the plat should be consistent with the lot numbers assigned by the Township Tax Assessor. Per the applicant's cover letter, the proposed lot numbers have been approved by the Tax Assessor and proof of this approval was submitted prior to the application being deemed complete. Compliance with the Map Filing Law is required. Per the applicant's cover letter, the applicant has no objection. Agency Approvals. The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; All other required Outside Agency approvals. Per the applicant's cover letter, County Planning Board approval is pending. The applicant should provide testimony as to the status of any other approvals. Engineering Review Comments (T&M letter dated November 26, 2008) Zoning and Variance. The following information has been reviewed for conformance with the requirements of the Lakewood Township Unified Land Development Ordinance (Chapter XVIII). We offer the following comments: The applicant is requesting the following proposed variances: Rear yard setback; 0.3 FT and 7.6 FT are provided, where 15 FT is required. Fact – no additional information necessary. Side yard setback; 0.0 FT, and 4.8 FT are provided, where 12 FT is required. Fact – no additional information necessary. The applicant is requesting the following existing variances: Front yard setback; 9.8 FT, 9.9 FT, and 18.5 FT are provided, where 25 FT is required. Fact – no additional information necessary. Side yard setback; 0.0 FT is provided, where 12 FT is required. Fact – no additional information necessary. Building coverage; 34% and 39% are provided, where 25% is the maximum permitted. As noted previously, this is a reduction in intensity from the previously approved 54% coverage. The following variances were previously approved: Side yard setback; 0.0 FT for the proposed building, where 12 FT is required. Fact – no additional information necessary. Front yard setback; 6.5 FT is provided, where 25 FT is required. Fact – no additional information necessary. Ocean County Planning Board approval will be required. Evidence of approval shall be made a condition of final subdivision approval. Per the applicant's cover letter, County Planning Board approval is pending. The applicant shall provide the location of all parking spaces that will service the existing structure situated on proposed Lot 2.02. The applicant has provided copies of the previously approved site plans, which detail the location of the parking. Curb and sidewalk are existing along the frontages of all four (4) roads that front the lots. Fact – no additional information necessary. Map Filing Law Comments pertaining to the Map Filing Law will be provided prior to the public hearing. If/when approved by the Board, the filed plat must be in accordance with the Map Filing Law.

Mr. Vogt said as Mr. Penzer testified and said he believes that all the original zoning variances do not pertain to the application so they are going to move past those. There are a number of variances that are pre existing and Mr. Flannery said yes so that is on the record. Mr. Flannery said they acknowledge the variances, nothing is being constructed, they are pre-existing conditions. There is no negative criteria because they are not constructing anything, it is being done strictly for financing and the benefits are they enhance the campus with the ability to finance. Mr. Flannery said they agree to satisfy the comments in the review section of the report and the remainder of the report.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Herzl, seconded by Mr. Fink, to approve this application

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes

6. SD# 1631 (Variance requested)
Applicant: Barbara Flannery/Ridgeway Acres
Location: James Street, Atlantic Avenue & Drake Road
 Block 375 Lot 1
 Block 377 Lot 26, 26.01
 Block 378 Lot 1
 Preliminary & Final Major Subdivision - 20 single family lots and 1 open space lot

Mr. Vogt prepared a letter dated January 12, 2009 and entered in its entirety. The Applicant is seeking preliminary/final major subdivision and variance approvals to create twenty (20) residential lots for single-family development and one open space lot. The tract contains one single-family residential dwelling which will remain. In addition, a dwelling is under construction on Lot 26.03, Block 377. The balance of the tract is wooded. Development of the tract is proposed under the Reduction of Lot Width requirements provisions of the Unified Development Ordinance. In addition, two (2) of the proposed lots are flag lots. The applicant proposes the construction of all necessary roads for access to the subject lots and installation of all necessary utilities. Lot 26.02 of Block 377, located at the corner of Clarkson Avenue and Drake Road, which is 0.5 acres in area, is proposed to be dedicated to a Homeowner's Association. Also, a portion of Lot 1.09, Block 378 is proposed for a recreation easement to the Homeowners' Association. The tract is located in the west central portion of the Township. The surrounding lands are the Lakewood Industrial Park (James Street) to the South and low density single-family residences. The property is located in the R-12 Zone District and single-family detached residences are a permitted use. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated July 14, 2008)Variances and Zoning: Lot Width: A reduced minimum lot width per Section 18-908D of 81 feet is required, and the following additional reduction is proposed:

Block	Lot	Proposed Lot Width (feet)
375	1.01	80
	1.02	78.3
	1.03	78.3
	1.04	78.3
	1.05	80
377	26.04	70
	26.06	70
	26.08	70
378	1.01	80
	1.02	78.03
	1.03	78.3

	1.04	78.3
	1.05	80
	1.06	80
	1.07	70
	1.08	70

A variance is required for the open space lot; a minimum one (1) acre is required. The Applicant proposes 0.5 acre. The positive and negative criteria for the requested variances must be addressed. A design waiver is requested for providing lot lines perpendicular to cartways (18-805.c.).5. Review Comments. The subject lots will be served by public water and sewer. The subject site is not within the existing sewer service area. The applicant has submitted a request to amend the sewer service area of this project. The wastewater plan amendment process is a lengthy one and involves County and State Agencies. Any approval of the Planning Body should be contingent on revisions to the sewer service area and approval of the Lakewood MUA. Sidewalk is proposed along the site's frontage on Drake Road, Clarkson Avenue, Atlantic Avenue, Kaeflan Court (both sides), Belmont Avenue, and James Street.

Compliance with Section 18-908 Reduced Lot Area; The proposed residential density is 2.8 units per acre, which is less than the maximum allowed density 00.1 units per acre. The density complies with the requirement. The land resulting from the reduced lot area is 19,788 feet and exceeds the land to be dedicated to the Homeowner's Association, 23,759 square feet. Therefore, the plan complies with this requirement. The landscaping plan for the flag lots should be revised to comply with the requirements of Section 18-8-805G (Flag Pole Lots) for buffering along the "pole" portion of the lot and address the criteria for creating a flag pole in Section 805.G.5. A recreation easement is proposed on Lot 1.09, Block 378. The provisions of the easement must be reviewed by the Board Attorney and the metes and bounds description of the easement must be reviewed by the Board Engineer. Total lot equipment is shown on Sheet 13. Discuss the location of the total lot and adequate fencing around the perimeter. An architectural drawing has been submitted for Board review. The plan depicts a single-family residence with five (5) bedrooms. The requirements of Section 18_821 (Building Uniformity-in-Residential Developments) must be addressed. A minimum of five (5) basic house designs are required for this application. The Tree Protection Management Plan should be reviewed by the Shade Tree and Environmental Commissions. The plan indicates that no specimen trees are on the site. Recreation Area. The applicant proposes to dedicate the recreational land to Homeowner's Association (HOA). The ordinance provides that the land be dedicated to the Township. The proposed conveyance to an HOA will require a variance. The proposed recreational area should be reviewed by the Planning Board and findings should address suitability from the viewpoint of soils, drainage, slope, and location. The applicant should address this requirement in testimony. The land has direct access to a public right-of-way, as required by 1110 ordinance. A minimum of one (1) acre must be set aside for recreational purpose; the applicant proposes 0.5 acres. A variance is required from Section 18-908.B.7.

