

**ZONING BOARD OF ADJUSTMENT  
MINUTES**

**NOVEMBER 1, 2010**

Meeting was called to order at 7:30 P.M.

Meeting properly advertised according to the New Jersey State Sunshine Law.

Roll call: Attending: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Absent: Mr. Gonzalez, Mr. Mund, Ms. Goralski

Also present: Attorney – Russ Cherkos

Terry Vogt, Engineer/Planner

Jackie Wahler, Court Stenographer

Fran Siegel, Secretary

Salute to the flag.

Motion to approve minutes of October 4, 2010 with a waiver to read – Mr. Zaks

Second – Mr. Naftali

Roll call vote:affirmative:Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks, Mr. Halberstam

**Appeal # 3743, Lakewood Courtyard**, request to carry to December 13<sup>th</sup> with a waiver of time – Mr. Gelley

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Applicant will re-notice.

Continuation of **Appeal # 3747, Aaron Rottenberg**, from meeting of November 1, 2010

Chairman announced that there were only 5 members and the applicant needs all 5 affirmative votes.

Applicant agreed to continue.

Chairman – this is for use only for triplexes.

Mr. Penzer summed up – there was no additional testimony. This property has a uniqueness. There are a number of uses that are not residential in the area. This is transitional zoning from industrial uses to the residential where the neighbors are. They could construct 44 conforming single family homes. The adjacent property on Gefen Drive had some concerns and there were requests that were met by the applicant. By doing cluster zoning there will be 50 feet of greenery between the buildings. The road will have a 50 foot right-of-way.

Not voting on the amount of units that will be determined at site plan.

Motion to approve use only for the concept of triplexes – Mr. Zaks

Second – Mr. Gelley

Roll call vote:affirmative:Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks, Mr. Halberstam

**Appeal # 3750 – Prospect 1500 LLC**, Prospect Street, Block 490 Lot 43, M-1 zone. To construct townhouses , use variance.

Chairman announced that there were only 5 members and the applicant will need all 5 affirmative votes.

Applicant agreed to continue.

Secretary read reports.

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**From Terry Vogt, Engineer/Planner – September 1, 2010**

The applicant requests a use variance and other relief necessary for the construction of a 24-unit townhouse development within the M-1, Industrial zone on the south side of Prospect Street. Townhouses are not a permitted use in the zone. The project as depicted on the Variance Map was designed in accordance with the bulk requirements stipulated in Section 18-900H, “Townhouse (single-family attached) Development”.

As depicted, new sidewalk and curbing are proposed along the property frontage and around the entire cul-de-sac.

Sam Brown represented applicant. This parcel is approximately 3 acres. This is for the use of townhouses only. There is a smart growth plan and a master plan that calls for townhouses in this area.

Brian Flannery, engineer/planner sworn. The application is for the use.

A-1 aerial exhibit of site

A-2 rendered version of variance map submitted

A-3 tax map

Mr. Flannery described the site. Property located on the south side of Prospect Street which is slated for this type of development. To the west is the Rishon Associates property. There was a court order to adopt the zoning ordinance for the Master Plan. The northern boundary is Prospect Street. The easterly boundary property is adjacent to the Chedar School property. The southerly boundary is adjacent to the Chedar School property and the westerly property line is adjacent to the Rishon Associates property. The Township and the Planning Board adopted the Smart Growth plan. The Smart Growth plan is currently being reviewed by the State. The 27 acres to the east of this property was approved for 163 townhouses. Townhouses is what makes sense on this property. The M-1 zone allows much more intense industrial uses. Reviewed Mr. Vogt’s report. The townhouse use would fit in with the character of the neighborhood.

Mr. Halberstam – if this plan would be approved he recommends that this project blend in with the Lakewood Cheder property. This plan should be intergrated with the adjacent project.

Mr. Brown – this application is not for density or site plan – they are requesting the use only. The applicant has already started discussions with the Cheder. The use needs to be approved so that they can move forward with discussion.

Mr. Zaks – do we want this entire area to be townhouses.

Mr. Lankry – Lakewood Cheders property is very dense – there was special circumstances and that is why we allowed that project. Would prefer single family housing on this site.

Mr. Flannery – single family housing does not fit in this area. This plan is about 8 units per acre and the Cheder is 6 units per acre.

Mr. Halberstam – this piece will enhance the Cheder piece because it can square in the lot.

Open to Public.

