

**LAKWOOD PLANNING BOARD
MINUTES
WEDNESDAY, APRIL 15, 2008**

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. Franklin, Mr. Banas, Ms. Velnich, Mr. Fink, Mr. Schmuckler, Mr. Percal

3. SWEARING IN OF PROFESSIONALS

Mr. Peters and Mr. Truscott were sworn in.

Mr. Kielt stated there were changes to the agenda. **#4 – SD 1620 Neal & Marilyn Gittleman**, carried to the meeting of May 20, 2008

Motion was made by Mr. Franklin, seconded by Mr. Schmuckler, to carry to the meeting of May 20, 2008

ROLL CALL: Mr. Franklin; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Kielt said there are 4 additional applications that will be carried to the same meeting of May 20, 2008 and wanted to put them together. Mr. Jackson agreed

#9 – SD 1550 Seymour Investments LLC

#10 – SP 1882 Sudler Lakewood Land

#11 – SP 1883 Sudler Lakewood Land

#14 – SP 1885 Omnipoint Communications

Motion was made by Mr. Franklin, seconded by Mr. Fink, to carry the 4 applications to the meeting of May 20, 2008

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

4. NEW BUSINESS

1. SD # 1524A

APPLICANT: MTR VENTURES LLC

Location: East Harvard Street, west of East End Avenue
Block 227 Lot 3

Extension of previously approved Minor Subdivision

Mr. Peters stated the project was previously approved by the Planning Board; the Resolution of Approval was adopted on May 16, 2006. The plans are revised through May 24, 2006. The applicant is requesting an extension of the approval. The application for extension did not provide information on the reason for the extension. The applicant shall provided testimony on why the board should grant the requested approval.

Mr. Penzer, Esq. appeared on behalf of the applicant. He stated the matter was in litigation and was settled last week by Judge O'Brien. Part of the settlement was that the application has to finish up. The applicant refused to sign the plan that was approved while the matter was in litigation, and now it is resolved and he now asks for a one year extension. Mr. Carpenter has advised they have to go for their 3rd one year extension because it was approved May 2006. Mr. Banas said this would be the last.

Mr. Banas opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Neiman, seconded by Mr. Fink, to grant a one year extension

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; abstain, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

2. SP # 1878 (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 1.5 story synagogue

Mr. Peters stated the applicant is seeking Preliminary and Final Site Plan Approval to construction a synagogue and its associated site improvements on existing Lots 77 and 13 of Block 423.14. An existing one (1) story dwelling is located on each of the Lots and they will be removed. The property has frontage along River Avenue, N.J. State Highway Route 9 and Rena Lane, within the HD 7 zoning district. The applicant is requesting the following variances: Minimum lot area: 0.46 acres is proposed where 1 acre is required. This is an existing condition. Minimum lot frontage: 135.11 ft is proposed where 150 ft is required. This is an existing condition. Minimum front setback, non-residential development along a state highway: 100 ft is provided where 150 ft is required. Minimum front setback along a township road: 10 ft is proposed where 50 ft is required. Minimum

side yard setback: 10 ft and 25 ft are proposed where 30 ft is required. Minimum number of parking spaces: eighteen (18) parking spaces are proposed, where nineteen (19) parking spaces are required. The NJDOT approvals will be required. Evidence of the approval shall be made a condition of final site plan approval. The applicant has submitted a copy of the Ocean County Planning Memo which states approval of the project and the Soil Erosion and Sediment Control Certification. The proposed building will be served with public sewer and water. The applicant shall provide testimony on how solid waste will be handled for the proposed building. The applicant did not show on the plans any designated trash enclosure area. In regard to solid waste disposal, the applicant has indicated in their response letter that they propose to use portable trash receptacles, so the receptacles can be rolled to curb side. Sizes of the receptacles shall be provided. In addition, the applicant shall clarify which road the waste will be collected from since the property has frontages along Route-9 and Rena Lane. We will defer this issue to Lakewood Township Public Work Office. A 6 ft shade tree and utility easement along frontage of property is generally required to be dedicated to the township. The Planning Board should determine if an easement will be required along River Avenue and Rena Lane at property frontages. If required, easements are to be recorded prior to signature of the site plan. The wording of the easement agreements and legal descriptions shall be provided for review. Concrete curb is existing along both property frontages. Sidewalk is existing along the Rena Lane frontage of the property. Sidewalk is shown along both property frontages, but not labeled. The applicant shall clarify this issue on the plan by clearly labeling all existing and proposed improvements. In accordance with 18-905 B. of the Lakewood Township UDO, a 20 foot buffer is required between a house of worship and a residential use. The applicant has provided a 10 foot side yard setback with a row of evergreens. The board should determine if the buffer provided will be sufficient. In addition the applicant shall request a waiver for not providing the required buffer. The applicant shall label on the Grading, Drainage and Utility Plan all existing contours with elevation. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated April 7, 2008. The applicant proposes to construct a 5,464-square foot synagogue with a total of eighteen (18) parking spaces at the above-referenced location. The 1 ½ story synagogue will consist of a 1,810-square foot sanctuary, in addition to a study, library, secondary room, and an unfinished basement. Associated 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 the highway are residential dwellings. 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. 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. Lot Frontage (Section 18-903.H.): A minimum lot frontage of 150 feet is required. The proposed lot frontage on both roadways is 135.11 feet. 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. Non-residential development fronting a State Highway requires a minimum 150 foot front yard setback. The proposed front yard setback from Route 9 is 100 feet. Side Yard

Setback (Section 18-903.H.): A minimum of 30 feet is required. The proposed side yard setback is 25 feet from Lot 10.61 and 10 feet from Lot 10.01. 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 in the HD-7 Zone and is vacant. There is a 10-foot wide separation between the lot line and the sidewalk. 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 provided. Section 18-903.H.6.: Parking is permitted within the 150-foot 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 meet this condition and requires a bulk variance. The positive and negative criteria should be addressed for all of the required variances. The applicant has requested a waiver from the Township development requirements to provide an Environmental Impact Statement regarding this property. The applicant should provide testimony to the Board why an environmental impact statement is not necessary for this application. We recommend that Lots 13 and 77 be consolidated by deed. The architectural plans indicate that the height of the synagogue will be 32.5 feet (front elevation). The plans do not indicate the height of the architectural details that exceed the overall height of the structure. The drawings should be revised accordingly. 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 architectural plans provide a rendering of the synagogue with parking in front. The site plan places the entrance of the building at the south side of the parcel. In addition, the handicap access ramp is in the front yard setback of Rena Lane. 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. Buffer. As noted above, the buffering of the synagogue does not conform with the requirements of Section 18-905 for places of public worship. The applicant must also comply with the requirements for tree protection and removal as applicable on the site. The applicant's engineer indicates that trash receptacles will be rolled to the street for pick-up. Any proposed building-mounted lighting should be identified on the site plan prior to Board approval with the appropriate isolux levels. The remaining comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant. He said when they appeared at the Technical Meeting the board said they were upset by one of the variances and the fact that 150 ft. is required and the applicant only proposed 100 ft. The applicant re-drew the plans and had an idea that was they were going to work a deal with Sterling Place because behind there is a dead end area which would accommodate the parking. They would not park anything in the front and instead have all greenery on the 100 ft. The result of doing this was to have the neighbors come out objecting to it saying they would rather the applicant go for the variances and have the parking onsite than have it on their property. They have gone to rabbinical court and have a signed agreement which he wanted to read into the record. The neighbors are desperate for the schul but their concern is that there will be a spillover of parking. The way the applicant has designed it is they have sufficient parking onsite but the neighbors are worried about having repeat quorums of prayer and if they do that there will be overlapping and not enough parking or it would turn into a social hall or things that would make more problems. He read into the record the agreement which is written on the letterhead of the rabbinical court which is under Israeli jurisdiction.

It said the following is mutually agreed upon: 1) CS will present an application to the Lakewood Planning Board showing the plan with an entrance from Route 9 and 18 parking spaces on CS site and it is binding providing the application is primarily approved without shrinking structure within 90 days or the agreement is void. 2) The application will not request an entrance from Sterling Place at all. CS will erect a fence on 3 sides of the property other than the Route 9 side, 4 ft. fence with arborvitaes on north and west side and 3 ft. fence on the south side, a kiddish hall may be constructed provided that this room will not be advertised and not be used by anyone who is not a regular prayer member of CS or resident or homeowner of SP. The only functions that the hall can be used for are on Chavas, learning, or (happy) occasions that are finished by 4 p.m. Regular prayer members are defined as people who do morning prayer at CS minimum of 3x each week for at least 2 months. CS will not object to a request by SP to ask for a no parking in any areas of SP. CS will limit the amount of quorum each day to 2 for the morning prayer, 2 for the afternoon prayer and 2 for the evening prayer. On the eve of a holiday, there can be an extra prayer and it will be spaced at least 1 hour apart and 1 ½ hour apart. CS is permitted to make a mikva in the basement and when CS receives a CO for the building, CS shall immediately deposit a sum of \$10,000.00 in escrow for a period of 5 years to be used by the neighbors to erect the fence on Gila Place on the CAFRA approved piece if it is determined that people are cutting through the property of SP to CS. The money can be release to a fence contractor at the request of SP and all disputes that may arise regarding this agreement shall be resolved and established exclusively by binding arbitration at the rabbinical court of Lakewood or its' designee. The non prevailing party shall be liable to the prevailing party for all costs and expenses related to any dispute resolution including attorney fees. SP agrees not to have anyone from the SP object to the Planning Board and if they do this agreement is null and void. If SP or CS wish to amend this agreement, a minimum of 75% of the owners at SP must agree to any amendment and a noticeable sign shall hang at all times in CS stating that no one is allowed to park in the SP common area and no resident from the SP can park in the CS parking lot.

Mr. Banas asked Mr. Penzer why does he need a Planning Board because there is nothing for the board to do. Mr. Penzer said without the Planning Board, this means nothing. Mr. Banas noted the wording of an addition of a kiddish hall and that is over and above what is on this plan. Mr. Penzer said it is not that it is on the plans but they are keeping from outside social functions.

Mr. Fink asked Mr. Penzer if he is correct with the understanding that the residents who will be living on Sterling Place don't want the parking on their street or property, so the schul has 18 parking spaces and the driveway will be on Route 9, so when they leave Route 9 to go north, they will have to make a left turn onto Route 9 which is a 2 way highway and a disaster right now and the people who are living there don't want cars in front of their homes but would rather cause more of a traffic jam on Route 9. Mr. Penzer said yes and Mr. Fink said it makes no sense.

Mr. Banas said he like what they have done by trying to solve the problem and thinks they came up with a solution to the problem but there are so many things that are intertwined that it would take a month of Sundays to untangle it and he would have to rely on the Board's attorney to sit down with the applicant to see where the board actually end up in a point of authority.

Mr. Penzer said the simplest way to do it is to go through the professional's reports and see where the mesh and where they conflict.

Mr. Neiman asked if this is going to be one after another prayer and was told no, only 2 and they are 1 ½ hour apart so there will not be constant in and out of the driveway.

Mr. Banas said Mr. Penzer knows the problem with the Castle and the board was extremely careful about 100 ft. and nothing was parked in that 100 ft. and in this application there is and if that highway is developed to 4 lanes Mr. Penzer said they will have testimony that it won't be touched.

Mr. Flannery was sworn in as the engineer for the applicant. He said the difference between the Castle property and this one is if you took the 100 ft. away from the Castle property, you still had a developable piece of property and this lot is only 150 ft. deep and it has 150 ft. setback from Route 9 which goes all the way to Rena Lane and a 50 ft. setback from Rena Lane which overlaps, so a strict interpretation of the zoning ordinance means that you can't build anything on the property. Now the issue is that people have the right to develop their property in a reasonable manner and the first thing the applicant has indicated is what happens when the DOT at some point decides to widen the roadway. They have a "desired typical section" and in 2006 the County Planning Board passed a resolution that states "the desired typical section which were established by rule following a public process and the purpose of the DTS is to preserve the right of way of sufficient width to accommodate future improvements consistent with the purpose of the State Highway Route 9" Mr. Flannery has a copy of the county's resolution and also has a copy of the State manual of the desired typical section and it says what they should keep for future improvements.

Mr. Jackson said the ordinance says to try to keep a 150 ft. setback and if that is enforced here our ordinances have effectively condemned this property and it cannot use this property and maintain that buffer, the classic reason for C variances. If Lakewood ordinance is so, then Lakewood has condemned this property and therefore would have to pay for it. If the State of New Jersey needs this right of way they have eminent domain power and they can condemn it.

