

**1. 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 Meeting 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 the 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 criteria of the Open Public Meetings Act.”

**2. ROLL CALL**

Roll Call Mr. Franklin, Mrs. Koutsouris, Mr. Banas, Mr. Neiman, Mr. Follman, Mr. Schmuckler.

**3. SWEARING IN OF PROFESSIONALS**

Mr. Vogt was sworn in.

**4. MEMORIALIZATION OF RESOLUTIONS**

**1. SP # 1949**

Applicant: County of Ocean

Location: Ocean County Recycling Center – New Hampshire Avenue  
Block 1160.06 Lot 241

Courtesy review of proposed replacement of building #68

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**2. SP # 1956 (No Variance Requested)**

Applicant: County of Ocean

Location: Raintree – Kennedy Boulevard East  
Block 186 Lot 8

Courtesy review of proposed vehicle and equipment wash facility

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**3. SP # 1891A (No Variance Requested)**

Applicant: Bnos Devorah

Location: Prospect Street, west of Williams Street  
Block 411 Lot 26

Amended Site Plan proposed addition to existing school

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**4. SP # 1953 (No Variance Requested)**

Applicant: Yeshiva Shagas Aryeh

Location: Northeast corner of West Cross Street and Neiman Road  
Block 251.03 Lot 19

Preliminary & Final Site Plan for proposed school

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**5. SP # 1950 (Variance Requested)**

Applicant: Zebra Holdings

Location: Main Street (Route 88) East of Clifton Avenue  
Block 122 Lot 2.01

Preliminary & Final Site Plan for proposed supermarket

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, abstained.

- 6. SD # 1795** (Variance Requested)  
Applicant: Michael Rottenberg  
Location: Albert Avenue, north of Read Place  
Block 827 Lot 3  
Minor Subdivision & Variance for two (2) lots

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

- 7. SD # 1786** (Variance Requested)  
Applicant: S&H Builders  
Location: East County Line Road, east of Somerset Avenue  
Block 208.01 Lots 12 & 73  
Preliminary & Final Major Subdivision to create thirteen (13) lots

A motion to memorialize this resolution was made by Mrs. Koutsouris and seconded by Mr. Franklin.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**5. NEW BUSINESS**

**1. Discussion of Service Station and Public Garages Ordinance changes.**

Chairman Neiman asked if all existing Gas Stations would need to comply.

Mr. Jackson stated that existing service stations would be grand-fathered in and they would have vested rights, however if they were to modify their structure or seek to increase their business either quantitatively or qualitatively they would have to apply to the Board of Adjusters because they would not satisfy the conditional use criteria.

Mr. Franklin asked about the parking, if they were allowed to have a 2,400 sq foot store where would the parking be.

Chairman Neiman stated that there should be a parking stipulation in the ordinance.

Mr. Jackson stated that they could send a letter either recommending that they approve or don't approve the ordinance.

Mr. Franklin asked if the gas station portion of the business closed down would they be able to keep the store portion of the business running.

Mr. Schmuckler stated that the Board could ask the Township Committee to have someone come to the next meeting to discuss the issues mentioned. The Board could ask them not to move forward.

Mr. Jackson stated that the committee sends the ordinance to the planning board and the board has 45 days to make a recommendation, they can not move forward until the board responds.

Mr. Neiman stated that Mr. Jackson should let the committee know that they would not vote on the ordinance until they address the parking and the scenario where the gas station portion of the business closes and the store portion remains.

Mr. Banas asked if this will meet the constraints of both bodies meeting prior to getting back to the planning board within the 45 day sequence.

Mr. Jackson stated that it may or it may not but either way it doesn't make a difference if the board approves or doesn't approve it. The governing body is like an inquiry they get the benefit of the planning boards input.

Mr. Banas made a motion to send a letter to the Township Committee with the Planning Boards concerns. Mr. Franklin seconded the motion.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**2. SP # 1764A (No Variance Requested)**

Applicant: Somerset Development

Location: Route 70 & New Hampshire Avenue  
Block 1248 Lot 2

Amended Site Plan to convert 144 age restricted units to 144 nonage restricted units

### **Project Description**

The applicant proposes to amend the Board approval granted for The Willows @ Lakewood age-restricted project, to allow for non age-restricted housing. The existing project approval (Resolution SP #1764), allowed for the construction of a one hundred forty-four (144) unit age-restricted development, based on site plans prepared by DW Smith Associates, LLC. As part of the conversion, the applicant is proposing to replace the previously approved in-ground swimming pool with a playground. No other major site plan amendments are proposed as part of this conversion application. The prior application granted the applicant approval to construct a residential age-restricted project consisting of one hundred forty-four (144) units located in twelve (12) buildings together with a clubhouse and associated off-street parking. Each proposed residential building will be four (4) stories high. The ground floor of the proposed buildings will be utilized as a residents parking garage. Twenty-one (21) parking stalls are proposed for each building, one (1) of which will be van accessible handicapped. Four (4) residential units per floor were approved for floors two (2) through four (4) for a total of twelve (12) units per building. Fifty (50) additional off-street parking spaces were provided throughout the site, four (4) of which are also van accessible handicapped. A two-story clubhouse with a basement was also approved, having a footprint of two thousand four hundred square feet (2,400 SF). ***We have the following comments and recommendations per testimony provided at the 3/1/11 Planning Board Plan Review Meeting, and comments from our initial review letter dated February 16, 2011:*** (I) **Zoning** (1) The site is situated within the B-5, Highway Development Zone. Only age-restricted multi-family housing is permitted in the zone. Therefore, pursuant to N.J.S.A. 45:22A-46.6 (a.k.a., the “conversion act”), the applicant is seeking an amendment to the previously approved site plan approval to develop the land as a converted development. ***The applicant’s professionals should provide testimony to the Board’s satisfaction regarding compliance with the requirements of N.J.S.A. 45:22A-46.6, as applicable.*** (2) No new waivers and/or variances are being sought in connection with this amended application and none appear required. **Statement of fact.** (II) **Review Comments** (A) **General** (1) The only material change proposed for the site is the replacement of the proposed swimming pool with a proposed playground area. This will have an inconsequential alteration in the impervious coverage (less than 1%). Therefore, revisions to the proposed storm water calculations and improvements are not

required. ***Some additional storm sewer shall be provided to properly drain the playground area. This can be a condition of approval.*** (2) The plans indicate the storm water management system will be owned and maintained by the Homeowners Association. Testimony should be provided on ownership and maintenance of other common elements. Unless previously approved, Homeowners Association documents should be provided. ***The submission of Homeowners Association can be provided as a condition of approval.*** (B) **Grading** (1) A detailed grading plan of the proposed playground area which replaces the approved swimming pool is required. ***Proposed grading is impacted by the tree save areas and must be revised. This matter can be made a condition of approval.*** (C) **Storm Water Management** (1) The plans indicate the storm water management system will be owned and maintained by the Homeowners Association. Unless previously approved, submission of a Storm Water Management Operation & Maintenance Manual should be included. ***The Storm Water Management Operation & Maintenance Manual previously approved has been submitted. Some minor updating of the manual to the current submission is required, which can be made a condition of approval.*** (D) **Utilities** (1) The design of the proposed utilities is unchanged by the amended site plan application. The Lakewood Township Municipal Utilities Authority must accept the increase in sanitary sewer flows for the converted development. The potable water demand has already been approved by the LTMUA. ***LTMUA acceptance of the increase in sanitary sewer flows can be made a condition of approval.*** (E) **Construction Details** (1) Construction details for the proposed playground must be provided on the plans. ***The construction details for the proposed playground have been provided and are acceptable. Only a couple of typographic errors must be fixed on the notes.*** (III) **Regulatory Agency Approvals** Outside agency approvals for this project may include, but are not limited to the following: (a)Ocean County Planning Board; (b)Ocean County Soil Conservation District; (c)Lakewood Township Municipal Utilities Authority (water and sewer); (d)New Jersey Department of Transportation (Access); (e)New Jersey Department of Environmental Protection; and (f)All other required outside agency approvals. The plans show many of the outside agency approvals to be in excess of five (5) years old and therefore may have expired. Copies of outside agency approvals should be submitted. ***Evidence of approvals shall be provided as obtained. Since the comments in this letter are minor in nature, the Board may grant amended major site plan approval with conditions.***

Mr. Banas recused himself from this application.

Chairman Neiman spoke about the process of the meeting to the general public, weather or not there was an opposing attorney representing a HOA or an individual, they would speak first.

Mr. Jackson spoke about being sworn in and testifying, he also stated that the Chairman has the right and ability to limit duplicative questions, redundant questions or irreverent questions.