All site improvements shall be constructed in accordance with the NJ RSIS. Off-street parking for each of the dwellings should comply with the NJ RSIS parking requirements. Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. Agency Approvals. The required outside agency approvals may include, but not limited to: Ocean County Planning Board; Soil Conservation District; NJDEP approval of the

amendment of the Wastewater Management Plan; and Lakewood MUAINJ American Water Company approval of sewer and water utilities. Engineering Review Comments (T&M letter dated July 14, 2008) Plan Review The applicant shall revise the Site Development Plan to call out the color and width of the proposed stop bar. Stormwater Report Page 5.23 of the PondPack report for the proposed condition, the applicant used a CN value of 0 for an open space area. The applicant shall revise the PondPack model to address this issue. The trench Detail for proposed underground recharge trenches 1A and 1B shows a distance of 6 FT from top of the proposed 36 IN pipe to top of the trench; however, in appendix E of the stormwater management report, the applicant indicates the length of 12 IN is proposed. The applicant shall address this issue. In appendix C, page 8.16 of the Stormwater Management Report, the applicant shows a weir length of 5 FT for CB-26; however, the CB-26 detail shown on the Construction Detail sheet shows the weir length of 4.5 FT. In addition, in the same section of the stormwater report, the applicant shows CB-2A and CB-3 are equipped with outlet control devices; however, their details shown on the Construction Detail sheet indicate that the inlets are standard type "B" inlets. Furthermore, the applicant shall include the manhole 20 detail on the Detail sheet. Map Filing Law The applicant shall revise the Final Plat to show one of Block 375, Lots 1.02, 1.03, and 1.04 and one of Block 378, Lots 1.02, 1.03, and 1.04 to have lot widths of 78.34' to match the lot width before the subdivision. The boundary lines of the recreational easement shall be shown on the Final Plan with dash lines. They are currently shown on the plan with solid lines which can easily be confused with property line. The curve data between Lots 26.03 and 26.04 along Clarkson Avenue at the neighboring lot frontages should be provided to tie frontage together. Since no site improvements are shown on the Final Plat, the Site Improvements Certification shall be removed from the plan. Environmental Impact Statement Review Block 377, Lot 26 is serviced by an onsite potable well and septic. The applicant should provide show the location of both of these features on the site plan. The applicant should indicate whether these features will remain at the site. If they will no longer be used, the applicant should agree to proper closure/abandonment of the well and septic system and provide documentation of the closure/abandonment to the Township and T&M. See comment 6 above. A copy of the approved LOI plan for Block 377, Lot 26 should be provided to the Township and T&M for review. The width of the transition area has been shown on the development plans. While the applicant has provided testimony that freshwater wetlands are not present at Block 377, Lot 26.01, Block 375, Lot 1, and Block 378, Lot 1, we recommend that the applicant provide a LOI absence for these properties. A copy of the LOI should be provided to the Township and T&M for review. The New Jersey Department of Environment Protection (NJDEP) Landscaping mapping and results from the Natural Heritage Program database search of July 24, 2007 indicates that suitable habitat for the northern pike snake and the barred owl or an occurrence of these species exist at the site. The applicant should provide additional information as to the suitability of habitat and the existence of both at the site and adjacent area. A complete copy of the July 24, 2007 NHP database results should be provided to the Township and T&M for review. Considering the NHP database search findings are over 10 months old, the applicant should provide a recent NHP database search. The applicant has agreed to provide a maintenance plan to ensure that the catch basins and stormwater management system will operate as designed. Based on calculations for grading, the applicant has indicated that fill material will not be imported to the site. Mr. Slachetka prepared a letter dated July 14, 2008. The applicant is seeking preliminary/final major subdivision and variance approvals to create twenty (20) residential lots for single-family development and one open space lot. The tract contains one single-family residential dwelling which will remain. In addition, a dwelling is under construction on Lot 26.03, Block 377. The

balance of the tract is wooded. Development of the tract is proposed under the Reduction of Lot Width Requirements provisions of the Unified Development Ordinance. In addition, two of the proposed lots are flag lots. The applicant proposes the construction of all necessary roads for access to the subject lots and installation of the necessary utilities. Lot 26.02 of Block 377, located at the corner of Clarkson Avenue and Drake Road, which is 0.5 acres in area, is proposed to be dedicated to a Homeowners Association. Also, a portion of Lot 1.09, Block 378 is proposed for a recreation easement to the Homeowners Association. The tract is located in the west central portion of the Township. The surrounding lands are the Lakewood Industrial Park (James Street) to the south and low density single-family residences. Recreational Area.

The applicant proposes to dedicate the recreational land to Homeowners Association (HOA). The ordinance provides that the land be dedicated to the Township. The proposed conveyance to an HOA will require a variance. The proposed recreational area should be reviewed by the Planning Board and findings should address suitability from the viewpoint of soils, drainage, slope, and location. The applicant should address this requirement in testimony. The land has direct access to a public right-of-way, as required by the ordinance. A minimum of one (1) acre must be set aside for recreational purpose; the applicant proposes 0.5 acres. A variance is required from Section 18-908.B.7. All site improvements shall be constructed in accordance with the NJ RSIS. Off-street parking for each of the dwellings should comply with the NJ RSIS parking requirements. Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions Agency Approvals.

Mr. Penzer Esq. appeared on behalf of the applicant with Mr. Flannery as the engineer. He is related to Barbara Flannery, he is her husband. Mr. Flannery was also being offered as a planner and engineer. Mr. Flannery said the application was submitted last year and they were scheduled for a public hearing in July of last year but the application did not get reached. Following that there was litigation case where a judge remanded the zoning in this area back to the board for further consideration and ordered that all projects be held in abeyance pending that reconsideration. That was done in December, 2008 and the zoning was affirmed by the addendum to the re-examination report. Mr. Neiman asked if this went back to the judge and Mr. Flannery said there was a phone conference with the judge on Friday and an order was prepared by Mr. Jackson's office and the court order had 3 items: what the area was; you needed further consideration; all applications to be held in abeyance pending that further consideration. Once that further consideration was done, they were in a position to move forward and that was confirmed by the judge on Friday.