Mr. Banas said he agreed with what Mr. Jackson is saying but would like to have Mr. Peters and Mr. Truscott give their input as to the comments reference to the literature or letter that Mr. Flannery has read into record. Mr. Peters said he is familiar with the DOT manual and the DTS and throughout Lakewood Route 9 has a DTS with of 114 ft. which would be ½ width of 57 ft. from the center line. After the Technical Review meeting Mr. Flannery's office added that line to the plans and it is shown to be between the current right of way and the parking area. In the future, if the DOT were to take that right of way up to 57 ft. there would still be approximately 10 ft. from that right of way line to the nearest limit of the parking stall. Mr. Flannery said they were not putting any it that area. Mr. Truscott agreed but noted that within that 57 ft. of the DTS there is a proposed underground recharge system so that if DOT were to widen the road, there might be a loss of the drainage system related to the project. Mr. Banas asked them why not move the recharge under the parking lot and Mr. Flannery agreed to do that.

With regard to the planner's report, Mr. Flannery said there is no availability with regard to the lot area variance to increase that lot area, the property on both sides is owned by the homeowner's association. Lot frontage is an existing condition and there is no way to change that. Front setback from Rena Lane is 50 ft. and they have provided 10 ft. to keep the development as far as practical from Route 9 and the impact on that would be on the Sterling Place homeowner's association and they are in favor of the application as it is.

Mr. Banas asked what was located to the north of the subject property and Mr. Flannery said it is an open space lot from Sterling Place. Mr. Penzer marked an exhibit A-3 which is the site development plan that was approved for the Sterling Place development and the subject property is on the middle of the right side. Past the open spaced lot is an multi family residential structure and across the street (or west) is their common open space recreation and community building. Mr. Neiman asked where was it initially that they wanted to put the parking and Mr. Flannery said they wanted to share the parking and showed it on the plan, but with the timing it did not work out. Mr. Flannery continued and said the front setback from Route 9 is 150 ft. and they have provided 100 ft. and said if they complied with both front setbacks the property would not be build able. As for the buffer requirements, 20 ft, is required and they have provided 10 ft. with landscaping and both sides of their property is open space so there is a buffer there already and it is his opinion that the heavily landscaped buffer provides the intent of the ordinance. They could only provide 18 of the 19 required parking spaces as to not impact the Route 9 corridor. The positive criteria is that it is an inherently beneficial use and is needed by the community and the negative criteria is the impact on the adjoining development and they are in agreement on this. It is his testimony that the board can grant these variances without any detriment to the zoning ordinance. Lot consolidation would be done and the architect will make the revisions requested. The remaining comments in the planners report will be satisfied.

The regards to the engineer's report, Mr. Flannery said they will still need an approval from the DOT and any action by the board would be subject to their approval. Mr. Penzer asked that their approval be made at the time of building permit instead of site plan approval. Mr. Banas said they have done that before. Public sewer and water are provided. Mr. Flannery said the solid waste containers will be placed wherever Mr. Franklin suggests. The remaining items in Mr. Peters' report will be complied with.

Mr. Schmuckler asked about lot 1061 open space and if it was a part of the development and Mr. Flannery said it was part of Sterling Place and Mr. Penzer said it was a CAFRA requirement, so the driveway could not go out in that direction.

Mr. Akerman asked Mr. Franklin where the garbage would be placed and Mr. Franklin said it would be on Rena Lane, as Mr. Flannery suggested.

Mr. Banas opened the microphone to the public

Noreen Gill, 192 Coventry Drive was sworn in. She said she understood there were 18 parking spaces and said that is not enough because you are going to have the basement, people coming for different occasions and as far as people cutting through, without that fence she would bet 100% they will cut through. She has lived in Coventry Square 35

years and the schul in Mr. Silverman's house was approved for 18 parking spaces and they added on to it, and even when it was 18 parking spaces they told everyone they walked and now on the shoulder of the road they had to add signs so people can get out of her development but states there are 64 cars plus the cars that the planning board gave approval for (either 18 or 22) they park in the middle of the schul, they have to back out into traffic, and this parking is no good and she would like to see something done.

Mr. Banas said unfortunately they can not look at the problems she is having in her development and suggests she approach the enforcement department or the police.

Mr. Penzer said here was extensive enforcement in the agreement for this application and if they violate the agreement they will have the rabbi from the court who has the authority to penalize them \$500.00 for each offense.

Mr. Jackson asked Mr. Penzer to explain how that authority is exercised by the State of New Jersey and Mr. Penzer said it is because the courts have said they want to have binding arbitration and in case law that they will do everything to enforce as long as both parties agree.

Mr. Jackson wanted to advise the board that his instincts tell him it would be a civil enforcement provision at best and a very cumbersome thing for someone who is aggrieved to try to enforce that. Mr. Banas said he already indicated to Mr. Penzer that both he and Mr. Jackson would have to come to some agreement as to where the authority really lies. Mr. Jackson said it is a settlement agreement between the parties, so if someone doesn't like the settlement, it is a very cumbersome process to enforce a settlement and the average citizen, if someone is parking where they shouldn't, they would not have the efficient means to do something about it. They couldn't go to code enforcement unless it is part of the Site Plan. Mr. Banas said his concern is why do we have a planning board and said if it works, he applauds them but Mr. Jackson said it also needs the board to agree to it too. Ultimately the board has to use its' own judgment. Mr. Banas said in the process he does not want to give any of the rights and privileges and duties of the planning board to the court. Mr. Penzer said he is not doing that, and Mr. Jackson said that agreement should be marked and made a part of this record. It was marked A-4 the rabbinical court, 3 pages, dated March 18, 2008 and a copy was given to the board attorney.

Mr. Fink would still like to know why the entrance needs to be on Route 9 rather than Sterling Place and said it seems so much safer to get it off of Route 9. Mr. Penzer said it is the best he can do under the circumstances. Mr. Banas said what he is reading from what Mr. Penzer is saying, is that to get the agreement into a position as he has presented it, those are the conditions by which the residents of Sterling Place will accept. Mr. Penzer said yes and Mr. Flannery said in fairness to the residents of Sterling Place, the traffic from that parking lot whether is goes out to Rena Place or directly to Route 9, it is going to Route 9 anyway and you are not taking traffic off of Route 9 by having the entrance on Rena Place. Mr. Banas said except for the people going to schul, by going through Rena Place, it would be safer to go that way and then back home instead of exiting onto Route 9 and then back onto Rena Place. Mr. Flannery said the agreement that Mr. Penzer read stated the residents would have to walk there so they do not use that parking.

Mr. Penzer said that what Mr. Fink does not realize that the reason the neighbors were concerned was because they would be walking and using that facility. Mr. Fink asked if they would consider a right in and a right out and that would satisfy his needs along with the rest of the board members. The board members agreed and said they asked that from most applications.

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

Mr. Penzer and Mr. Flannery agreed to right in and right out.

Mr. Schmuckler asked how many people could fit in the synagogue and Mr. Penzer said whatever the fire code allowed but probably about 80, Mr. Schmuckler asked if there was another schul in Sterling Place and Mr. Penzer said there is 3 schuls across the street that are too small and this synagogue exists right now illegally on Spruce Street and there is about 40-50 people there now. Mr. Schmuckler asked if there was any adjacent property that they could purchase and Mr. Penzer said no.

Mr. Banas said basically they have changed only two of the applicant's plans, making the recharge system underground and the right in right out. Mr. Flannery said they will put in the maximum of 6 inch curb island.

Motion was made by Mr. Franklin, seconded by Mr. Fink, to deny because the size of the lot is less than ½ an acre, the parking will not be adequate with the other uses that could go on there. There are just too many variances for this to work. It is a shame this is the only place to have this but he can't see shoving this on that highway. There are many developments approved by this board that have not even begun to be built and the highway is congested now

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; no, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; abstain, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

3. SD # 1586A (VARIANCE REQUESTED)

APPLICANT: THOMPSON GROVE ASSOCIATES

Location: Drake Road, southwest of Neiman Road
Block 251.01 Lots 32 & 88

Preliminary & Final Major Subdivision - 20 lots

Mr. Peters stated The applicant is seeking Preliminary and Final Major Subdivision Approval for Block 251.01 Lots 32 & 88. The applicant proposes to subdivide the two (2) existing lots into twenty (20) new lots; nineteen (19) lots for single family use, one (1) lot for a stormwater management basin, and use by the Home Owners Association (HOA). Existing Lot 32 currently contains a single family dwelling that will remain. Existing Lot 88 contains two (2) existing two story frames and one (1) one story frame building. The one story frame building is labeled as to be removed, one of the two story buildings will remain on a new single family lot, and the other will remain for use by the HOA. The applicant proposes constructing seventeen (17) new single family dwellings, a cul-de-sac, and a stormwater management basin. The site is located on Drake Road, in the R-40 Zoning District with a small piece of the parcel containing the stormwater management basin located in the Crystal Lake Preserve Zone. The applicant is requesting the following

variances: Minimum lot area for Lots 32.03 through 32.09, and 32.12 through 32.20: Twelve of the sixteen lots range from 15,000 square feet to 20,000 square feet, the other four lots are sized between 20,000 square feet to 33,642 square feet where 40,000 square feet is required. Minimum lot width for Lots 32.01, 32.03 through 32.08, 32.12 through 32.18: Lot widths range from 94 feet to 135 feet, where 150 feet is required. Minimum front yard setback for Lots 32.01 through 32.09 and 32.12 through 32.20: 26 feet is proposed for Lot 32.19 and 30 feet is proposed for the other lots where 50 feet is required. Minimum side yard setback (combined) for Lots 32.03 and 32.17: 37 feet combined side yard setbacks are proposed where 40 feet is required. Ocean County Planning Board, Ocean County Soil Conservation District, Letter of Interpretation from NJDEP, and NJDEP permits for Treatment Works Approval and Water Main Extension will be required. Evidence of the approvals shall be made a condition of final subdivision approval. The applicant shall submit a copy of the Wetlands Location Plan with the NJDEP approval stamp shown to the Planning Board to verify the wetland boundaries shown on the site plans. The proposed dwellings will be served with public sewer and water line. The applicant has provided six (6) foot shade tree and utility easements along the Drake Road frontage of Lots 32.01, 32.10, 32.11, and 32.20, and along proposed Serenity Way. Sight triangle easements at the entrance of the Serenity Way are also provided to be dedicated to the Township. Lot 32.11 and the improvements proposed on the lot will be owned and maintained by a Home Owner Association (H.O.A.). The H.O.A. Documents shall be provided to the Planning Board Engineer and Solicitor for review. At the technical review meeting, the Board determined four (4) parking spaces will be required for each residential lot. The applicant shows on the plans driveway layouts that can only accommodate two (2) cars. The applicant stated in their March 12, 2008 response letter that testimony will be provided to the Board regarding this issue. The applicant shows no off-street parking is proposed for the community building. In accordance with the Lakewood Township UDO, one (1) parking space is required for every four hundred (400) sf of floor area for a public building. The applicant stated in their March 12, 2008 response letter, testimony will be provided to the Board regarding this issue. We recommend the applicant provide at a minimum a paved area sufficient for drop off and turn around, as well as one paved handicapped accessible parking space. Note number nine (9) shown on the plans regarding restricting the access of thru lots to Serenity way only, shall be added to the Final Plat. The applicant is proposing a 20' access easement from Lot 32.11 to Drake Road through Lot 32.10 to be dedicated to a Home Owner Association (H.O.A.). We recommend the applicant rearrange the lot lines so the access strip will be part of the Lot 32.11 to avoid the easement issue. The applicant stated in the March 12, 2008 response letter testimony will be provided to the Board regarding this issue. Curbs and sidewalks are proposed along the southern Drake Road at frontage of Lots 32.01 and 32.20 and along the proposed Serenity Way property frontage. The board should determine if curb and sidewalk will be required along the western Drake Road frontage along Lots 32.10 and 32.11. The applicant stated in the March 12, 2008 response letter, testimony will be provided to the Board regarding this issue. The applicant has added a detail for the 4' wide walking path to the community building as requested. In the detail, the applicant shows a maximum of 4% cross slope which does not comply with the ADA standard. Since the path is the only access way to the building, its detail shall be revised to comply with all ADA standards. The applicant shows on the Grading Plan SB-7 started at a ground elevation of 94.1; however, the boring is shown on the plan between existing contour 76 and 77. In addition, the ground elevation for SB-17 is left blank. The applicant