Mr. Michael Gross, Esq. of Giordano, Holaran and Seslaw on behalf of the applicant stated that the reason that we are here is about a statute "conversion statute" NJSA 45:22A-46 stating "during the period of time set forth in a certain section for submission, which we have met, any age restricted development shall be eligible to be converted to a non-age restricted development pending board approval, provided that the development meets all the following conditions". I will be going through those conditions thru my witnesses, demonstrate that we meet the conditions and therefore we qualify under the statute to convert this development from an age restricted to a non-age restricted development. I have three potential witnesses, Scott Kennel is my traffic consultant, he is here if the Board has any questions concerning traffic. Traffic is not a condition in the statute but he can answer any questions. Nicholas Graviano is my Professional Planner and Robert McCarthy is my Professional Engineer, he is also a planner as well.

Mr. Robert McCarthy was sworn instating the site location is block 1248 lot 2, it is situated where Rte. 70 bounds it to the north and New Hampshire to the west, the only access that was proposed is on Rte. 70. There is a gas station on the North West corner adjacent to the site there is a commercial building to the north east of the site. The lot size is 17.7 acres and what was approved was an age-restricted senior housing with 12 buildings of residences and a club house with an out door pool. This was a condition of the B5 Business Highway Zone. There were no variances with the original application. What we are proposing is keeping the same number of units, 144, the same number of buildings, 12, same locations, same circulation, same tree saves, same infrastructure (storm water management, water, sewer) the only entity is an outdoor pool behind the club house, we are proposing a play area and we provide all the details for it in our plans. The first criteria is parking, there are 144 units requiring 2 parking spaces for each unit that would be 288 spaces, we provide 302 spaces on the site. Each of the 12 buildings has first floor surface parking of 21 spaces each which is available for the residents and visitors, along the perimeter we have dispersed parking off the roadways this is not changed from the original approval. There is a provision in the stature that you can revise the regulation so its more

appropriate for a non-age restricted Development. Describe the change in the recreational amenity, can you comment on the appropriateness of that for a non-age restricted Development?

Mr. McCarthy states it will be mostly small families, and what was proposed before was an outdoor pool, it will now be an outdoor playground.

Mr. Gross states also in the stature you have to demonstrate that the water supply can be met by the existing water supply facilities. Have you conducted that analysis?

Mr. McCarthy answers yes I have, it remains the same as previously approved. The pipe is very large going through the site so it will provide good flow and pressure. The capacity is adequate.

Mr. Gross asks how about sewer disposal?

Mr. McCarthy answers yes they are, the proposed pipes can handle it and there is adequate capacity.

Mr. Gross says the other provision of the stature is that the applicant provides at least 20 percent of the units on site as affordable units and we are going to provide 20% of the site units. There are standards established by the council in affordable housing. They are regional standards in terms of income eligibility and we have to provide 20% of the units to the people who can only afford these types of affordable units. The trade off for allowing this type of conversion, the legislature said we want more affordable units.

Mr. Schmuckler asks are these rental units or going to be sold? There is a co-op provision both for rentals and sales. You're saying you have 20% affordable units, they have some sort of provision both for sales and rental?

Mr. Gross answers yes, there are income provisions for both sales and rentals.

Mr. Gertner, an attorney for the Leisure Village HOA says lets first talk about bus pick-up, can you describe for the board the bus pick up and is there enough room?

Mr. Gross states I have to object to this question. The stature is very limiting in what the criteria are for this type of conversion. It does not include traffic. The board is very limited unfortunately in terms of what it can consider out of the stature.



Chairman Neiman says I'll be honest with you, I'm looking at it as an application coming in front of me as a regular application, not as a conversion. Only because I just want to make sure that once it is built, its safe and going to be conducive for a small families there and it's going to be neighbor friendly. I'm not really looking at it as a conversion. Even though it was previously approved, I'm looking at it as a new application. We do this for all applications. Is there going to be bus pickup inside, you gave testimony that its going to be for small families which mean that there will be bus service to pick them up.

Mr. McCarthy says okay, based upon experience, they are 24 ft wide driveways. The parking is off set perpendicular to the driveways. A bus can certainly get in and out of the community. It would take a right from rt 70, the easiest path is to take another right. Then just follow around and then you come to a perpendicular intersection. There you have to stop and go slowly through here.

Chairman Neiman asks if this is going to be a private or public road?

Mr. Gertner says the issue is that if there are children there, can they be picked up on Rte. 70, a state highway?

Chairman Neiman says they get picked up on Rte. 9 which is a state highway. For the same reason, those are private streets. Those new developments that have gone there don't go in there.

Mr. Schmuckler says buses will go through private streets. The board of education sends a vehicle down first to map out the area and if they feel that the bus can go safely through then the board of ed will allow it to go through. I wouldn't want children being picked up at Rte. 70 though.

Chairman Neiman asks if Mr. Gertner has any more questions.

Mr. Gertner says yes, you talked about the 20% set aside, has there been any thought on how that 20% set aside is going to be spread out through the development or are you dedicating just one building to that?

Mr. McCarthy says I can't answer that.

Mr. Gertner says okay. Is the community building remaining? What's its use in design?

Mr. McCarthy says yes, its use is a general clubhouse. A 2400 sq ft footprint 2 stories with a basement.

Mr. Gertner asks any plans to make sure that can be utilized for both children and young adults? Or is it just a basic box?

Mr. McCarthy states that he believes it is for both adults and children.

Mr. Gertner says there has been a number of turn arounds at the leisure village site. Are there any proposes for a change of signage on site to direct people going on Rte. 70 west?

Mr. McCarthy answered there is no different signage in its original design.

Mr. Gertner says in designing, is there a difference in the normal capacity for an adult community versus a non age restricted in terms of number units, number of parking, number of cars generated trips?

Mr. Gross states we have a traffic consultant here for testimony.

Chairman Neiman says thank you Mr. Gertner. Mr. Gross we are ready for your next witness.

Mr. Scott Kennel, McDonnagh & Ray Assoc., Traffic & Safety professional is called and sworn in.

Mr. Gross says there are 2 issues raised, I don't think they're relevant but we want to satisfy the board, the first was the adequacy of the site for school bus circulation.

Mr. Kennel states the site has been designed to accommodate large wheel based vehicles. During the initial application an application was submitted to NJDOT and the axis design has been approved by them as far as for passenger vehicles and large wheel based vehicles. The design remains the same and as such it can accommodate a school bus that would circulate through the site.

Mr. Gross says there was also a question with respect to the traffic impact of the conversion from age restricted to non age restricted. Have you also reviewed that issue?

Mr. Kennel says yes, the basis for that is that I reviewed traffic counts that were conducted in 2010 in both June and July of last year for the peak hours, and typically for this community we would look at the weekday morning and afternoon peak periods. I also looked at the amount of traffic that would be generated by the proposed conversion as compared to what was compared on the prior application. With the conversion during the morning it would generate approx 64 trips as opposed to the 25 that was projected as an age restricted community.

During the p.m. period, the proposed amount would yield approx 75 trips as compared to 39 trips that were projected in the prior application. The increase in trips does not invalidate the NJDOT access permit, the permit allows up to 148 trips in and out of this community so we are well below that threshold. So we will comply and the access permit is still valid. I took an opportunity to review the level of service and that reflects the delay for people exiting the site and was determined that during the peak hours the delays would be anywhere from 15-20 seconds which is a level service c, which is well below the thresholds allowed by the NJDOT. So therefore, with the conversion, the site access has been designed to operate safely and efficiently with the additional traffic.

Mr. Gertner asks based on your information, the traffic generation in the morning will be nearly 3 times as great and in the evening 2 times as great.

Mr. Kennel says approx, yes.

Mr. Gertner has nothing further.

Chairman Neiman asks what the sidewalk structure is in the actual application?

Mr. McCarthy stated this a color rendering of a site plan. This was marked exhibit A1.

Mr. McCarthy stated as was previous approved and not changed on the site plan. Within the center of the site there are sidewalks directly across linking to the driveways and parking areas and it crisscrosses in between the buildings and around the clubhouse. 4 ft wide sidewalks all around.

Chairman Neiman asks how about those back 4 homes?

Mr. McCarthy says no, they would walk out along the driveway and onto the sidewalks.

Chairman Neiman says there are children there now, there should be sidewalks in front of each home.

Mr. McCarthy says it is not completely paved in front of the buildings, there are grass areas and then there are front entrances.

Chairman Neiman says there is going to have to be sidewalks in front of each unit.

Mr. Schmuckler says linking the units, so the children can go from unit to unit or in front of the parking spots.

Mr. Gross says although it is not required in the statute, we would be happy to accommodate the board and add sidewalks in those areas.

Chairman Neiman says okay, your next witness?

Mr. Nicholas Graviano, professional planner of Graviano planning group, was sworn in.

Mr. Gross states there are two issues that were raised by Mr. Gertner. First, are these going to be private or public roads?

Mr. Graviano states that this application was approved as private roads.

Mr. Gross then asks the distribution, I think was asked by a board member of the 20% affordable units.

Mr. Graviano says the applicant would like the right to either distribute them throughout the entire development or concentrate them in specific buildings for finance purposes. The applicant will conform to all applicable color regulations regarding distribution of such units.