Mr. Flannery said since there was a question on the ordinance that changed this to R12, for the record, the UDO which was adopted July 14th 2005, was marked A1, and he also introduced minutes from the committee meeting when it was done which indicate a question about any of the rezoning and the minutes say Mayor Cunliffe confirmed with Mr. Slachetka that any rezoning being done is pursuant to the 1999 Master Plan so it was clear that there were re-zonings being done and Mr. Flannery introduced those minutes as exhibit A2. The proposed re-zoning map prepared by T&M Associates in June of 2005 which clearly show this re-zoning and that is when this all happened and that was marked as exhibit A3. He also had a rendered version of sheet 3 of 10 of the plans submitted, marked exhibit A4.

Mr. Flannery said the application is for 20 residential lots, 1 open space lot, pursuant to Section 908 of the ordinance which deals with reduction of residential lot requirements. To the south of the project is industrial zone property and American Hotel Supply is located there; on exhibit A4 that would be on the right hand side to the east which is the top of A4 there is an existing school which currently has frontage on Drake Road and is part of a Site Plan approval and will

have frontage on James Street when the additions are done. To the west are 2 residences and to the north is Drake Road and on the other side of Drake Road is one residence as well as the Crystal Lake Preserve. This is a property that is at the limit of the R12 zone and it is tucked in between an industrial use, a school use, the Crystal Lake Preserve and a couple of homes. There are 16 variances required all for lot width but when you look at it closely you see that 5 are for 80 ft. where 81 ft. is required, and he would characterize that as diminimus; 6 of them are 78 ft. where 81 ft. is required and again he would characterize that as diminimus; and 5 are at 70 ft. where 81 ft. is required but there are unique circumstances relating to them. The R12 zone has a lot width of 90 ft. and Section 18-908 allows a reduction in the lot area of 15% and lot width of 10% and 10% reduction on 90% comes to 81ft. The 5 lots with unique circumstances are that 2 of them are in Block 377 and they are adjacent to the existing residential lot where the plan proposes to leave a 28,000 sf lot with a lot of distance from the house to the back because there is a pool in there and in order to make those lots conforming, the pool would have to be eliminated but averaging the lot width and leaving the pool there could actually be done by knocking the house down and 2 lots be put in, but that is not the intent of the plan, the intent of the plan is to preserve as much of the character of the neighbor and to preserve as much of the trees and limit the amount of disturbance to the maximum extent possible, so from a planning perspective those lot sizes were reduced in order to leave a larger lot with the pool intact. Block 376 has two 70 ft. wide lots and these lots are adjacent to the flag pole portion of a flag lot and this project does propose 2 flag lots; the one fronting on Drake Road isn't going to look like a flag lot because the whole front of that lot is left as open space, the driveway comes in respecting the environment on a pole status and leaves one final area and the only other way to service that area is a cul de sac and to put in a cul de sac to service one lot is a lot of impervious pavement and disturbance with no real benefit. What he did in planning this is leave 25 ft. in fee simple for the flag pole to leave for additional landscaping.

Mr. Jackson asked if the lot width variances have any impact on the yield of the lots or the density or are they part of the configuration and Mr. Flannery said they are part of the planning; when you design a lot you can either have it narrow and deep or wide and not so deep. You get more useable lot area on a narrow deep lot and more ability to save trees so the unique configuration and geometry of this property dictates that the plan that would provide the most benefits would have narrower, deeper lots. Most of the lots that have 80 instead of 81 ft. are because they have 400 ft. in the property depth and they had a dedication to the county of 5 ft. so the lots in the middle is where the additional 5ft. was taken out of so that what would have needed to be done there was either put another road in, put a cul de sac in or do something differently to comply with the 81 ft. They are not picking up extra lots by making it 81ft. The density allowed in the zone is 3.1 units per acre and they are 2.88 units per acre. Mr. Flannery said the last lot that has a lot width variance is a lot on a curve along Clarkson and curve lots widen out as they go to the back; the lot actually widens to 85 ft. beyond the 81 ft. but when you measure it as the setback line it is only 70ft. When you look at where these variances are, the impact of them is really negligible and it does fit into the criteria in the MLUL relating to the granting of variances.

Mr. Flannery said the other variances listed in the report are with relation to Section 908 and it indicates that the open space is ½ acre and Section 908 indicates the open space should be a minimum of 1 acre but there is a caveat in there that says unless it can be added at this time or in the future to another open space and this is adjacent to the Crystal Lake Preserve so it is his opinion that a variance really is not necessary, but to be conservative, they are asking for one.

The MLUL NJSA 40:55D-70 says "C2" variances. Mr. Jackson said hardship deals with the piece of property; topographic, narrowness, etc. which makes the difficulty of developing that piece of property with the compliance of the standards impracticable. The C2 variance indicates that wherein an application or appeal relating to a specific piece of property, the purposes of this act would be advanced by a deviation from the zoning ordinances requirements and the benefits of the deviation would substantially outweigh any detriment, the board can grant a variance to allow the departure. Mr. Flannery continued and said under NJSA 40:55D2 from A through O it states to encourage municipal action to guide the appropriate use or development of all land in the state in a manner which will promote public health, safety, morals, and general welfare. Under C it states to provide adequate light, air, and open space and Mr. Flannery said looking at the plan it provides all three. Under E it states to promote the establishment of appropriate population densities and concentrations that will contribute to the well beings of persons, neighborhoods, communities, regions and preservation of the environment and Mr. Flannery said population density is 3.1 and they are less at 2.8 and it is the appropriate density. Under G it states to provide sufficient space and appropriate locations for a variety of agriculture, residential, recreational, commercial and industrial uses and open spaces for public and private according to the needs of all the citizens and he said they are providing that location for the residential use and the recreational use. The site plan has the 1/2 acre in the front which would be passive recreation and there is also roughly 5,000 sf recreation area tot lot centrally located in the project for the children to play and with these size lots, the lots are very large and the yards also provide for recreational opportunities. Under I it states to promote a desirable visual environment through creative development techniques and good civic design arrangements and J is to promote the conservation of historic sites and districts open space, energy resources, valuable natural resources in the state and to prevent urban sprawl and degradation of the environment and he said the plan does satisfy those. He said the Master Plan encourages growth and redevelopment based on smart growth planning principles on page 56 and he said this plan does. Mr. Flannery said on page 4 of the recently adopted addendum it indicates that based on the current growth and importance in the region, the township anticipates further significant growth in upcoming decades. This growth pressure and the need to accommodate the need for necessary growth and housing and services to meet the needs of the townships diverse population has been the driving force and primary imperative of the planning effort.

Mr. Neiman asked if the roads were going to be public or private and Mr. Flannery said they would be public, they meet RSIS and he met with Mr. Franklin and Mr. Vogt and in Mr. Vogt's report there is a suggestion for drainage to make it so that the roads can be maintained by the township and he agrees to that. Mr. Franklin said the yard drains that is coming out of 5 lots and Mr. Flannery said they were being corrected with 1% swales and they can be eliminated and the project can be maintained by the township; the roads meet all the other criteria of the RSIS. Mr. Neiman asked about curb and sidewalk and Mr. Flannery said curb and sidewalks are on every road and also thinks these roads will help with the traffic from Drake to James.