shall address these issues. The applicant called out on the Grading and Drainage plan a 4" proposed concrete fence around the proposed basin. The fence shall be called out on the Site Development Plan and its detail shall be added to a Construction Detail Plan. The applicant shows on a Construction Detail Sheet a concrete cradle detail; however no concrete cradle is called out on the plans. The applicant shall show on the plans location(s) of the concrete cradle(s) or remove the detail from the Construction Detail Sheet. A means of restricting public vehicle access to the basin access road shall be provided. We recommend the installation of a removable bollard in the middle of the access road, or a chain access the roadway from bollards on either side of the roadway. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated April 10, 2008. The applicant proposes to subdivide two existing residential lots into twenty (20) lots at the above-referenced location. Existing Lot 88 is 11.30 acres in size, with approximately 10 acres located within the R-40 Zone District with the remainder located in the Crystal Lake Preserve zone district (CLP). Lot 32 is 9.96 acres in size and is located entirely within the R-40 Zone District. Each lot contains a residence which will remain. On existing Lot 88, there are two structures described as two-story frame and one-story frame. The applicant has noted that the one-story frame will be removed. The tract is 21.26 acres in area and has frontage on two (2) segments of Drake Road. For purpose of this application, the applicant proposes to retain the two (2) existing residential dwellings and reconfigure the lots in which these dwelling occupy on proposed Lots 32.02 and 32.10. The existing two-story frame structure will remain on proposed Lot 32.11. In addition, the applicant proposes to subdivide the remaining part of the tract into seventeen (17) nonconforming residential lots, one (1) open space lot, and one (1) stormwater detention basin lot. The residential portion of the subdivision is located within the R-40 Zone District. The open space area and the proposed stormwater detention basin are located within the R-40 and CLP zone districts. Associated site improvements are also proposed. The main residential subdivision will be accessed from Drake Road via a cul-de-sac street entitled Serenity Way. Serenity Way will be a public street. The other existing residential dwelling will retain its frontage on Drake Road. The tract is located in the western part of the Township and in close proximity to the Crystal Lake Preserve and the Ketchledge Farm. Ketchledge Farm is an 11.47-acre farm that is being actively considered by the Ocean County Farmland Program for farmland preservation. Lot 32 is primarily wooded, while Lot 88 is less wooded and contains a pond. Land surrounding the tract is primarily undeveloped or low-density residential. Prior Concept Plan Review. The Board reviewed conceptual plans regarding this proposed subdivision in February and June of 2007. The applicant has indicated that bulk variances will be required. We have provided tables at the end of this letter that describes in detail the nonconformities that exist on each proposed lot. This information is based on the subdivision plat. Minimum Lot Area. Sixteen (16) of the twenty (20) proposed lots require bulk variance relief from the R-40 minimum lot area standard. The proposed lots are less than the 40,000 square feet lot area required in the R-40 Zone. The bulk variance relief for the lot area range from 15,003 square feet to 33,642 square feet. Minimum Lot Width. Sixteen (16) of the twenty (20) proposed lots require bulk variance relief from the R-40 minimum lot width standard. The proposed lots are less than the 150 feet lot width required in the R-40 Zone. The bulk variance relief for the lot widths range from 94 feet to 134 feet. Front Yard Setback. The applicant requests a front yard setback variance for eighteen (18) of the twenty (20) proposed lots. The applicant has proposed a setback of 30 feet and a minimum 50 feet front yard setback required in the R-40 Zone. Combined Side

Yard Setback. Two (2) of the twenty (20) proposed lots require bulk variance relief from the R-40 combined side yard setback standard. The proposed lots are less than the 15 feet/40 feet combined side yard setback required in the R-40 Zone. The applicant has proposed a bulk variance condition of 15 feet/37 feet for the side yard setbacks. A rear yard setback variance is required for Lot 32.19. A rear setback of 20 feet is proposed and 30 feet is required. The positive and negative criteria should be addressed. Due to the numerous number of bulk variances requested, the testimony should include information concerning existing lot sizes in the surrounding area. The Planning Board should also request testimony as to the consistency of the subdivision with the Master Plan or furtherance of the goals of the Master Plan. We note that the one acre lots at the entrance of the development do not require a front yard setback variance except to provide symmetry with the balance of the lots. Review Comments. Subdivision Plat. The applicant should revise its bulk schedule to take into account the corner lots and existing lot conditions. The bulk schedule also should be revised to reflect the conditions proposed in the building envelope. There are some places where there are inconsistencies that need to be revised accordingly. The lot numbers must be updated with the Township Tax Assessor. Comment should be provided concerning the buildable area within the zoning envelope of new Lot 32.19. A rear yard setback variance is also requested for this lot. Split Zone. Consideration should be given to eliminating the split zone lot condition of the tract. The Planning Board may wish to recommend to the Township Committee that this condition be removed. Proposed Improvements. Walkway. The applicant has proposed a four-foot wide walkway path in between proposed Lots 32.09 and 32.12 to access the open space lot (proposed Lot 32.11). The walkway will access the two-story frame structure (see comment below, Community Building) and terminate at this location. The walkway will be maintained by a future Homeowners Association. Open Space. The applicant indicates that proposed Lot 32.11 will not be subdivided as a residential lot. The site is encumbered by a tributary of the Metedeconk called the Watering Place Branch and the hydraulic connected wetlands on the northern edge of the property. Watering Place Branch is a designated Category One Waterway which requires a 300-foot buffer area. The open space tract will be dedicated to a Homeowners Association. The applicant should provide testimony on how the proposed open space complies with Section 18-808. Community Building. The applicant shows on the subdivision plat two structures on proposed Lot 32.11. The plat shows that the one-story frame building will be demolished and the existing two-story frame building will remain. Access to the structure is an access easement across new Lot 32.10. The appropriateness of this access should be addressed. Shade Tree & Utility Easement. The applicant has proposed a six (6) foot wide shade tree and utility easement along both sides of Serenity Way to be dedicated to the Township. Sidewalks/Curb. The applicant is required to provide sidewalks and curbing along Serenity Way in accordance with RSIS. Sidewalks have been proposed along Serenity Way. The applicant should indicate whether sidewalks will be provided on proposed Lot 32.10. Agricultural Use. As requested, the applicant has submitted a report prepared by Trident Environmental Consultants dated March 4, 2008. The report indicates that soil sampling was performed at three locations within an area on proposed Lot 32.10, the open space lot. The analyses did not detect any pesticides, and the consultant did not recommend any further action. Landscaping. The applicant proposes to retain existing vegetation to screen the residential lots from Drake Road and along the rear of the subdivision. We note that providing an additional landscape barrier for the lots that are adjacent to Ketchledge Farm may be desired by the landowners that purchase these

homes, as this farm will most likely remain active in perpetuity if approved as part of the County's Farmland Preservation Program. The applicant must also comply with the requirements for tree protection and removal on the site. Parking. The applicant should provide testimony regarding compliance with NJRSIS for the plan. Homeowner Association. Documents must be filed for the common open space. The Tree Protection Management Plan should be reviewed by the Shade Tree and Environmental Commissions. The balance of the comments are technical in nature.

Mr. Shea Esq. appeared on behalf of the applicant with Mr. Flannery as the engineer for the applicant. Mr. Shea said the legal position is they are here for a permitted use that is recognized in the zone and consistent with the Master Plan. They are seeking bulk, or dimensional variances on the lots and will ground that relief in three separate arenas. One is that you have to take into consideration since 1974 the NJ Supreme Court has recognized that a split lot is always an ideal candidate for an application because of the consequences that generally flow were you have different zoning on one tract of land which is the case here. They will emphasize the presence of hardship under 40:55D-70C1 which is 1A and 1B where A- by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or B- by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property. 40:55D-70C2, The Kaufman case, says that the strict application of any regulation would result in peculiar and exceptional practical difficulty to/or exceptional and undo hardship upon the developer of such property that the board may grant upon an application or to appeal to such property a variance from such strict application of such regulation so as to relieve such difficulties or hardships. C2, the balancing test says wherein an application or appeal relating to a specific piece of property, the purposes of this act (the NJMUL) would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment the board may grant a variance to allow departure from the regulations pursuant to this act. This will be heavily relied upon by the applicant in their presentation, Mr. Shea marked into the record exhibit A-1 which is a colored rendering of the application which is a colored sheet page 3 of 20 and A-2 is an aerial map presenting the surrounding properties that touch and pertain to this tract. This is an application for 20 lots on 20+ acres in the R40 zone and they won't be deviating from that basic message. They will not be seeking a density variance.

Mr. Flannery stated this application is predominately in the R40 zone (20 acres), there is 1.26 acres of it in the CLP zone. They are seeking to get 19 residential lots, 17 new residential lots, 2 existing. There will also be an open space lot for the homeowners' association. If you compute a density, the R40 zone allows 1.89 dwelling units per acre and this project is proposing a density of 0.89 dwelling units per acre on the entire tract or .95 dwellings per acre on the R40 portion of the tract. This is less than the density permitted by the ordinance. It is in a split zone, which is obvious by looking at the map. The C1 variance is because of the exceptional narrowness or uniqueness of the property which is like a tomahawk with a triangle in the back, frontages on 2 roads, very narrow for an R40 property to permit development in a conventional method. The C2 variance as described by Mr. Shea has to relate to a specific piece of property and the purposes of the act be advanced. Looking at the MLUL 40:55D2 under e) it indicates to promote the establishment of appropriate population densities and concentrations that will contribute to the well being of persons, neighborhoods, communities and regions and preservation of the environment. Mr. Flannery said this application does provide for an appropriate

density which is less than the density stipulated by the ordinance. They are bringing sewer and water into this piece of property and they are developing on sewer and water rather than septic. Exhibit A2 the aerial accurately depicts the area and the CLP is shown in the center of the map and if you follow the boundary of the CLP you will notice that it is R12 development on public sewer and water on every piece of property it abuts except for this one tract. The idea of having sewer and water is that it is more environmental friendly to the surrounding CLP. The Lakewood Master Plan, under clustering, says modify the cluster provisions for single family residential developments and single family subdivisions to provide an incentive for the extension of water and sewer infrastructure while maintaining open space requirements and it even allows slightly higher densities if public water and sewer is extended to the tract benefiting the existing homeowners. This property requires a lengthy and expensive extension of the public sewer and water and it will benefit the existing homeowners. The bulk variances they are requesting he feels are compatible with the nature of the development around the CLP and if you look at A1 on Drake Road, it will look the same as before this development and that area is an open space. The planner's report indicates that the open space in the notch of the tomahawk is under consideration for purchase by the county for farmland preservation with taxpayers money, and the applicant is developing on a cluster provision, getting public sewer and water and preserving open space without tax dollars incurred. Under g) of MLUL 40:55D2 it says to provide sufficient space in appropriate locations for a variety of agriculture, residential, recreational, commercial and industrial uses and he feels this is providing housing and open space; and under j) it says to promote a desirable visual environment through creative development techniques and good civic designs and arrangements. Mr. Flannery said this falls under this category because the northerly part of Drake Road is going to remain unchanged with open space, the southerly part of Drake Road will only have one additional house built there and they provide buffers along Drake Road, buffers to the south to the one adjoining residence and buffers along the northerly side of the handle of the tomahawk to the land that is currently being considered for farmland preservation. The second part of the G2 variance is the benefits of the deviation would substantially outweigh the detriments and feel the only detriment is from a traffic standpoint and the traffic impact will be insignificant when compared to a conventional development. Visually a conventional subdivision could be worse with more trees being cut down, more houses closer to the road and with septic and well. It is Mr. Flannery's testimony that the benefits of this application substantially outweigh the detriments.

With regards to the planners report, Mr. Flannery said 16 of the 20 require the bulk variances for the area and he has indicated this is a cluster development and the benefits outweigh the detriments. 20 of the proposed lots require a variance of the lot width in the R40 but Mr. Flannery pointed out that the Master Plan that was approved indicated for residential, the minimum lot width should be 100 ft. rather than the 150 ft. so this Planning Board has indicated that 100 ft. width for R40 is what is appropriate, although it has not yet been adopted. When you compare the lots with 100 ft. width, 13 lots comply and the narrowest width they have is 94 ft. and it is his testimony that those variances are warranted under the 3 areas they have presented as justification. On the front yard setback, they are requesting 30 ft. which is more consistent with the cluster sized lots and on the combined side yard setbacks they are requesting bulk variances consistent with the cluster type lots proposed as well as rear setbacks. They agree to comply with the remainder of the comments in the Planner's report.