Mr. Schmuckler asks if they are for sale or rental units?

Mr. Graviano says that has not been established at this moment.

Mr. Schmuckler says the handicap spots throughout the sites. I know if it's for sell, there is a much lower requirement for handicap spots than if they're rental units. The requirements change whether it's a rental or selling.

Mr. Kennel says as far as requirement for handicap parking spaces, there are no differential between rental and ownership. This type of multi-family development, it's based on the number of parking spaces and based on the gross number you have to provide a minimum amount to comply with the ADA requirements.

Chairman Neiman says you mentioned there is going to be parking underneath the building. Are there any safety provisions there?

Mr. Kennel says from my review of the plans, there's good site lines underneath the building, the buildings themselves are set back sufficient distance from the travel house so that before they enter the drive aisles between the buildings there is adequate site lines. It relates to the driver proceeding cautiously and driving carefully through the community.

Mr. Schmuckler asks for a sketch.

Mr. Kennel says in the upper left corner of the plan that was submitted there is a larger scale detail that shows the layout of parking under each building. Sheet 2 of 8 in the Site Plan Packet

Chairman Neiman asks if it is going to be private garbage pick up or township?

Mr. Kennel says it will be private trash pick-up. There are dumpsters indicated in the plan, four in the corners of the development.

Mr. Franklin says that's not enough dumpsters. You need one dumpster for every 5 units.

Mr. Kennel says well it is 4 dumpster enclosure areas, not necessarily 4 dumpsters.

Mr. Franklin says but you only have 10x10 and a dumpster is 7x5. Then you have recycling dumpsters you need also. You're no where close with the garbage so you should really go to public works and work something out.

Mr. Kennel says we will work with public works and townships professionals on coming up with something that's adequate.

Chairman Neiman says that's also something that is different between age restricted and non age restricted; more garbage is generated from the non age restricted so you have to make sure you have adequate dumpsters and recyclables there. Is this something that's resolution compliance, or is this something that we want you to come back to make sure you have the dumpsters?

Mr. Gross stated we will work out something to the satisfaction of the Lakewood Public Works Department.

Mr. Graviano states all of the proposed dumpster enclosure areas have adequate space for expansion. There will be no individual garbage cans there, all in the dumpster.

Chairman Neiman asked Mr. Franklin if he thinks they will be able to suffice the garbage disposal situation?

Mr. Vogt states that everyone will take their trash to the dumpster.

Mr. Franklin states that if they do that then you will need about 28 dumpsters.

Mr. Schmuckler says that we would go to the calculation put together of what we've seen in the past actual usage. Its about 1 or 2 cubic meters per house per week which is like 1 dumpster per 5 houses. And that's not counting recycling.

Mr. Graviano adds that these are 2 bedroom units, not typical 4-5 bedroom townhouses. It's possible that these units will occupy only one person, possible that there will be families. We understand we need to provide more, but we don't need to provide what you would need for a townhouse.

Chairman Neiman asks if they can have 3 times a week pickup instead of once a week because it is private?

Mr. Franklin then asks if they expect the township to pay for it.

Mr. Graviano states that on sheet 2 of 8, there's note 5 which says trash receptacles to be provided for each building. That's what was approved. They would be put in the parking area which people would bring the garbage down to.

Mr. Gross asks Mr. Graviano if he has evaluated this proposed conversion in terms of whether it's going to have a substantial detriment to the public good and its impact on the zone plan?

Mr. Graviano states yes, I did a very detailed analysis in terms of analyzing what exactly will this do to this community. The first step I looked at was looking at what the legislature's intent on doing this conversion act. What I found was that the legislature found that 1 in 2 person households and work force people find it extremely difficult to find housing that meets their needs. Furthermore, municipal zoning practices, and this is something that many townships including Lakewood, and other Ocean and Monmouth County municipalities did was they went on that age restricted housing rush. And zoning practices and land use practices resulted in a lack of land approved for housing that meets the needs of smaller housing units and smaller families. The shortage of such affordably priced smaller units resulted in the creation of this age restricted housing act. You look here in Lakewood, we have over 5,000, possibly over 6,000 age restricted dwelling units in Lakewood alone. As you go through what's been approved at this board and the zoning board, there really has not been a multi-family non townhouse approval for apartments in quite some time. This type of unit does not exist in Lakewood in a new form. You'll see the majority of rental or multi family units are now in basement form, and this provides a little bit more of an attractive option to people instead of your typical Lakewood basement apartment. In relation to the conversion act, the applicant's professionals have determined that it meets the residential site improvement standards for parking and circulation. It's provided

recreational improvement, the conversion of a swimming pool area to a playground area now meet the needs of housing units with families. The water supply is adequate, and the sanitary sewer is adequate. In relation to the B-5 district, which would be the impairment of the zone plan and zoning ordinance, allows the following: office buildings, retail stores, theatres, restaurants, motels, motor vehicle sales, research in labs, public/private schools, assisted living facilities, and age restricted housing. The proposed use that's before you this evening is far less intensive than many of those proposed uses. If the site was suitable for 2 bedroom age restricted units then it's suitable for 2 bedroom non age restricted units. There is no substantial detriment to the zone plan or impairment of the ordinance with this proposal. I also looked at this application in terms of the required parks and recreation for such developments. The Lakewood ordinance provides that not less than 5% of every major site plan consisting of 25 or more units shall be dedicated as open space and can include passive and active recreation. Open space for this project consists of 62.58% of the entire site with the tree safe area counting for 9.1 acres or 51% and the non tree safe area totaling 11.8% or 2.09 acres. Furthermore, buildings only occupy 11.9% of this entire site, or 2.11 acres. And the total impervious lot coverage is only 30%. I also looked at the master plan in terms of this development and found that this plan accomplishes many of the goals and objectives identified in the 2007 master plan, including maintaining the diversity and type in character of available housing and promoting an opportunity for varied residential communities. It also provides housing for all groups, family sizes, and income levels. It also assures an affordable, convenient, and attractive housing opportunities with appropriate yards and play areas are available in Lakewood.

Chairman Neiman says I see a small playground area about 2,000 sq ft for 144 units, that doesn't seem appropriate to me.

Mr. Graviano says that there is the clubhouse which is a recreation area, that's 2,400 sq ft. the playground area which is approx 4,000 sq ft plus. The specific area for the playground equipment is less than 2,000 sq ft. I would like to also go through the open space areas for the kids to play.

Chairman Neiman asks if kids could play in the save tree area. Can it be used for recreation?

Mr. Graviano says it will be preserved; people can go in there and walk around. It's a passive recreation area. I would like to note that between the buildings is a 50 ft area with yard space which will be a lawn area. You also have sidewalks

connecting all these areas where children could safely ride a bicycle and things of that nature.

Mr. Schmuckler says that he would like to see that built out. I'd like to see how the sidewalk network is going to be laid out.

Mr. Graviano states that he can show them right now. You're going to locate sidewalks in front of the buildings. It will go straight across the front of the building. But then you have the connections to this internal area, which is a very large scale recreation area which is going to be unaffected by any vehicular traffic. This whole center network of lawn, the tree save area, the space between the buildings, the sidewalks, the playground, and the clubhouse, there is no vehicular traffic in this entire area so it's extremely safe for children to play. It's quite frankly probably enhanced from what you have in the majority in town.

Mr. Jackson states that he sees a ground floor plan that looks like a parking area and this first floor plan and it's just wide open, it says unit A, unit B, unit A, unit B. and then we go to the second floor which looks like a home. What is that first floor?

Mr. Graviano answers that the first floor is the parking area. The first level is street level parking and levels 2, 3, and 4 are the residential dwelling units.

Mr. Franklin asks if each one of the floor plans are exactly the same?

Mr. Graviano states there are 2 models, A and B, they're essentially the same. They're both 2 bedrooms, there is a slight differentiation in the layout but each floor will have 4 units.

Mr. Jackson asks if this is targeted or going to be marketed to a demographic that will have kids? How many kids do you realistically expect to have in a 2 bedroom apartment?

Mr. Graviano states that these apartments will have occupancy requirements established by the Lakewood building department. Accepted demographics in the state of NJ find that for 2 bedroom units, you're only looking at a maximum of .3 children, average.

Mr. Gross asks then so for 144 units, that would work out to what?

Mr. Graviano states that if you follow the average of .3 children it equals out to 43 children in the complex. With respect to the children issue, the playground equipment proposed for this development is larger than what you have in the majority of Lakewood approvals. The open space between the buildings are also



more than what you have in the majority of Lakewood approvals. I did this analysis back in 2009 when we were examining Pine River Village age restricted conversion, and quite frankly all the developments approved in town on the multi-family level, townhouses with basements, did not have the amount of recreation space that you have in this project tonight.

Mr. Jackson states that his point is that on a highway, these types of units, people with kids aren't really going to be drawn to here. I would think that a family would go to a house or bigger unit.