Mr. Flannery wanted to read into the record from Section 18-908 the reduction of residential lot requirements for recreational purposes which is the section he is under. "A" indicates all the zones they were it is permitted: B1 says lot area is reduced up to 15% and that is what they show on the plan; #3 says the land resulting from lot size reduction shall be set aside for playground, park and other recreational purposes and that land is set aside and more along Drake Road and the purpose is to leave Drake Road looking the way it is. The trees where that

house will go have already been knocked down and it will still have that rural look to it. #4 says the land shall be dedicated and deeded to the township for recreational purposes and Mr. Franklin is shaking his head no, the township does not want it, so have a homeowners association maintain that and it is just a matter of picking up the garbage, it is not onerous on the homeowners association and this project will have a homeowners association for 3 things: picking up the garbage on the ½ acre open space lot; maintaining the recreational equipment on the 5,000 sf tot lot and maintaining 2 underground recharge systems which are right near the road and will have access for easy maintenance. All of the catch basins will have baskets in them to catch silt. That technically is saying they need a variance and he would say they are doing something that is enhanced beyond that and is better and you shouldn't need a variance but he defers to Mr. Jackson who calls it a variance, Mr. Flannery said there is no negative impact so there are positive impacts and based on that the board should approve it. #5 says the soil slope drainage location of the proposed recreation area shall be deemed suitable by the board and Mr. Flannery said the front portion is suitable for recreational purposes and the report indicates 20% of the land is wetlands and the remainder is uplands and an active recreation area is proposed in the center of the project. Item #6 says the land dedicated should have direct access to a public right of way which it does and item #7 says the area set aside for recreational purposes shall not be less than 1 acre with its least dimension not less than 150 ft. unless this area is to be added to another recreational area at this time or some time in the future. Mr. Flannery said it is right across from the Crystal Lake Preserve and it makes perfect sense to have this as a passive recreation area, green belt area, the adjoining property if it every develops the green belt could be extended and right out to Neiman Road. Mr. Flannery says it complies but to be conservative he is asking for the variance and he feels there is no detriment and said it complies with the intent of the ordinance and the benefits outweigh the detriments and there are no adverse impacts. Item #8 is the gross density which they have stipulated before.

Mr. Flannery said what they have indicated is that they squarely fit on a C2 variance and what he needs to prove in order to get that C2 variance are 5 things: 1- relates to a specific piece of property, which it does; 2- purpose of the MLUL would be advanced by a deviation from the zoning ordinance and it does by the boring stuff he read before; 3- that the variance can be granted without substantial detriment to the public good and he said the public good would be the impact on the neighbors which he feels has no adverse impact and only has positives; 4- that the benefits of the deviations would substantially outweigh any detriment and it is his professional opinion that there is no detriment to these variances that are asked, only benefits; 5- that the variances would not substantially impair the intent and purpose of the zone plan and zoning ordinance and he said they have conforming areas and setbacks except for those minor issues listed and said there is certainly not substantial impact on the zone plan or zoning ordinance. Mr. Flannery listed the benefits of this application: it provides the adequate light, air, and open space; it provides the appropriate population density 2.8 where 3.1 is allowed; it provides sufficient space for recreational, residential and open space; it promotes a desirable visual environment; it prevents urban sprawl; it promotes conservation of open space, energy resources and valuable natural resources, retaining the existing house does those things; it accommodates needed housing in a well planned and sustainable manner; it promotes the general welfare by the following: there is no residential frontage on Drake Road, traffic access is directed to James Street and there is only 2 access points. There are no dwellings fronting on James Street. The residential access road connecting Drake Road and James Street is proposed to ease traffic instead of putting in cul de sacs that the township is going to have trouble maintaining and people are going to have to back in and out of. It provides deep lots

with minimum widths which provide for utility and tree save. The flag lot poles are in fee simple and they provided the one at 25 ft. wide with enhanced buffers. There is a centralized tot lot, there is 4 parking spaces per dwelling, curb and sidewalks is on all the roads including the major collector roads. They have provided passive recreation and a green belt and minimized lot clearing and the shade tree commission recommendations have been incorporated into the plans beyond what is in the ordinance. They have shown foundation plantings, increased tree sizes and they have indicated that before any clearing is done, the area would be staked and fenced so clearing does not exceed the area that is supposed to be cleared. The board engineer had asked for plot plans prior to construction where they could look further at tree save. It is his professional opinion that the board can grant this without any detriment to the zone plan and zone ordinance or the public good.

Under the review comments, Mr. Flannery said they indicated public water and sewer. The board is aware from the addendum report, this area is not in the sewer service area and the report suggests that area be expanded and he fully expects that to happen. This is a project that he is not building in any hurry, but is also a project that can be developed on septic with public water and public water is available on Drake and on James Streets. The public sewer, if for some reason it did not get approved for sewer service area, it would have to get developed on septic, he gave the board's engineer a plan showing where the septic fit on each of these lots, there are lots all over Lakewood with both well and septic on 12,000 sf lots and the school next door is on septic. Mr. Flannery said he does not want to be locked into it and he is not in any hurry to develop it but if it cannot be developed with sewer it can be done on septic. Therefore he would respect that it not be a condition of approval as stated as a comment in the review letter which it should be contingent on revisions to the sewer service area. He agrees that there will be no clearing occurring until necessary sewer approvals or septic approvals area done so there is no clearing until lots can be built before he knocks down the trees. On the review letter, where it states the applicant agrees, he states on the record that he agrees. He requests that the TWA not be a condition of approval. Mr. Flannery said they will get Trident Environmental to address the habitat assessment and the LOI. They agree with the remainder of the comments in the professional report.

Mr. Vogt asked for clarification on page 8 of his letter in reference to the sewer, and the adjacent subdivision, Serenity Estates, he is not sure if he testified but if he does get the sewer service area approved and they do not put that sewer in Mr. Flannery said he would put that sewer in. Mr. Flannery said that would be a condition, prior to any site disturbance.

Mr. Franklin said it is one of the most complete applications he has ever seen.

Mr. Neiman opened the microphone to the public

Janet Scher, Cross Street, Lakewood, was sworn in. She said she was not going to go into the lawsuit but now she feels obligated to give the board the background as it happened to us. She said they have heard one side of it. She served as the chair for the Master Plan Advisory Committee for the Environmental Committee and part of her responsibilities she was asked to look at zoning and when she looked at the map, the zone she lived in had changed from A1 to R40 and R12 and as much as she empathized with Mr. Flannery's feelings about delaying his application, you can imagine what it was like to just wake up one morning and find out that without notice, without legislative backup or any ordinance or governmental action the zone

that you live in has changed. Her husband agreed to be the named plaintiff but the suit was brought by a number of people within that zone all of whom shared similar feeling and it was espoused by members of the Township Committee that in fact that zone change had been done illegally; those were their words, not ours. The word that was used was "error". She said they attempted to have the zone changed correctly through the township process, got nowhere, and the neighbors said they had no recourse but to bring it to court. They are not antagonistic people who are hostile and looking for confrontation; that is not the nature of the situation. Mr. Flannery sought to intervene with others in the suit and so when the judge remanded the whole zoning process back to the township and said he agreed with them that the zone had taken place illegally he was in fact ruling against Mr. Flannery as well at the time and all of the evidence that you are being presented with 2005, 1999, etc. was brought before this judge before he made this determination. She said they are not arbitrary people, they are not looking for something they don't deserve, the judge looked at the transcripts of the proceedings and the maps and documents that Mr. Flannery provided and said the zoning had taken place illegally.