With regards to Mr. Peters' report, Mr. Flannery said there are 2 existing buildings on site and they have indicated that one would be razed and the other one left for the community building. There is an existing gravel drive that goes there and there is some room for parking. It was the applicant's opinion that they could leave what is there as a benefit to the homeowner's association. The ordinance says there should be parking and Mr. Flannery would like to board to look at this as a unique piece of property and rather than do any improvements that will create more impervious and things that are not environmentally sensitive and see that what is there now works, it has some parking and all of the people are close enough to walk there. If the board doesn't like it they would suggest razing both buildings rather than making it into something more than it is with paving, sidewalks, curbs, etc. They will put a note on the plans that there will be 4 parking spaces but right now they do not know what they are building, these are all custom homes in 15,000 sf lots and 4 parking spaces will fit for each lot. There is a comment about re arranging the lot lines for the existing home along Drake Road and he believes it is because the board does not like easements crossing a property but this is a different situation because it is a homeowners' association that is going to be crossing it. The problem with crossing property on an easement is who is going to pay to fix it, who takes care of it and here there is a homeowners' association. He feels the lot as it is layed out exists that way and currently that is how the rear is accessed through that driveway and they will provide all the easements the professionals feel are needed to make this work. If the board does not like it like it is, they will raze the second building and all those issues go away as well. They agree to comply with the remainder of the comments in Mr. Peters' letter.

Mr. Jackson asked Mr. Flannery on some of the dimensional variances, if there was anything unique about these properties where the objectives for those setbacks and dimensional protections and Mr. Flannery said the unique thing about the property is its' configuration and it results in lots that are smaller than the 40,000 in order to accomplish the goals expressed. The variances, if granted, would mean shorter driveways, which is less impervious and development is consistent with the other developments surrounding the CLP. Mr. Jackson asked Mr. Flannery to point out on the map the lots with the rear yard deficiencies. Mr. Flannery said they have one residential neighbor, southerly on Drake Road, and other than that, assuming the farmland preservation goes through, there will be no other residents bordering the rear of the new lots. Mr. Jackson said the front and side yard setbacks will only be affecting the potential buyers who will know what they are buying and Mr. Flannery agreed.

Mr. Banas said he thought that farmland was already a done deal and Mr. Flannery said he has not heard anything about it yet but is actively being pursued.

Mr. Fink asked about the size of the cul de sac and Mr. Flannery said it is a standard RSIS cul de sac, 40 ft. radius. Mr. Fink asked Mr. Franklin if the trucks could turn and Mr. Franklin said they would have to back up once.

Mr. Schmuckler asked if it was going to be a private road and Mr. Flannery said yes. Mr. Schmuckler asked if school buses could go down a private road. Mr. Truscott said he and Mr. Peters were under the impression that this is a public road and that is in conflict with Mr. Flannery's testimony. Mr. Flannery said they would suggest dedicating it as a public road. Mr. Banas said Mr. Franklin will have a problem with that. Mr. Flannery said it

would be a homeowners' association because they know that is what the board wants and Mr. Franklin said they would make that recommendation because the drainage problems the Township would have to have with all the yard drains dumping out into the street. Mr. Flannery said they are formally saying it will be a homeowners' association road. Mr. Franklin added that the easements would be homeowners' easements.

Mr. Banas opened the microphone to the public

Robert Kirschner, 1400 West Cross Street was sworn in, He said he is in favor of the application and it makes sense and he particularly likes the preservation of the 11 acres against the CLP and has fond memories of the Crystal Lake from high school and would like to see it preserved.

Mark Steinberg Esq. is representing Carol Murray who is an adjacent property owner. He has also brought a planner to present testimony. Mr. Steinberg cross examined Mr. Flannery. Mr. Flannery said the 20 acres are in the R40 zone and 1.26 acres are in the CLP. Mr. Steinberg asked Mr. Flannery if there was a R40/20 zone and Mr. Flannery said there was and it provides for cluster and this property is not in the cluster zone but they have indicated the benefits of the proposed subdivision. Mr. Steinberg asked if the R40/20 cluster zone required the R20 standards for clustering and Mr. Flannery said it does and Mr. Steinberg said that would mean the minimum lot size would be 20,000 sf but they have lots as small as 15,000 sf so not only do they want the board to approve the R40/20 cluster zone but also want to make it a new zone R40/15 and Mr. Flannery said they do not want to make it any zone, they provided a particular application and indicated the benefits and want it approved. Mr. Steinberg asked if they were meeting the standards of a R40/20 cluster zone and Mr. Flannery said it is obvious it is not. Mr. Steinberg said they have 16 of the 20 lots that are less than the required square footage and asked if they could to make the lots larger and have less lots and Mr. Flannery said yes. Mr. Steinberg asked if the same benefits would be rendered to the township if the lots were larger and met more of the required and Mr. Flannery said the they are proposing to extend the public sewer and water a substantial distance and that provides a benefit and if they were to have a conventional subdivision there might not be justification for extending the sewer and water. Mr. Steinberg asked why and Mr. Flannery said it is his experience that a developer does not extend the sewer if he did not have to and if he developed with conforming lots he would not have to provide any benefits to show the board that the benefits outweigh the detriments. Mr. Steinberg asked if they did any overlay or plan with numbers of lots that would meet the 40,000 sf requirement and Mr. Flannery said no. Mr. Steinberg asked if it was possible to put sufficient subdivisions on this property, each one being 40,000 sf and Mr. Flannery said yes. Mr. Shea objected to the question and Mr. Steinberg withdrew it but asked if this property could meet the standards of the R40 requirements and Mr. Flannery said the property as exists meets the standards and could be further subdivided and still meet the standards of the R40. Mr. Steinberg asked what is permitted in the CLP zone and Mr. Flannery said residential on 2 acre lots and there is no plan to further divide or develop the "leg" off of Drake Road and is not possible if this application is approved because it will be designated as open space and deed restricted. Mr. Steinberg asked Mr. Flannery to show where the CLP zone would be extended if the open space lot is zoned totally in the CLP instead of in a split zone and Mr. Flannery showed him and said it would be deed restricted in perpetuity. At one time it was zoned A1 but in the 1999 Master Plan it was designated R40. Mr. Steinberg reiterated that this area was not

designated as a cluster zone and asked how many of these lots meet the R20 zone and Mr. Flannery said it would be 4 which would be 15 of the 19 do not meet the R20 standards. Mr. Steinberg said it is possible to have larger lots and still get the benefit to the Township in bringing in sewer and water and Mr. Flannery said if someone did that it would be possible. Mr. Flannery said this project meets the density requirements. Some of this property is not developable because of environmental constraints and Mr. Flannery showed him on the plans. Mr. Peters said they have received a copy of the LOI from the DEP.

Mr. Jackson asked Mr. Flannery about extending the sewer and water and Mr. Flannery showed him on the map where the extension would be from and he said the sewer was from James Street more than 1,000 ft. from the intersection with Ridgeway and would be extended along James Street onto Ridgeway and onto Drake Road to the project. Mr. Banas said other people along that way would have the opportunity to connect to this system.

Mr. Steinberg said Mr. Flannery indicated that the R12 zone which is adjacent is a little more dense and asked what is between them and Mr. Flannery said the entire CLP is surrounded by the R12 zone and looking at A2 if you follow the boundary of the R12 360° around the site, everywhere it is adjoined is R12 with single family developments on public sewer and water with the exception of this property. The distance of the next development is 500 ft, past the school along James Street. Mr. Steinberg stated the subject property is bordered by R40 zone and the CLP which requires even bigger lots. Mr. Flannery said the R40 allows development at 1+ dwellings per acre and they are proposing development at less than 1 dwelling per acre. Mr. Steinberg said he is trying to figure out when Mr. Flannery said this is consistent with the surrounding property and Mr. Flannery said it is consistent with the other development surrounding the CLP. Mr. Flannery said there was no discussion at the master plan re-evaluation last year about changing this area to R40/20. Mr. Steinberg repeated the question if it would be beneficial to the Township if these lots were larger and Mr. Flannery said there are a lot of ways it could be done.

Roger Boyd, 1000 West Cross Street was sworn in. He said he was in support of this application and said the benefits of bringing the sewer and water to this area with aging homes and aging septic systems. He also noted we can see it is adjacent to R12 zoning and the overall density does not exceed the R40 and that several acres will remain open space for perpetuity.

Mr. Neiman asked him if he had water and sewer and he said no and this application would not benefit him for water and sewer because he is at the other end of Neiman Road and is probably ¼ to ½ mile away.

Helen Henderson, project manager for the American Literal Society, which is a non profit coastal conservation group. Her interest in this application relates to the Crystal Lake Preserve. She is here as an agent for the American Literal Society and was sworn in. She understands there is not anyone sitting on the Planning Board that is a representative of the Township Committee. Mr. Jackson said that is not correct, there is a committeeman who is not present and there is also the Mayor's designee who is here. She said some of her comments may be more well addressed by a natural sitting member of the Township Committee and noted that the proposed stormwater basin is within the CLP boundary and she is concerned that the maintenance of that basin has to be specifically outlined and that the boundary of the CLP may have to be altered in order in order for the ordinance

that the Township Committee passed creating the CLP boundary to stay in effect and they would have to revise the boundary. Ocean County Natural Lands Trust, at their March meeting, began the acquisition of the privately held lots and they are relying on the map that was submitted to them by Lakewood outlining the boundaries of the preserve. She does not agree with having the stormwater management basin in the CLP boundary and she does not know that the Township Committee would necessarily agree that is a good idea when they are in negotiations with the Natural Lands Trust for Ocean County to preserve this land. She understands that it may be a permitted use but will the County, when relying on the boundary that Lakewood has provided, accept the maintenance of a stormwater basin. Mr. Peters said one of the requirements is that they have the maintenance requirements incorporated into the homeowner's association documents that will have to be submitted for review, but he thinks the question is about the transfer of ownership from that private land to the county which is something he is not aware of and he does not think the homeowners would be willing to transfer that to the county, and this would not be a piece of it that the county would take over. Mr. Banas asked if they needed to seek county approval for this application because it is within the nearness of the CLP and Mr. Peters said he did not believe so because the basin is a permitted use within that zone and if the county is in some sort of negotiation with the Township to purchase that piece of land he is not aware of it and the landowner bringing this application to the board is someone who should be aware of it.

Mr. Jackson said this witness seems to suggest that this is located within a boundary referred to as CLP boundary and asked the applicant's or board's engineer if this was under any kind of DEP jurisdiction and Mr. Flannery said CLP at this time is a zone in Lakewood, that is all it is at this time. It is land that is privately owned and the owner has rights and can rely on the zoning that is in place and the zoning in place lets you build houses and anything associated with that. CLP zone requirement is 3 acre lots not 2 as he had previously stated. The Crystal Lake Preserve has no state designation and no governmental jurisdiction and Mr. Flannery said they have complied with the state stormwater management rules and they have a maintenance plan that the homeowner's association will maintain this. If the Township enters into any agreement with anyone as far as the preservation of the CLP this would be out of it.

Mrs. Henderson said she was not able to see the boundary that was proposed for the open space to be added to the CLP zone which would also require the Township Committee approval. Mr. Flannery said the open space lot will be preserved in perpetuity and the board's professionals had indicated that possibly the zone line should be changed and that the board would make a recommendation to the Township Committee and the applicant would be happy as a condition of approval to make the request of the Township Committee to review it and do what they feel is appropriate.

Mr. Truscott said it was not his intention that the CLP be extended all the way to Drake Road but rather that small triangular piece, the only portion that is in CLP be made a part of the R40 zone rather than reverse.

Mrs. Henderson asked for someone to point out to her where the soil borings for the site were conducted and Mr. Flannery said they are on the plans. She asked if the board was comfortable in assuming the soil borings were done at the site of the stormwater basin and Mr. Peters said there were 2 soil borings performed within the footprint of the stormwater management basin and there were 9 or 10 total throughout the site.