Mr. Graviano states that in my professional opinion, the amenities provided here are more than adequate. They meet the ordinance standards in terms of providing active and passive open space and exceed it greatly.

Mr. Gross states that he thinks Mr. Jackson's question is given the location of the development, would it be more likely that you would get an entry level couple newly married, or a public service person within Lakewood to purchase or rent these units as opposed to a family with children.

Mr. Graviano states that there are going to be 2 bedroom units. You are going to be limited to the amount of space and room that you can have for children. In my opinion, these things are going to be most appealing to single people, newlyweds, people of that nature. The average family size is quite honestly shrinking these days. Furthermore, the age restricted conversion act realizes that the people that these houses are designed for, 55% of them are 1 or 2 person households so that's 1 or 2 people the entire household. And that's straight from the conversion act itself.

Chairman Neiman asks the board if there are any more questions?

Mr. Franklin states to Mr. Graviano that you said before that we don't have anything like this in town, but there is a development like this in town. On Madison Ave, we did a few years ago. There are apartments with parking underneath them. It's exactly like this but just a smaller scale. What they do there with the garbage, is they have management. They fill up the dumpsters inside the garage part and wheel them out on garbage collection days.

Mr. Graviano states we provided that there would be private pick-up.

Mr. Franklin says okay, the homeowner, if he has to pay for it, shouldn't have to pay for it. And he is going to rebel down the line asking how come I don't get garbage pick-up. I'm paying taxes for it. So we just give you a free ride here and then the township ends up with the problem afterwards.

Mr. Graviano states we have agreed to work with the township and its professionals on providing adequate space for the refuse. As I stated previously, there is more than adequate room to enhance those proposed dumpster areas. Plus having the space, the refuse area in the ground level of the building, I'm confident we can meet the trash needs of this community.

Mr. Gertner asks if they can talk about buffering between the units on the east of the development.

Mr. Graviano states that the closest building to the easterly property line, which is the Leisure Village property line, is 224 ft. I would like to also add that that area is primarily tree save area, which is protected by the tree save approval. So this entire area of woods under this proposal would remain and not be disturbed.

Chairman Neiman asks if there is any fencing between original Leisure Village.

Mr. Graviano states there is no fencing proposed because with 200ft of woods I don't think fencing is necessary.

Mr. Graviano states quite frankly I don't think a 224ft buffer with 200ft of preserved woods does not need enhancement. I don't know what you're going to do to enhance that to make it any better.

Mr. Gertner states that you talked about that the applicant has yet to decide whether to disperse the affordable housing or concentrate it. Do you have any opinion as a professional planner as in the benefits of dispersing affordable housing? You mentioned financing but what about the good of the people?

Mr. Graviano states the typical planning thought would specify that probably dispersing them throughout the development is more appropriate.

Mr. Gertner states that the board certainly has the right and ability to request that dispersment as opposed to concentration, isn't that true?

Mr. Jackson asks isn't it a Mount Laurel requirement that you disperse them?

Mr. Gross says there are certain requirements, it really depends on the situation. But what we are really talking about here are teachers, municipal employees, that's who typically would qualify for these types of units.

Mr. Jackson asks how many units will be COA Units? And will they be any different than the other units?

Mr. Gross says 29, and they will be identical and have to be sold concurrently. I don't want to testify but sometimes a problem in these developments is you don't have enough people who qualify. So we're hoping that enough people qualify but if they don't we can't provide them to non qualified people. We have to keep those 29 units available.

Mr. Graviano states that he feels that this site design is adequate for a non-age restricted development.

Mr. Gertner states isn't it true that the town has made a decision that while this non age restriction housing is fine along other major highways, that the zone in this particular district along Rt. 70 is in fact age restricted.

Mr. Graviano states that quite frankly that doesn't matter because the state of NJ has deemed that this is an appropriate location for non age restriction development by passing the age restriction conversion act. As I stated, my professional planning opinion is that this is a suitable site for the proposed development in a zoning district that permits a variety of more intensive land uses.

Chairman Neiman states what you're saying Mr. Gertner is that had they just come for a plan, this plan non age restricted in this area they would have to go to a zoning board of adjustment.

Mr. Jackson states but I think that under the act, they're deemed to be a conforming use and they're not required to get a use variance. So it's kind of a complicated thing, the act has different criteria but I think the act itself says that it's deemed a conforming use even though it's not zoned for that.

Mr. Vogt states that he has had a couple of these applications. We went through this fairly intensely with a larger project in Helmetta Borough, the Borough attorney put it best. What the conversion act essentially does is make the non age restricted a conditional use. The conditions are what is stipulated in the act, what they've been talking about. Which is are there impacts on parking, drainage, water, sewer. Those are the conditions and that is what they've given they're overall testimony on. I think the boards raising excellent questions in terms of how this fits practically but what the act requires are those seven conditions.

Mr. Jackson states under the law the board is required to render a decision on a converted development within 60 days of the application being complete converted development must be approved. If the board determines that the conditions are satisfied and would not cause a substantial detriment to the public

good and not substantially impair the intent and purpose of the zone and coordinates. For lateral the same negative criteria were used to working with, importantly the act provides that a converted development is to be considered a permitted use in the zoning district in which it is located, thus eliminating and requirement for developer to seek a use variance. So this is effectively a permitted use by virtue of the conversion act.

Mr. Gertner states that Mr. Graviano talked about housing options in Lakewood in general. Are you aware of the gross in population in Lakewood from 2000-2010?

Mr. Graviano states yes I am aware that it is one of the fastest growing municipalities in the state of NJ

Mr. Gertner states and certainly most of those people are housed are they not? There's housing provided for these people.

Mr. Graviano states yes but when you review the type of housing that's been approved by both the planning and zoning boards within that time frame, this type of dwelling unit is under represented in such approvals.

Mr. Gertner states you talked about basement apartments that have been approved, in your experience how many bedrooms do those basement apartments have?

Mr. Graviano says in my opinion they typically have 2 bedrooms. But furthermore from a living situation, having a 2 bedroom dwelling above ground with a balcony with dedicated recreation and open space area is quite different from a basement apartment which is primarily under ground. While the township has made great strides in improving the quality of such units, I think having a unit in a basement and having a nice unit in an apartment are two different things.

Mr. Gertner then asks if those other units have dedicated recreation, playground area?

Mr. Graviano states not always but this one does.

Mr. Gertner asks for the engineer to talk about the drainage.

Mr. Kennel states that this has been reviewed previously when it was approved by many agencies, this soil district, DOT, GAFR, and stream encroachment DEP. So they all get to review the storm drainage. It is not a detention base. There is different characteristics to the storm water management, it handles water quality, recharge, and it also detains. What we have proposed and got approved is that storm water management basin that actually the discharge into it has a siltation

area where it collects silt before it even goes into the recharge area. It has an outlet structure that discharges to the existing tributary. That pipe that got the wetland and stream encroachment approval, that was put in and installed a couple years ago.

Mr. Jackson asks if you meet all DEP discharge requirements, and is there going to be any runoff?

Mr. Graviano says yes we meet all requirements and no there will not be any runoff.

Mr. Jackson states are the amenities; do they materially change the impervious coverage? They change the drainage at all?

Mr. Graviano states no.

Mr. Jackson states and just for the gratification of the audience I think our board engineer said that it was diminimous change that would not have any material effect on the approved storm water.

Mr. Schmuckler asks who is going to maintain that area, speaking of storm water drainage. And what kind of fencing do you have around that area? Protection for the children.

Mr. Graviano states that there was not a fence that was approved but after speaking with the planner, we would put in a franklin fence around the storm water management.

Mr. Schmuckler states as far as maintaining the area, I know that private roads are going to require you to maintain it yourself. I just wanted to clarify that.

Mr. Gertner asks Mr. Graviano to talk about the HOA and what set up you expect to have there, who's going to control not only garbage pickup but general maintenance of that buffer between the housing. And the second question, could you expand a little more about the load of each apartment could be?

Mr. Graviano states in reference to the HOA question, if the development is indeed a for sale development, there will be a home owners association, typical to what you have in any other development or town that will handle the maintenance of the grounds, refuse, plowing, maintenance of the building and parking areas. In the event that it is a rental community, those matters will be handled by an apartment management company. I found that in a worst case scenario, based on statistical data by David Listican who lives in NJ housing, published in 2006 by the center for urban policy research, the worst case

scenario, and this number was developed for 2-3 bedroom units, worst case scenario would be 2.34 occupants per dwelling for approx 336 residents.

Mr. Gertner asked if there was any talk about what the opening price would be per unit.

Mr. Graviano states no there has not.

Mr. Gertner states is there any estimate in owner occupied facility what the HOA association?

Mr. Graviano states no there has not, quite simply at this stage it's irrelevant to the approval before us tonight.

Mr. Gertner states to your knowledge were there any tax abatements offered for this particular development?