Mr. Jackson wanted to advise the board that this is the public comment and she is an interested person and has every right to make statements but the board is familiar with the history of that matter, the litigation and he thinks her characterization of what the courts ruling was and the implications were he respectfully has a different perspective on that and he does not know if it is relevant to this application at this point. Mrs. Scher said she was not going to bring it up except Mr. Flannery spent some time on it so she felt compelled to rebut what he said. Mr. Jackson apologized for the interruption and said he did not want it to seem by his silence acquiesced to the interpretation and she noted he did not interrupt Mr. Flannery when he gave his interpretation.

Mrs. Scher continued and said the most important thing with regard to this portion of the township is the sewer save area and she has a map to provide if the board would like one. The sewer save area is there because this is a part of the Metedeconk Watershed and a part of the Toms River Watershed. It is a fragile ecosystem in the part of town they happen to live in. Arbitrarily saying that you should reduce your planned open space because you are in proximity to the Crystal Lake is not an argument that can be proposed at this point because the township has indicated in every way possible that they have no intention of preserving that area. She has been fighting for at least the last 10 years and some of her neighbors have been fighting much longer to preserve the Crystal Lake. All that is required right now is an Ordinance on the part of the Township Committee, it has been approved by the County, the County refuses to go forward unless the ordinance has been passed. The township has floated up an argument that they want to have this as part of their preservation acres for plan endorsement but that was totally refuted by the DEP, so we cannot on the one hand not preserve the Crystal Lake and on the other hand say for convenience sake we are should to get a in open space because it is already preserved; it is not. She also has letters from Helen Henderson, who testified before the board, you were supposed to be presented with these letters previously. She has spoken to people and is not sure if the board received them. There were comments that were submitted to T&M previous to the re-examination report and she would be happy to provide them to the board. She said they say is that Ms. Henderson and her executive director Tim Dillingham have looked at this area and have said that in other places in the State this area would require 1 house every 4 acres because of its' ecological sensitivity. They have also given forth information about nitrate dilution models, hydrological studies that should be performed before

any of this is disturbed and she just wants to make sure that the board has what was supposedly given at an earlier meeting.

Mr. Penzer objected to the hearsay testimony and said you can't present what someone says in a report without them being here to be cross examined.

Mr. Jackson noted the objection and asked Mrs. Scher what the point was and she said it was that these letters were mailed to the planning board and when she asked Mr. Truscott had they been distributed he said he was not sure and she asked him to please make sure that they did receive them and she still does not know if they did. Mr. Jackson said in general, the planning board cannot consider hearsay evidence that is submitted by people that is submitted in the form of a letter and Mrs. Scher said she testified and brought the letters with her but she does not think they were distributed. She testified with regard to the re-examination of the Draft Report. Mr. Penzer still objected and Mr. Jackson said it was noted and the board apparently heard the testimony was given. Mr. Penzer said he wanted the entire testimony be stricken and he does not waive any rights.

Mrs. Scher continued and said she also had a letter mailed to her from Dave McKean and it clarifies that this is within the sewer save area. The side setbacks that are referenced in the application are a concern because they accumulate and they are concerned with impervious space, and driveways are impervious space, roads are impervious space. Obviously the State is working to preserve open space and it is doing that through several initiatives which will be discussed this Wednesday at the State Planning Board Commission. Among them is global warming protection initiatives and open space initiatives and she brings this up because this area is one of the last vestiges of open space within the township. The Office of Smart Growth has asked the township to preserve tracts and there are only certain areas within the town where that can happen. It has asked for certain areas away from the center core of the town to be lower density and there are only certain areas in the township where that can happen. In addition to the purifying effect of the wetlands that are there they also have the carbon dioxide removal by the trees, there are endangered species, pine snake, baird owl and coopers hawk, all in existence in the area. For these reasons, it is a sewer save area. Mr. Penzer objected again. Mrs. Scher said she has with her the draft of the State document, it is 128 pages, she would spare the board that. Mr. Jackson interrupted and said he wanted the record to reflect he went over to Mr. Penzer and asked him to have a seat and said Mr. Penzer has a continuing objection to all of this. Mr. Jackson suggested he let the witness make her record and said Mr. Penzer's objection is well preserved.

Mrs. Scher continued and said in previous meetings they have been characterized as not being in favor or preservation, and aspersions have been cast. Her husband and her have probably planted somewhere between 300-500 trees on their property personally, for no reason. Mr. Jackson advised her to direct her comments to this application only. Mrs. Scher said in addition to the side setbacks and the reduction of the open space and the fact that water and sewer are precluded in this area and yet there is in the application a sentence which says NJAWCO will bring in sewer and water and the letter that she has from Dave McKean, director of the County Planning Commission, which says that an amendment would need to be drafted in order to change the sewer save area. The application does not meet the standards the board has set out and for that reason she would respectfully ask that the board ask the application

adhere to those standards. She apologized for all this she did not expect to bring up the lawsuit but she felt compelled to.

Larry Simons, 7 Schoolhouse Road, Lakewood, was sworn in. He said before he begins he would appreciate no interruptions because there is another case afterwards and they cut off at 9pm and we will pursue the presentation if it goes past 9:00. Mr. Simons said this is in relationship to some comments that Mr. Flannery made that he takes objection to. He thinks he is using semantics to make a point. If the ordinance requires 90 ft. setback and it allows a 10% reduction, there is your variance right there, it is not 1 foot that you are asking for, but you are asking in reality for 10 ft. or 20 ft. so when he uses the argument of all I am asking for is a diminutive 1 foot he is not asking for that, he is in reality asking for more than 1 foot. He takes objection when you play with words trying to make a point and it is not really valid.

Carol Murray, Drake Road, Lakewood, was sworn in. She said this is another example of greed overriding good judgment and good planning. This is way too dense for this ecologically fragile area. Even sewer service is precluded in this section for good reason. This area cannot support this type of density and the developer is not satisfied with complying with the R12, more density with variances is sought. This application should be rejected.