William Hobday, sworn. Not in favor of application. Suggested that application carry to try and work something out with the Cheder property.

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Closed to public.

Mr. Flannery - there is a form of the Smart Growth plan on the Township web site adopted November 19, 2009.

Mr. Gelley – improved this would enhance the Cheder property.

Mr. Naftali – suggested that they table and maybe come up with a plan with the Cheder. Than it would fit properly.

Mr. Brown – each application is considered on its own.

Mr. Halberstam - Chedar application was approved because of special reasons. This corner will enhance that piece and make that piece flow so much better.

Motion to approve subject to no unit count, suggestions of the board to try and work the project within the Cheder property, use only – Mr. Gelley

Second – Mr. Zaks

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Zaks, Mr. Halberstam

Abstain: Mr. Lankry

Recess.

Mr. Cherkos made the determination that **Appeal # 3750** has been denied.

**Appeal # 3746 – Aharon Rottenberg**, 40 & 42 Congress Street, Block 248.03 Lots 53, 54 & 55, R-7.5 zone. To subdivide the existing lots into 4 zero lot line lots.

Secretary read reports.

**From: Terry Vogt, Engineer/Planner – September 17, 2010**

The applicant proposed to combine Lots 53, 54 & 55 in Block 248.03, then subdivide the resulting tract into four separate lots, which will have two duplexes built on them as zero lot line development. Duplexes are a permitted use within the R-7.5 zoning so long as the lot size is 10,000 square feet. Zero lot line development requires 50% of the required area for duplex structures in the zoning, resulting in a 5,000 square foot minimum area. The proposed individual lots are less than 5,000 square feet and are not irregularly shaped. A use variance is requested due to insufficient lot size to satisfy the requirements of the zero lot line residential development ordinance.

Abraham Penzer represented applicant. Short approximately 350 square feet per duplex.

Glenn Lines, Engineer, sworn. Subdividing existing 3 lots and asking for 4 zero lot line lots. The 2 main lots are 9,307 square feet and 9,310 square feet. The lot line is at a slight angle. There are townhouses to the rear of the property and at the end of Congress Street there is an apartment complex and directly across the street is the housing authority.

Mr. Zaks had a conflict with this application.

There were only 5 members present and the applicant asked for the application to be carried until the next meeting.

Motion to carry until December 13<sup>th</sup> with a waiver of time and no further notice—  
Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Halberstam

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Chairman announced that **Appeal # 3760** will be taken next since there is an open roof and the winter is approaching.

**Appeal # 3760 – Star Developers, 29-33 North Apple Street, Block 172 Lot 17.01, B-4 zone.** Proposed architectural projections in the side yard containing box windows are believed to be permitted as a similar architectural projection to a bay window, or alternatively, applicant shall seek a special reasons variance for them to remain.

Secretary read reports.

**From: Terry Vogt, Engineer/Planner – October 26, 2010**

Per our review of the application and site inspection of the property, the applicant requires relief for 2 sets of over 16 feet wide, two-story high cantilevered walls, two on each side of the two family dwelling building that is currently under construction. The site is located on the west side of North Apple Street several hundred feet north of the intersection of North Apple Street and East Kennedy Boulevard. Per the application, the applicant is seeking consideration of these walls as “projections” as defined in the UDO, similar to bay or box windows.

Two-family residences are a permitted use in the zone. The project as depicted on the Plot Plan was designed in accordance with the bulk requirements for two-family dwellings as stipulated in the ordinance for the B-4 zone.

Chairman announced that there were only 5 members only.

Raymond Shea represented applicant. They are asking for an interpretation.

Brian Flannery, sworn.

Board accepted his credentials.

A-1 plot plan that was submitted.

Mr. Flannery – the plot plan shows the duplex unit and it has dotted lines showing the projections on both sides of the building.

A-2 copy of the stamped plans by the Lakewood Inspection Department of the architectural plans

Mr. Flannery – applicant submitted the plot plan along with the architectural plans. The engineer, surveyor and architect felt that it was in accordance with the ordinance. Section 18-818, projections in the side yards. The applicant feels that these projections are similar architectural projections.

Mr. Shea - The plans were approved by the construction department.

A-3 photos – similar architectural projections in the area were submitted to the Board.

Larry Shreiber, architect, affirmed.  
Board accepted credentials.

Mr. Shreiber testified that in his opinion the projections are conforming with the ordinance.

Mr. Zaks – you cannot have living space in an architectural projection. This projection has closet space.