Mr. Graviano states no.

Chairman Neiman opens to the public.

Mr. Fred Schluck 223D Buckingham Ct. was sworn in. He complained about not being able to see all of the exhibits that were being talked about during the discussions. Also, he wanted to know when this application was put in the paper. Mr. Keilt stated it had to be at least within the last ten days. Mr. Jackson stated that he could check with the Township Clerk for the exact date. He states that if you do the math for each unit it comes close to 600 people instead of 300. I've seen places where they've had bunk beds where they can put like 4 children in a bedroom and this could happen. I was on the original Leisure Village, we talked and we came up with a figure and that's good. I question the distance between each unit here?

Mr. Graviano asks the applicants engineer if there is adequate water and fire fighting apparatus?

Mr. Vogt states once again we have done reports in the previous application. These buildings have not changed in height or character and I would stand by that we have adequate water to get to the tops with a fire vehicle based upon previous approvals and that the water demand has not changed. Also, in building design you submit final building designs for building codes and if there's any other apparatus inside the building that's needed to pump up for sprinklers or something like that will be determined at that point but there is adequate water available to do so.

Mr. Graviano states that there is adequate water and this has not changed from the original application.

Mr. Schmuckler states what is the construction of the buildings? What will they be made out of? What will be the height?

Mr. Graviano states that the height and building material are really not relevant to the conversion act criteria. That was all part of an approved application. There's only a limited review that the planning board has and things like the height and some issues you're raising really are not factored into that.

Mr. Schmuckler presses on to ask what the buildings are going to be made out of. Asking if they are fire proof or not.

Mr. Johnson, the President of Somerset Development, the applicant, to answer your question these are stick frame buildings. I'm not here to testify about it. I rest on our track record, we build attractive buildings. They will be stick frame, you can go 4 stories, they will be a wood construction building. We're coming in as something that's already been reviewed by all the agencies and has already been approved. What we're doing is we're changing the use from age restricted to non age restricted. These buildings have to go through safety checks, they went through them already, however they have to comply with all the relevant building codes, which will be done upon summation to Lakewood Township. It goes through a code review for safety. The buildings will have to be sprinklered because they are multi-family buildings. So the size for everything that you're talking about, they have to be sprinklered. At that time the fire safety official will look at it and say do we need to enhance with a fire pump or not? For example, we built the Concord which is a 5 story building and we had to put a fire pump because there wasn't enough water pressure. We have testimony here that there is enough water pressure, but that's not the topic here tonight. What we're doing here tonight, we're not designing here tonight. We did not do this plan, we met with a property behind this. This is a property we bought a few years ago. This is not something we discussed prior. Frankly, had we discussed a 125ft buffer you wouldn't be seeing a 200 ft buffer. So all were doing is taking existing buildings and plans and modifying it a little bit. The buildings you see here have already been approved years ago.

Chairman Neiman asks for anyone else from the public.

Mr. Edwin Edwardson is sworn in. He states that written down as the applicant for this is Somerset Development, what are they going to do? It sounds like they are going to be building a new edifice. And then another time it will say that

they're reconstructing it, so I get a little bit confused. It says that where their location is Rte. 70 and New Hampshire Ave. On Rte. 70 and New Hampshire there are 2 gas stations and 2 jughandles so where are they going to put this building specifically? Because the traffic is bad on Rte. 70 and can't imagine it getting better with a new building.

Mr. McCarthy points out the exact location. Willows at Lakewood Facility Plant?

Mr. Philip Schwartzman is sworn in. He states that he lives in the original Leisure Village and they are an adult community and having an open area even though its 224ft separating our gate to their community is going to be a difficult thing to control children. At the time that Somerset was considering putting in those 50 or so houses back about 6 or 7 years ago, they had come to our village and discussed their plans with the people in our village and we agreed that there was nothing going to be a problem so long as they put a second fence there that would leave a dead buffer so that children wouldn't walk, and they will walk to 224ft if its not restricted. I say that they should build a second fence because we like peace and quiet and we will not be getting that if it's an unrestricted area.

Mr. Johnson said that the issue is they are relying on our fence and our maintenance to maintain that fence, so the whole purpose of the request of the people here to create that additional buffer is, it is a fact, it's an adult community versus a community that's going to have children. That fence, which is my client's fence is going to have to be maintained by them and there are already issues along other buffers where there isn't that second fence where there are holes in the fence and what not. So we believe that it's a reasonable request to ask even through this passive recreation to create an additional buffer to ensure that the cost of maintaining the associations' fence isn't passed on to these people.

Mr. Graviano states that that is part of our tree save area and we cannot remove any trees in that tree save area and of course you can not install a fence without removing some trees and we think the combination of the distance and the existing Leisure Village fence is more than that.

Mr. Schmuckler asks if the applicant can possibly put a fence on your side of the tree save area?

Mr. Graviano states that anything is possible but is it practical, probably not because it is all tree save. We expect people to be able to walk through the tree save area and we wouldn't want to preclude that and put a fence on our tree save space.



Mr. Johnson states that we could agree to a one time contribution to fix up the fence, we would do an estimate and make sure the fence is in good shape, but we would not want to be involved with maintaining their fence.

Mr. Edwardson states he has a question about the entrance and exit of this village. Where is it?

Mr. Kennel points out where the entrance is on the map.

Mrs. Theresa May Lakewood is sworn in she asked about the fence and the affordable housing units.

Mr. Kennel states that he believes the applicant has agreed to voluntarily replace the existing fence across the property line with a solid 6ft fence per code. The additional request from other folks is that we would ask that the board require dispersment of the affordable housing unit. Were going to follow whatever code is required.

Mr. stated there are companies who specifically just do the affordable component, and in that case it would have to be a separate building.

Mr. Vogt states that these buildings are identical in every way so the board will have to take that request into consideration and make this decision when we make our approval.

Chairman Neiman closes to the public. Asks for any other comments from the board.

A motion to approve the application with all of the concerns mentioned including, sidewalks in front of the lower portion buildings, replace the fencing by Leisure Village, fencing around basin and maintaining of the basin by the HOA, disbursement of affordable housing units as per COA requirements. Motion seconded by Mrs. Koutsouris.

Roll Call, Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**2. SD # 1770 (No Variance Requested)**

Applicant: North Lake Realty

Location: Frontage on Lafayette Boulevard, Thorndike Avenue & Cedar Drive

Block 265

Lot 1

Minor Subdivision to create three (3) lots

**Mr. Jackson announces that this application was moved to the 6/28/11 meeting. No further notice is required.**

3. **SD # 1799** (Variance Requested)  
Applicant: Mordechai Englard  
Location: South Street, west of New Hampshire Avenue  
Block 855.06      Lots 30 & 31  
Minor Subdivision & Variance to create 3 lots

### **Project Description**

The applicant seeks minor subdivision approval to subdivide an existing 192.5' X 283' property totaling 54,477 square feet (1.25 acres) in area known as Lots 30 and 31 in Block 855.06 into three (3) new residential lots, designated as proposed Lots 31.01-31.03 on the subdivision plan. The site contains an existing frame dwelling which will remain on proposed Lot 31.01. Proposed Lots 31.02 and 31.03 will become new residential building lots. Public water and sewer is not available. Therefore, private individual septic disposal systems and potable wells will be required. Proposed Lots 31.02 and 31.03 will require lot area and lot width relief. The lots are situated within the R-20 Single Family Residential Zone. ***We have the following comments and recommendations per testimony provided at the 3/29/11 Planning Board Plan Review Meeting and comments from our initial review letter dated March 21, 2011:*** (I) **Zoning** (1) The parcels are located in the R-20 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. **Statements of fact.** (2) Per review of the Subdivision Map and the zone requirements, the following variances are requested: (a) Minimum Lot Area (proposed Lots 31.02 and 31.03, 17,238 SF each, 20,000 SF required) – proposed condition. (b) Minimum Lot Width (proposed Lots 31.02 and 31.03, 89.55 feet each, 100 feet required) – proposed condition. ***The Board shall take action on the proposed variances requested.*** (3) The applicant must address the positive and negative criteria in support of the requested variances. ***At the discretion of the Planning Board, supporting documents will 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.*** (II) **Review Comments** (1) A Legend is required on the plans. ***A Legend has been added to the Improvement Plans, a Legend shall be added to the Minor Subdivision Plan.*** (2) Site improvements are proposed along the frontage of the

project. The proposed improvements include pavement widening, concrete curb, concrete driveway aprons, concrete sidewalk, and shade trees. We recommend that if approved, additional road restoration along the frontage resulting from deteriorated existing paving (if any) be performed as directed by the Township.