Pat Cook, 45 Drake Road was sworn in. She owns the one house that borders this development and she is very confused because when she looks at the map and she compares it to the map that the Township used to approve the latest CLP, the lines do not align. The R12 zone carves her home out exclusively, and she is asking this board to make certain to compare that. Mr. Banas asked Mr. Flannery who said the cover sheet of the plans submitted indicates the zones and Mrs. Cook is correct, the rendering was done for one of the prior applications when the R12 line went straight, the R12 line now goes out to James Street and along James Street and Mrs. Cook said Mr. Flannery is perjuring himself. Mr. Flannery said looking at A2, it was prepared months ago before the CLP changed. The zones are on the plans but on the cover sheet it shows where the CLP goes and it does come out to Drake Road, it follows Drake Road along Ridgeway then it goes in and comes back out again and goes to James Street, so there have been a couple of pieces put in and taken out of the CLP. Mr. Jackson asked about the other exhibit A1 and asked if it has the zone lines on it and Mr. Flannery said yes and those lines are in accordance with the current plan. Mrs. Cook challenged to board to look at that and make sure that is truthful, because somewhere along the line they have been lied to.

Mr. Banas asked Mr. Flannery to show them on the map and Mrs. Cook said her entire neighborhood is out in the audience and they have a right to see it also. Mr. Jackson said Mr. Flannery is up at the table where the board sits and he is pointing to the cover sheet, one of the panels on the cover sheet to the far lower left corner. Mr. Flannery said the zoning map on the cover sheet corresponds with exhibit A2 and Mrs. Cook is correct, there have been some additions and subtractions from the CLP. The map that is there is from the zoning map and that has not been changed to show it but there is no substantial change to the application. A1 shows the zone lines and A2 shows zone lines but he could mark what happened; they brought the zone line down to Drake Road in one area, they went further down Drake which changes its' name to Ridgeway then it goes up and down to James Street (the entire time he is showing them on exhibit A2) and stated pieces have been put in and taken out of the CLP.

Mr. Jackson asked Mrs. Cook about Mr. Flannery explaining the zoning discrepancy and asked her how does it materially affect the application if the zone line is inaccurate and she said Mr. Flannery testified to the fact that this development and the CLP is surrounded by R12 zoning and that is not a true statement because she showed them a map which is a current map of the CLP carves her property out as the only R12. Her property ends somewhere around (and she pointed to the exhibit A1) and said it is wrong. She said it does not reflect what is currently available to the public as the zoning, so she has to call into question all of Mr. Flannery's testimony that he provided. Mr. Jackson asked to see the map she had and asked if he could mark it into evidence and she said it can be marked. Mr. Jackson asked where the map came from and who prepared it and she said that is the map that was available on the Township website when the CLP changes were being made. It was marked Cook1 and Mr. Banas said this was a projection from 1983 and Mr. Flannery has offered testimony that there were changes to this preserve any number of times. Mr. Banas asked Mr. Truscott about it and he said he has a copy of the Township Zoning Map, last revised May 30, 2006 and as far as he can tell, most of this project site is bordered by the CLP on the eastern side, there is a little outline where the R12 zone along Drake Road comes along, but the long narrow triangular piece seems to be gone from the zoning map he is reviewing. It does not affect the zoning of the property

in question, it is the surrounding area that falls into question as to how has that changed. He believes his map is accurate in terms of that it does show the very irregular almost saw toothed of the teeth type pattern of the recent change in the CLP zone. Mr. Banas asked Mr. Truscott if he could see the map and Mr. Banas pointed out the dates of the 2 maps, one in from 1983 and the other from 5/06 so the later one has precedence. Mrs. Cook said her only intent is that the information that they received from the Township that reflects the zoning from her house and this area is different than that is being presented on that board (A1 and most likely A2) and she wants this board to know that she does not think they are working with the most current information.

Mr. Shea said he had no objection to reviewing the information and the board accepting the exhibit (Cook1) but not as representative of the most current statement of the Township's position with respect to any zoning lines as reflected on the website or otherwise and that is based upon the 2006 information furnished by the Planning Board Planner. He said it has to be classified as Mrs. Cook's exhibit.

Mr. Franklin said Mrs. Cook's map looks like the old acquisition map as the Township was buying the property years ago, everything got colored in. Mrs. Cook said she sat at the Township Committee meeting where they approved the changes to the CLP, her piece of property is the only piece of property that is carved out. Mr. Banas asked her to point out where her property was and Mr. Jackson suggested marking it Board 1 which is Mr. Truscott's map. She said she is Lots 33 and 34 and bordered by Vernon Street. Mr. Shea asked her what zone she was in and she said it was an interesting question because when she bought her home in May, 2000 it was in the A1 zone and in the last 7 years her home changed to R12 and no one can provide to her any document that supports when and why it was changed. She can say that her observation is that the zone changed right around the time this development was proposed. Mr. Jackson asked her what bearing does that have on the merits of the application and she said it calls into question everything that has been presented tonight because it has not been presented as the most current information. Mr. Jackson advised the board that one of the basis of the applicants' testimony is the characteristics of the surrounding zoning so to the extent that information may have been inaccurate the board may or may not use that in its consideration of whether to approve the application and he thinks Mrs. Cook raises a point to the extent if they relied on planning testimony to compare the surrounding area to the extent that it is questionable the board can consider and weigh that in its determination.

Mrs. Cook continued and said as a neighbor she said this will drastically change the dynamics of this neighborhood which was built as 2 acre zoning and everybody that currently lives in this neighborhood agree that they love the neighborhood they live in and the open space and the rural ness and she believes that the intent of any Master Plan and UDO is to make certain that we have space that is designed to meet all of its' community needs. She said they are a small group because of the zoning, there are only 13-15 families that live on this street and they really want to maintain it the way it is. They are not here to fight if they wanted to build homes that are less dense or less homes they would not be here objecting to it.

Robert Cook, 45 Drake Road was sworn in. He said Mr. Jackson hit on it when the question was asked what the planner would see if the R12 is presented then it would fit into the zone. He also said the possible use of the 2 story home on the other lot on the

other side has a dirt driveway and they had the same issue when they wanted to build homes on Chestnut Street, You have heavy equipment that has to get there to service that building and that driveway is not enough to support the large vehicles that would have enter in an emergency, so they would have to bring a road in off the cul de sac or extend the road down and if you are going to do that, there will have to be curbs and sidewalks. Also, in this property, it is a very wet area, there is groundwater there, it may not be too deep, but there are several springs that come off on the east side of the property and a pond and a stream that runs down and joins the watering hole and another stream that comes almost of the very corner of where the 2 properties come and leads down and the water is moving. He said by putting in these 20 homes, you are doubling the neighborhood in 8 acres when you had 70 acres now.

Noreen Gill, 192 Coventry Drive was sworn in. She wanted to ask Mr. Flannery about certain streets around the Crystal Lake and asked if St. Nicholas Avenue or Autumn Road close or in the area and do they have septic systems and Mr. Flannery said St. Nicholas is on the opposite end of the Crystal Lake and the newer houses on the end have public sewer and some of the existing ones were constructed with septic but does not know if they connected to the sewer. Mrs. Gill asked Mr. Flannery if he was a principle in Trident (Environmental) and he said no.

Mr. Banas said before he takes the next witness, he wanted to take care of housekeeping with other applications that will not be heard tonight. He told the remaining applications that they will not be heard tonight and they were carried to a later meeting. Mr. Penzer is the attorney for Items #5, #8 and #15 and agreed to be carried to the meeting of April 29th.

Motion was made by Mr. Franklin, seconded by Mr. Neiman, to carry Items #5, #8 & #15 to the meeting of April 29, 2008

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mrs. Weinstein is the attorney for Items #6 #13 and agreed to carry them to April 29th.

Motion was made by Mr. Franklin, seconded by Mr. Neiman, to carry Items #6, & #13 to the meeting of April 29, 2008

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. York is the attorney for Item #7 and agreed to carry them to May 20th because they cannot come back on April 29th

Motion was made by Mr. Franklin, seconded by Mr. Neiman, to carry Items #7 to the meeting of May 20, 2008

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Kielt said Item #12 was John Doyle who had to leave and he authorized it to be carried to the meeting of May 20th

Motion was made by Mr. Franklin, seconded by Mr. Neiman, to carry Items #12 to the meeting of May 20, 2008

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Banas continued with the public portion of item #3

Sally Wells, 1101 West Cross Street was sworn in. She said it is interesting that most of the people that are here tonight and those who are objecting to this application has been given variances by this board to have to right to live in the neighborhood and in the community that she has lived in for the past 53 years. She is here to support this application and thinks it is a good application and within the realm of what the board and the Township has written in their Master Plan and she is excited that with the possibility of bringing in water and sewer into this area it will raise their property values. She owns one of the larger pieces of property on West Cross Street and she will be happy to sell that property and to sell it for as much money as she can possibly get for it. She thinks a self contained development, not relatively large in size, with open space and walking paths and forestry around the perimeter and not changing the rural look is a good thing. She said the builder has built lovely homes in other towns, and she thinks these will also be lovely homes and the people who buy them will be people that we would want to have in our neighborhood.

Ann Richardson, 1870 Lanes Mills Road was sworn in. She said she objected to what they propose and thinks the applicant should reconsider this. She does not live in the area but she has people who are close to her in that area. One of gentlemen who spoke previously about the water, if it is true what he told the board with the water and streams and possibly an artesian well, there is a very serious environmental issue here. This lake has to be investigated to make sure through DEP if anything at all can be built on this and would like the board to consider postponing this to another time until everything can be cleared. She did not hear very much in regards to environmental aspects to this property.

Naftoli Sokol, 65 Drake Road was sworn in. He said a lot of the houses on Drake Road are not even on ½ an acre. There is a lot of open space but there are a lot of houses that don't fit into this 2 acre zone. Personally, he loves this idea, there will be enough room where kids can ride around, and when you have the houses that spread out, there is no place for them to ride their bikes. He would never let them ride on Drake Road. There is a place for kids here, plus there is the whole park, 10 acres of open land, and it is probably one of the nicest pieces of property left in Lakewood, besides the golf course, and it is going to be preserved.

Pearl Cook, 3 Maplehurst Avenue was sworn in. She said her son and daughter in law (the Cook's) who testified before saw their property go from A1 when she sold it to them to R12. They have lost in the value of their property and Lakewood is down in value. She has testified before boards like this one as an expert witness and has the documents and credentials behind it and she said the town made their property R12 and she doesn't know if they will continue to do this to different properties but they have lost a substantial amount in the value of their home. When you go to sell it, before if you said it was in an A1 zone, people knew it was at least an acre, and it is still an acre but now they are going to say it is an oversized lot that is R12. She said it is not fair that they had to go through this and that is why they are so emotional about this.

Menashe Louk, 90 Faraday Avenue was sworn in. He is in support of this proposal but wanted to speak about the person who is behind this application because he thinks it is important. He said the property that he is preserving on Drake Road is beautiful and his kids like him to drive by it often. He spoke of the character and integrity of Sam Flancbaum. He is a man of reason, self respect which is rare. Mr. Banas asked him to speak about the property.

Uri Beane, 158 Regent Place was sworn in. He said he is contract to build a house directly behind this property in the R12 zone and he is in favor of the project because it will enhance the neighborhood because the community will be coming in and other children for his children to play with and feels the aesthetics of the neighborhood will only be enhanced because of the builder and the quality and beauty of the work he does. He doesn't think the lot size of being small will affect their current lots. They will still have the privacy they need with their 2 acre lots. As far as the environmental issues, the current house adjacent to this property would also be an environmental issue.

Ralph Portnoy, 41 Drake Road was sworn in. He is in support of the application. He showed where his house was located on exhibit A1. He has been in Lakewood many years. He does not think it will change the character of Drake Road or the surrounding area and will only enhance it. It is a self contained property that has a tree line surrounding the entire property. He has a septic system in his house that is rather old, and he said if they were concerned about environmental impact and sensitive areas, the worst thing you can have are old septic systems. Having sewer is an important part of this application. Personally, he said they cannot walk on Drake Road and there will sidewalks on the eastern end and we need those. They also do not have proper lighting there and he assumes there will be with this development. He said this development will be refreshing for the town.

