

## I. CERTIFICATION OF COMPLIANCE

Chairman Neiman called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: *The Asbury Park Press*, and *The Tri-Town News* at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

## 2. ROLL CALL

Mr. Herzl, Mr. Franklin, Mrs. Koutsouris, Mr. Fink, Mr. Neiman, Mr. Schmuckler

## 3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

## 4. MEMORIALIZATION OF RESOLUTIONS

1. SD # 1711 (Variance Requested)  
Applicant: Mizz Construction/David Zajac  
Location: corner Somerset Avenue and Ridge Avenue  
Block 189.01 Lots 14, 15 & 16  
Preliminary & Final Major Subdivision for 3 duplex structures (6 zero lot line lots)

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

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

2. SD # 1713 (Variance Requested)  
Applicant: Mark Friedman  
Location: 11<sup>th</sup> Street, west of Lexington Avenue  
Block 112 Lot 8  
Minor Subdivision to create 2 lots

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

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

3. SP # 1925 (Variance Requested)  
Applicant: Yeshiva Keter Torah  
Location: Squankum Road, north of Apollo  
Block 104 Lots 13 & 54  
Preliminary & Final Major Site Plan for proposed high school

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

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

Mr. Banas arrived at the meeting.

## 5. NEW BUSINESS

1. SD # 1715 (Variance Requested)  
Applicant: Sara Newman  
Location: Myrtle Avenue, south of South Lake Drive  
Block 75.01 Lot 4  
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated April 15, 2010 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide an existing 150' X 150' lot totaling 22,500 square feet (0.516 acres) in area known as Lot 4 in Block 75.01 into two (2) new residential lots, designated as proposed Lots 4.01 and 4.02 on the subdivision plan. The site contains an existing two-story dwelling which will remain on proposed Lot 4.02. Proposed Lot 4.01 will become a new residential building lot. Public water and sewer is available. The site is situated in the central portion of the Township on the east side of Myrtle Place across from intersecting roads Lakeview Drive and Valley Drive, south of South Lake Drive and Lake Carasaljo. Proposed Lots 4.01 and 4.02 will be equal 75' X 150' lots of 11,250 square feet each in area. Curb exists along the street frontage, but sidewalk does not. Sidewalk is proposed across the frontages of the proposed lots. A sidewalk easement is proposed on portions of the proposed properties to save large existing trees just behind the existing curb. The lots are situated within the R-12 Single Family Residential Zone. Variances are required to create this subdivision. *We have the following comments and recommendations per testimony provided at the 03/02/10 Planning Board Workshop Hearing, and comments from our initial review letter dated February 25, 2010:* Zoning- The parcels are located in the R-12 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. *Statements of fact.* Per review of the Subdivision Map and the zone requirements, the following variances are required: Minimum Lot Area (proposed Lots 4.01 and 4.02, 11,250 SF and 11,250 SF respectively, 12,000 SF required) – proposed conditions. Minimum Lot Width (proposed Lots 4.01 and 4.02, 75 feet and 75 feet respectively, 90 feet required) – proposed conditions. *Fact. Supporting testimony is required.* A variance should be requested (and granted) for an existing non-conforming front yard setback

on the existing dwelling. The existing front yard setback is 28.64' where thirty feet (30') is required. This existing non-conformity would continue on proposed Lot 4.02. *Fact. Supporting testimony is required. A variance should be requested for an existing non-conforming rear yard setback on the existing shed. The existing rear yard setback is 9.8' where ten feet (10') is required for an accessory structure. This existing non-conformity would continue on proposed Lot 4.02.* The applicant must address the positive and negative criteria in support of the requested variances. At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. *At the Workshop Meeting, the applicant's attorney agreed to provide a plan for the Public Hearing showing the amount of lots in the neighborhood that will match this subdivision.* Review Comments- The applicant is proposing a sidewalk easement to the Township of Lakewood to save existing shade trees behind the curb on Myrtle Place. A detail of the proposed easement is required for clarity with proposed bearings, distances, and areas indicated on a per lot basis. *A detail has been provided. The 46.54' distance shall be broken down into individual distances for proposed Lots 4.01 and 4.02. Proposed easement areas should not be rounded.* The NJ R.S.I.S. requires 2.5 off-street parking spaces for unspecified number of bedroom single-family dwellings. The Schedule of Bulk Requirements indicates that three (3) off-street parking spaces will be provided for each unit. The existing driveway on proposed Lot 4.02 must be dimensioned to confirm that the driveway is large enough to accommodate three (3) spaces. Testimony should be provided regarding the number of bedrooms in the existing dwelling to remain in order to determine whether additional off-street parking is required. *The existing driveway on proposed Lot 4.02 has been dimensioned and is large enough to accommodate three (3) off-street spaces. Testimony should be provided on the adequacy of off-street parking for proposed Lot 4.02.* Testimony should be provided as to whether a basement is proposed for the proposed dwelling on proposed Lot 4.01. If a basement is proposed, we recommend a minimum of four (4) spaces be provided. Parking shall be provided to the satisfaction of the Board. *A fourth off-street parking space has been provided for proposed Lot 4.01 to allow for a basement. A basement is not proposed for the dwelling at this time. The proposed off-street parking shall be properly dimensioned and set a minimum of five feet (5') from the side property line.* The Minor Subdivision Map has been prepared on the outbound and topographic survey completed by Charles Surmonte, P.E. & P.L.S., on 1-14-10. The project bench mark is the existing monument at the southwest property corner of the tract. *Statements of fact.* Proposed lot and block numbers must be approved by the tax assessor's office. *Evidence of approval shall be submitted and the map signed.* General Note 8 notes the architectural dimensions of the proposed structure on proposed Lot 4.01 is not known at this time. A building box of 40' x 55' will provide less than twenty percent (20%) lot coverage, easily within the allowable coverage of twenty-five percent (25%). The proposed building box on proposed Lot 4.01 must be correctly shown for grading purposes. *The proposed building box on proposed Lot 4.01 has been corrected to 40' X 55'.* A legend is required on the Minor Subdivision Plan. *The legend has been added.* Proposed dimensions, finished floor elevation, and setbacks must be added for the proposed two-story dwelling on proposed Lot 4.01. *The proposed building box and elevations have been adequately indicated on proposed Lot 4.01.* Proposed setback lines shall be added to new Lot 4.02. *The proposed setback lines for new Lot 4.02 have been properly shown.* Existing setbacks shall be provided to the existing shed on proposed Lot 4.02 to confirm setback conformance for an accessory building. This information should also be added to the Zoning Schedule. *The existing setbacks have been provided to the existing shed on proposed Lot 4.02. The information has been added to the Zoning Schedule. The rear yard for an accessory building is non-conforming and the Board should take action on this matter which is listed above in the Zoning section of this report.* No shade tree and utility easement or shade trees are proposed along the property's frontage. The project intends to retain the larger existing trees

behind the existing curb. Landscaping should be provided to the satisfaction of the Board. *The Board shall take action on whether to require a shade tree and utility easement.* The Plan indicates a number of mature trees exist on the site. Some of these trees are unsalvageable if proposed Lot 4.01 is developed as proposed, but many of these trees appear salvageable. The proposed grading should be tightened to better limit the area of disturbance. Compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. If this subdivision is approved, the final plot plan for proposed Lot 4.01 submitted for Township review should include tree protective measures to save mature vegetation where practicable. *The proposed grading scheme can be further modified to save existing trees. Furthermore, tree protection measure details should be provided. These items can be addressed during compliance review if approval is granted.* Due to no construction of the new dwelling on proposed Lot 4.01 at this time, the Board may wish to require the cost of the improvements to be bonded or placed in escrow to avoid replacing them in the future. *Statement of fact.* Compliance with the Map Filing Law is required. A cross shall be proposed to be cut in the future sidewalk at the front corner of proposed Lots 4.01 and 4.02. *The revised map indicates a proposed cross to be cut in the future sidewalk at the front corner of proposed Lots 4.01 and 4.02.* Some minor corrections to the construction details are required and the following construction details must be provided: Concrete curb; Pavement restoration. *The construction details have been added. Minor corrections to the construction details are still required, and can be addressed during compliance review.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation District (if necessary); New Jersey American Water (water & sewer); and All other required outside agency approvals. *Evidence of regulatory agency approvals shall be provided as they are obtained.*

Mr. John P. Doyle Esq. appeared on behalf of the applicant. This applicant is proposing 2 lots, each with 11,250 sf and frontage of 75 ft. This area has the largest lot in the neighborhood with a house that is squarely on the right side of the lot and they seek to build a second house on the left side of the lot and create a line that will allow the original plan. The lots would be slightly undersized and Mr. Doyle told the board that the lots in orange are between 10 & 12,000 sf and are also non conforming and the lots in blue are less than 10,000sf. He entered exhibit A1 which showed the orange and blue lots.

Mr. Brian Flannery is the engineer for the applicant and said the 2 lots are minimally non conforming in area and said exhibit A1 shows that the majority of lots in this area is consistent with what they are proposing so it will fit in with the character of the neighborhood. He said this is an unusual lot to be that size and further unusual in that the house is built on the right side of the lot leaving the left side of the lot appearing to be a vacant lot and it seems to be someone's intention that a dwelling would be constructed there. The other variances are for front yard setback of 28.64 ft. to the existing dwelling where 30 ft. is required and a variance for the shed which exists at 9.8 ft. where 10 ft. is required. This is a C2 variance and this is a unique piece of property which is in the middle of other lots similar in nature and if nothing was done it gives the appearance of a vacant lot the proposed development makes the most planning sense. Under NJAC 40-55D2 a) -it is encouraging municipal action to guide the appropriate use and Mr. Flannery said this clearly fits in that and under g) – providing sufficient space for a variety of uses.

Mr. Akerman and Mr. Follman arrived at the meeting.

**PLANNING BOARD MEETING  
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REGULAR**

Mr. Neiman asked about sidewalks and Mr. Flannery said they have sidewalks shown going around a tree so they will provide sidewalks and save the tree. Mr. Neiman asked about parking and Mr. Flannery said they have 3 off street parking spaces for the existing home and the new one will have 4. Mr. Doyle said they have had discussions with the neighbor and as a result there will be a relocation of the driveway as shown on the plans which necessitates other changes in order to cooperate with the neighbor in terms of some grading changes. Mr. Flannery said a red line was given to Terry to show how that is going to be but they are still proposing 4 parking spaces and there are retaining walls that are required as part of it. They probably will need some type of waiver or variance relief for those retaining walls that they would request from the board because they are doing this to be better neighbors. Mr. Vogt said he is ok with that and discussed the changes with Mr. Flannery and asked him about the size of the offset and Mr. Flannery said 1 ½ ft. to 3 ft. off the lot. Mr. Vogt said the board would be acting on a variance for the retaining wall being within 1 ½ ft. of the lot line with adjacent Lot 3. Mr. Flannery said he would work with Mr. Vogt on the plans.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Schmuckler, seconded by Mr. Herzl, to approve the application with the changes that were discussed and the variance.

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

- 2    **SD # 1716    (Variance Requested)**  
      Applicant:    Dewey Avenue LLC  
      Location:    Dewey Avenue, south of 4<sup>th</sup> Street  
                          Block 246            Lots 18, 53-55  
      Preliminary & Final Major Subdivision – 8 lots

Mr. Vogt prepared a letter dated April 22, 2010 and is entered in its entirety. The owner/applicant is Dewey Avenue, LLC, of 147 Liberty Drive, Lakewood, New Jersey 08701. The applicant is seeking a Preliminary and Final Major Subdivision approval with variances. The applicant proposes to remove three (3) existing dwellings from the site. The proposed subdivision would permit the construction of three (3) duplex units and a single family dwelling. The existing four (4) lots known as Lots 18, 53 - 55 in Block 246 are proposed to be subdivided into six (6) zero lot line lots shown as proposed Lots 53.01-53.06 and one (1) single-family lot shown as proposed Lot 53.07 on the Major Subdivision Plan. Four (4) off-street parking spaces are proposed for each zero lot line lot. Three (3) off-street parking spaces are proposed for the single-family lot. The off-street parking spaces for all proposed lots are located along the frontage of the property perpendicular to Dewey Avenue. Dewey Avenue has a forty foot (40') right-of-way width with a half right-of-way width of twenty feet (20') across the frontage of the property. A five foot (5') wide road widening easement to the Township of Lakewood is proposed. Existing Lot 18 is a narrow lot with double frontage located between existing Lots 53 and 54 having frontage on Dewey Avenue and between existing Lots 17 and 19 having frontage on Sampson Avenue. A varied width right-of-way is indicated for Sampson Avenue. No road widening dedication or road widening easement is proposed for the portion of existing Lot 18 fronting Sampson Avenue. The portion of existing Lot 18 located between existing Lots 17 and 19 is proposed to become part of proposed Lot 53.04. The tract totals 40,454 square feet or 0.93 acres in area. The site