**A note shall be added to the Improvement Plan.** (3) Proposed dimensions are required to properly locate the proposed sidewalk within the right-of-way. **Sidewalk shall be five feet (5') wide.**

(4) Per review of the proposed grades for improvements in the right of way, minor grading revisions are necessary. We recommend the applicant's engineer contact our office for further guidance. **Revisions have been made; our office shall be contacted prior to compliance submission for final corrections, should approval be granted.**

(5) Testimony should be provided as to whether basements are proposed for the future dwellings on proposed Lots 31.01 and 31.02. If so, seasonal high water table information will be required. **A soil boring was completed on proposed Lot 31.02 which indicates seasonal high water table is deep enough to permit basements.**

(6) Proposed lot and block numbers must be approved by the tax assessor's office. **The tax assessor's signature is only required on the Minor Subdivision Plan.**

(7) Six (6) shade trees (Green Vase Zelkovas) are proposed for the project. The label on the Minor Subdivision Improvement Plan referencing seven (7) trees must be corrected. Landscaping should be provided to the satisfaction of the Board, and should conform to recommendations (if any) from the Township Shade Tree Commission as practicable. The plans indicate a number of existing trees ten inch (10") diameter or greater within the site, at least some of which will be removed at time of construction. This development, if approved must comply with the Township Tree Ordinance at time of Plot Plan Review for the proposed lots. **The labeling for the proposed number of trees has been corrected.**

(8) Testimony is required on the disposition of storm water from development of proposed Lots 31.02 and 31.03. **The applicant's attorney has already testified that dry wells will be proposed. The dry wells must be constructed in the rear yards since the septic systems are proposed in the front yards.**

(9) Compliance with the Map Filing Law is required. At a minimum, the aggregate side yard setback for proposed Lot 31.01 (35 feet) must be corrected on the final plat. **The aggregate side yard setback for proposed Lot 31.01 has been corrected on the map.**

(10) Construction details will be reviewed in detail during compliance if approval is given. **The applicant's engineer should review the construction details with our office prior to compliance submission, should approval be granted.**

(III) **Regulatory Agency Approvals** Outside agency approvals for this project may include, but are not limited to the following: (a) Township Tree Ordinance (as applicable); (b) Ocean County

Planning Board; (c) Ocean County Soil Conservation District (if necessary); (d) Ocean County Board of Health (well & septic); and (e) All other required outside agency approvals.

Mr. John Doyle, Esq., for the applicant. This application is on South St. which is a one block street that runs from New Hampshire to Albert. We will provide exhibits, A1 reflects each of the lots along South St. There are presently 23 houses, 13 on the north side, 10 on the south side. With this subdivision if it were approved, there would be 12 houses on the South side. You will see numbers in each of the lots and blocks. The 4 digit number represents the square footage. The 6 digit number shows what that property is assessed at by the township tax assessor. One lot is vacant and we have this double lot, exhibit that reflects what the neighborhood would look like. The orange stripes that you see represent lots that you see ...?? All of those have homes on them, with the exception of lot 27 on the north side. We have divided it so that the existing house will have 20,000 sq ft, the additional nearly 36,000 sq ft will have 17 and change. On those 2 lots there is already a house plan were this approval granted that would be a house in excess of 3,000 sq ft, larger than the largest house on this block which would hopefully add to the value of all of the houses and start a thought of even making the neighborhood better.

Chairman Neiman asks if they are asking for side yard setbacks?

Mr. Doyle states each of the homes and the layouts would be such that we would ask for no other variances. It would meet the front, rear, side, coverage. We ask for no waivers other than the width and the sq footage and we will meet all of the requirements in the report.

Mr. Charles Surmonte is sworn in.

Mr. Doyle asks Mr. Surmonte if he is familiar with this application and those are all accurate.

Mr. Surmonte answers yes.

Mr. Doyle states the report was done under your leadership and with your signature. You've reviewed the Remington report of May the 2<sup>nd</sup>.

Mr. Surmonte answers yes, I have.

Mr. Doyle states in fact there is no where report that suggested some changes and those changes have been made.

Mr. Surmonte answers yes.

Mr. Doyle states so that some of the things that were there already were appropriate. There will be curbs and sidewalks and will be the only sidewalks on the street and we will put those in correct?

Mr. Surmonte answers yes.

Mr. Doyle states the various changes in bold in the review comments reflects that revisions have been made. Second soil pouring? Was done. The tax assessor's signature will be added. We will work with the board as to landscaping. Dry wells for drainage will be put in the rear of the houses?

Mr. Surmonte answers yes.

Mr. Doyle states the property has a well modest 2% grade which is appropriate for drainage?

Mr. Surmonte answers yes, from right to left throughout the entire property, it creates at about 2% both left and forward.

Mr. Doyle states from a purely engineering standpoint, there's no issues that you saw either in the field or in the engineers report that we cant resolve?

Mr. Surmonte answers there are none.

Mr. Doyle states there is no nearby public water nor sanitary sewer is there?

Mr. Surmonte answers that's correct.

Mr. Doyle states so this site will be using private wells to what depth?

Mr. Surmonte answers well at least 50ft.

Mr. Doyle asks and septic tanks?

Mr. Surmonte answers yes.

Mr. Doyle states there is in the law and the regulation certain requirements about the distance separation between the proposed as well as the pre-existing wells and septic tanks correct?

Mr. Surmonte answers yes.

Mr. Doyle states and we will meet all of those requirements? You're satisfied that they can be met?

Mr. Surmonte answers yes.

Mr. Doyle states the Ocean County Board of Health is the judge of that. And any approval you understand that would be given by this board, would be subject to the board of health's approval and you would have to show to them and that's a public matter, that those distance requirements are met?

Mr. Surmonte answers yes.

Mr. Doyle asks and without that the subdivision could never be?

Mr. Surmonte answers yes.

Chairman Neiman asks for any questions.

Mr. Brian Flannery is sworn in. NJ license professional engineer and professional planner. He states as Mr. Doyle has indicated, this is a property 54,000 plus sq ft in the R20 zone. The R20 minimum lot area required is 20,000 sq ft and minimum lot width that's required is 100ft. On 2 of the 3 lots were deficient the lot area which we provided is 17,238 on lots 31.02 and 31.03 and lot widths of 89.55 ft on those 2 lots as well. The 3<sup>rd</sup> lot conforms. With respect to the lot widths, as indicated A1 is the tax map showing the information on each of the lots per the tax records. A2 is a copy of the tax map that has the subject property highlighted in yellow with the proposed subdivision lines and the lots with deficient width indicated in orange. And as you can see the entire north side of the street the lots width are consistent with what were proposing. This is a typical C2 variance where we have to show that the benefits outweigh the detriments. The deviation in the area in my opinion has no detrimental impact because it's a lot depth issue that creates the area on the other lots in the area. And it's something that wouldn't even be perceived as you drive by the street, the other lots would have slightly deeper back yards. These lots are all sufficiently deep that they have usable backyards and they made all the requirements light aired and open space. The lot widths are consistent with the majority of lots in the area and therefore that is also in my opinion has no detrimental impact on the surrounding area or the zone plan or zoning ordinance. This is an area that several years ago was zoned A1 and required 2 acre lots. Every applicant had to come in and ask for variances and one by one it was sort of rezoned by variance and in 2007 the township rectified that situation by changing the zone to R20. So in a C2 variance we have to show that the benefits outweigh the detriments and we have to balance the positive and negative criteria. When you look at the positive criteria we would look at the Municipal Land Use Law, NJAC 40-55D2, and we fit squarely under A, encourage municipal action to guide the appropriate use or development of all

lands in the state in a manner which will promote public health safety morals and general welfare. And also under G it says provides sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, industrial uses, open spaces both public and private. According to the respective environmental requirements, in order to meet the needs of all the citizens, the board is very familiar with the need for housing in the area. This is an opportunity to provide housing without any detrimental impact.

Mr. Jackson states Mr. Doyle, you offer Mr. Flannery as an expert in planning and engineering?

Mr. Doyle states that's correct.

Chairman Neiman asks for any questions.

Mr. Banas states we have 2 lots that we are dividing into 3. Why the difference between the number of square feet? I don't believe 17,238 sq ft in an R20 is certainly diminimus.

Mr. Flannery states when you look at how it looks to the public and the impact it has on the surrounding area, in my opinion, there is no impact because you have lots across the street that are 90 ft wide, these lots are 90 ft wide. Nobody really knows that the depth on that is another 50ft deep so they have premium lots, they have backyards that are 50 ft deeper, they can do more things in their backyard. The depth that we provide here certainly provides a beautiful front yard, it provides for a beautiful house, and it provides for a backyard that most people in Lakewood would love to have because a 17,000 sq. ft. lot in Lakewood is like a 5 acre lot in most towns.

Mr. Doyle states if we could have just divided this number by 3 and this was vacant that might have been an approach, but there is an existing house which is large and we wanted to meet the side setback requirement so we would seek no other variances on any of the 3 lots.

Mr. Flannery states that if the existing one wasn't there and we divided them in 3 we would come closer to the 20,000 sq. ft. each.

Mr. Banas states he would have liked that.