Bill Hobday, 30 Schoolhouse Lane, Lakewood, was sworn in. He said when he looks at the application, he sees Block 375 but in Mr. Flannery's testimony, he refers to Block 375,376,377 so which is it, all of them or just the one as in the agenda and Mr. Kielt said it is a typographical error on the agenda and Mr. Flannery said it is for all 3 blocks and has been noticed for all 3 blocks. Mr. Hobday asked Mr. Flannery if he owned Block 375, 376 and 377 and Mr. Flannery said the property is owned by his wife and himself and Mr. Hobday said when he is arguing for these variances, it is for his own profit that he would have higher density in order to make more money off of this. Mr. Flannery said the argument presented to the board was planning arguments, it presented facts which support this application and the characterization that the density is exceeded, the density is not exceeded. The ordinance allows for 3.1 units and a density of 2.8 is proposed so more density could be attained on the property. Mr. Hobday said he is asking the board to allow him a differential from 10-20 ft. on his lots and that seems to him to be well above an acceptable level.

Gerry Ballwanz, 208 Governors Road, Lakewood, was sworn in. She stated it was said there were 3 lots but she believes there are 4 lots because it is just not Lot 26 but also Lot 26.01 so it really makes 4 different total lots. Mr. Flannery said she is correct and 4 Lots and 3 Blocks. Mrs. Ballwanz said when Mr. Flannery was talking about the different facts he then concluded it was his opinion that the positive, negative criteria; the positive all works in the owners lots so it is not just facts but an opinion that has been stated. She also remembers when the arguments were presented in the beginning and it talked about the open space lot being an acre in size; he used the words "it is adjacent" to the Crystal Lake Preserve. A few minutes later he said it is near Crystal Lake Preserve, so it makes a big difference whether is it right next to but we have Drake Road that makes it in close proximity to CLP so he changed the emphasis of the argument at the beginning. The other thing is the argument about the septic and the sewers, she thinks because of the sensitivity of the area that the CLP has the environmental sensitive land if you are supposed to have septic the concentration of the septic in this small area with this many houses and very many people really will be overflowing the potential for using the septic and therefore if he is going to go through septic she thinks it is important that the

number of units be reduces and the comment was 1 house per 4 acres or if it is through the sewers, then it should be a condition and not with the suggestion that it be removed as part of the final resolution.

Noreen Gill, 192 Coventry Drive, Lakewood, was sworn in. She asked Mr. Flannery if these 5 bedrooms had basements and said when a family member bought a 4 bedroom home with septic and the inspector came, he asked how many people were going to be living in it because according to him, the septic should be based on the number of bedrooms and if there is a basement she would like to know. She also regrets saying this but Mr. Flannery would like the fact left out that about the sewage not being included in this, she does not ever think they will get sewage up there and that is her opinion. Mr. Flannery said he is not asking for any dwellings at this point so there are no number of bedrooms, no basements, the 2 homes where the flag lots are, the ordinance does require architectural plans and those plans show 5 bedroom houses with bedrooms with basements and he would anticipate that is the type of houses that will get constructed on the other lots. Mr. Jackson asked Mr. Flannery if he is looking at any restrictions on bedrooms, basements, other than conforming with the zoning ordinance and Mr. Flannery said yes, other than plot plans and permits required to meet the state laws that protect those issues.

Sally Wells, 1101 West Cross Street, Lakewood, was sworn in. She said she heard the testimony of Mr. Flannery and she thinks he did a wonderful job of describing what the project entailed. She thought the information was open and honest and she thinks it was typical of the type of information he brings to the table when he comes in front of this board. She would recommend that the board strongly consider the variances that he is requesting and allow himself, his wife and his family to move ahead with this project in the future if they choose to do this. She is also a little jealous that he has R12 and she doesn't. She particularly likes that it is contained within the parameters of the wooded areas. She knows the people surrounding the property and it is her opinion that if they are not here objecting then she is not going to object.

Ann Richardson, Lakewood, was sworn in. She said environmentally this is a very sensitive area and she understands the county has offered to purchase Crystal Lake as a preserve and Lakewood Township has not followed up on any of this. To build house out on this area, she objects for anyone to build anything out here in this area. Mr. Flannery seems to think that he owns the property, he is building it, and she doesn't know what his plans are, but eventually he will probably move down to the pinelands, but the people on this street object. Sewerage to come into that area is very sensitive. If you looked at some of the maps you will see that there is a stream that runs very close to that area where he wants to build. It connects into Lake Manetta and comes from the west side of Drake Road between Neiman and Drake and goes under the ground and goes into Lake Manetta. Her problem with all this is she objects to the building, she would like a committee to investigate all the environmental issues that is going to be coming along with this and make sure all the reports are filed and read and the DEP knows exactly what happens out there.

Mr. Neiman wanted to talk about septic and sewer and said right now there is none and what Brian asks is if the sewer doesn't come he is not intending to build right now but if it doesn't come to this area, he is asking for an approval with septic and Mr. Vogt said yes. Mr. Vogt said it is import to understand that there has been a lot of talk about what would happen if they have to use septic; the approval of septic is not the prevue of this board. When this board acts on a

planning board application it is typically acting on outside agency approval and one of those agency approvals is sanitary sewerage and it is a public agency and if they can't get public sewer and he chose to go septic long term it wouldn't be this board or Lakewood Township, it would be Ocean County Health Department who would be using the NJDEP regulations so even if this board acts favorably or unfavorably they are not granting him sewer approval and he can't build until he has public sewer or the county on behalf of the state signs off on the septic systems that meet the state regulations. Mr. Jackson said in the past this board has taken an a positive criteria the applicant saying they will be bringing sewer into the area and that is good for the rest of the area, but that is not what this applicant is doing. Mr. Vogt said they discussed the septics with the applicant's engineer briefly and he gave a sketch plat where he believed the fields could be located but he did not review that for compliance with the septic regulation, that is not their job. That will be deferred to the health department per NJDEP regs. If they don't meet the regs, they will have to come back. Mr. Neiman said there was a thick environmental impact statement and Mr. Vogt said he is the environmental consultant in Egg Harbor Township as well and talking about the Pinelands, they are the largest regional growth area in the Pinelands and he has worked the with environmental firm who did the report and his background is in environmental and one of the things the prior planner asked for was all of the species who were basically referenced in the State's database had been investigated and the author concluded there is no evidence for each of the mapped species. One of the recommendations from T&M was to get updated databases and the applicant has agreed to that if there is an updated database that shows a species that is not what they used they are going to re investigate. There are wetlands in the recreation area and they talked about the upland areas and the people who did the report did an assessment of the entire property based on the State regulations of wetlands which is a 3 parameter approach: soil, wetland, hydrology. They are going to go through and if there are any areas identified as being wet they are going to mapped and per his review of the mapping he seriously doubts they are going to find anything there unless there is going to be a small isolated area here or there.