Yehoshua Birnhack, 18 Esti Circle was sworn in. He said he drives by the property about 6 times a day and Herman Katz has sheep on his property and said he could come by with his children any time and enjoy the animals and enjoy the open land. He lives on a 2 acre property, no cluster, no sewer and no water. There is no one center for children to play. After only 2 years he is having problems with his septic. If he had a choice to buy a home that was 1/2 acre of less vs. a home with 2 acres with open space he would rather have that

Sam Nabenzahl, 22 Esti Circle was sworn in. He is in support of the application. Someone mentioned the environmental impact of this project but he has a well and his water has a very bad taste to it and it has been tested and has a high level of something (he was unsure) but was told it wasn't dangerous but was caused by waste products so anytime he hears they will be bringing sewer and water closer to him it makes him happy and hopefully it will make its way down to his development.

Gerri Ballwanz, Governors Road was sworn in. She said one of the things regarding water and sewer is that there are savings with regard to the environment but when you get your water bill, you scream because you have the sewer component with it and there are hearings with NJAWCO regarding their new rate increases. It might be nice, but if you have a nice big house be prepared to pay big prices for that water and sewer. Her other question is with the construction of those sewers, are they not to think that it is not just those few neighbors that are going to be asked to hook up but she fears that this is an opening for all the other land to have water and sewers in greater concentrations and density and completely changing all of that vacant land that is in this general area. It will not be rural, it will be there because people are going to be there and somebody is going to want people to hook up to defray the cost of extending that sewer line from the James Street school to this development. She also said Mr. Flannery said the zone changed in 1999 under the Master Plan when it was R40 and she is contesting that because that was not the case until the Township adopted the zoning ordinance of 2005; when the Township, unbeknownst to 99% of the people in town also rezoned people. She said they keep hearing that density is not an issue; however, when you do a clustering she thought you were supposed to show on the existing zone how many houses are supposed to go there under the original zone and then you take that number and you cluster it and save land elsewhere. Where is the proof that shows that 20 houses can be built on Lots 88 & 32. There is a big environmental issue, the pond, that is on Lot 88 with requiring buffering. How many houses could have gone on that property under the R40 zone and to use that as the argument that there really is 20 or 21 lots that can be built on and we have not seen that proof and she thought that was required. Mr. Banas said all of that was entered into testimony by both Mr. Flannery and the board's professionals. She said she was here at all the meetings and she asked if they saw the actual maps she only heard about it but not seen it. Mr. Flannery said he gave the board the calculations on the density and they are asking for variances that is why they have to show the benefits outweigh the detriments. If they were doing what is according to ordinance, then they would not be doing it. She said you are supposed to show it on a map if you are going to be clustering. Just because this is not an official cluster zone, she said they are using the excuse to let them to this and this and this, so she is questioning is he able to build 20 houses or 17 new houses. She wants to see the proof and not hear about calculations because that is not what the ordinance says. Mr. Banas said they will weigh that evidence at the time of decision.

Steven Greher, 94 Faraday Avenue was sworn in. He said he is in favor of this and reiterated what Mr. Portnoy said. Where he lives there is no place for his children to safely walk outside of his property.

Moshe Steinberg, also lives in the Farraday area and is in favor of the application and it will be aesthetically pleasing and beautiful neighborhood.

Sam Peluso, 45 Neiman Road was sworn in. He had some questions and some comments. He asked Mr. Flannery about the area that is designated to be open (and he pointed to the map and it was described as Lot 32.11). Mr. Peluso said there are 3 structures there now and Mr. Flannery said the proposal is to subdivide Lot 32.10 for the existing home and the balance of it will go into the open space lot; one of the structures will be razed and other one they proposed to save it but it sounds like there are objections to that and they will probably raze them both. Mr. Peluso asked if the property be maintained as just a residential use and Mr. Flannery said yes. Mr. Peluso had some comments and said his house is probably 100 yards from the proposed development (he showed them on the map) and he wanted the board to consider is the roadways in that area. That is an agricultural area and he can tell the board because of the manure in the road in front of his house and there are agricultural vehicles that use Neiman Road and Drake Road. Drake Road is a very narrow road and people have complained about the inability to go for walks there and he braves it and does walk on that road; however, he does not know that pouring more vehicles, there is 4 parking spots per unit, making that 80 more vehicles that are going to be entering and exiting that roadway and this area is a very tight area with a blind spot up the road where there is a turn and when there are 2 cars going in opposite directions presently, both people slow down and one usually gives way and he is very concerned with additional traffic in the area and it can't be any other way except that there will be additional traffic in the area. He also wanted to note something on this idea of sidewalks, If you take a walk along Drake it really is disconcerting to the eye and the whole community to have a patchwork sidewalk of maybe 100 ft. which they have at the other end of Drake Road. It doesn't make any sense and doesn't fit in the area and while there might be some regulations you would almost have to walk in circles to enjoy that sidewalk and he would hope that there won't be sidewalks for that little patch of land along Drake Road, he doesn't think it is logical. As for the compatibility in the area, he is concerned with the maps and the competency of the evidence. Right now, as a spectator, there are 4 maps that have been spoken about and he has not idea which one is correct and he doesn't know if the board does and he doesn't know if the individuals that presented them do but we do know that these are not correct in one way or another and while he understands the board is going to look into the maps, that is something the public needs to hear and understand which map it is. It is not accurate to say that this neighborhood is compatible with what is in the area. If you went on a day hike from here to the other side (pointed to the map) you would find communities like this one but you would have to walk through the woods for about a mile or more, but the area that surrounds this proposed development is not this or that. Carol Murray has a 10 or 12 acre farm and his piece is 4.97 ± acres. Mr. Flannery's is also large, so to say that it is surrounded by communities that are similar is not accurate. Sure it borders another community, but it borders it a mile or 2 away. He said the point that was brought out earlier is valid and is these 20 homes or 19 homes that can appropriately fit on this property, if they can fit on this property without a variance, why not? You can build a beautiful development with all the wonderful things that was said could happen here, that could happen in this area without a variance, and if you can do it, why wouldn't you? Is it because the builder may not be motivated to bring the water and sewer that far? He is sorry, but build a different house that would bring in the buyer that will pay to have you reconfigure what your plan is. For the community that surrounds that to be dismembered because it is only economically sufficient to pack these houses in rather than run the water and sewer around to the other parcel of property, it is not his problem or the other

neighbors' problem either, it is for the builder to bring and if he does so, be it. But if you can build all these properties without one single variance required than why do we have an application with 40 some odd variances? He has another concern regarding the board, which he believes, as to whether this board is presently a party to an action in Superior Court relative to the minimum lot requirements in that area. Mr. Banas said he had no idea. Mr. Peluso said he believed they are and this board is a named party and Mr. Banas asked what it has to do with the application before them and Mr. Peluso said this board will be voting on this application and this board is a named party in a Superior Court action that is pending presently with a trial date in July. He believes, and Mr. Steinberg could probably be able to verify this. Mr. Jackson said that is accurate. Mr. Peluso said the board members themselves could potentially be witnesses in that action and he believes the board may possess information that is going to be part of the evidence in that action and that being the case, particularly where the nature of that action is dealing with the minimum lot requirements in that area (the argument being it should be 2 acres, not one) if this board is a party of that action, this board may be conflicted at this time to hear this application. Mr. Jackson said absolutely not.

Mr. Peluso said the cluster aspect of this, even with the argument is that you can spread them out this way, it would be nicer to pack them in and bring in the water and sewer. But he doesn't think the existing residents would be running to get onboard. It would probably service this area and be for the benefit of that community only. If you were to spread the houses out, on bigger lots, that would require building them to here (pointed to the map) which would create an point of access and egress for some of these 80 cars. Right now, all the vehicles are going to have to exit and enter in one area but if the appropriate plan followed the zoning plan, some of those houses would be pushed into this area (pointed to map) and there would be access and egress from that area also. He asked Mr. Flannery if any of the houses will have access through that area or only through the southerly area and Mr. Flannery said only the southerly area. Mr. Peluso said the concentration of housing goes against the zoning plan and they should spread them out.

Ari Marburger. 8 Esti Circle was sworn in. He said when a development is approved it is important that it maintains the character of a neighborhood. If the plan preserves 65 Drake Road and leaves the open space he thinks it is a tremendous positive to the neighborhood and he urges the board to approve the application.

Michael Cook, 3 Maplehurst Avenue was sworn in. He had some questions for Mr. Flannery. He is unclear for the detention basin for the development and Mr. Flannery showed him and said the overflow will go in the direction of the Crystal Lake and it flows overland. Mr. Cook asked about the sewer line coming in from James Street and asked if there will be a lift station for this and Mr. Flannery said no, it will flow by gravity. Mr. Cook asked, on Drake Road, from the corner of Neiman Road going southeast about 200 feet to his son's property, does it go out to the road because when Mr. Grandinetti lived there they couldn't trim trees in front of his property because his property went out into the road, they could not put power poles there because Mr. Grandinetti did not want poles in front of his house, he owned out into the street and Mr. Cook asked if anyone dealt with this and Mr. Flannery said he did not see a reason for him to deal with this because Drake Road has been there and a Township maintained roadway since before he moved there in 1987 and he saw no reason to question the ownership status of Drake Road. Mr. Cook said he thinks they should because the property runs out from where Mr. Grandinetti's property

was and whoever owns it now right out to the road and he knows this because he worked for the power company and they could not put poles on his property. Mr. Shea said they have no objection to that observation.

Mr. Steinberg said some of the questions he had previously have been answered so he will not belabor Mrs. Cook. He had several more questions of Mr. Flannery and he also has a planner to testify which would probably require some cross examination. Mr. Banas said he would give him 5 minutes and Mr. Steinberg said they needed more time. Mr. Banas asked the board members if they wished to continue and they said yes, except for Mr. Neiman. They ultimately all decided to stay.

Mr. Steinberg continued and asked Mr. Flannery if the proposed houses will have basements and Mr. Flannery said he is sure the majority of the houses will have basements. Mr. Steinberg asked how big of a lot is needed for septic and Mr. Flannery said there is a field required on 15,000 sf lots in Lakewood they build septic but they are not proposing septic on these lots. Mr. Steinberg asked what the maximum size of the house they are proposing on these lots and Mr. Flannery said this is a subdivision, they are not proposing the houses only the lots. They will custom homes on the lots and all of the lots have building envelopes which stipulates where a building can go. Mr. Steinberg asked if the building envelope meant that is where you can build a home based upon the setbacks that are granted by variance or existed by rights and Mr. Flannery said yes. Mr. Flannery said the building envelope does not relate to the size of the dwelling but it includes the setbacks and Mr. Steinberg disagreed and asked the board's professionals. Mr. Peters said that would be the maximum possible floor area, generally the buildings are smaller than that. Mr. Flannery said that is the maximum you can build the building but then you have to look at the coverage limitations and if the area within the building envelope exceeds the coverage limitations, you could not build the entire building. Mr. Truscott said the building envelope in that area is 20%, which would be 3,000 sf which could be less. Mr. Steinberg asked about the preserved area they are proposing and asked what it there now and Mr. Flannery said the area is pasture area and the trees in the buffer are deciduous and evergreen and he did not know the percentages of each. Mr. Steinberg asked if he did a lot yield plan and Mr. Flannery said no and a lot yield plan is defined in every township ordinance and Mr. Shea objected because it does not apply in the R40. Mr. Steinberg said there is no guarantee that the gentleman making this application will be the ultimate developer and Mr. Jackson said that is correct as a matter of law.

Mr. Steinberg called Mr. Burdick as a planner. Mr. Burdick said he has reviewed the application and the zoning ordinance and the UDO and the Master Plan and he has prepared a written report. He said his client is a friend of his that also owns a property west of this site. It is his understanding that approximately 3 years ago this parcel was rezoned from the A1 zone allowing 2 acres to a R40 zone which allows 40,000 sf. The R40 zones requires stringent design standards and they are accurately listed on the plan, however this application calls for 53 separate and unique bulk variances from the ordinance conditions. The Lakewood UDO provides for some R40 zone areas to be subdivided into the cluster provisions of the ordinance. This appears to be for R40/20 zones and this site is not one of those, obviously the UDO does not call for clustering development on this site and the Township Master Plan and zoning ordinance requires less dense development within this area of the Township yet the applicant is not even willing to

stand by not only the R40 but also the R40/20 zone which would be the cluster equivalent of the R40 zones. Before you do a cluster zone there has to be a requirement that has to be supplied to the Planning Board and that is called a lot yield plan.

Mr. Banas asked Mr. Flannery if this was done or are they asking for a variance and Mr. Flannery said they are asking for a variance. Mr. Banas said forget about the cluster and Mr. Steinberg said you can't forget about the cluster because they are making it a cluster development which is not permitted in the zone without all the 47 variances.