consists of four (4) existing properties, Lots 18, 53 - 55 in Block 246. Associated site improvements are proposed for the major subdivision plan. These improvements include proposed sewer, water, and utility connections; and off-street parking in driveways with depressed curb and aprons. The property is located in the northern portion of the Township on the easterly side of Dewey Avenue. The property also has some very minor frontage on the westerly side of Sampson Avenue since existing Lot 18 spans the entire width of the Block. There is existing curbing and sidewalk along the property frontages. Dewey Avenue has an existing paving width of approximately twenty-four feet (24'), while the existing pavement width of Sampson Avenue is not shown. The site is situated within a predominantly residential area. *We have the following comments and recommendations per testimony provided at the 3/2/10 Planning Board workshop hearing, and comments from our initial review letter dated February 25, 2010:* Zoning - The site is situated within the R-7.5, Single-Family Residential Zone District. Per Section 18-902 G. 1. a. & b., of the UDO, "Single-Family Detached Housing" is listed as a permitted use, and "Two Family and Duplex Housing, with a minimum lot size of 10,000 square feet" is listed as a permitted use. Zero lot line subdivisions for duplexes are permitted in the R-7.5 Zone. *Statements of fact.* According to our review of the Major Subdivision Plan and the zone requirements, the following variances are required for the zero lot line portion of the subdivision approval requested: Minimum Side Yard – Proposed side yards for proposed Lots 53.01 - 53.06 are zero feet and five feet (0'5') respectively. The minimum required side yards for zero lot line duplex housing are zero feet and seven feet (0'7') respectively. The proposed aggregate side yards for the proposed duplex housing units are ten feet (10') rather than fifteen feet (15'). *There is one instance on proposed Lot 53.06 where the proposed side yard will be slightly less than five feet (5').* The applicant must address the positive and negative criteria in support of the requested variances. *Testimony shall be provided.* Review Comments- General/ Layout/Parking - There is an existing bend in Dewey Avenue in front of proposed Lot 53.07, the proposed single-family lot. The existing right-of-way has an angle point rather than a curve at the location of this existing bend. A radial dedication should be proposed across the front section of proposed Lot 53.07 consistent with the existing bend in the road. A slight adjustment to the corner of the proposed single-family dwelling may be required to keep the front yard setback conforming. Otherwise, no variances would be created from the potential road dedication. *A five foot (5') wide road widening easement has been proposed along the Dewey Avenue frontage of the site. This includes a proposed curve across a portion of proposed Lot 53.07. The Board should consider whether a radial right-of-way dedication with an inscribed curve of an eighty foot (80') radius should also be proposed. If required, the proposed front yard setback line should then be corrected to be radial. A revision to the proposed single family dwelling building dimensions or configuration would be required to provide the required front yard.* The portion of existing Lot 18 between existing Lots 17 and 19 fronting Sampson Avenue has no practical use for the proposed subdivision. The sliver of land contains large oaks and cedar trees which should remain. This effectively negates any potential secondary access to proposed Lot 53.04 from Sampson Avenue. At a minimum, dedication of right-of-way along Sampson Avenue should be required, along with a shade tree and utility easement. *A road widening easement and a shade tree and utility easement have been proposed. An actual right-of-way dedication along Sampson Avenue to match the existing right-of-way in front of neighboring Lot 19 should be provided. The shade tree and utility easement should be proposed behind this dedication.* The proposed lot line perpendicular to Dewey Avenue between proposed Lots 53.06 and 53.07 should be extended. The requested minimum side yard of five feet (5') is technically being violated from the proposed skewed portion of the side lot line beyond the angle point. *The skewed portion of the proposed lot line beyond the angle point has the same bearing as the proposed perpendicular portion of the lot line. Corrections are required.* An existing garage encroaches onto proposed Lot 53.01 of the site. A 5.3' Easement per Deed Book 3271, Page 110 is shown on the plans in connection with the garage

encroachment. Testimony regarding the encroachment should be provided, as well as the actual limits of the easement. *The applicant's professionals indicate that testimony will be provided.* Off-street parking: No architectural plans have been provided for either the proposed duplex units or the proposed single-family unit. No information has been provided regarding the proposed number of bedrooms for any of the units. The Improvement Plan indicates that basements are proposed for all units. The zero lot line ordinances require parking for each duplex unit as if each unit was a single-family dwelling. The applicant is proposing four (4) off-street parking spaces for each proposed duplex unit and three (3) off-street parking spaces for the proposed single-family unit. According to RSIS, three (3) off-street parking spaces are required when the number of bedrooms is not specified. Testimony must be presented regarding compliance with the RSIS standards. The applicant should also provide testimony regarding basements since no architectural plans have been submitted and each unit will have a basement. *Testimony should be provided on the units and off-street parking.* The proposed off-street parking consists of a minimum of 9' X 18' parking spaces. The proposed parking configuration for proposed Lots 53.01 – 53.06, the duplex lots, consists of two (2) double stacked rows of spaces perpendicular to the road. The proposed parking configuration for proposed Lot 53.07, the single-family lot, consists of a row of three (3) spaces perpendicular to the road. Construction details are required for the proposed driveways with the off-street parking. Furthermore, no pedestrian access to the dwelling units is shown and should be added. *Paved driveways have been proposed. We recommend a better pavement section with a stabilized base course be used. Concrete sidewalks have been proposed for pedestrian access. The landing areas in front of the parking spaces are inadequate and the units should be moved further from the street.* The plans only note that all existing dwellings on the property will be removed. Other existing improvements and their status need to be addressed. The Subdivision Map references a Land Survey dated 11/1/09. A current Outbound and Topographic Survey shall be submitted. *The Survey has been submitted. The note stating that "all existing improvements on site to be removed" should be revised to recognize that the existing encroaching garage with the associated easement shall remain.* Each unit shall have an area designated for the storage of trash and recycling containers. This matter is not addressed on the Improvement Plans. Testimony shall be provided by the applicant's professionals on disposal of trash and recyclables. *A board on board trash enclosure with a concrete pad is being provided for each duplex unit. A gate should be added to the construction details. The applicant's engineer indicates a trash enclosure area will be provided on the plot plan for the single family house when the grading plan is submitted for a building permit.* Proposed building dimensions to the hundredth of a foot are required on the plans to confirm setback compliance. *Building dimensions to the hundredth of a foot have been provided. The proposed dimension from the rear corner of the unit on proposed Lot 53.06 to the angled portion of the side property line must be added since it is less than 5.00'.* As a result of the amount of site disturbance involved with this project, such as removal of existing improvements, new driveways, utility connections, and the restoration of Dewey Avenue, additional site improvements are required. We recommend new curb and sidewalk be installed along the entire property frontage since virtually none of the existing curb and sidewalk will remain. Also, roadway improvement plans should be prepared because of the numerous underground utility connections required. *Curb and sidewalk replacement has been proposed along the entire property frontage. Proposed spot grades and construction details are required for this work. A pavement replacement strip shall be included for the curb replacement. Utility openings are the responsibility of the utility companies. However, disturbance to more than twenty percent (20%) of the existing pavement requires a mill and overlay.* Per Subsection 18-911 F (2 (a-g)) of the zero lot line ordinance, a written agreement signed by the owner of the property is required, including provisions to address items associated with the use, maintenance, and repair of common areas and facilities associated with the overall property. Said agreement must be filed

as part of this application to obtain the zero lot line subdivision approval from Lakewood Township. *The applicant's professionals indicate that the agreement will be submitted for review and filing as a condition of approval, if granted.* Architectural- No architectural plans are provided. The project proposes to conform to the allowable maximum height of thirty-five feet (35'). The project intends to conform to the maximum allowable building coverage of thirty percent (30%). We calculate the proposed building coverage of Duplex 2 to be twenty-four percent (24%), proposed Lot 53.04 to be twenty-one percent (21%), and proposed Lot 53.07 to be twenty-one percent (21%). We have confirmed the other proposed coverage calculations. The Improvement Plans are not detailed enough to evaluate proposed access to the units and proposed grading around the buildings. If available, we recommend that color renderings be provided for the Board's review at the time of Public Hearing. *The applicant's professionals indicate that architectural plans are being prepared along with color renderings for the Public Hearing. The proposed building coverage calculations have been revised, but need further revision due to the addition of decks.* We recommend that location of air conditioning equipment be addressed. Said equipment should be adequately screened. *Air conditioning equipment locations are proposed to the rear of the units. Screening has been provided with board on board fence four feet (4') high. Gates shall be added.* We note that no decks or patios are proposed on the Improvement Plans. First floor and basement access appears to be proposed on the fronts of the duplex units. No access is shown for the proposed single-family unit. Full size architectural plans are recommended to accompany any resubmission. *The applicant's professionals indicate that architectural plans are being prepared for the Public Hearing. They also indicate basement access is proposed on the front of each unit and no additional variances are required. Proposed decks have been added to the Improvement Plans. Revised calculations are required to determine whether any coverage variances will be created.* Grading- Review of the proposed grading indicates a reasonable design. *Proposed curb elevations are required along Dewey Avenue because of the curb replacement.* - Proposed grading is directing runoff to the adjacent property to the south. Since dry wells are being proposed for the proposed duplex roof drainage; we recommend the proposed clean outs at the terminal ends of the systems be replaced with yard drains. This can eliminate any impacts of runoff being directed off-site. *We have met with the applicant's engineer. The recharge system for each lot will be increased in size to fifty feet (50') of twenty-four inch (24") perforated pipe in 3' X 3' stone trenches.* Soil borings must be provided to determine whether a two foot (2') separation from the seasonal high water table is maintained to the proposed basement elevations. *Soil logs and testing have been included with the revised Storm Water Management Narrative. The proposed elevation of the single-family basement floor should be raised.* Stormwater Management- *Pursuant to review of the current design, the project can be built without impacting downstream drainage. Final design revisions can be completed during compliance review should the subdivision be approved.* Recharge trenches are proposed in the rear yards for the proposed duplex units to address the proposed increase in impervious coverage for the site. Calculations are required for the proposed stormwater management measures. The details proposed for the pipe sizes and stone trenches are in conflict and require clarification. *Based on our recent meeting with the applicant's engineer; the recharge system for each lot will be increased in size to fifty feet (50') of twenty-four inch (24") perforated pipe in 3' X 3' stone trenches. The construction details will be amended accordingly.* Proposed elevations, inverts, pipe sizes, and slopes must be added to the roof drain conveyance piping and recharge systems. *The revised design will propose fifty foot (50') long and three foot (3') wide recharge trenches. The current plans propose forty foot (40') long and two foot (2') wide recharge trenches. The plans will be revised.* No soil borings, estimation of seasonal high water table, or permeability testing has been completed on this project. This work is required in order to properly review the recharge systems. *Soil logs and soil test results are included in the revised Storm Water Management Narrative. The locations are shown on the plans. The*

*permeability rate used for design is acceptable based on the soil testing.* Landscaping- Eight (8) October Glory Maples are proposed along the property frontage and four (4) White Pines are proposed in the rear yards where there is an absence of existing trees. *Statement of fact.* The overall landscape design is subject to review and approval by the Board. *The Board should provide the applicant with recommendations, if any.* A six foot (6') wide shade tree and utility easement is proposed along the frontage of Dewey Avenue, but not Sampson Avenue. The proposed easement shall be added along the Sampson Avenue frontage. *A shade tree and utility easement is proposed for the Sampson Avenue frontage.* Lighting- Testimony shall be provided on the adequacy of street lighting. No lighting information has been provided. *The revised plans indicate which utility poles have existing street lights.* Utilities- Potable water and sanitary sewer service will be provided by New Jersey American Water Company. The project is within the franchise area of New Jersey American Water Company. *Statements of fact.-* Utility mark outs observed in the field indicate existing water on the far side of Dewey Avenue. Existing gas was observed on the near side of Dewey Avenue in the location shown on the plans for the existing water main. Testimony should be provided regarding other proposed utilities. Additional underground connections will be required if gas is proposed. Furthermore, additional road disturbance will occur with connections to the water main on the far side of the road. This is justification for complete restoration of the street along the length of the project frontage. *Utility openings are the responsibility of the respective utility companies. A milling and overlay of the road is required if more than twenty percent (20%) of the street is disturbed.* The proposed single-family dwelling for proposed Lot 53.07 is shown to be connected to a proposed sanitary sewer system to be constructed by others. The construction of this single-family dwelling could be delayed with respect to the construction of the duplex units. The timing of final road restoration may also be impacted. *Statements of fact.* -Environmental -Site Description - Per review of the subdivision plans, aerial photography, and a site inspection of the property, the site is residentially developed. Appreciable vegetation is being retained where possible. *Statements of fact.* Environmental Impact Statement - An Environmental Impact Statement (EIS) report was not prepared and submitted for the project, nor does one appear necessary given the nature of the project. Our office performed a limited natural resources search of the property and surroundings using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The following data layers were reviewed to evaluate potential environmental issues associated with development of this property: Known contaminated sites (including deed notices of contaminated areas); Wood Turtle and Urban Peregrine habitat areas; and NJDEP Landscape Project areas, including known forested wetlands, emergent wetlands, forest, and grassland habitat areas. Based on our observations of this site and per NJDEP mapping, the southern portion of the property and adjacent lands should be investigated for freshwater wetlands. Future development in this area of the site may be subject to NJDEP Freshwater wetlands regulations. *A report has been submitted from Aqua-Terra that there are no wetlands on the property or within fifty feet (50') of the property based on flagged wetlands delineated by others.* Tree Management - A Tree Management Plan has been submitted. The proposed plantings meet the tree inches required to be replaced. The applicant must comply with the requirements for tree protection and removal as applicable for this site. *Statements of fact.* Construction Details - Limited construction details are provided on Sheet 2 of the plans. *Additional construction details have been added and more construction details are still required.* All proposed construction details must be prepared to comply with applicable Township or NJDOT standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific. *Construction details will be reviewed in depth, should subdivision approval be granted.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Statement of fact.* Final