Shlomo Katz, 1415 Cedarview Avenue, Lakewood, was sworn in. He said he believes it is important for the board not to tie the application to the sewer because of the fact that once the application is approved he is convinced the sewer service area will come in to most of the R12 zone. If the powers that regulate that see that they can tie that in there so they will have either they will probably amend it because their hands wont' be tied. He said the sewer ends right across the street at the industrial area.

Seeing no one else, this portion was closed to the public

Mr. Banas had some questions for Mr. Flannery on his plot plan. He asked what his typical planting of landscape each envelope. Mr. Flannery said there area landscape plans which are part of the set and one shows all of the street trees and an overview of the site and then there is a detail sheet that shows the foundation plantings and gives the planting details. Mr. Banas asked if that included the flags that he referenced and Mr. Flannery said the flags are shown on the landscaping plan itself, the first plan. Mr. Franklin said pages 12 & 13. Mr. Banas asked on the flags, does he have them completely covered from the neighborhood so they are not intruding in any way and Mr. Flannery said yes there is a 10 ft. buffer all around the neighbors and there is supplemental plantings.

Mr. Flannery stated he presented the testimony and said the benefits outweighed the detriments and it is an application that he will be proud of and the neighbors that will be most affected have not even come and he would respectfully request that the board approve the application.

Motion was made by Mr. Schmuckler, seconded by Mr. Herzl, to approve the application, based upon hearing the testimony that the benefits do outweigh the detriments. He would also add to include the variances they requested including the more stringent ones and also include that he can have either sewer or septic, but they would prefer sewer.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

7. SD# 1650 (Variance requested)
Applicant: Scott Wegeman
Location: 766 Albert Avenue, north of Salem Street
Block 1159 Lot 62
Minor Subdivision for 2 lots – 1 flag lot

Motion was made by Mr. Akerman, seconded by Mr. Schmuckler, to table to February 17, 2009

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes

8. SD # 1653 (Variance requested)
Applicant: Benjamin Lederer
Location: 1259 Monmouth Avenue and southeast corner of 13th Street
Block 150 Lot 1
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated January 14, 2009 and entered in its entirety. The applicant seeks minor subdivision approval to subdivide Block 150, Lot 1, into two undersized residential lots. An existing dwelling is currently situated on-site which will be removed as a part of this project. No construction is proposed under this application. Proposed Lot 1.01 has frontage along Monmouth Avenue and Thirteenth Street and Lot 1.02 has frontage along Thirteenth Street. The proposed lots are situated within the R-10, Single Family Residential Zone. The surrounding land uses are predominantly residential. The following comments in (bold) indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated November 20, 2008) Zoning and Variances. The parcel is located in the Residential (R-10) District. Single-family dwellings are a permitted use in the zone. Fact – no additional information necessary. A variance is requested for a lot area of 8,400 square feet for proposed Lots 1.01 and 1.02, where 10,000 square feet is required. Fact – no additional information necessary. A variance is requested for a lot width of 70 feet for proposed Lots 1.01 and 1.02, where 75 feet is required. Fact – no additional information necessary. The positive and negative criteria for the variances should be addressed. A tax map exhibit of the neighborhood should be presented to the Board with

information concerning the existing lot areas and lot widths. Supporting testimony must be provided justifying the requested variances. Review Comments. The plans state that the lots will be residential. The applicant should verify that the lots will be for single-family dwellings and not for duplexes or two-family dwellings. The general notes state that future dwellings shall be single family. The NJ R.S.I.S. requires 2.5 spaces for a single-family dwelling when the number of bedrooms is not specified. The plans indicate that 3 spaces will be provided per lot. The plans should depict the location of the driveways so that the number of spaces can be verified. A note should be added to the plan requiring that no less than one car garages be proposed for the future dwellings. Therefore, the minimum of 3 spaces per lot can be attained. The plans indicate that the rear yard setback on Lot 1.01 is along the southern lot line. The applicant should confirm that the proposed dwelling will face Thirteenth Street. If this is not the case, the rear yard and side yard setbacks should be revised accordingly. The general notes state that the future dwelling on proposed Lot 1.01 face Thirteenth Street. The applicant should clarify if the existing curb cut will be retained or removed and replaced with full face curb and sidewalk. There is existing sidewalk along the property frontage. A note has been added to the plan stating that any existing concrete curb and/or sidewalk along the property frontage that is deteriorated and/or damaged will be replaced as directed by the Township Engineer. However, the removal of what appears to be an existing driveway apron and replacement of depressed curb on Monmouth Avenue must still be indicated. A shade tree easement and shade trees should be provided. A shade tree easement and shade trees have been added. The types of shade trees should be shown. All existing and proposed utilities should be indicated. Existing utilities have been shown. No utilities are proposed at this time. However, it appears a sanitary sewer line must be extended into Thirteenth Street from the Monmouth Avenue intersection in order to provide service to proposed Lot 1.02. The limits of clearing should be indicated, the trees to be retained identified, and proposed tree protection measures should be provided. The existing edge of trees has been added. No clearing is proposed at this time, but this must be addressed at the plot plan phase. It appears that Soil Conservation District approval will likely be required. The plans should be revised accordingly. The cover letter states that Soil Conservation District approval will be sought and obtained prior to obtaining building permits. The proposed lot numbers should be consistent with the numbers assigned by the Tax Assessor. The cover letter notes that the proposed lot numbers have been approved by the Tax Assessor.

Compliance with the Map Filing Law is required. Fact – no additional information is necessary prior to perfecting subdivision. Performance guarantees should be posted for the removal of the existing dwelling and all improvements in accordance with ordinance provisions. Fact – no additional information is necessary prior to perfecting subdivision.

The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; Sewer and water utilities, prior to issuance of construction permits; and, All other required outside agency approvals. Fact – no additional information is necessary.

Engineering Review Comments (T&M letter dated November 30, 2008) The applicant should revise the Schedule of Bulk Requirements for the required aggregate minimum side yard setback to be 25 feet, per the Ordinance. The Schedule of Bulk Requirements has been corrected. The applicant has requested the following variances: Minimum lot area: 8,400 SF for both lots is proposed, and 10,000 SF is required. Minimum lot width: 70 FT for both lots is proposed, and 75 FT is required. Supporting testimony must be provided justifying the requested variances. Outside agency approvals from Ocean County Planning Board and Ocean