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Mr. Shea – the question is if this is a “similar architectural projection”.

Chairman – this projection is part of the floor space of the room.

Mr. Flannery – the point is if this is an “architectural projection”. Bay windows and chimneys are clearly permitted in the side yard at a maximum of 30 inches.

Open To Public

Denise Weinreb, 11 Whispering Pine Lane, affirmed. Their entire property is by the wall of this house. The protrusion is the 16 x 35 two floor areas of living space. This is in conflict with the zoning laws – this is not a window, a chimney or a cornice – this is living space.

Zalman Weinreb, 11 Whispering Pines Lane, affirmed. Live in a townhouse development. Read the definition of a projection from the dictionary. This is not the same as a bay window, this is a monstrosity. His children are affected by this projection. Willing to talk to the applicant about some sort of solution.

Bill Hobday, 30 Schoolhouse Lane, sworn. This is an extension of interior floor space. This is not a bay window or a chimney. He is extending the inside living space.

Closed to Public.

Mr. Shea – There is an approval by the Planning Board and by the Construction department. This was shown on the plans and was built.

Chairman – his opinion is that this does not fit under the definition of a cornice, bay window, gutters, etc. This looks like an extension of the house which is cantilevered into the side yard setback.

Motion that this is not a projection and that it is an extension of living space – Mr. Zaks  
Second – Mr. Naftali  
Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks,

Mr. Halberstam

Chairman - This is a bulk variance in a side yard setback. He suggested that the applicant meet with the objector to try and work something out.

Sam Brown, Attorney for **Appeal # 3754 – Simon Kaufman** requested to carry until December 13, 2010.

Motion to carry to December 13<sup>th</sup> with no further notice and a waiver of time – Mr. Gelley

Second – Mr. Naftali

Roll call vote: Mr. Gelley , Mr. Lankry, Mr. Naftali, Mr. Halberstam

Mr. Shea asked for the next application to be taken for time to speak to the objectors.

Chairman announced that **Appeal # 3760** is on hold and they will proceed with the next application.

**Appeal # 3744 - Congregation Nachlas Yisroel, Inc.** Block 855.01 Lot 23

Preliminary/ Final Major Site Plan with Use and Bulk Variances

**Secretary read reports.**

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**From Terry Vogt, Engineer/Planner – October 21, 2010**

The applicant is requesting Preliminary and Final Major Site Plan approval to construct a private school, dormitory and four townhouse units on the referenced property. The four townhouse units are proposed for faculty housing for the school. Private schools are a permitted use per the Unified Development ordinance Section 18-906. An existing single-family home is currently on the site and proposed to be removed. Townhouses are not a permitted use for the R-20 zoning and the applicant has requested a use variance.

Chairman announced that there were only 5 members present and this was a use variance and all 5 votes have to be affirmative.

Abe Penzer, attorney for applicant, agreed to continue.

William Stevens, Professional engineer and planner, sworn.  
Board accepted credentials

Mr. Stevens – the dormitory and the yeshiva is a permitted use.

Mr. Penzer – one of the issues is where they are getting sewer and water – it was suggested to connect with the EMS site which is right behind them. The other nearest place for sewer they would have to go under New Hampshire Ave, which is very costly.

A-1 letter from Todd Day, Engineer

Letter was read by Mr. Penzer.

Mr. Penzer – Lakewood MUA said that whatever the Township wants.

Mr. Halberstam – applicant will run their sewer lateral through the EMS property?

Mr. Penzer – yes – and they will hook into us and they won't have the headaches of the pumping station.

Mr. Stevens - there is now a pump station that is located on the EMS building which pumps along Pine Street, crosses New Hampshire Avenue and ties into the existing sanitary sewer in Oberlin near the existing county recycling center. The proposal is that the Yeshiva will own the pump station and be responsible for it. The proposal is to construct two buildings on the site one is the yeshiva and the other a dormitory. The two buildings are connected by a breezeway. The applicant is here to permit 4 townhouse units which are located behind the school building. They will be limited to faculty use only. Faculty members will live on site and will be in charge of maintenance and the school. The accessory use of townhouses is a benefit to the school building which is an inherently beneficial use. The applicant is seeking a waiver from the buffer ordinance. They are required to have a 20 foot buffer between residential. They will provide landscaping and 6 foot fencing. There is fresh water wetlands on the property – they have not received DEP approval yet.

Mr. Halberstam - The rear of the property will be landlocked.