**PLANNING BOARD MEETING  
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**TOWNSHIP OF LAKEWOOD  
REGULAR**

**Plat (Major Subdivision)- The Map shows monuments have been set on virtually every existing original property corner and the front corners of all proposed lots being created. These monuments were not observed in the field and would conflict with the existing sidewalk. *Corner markers have not been set at this time and the map should be corrected. The tract corner monuments shall be set prior to filing the map and the remaining monuments may be bonded. We recommend monuments in conflict with the sidewalk be set along the road widening easement line.* The notes proposed on the Map must conform to Section 18-604B.3., of the UDO. *The notes have been revised.* Proposed setback lines must be added to the Map. *The required setback lines have been provided.* General Note #9 shall be corrected to “seven (7) new lots”. *General Note #9 has been corrected.* Dimensions and areas of the easements on the individual proposed lots must be indicated. *The applicant’s professionals agree to add the dimensions and areas of the easements if the project is approved.* The zoning schedule requires a few corrections with respect to the building coverage. A footnote for an existing non-conformance is indicated, but there is no listing of any existing non-conformance matters. *The zone schedule has been revised. Further corrections will be required for the building coverage.* Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. *The proposed lot numbers have been approved by the Tax Assessor. The plat shall be signed by the Tax Assessor.* Compliance with the Map Filing Law is required. *Statement of fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation District; New Jersey American Water Company (Water and Sewer Service); NJDEP (Land Use); and all other required outside agency approvals. *Evidence of approvals shall be provided. Based on the Presence/Absence Freshwater Wetlands Report, NJDEP approval will not be required.***

**Mr. Abe Penzer Esq. appeared on behalf of the applicant and said the engineer has not yet arrived. He said they are going to knock down 3 existing dwelling units and passed around 6 copies of the existing dwellings that was marked exhibit A1 which also showed the neighboring homes. He said this will be a definite improvement to the area which needs to be redeveloped and the proposal will show that. They have provided 4 parking spaces per lot.**

**Mr. Penzer said with regard to the engineer’s report, they are requesting a variance for 3 ft. and 10 ft. where 15 ft. is provided and said there is one place that they are off by ½ inch but Mr. Lines disputes that and is prepared to talk about that. They have changed the radial right of way and said the existing garage is an existing garage and they are not touching what has been there for about 50 years and it encroaches about 4 ft. Mr. Penzer said they needed the board’s opinion whether or not they want them to move back the houses, because they can do so if the board wishes. They meet the RSIS standards for parking (3 for the home and 1 for the basement) and said the board wants more, they can do that by moving back the houses. Mr. Lines arrived. Mr. Penzer said they feel they can get the parking spaces and they can revise the survey to show the encroaching garage. They can show a trash enclosure for each one.**

**Mr. Glenn Lines is the engineer for the applicant and said the corner they are talking about is the southeasterly corner of the building where there is a little jog in the line and said he feels it is 5 ft. but if they are going to be moving the units back to accommodate more parking and 2 ft. between the steps and the driveway so he will leave an extra foot to make sure there is no problem. Mr. Neiman said his feeling is to move the buildings back to accommodate more parking there because Dewey Avenue does not have much parking on it. Mr. Lines agreed. With regard to trash enclosure, they changed the architectural plans to show the enclosures in front of each unit but they will be putting one on either side of the front steps and the basement steps. Mr. Lines said he just picked up those plans and has made reduced copies for the board. Mr. Lines marked them as exhibit A2.**

Mr. Penzer said the comment about disturbance being more than 20% of existing pavement, they can take care of that and lessen it so they will not require a mill and overlay. Mr. Lines said on the architectural plans he just handed out, they show a 10x10 ft. deck on each unit and said the addition of the deck does increase the lot coverages for all the lots. For lots 53.01 and 53.02 they increased to 30%; for the center duplexes, the total lot coverages is 26% and 30% lot coverage for the unit on the left and 23% for the unit on the right and the last duplex has a total lot coverage of 29% and 28% on the left and 30% on the right. His testimony is they all comply with the 30% limit. As far as grading, Mr. Penzer said Mr. Lines revamped the drainage and recharge system and Mr. Vogt said that works and they can meet all the comments with regard to stormwater management, landscaping, lighting and utilities. They have submitted a report from AquaTerra that there are no wetlands on the property or within 50 ft. The only question they ask is Mr. Vogt requested corner monuments and wanted them to be bonded and Mr. Penzer asked if he is requiring it now and Mr. Vogt said they have to comply with the map filing law and Mr. Lines said if they put them in before construction they would be taken out during construction when the driveways were dug and Mr. Vogt said that is why they typically bond them now. They agree to comply with the remainder of the comments in the professionals report.

Mr. Neiman question the description of the application, it calls for 8 lots and he only see 7 and Mr. Lines said originally when they submitted, he filled the application out for 8 lots and the long narrow piece was going to be subdivided but during completeness Mr. Kielt pointed out they cannot create a 19 ft. wide lot-it has no use, so it had to stay as part of lot 53.04. Mr. Neiman said there are 7 lots and 7 homes and Mr. Lines said yes. Mr. Neiman said it looks like there are sidewalks there but if it gets damaged they will replace and Mr. Penzer agreed.

Mr. Banas said the board's engineer recommended using a different type of stabilizing base and Mr. Lines said they will comply. Mr. Penzer said the neighbors were concerned with run off from another lot and they met with Mr. Vogt and believe they have revised that. Mr. Vogt said there was one resident that has existing drainage problems and contact with the Township and NJDEP over several years and Mr. Vogt told him the applicant cannot be held responsible for solving the problem a few hundred feet away but they will make sure this applicant is not creating any problems or making any problems worse. The applicant has designed a recharge scheme which deals with what they are going to do on this property.

Mr. Franklin suggested on the roof leader detail, rather than putting a "Y" there, if they use a "T" they can put a grill in front of it and it would look neater and Mr. Lines agreed. The board agreed the houses will be moved back. Mr. Neiman said what they usually like to see for duplexes is 4-5 spaces for each home.

Mr. Neiman opened the microphone to the public

Noreen Gill, 192 Coventry Drive Lakewood was sworn in. She wondered whether they are going to have another problem like on South Lake Drive. She doesn't know what kind of a system there is to alleviate this problem but when all is said and done there still is a problem and she asked what more can they do to these people's properties if the Township couldn't fix it and nothing could be done by building another unit that is higher- she had a French drain installed in 2 places and they don't work because the homes were supposed to be street level and the township screwed up. She doesn't know what the story is with this house but she is telling the board that somebody better have a good idea to come up so somebody doesn't end up with a lot of water in their home.

Jan Kristberg, 52 Maxim Drive, Forked River was sworn in. He is the executor of the estate of his parents who lived at 331 Ocean Avenue and it is the property to which Mr. Lines referred to. He said the point of contention is not with the developers' ideas and Mr. Neiman asked him to show the board the location of the property. Mr. Kristberg said the property next door to his parents home was previously developed and a storm drain at the end of an easement that eventually lead under Ocean Avenue down to Lake Shenandoah was damaged by the developer and completely covered up and Mr. Kristberg objected since 2005 and a number of interventions occurred- Mr. Franklin tried to do what he could but the storm drainage was willfully damaged and filled in and the property completely leveled and the elevation was changed so all the street run off is now trapped and it has created a bayou in the middle of a very concentrated and very developed area and right now that situation is being exacerbated and continues now without development and can only assume, with development, that water will continue to go south to Dewey Avenue and collect in that easement and have nowhere to go. Even though the DEP informed the former engineer that there was going to be corrective action none has been taken and none has been taken by the developer and then he claimed bankruptcy so he left it. Mr. Kristburg said not only is that site an eyesore it is also a danger.

Mr. Neiman asked Mr. Franklin if he is aware of the situation and Mr. Franklin said he was. Mr. Neiman said he did not know where the board can do something about this and Mr. Franklin said there is a big drainage problem in that whole area, there are some other houses on the block behind it that their basements also fill with water. Mr. Neiman asked if it is caused by what Mr. Kristburg is saying and Mr. Franklin said yes and there was a drain on the property next door to Mr. Kristburg's parents house and the drain pipe went down through the middle of all the lots on Ocean Avenue and came out where that gas station was down the street between there to a lot behind that gas station (which has been filled also). Mr. Franklin said they tried to clean that pipe out and it is in bad shape-the guy tore the drain out so that is not working and it is a major drainage problem.

Mr. Fink asked Mr. Vogt what he found and Mr. Vogt said the area in question is several hundred feet away –this is not next door, they are talking about downstream Ocean Avenue where you have water collecting and they have not done any investigation of that problem as part of this application nor have they been asked to look at that in any other capacity. The law says the applicant cannot exacerbate the problem, the applicant is responsible for dealing with the stormwater impact of their development.

Mr. Neiman asked which committee did Mr. Kristburg bring this up to and Mr. Kristburg said he sent letters to the Township Committee and worked through the DEP and has letters and pictures of the developer's bulldozer going right over the area of the storm drain. It is a sad thing, he expected more action-people stepping in and rescue them and said the property now, over the course of the last few years of waiting, has been seriously devalued and diminished by ½ and the water is coming right up to the garage like a dock. This water is at a depth that it endangers children and allows increased mosquito infestation problem-it is a lagoon, bayou, and with a center that is now deeper and deeper. He has pictures, including originals and he also has pictures of the state of the property prior to this. Mr. Kristburg said it has also created great damage of existing trees and it is becoming such a blight – it makes the property inaccessible to the second half of the property and is now filling in the total basin in there. What all the building and the increased population that Lakewood has planned this is a community problem not a Kristburg problem or the estate problem that will not only get worse and if it is cured it will help the value of everyone else's property around.

Mr. Neiman asked Mr. Jackson what they should do here. Is there a committee that oversees this and corrects this and they can write a letter to? Mr. Jackson said ultimately the governing body's concern through public works is that there is a man made issue that affects the property and the only way to undo the mess that is there is to have the government step in and fix it or the possibility of someone to bring a civil suit to those who are responsible. Mr. Jackson said this really does not affect this application and asked if this application will make that situation worse or will this application have any responsibility to that landowner for the cleanup and if either of those questions is yes then you have to look into it further and if the answer is no, then you move on with this application. The applicant can't be responsible for other sites. Mr. Neiman said as a board, can they say definitely that it is not going to have an affect and Mr. Jackson said that is what Mr. Lines' job is. Mr. Fink asked if there was anyone that the board can write a letter to on behalf of the Planning Board that they would like this looked into further and fixed somehow-to him it is separate but he thinks that as a Planning Board they are here to help the town with planning and they would like to address the issues.

Mr. Jackson said it would be appropriate for the board to send a letter to the governing body stating that they have heard of this concern and it seems to be valid and it should be addressed and corrected. Mr. Franklin said it is all on private property, and this particular drainage line was put in 1922 (he has the maps on it) and where it comes out has already been filled and you have a real mess there and said some engineering will have to be done by someone because you have a stagnant pond now. Mr. Jackson said it could be done by the municipality through police action if it is a public nuisance and Mr. Franklin said the DEP got involved and put charges against the owner of the lot and stopped the sale of it and he went bankrupt and so they have no place to go with their charges. Mr. Kristburg said he has a letter from Vinnie Mignella on what was supposed to be done and he is distressed that the DEP did not communicate with him because he was the one who questioned the work that was being done and who forced the DEP to come there. Mr. Kristburg said if he did not voice his objection here when would he have voiced it-after the 9<sup>th</sup> development went it? It would be difficult for him to step up at that point.

Mr. Penzer said there is another legal remedy, you have an inverse condemnation here but he should speak to a lawyer and there is a very good case here where you would get compensated and the township would have to react and it would be covered by the county pool in terms of defending and paying for it. He should investigate inverse condemnation and further investigate the status of the bonding company, even if the developer went bankrupt, the bond should be there and the bonding company should kick in. Mr. Kiert said this was a very small construction of one lot so there was no bond so there is no remedy there.

Mr. Penzer said they have had a meeting with Mr. Vogt and they are putting in a pretty expensive system and a recharge system for each lot which will be increased in size to 50 ft. of 24in. perforated pipe and 3x3 stone trenches so they are making sure they are not going to aggravate the problem.

Mr. Neiman asked if they can write a letter on behalf of the Planning Board to the Township Committee and Mr. Jackson said yes. Mr. Kristburg asked if any board member has seen the property and Mr. Neiman asked him to give him the address and he will go by there.

Gerry Ballwanz, Governors Road Lakewood was sworn in. She said this is the R7.5 zone and that means this is very high density and these are lots that didn't have as much impervious coverage and now this developer is covering up more of the land that was able to absorb the water so with this plan it is not supposed to exacerbate this problem but she doesn't see how

this can't and said it should cause problems because you are taking away land that was absorbing water and now there is going to be more coverage. Even with this expensive recharge system how can they be sure that this is really going to work or are you going to have another big flood because now there is less land and trees to absorb the water. She asked if there was any guarantee that the people who are going to be living in these new homes are not going to have water in their basements. She said even though they are allowed to have R7.5, with the problem, she doesn't know how engineering is always going to be the solution because we find that that is not always what ends up happening and it is the homeowner who is living there that has to deal with the problem.

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

Mr. Neiman said Mr. Lines and Mr. Penzer have heard the problems with the drainage and asked them to make sure that it works for the area there. Mr. Lines said they figured out what the impervious coverage on these 4 lots and that is going to be the area of their driveways so the same impervious coverage that is on the lot now is what is going to contribute to run off in the future, the rest of the homes are all going to have the roof run off collected and recharge it. With discussions with Mr. Vogt they decided to do a 25 year storm which is 6 inches of rain so he re-designed the system and increased the pipe sizes and amount of recharge and it is nice sandy soil where they are and by just increasing the diameter they actually got to a 50 year storm.

Motion was made by Mr. Schmuckler, seconded by Mr. Fink, to approve the application with moving the homes back to get more parking and the other changes that were spoken about.