Mr. Jackson said the applicant did make reference and drew comparisons to a cluster zone and this is not a cluster zone so they do not have to meet the cluster zone requirements. Nonetheless he thinks it is fair fodder for explorations by an objector to say how they don't meet the cluster criteria since the applicant said the do and Mr. Banas agreed.

Mr. Burdick said as a land planner he sees the benefits of cluster zoning but in looking at the plan the ordinance requirements for even the less dense cluster conditions of the R40/20 zone this plan would still require 17 variances from the R40/20 cluster zone. It seems to be the applicant's argument that the density of the development of this site is consistent with the density allowable in the zone; however in the cluster development, overall density is not the limiting criteria for the number of lots allowed. The ordinance requires under Section 18:904C3 in the UDO, which lays out the conditions for cluster zoning and states that "applicants shall be required to submit a lot yield plan showing the development of the tract using the conventional zone district requirements and strictly applying all limiting factors. Applicants shall demonstrate that all lots are developable and useable in accordance with any ordinance provision which may result in which may result in the reduction of lot yield. The number of building lots shown on the lot yield plan shall be the maximum number of lots permitted.

Mr. Steinberg said what it means that if you wanted to do cluster where cluster is permitted you would have to do a lot yield plan which would show 20 acres and say you can get 13 lots on those 20 acres, then you can only cluster 13 houses. That is what the ordinance provides in a cluster zone.

Mr. Burdick said this site is encumbered by significant wetlands and wetlands transition areas which limit the development of it (he showed them on the map) and said what is being dedicated as open space are wetlands and wetland transition areas which cannot be developed anyway. Mr. Jackson interrupted and said he has asked the applicant this and asked if there were wetland delineations from the DEP on this and Mr. Burdick said there are. Mr. Steinberg said the testimony submitted said if you were to plan developable lots you couldn't get 20 here. The testimony is for the purpose of showing the board that if the applicant were to do a lot yield plan and take out the areas that you can not develop because of wetlands, there is no way that you can get 20 lots.

Mr. Burdick said if the lot yield plan were developed for this site it is likely that less than 19 lots that are proposed could be developed under the strict R40 zoning criteria thus it is extremely doubtful that the allowable number of lots would equal that proposed. Section 18-902B6 of the UDO provides for the cluster option and states that "a cluster development plan for a single family detached dwellings shall be permitted in areas designated as R40/20. As the board knows this is not one of those. The section goes on

to state the bulk requirements for those lots in the cluster development shall be in accordance with the R20 requirements and if they applied the R20 requirements to this site there is approximately 17 variances that would be required. It is his clients' position that somehow the residential density in this neighboring property has doubled about 3 years ago when it went from A1 to R40 in position of the cluster provisions of the ordinance would again double that to the R20 requirements which would make the development density 4x's what it was 3 years ago yet the applicant is not even satisfied with that.

Mr. Jackson said he is just trying to understand. On the one hand they say clustering is not allowed here so don't cluster and on the other hand they say if you use the clustering criteria you lot yield is lower because you are not allowed to use wetlands. In ordinary subdivisions where clustering is not part of the mix do you have to use a lot yield calculation or can you use the general area. Mr. Burdick said you can use the general area; however you would have to show that it conforms and that all lots would be developable. Mr. Steinberg said the applicant is saying its not cluster, but they are clustering the homes. It is not permitted in the R40 so it is not a cluster, but if it looks like a duck and walks like a duck, it is a cluster. This is what they are doing with the homes yet they are getting around it and saying to the board that we don't have to comply with the cluster requirements and show how many real R40 homes they can get on there so that is the number they can cluster because they are saying give us 47 variances.

Mr. Jackson said their argument was really about density. Mr. Steinberg said density is a factor because you need 1 acre per house but that is not the criteria for cluster. Mr. Banas said they are asking for a variance and that is it. Mr. Steinberg said they are asking for 53 variances and they are treating it as a cluster. Mr. Banas said they are acting on the approval of 47 or 53 or 103 variances. Mr. Steinberg respectfully submit that in the board's contemplation and deliberation you have to use what is available to you to make a decision and what is available to you to make a decision and what is available to the board are the ordinances of the Township of Lakewood; they do provide for the availability to cluster in other areas. Mr. Banas said it does not indicate how many variances he may or may not approve, whether it is 53 or 103. Mr. Jackson said one of the applicant's argument is that from a planning perspective they would say it is appropriate that the density in this area as set forth in the zone plan is 1 unit per acre and Mr. Steinberg said they can't build one unit per acre because of the physical constraints. Mr. Jackson said if they are using the cluster provision they can't. Mr. Jackson asked Mr. Truscott if they are not using clustering criteria can they use the full acreage for density and Mr. Truscott said with a non cluster application you would use the whole acreage and that this part of their argument is that they are meeting the density of that tract for that zone..

Mr. Burdick continued with the density that his client has. It was doubled 3 years ago and is being doubled again even more than that in the area to the east of her site. The developer is seeking 53 variances to subdivide which equates to an average of over 2 per lot. According to the zoning table there are 8 conditions in the zoning table and over 2 of those conditions per lot are not met, therefore 25% of this development does not meet the ordinance and there appears to be very little justification. The planner stated that this is a split zone and the board went through some extensive testimony about the location of the CLP zone and as the board stated what bearing does that have on this application (which it doesn't, it is where it is). With regard to the uniqueness to the property, it does have a unique shape but if you were to try to develop this property in the R40 criteria you could

do it. A uniqueness of a property would be if you needed 200 ft. for a frontage and you had 190 ft. that is a self unique indication that cannot be taken care of or comply with the ordinance therefore despite the fact that this is an oddly shaped parcel it is not unique to the zone therefore he does not believe that is a criteria for it. The third issue is with regard to extension of the water and sewer. Those lines would be extended down James Street, to Drake Road and into the property. Part of that was an environmental argument stating that this is better for the environment; however, part of the testimony also stated the subdivision is also going to keep several of the trees in the area, but if that sanitary sewer line were extended there is all this R12 in here all that would be developed. The secondary impact of that sewer and water line extension would be extensive and they will certainly take out a lot more trees than just this subdivision. This plan appears to take the whole ordinance and just ignore everything else and go to a density calculation. The applicant has chosen to claim that the development is ok because the overall density is consistent with the amount of land they own. If we use this argument, and we took it to the extreme, if this applicant had one acre on this piece and in this zone that was uplands, and purchased 9 acres that were wetlands, he would be allowed to develop 10 lots on that 1 acre upland piece. Your ordinance requires not just density but showing the board that this parcel can be developed into a specific number of lots in accordance with the zone. If the applicant could provide that information, the board would be able to make a better judgment with regard to the property. The property is developable under the R40 requirements, no constraints exist which would preclude such a development, no justification is apparent other than economics for bending those rules. The NJMLUL under section 40-55D-2 lists as one of the intents and purposes of the law and Mr. Flannery also used this section of the MLUL and that section is "to promote the establishment of appropriate locations for a variety of agricultural, residential, recreational, commercial or industrial uses and open space, both public and private, according to the respective environmental requirements in order to meet the needs of all citizens of New Jersey" The Master Plan and zoning ordinance has done that and has established this site as a R40 zone. The Township has clearly zoned that property as R40 and has published standards for that zone which could be utilized on this property to develop it. As a professional planner he sees no justification for ignoring those requirements and allowing 53 variances in an attempt to develop the site. While the overall density argument can be made for the site the applicant has provided no proof that the site could be developed into the number of lots required. The ordinance established the appropriate standards for residential development of the property and the adjacent owners have a right to expect that those laws will be followed. He also sees a significant impact in the zoning ordinance and Master Plan if this is approved, there is not justification for the arbitrary reducing of the size of the lots, given no reasons to grant the variance and it appears that granting the variance essentially ignores the UDO and the zoning ordinance. There is also issues with regards to noise, traffic, although we are constructing sidewalks on Drake Road, as those kids get older, they are going to discover there is a world outside of Drake Road and start walking up and down Drake Road, and that is a very narrow road. Once again, over 30% of the conditions listed in the ordinance table are not met by this development plan. Some 53 bulk variances are needed to approve the plan. The plan essentially ignores the ordinance and the lots are proposed for development in a manner that ignores the R40 requirements but ignores the less stringent R40/20 requirements and there is no justification, unique condition or hardship which would preclude the development of this property in accordance with the ordinance and he believes that approval of the variances

is at odds with the goals of the MLUL and it will have a negative impact on the zoning ordinance, Master Plan, and the adjacent owners. If you want to change the character of this area, this would, therefore he urges the board to deny this application. Mr. Steinberg had one more question. He said there was talk of this being a good transition to the surrounding areas and asked Mr. Burdick how he would respond to it and Mr. Burdick said Mr. Flannery stated that R12 zones about the CLP however if you measure of the map from the CLP to the nearest R12 development, you are well over a mile so he does not find the comparison appropriate.

Mr. Shea asked Mr. Burdick if he heard him indicate that the applicant failed to satisfy 30% of the criteria and Mr. Burdick said yes, 30% of the zoning criteria. Mr. Shea said he met 70%. Mr. Shea asked Mr. Burdick if he agreed with Mr. Steinberg and others who indicate that the R40 zone is meant to establish one acre for each house and Mr. Burdick said 40,000 sf. He also agreed that there is no requirement to provide a lot yield plan to make an application plan for a variance but in the R40/20 zone but the applicant is not applying for either. If they were using a cluster provision they would but this applicant is not requesting a cluster, he is just coming in with 53 variances. Mr. Shea repeated that there is no requirement to provide a lot yield map in this zone and Mr. Burdick agreed. Mr. Shea said Mr. Burdick indicated there were very stringent standards but he could not find anything that wasn't typical of the R40 zone when he read it. Mr. Burdick said he didn't say they weren't typical or a R40 zone but they are very stringent particularly when compared to the zoning standards that they are using for their developments.

Mr. Steinberg and Mr. Shea had no further questions and Mr. Steinberg wanted to sum up.

Mr. Banas called anyone else from the public who wished to speak on the matter

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

Mr. Steinberg said again, if it walks like a duck and quacks like a duck, it is a cluster zone. They are saying to the board they are not asking for a cluster zone however, we are creating cluster lots with 53 variances because it is a better deal for us because we can't develop the rest of the lot. The board has to look into information that is in the zoning ordinances which says if you have a cluster zone you have to do a lot yield plan. It is not a requirement of this applicant, but there is a purpose to that, because that lot yield plan says they can put 12 houses on this lot based upon the R40 standards therefore I can cluster 12 houses. What this applicant is saying is they have 20 acres so I can put 20 lots on it but those are apples and oranges and should be vied that way. That is why the application should be denied. Firstly, it is cluster, the preparing is a cluster; secondly, it is going to disturb the environment in the area visually, and the bucolic effect at the present time; thirdly, that applicant has the burden of proving to the board why you should grant him 53 variances and go against the requirements of the town's ordinance. None of that has been presented tonight or what has been presented has been totally insufficient for purposes of granting this application. He believes the objectors have made a strong case for denial. The applicant has the burden of proof, not the objectors, and if there is any doubt, they must deny the application.