Mr. Stevens - The applicant is proposing to have a bus drop off in front of the building. The 6 foot fence will be blocking the lighting glare to the neighbors. They will be using lantern type fixtures approximately 12 feet in height. The lighting will not effect the neighbors. The sign will be mounted on the front of the building with the Yeshiva name. There will be approximately 80 high school and post high school students.

Mr. Zaks asked about a gym or a basketball court or indoor activities.

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Mr. Penzer – they are trying to find a place to put in a basketball court.

Ms. Weinstein asked to carry **Appeal # 3751.**

Motion to carry to December 13<sup>th</sup> with a waiver of time and no further Zaks

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks,  
Mr. Halberstam

Back to **Appeal # 376 0 Star Developers**

Mr. Shea – they have not reached an agreement and would like to continue. They are asking for the architectural structures to remain.

Mr. Flannery – based on the interpretation they now require a setback variance for the north side and the south side of the building 7 feet is required and they are asking for 5 ½ feet. On the southside it is adjoining the applicants property and there is no impact. On the northside of the building the neighbors are impacted. The applicant has agreed to put up an 8 foot fence from the front setback to the rear of the building, also willing to do landscaping.

Mr. Shea – asking for relief on both sides of the property.

Mr. Flannery – on the south side the property is owned by the applicant.

David Herzog, affirmed. The side yard setback on the property next door is 7 and ¾ feet. This unit will not have any projection.

Open to Public.

Yaakov Ort, 1 Whispering Pine Lane, affirmed. He tried to mediate between the two parties.

Zalman Weinreb, affirmed. They could live with removal of the first floor cantilever, 8 foot vinyl fence, 10 foot arborvitaes, a bay window in the middle but no more projections, bay windows, etc. Also the drainage has to go out to the front.

Denise Weinreb, affirmed. Those extra feet make it more intrusive. This board is here to enforce the law. There has to be consequences for actions. Would prefer the trees to be on their property and uproot the existing trees and put in new ones.

William Hobday, 30 Schoolhouse Lane, sworn. This board should take credence to the homeowner that is being intruded upon. They should be given everything that they want because that is their investment.

Rachel Herzog, affirmed. This house is being built on what was vacant land and the homeowners are used to not having anything there. They already have buyers. They really need the first floor. They got the approvals and built as approved.

Mr. Halberstam – somebody is not going to be happy. His recommendation would be to have an official mediator.

Mr. Shea – the house has to get closed up. They bought the land, hired an architect, got a planning board approval and got a building permit. The client is swilling to put in an 8 foot fence and vegetation why would they need to take down the first floor that they won't see.

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Mr. Naftali – they would be willing to do everything except remove the first floor.

Mr. Lankry – a choice of total removal or trees, fence, drainage, etc.

Mr. Weinreb – remove first floor.

Motion to remove the first floor of the northerly side of the house, the southerly side can remain as long as the property next door does not have any cantilevers, solid 8 foot white vinyl fence across the entire property, planting 10 foot green arborvitaes with an option for the homeowners to have the trees on their side of the fence, our engineer approving the drainage system, and if a bay window is going to be put in it will be subject to review by our engineer – Mr. Zaks

Second - Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks,  
Mr. Halberstam

**Appeal # 3744**, Congregation Nachlas Yisroel, will continue on December 13<sup>th</sup>.

Motion to carry to December 13<sup>th</sup> – no further notice and a waiver of time – Mr. Gelley

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks  
Mr. Halberstam

Motion to carry **Appeal # 3748, Eli Schwab**, to December 13<sup>th</sup> with no further notice and a waiver of time – Mr. Naftali

Second – Mr. Lankry

Roll call vote: affirmative: Mr. Gelley, Mr. Lankry, Mr. Naftali, Mr. Zaks  
Mr. Halberstam

### **Resolutions**

**Appeal # 3741 – Aaron Mansour**, 112 E. 5<sup>th</sup> Street, Block 240 Lot 7, B-2 zone.

Resolution to deny the construction of a duplex on an undersized lot.

Motion to approve – Mr. Zaks

Second – Mr. Naftali

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

**Appeal # 3736A – Lakewood Cheder School** – 569 Cross Street, Block 490 Lot 10, M-1 zone. Resolution to approve site plan, major subdivision.

Motion to approve – Mr. Lankry

Second – Mr. Zaks

Roll call vote: affirmative: Mr. Lankry, Mr. Zaks, Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 11:30 P.M