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

3. **SD # 1586B (No Variance Requested)**  
**Applicant: Thompson Grove Assoc.**  
**Location: Drake Road-opposite Neiman Road**  
**Block 251.01        Lots 32 & 88**  
**Amended Preliminary & Final Major Subdivision**

Mr. Vogt prepared a letter dated April 20, 2010 and is entered in its entirety. The applicant is seeking an amended preliminary and final major subdivision approval with associated variances for Block 251.01, Lots 32 and 88. The primary change for which amended preliminary and final major subdivision approval is sought is the proposed phasing of the project. The applicant initially received approval to subdivide the two (2) existing lots into twenty (20) lots. The existing houses on Lot 32 and Lot 88 were to remain, and seventeen (17) additional residential lots were proposed as well as one (1) common open space lot with a playground. Phase 1 is now proposed to consist of the creation of four (4) lots. Two (2) residential lots are proposed along the beginning section of Serenity Way, a future cul-de-sac, one (1) of which includes the existing house on old Lot 32. The third proposed residential lot includes the existing house located along the western frontage of Drake Road on old Lot 88. Finally, the remainder lot which will become Phase 2 of the project would be created. Existing Lot 88 contains three (3) existing dwellings, two (2) of which will be removed. The remaining residence will remain on its own subdivided lot. The balance of existing Lot 88 will become part of the remaining lot which will be developed as Phase 2 of the project. The applicant also proposes two (2) residential lots on existing Lot 32 with the balance becoming part of the remaining lot to be developed as Phase

2. One (1) of the proposed lots will contain a new single family dwelling and the other an existing single family dwelling. Phase 1 proposes a new septic system and potable well for the lot with the proposed dwelling. Septic systems and potable wells already exist for the two (2) dwellings to remain. Following the completion of Phase 2, all lots on the Serenity Way cul-de-sac are to be serviced by public water and sewer. The lot with the existing dwelling along the westerly Drake Road frontage will continue to be serviced by well and septic. The initial section of a future cul-de-sac to be known as Serenity Way will be created in Phase 1. Access to the proposed dwellings will be provided by a gravel access drive within the Phase 1 Serenity Way right-of-way. However, no road improvements or stormwater management improvements will be constructed within Serenity Way as part of Phase 1. These improvements, along with the construction of the wet pond, will be completed in Phase 2. The applicant has proposed a six foot (6') wide shade tree and utility easement along the frontages of all proposed lots. Proposed sight triangle easements will be dedicated to the Township of Lakewood at the intersection of Serenity Way and Drake Road. A Homeowners Association will be proposed for Phase 2 to maintain the future proposed open space lot. The subject property is located in the western portion of Lakewood Township and is in close proximity to the Crystal Lake Preserve and Ketchledge Farm which is being actively considered by the County of Ocean for farmland preservation. The tract is 21.26 acres in area and has frontage on two (2) segments of Drake Road. 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. Existing Lot 88 is 11.31 acres in size with approximately ten (10) acres located within the R-40 Zone District with the remainder located in the Crystal Lake Preserve Zone District. Existing Lot 32 is 9.80 acres in size and is located entirely within the R-40 Zone District. The residential portion of the subdivision is located within the R-40 Zone. The proposed open space area and proposed stormwater management facility for Phase 2 are located within the R-40 and CLP Zone Districts. Finally, the original subdivision appears to have been approved including public water and sewer service for all of the proposed residential lots on the future cul-de-sac. Per our review of the amended application, it appears that private wells and septic systems are now proposed for the three (3) residential lots in proposed Phase I; although, the two (2) residential lots on the future cul-de-sac will be converted to public water and sewer service with the construction of Phase 2. The following comments in *(bold)* indicate the current submission's compliance with T&M Associates previous engineering and planning review comments for the originally-approved application, testimony provided at the 3/2/10 Planning Board workshop hearing, and comments from our review letter dated February 25, 2010: Engineering Review Comments (T&M letter dated April 13, 2008) General - 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. ***Phase 1 is proposed to consist of the creation of four (4) lots, three (3) residential lots and the remainder to be developed as Phase 2 of the project. Two (2) residential lots are proposed along the beginning section of Serenity Way, one (1) of which includes the existing house on old Lot 32. The other proposed residential lot which includes the existing house on old Lot 88, would also be created. Finally, the remainder lot which will become Phase 2 of the project would be created. The Final Plat for Phase 1 has been revised to only indicate that four (4) lots***

*are being created, the two (2) proposed residential lots along the beginning section of Serenity Way, the proposed residential lot with the existing dwelling to remain from old Lot 88, and the remaining lot (Lot 32.21) which will become Phase 2 of the project. The applicant is only proposing to improve the southern frontage of the property along Drake Road in Phase 1. A fourteen foot (14') gravel access drive would provide access to the two (2) residential lots along the beginning section of Serenity Way. These two (2) proposed lots would be serviced by individual subsurface septic systems and private wells. The proposed improvements associated with the amended application require testimony regarding further design revisions. It is our understanding the beginning section of Serenity Way is being created without any proposed improvements. Proposed storm sewer improvements will not be addressed until Phase 2. Furthermore, it is our understanding that no improvements are being proposed along the western frontage of the property along Drake Road. The General Notes and Title Sheet incorrectly list Lot 33 which is not part of this subdivision. The applicant is requesting the following (new) 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. The following bulk variances were granted by the Board for the original application: Minimum Lot Area: 40,000 square feet is required, whereas new Lots 32.03 through 32.09 and 32.12 through 32.20 propose between 15,003 square feet to 33,642 square feet; the remaining lots propose areas over 40,000 square feet. The Zoning Schedule on the plans is now consistent with the lot areas shown on the plans, which have been corrected. Minimum Lot Width: 150 feet is required, whereas new Lots 32.01, 32.03 through 32.08, 32.12 through 32.18 propose 90.00 feet to 135.44 feet. Minimum Front Yard Setback: 50 feet is required, whereas new Lot 32.19 proposes 26 feet and new Lots 32.01 through 32.09 and 32.12 through 32.20 propose 30 feet. Corrections are required to the Zoning Schedule on the plans. It should be noted that the plans indicate a proposed front yard of thirty feet (30') for new Lot 32.19 and a proposed rear yard of twenty-six feet (26'). A rear yard variance was not granted; clarification is required. Minimum Side Yard Setback (combined): 40 feet is required, whereas 37 feet is proposed for new Lots 32.03 and 32.17. 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. Testimony shall be provided on the status of regulatory approvals. Amended approval must be obtained from the Ocean County Soil Conservation District, Ocean County Board of Health, and/or other agencies as necessary. 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. Stamped Wetlands Location Plans of Lots 32 and 88 approved by the NJDEP have been submitted. Freshwater wetlands with associated transition areas are shown on the project. An NJDEP Re-issuance Letter of Interpretation and Re-issuance Line Verification has been submitted. The proposed dwellings will be served with public sewer and water line. The Phase 1 proposal now indicates the two (2) proposed residential lots in the vicinity of the southerly frontage along Drake Road will be serviced by individual subsurface septic systems and private wells. Testimony shall confirm that the proposed Phase 1 properties will be converted to public sewer and water with the construction of Phase 2. Testimony must also be provided on the status of the existing septic and well facilities shown for the existing dwelling to remain in the vicinity of the western frontage along Drake Road. A temporary sanitary sewer easement for an existing septic system*

*is proposed on the remainder lot for the existing house on old Lot 32 since the existing septic system is located on the proposed remainder lot.* 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. *The proposed easements must be correctly shown on the Phase 1 Final Plat. The proposed shade tree and utility easements shall not pass through the sight triangle easements and a shade tree and utility easement must be added along the southern frontage of proposed Lot 32.21.* 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. *The H.O.A. Documents will be provided for all common areas following the approval of Phase 2 of the project. It appears the common areas could include the proposed open space, proposed cul-de-sac, and proposed drainage easements. The Township will not take ownership of a roadway or drainage system which accepts storm water from drainage easements.* 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. *It appears two (2) car garages are proposed to satisfy the parking requirements for the proposed single family dwellings. The existing residential dwelling on old Lot 32 to remain has enough driveway space to accommodate four (4) off-street parking spaces. Testimony is required regarding off-street parking for the existing residential dwelling on old Lot 88 to remain. The existing driveway is located within a freshwater wetlands transition area.* 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. *According to the original resolution, the proposed community building is being replaced with a proposed playground.* 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. *Restricting the access of proposed Lot 32.01 to Serenity Way only, has been indicated on the Phase 1 Final Plat. Restricting the access of proposed Lots 32.16, 32.17, and 32.20 to Serenity Way only, must be correctly indicated on Sheet 1 of the Phase 2 Final Plat. Access could eventually be obtained from Oxford Street and Vernon Street which are currently unimproved right-of-ways.* Plan Review- 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. *The previously proposed access easement has been removed since it is no longer needed.* Curbs and sidewalks are proposed along the southern Drake Road 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 original resolution of approval requires the proper dedication and improvement to the western frontage of Drake Road across the proposed residential lot and remainder lot. Proposed sidewalk is also required. These proposed improvements would require NJDEP approval since it appears a freshwater wetlands transition area will be impacted at a minimum. The applicant should provide testimony regarding their request to eliminate these improvements as part of the amended application.* 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 construction detail for the four foot (4') wide walking path has been removed since the community building is being replaced with a playground.* 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 Grading Plan has been revised to show an elevation of 76.4 for SB-7 and the ground elevation for SB-17 has been added.* 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 proposed fence has been corrected to a four foot (4') height as well as being added to the Site Development and Construction Detail Plans.* 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. *It is presumed the Concrete Cradle Detail may be used for proposed sanitary sewer and potable water construction should field conditions warrant. The detail should remain on the plans.* 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 across the roadway from bollards on either side of the roadway. *A fence and gate has been added to restrict public vehicular access to the basin access road. This has been detailed on the Site Development and Construction Detail Plans.* *The concrete piers for the proposed gate has been dimensioned, extended to a minimum depth of three feet (3'), and will be poured with Class "B" concrete.* The Serenity Way profile shall be revised to show the vertical curve and curve information at stations 0+70, 7+00, and 9+50. *The proposed grading for the Serenity Way road profile should start at the gutter line of Drake Road and the first ten foot (10') long vertical curve shall be eliminated since it is noncompliant. The vertical curves shown at stations 7+00 and 9+50 should be shortened to fifty feet (50') to prevent proposed slopes from being too slight at the respective low and high points which could trap runoff. The horizontal curve information must still be added.* Stormwater Report- in the outlet input data section of the stormwater management report, the applicant shows a culvert outlet structure. It is our understanding that the culvert structure is meant to model the 132 foot RCP pipe downstream of the outlet control structure; however, PondPack will recognize that the culvert is part of the flow control devices, such as the 3.5 foot weir, 4 inch, and 8 inch orifices. As a result, the outlet structure will let out less flow than what PondPack has indicated. The applicant shall also be aware of the fact that runoff flow rates will be controlled by the orifices and weir prior to entering the inlet box. After entering, the flow rates will be controlled by the culvert. The applicant shall revise the PondPack to address the above issues. *The Stormwater Management Report and pond have been revised by increasing the elevation of the emergency spillway. The proposed 100 Year flood elevation in the pond is elevation 70.67. The proposed crest of the emergency spillway shall be set at elevation 71.67 and the top of bank at elevation 72.67 in order to attain the proper freeboard for the size of the wet pond.* The applicant shall revise the Grading and Drainage Plan to show an invert elevation of 67.5 for the 30" RCP pipe downstream of the outlet control structure. *A minor invert correction has been made to the downstream piping. The invert at proposed MH-1 is 67.14.* Construction Details- Adding a note to the handicapped ramp detail to state that detectable warning surface is to be installed is insufficient. The applicant shall include a detail of the detectable warning surface next to the ramp detail. *The details have been revised in accordance with the latest NJDOT Standards.* A detail for the construction of the basin access road shall be provided. *The detail has been added. The dimension has been revised to show a fifty foot (50') emergency spillway. The proposed elevations on the emergency spillway shall be corrected to 71.67 for the crest and*

**72.67 for the top of bank.** The stop sign detail shall be revised to include the notation that the face of the sign will have prismatic sheeting. *The detail has been corrected.* The street sign detail shall be revised to include the following requirements. The sign shall utilize 3M Hi Intensity Prismatic Reflective sheeting or equal, the sheeting shall be white # 3930 Hi Intensity Prismatic as the background and blue transparent # 1175 as an overlay. The font shall be Swiss land narrow bold. All street name signs shall be nine inches wide. *The detail has been revised; the footing has been extended to a depth of three feet (3').* Environmental Impact Statement- The EIS states that two (2) existing dwellings will remain at the site. As requested, the locations of the potable wells, septic systems, and above ground tanks are shown on the plans. *Statements of fact, no further action is required.* Since the potable wells will remain, the well water must be sampled in accordance with the Private Well Testing Act as promulgated by the New Jersey Department of Environmental Protection (NJDEP). Results of the testing should be provided to the Township and the Planning Board engineer. *It appears two (2) potable wells will remain and one (1) potable well constructed if an amended approval is granted for Phase 1. Therefore, sampling and testing is required. It is clear that ultimately public water will be provided to the future cul-de-sac portion of the project. Testimony should be provided regarding the extent of well abandonment during the Phase 2 portion of the project.* -It appears the septic system at Block 251.01, Lot 32 will be impacted by the development. The applicant should agree to add a note to the plan regarding the need to properly decommission the system. Proper documentation indicating that the system has been decommissioned should be provided to the Township and the Planning Board engineer. *It appears two (2) septic systems will remain and one (1) septic system will be proposed for the Phase 1 portion of the project should amended subdivision approval be granted. An easement on the remainder lot is proposed to allow the existing septic system associated with existing Lot 32 to remain. It is clear that public sewer will be provided to the future cul-de-sac portion of the project. Testimony should be provided regarding the extent of septic system decommissioning during the Phase 2 portion of the project.* - A third septic system was located near the one-story frame building at Block 251.01, Lot 88. The applicant should indicate whether this system will remain. If the system will not remain, the applicant should agree to add a note to the plan regarding the need to properly decommission the system. Proper documentation indicating that the system has been decommissioned should be provided to the Township and the Planning Board engineer. *A note stating the septic system will be removed has been added to the plans.* The applicant should indicate whether the two-story frame building at Block 251.01, Lot 88 is serviced by an individual septic system and potable well. *The individual septic system and potable well will be abandoned since the building will be removed and not be used for a community building.* With regard to onsite ecology, TEC's review indicates that the State-threatened barred owl and northern pine snake are mapped by New Jersey's Landscape Project (Version 2.0). The EIS states that the site does not contain suitable habitat for barred owl or northern pine snake and that the proposed project will not disturb threatened/endangered species habitat. We concur with EIS findings that it is unlikely that barred owl inhabit the site. The applicant shall add notes to the plan requiring the Township Engineer be notified should the northern pine snake be encountered at the site. *Since the site does not contain suitable habitat for threatened/endangered species, no further action is necessary.* The appropriate number of surface soil samples was collected from Block 251.01, Lot 88 and tested for arsenic, lead, and organic pesticides. Analytical results showed that lead was detected in all samples, while arsenic and the organic pesticides were not detected in the samples. Although lead was detected in the samples, it was found to be below the respective and most restrictive soil cleanup criteria. We agree with the consultant's findings that no further assessment of historic agricultural soils is warranted for Lot 88. *Statements of fact, no further action is required.* Based on the 1930 aerial photograph for the site, it appears Block 251.01; Lot 32 may have been used in agriculture. However, no soil samples were collected to determine whether these soils may be impacted by