Mr. Flannery states well that would involve either knocking down an existing house. It's an impact on the environment, its an impact on other surrounding people because now you have a demolition project going on, its an impact on the landfill. It's more than just the demonatary. When you look at it when it's done,

you have one that's 100 ft, 2 that are virtually 90 ft, consistent with the ones across the street.

Mr. Doyle states that there are only 3 houses that are larger than the existing house, and only 3 houses that are similar. So this is one of the more substantial houses on the street.

Chairman Neiman asks for any other questions from the board. Seeing none, he opens to the public.

Mr. Michael Connor is sworn in. He states to get a variance, a municipal land law required the applicants to show the board certain criteria to be met obviously. The first criteria they are not meeting is the sq footage. We have septic and well there, you need the 20,000 ft, that's why they made it 20,000 so you would have the separation from the well and the septic so you wont contaminate it. You don't have any sewer and water so that means you have a well and a septic, if it gets contaminated you are going to have a problem. You are going to have to bring sewer water down all our streets and it will lower our property value and were going to have problems. And you guys are going to have to take care of it if something happens to our wells.

Chairman Neiman asks if there are other R12 zones that have well and septic?

Mr. Doyle states he can't tell you where septic water is by zone, but if the board is aware, we have consistent approvals on that as well. If ocean county health agrees with this gentleman based upon the setbacks, they're not going to get the permits and then we meet back here. But it's not something that this board is in charge of.

Mr. Connor states right, but in their plan they show 3 septics on the roadside. In my house the well is in the front side. So me and the neighbor walked from my well to his side of the property and its only 60 ft. so we already have a problem them but that's for somebody else to determine.

Mr. Doyle states they are going to have to show is this the end proposed wells as part of their application.

Mr. Connor states but there hasn't been any engineering stuff on my side of the road, they might have done their side but nothing over there to prove that that's not going to affect my well.

Mr. Doyle states that's going to be part of the board of health again, if they feel that there is not an impact in that it meets septic regulations, they'll get approval.



If they do not get approval and the applicant will not be able to build this, then they will be back here.

Mr. Connor states right, to get a variance you have to come in front of the board and you have to prove that you have a hardship. If they had gone to anybody else, another neighbor on the other side, to get the land to make up the 20,000 sq ft that they need. As I know, none of the neighbors that live where I live have been approached on their side about that to get to the minimum 20,000 sq ft.

Mr. Gross states I would accept that as a question of the applicant and the answer is that the statement is not legally correct. You don't need approval if it used to be that way and if you had to do that with an undersized lot, you would do what the gentleman suggests. But about 20 years ago this stature was changed and gave an addition to the C1 variance, which is now a C2 variance, Mr. Flannery testified to that. It doesn't require sq. footage Is it a better zoning rule. Do the benefits outweigh the detriments? As Mr. Flannery said, the building of homes that are larger, more valuable, and improve the neighborhood providing housing opportunities. And those benefits outweigh the negative, so I appreciate the testimony about hardship but we didn't have to prove it.

Mr. Connor states okay, I've lived there for 15 years, we have a lot of nice medium houses. We only have 1 big house on the whole block and all the neighbors have been there for 15-20 years. We don't have a problem to have them build 1 house, they have a nice lot they can build 1 house. But there is no other lots in Old Pine Acres, there not 1 that's under 20,000 sq. ft. Those will be the only 2 in our whole development that will be under the 20,000 sq. ft. We have a nice quiet neighborhood. I don't have a problem with it, if you want to build 1 house, go ahead, I'll be a good neighbor. But there is something about the 2, 2 big mansions where all the houses are all small just seems like they are going to stick out and not going to fit the neighborhood that's there. Thank you very much.

Mr. Lawrence Baxter is sworn in. He states with everything that Mr. Connor just said, and I would just like to add something. When I built my house 26 years ago, we split an acre of land. I don't see why this guy can just come in here and just change the whole demographics of Old Pine Acres, because you are setting a very dangerous precedent. All you need it one. I don't see why this guy is doing it, he is not doing it for any other reason but financial gain. Were a capitalistic society I understand that, that's good, but not to set that precedent. It is going to happen and you will have a problem. All we need is one polluted well, its all the same, and were shot. Let him build 1 house, but he is building 2 houses. Were going to get polluted wells and who is going to bring the water in? Lakewood

can't afford, we can't afford it, nobody can afford anything. I don't see why this guy should set this dangerous precedent, that's just my opinion. I just don't understand why he should be the only one in this entire neighborhood to get this variance.

Chairman Neiman asks Mr. Flannery to give testimony on the lot sizes, not the width, but the 20,000 sq. ft. in that neighborhood.

Mr. Flannery states well there are other ones, so when they say there is none that's wrong. I know there is a recent subdivision that was done at this board, it wasn't done by my office a few months ago, that subdivided that into less than this not on South Street but in that area. I had some of the tax maps, block 1159 . 03 lot 20 is an unusual shaped lot. It is not on this map, on this map they are all 20,000 sq. ft. You have lot 13, which is along Albert Street, and this is typically where the lots are that are less than 20,000 sq. ft, the ones on the end of Albert Street.

Mr. Baxter states the lots are oddly shaped at the end of Albert. Everybody else on these 4 streets all have 20,000 sq. ft or more. He keeps talking about it's the same thing across the street, but instead of 90 ft its 87 ft. okay what is next, 80 ft? 77 ft? I remember when I got my variance there was these guys sitting up there saying that I was setting a dangerous precedent and they were right. 20,000 is fine, but if you start cutting them down you are going to get polluted wells.

Mr. Flannery asks how many vacant lots are on South Street right now.

Mr. McCarthy states just 1 on the end.

Mr. Baxter states years ago it was 2 acres and you could actually have farm animals. Things have changed, but now this is getting ridiculous. This guy has no good reason why he should be able to split that lot, he bought that lot knowing it was undersized, knowing that that house was there and he had a big lot right over there.

Chairman Neiman states forget the well, because I'll be honest with you, I don't really have knowledge in wells and contaminating wells. That's really left up to the Ocean County Board of Health and they will have to come down and evaluate that, and if they feel that you need 100 ft between wells and septic, and there are chances of this well being contaminated then I'm sure they will not allow this. But let's just look at the width for a second. Right across the street, all the lots are basically 90ft. Yes, they are deeper, they do have 20,000 sq. ft, but

they are 90ft wide. When you are driving down South Street, Will you realize that this lot is any smaller than the one across the street.

Mr. Baxter states I doubt if you could see 3ft, but that's not the point I'm trying to make. I'm trying to say that you are setting a dangerous precedent here, and this guy bought it knowing it was undersized. He was coming here asking you to say, "hey listen I want to make a little more money on it and build 2 houses," and then he is saying it's going to enhance the area. That's not his motivation, he wants to make money. So what is he talking about enhancing the neighborhood, that's not what he is doing.

Chairman Neiman states I know this board is very consistent in an R12 zone, never to go less than the 20,000 sq. ft. We want to try to keep the neighborhood as an R12. This really is one of the first that have come in front of the board in an R20 neighborhood and going less than the 20,000 sq. ft.

Mr. Baxter states he is really adamant about this. We want to keep it consistent.

Chairman Neiman states that he understands and would like to hear other statements from the public.

Mr. Abe Gordan is sworn in. He states he lives on the same side as the applicant. As it was pointed out, the other side is all 90ft. Why, I don't see how this would be a detriment to the block. Our houses, although our lots are smaller in length, our homes are actually set back further from the street than they are on the other side. So as far as the look of the street, the length of the lot does not affect that at all.

Chairman Neiman asks if Mr. Gordan built a home or lives in an existing home?

Mr. Gordan states he lives in an existing home. There are also many lots in the neighborhood that are under 20,000 sq. ft. About 2 years ago there was an applicant that came up before the board here to subdivide the lot right next store to my house on Albert Street. From South Street to Oak Street, they were off by very little, but the board requested at that time to see how many homes in the neighborhood were actually less than the 20,000 sq. ft. And based upon the number than came back the board approved that subdivision. If I remember correctly it was about 3 years ago. At that time it had the same argument with the well and septic as this gentleman is making as well, and I was shot down the same way to the Ocean County Board of Health and they approved it that the septic to my well at only 50ft, so if he has 60ft they will probably approve it for him as well. My backyard, even though I'm only 192 long, is plenty big.

Chairman Neiman says thank you.