County Soil Conservation District are required. Evidence of the approvals shall be provided prior to signature of the Final Plat. The cover letter indicates that County Planning Board approval is pending and Ocean County Soil Conservation District approval will be sought prior to obtaining building permits. The applicant shows in the zoning schedule three (3) off-street parking spaces will be provided for each lot. Per NJ RSIS standards, two and an half (2.5) off-street parking spaces are required for single family dwellings with unknown numbers of bedrooms. The Board should determine if the proposed number of parking spaces will be adequate. The cover letter indicates that testimony will be provided at the hearing regarding this matter. Any approvals should stipulate a maximum number of bedrooms and a minimum size for garages. There is existing curb and sidewalk along the property frontage of Monmouth Avenue and Thirteenth Street. A note should be added to the plans stating any existing concrete curb and sidewalk along the property frontage that is deteriorated or damaged will be replaced as directed by the Township Engineer. The requested note has been added to the plans. The applicant should revise the plans to include a six (6) foot utility and shade tree easement along Monmouth Avenue and Thirteenth Street along the property frontages, to be dedicated to the Township. The easement has been added to the plans. The existing dwelling shall be labeled on the plans as "TO BE REMOVED." Existing lot lines and dwelling are shown to be removed. The plans shall be revised to show the proposed lots can accommodate the proposed dwelling and three (3) off street parking spaces. Correct building envelopes and driveway locations have been shown. At a minimum, one-car garages are required to meet the parking requirements. The applicant should include any and all existing utilities on-site and within the rights-of-way of Monmouth Avenue and Thirteenth Street. The existing utilities are shown. The applicant should provide a note on the plans stating how utility service will be provided to the two (2) proposed lots. It does not appear that sanitary sewer is available within Thirteenth Street. It appears sanitary sewer must be extended into Thirteenth Street from the Monmouth Avenue intersection to service proposed Lot 1.02. The applicant has indicated with a note on the plans that the existing dwelling, walks, and driveway will be removed. The existing dwelling and associated site improvements should be removed prior to signature of the final plat or a bond posted to ensure the prompt removal of those structures. The cover letter states no objection. Comments pertaining to the New Jersey Map Filing Law will be provided prior to the public hearing for this application. Fact – no additional information is necessary prior to perfecting the subdivision.

Mr. Penzer Esq. appeared on behalf of the applicant and said this application is a simple application and they can agree to except for showing them that a good portion of the lots in the area are undersized. That is one of the points that the engineer requested. The area needs 10,000 sf and 8,400 sf is what they are proposed.

Mr. Simons was heard talking and stated that they were told the last case was the last one that was going to be heard and they cannot continue this. Mr. Neiman said he did say that it was going to be the last application when Mr. Simon thought he was going to be rushed. Mr. Neiman did acknowledge saying that. Mr. Neiman said he had no problem listening to this application and Mr. Penzer said he had no problem taking that risk. Mr. Simon said he would make a formal protest if they continue this. Someone else from the audience said they felt they were rushed and Mr. Fink said no one was rushed. Mr. Jackson said there is also a formal process for adjourning applications and that was not done for this one so if someone left before this one was heard, it was not done to trick anyone or fool anyone. He does not know anyone that was here for this one.

Mr. Flannery was sworn in as the engineer for the applicant and Mr. Flannery marked exhibit A1 which is a rendered version of the minor subdivision map and exhibit A2 is a aerial exhibit where it is indicated in yellow the boundaries of the R10 zone and in green the non conforming lots in the area. The lots in green are lots that are less than the 10,000 sf, some are less that 8,400 sf and some are the same. They agree to the remaining comments in the professional's report and Mr. Flannery said the planning testimony is that he did a 500 ft. radius of this area and in that 500 ft. radius, 52% of the lots are undersized. Also the R10 allows on 12,000 sf a duplex so they could be a duplex unit which is 2 dwellings the same as what they are proposing and his testimony is that the 2 single families are more in character with the neighborhood and it is a balancing act with the positive and negative criteria. On the negative criteria this will not have any substantial impact on the public good, it will not have a substantial impact on the zone plan or zoning ordinance and the benefits of it are you develop it more consistent with the neighborhood and it is his opinion the benefits outweigh the detriments.

Mr. Banas asked if this area and zone have anything to do with the sections that were identified in the last Master Plan review as being studied by the Township Engineer and Mr. Flannery said no.

Mr. Schmuckler added he would rather see 2 fee simple lots than to have one duplex.

Mr. Neiman opened the microphone to the public

Mr. Simons said he is filing a formal protest to the American Bar Association.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Schmuckler, seconded by Mr. Fink, to approve the application with the variances.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes

9. SD # 1654 (Variance requested)
Applicant: Shmuel Perlstein
Location: 179 Spruce Street – east of Cypress Avenue
Block 778.01 Lot 18
Minor Subdivision for 2 lots – 1 flag lot

Tabled to February 17, 2009

10. SD# 1655 (Variance requested)
Applicant: Aryeh Weinstein
Location: 5 North Apple Street, north of East County Line Road

Block 172 Lot 17
Minor Subdivision to create 2 lots

Tabled to February 17, 2009

11. SD# 1567A (Variance requested)
Applicant: S&H Bldrs (formerly Kelli Darlymple)
Location: Whitesville Road and Lafayette Boulevard
Block 252 Lot 4.02 (new lots 4.03, 4.04)
Amended Minor Subdivision to eliminate proposal for water main extension on
Whitesville Road

Tabled to February 17, 2009

5. MEMORIALIZATION OF RESOLUTIONS

1. SP # 1884A (No variance Requested)
Applicant: Chinuch Labonocs
Location: Joe Parker Road, south of Long Beach Boulevard
Block 189.04 Lot 188
Site Plan for a proposed school

Motion was made by Mr. Franklin, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris;
yes, Mr. Schmuckler; yes

2. SD# 1646 (Variance requested)
Applicant: Moshe Zucker
Location: southeast corner of Linden Avenue & Stirling Avenue
Block 189.17 Lot 151
Minor Subdivision to create 2 lots

Motion was made by Mr. Schmuckler, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris;
yes, Mr. Schmuckler; yes

3. SD# 1647 (Variance requested)
Applicant: Moshe Zucker
Location: Ridge Avenue, adjacent to Manetta Avenue

Block 223 Lot 92
Minor Subdivision to create 2 lots

Motion was made by Mr. Fink, seconded by Mr. Herzl to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

4. SD# 1648 (Variance requested)
Applicant: Moshe Zucker
Location: Maple Avenue, south of East 7th Street
Block 234 Lot 9
Minor Subdivision to create 2 lots

Motion was made by Mr. Fink, seconded by Mr. Herzl to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

5. SP # 1910 (Variance Requested)
Applicant: Oorah Inc.
Location: 1805 Swarthmore Avenue, east of New Hampshire Avenue
Block 1609 Lot 4

Minor Site Plan to add temporary Day Care

Motion was made by Mr. Fink, seconded by Mr. Herzl to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

6. Resolution appointing professionals and election of officers to the
2009 Planning Board

Motion was made by Mr. Schmuckler, seconded by Mr. Herzl to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; abstain, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

6. CORRESPONDENCE

7. PUBLIC PORTION

8. APPROVAL OF MINUTES

- Minutes from January 6, 2009

Motion was made by Mrs. Koutsouris, seconded by Mr. Herzl to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; abstain, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Schmuckler; yes

9. APPROVAL OF BILLS

Motion was made by Mr. Schmuckler, seconded by Mr. Koutsouris to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted

Chris Johnson

Planning Board Recording Secretary