past agricultural application of arsenic, lead, or organic pesticides. The applicant should indicate whether sampling of this lot would be necessary. *Testimony must be provided.* The applicant has indicated that fill soils will be imported to the site for the proposed development. A note has been added to the plan stating that the source of fill will be documented and/or documentation that the soil is analytically tested at a frequency approved by the Township engineer. The applicant must provide proper documentation regarding the source of the soils and the analytical testing prior to importation to the site. *Statements of fact, documentation will be required prior to construction.* An operation and maintenance plan should be provided for the stormwater management system, including the basin. We recommend that the Applicant provide the name of the party responsible for inspection and maintenance of these facilities and provide the information on the engineering drawings. *A revised operation and maintenance plan manual has been provided. The manual still requires revisions to be site specific. It is still in variance to the plan with respect to recharge (sand bottom), basin maintenance (wet pond), and landscaping of the basin slopes (shade trees).* A copy of the Letter of Interpretation (LOI) for each lot has been provided by the applicant. Each LOI is valid and the transition areas range in width from 0 to 50 feet. It appears the proposed basin may encroach in to the transition area at the northeast corner of Block 251.01, Lot 88. The applicant should agree that disturbance to the transition areas will not occur or obtain the necessary transition area waiver from the NJDEP. The applicant should indicate whether the proposed development will encroach into the transition area of Block 251.01, Lot 46. If this area is within 50 feet of Block 251.01, Lot 88, the transition area must be shown. *The transition areas shown on the plans are based on the approved Wetland Maps. The mapping is inconclusive as to whether the transition area of adjoining Lot 46 will encroach onto Lot 88 of the project site. Testimony should be provided that the proposed wet pond will not encroach into the transition area.* Reference to the approved Letters of Interpretation must be listed on the appropriate engineering drawings in the 20 sheet set. A copy of the approved LOI plans stamped by the NJDEP must be provided. *Copies of the Wetland Plans and approval letters indicate two (2) NJDEP file numbers, one (1) for each original lot submitted. The references of the approvals shall indicate the correct file number for the respective wetlands lines; Lot 32 has the correct file number, but Lot 88 does not.*

**Planning Review Comments (T&M letter dated April 10, 2008) - Zoning (see previous engineering comments) 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 building area within the zoning envelope of new Lot 32.19. A rear yard setback variance is also requested for this lot. *The above comments are no longer applicable since new Subdivision Plats have been prepared for the two phases.*

**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. *Statements of fact, no further action is required.*

**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. *The Community Building is being replaced with a playground. The walkway detail has been removed from the Construction Detail Plans.*

**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. *Statements of fact, no further action is required.* 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. *The Community Building is being replaced with a playground.* 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. *Statement of fact, no further action is required.* 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. *The original resolution of approval requires curb and sidewalk in front of proposed Lots 32.10 and 32.11. The applicant's engineer indicates that curb and sidewalk will not be provided in front of proposed Lots 32.10 and 32.11 and that testimony will be provided.* 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. *Statements of fact, no further action is required.* 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. *A thirty foot (30') buffer has been provided adjacent Ketchledge Farm and a fifty foot (50') buffer along Drake Road. Supplemental plantings have been provided in the buffer area adjacent Ketchledge Farm, but not along Drake Road. The proposed sight triangle easements at the intersection of Serenity Way and Drake Road have been added to the Landscape Plan for proper grading and planting of trees.* The applicant must also comply with the requirements for tree protection and removal on the site. *Statement of fact, no further action is required.* Parking. The applicant should provide testimony regarding compliance with NJRSIS for the plan. *The residential parking has satisfactorily been addressed.* Homeowner Association. Documents must be filed for the common open space. *The documents must also include all the other common elements of the proposed subdivision. The applicant's engineer indicates that Homeowners Association documents will be filed for the common open space and elements of the proposed subdivision during Phase II of the development.* The Tree Protection Management Plan should be reviewed by the Shade Tree and Environmental Commissions. *The Shade Tree Commission should review the Tree Protection Management Plan. The Environmental Commission has reviewed the project and provided comments to the Board.* Compliance with the Map Filing Law is required. *The Final Plats for the two (2) phases will be reviewed for compliance should amended subdivision approval be granted.* Public water and sewer services will be provided by the NJ American Water Company. *Individual subsurface septic systems and private wells will be provided for the three (3) proposed residential lots in Phase 1. While public water and sewer services will eventually be provided for the residential lots on the proposed cul-de-sac, it is not clear whether the one (1) existing residential dwelling along the western Drake Road frontage of Phase 1 will be converted to public water and sewer. Testimony must be provided.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Performance guarantees will be phased should amended subdivision approval be granted. The Board may consider delaying the improvements to the site's southern frontage along Drake Road since future proposed public water and sewer will disturb any new construction.* The required outside agency approvals include, but are not limited to: Ocean County Planning Board; Ocean County Soil Conservation District; Sewer and water utilities,

prior to construction permits; and, all other required approvals. *Evidence of approvals must be provided.* Final Proposed Phases Plat Review (RVV review comments) - Phase 1 - The Phase 1 Map should only consist of four (4) proposed lots, the three (3) residential lots, and the remaining area lot. Any dedications associated with the project must also be included on the Map. *The revised Final Plat for Phase 1 outlines the four (4) proposed lots. The proposed dedication for right-of-way has been included on the map.* The correct proposed shade tree and utility easements must be shown. *A proposed shade tree and utility easement along Drake Road must be added to the east of the proposed sight triangle easement at the intersection of Serenity Way. The proposed shade tree and utility easements shall not pass through the proposed sight triangle easements. Dimensioning of the proposed easements must be completed.* Because of the project phasing, new lot numbering approved by the Tax Assessor must be provided. *The Lakewood Township Tax Assessor's Office has assigned Lot 32.21 for the remainder lot.* The correct wetlands transition areas with appropriate metes and bounds information must be added to the Map. *The wetlands transition areas with metes and bounds have been added to the Map.* The Schedule of Bulk Requirements requires correction and should properly list the variances previously approved. Proposed Lot 32.10 shows variances requested which are not required. The correct proposed side and rear yards need to be shown for proposed Lot 32.10. *The Schedule of Bulk Requirements has been revised to properly list the variances previously approved. The correct yards still need to be shown for proposed Lot 32.10* The Legend requires correction. *The Legend has been corrected.* A right-of-way dedication along the westerly property frontage of Drake Road has not been addressed. *The right-of-way dedication along the westerly property frontage of Drake Road has been shown.* The General Note stating water and sewer service to be provided by New Jersey American Water Company is not true for Phase 1 of the project. *The note has been removed.* The surveyor's signature block references the wrong land survey. *The surveyor's signature block on Sheet 2 requires updating.* The date in the secretary's signature block needs to be revised. *The date in the secretary's signature block has been revised.* The variable width access easement to the homeowners association may no longer be required since the community building is being replaced with a playground. *The variable width access easement has been removed.* Phase 2- The Phase 2 Final Plat will be reviewed for compliance once the Phase 1 Final Plat is corrected and if the amended subdivision is granted. *Statement of fact.* Resolution of Approval Comments (SD #1586A) the original resolution of approval was memorialized on May 20, 2008. Conditions 1 through 11 are general conditions not requiring any plan revisions but must be complied with prior to construction. *Fact.* Condition 12 requires that playground equipment shall be manufactured and installed with ASTM Standard F1487-Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use, ASTM F1292-99, and Standard Specification for Impact Attenuation Under and Around Playground Equipment, CPSC Guidelines (Consumer Product Safety Commission) and manufacturer's recommendations. All equipment shall bear an IPEMA certification logo. All play equipment must be installed over an impact-absorbing surface. A CPSI (Certified Playground Safety Inspector) shall certify that the equipment is installed properly prior to project release by the Township. *The applicant had agreed to remove the two-story structure on the open space lot which was originally going to be the community building and construct a playground. The proposed playground has been shown on the site development plans. An accessible route to the playground is required.* Conditions 13 and 14 refer to the T&M Associates engineering and planning reviews which the applicant has agreed to comply with. The status of compliance has been discussed in this latest review. *Fact.* Condition 15 requires the applicant to meet with the board professionals to clear up any inconsistencies with the maps in question. *The applicant's professionals have met with the board professionals. This condition has been satisfied.* Condition 16 requires the dwelling on the north side of the tract which was proposed for the Community Building of the Homeowners Association to be razed and in its place, a children's playground be constructed in accordance

with the standards mentioned in Condition 12. *The dwelling has been shown to be removed, and the children's playground has been proposed. This condition has been satisfied.* Condition 17 requires the applicant shall install sidewalks along the entire Drake Road frontage. *Proposed sidewalk must be added on the Drake Road frontage portion of the project with the existing residential building and open space unless a waiver is granted by the Board with the amended subdivision.* Condition 18 requires the applicant shall provide for the realignment of the Drake Road roadway to allow for a 50 foot contiguous width. *The roadway dedication has been provided for the proper half width. No additional variances will be necessary as a result of this requirement. This condition has been satisfied.*

Mr. Raymond Shea Esq. appeared on behalf of the applicant with Mr. Brian Flannery as engineer for the applicant. Mr. Shea said this was approved in 2008 and was 2 tracts of land that they created 19 residential lots, 2 for existing houses and 17 new ones plus an open space lot. Everything remains the same, all the relief that was granted will remain and they are here tonight to amend the plan to allow a different phasing plan to come in with 4 lots, 2 existing houses, a 3<sup>rd</sup> lot next to one of the existing houses plus an open space lot. It is the same application but they didn't have a phasing plan and they are asking to build these 4 lots on septic with the condition that when sewer is introduced in phase 2 for the balance they will hook up these lots as well.

Mr. Flannery said the purpose of this application is to create a phase 1. On the rendering of the submitted plans he indicated in red the 2 areas that would be part of Phase 1 which will include the existing home which is the Katz residence on the westerly side of Drake Road and the existing dwelling along the easterly side of Drake Road. There is a lot in front of the existing one on the easterly side of Drake road which gets created as part of this subdivision. They are asking that this lot (he pointed) which ultimately will be on public sewer and water could be constructed on septic. The 2 existing homes will be on septic and when sewer comes in the one on Serenity Way will be hooked up to the sewer and the old Katz residence will remain on well and septic. Mr. Shea said exhibit A1 is page 3 of 20 of the submitted application.

Mr. Neiman asked Mr. Vogt his opinion and Mr. Vogt said he is fine. He said the application was somewhat confusing because they have a lot of technical comments. The primary reason they have a lot of technical comments is because the initial application had the technical comments and they never came back to address those comments so they are not only addressing the phasing comments but they are also commenting on the outstanding items from the first approval. Mr. Shea added that all of those items will be addressed during resolution compliance. Mr. Flannery said the other new issue that they have is respect to the detention basin issue, the Shade Tree Commission indicated that in a development that was the appropriate landscaping but here it is planting in the woods and the Crystal Lake Preserve and they asked them to do landscaping that was more appropriate for something that would be of that nature so that is the type of landscaping that they proposed. Other than that all the improvements will be the same. Mr. Flannery went through the report and said the first 4 pages are informational; page 5 lists the variances that were granted on the original application; page 6 Mr. Vogt indicates they are the same variances that are the plan. Mr. Flannery said the reason it is taking so long is because of the regulatory status- the town is going through the smart growth process and the sewer service areas are all going be part of it, and they are moving along with it and the smart growth plan to the State shows this in the sewer service area but it is not in the sewer service area yet and that is why they need phase 1 so the applicant can move forward while he is waiting for the sewer service area to get worked out.

Mr. Vogt commented and said they are going to be doing septic on Phase 1 until sewer is available and they have to comply with Ocean County Health for those systems and Mr. Flannery said it is only one new system that is being put in and it is on a 40,000 sf lot so there is plenty of room for septic. With reference to the homeowners' documents, Mr. Flannery said they did meet with John Franklin and Terry Vogt to go over the improvements and make sure what they were proposing was consistent and they will provide a homeowners association documents and they will satisfy the resolution compliance items. Testimony regarding the off street parking for the existing residential dwelling on Lot 88 and said that has a very large area for parking and even though it is in a wetland buffer but it has been there forever and they are not changing it and it will stay in its' current state. The 2 buildings in the rear- one was proposed as a community building when it was approved they indicated they would eliminate that and put a recreation area there and that is shown on the revised plan. They had shown vehicular access coming through existing lot 88 (old Katz residence) and since it is just a playground now the access has been eliminated and the access would come from the pole stem.