Mr. Mordechai Eichorn is sworn in. He states in terms of enough yard, enough property...how many properties in Lakewood have 200ft, 190ft, most of them are 100ft. I'm the back door neighbor, I'm the one who the property owner is right behind this whole subdivision so I figured if anyone would be negatively impacted, it would be me, because now that property would be closer back to me, that house would be closer. Now suddenly with a variance he has a house that's closer to my backyard, but I have to be honest, being the fact that I'm familiar with real estate values in Lakewood. And as a matter of fact, I can try to maybe focus on the property owners on the neighbors who had some sort of opposition. At the end of the day there is always change made in every development, and whether or not the property sizes are sometimes a little bigger or smaller, if it doesn't overall impact negatively the perception and the layout of the whole development. The fact that it has a little bit of a smaller backyard and you are building over here beautiful homes, this is an area that now suddenly will have gorgeous homes, and in real estate the way you assess value, you want to be I guess the worst of the best. A neighborhood that has a lot of beautiful homes will always raise the values of the smaller homes surrounding it. You don't want to be always the nicest house in a neighborhood which doesn't have such nice homes, so this overall is going to bring a real positive impact to this whole neighborhood. Its going to raise market values, it's going to be amazing. Assuming all the well and health department issues will be resolved, ultimately the values of your properties are going to go up. I know it's not only about raising values, but its also about quality of life. I don't think in any way the quality of life will be affected negatively. I do think ultimately when the time comes, whether its refinancing or selling your home, you will have a lot more value by the fact that these homes are being built next door to you. Thank you very much.

Mr. Jacob Mermelstein is sworn in. He states that owns 1452 south and 1460 south, being a builder I'm pretty familiar with measurements, I think the only thing that is visible is the front of the house, just comparing one lot to the other. So just driving down the block, being that the one side is all 90ft lots, keeping it to the 90ft would fit right in. I'm more than happy to have these lots divided to keep the value of the property and the look of the block and I ask the board to approve it to my new neighbors. Thank you.

Mr. Naftali Licht is sworn in. he states that he lives on the block and he strongly encourages the subdivision as he likes the idea of having new homes on the block and people moving in, and it becomes a place that people would want to

live. And it doesn't bother us that their backyard is a little smaller than our backyard. So we are very much in favor of the subdivision.

Chairman Neiman asks Mr. Licht if he would be concerned if a well and a septic was being constructed right near your well, would you be concerned of the contamination?

Mr. Licht states that he would hear the concern but probably because I know nothing about wells or septic, I would probably take it up with the Board of Health. And if they said it was fine I would probably leave it at that.

Chairman Neiman says thank you.

Mr. Baxter states we live there because we like the neighborhood. We don't care if our house is worth \$150,000 or \$500,000, we live there because we've lived there for 15-20 years and we like the quiet neighborhood. There's no sidewalks on any of our streets, you're going to build these houses and you're going to put a sidewalk on the other side of the street while there's no others. Is Lakewood going to come down and build sidewalks on both sides?

Chairman Neiman states no, but I think in a few years because now Lakewood has an ordinance that if someone would knock down a house on that block and they would want to put one there, they would have to put a sidewalk in front of the house.

Mr. Baxter states right, but are you going to have a sidewalk here and there? And if we don't leave, you have ten or twelve people who have been living there for years, you're going to have these spots with no sidewalks, its going to look stupid. Its all about reason and money, but we live there because we like it there. And like I said, if he wants to build one house go right ahead but why does he have to build two?

Chairman Neiman states I don't know if it was you or another gentleman but you did subdivide your R40 to an R22 because you wanted to capitalize on the property. I don't want to set a precedence of going down to 15,000 sq. ft or changing the look of a neighborhood, we don't like doing that.

Mr. Baxter states that we understand, we don't have a problem with him building one big beautiful house. But if you come in and build two you are going to disrupt the neighborhood. Thank you.

Chairman Neiman asks if there is anyone else from the public who wishes to be heard.

Mrs. Sarah Ingler is sworn in. She states I am the one who is applying for this. I have no existing home on the lot. Our lot is a very large lot, right now our front yard is nice, were really enjoying it, we moved in a short while ago and we love the neighborhood. Also, not only looking for value of the land to increase but I moved there because I love the nature, the trees, the quiet, that's why I moved there. We have a large existing lot and there is an existing lot next door which is, were subdividing two to make it three, were not saying that we would like to build a house next door, and instead of building one were building two. There is a forest next to my house and I would much rather a nice home with a young family moving in with children for my children to play with. A backyard to share with them, there plenty of space for a swingset, pools if we want. I have plenty of space, I have a 2 story shed in my backyard and I still have plenty of space to move around. I don't think its going to change anything in the neighborhood. This is not very different from the 20,000 sq. ft from the front, its going to look the same. Its only going to enhance it, instead of having overgrown trees and shrubs, it's too much of a property for me to take care of, its just a forest. There will be a beautiful home next door instead.

Chairman Neiman states I hear what you are saying. Anyone else from the public wish to be heard on this application?

Mr. Chain is sworn in. He states he is the builder hired by the applicant to build his house. I just want to point out that I personally went to the Ocean County Board of Health. We did pull the records on which wells and septics could affect the lot. I did go out to the neighborhood that when facing the applicants lot is on the left, physically measured his well to where we propose to put a septic, and there is plenty of clearance of over the 100ft that's required and the 50ft to the septic, also we did clear that 100%. I checked that myself.

Chairman Neiman asks what type of home are you planning to build there?

Mr. Chain states the typical Lakewood new house.

Chairman Neiman asks do you feel, as a builder, that it is going to change the whole look of the neighborhood?

Mr. Chain states in terms of the lot size, you won't be able to tell that difference.

Chairman Neiman states okay thank you.

Mr. Zvi Furst is sworn in. He states that he does have a lot that I live in, the house that I live in does have a 200ft deep lot. It has zero value to me, taking that in consideration, I definitely don't think that it will make the quality of the house

worth any less. Not as deep lots would definitely help the neighborhood, I know the neighborhood and I wish there were more neighbors. Specifically taking into consideration that in the front of the house nothing would be different, I think that would be a very big plus for the neighborhood, forgetting about any financial or money values, just to have another neighbor and another new house.

Chairman Neiman says thank you.

Mr. Shaya Nojobitz is sworn in. He states he really doesn't mind if they do the subdivision.

Chairman Neiman says thank you. Mr. Doyle would you like to sum up the application?

Mr. Doyle states we have heard different opinions but everyone said South Street is something special, particularly the people who want to make it even more special. And I think in that case, the applicant who testified a couple people ago, her thoughts as a resident, is very significant. Because when people throw around this will set a precedent and there's only 1 vacant lot, where's the precedent. And when people say it will change the neighborhood, there will be traffic, and the difference is between whether there are 25 houses and 26 houses, that's diminimus. When people say it will look obvious or be different, you asked a very telling question Mr. Chairman, you asked are you going to meet the side setbacks. Nobody sees the backyards, planning is all about the street scape, the street scape here is not going to change. There will still be more houses on the other side of the street than on our side of the street. Suggestion is made, you knew it was undersized, Wilson versus Mountainside NJ, that's not an issue. They said that somehow it would be wrong, you shouldn't grant a variance, that's your power. What they are asking, those who oppose, is in effect, we want our neighborhood as a club and we can express to you veto it. People can join the neighborhood by buying property the way this owner did. They just want the opportunity to enjoy the quiet that everybody else enjoys. That opportunity on a variance so as not to have 2 27,000 plus sq. ft lots, that would be bigger than just about any lot in the neighborhood, that it would look strange compared to what is being proposed. A better house on a conforming frontage lot meeting coverage and setback requirement where the plus' outweigh the negatives. Where a housing opportunity is provided, where we could have a neighborhood of people from different backgrounds meet a common street that they all want to be a part of. Please give this applicant that opportunity, thank you.

Chairman Neiman states it is tough, this board does like to see consistent neighborhoods. I just think listening to testimony here from all the members of the public, I don't see how this is going to change the face of the neighborhood. I don't see how this is going to set a precedence, and this is me talking for myself, and there is going to be the same amount of homes on this side of South Street as on the other side of South Street. The wells and septic, that is a concern that I have, but again we will let Ocean County Health Department deal with that. So we will entertain a motion and see what the board thinks.

Mr. Follman makes a motion to approve the application, so long as Ocean County Board of Health approves the well and septic situation. Mr. Schmuckler seconds the motion.

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**6. CORRESPONDENCE**

Discussion of Georgian Court Resolution. Mr. Jackson stated that the wording of the resolution should state that the application was denied as a matter of law because the motion to approve was a 4-4 tie vote, applications that do not receive affirmative votes or the majority are deemed failed. A vote is not required. Placing this note on the back of the resolution will suffice.

**7. PUBLIC PORTION**

**8. APPROVAL OF THE MINUTES**

Minutes from May 3, 2011 Planning Board Meeting.

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

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**9. APPROVAL OF BILLS**

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

Roll Call Mr. Franklin, yes, Mrs. Koutsouris, yes, Mr. Banas, yes, Mr. Neiman, yes, Mr. Follman, yes, Mr. Schmuckler, yes.

**10. ADJOURNMENT**



PLANNING BOARD MEETING  
MAY 17, 2011

TOWNSHIP OF LAKEWOOD  
REGULAR MEETING

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Margaret Stazko  
Planning Board Recording Secretary