Mr. Shea it is very rare that an applicant has such widespread support (he named the public that was in favor of it) and while Mr. Steinberg represents a client and others have spoken against the proposal he has to remind the board of the burden the applicant faces. It is his belief that Mr. Flannery's testimony and the exhibits adequately address the criteria to satisfy the 40:55D-70C2 criteria in the case of Kaufman that the benefits of the grant would outweigh the deviation. The lot sizes are consistent with R12, and even though there are numerous maps, they can agree the R12 is in the neighborhood and these lots meet or exceed those lot sizes. Mr. Burdick testified that this application satisfies 70% of the criteria and also points out the numerous variances are required but you have to look at the types of variances they are talking about. Does it go to the quality of what they are creating in terms of the lots themselves; does a 15,000 sf lot on sanitary sewer and water offend the senses particularly when you are in a cluster zone, and they certainly are not, and they are not offering this as a cluster, but if they were, since so much time has been spent on it, the applicant would be required to offer 25% open space, instead the applicant has offered 40%. Anybody with an environmental bent would look at this application and suggest it is done environmentally sound. All of the development proposed for this residential subdivision is confined to those areas that are distant from the CLP. If he was a planner, he would ask the applicant to design just this way so you can avoid an intrusion into sensitive land. These plans offer is the continued protection of the CLP. It is not under threat and it is not under pressure but it is relieved by this application. Mr. Cook said that this is a wet area. They have furnished an LOI from the DEP so they know where the wetlands are, but if this was a wet area, why would anybody want to build individual wells and septic systems, it is so environmentally questionable, it does not make any sense. Therefore the extension of sanitary sewer and water under the conditions described by an objector are ideal and advance the purposes of zoning and the public welfare without sacrificing the zoning scheme. The open space that Mr. Flannery described on A1 is adjacent to what is alleged to be future open space through purchase in the farmland preservation program and if that turns out to be true you could have asked it applicant if he would line up his open space to be contiguous with the open space that will be created by that purchase. Mr. Flannery testified that where there an extension of sanitary sewer there should be consideration for an increase in density and this applicant is seeking no additional density beyond that which is permitted and they are not seeking additional units based on density. What the people who spoke in favor of the application said was that this was a self contained community and through its' development and design would not abruptly upset or interfere with the established land patterns in this neighborhood. Mr. Flannery only touched on 3 of the aspects of zoning that he thought this application advanced and Mr. Shea is submitting that under the purpose of zoning, Mr. Flannery's testimony, plans, and exhibits advanced under NJSA 40:55D-2 Sections A,B,E,G,I and J. The suggestion made by an objector that somehow if they introduced the sanitary sewer and allowed this development to occur it might open up other lands to higher density which entirely misses the point. There isn't a higher density requested, this is the same density permitted. Their obligation was to show the board through the testimony of Mr. Flannery and the exhibits and plans that the request for the variances identified in the plans could be granted without detriment to the overall zoning scheme and that the overall benefit outweighs any detriment. He also said it is ideal for children and safety. This is passive open space that can be enjoyed by all. For all of these reasons, he is asking the board to approve this application.

Mr. Banas said the first thing that is troubling him is the fact that the maps might be incorrect, so one of the items that should be on consideration is A3 should correspond with the tax maps as was presented by Mr. Truscott zoning map, dated 05/30/06 and that needs to be done, it does not have to come back before the board. Secondly, he thinks the dwelling on that north side needs to come out because the road is not sufficient to support any kind of heavy vehicle. Likewise, in that same area there are no sidewalks on Drake Road and he heard people speak of the dangerousness of the road and the need for sidewalks and he hopes this will help. Those are the things he remembered and asked the members for their thoughts.

Mr. Percal had a question for Mr. Flannery, He said during the Master Plan meetings, this board passes a resolution to the effect that any development 12 units or larger should have a playground and he is aware of the open space but in the case of small children he can't see them going into the wetlands by themselves to play and he would have been more pleased if the project was shifted further towards the north and somehow in the center made provisions for a play area as approved by the Planning Board. Mr. Flannery said Mr. Banas indicated the building in the back that they thought would be saved will now be razed and in that area they could put a very nice play area for the children. They could actually move it up closer to the cul de sac where the path comes through and they would agree to put in a play area that would meet the requirements of the board's professionals.

Mr. Franklin mentioned another thing that was overlooked and that was Drake Road varies in width, some places is only 16 ft. wide, others 20 ft., 40 ft. etc. He wants to applicant to try to get the center line and at least get a piece off of these properties that would be contiguous to the road so they will have the 50 ft. minimum right of way. Mr. Flannery said they would agree to that as well as the curb and sidewalks that he heard the board wants.

Motion was made by Mr. Schmuckler, seconded by Mr. Fink, to approve this application based on a few things: first, whichever map is actually correct and looking at the whole property, he feels the benefits by far outweigh the negatives, water and sewer being brought in, open space preserved, self contained block, children will be safe, etc, they meet the criteria The motion also includes there will be a playground and the sidewalks will be put in and the buildings will be removed.

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

- 4. SD # 1620 (VARIANCE REQUESTED)**
APPLICANT: NEAL & MARILYN GITTLEMAN
Location: northwest corner of Autumn Road & Magnolia Drive
Block 20 Lots 8 & 11
Minor Subdivision to create 3 lots

Carried to May 20, 2008

5. **SP # 1880 (NO VARIANCE REQUESTED)**
APPLICANT: T & T DEVELOPMENT LLC
Location: 312 5th Street, west of Clifton Avenue
Block 93 Lot 6
Preliminary & Final Site Plan to construct 3 story, 16,200 sq.ft. office/retail bldg.

Carried to April 29, 2008

6. **SD # 1619 (VARIANCE REQUESTED)**
APPLICANT: MOSHE MENDLOWITZ
Location: Hope Chapel Road, Country Club Drive, Sherie Court
Block 26 Lots 6, 13 & 26
Minor Subdivision to re-configure three lots

Carried to April 29, 2008

7. **SP # 1696B (NO VARIANCE REQUESTED)**
APPLICANT: AUGUSTA BOULEVARD ASSOCIATES LLC
Location: Augusta Boulevard and Cross Street
Block 524.23 Lot 1 Block 524 Lot 77.02
Preliminary & Final Site Plan – addition to clubhouse

Carried to May 20, 2008

8. **SP # 1886 (NO VARIANCE REQUESTED)**
APPLICANT: CONGREGATION SANZ OF LAKEWOOD
Location: Spruce Street
Block 778.06 Lots 55 & 56
Preliminary & Final Site Plan for construct 10,600 sf school

Carried to April 29, 2008

9. **SD # 1550 (NO VARIANCE REQUESTED)**
APPLICANT: SEYMOUR INVESTMENTS LLC
Location: Cross Street, west of River Avenue, former Calgo Gardens site
Block 533 Lots 3 & 10
Preliminary & Final Major Subdivision – 74 townhouse unit, community center and tot lot

Carried to May 20, 2008

10. SP # 1882 (NO VARIANCE REQUESTED)
APPLICANT: SUDLER LAKEWOOD LAND LLC
Location: Oak Street, New Hampshire Avenue & Salem Street
Block 1160.02 Lot 7.01
Preliminary & Final Site Plan for 140,000 sf warehouse/office "Building 30"

Carried to May 20, 2008

11. SP # 1883 (NO VARIANCE REQUESTED)
APPLICANT: SUDLER LAKEWOOD LAND LLC
Location: Oak Street and Paco Way
Block 1160.04 Lots 54, 383
Preliminary & Final Site Plan for 70,000 sf flexible use "Building 29"

Carried to May 20, 2008

12. SD # 1621 (NO VARIANCE REQUESTED)
APPLICANT: MARK BAUMAN
Location: Albert Avenue, north of Salem Street
Block 1159.01 Lot 7
Minor Subdivision to create two lots

Carried to May 20, 2008

13. SD # 1622 (NO VARIANCE REQUESTED)
APPLICANT: PARK AVENUE EQUITIES LLC
Location: Harvard Street at northeast corner of Park Place
Block 170 Lots 1.01, 1.02 & 3
Minor Subdivision from 3 lots to 2

Carried to April 29, 2008

14. SP # 1885 (VARIANCE REQUESTED)
APPLICANT: OMNIPOINT COMMUNICATIONS INC.
Location: New Hampshire Avenue & Cedar Bridge Avenue
Block 563 Lot 1 Block 564 Lot 1
Preliminary & Final Site Plan to construct cell tower on MUA water tank

Carried to May 20, 2008

15. SD # 1409A (VARIANCE REQUESTED)

APPLICANT: VILLA MARIE LLC

Location: Miller Road, between Attaya Road & Whitesville Road
Block 11.04 Lot 15

Re-approval of Minor Subdivision to create two lots

Carried to April 29, 2008

16. DISCUSSION –Zoning Ordinance Amendment re: Flag Lots

Mr. Banas said it was mailed to the members and it is very simple. The ordinance is very clear and it appears to be everything the board asked for except one; we said no flag lots, but this is the second best thing, and it pretty much goes along with what we were asking for.

Mr. Neiman said in an R12A, that shouldn't make a difference but he was thinking about starting this at a R15 and eliminate it from an R12. Mr. Banas asked what it said in the Master Plan and Mr. Neiman said in all residential. Mr. Percal said he would agree it should start in an R15. R12 is not big enough to hide that second lot in the back and Mr. Percal added it did not provide for enough privacy for the neighbors. Mr. Fink also agreed.

Mr., Kielt said it has been introduced and is on for second reading. They will send it back to the governing body and they will hear it for second reading and passage. Depending on the change they may or may not have to read it again, but that is the purpose of this meeting.

Mr. Neiman also pointed out in #6 letter E, he thinks that has to be more specific. There are times they have had flag lots on Central Avenue area but we did ask some of them to come back with cul de sacs as opposed to the flag lots and he thinks that is where E would come into effect, and he also mentioned the Rain Tree development where it would affect 5 of so lots. Mr. Jackson said he wrote that because if someone bought a lot in a subdivision like the one they just did, he doesn't think they would think there would be a further subdivision of their neighbors, especially with people behind them and across the street, so it lets the board make a fact finding and use discretion in the appropriate circumstances. That was his intention to prohibit that. Mr. Banas said what Mr. Neiman is talking about is the New Central Avenue, and where they saw the first breed of this, there were about 6 or 7 lots, 100 ft. entrance and 300 ft. depth, they were all R12's. The first one came in as a flag lot, and they looked at each other and said, look there are 5 more lots like this and they came back. Mr. Neiman said they don't want that to happen and need to know how to write it. They discussed the wording "established neighborhood" and Mr. Banas said if that was clear they would not be having this discussion right now. Mr. Peters said every subdivision they approve is an "established neighborhood". Mr. Jackson said what he tried to do was say if it was inconsistent with the expectation of the neighbors and the board could make that finding and make that determination. The only way to prevent the evil is to do what they wanted to do, to have no flag lots; but if flag lots are allowed, you should make it a variance or something to that effect.

Mr. Percal said every week someone is going to have pull a trash can 300 ft. most likely at a small incline and probably twice for the size of the household. Is everyone content with

allowing a 300 ft. long flag pole and Mr. Neiman said they had no choice and the guy in the back, if he wants to buy that house, he has to schlep his garbage out to the street, that is a decision he will have to make. Mr. Banas said forget the garbage, what about the snow? The board said they didn't have a choice.

Mr. Jackson asked if this is a huge leap forward and if they continue to have problems make further recommendations. Mr. Percal asked how written is stone is this and Mr. Jackson said they can always amend the ordinance. Mr. Neiman said this mentions a lot, there are duplexes in here and it definitely does cover a lot and if we could get them to agree to the R15 as opposed to the R12 that is an even bigger step and let's take it from there.

The board agreed that Mr. Jackson will write a letter stating the board is in favor of the amendment with the recommendation of making R15 the threshold and eliminate the R12 and R12A

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

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Schmuckler; yes, Mr. Percal; yes

5. MEMORIALIZATION OF RESOLUTIONS

1. SP # 1884 (NO VARIANCE REQUESTED)

APPLICANT: CHINUCH LABONOS

Location: Joe Parker Road, south of Long Beach Boulevard
Block 189.04 Lot 188

Site Plan/Change of Use Site Plan-convert existing residence to school and add trailer classrooms

Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Franklin; abstain, Mr. Neiman; yes, Mr. Banas; abstain, Ms. Velnich; abstain, Mr. Akerman; yes, Mr. Fink; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

2. SP # 1860 (VARIANCE REQUESTED)

APPLICANT: CONGREGATION AVREICHIM

Location: 10th Street @ northeast corner of Clifton Avenue
Block 112 Lot 11.02

Preliminary & Final Major Site Plan for house of worship

Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes, Mr. Akerman; yes, Mr. Fink; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

3. SP # 1875 (VARIANCE REQUESTED)
APPLICANT: SOMERSET DEVELOPMENT LLC
Location: Fairways Boulevard
Block 524.01 Lot 1

Preliminary & Final Site Plan for addition to clubhouse and parking lot

Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes,
Mr. Akerman; yes, Mr. Fink; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

6. PUBLIC PORTION

- No one

7. CORRESPONDENCE

- None at this time.

8. APPROVAL OF MINUTES

- Minutes from April 1, 2008 Plan Review Meeting

Motion was made by Mr. Neiman, seconded by Ms. Velnich, to approve

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes,
Mr. Akerman; yes, Mr. Fink; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

9. APPROVAL OF BILLS

Motion was made by Mr. Neiman, seconded by Ms. Velnich, to approve

ROLL CALL: Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Ms. Velnich; yes,
Mr. Akerman; yes, Mr. Fink; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Chris Johnson
Planning Board Recording Secretary