With reference to curbs and sidewalks, Mr. Flannery said they testified at the original hearing along the northerly or easterly side of Drake Road where they are developing the plans show it and they are proposing it. On the westerly side where they are doing nothing, because of the environmentally sensitive nature they requested nothing on that side. Mr. Flannery said the resolution is unclear and it is their testimony to provide curb and sidewalk along the easterly side only. They have submitted to the DEP and received a letter from Trident Environmental that states they have no wetlands impact so that issue will be resolved in resolution compliance. The report stated there was an issue about putting curb and sidewalk along Drake Road portion and Mr. Flannery said his recollection was that the testimony was that they were not going to and they want to clarify that again.

Mr. Shea entered exhibit A2 which is the landscaping sheet 16 of 20. Mr. Neiman asked if they are proposing sidewalks along the homes, just not on Drake Road and Mr. Flannery said they were proposing it along the eastern section of Drake Road and nothing on the other side and Mr. Neiman said not even in front of the home that is there and Mr. Flannery said it is an environmentally sensitive area and has been that way forever and has a very nice woodsy lane and the drainage of the road would be impaired because it doesn't have a crown.

Mr. Neiman opened the microphone to the public

Ann Richardson, 1879 ---- Road, Lakewood was sworn in. She would like to make the board aware that the water main Branch Brook goes through that property that is in question and empties out into Lake Manetta and there is of course no indication over the years of water being there but it is there. She has a map that indicates exactly where it goes. In 1934 there was a proposal of a development that was to be placed on that property at that time and that was turned down and never built and due to the fact that phase 1 is going to have septic she thinks they should do a thorough investigation as to where this brook is and how much of it is in that property before the board makes a final decision on this project. This project contains Crystal Lake and it also contains the watering Branch Brook and it does end up in Lake Manetta. She has a partial map but would like to come back at a later time with a better presentation but she is making the board aware of what is there.

Mr. Neiman said her concern is to the septic system that is being put in now and Mrs. Richardson said no, she is not much concerned with the septic, but she is concerned with the project in general-to place it in an environmental area like that, the stream does empty out into Lake Manetta, it goes right through that entire property, not just part of it. Mr. Neiman asked to

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see the map. Mrs. Richardson showed them on her map where they wanted to put the original project which is in the exact same area they want to build now. Mr. Neiman said the issue is that this project was approved a few years ago and back then is probably when she should have come and mentioned this and Mrs. Richardson said she knows it has been approved, she is just making them aware of it.

Mr. Shea repeated that this project has already been approved, they are just proposing one new septic system, the other 2 are already there. Mr. Flannery said with respect to the environmentally sensitive areas, they have respected the stream corridors and the surface water that flows through this area does flow through Crystal Lake and into Lake Manetta but they have provided all the buffers required by state law and they are not having an adverse impact.

Gerry Ballwanz, Governors Road Lakewood was sworn in. She asked what the water table over there because somebody said it possibly has a very high one and Mr. Flannery said the area where they are proposing the one septic, the groundwater is greater than 6 ft.; the area where they get closer to the wetlands or stream corridors the groundwater gets to be 1-2 ft. deep but all of that was taken into consideration when the original design was done. Mr. Vogt added that the county will be looking at the septic. Mrs. Ballwanz continued and said this situation should be looked at because look at the woman who came in front of the Township Committee on Thursday who lives on South Lake Drive and had the developer start digging without DEP approval and started filling in wetlands and now an adjacent property owner has water on her property and that big house that was built has a swimming pool inside and that is right across from Lake Carasaljo. You have this high water table and maybe the houses over there should not have basements because you are digging into the ground and this water used to go someplace and absorbed into the ground and now you are going to have a big basement, a concrete barrier, so where does this water go. She sees there is going to be problems in the future and possibly if there are to be houses there, they should only be built on a slab.

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

Mr. Shea said what is before the board is a phasing plan and that is all they are asking for.

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Fink; yes, Mr. Neiman; no, Mr. Akerman; no, Mr. Banas; yes, Mr. Follman; yes, Mr. Schmuckler; yes

4 SD # 1691 (Variance Requested)  
Applicant: Sam Bauman  
Location: Lakewood New Egypt Road-west of Pine Circle  
Block 261 Lots 3, 3.01  
Minor Subdivision to create 3 lots

Mr. Vogt prepared a letter dated January 12, 2010 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide an existing (irregular) 31,491 square foot property known as Lots 3 and 3.01 in Block 261 into three (3) new residential lots, designated Lots 3.02-3.04 on the subdivision plan. The site is wooded, heavily-vegetated and undeveloped in its current condition. The site is situated within a residential area, and has frontage along Lakewood-New Egypt Road (County Route 528). A paved shoulder with curbing exists along the

property frontage. A paved shoulder and curbing also exist along the opposite (northerly) side of the road. *Additionally, as discussed at the workshop hearing, an Alternative Plan was prepared which would increase the size of proposed Lot 3.02 (resultant lots 3.03-3.04 decreasing). We have the following comments and recommendations per testimony provided at the December 1, 2009. Planning Board workshop hearing, and comments from our initial review letter dated 10/13/09. We note that our comments (particularly zoning) are based on the originally-proposed subdivision plan. Should the Board elect to approve the "Alternative Plan" configuration, some comments may/may not be applicable, or require further review during compliance.* Zoning- The parcels are located in the R-12 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. *Fact.* Per review of the Subdivision Map and the zone requirements, the following variances are required: Minimum Lot Area (proposed Lots 3.02-3.04, 7,996 SF, 11,680 SF, and 11,815 SF respectively, 12,000 SF required) – proposed conditions. *Fact.* Minimum Lot Width (proposed Lots 3.02-3.04, 68.77 ft., 75 ft. and 75 ft. respectively, 90 ft. required) – proposed conditions. *Fact.* Per review of the *Alternative Plan*, all three (3) proposed lots would require variances for lot area and lot width as noted. The applicant must address the positive and negative criteria in support of the requested variances. *At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area.* Review Comments- As indicated on the subdivision plan, driveways and/or off-street parking spaces are proposed for all three (3) new lots. Four (4) spaces per dwelling are proposed. Turnarounds are recommended for the driveways so vehicles do not back out onto a high speed County road. *Turnarounds have been provided as requested. We recommend that the turnarounds proposed on lots 3.03 and 3.04 be shifted towards the dwellings (i.e., inside of the proposed shade tree easement).* Testimony should be provided as to whether a basement is proposed for any of the proposed dwellings. Parking shall be provided to the satisfaction of the Board. *Per testimony at the workshop hearing, basements are proposed.* As noted above, curbing exists along the property's (County) road frontage, and is in good condition. New sidewalk is proposed by the applicant as indicated on the subdivision plan, connecting to existing sidewalk at the northwest corner of the property. *Fact.* Existing and proposed grades are provided on the subdivision plan. Additional spot elevations are necessary for the proposed driveways and off-street parking spaces for all three (3) new lots. A missing proposed fifty-two (52) contour line should be added to the subdivision plan. *This contour was added to the plan.* The plan indicates that public water and sewer service will be provided for each lot from existing utilities within Lakewood-New Egypt Road. The plan should identify that NJAWC will provide the services. *This item appears unaddressed.* A note should be added to indicate that roof leaders will discharge towards Lakewood-New Egypt Road (unless on-site retention is proposed for each lot by dry wells or similar measures). Grading revisions may be necessary to promote positive site drainage towards the road. *A note that roof leaders for the front of the homes (only) will drain towards the road. The applicant now proposes two (2) drywells to recharge water from the rear portion of each of the proposed dwellings. The proposed design appears feasible, but calculations for the drywells should be provided during compliance review if/when this project is approved by the Board.* Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. *Per the applicant's consultant, the numbers were approved.* A six foot (6') wide shade tree and utility easement is illustrated on the plan along the property's Lakewood-New Egypt Road frontage, but must be labeled on the plan with bearings, distances, and areas. Three (3) Zelkova shade trees are proposed within the easement. Landscaping should be provided to the satisfaction of the Board. *Fact.* Mature trees are indicated on the subdivision plan. Based on available information, there are a number of mature trees within the site. Many of these trees are unsalvageable if the lots are developed as proposed, but some of these trees appear salvageable. Compensatory plantings should be provided in accordance

with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. If this subdivision is approved, final plot plans submitted for Township review should include tree protective measures to save mature vegetation where practicable. *Per our records, the applicant agreed to comply with this item at the workshop hearing. Testimony should be provided at the public hearing.* Proposed lot areas shall be calculated to the hundredth of a foot. *Fact.* Compliance with the Map Filing Law is required. At a minimum, monuments or pins are necessary for the proposed lot subdivision line, and at all property corners. *Fact.* It should be noted that NJDEP Geographic Information System (GIS) mapping includes this property as potential threatened species habitat, most likely bird species. Per our inspection of the site, no significant wildlife or nests were observed. Given that the overall local habitat area is fragmented by surrounding development, it is unlikely that "critical" habitat exists on this site as defined per NJDEP regulations. However, the applicant should be aware of potential NJDEP restrictions on development of this site if such habitat is found to exist. *Fact.* County construction details should be provided on the subdivision plan since most of the improvements involve a County road. *A County curb detail has been provided, and appears satisfactory.* Outside agency approvals for this project may include, but are not limited to the following (*Fact*): Ocean County Planning Board; Water and Sewer Approvals; Ocean County Soil Conservation District (if necessary); and all other required outside agency approvals.

Mr. Ron Gasiorowski Esq. appeared representing Mr. Stephan Toubulul who testified at the last hearing and he is representing him and some of his neighbors in opposition to this application. He asked if they are not moving forward with the original application tonight but the applicant is coming back with what is deemed to be an alternative plan and Mr. Jackson said Mr. Doyle would be the one to answer after Mr. Vogt gave his summary.

Mr. Schmuckler wanted clarification on this and said this application is a continuation of a prior meeting and that Mr. Percal wanted to see a map of the area.

Mr. John Doyle Esq. appeared on behalf of the applicant and said his understanding of the continuation of this application is that the plan as originally suggested is still a 3 lot minor subdivision. The applicant has 31-32,000 sf to work with and the first plan had 2- 11,000 sf lots and 1 8-9,000 sf lot. At the technical workshop meeting the board wondered whether the plan could be reconfigured to make 3 more equal in size lots and that is when the alternative plan was submitted December 21, 2009 which shows 3 lots, all in excess of 10,000 sf. in an area that requires 12,000 sf. On March 16<sup>th</sup> they had the public hearing with the alternate plan which was then continued to tonight.

Mr. Gasiorowski said when he looked at the notice that was provided, it seems the notice only referred to the original 3 lot subdivision application and asked if there was a subsequent notice published in the newspaper and Mr. Doyle said no. Mr. Gasiorowski said his first objection would be that this notice is insufficient because anyone reading it would be misled to the square footage and size of the proposed variances which are requested. The lot width has been reduced by 10% and the larger lots have been reduced by almost 10% so the average person might not know the variances are far greater than was noticed.

Mr. Jackson said it is very common for an application to get amended and changed as they go along by board directed changes and he thinks that is how this unfolded and he believes that the fundamental notice provision was that there was going to be a subdivision at this location for single family homes and anyone who gets that notice knows what this is about and when

there is a board directed change he knows of no doctrine or case that requires an applicant to re-notice.

Mr. Flannery was at the last meeting and he continued testifying. The board had a problem seeing the map with yellow highlight and Mr. Flannery made a note to use blue and orange in the future. Mr. Flannery pointed to the exhibit and showed the lot in question (in red) and said this is a map of the R12 zone in that area and said further east there area a lot of lots that are non conforming as well as scattered other areas. There was also a subdivision approved on Gudz Road on 10,200 sf lots under the reduction for residential lot purposes which is consistent with the 10,000 sf lots they are proposing. Mr. Flannery said in this particular case, because it is on Lakewood New Egypt Road they should look more at the particular site and they do have photos of that area and Mr. Doyle entered into exhibit A1 with today's date the map they introduced and A2 with today's date the 4 photographs. Mr. Flannery said the property fronts on Lakewood New Egypt Road and to the east is Pine Circle Drive and that winds around and becomes Lafayette Blvd which ends in a cul de sac at Woodlake and the photographs show is the wooded area where they are proposing the subdivision and the area across the street and the subsequent photos show where that takes off, Lafayette Blvd. shows up in the second picture down and that comes in across from Miller Road and Whitesville Road takes off to the south and the next picture shows that, and the following picture shows the area after that. As you get into town it gets more dense and when you are in this area it is a few houses along the road. Mr. Flannery said the particularly telling photo is the one on the top of A2 which shows woods with one house across the street from woods with 4 houses. They are proposing 3 houses, so there will be 4 houses on one side and 4 houses on the other side which will look consistent as you go down Lakewood New Egypt Road. Mr. Flannery said the other impact would be on the adjoining neighbor and they did come out and say it is going to be too close to him and he would rather only have 2 lots but the reality is they are not asking for a setback variance so the house will be as close to him as it would have if it was 2-3 the impact wouldn't be there it will just be an extra house and it is his opinion that the extra housing opportunity is a benefit based on the photo it will be consistent. His opinion is any negative impact is negligible and the benefits outweigh the detriments.

Mr. Doyle said they had previously responded that they would do all the engineering comments in the report and the only issue was the granting or denying of the variances they sought.

Mr. Gasiorowski asked if the applicant developed this property and be compliant with the zoning ordinance he could subdivide 2 fully compliant building lots and Mr. Flannery said at the last public meeting he did testify that this was not the only alternative, in his opinion it was the best alternative and he indicated under the current ordinance he could build houses, schools or shuls on in accordance with the permitted uses. Mr. Gasiorowski said he is not asking about schools or shuls but is a simple one- the property could either be left un-subdivided with 2 different sized lots or it could be subdivided into 2 fully compliant lots and Mr. Flannery said it currently exists with 2 compliant lots and can divide them more equally and still have 2 fully compliant lots. Mr. Gasiorowski said their proposal, by adding this additional lot and additional house they are basically increasing the density of the use of the property by 50% and Mr. Flannery said certainly not the use of the property because the use of the property under the ordinance, there are much more intense uses permitted. Mr. Gasiorowski wanted to talk about residential homes and said they are increasing the intensification of the use of this property as a 1 family residential use by 50% by seeking this additional house and Mr. Flannery said they are seeking a variance which would then allow the construction of 3 houses instead of 2 and 3 is 50% more than 2.

**Mr. Gasiorowski asked to see that map referred to as showing the comparable lots and asked Mr. Flannery to show him where the property in question is located and Mr. Flannery said it is outlined in red. Mr. Gasiorowski said where the lot is outlined in red, there is a tract of houses which is bounded by Woodlake New Egypt Rd. and Mr. Flannery said that is a drafting error, it should say Lakewood New Egypt Rd. and Mr. Gasiorowski said those houses are bounded by Lakewood New Egypt Road, Lafayette Boulevard and Pine Circle Drive and Mr. Flannery said yes. Mr. Gasiorowski asked Mr. Flannery if Lot 1 is immediately adjacent to existing Lot 3; Lot 1.05 is immediately adjacent to Lot 3.01 and Mr. Flannery said yes. Mr. Gasiorowski said both of those lots are far in excess of 12,000 sf and Mr. Flannery said yes. Mr. Gasiorowski said Lots 1.03 and 1.04 are at least 12,000 sf and Mr. Flannery said they are about 13,000 sf. and Lots 1.01 and 1.02 are the location of the detention basin. Lots 1.09 through Lot 2 are all in either 12,000 sf in size or in excess of 12,000 sf and Mr. Flannery said yes and Mr. Gasiorowski said those lots which are immediately adjacent to the subject property are 12,000 sf or greater and Mr. Flannery agreed. Mr. Gasiorowski said if you go across the street and look at Lots 94, 93, 76 & 96 they are also 12,000 sf or greater and Mr. Flannery said yes. Mr. Gasiorowski asked if it would be fair to say that all of the residential building lots and/or homes which are located immediately adjacent to the subject property are located on lots which are 12,000 sf or greater and Mr. Flannery said yes.**

**With regard to some of the dimensions Mr. Gasiorowski asked if proposed Lot 3.02 is an irregularly shaped lot and Mr. Flannery said it is not a rectangular lot and the frontage of that lot is 99.18 ft. whereas the rear lot width is 42 ft. so it diminishes in width by more than 50% proceeding in a southerly direction. Mr. Gasiorowski said looking at that lot and the foundation footprint line, he asked if Mr. Flannery ever scaled out the distance between the easterly sideline and the westerly sideline in the area of the rear of the building and Mr. Flannery said he did not. Mr. Gasiorowski said he did and it is 58 ft. and in a normal 12,000 sf lot where there is a required 90 ft. in width what is the percentile of going from 90 ft. down to 58 ft. and Mr. Flannery said it would seem like a 33% reduction. Mr. Gasiorowski said even in the mid section of the proposed house, going from east to west, the width there is approximately 65 ft. so with regard to that one lot, it is in fact significantly failing with regard to the minimum standards established by the municipality and Mr. Flannery said he would not say significantly failing. Mr. Gasiorowski asked if there would be any request for any variance of this tract of land if it were simply subdivided into 2 lots and Mr. Flannery repeated his answer and said yes. Mr. Gasiorowski said with regard to the size of the house, and he said he noticed a note on the plans that say the dimensions of the proposed structure are not known at this time and the building box as shown will provide 19.7% coverage for proposed Lot 3.02 and 24.3% coverage for proposed Lot 3.03 and 24.5 % coverage for proposed Lot 3.04 and said basically it is smaller than houses that would be built on the other 2 lots and smaller than lots which could be built upon a conforming building lot and Mr. Flannery said yes. Mr. Flannery said it is interesting that Mr. Gasiorowski is saying a smaller house is not a good thing because when they have applications for large houses people say the larger houses are not a good thing. The house that is proposed on Lot 3.02 is consistent and probably larger than 50 or 60% of the other homes in the area excluding the newer homes that were built on the lots Mr. Gasiorowski referred to. Mr. Gasiorowski wanted to talk about the houses in the immediate area and asked if it was larger than the lot shown on 1.05 and Mr. Flannery said the immediate area includes the northerly side of Lakewood New Egypt Road and it is larger than a majority of those.**

**Mr. Gasiorowski asked when a municipality creates a zoning ordinance they do so pursuant to recommendations of the Planning Board through the Master Plan and Mr. Flannery said sometimes yes. Mr. Gasiorowski continued and said in this case the governing body made a determination that the minimum square footage of the lot should be 12,000 sf and Mr. Flannery**

said this zone has been 12,000 sf since he moved to Lakewood in 1979 and probably for years before that. Mr. Gasiorowski said it says 12,000 sf and 90 ft. in width and Mr. Flannery agreed and Mr. Gasiorowski said they are seeking relief for that only because your client wants to increase the number of houses on his parcel of land by 50% and asked how that increase of 50% supports the securing of a "C" variance with regard to any impact or improving the quality of life in Lakewood and Mr. Flannery said they went through all that at the last hearing and it would be redundant to repeating it and Mr. Gasiorowski apologized for not being there.

Mr. Gasiorowski called Mr. Gordon Gemma, 68 Seneca Place Oceanport NJ who was sworn in. He is a licensed professional planner. Mr. Gemma said he is familiar with Lakewood and their Master Plan and zoning ordinance, especially where it applies to this property. Mr. Gemma said the newer houses being built in this area are larger than the older ones and that tells him that the newer houses are being built on larger lots. Mr. Gemma said all 3 of the proposed lots are smaller than what is permitted in the zone and Mr. Gemma said Mr. Flannery did a decent job of trying to say there are other houses with lots that are smaller but he thinks it is clear with even Mr. Flannery's testimony that on the adjacent island that is created by these lots, there is nothing less than 12,000 sf. and the closest one is a distance away according to the map. He said when you look at a neighborhood you look at not just what is on a map but what creates the block in which you live and what the board has to consider is whether there will be an impact with smaller lots. Mr. Gemma said he reviewed the variances on the original plan and the alternative plan and said it is the burden of the applicant to show the positive and negative criteria for this board to provide the variance relief requested. Mr. Gasiorowski asked how are these variances classified under the MLUL and what was the test the applicant must satisfy in order to get that relief and Mr. Gemma there are 2 tests for a "C" variance: C1 is the hardship application and this does not qualify for a C1 type of variance because there is no hardship, so the C2 variance is where the benefits of granting the variance outweigh the detriments and there are 5 elements under C2 which are - 1) it must relate to a specific piece of property which means that this cannot be unique to other pieces of property; - 2) the purposes of the MLUL are advanced; - 3) the variances can be granted without detriment to the public good; - 4) the benefits of the deviation substantially outweigh the detriments; - 5) the variance will not substantially impair the intent and purpose of the zone plan or zoning ordinance. Mr. Gemma said the purposes of the MLUL are found in section 2 and they all advance a public more than a private interest and Mr. Flannery made the point that it allows another house in Lakewood which is true but Mr. Gemma said he does not know if granting these variances to permit another house are advancing the specific goal that Lakewood has to permit these types of houses in this area. What this advances is a private good to the landowner who is trying to develop it and unless they can prove specifically that there is a defining need for this type of housing in this area that warrants the variances, they can't meet the public purposes. Mr. Gasiorowski said the R12 zone does provide for certain instances in which the size of the lots can be reduced and asked if this satisfies any of those and Mr. Gemma said no, in fact, the last element is that it does not have substantial detriment or impair the intent purpose of the zoning ordinance. Lakewood says in certain instances in certain zones you can make it smaller- in everything from the R15 and up you can cluster if you provide certain things (provide buffer, etc.) and from R12 and below it says you cannot cluster and there is a reason for that. The decision was made that these lots shouldn't be smaller and in Section 18-908 it says that lot sizes can be reduced by 15% and lot widths by 10% if you provide certain recreational elements to allow that and here they are not doing that. Mr. Gemma said with regard to #3 element, the ordinance looks at the neighborhood and the neighborhood is comprised of not what Mr. Flannery stated (across Central Avenue and down a few blocks) but this neighborhood in itself and more houses on smaller lots has an impact on this neighborhood making them appear tighter and having smaller houses fit on them and it will have an adverse effect. Mr. Gemma said he has spoken to the

neighbors in the immediate area to this and he has also looked at aerial photographs and said those houses are built on lots that either meets the minimum size or area substantially larger with the houses also being larger. Mr. Gasiorowski asked if there is any theory of planning which says that if there are lots which are smaller in size thousands of feet away that because of that you would want to make lots that can be fully conforming smaller in size and Mr. Gemma said only if you represent the applicant. Mr. Gemma said the reality is you have to look at what the adjacent area is and if you are going to make the argument that there are smaller lots surrounding and you should give the relief because of the smaller lots, you are almost arguing for a re-zoning. Mr. Gemma said he cannot testify to the value of the surrounding lots but it has an impact on the neighbors by having more building on smaller lots. With regard to element #4 Mr. Gemma said Mr. Flannery used the term "pebbles" with a little bit of benefit but there is no detriment and he thinks that it does have a detriment because you are putting a house on a smaller lot that doesn't belong on a smaller lot surrounded by houses that are on bigger lots and he does not think you are advancing the purpose of the zone plan or zoning ordinance other than a private interest and private purpose of an applicant trying to get more out of something that is less.

Mr. Doyle says this board has the power to grant the variances that are being requested and it is within their discretion and Mr. Gemma said in a reasonable use that the variance is warranted according to the elements. Mr. Doyle said the variances that are being sought are "C" variances and there are circumstances where seeking a density increase that Mr. Gasiorowski suggested is 50% would require an applicant to go to the board of adjustment which is a more difficult variance to get. Mr. Gemma said the applicant is seeking a density of one additional home. Mr. Doyle said Mr. Gemma disagreed with some of the testimony of Mr. Flannery and Mr. Gemma said yes. Mr. Doyle asked him if he knew the square footage of the houses in the neighborhood and Mr. Gemma said no but what he did do is simply take Mr. Surmonte's indication of impervious lot coverage and gave that, he did not look at the square footage is. Mr. Doyle asked if the reasons he gave for why it should be denied different if it were a 35,000 sf lot and Mr. Gemma said not true because 1) you are coming closer to meeting the requirements and it depends also on the width, if they are regularly shaped vs. irregular shape-that has an impact on the one lot in question but it would be a function of how much close are you coming to the requirements of what exists. Mr. Gemma said what Section 908 also says is even if you are reducing you can't increase the gross density more than 3.1 dwelling units per acre and right now you are at 4.1. Mr. Doyle asked him what about 34,000 sf and Mr. Gemma said he can only opine upon what he has looked at, anything else would be conjecture. Mr. Doyle said there is no question the applicant will meet all of the other bulk requirements including sideyard, combined sideyard, front, width, and rear and Mr. Gemma said that is the testimony of the applicant but as Mr. Doyle pointed out, until they see what the size of the houses will be going in there, one assumes that they will meet that. Mr. Doyle said the houses will be no closer than if there were only 2 house built and Mr. Gemma said yes. Mr. Gemma said they talk about specific needs (senior housing, affordable etc.) that are specifically needed in the zone and Mr. Doyle said the Master Plan recommends more housing and Mr. Gemma said he did not see anything in the section with housing being one of the articulated purposes and Mr. Flannery was looking it up. Mr. Gemma said they talk about particular densities, etc. but it talks in generalities of providing communities and appropriate densities and those are the general purposes. Mr. Doyle said any market rate housing built in an American capitalist economic system does fill a private goal because it is a builder making a profit and Mr. Gemma said he believes that is the same argument made by Goldman Sachs, Wachovia, etc. The section was found and Mr. Gemma read it and said what he indicated before was that specifically, for these variances, in this location, for this type of housing, he has not seen anything that says this type of housing in this location is warranted or needed which would advance the purposes of zoning.

Mr. Gemma said Mr. Flannery said there is a need for growth in the growth plan for residential housing in Lakewood and therefore this property and this house meets that need but he has indicated he doesn't think you can make that broad statement and take it down to this specific property at this specific location and it is the burden of the applicant to show that it does.

Mr. Gasiorowski had a follow up question and said listening to Mr. Doyle's questioning, is there anything in the MLUL which says because there may be a need for residential housing within a community that variances must automatically be granted for undersized lots and Mr. Gemma said no. Mr. Doyle followed up and said there is nothing that said variances must be automatically granted or denied and Mr. Gemma said unequivocally this variance must rest on its' own merits.

Mr. Gasiorowski said there are neighbors present and instead of calling them all up, he would like to have one come up and express to the board their opinion. Mr. Gasiorowski called Mr. Stephan Toubul, Rose Hoffman, Marsha Hirsh and Charles Pinter.

Mr. Neiman opened the microphone to the public

Rose Hoffman, 193 Lakewood New Egypt Road was sworn in. She feels that if this is granted they will change the whole complexion of the neighborhood and the lawyer for the applicant mentioned that right around the corner on Pine Circle are a lot of empty lots and this could set a precedent for their subdividing as well. She moved to this neighborhood because it is a spacious neighborhood and the lots are larger.

Marsha Hirsh, 181 Lafayette Boulevard was sworn in. She feels the whole character of the neighborhood will be changed with them wanting to shoe horn a house here. If she wanted to touch her neighbors she would live in Westgate and there is a fire station there and with more children they don't particularly care for all the children around there and it would make it more dangerous there with more children.

Charles Pinter, 184 Lakewood New Egypt Road was sworn in. He said he has been a resident here for 6 years and enjoyed every minute of it. His biggest problem is the safety for the neighborhood and the safety for himself and said upon moving into his house there was through eminent domain of 20 ft. of property that was taken away from the county and the speeding that happens where cars go 50-60 mph and there was a major bus accident in front of his home due to the curve and excessive speeds and the children waiting for the buses and stopping on a busy road is a safety issue and if you have additional home they would have additional buses which would add to the danger.

Stephan Toubul, 180 New Egypt Road was sworn in. His property is located adjacent to the proposed subdivision. He said he is not for this subdivision because his lot is in excess of 20,000 sf and he moved to this neighborhood for the same reason that he wanted to have a lot of space and if there was a small lot next door to his property it would look very different from what he spent a lot of money embellishing and making it nice to live in and he also believes that if there were 3 houses built next door it would create a water drainage problem which is being experienced all over town. His property is higher so it probably won't impact him but his neighbors behind him have complained of water damage in their basements and this would probably add to it. Mr. Gasiorowski said when he purchased his house, the existing property consisted of 2 lots and the lot adjacent to his lot is rather large in size and Mr. Toubul said yes and he would not be in objection if these lots were conforming to the zone. Mr. Doyle asked him

if his lot became larger because of a street vacation and Mr. Toubul said there was a paper street and the vacation gave his lot more land.

Mr. Gasiorowski said the MLUL as well as the zoning ordinance is like a road map. Everybody who lives in this community looks at this and is guided by it. When you establish a zoning ordinance, you are creating a compact between all the residents of the community. A person who is an objector has as much a right to object to a particular project coming in which is seeking relief for variances from the zoning ordinance as does an applicant who comes before you. This applicant is not coming before you in seeking a minor subdivision which he is entitled to as a matter of right but what he is doing is saying he is coming in to create 3 undersized lots and he wants that relief and the only reason he is giving to the board is perhaps someone out there is searching for a house and he could buy on this property and if the board were to grant this variance the board would have violated the trust that those people who live in the surrounding area have entrusted to you.

Mr. Doyle said what the objector and his counsel seek to do is to rob the board of the discretion the law gives the board-the opportunity to decide that variances should be granted. He said there is not one argument by Mr. Gasiorowski or Mr. Gemma that would not apply to us if they had 35,000 sf and Mr. Gemma did not answer that question. The board heard they were going to increase the density by 50% as if they were going from 50-75 but they are going from 2 to 3 and that minimal difference is important because it doesn't force them to go to the zoning board because the legislature sees that one lot additions is a minor matter vs. a zoning matter. They came with a subdivision with 3 different sized lots and during dialog with the board amended that plan to show more equivalent sized lots which the applicant did. The applicant is not seeking any other bulk variances so the houses that are being proposed will not be any closer to the neighbors than the 2 houses that can be built. The only impact is from one house with a driveway that faces where only 2 of the objectors live and they have a "t" driveway that makes it safe to pull out. Yes the lots will be undersized but the objectors would rather they have lots that are 33% larger than they need be and then they denigrate that it is only producing housing because it is only one and said that every increment matters-housing is needed in Lakewood and it is supposed to be where appropriate and how can it be more appropriate than putting it in a zone that allows residential housing. Looking at particular cases where the differences are as minimal as this are what is the discerning part of the boards' job. The board heard from 2 experts, one said yes and one said no and he would like them to think that the one who said yes is right. He would have liked to end his closing here but because the arguments are so close and they have had close questions before so it would be up to the board and as much as Mr. Doyle thinks he is right, the ultimate wisdom lies with the board so he would think they would have to consult a little more with the ultimate wisdom and for that purpose on behalf of the applicant he wishes to withdraw the application.

Mr. Neiman said by the board saying yes or no to this application doesn't mean that no one can come and ask for a variance again. A 12,000 sf zone is a tricky zone because it is a neighborhood, it is not like an R7.5 and he can understand it, he lives in an R12 zone and other members mentioned they live in an R12 zone and by putting a 10,000 sf home in an R12 zone does make a difference. You are fighting with the whole 14<sup>th</sup> Street and neighborhoods that people live there, not for the housing but to have a nice home with a nice backyard on a nice lot. He thinks he made a wise decision by withdrawing the application.

Mr. Neiman said in the future, if Mr. Doyle finds himself in this position again, don't wait until after 1 ½ hours of testimony is done before withdrawing, do it before. Mr. Doyle said decisions are made in the heart and he felt the 1 ½ was a good expenditure of time. It allowed citizens

who had concerns to voice them and applicants who had different thoughts to say them and allowed the board to express them.

Mr. Gasiorowski asked if the application was being withdrawn with prejudice because after hearing the entire application for 1 ½ hours it should be withdrawn with prejudice and Mr. Doyle said this is not a court of law and thinks they always have the right to come back to the board and Mr. Neiman said if they do come back it is a new application, a technical meeting, and new notice.

**5. DISCUSSION- Review/Recommendation of proposed ordinance pertaining to two family housing & duplexes**

The attorney for the town was not present but he handed it out and Mr. Kielt said he hopes the board can understand it the way it was written. Mr. Banas said he has serious concern with this because he cannot understand what the question is. Reading the first line he asks if it is a typographical error, because it just doesn't make sense.

Mr. Neiman agreed and told Mr. Kielt he should suggest to the township that the attorney be present and Mr. Kielt said they had a discussion a few months ago and it was suggested in the future to red line it so everybody is aware of it and he guesses that was not adhered to. Mr. Kielt said he brought it up a second time and guesses it is not the way he does things. Mr. Kielt said if the board would like he will tell him to give it to the board in a different format and they can look at it at the next meeting.

Mr. Neiman thought it also best if the attorney is present to explain it. Mr. Neiman asked Mr. Kielt if there were any applications that would be affected by this ordinance and Mr. Kielt said he did not check to see if there were any in the pipelines. Mr. Neiman asked Mr. Kielt to relay the board's wishes to the attorney and Mr. Kielt said they will discuss it again at the May 4<sup>th</sup> meeting.

**6. CORRESPONDENCE**

**7. PUBLIC PORTION**

Mr. Fink had something he wanted to bring up and gave Mr. Hobday some pictures that he said he took and as a co-chair of the Planning Board he said he believes an injustice has been done by the Township Committee on an Ordinance that he is asking the Planning Board to stand together and hopefully send a message to the Township Committee that we are all in full agreement with what Mr. Hobday wants to talk about.

Mr. Hobday said over the years the residents of Lakewood have come to respect this board and think they do a great job but want more things to come before them. What he is asking the board's support on is 4 issues that are pressing. They talked tonight a lot about neighborhoods and how if you change the nature of that neighborhood it devalues everyone's property. What they are asking for is the township to bring their ordinances together so that the zoning, planning and building and code enforcement can work through a set of ordinances without loopholes that people can't take advantage of. He lives in the southwest sector of town and they feel they are under attack because things keep happening there and he looks at all the

applications before the boards and there aren't any. He finally went to the zoning office and got documents that showed in this particular case the person applied for a permit to remodel and expand their single family home which was a very small ranch house. The structure that is there now which if it was brought to the Planning Board, the variance would never have been approved because of how close it is to Massachusetts and there is no parking. Mr. Neiman asked Mr. Fink if he took those pictures and Mr. Fink said yes and Mr. Neiman asked him what they were pictures of and Mr. Fink said it is a picture of a new yeshiva being built but he is very concerned with the idea of 50+ trees being taken down for no reason at all. Mr. Hobday said their concern is that had they provided an application to one of the boards they would have had the advantage of council, planners, engineers, etc. and this board to give advice.

Mr. Neiman is trying to understand and asked if there was an ordinance passed 8 months ago that did come in front of the board and Mr. Hobday said no matter what this looks like, it is a single family dwelling that is being expanded because they haven't asked for a permit to change the use yet. Mr. Fink said they do not need one, this is a single family house that is and who owns it (Rozsansky) and it is going to be a yeshiva and no one is against a yeshiva being built but Mr. Hobday said when you build a yeshiva it should be built properly and said there is no reason why they can't.

Mr. Schmuckler said he has been speaking to the seniors as well and has heard the same thing that the board is hearing now. The board made the comment back then, that they don't like that ordinance and said possibly they should make a motion to send a letter to the Township Committee asking them to repeal this ordinance so that these projects have the ability to come to a public area where people can comment on it. Mr. Neiman said he agreed and said when this ordinance did come in front of the board, they were against it and voiced our concern. They like to see these things come in front of them because of busing and safety issues.

Mr. Kielt was confused and said he did not know what ordinance everyone is talking about. This is an ordinance that has been on the books for several years that says you can get a site plan exemption and you can have a change of use from one permitted use to another permitted use and that has been around for a number of years and asked if there was something else that he does not know about. Mr. Schmuckler said 8-10 months ago an ordinance came in front of the board that allowed, if you had a private home that wanted to be changed into a shul or school they have to come before a board, even if there are no variances and Mr. Kielt said it was about trailers. Mr. Kielt said he would again go through the more recent ordinances but he is not familiar with the ordinance they are talking about. He does know that there has been concern about the ordinance that allows the type of thing that these gentlemen are talking about and that has been on the books for several years and they have been talking about closing the loophole but as far as starting off with a house and when it is all completed, coming in with a change of use. There has been talk but it hasn't been changed.

Mr. Fink said since he has been on the board (2 years) they have always talked about safety first and what is going on in Lakewood is not safety first. As a planning board they need to make a resolution, a letter written by Mr. Jackson to the Township Committee to change it.

Mr. Hobday said the first time they ran into this was at 1535 Massachusetts Avenue where a residential property became a school and a lot of construction was going on and the zoning officer accompanied Mr. Hobday there and they had just applied for a change of use from residential to educational and was part of an ordinance that he cited that said he did not have to go to a board. Mr. Hobday said he brought this point to the Township Committee several times that if you are changing from a barber shop to a candy store that is understandable but if you

are changing from residential to a yeshiva he does not understand that at all.-that should be forced into the appropriate board so the engineers and architects can look at it along with the board and a body of residents that can put in input.

Mr. Jackson said his recollection of this situation is that there was an issue with underground houses of worship where people were having houses of worship in their basements or in their houses and it was underground and he thought that this ordinance was adopted to allow people to convert it so it can be legalized, out in the open, inspected etc. and Mr. Hobday said the ordinance Mr. Jackson is talking about is where one can bring a trailer onto the premises while the house of worship is being built but the board members said that was not the ordinance. Mr. Jackson said he can't write a letter or take a vote unless he knows what ordinance they are talking about.

Mr. Kielt said he will look through all his ordinances to see what they are talking and find the ordinance that it falls under. Mr. Neiman asked Mr. Kielt how can something like this be built without coming in front of a board and Mr. Kielt said just like Mr. Hobday said- there was an existing house and they went to the building department and got permits for interior renovations and expansion on a house and then when it gets done they will go in and ask for a change of use. Mr. Fink said there is a basement in it.

Mr. Banas said they had an ordinance that was on the books a long time ago (15yrs) that indicated all changes of use had to come before the Planning Board to have approval. Subsequent to that, they had a lot of complaints that it took too long for the planning board to fit it into the schedule, etc. so a change was made to that ordinance that permitted various departments within the structure of the Township Committee to give approval for certain types of things and changes of use was then moved from the planning board to those departments. In regards to the synagogues, they did have a number of synagogues that were in the basement and Mr. Penzer testified at various meetings that he has been working on eliminating those by getting them out from underground to a respectable position. Mr. Banas said if this is a synagogue that is going to house a number of people he doubts very much that there is adequate protection provided for in that tiny space-he is thinking of a fire and it appears to him that particle board burns quickly and it is safety so there has got to be something.

Mr. Fink said with reference to the pictures that Mr. Hobday handed out, there were over 50 trees cut down last Thursday for no reason and he believes they need to make sure that regardless of who is doing any building in the future, they do come in front of the Planning Board for their expertise, plain and simple. Mr. Banas said trees have always been a problem for the Planning Board. Mr. Hobday said they are not asking for special treatment, they are saying that the Township of Lakewood erred when it modified and/or accepted some ordinances and what they are saying is they understand there is going to be growth but let's give the neighborhood and owner a chance to do it right. The first photograph shows it being so close to the road that he does not know how they are going to load and unload students or where anybody can park where a traffic study was done and recommended no stopping or parking on the shoulder but it was never completed, the ordinance was never approved and now we have cars parked on that shoulder all the time. Mr. Hobday said they need to get this under control.

Mr. Neiman suggested they should bring this up with the photographs at the next Township Committee meeting and show this to them. Mr. Neiman said he will personally speak to people on the Township Committee and find out what is going on here because this is a disgrace and it can be done much nicer and in a much safer way.

Mr. Banas said he has not seen any codification of the ordinance in at least the last 2 years and they have passed the last Master Plan in 1999 and the re-examination after that in 2007 and there were suggestions made for ordinances and asked Mr. Hobday to bring those forward at the same time.

Mrs. Noreen Gill said she agreed with Mr. Hobday and said she has been asking the Township Committee since 1996 to have an ordinance whereas you cannot change a home into a school and they were afraid to do it because of the pressures. She also wants into the minutes of the Planning Board the Shade Trees report read at every Planning Board meeting.

## **8. APPROVAL OF MINUTES**

- Minutes from April 13, 2010 Plan Review Meeting

Motion was made by Mr. Schmuckler, and seconded by Mr. Neiman to approve

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

## **9. APPROVAL OF BILLS**

Motion was made by Mr. Schmuckler, and seconded by Mr. Neiman to approve

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

## **10. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

submitted  
Johnson  
Board Recording Secretary

Respectfully

Chris  
Planning