

**ZONING BOARD OF ADJUSTMENT
MINUTES**

DECEMBER 20, 2010

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

Roll call: Attending: Mr. Gelley, Mr. Gonzalez, Mr. Lankry, Mr. Naftali, Mr. Mund,
Mr. Halberstam

Absent: Mr. Zaks, 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 November 1, 2010 with a waiver to read – Mr. Naftali
Second – Mr. Gelley

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

Letter from John Doyle, Attorney for **Appeal # 3757** for a request to carry the
application until January 10, 2011 with a waiver of time and no further notice.

Motion – Mr. Mund

Second – Mr. Naftali

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

Appeal # 3744 - Congregation Nachlas Yisroel, Inc. Block 855.01 Lot 23, R-20 zone
Preliminary/ Final Major Site Plan with Use and Bulk Variances

Secretary read report.

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.

Abraham Penzer represented applicant. Rabbi Ungarisher wants the teachers and faculty to be on the premises to supervise the students.

William Stevens, sworn. This application is for a new yeshiva and dormitory and as an ancillary use 4 townhouses for faculty housing. The yeshiva and the dormitory need no variance and are permitted in the zone.

Mr. Penzer – the townhouses cannot be subdivided and they cannot be sold.

Mr. Stevens – there will be approximately 100 students in the school and the dormitory will house approximately 60 students. The school and the dormitory is an inherently beneficial use. The faculty housing is an accessory use and therefore becomes inherently beneficial. They are required to have a 20 foot wide buffer on the north and the south on the property. They are proposing 16 feet on one side and 7.3 feet on the southern side. The property has an environmentally portion. There is a freshwater wetlands corridor. They will construct solid fencing and extensive landscaping to screen the dormitory and school building. The name of the school will be on the school building itself. There will be a drop off lane for buses. This is a High School and Beth Medrash. They expect a

maximum of 2 buses coming in and out of the school. Refuse enclosure is in the front right corner of the school building. Will review the trash collection system with public Works. There are driveways for the townhouses. They are proposing to design a pump station on their site that would pump to the EMS Pump station, retrofit and upgrade the EMS pump station grade that will pump across New Hampshire Avenue to the sewer that

ZONING BOARD OF ADJUSTMENT
MINUTES

DECEMBER 20, 2010
PAGE 2.

is located on the opposite side of that. They are still working on the details. The applicant will solve a sanitary sewer problem for the existing EMS building.

Mr. Halberstam- it will be large enough for the school and the EMS building?

Mr. Williams – they are still working out the details. The neighbors will be able to hook up to the water lines.

Mr. Penzer - They have applied to DEP but have not received approval yet.

Mr. Lankry - No recreation – basketball, etc.

Mr. Williams – are trying to put some type of recreation onto the site. The townhouses will have basements.

Mr. Penzer – whether it be upstairs or in the basement they will be faculty. They cannot be sold.

Mr. Naftali – in favor of this application.

Open to Public. Closed to Public.

Motion to approve with the townhouses being restricted to faculty and family members only, will not be for sale, with an attempt to have adequate recreational facilities to be approved by our engineer – Mr. Gonzalez

Second – Mr. Naftali

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

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.

Mr. Penzer , represent applicant 350 square feet.

Glenn Lines, Engineer, sworn.
Board accepted qualifications.

Mr. Lines – proposing a 4 lot minor subdivision for 2 duplexes. 350 square feet short on each lot. Meet all other setbacks. Providing 4 parking spaces for each unit.

Mr. Penzer – they will sprinkler the front yards, and provide some landscaping.

Aaron Rottenberg, affirmed. They will do each front at least 1/3 up brick or stone.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**DECEMBER 20, 2010
PAGE 3.**

Open to Public – Closed to Public.

Motion to approve with the condition that 1/3 up of the building be either brick or stone –
Mr. Lankry

Second – Mr. Mund

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

Chairman announced that Mr. Lankry has to recuse himself from **Appeal # 3743** application and there will only be 5 members and he needs 5 affirmative votes.

Abraham Penzer, represented **Appeal # 3743 – David Seebag – Lakewood Courtyard** asked to be carried until the January 10th meeting and agreed to waive the time. There is an objector represented by Ed Liston and he will agree to renote since there is a question about deficiencies in the notice. He does not think that his notice is deficient but he will re-notice.

Motion to carry until January 10th with a waiver a time and will re-notice – Mr. Mund

Second – Mr. Gelley

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

Applicant agreed to a waiver of time and voluntarily will re-notice.

Appeal # 3751 – Irving Perlstein, 30 West Spruce Street, Block 423.01 Lot 11, R-10 zone. Subdivision for a duplex with zero lot line with areas of 5,925 square feet where 6,000 would be required.

Secretary read reports.

From: Terry Vogt, Engineer/Planner – October 1, 2010

The applicant seeks a use (density) variance and a zero lot line subdivision approval in accordance with Section 18-911 of the UDO to subdivide an existing rectangular 11,850 square foot property known as Lot 11 in Block 423.01 into two (2) new residential lots, designated lots 11.01 and 11.02 on the subdivision plan. A two-story residential duplex building and paved off street parking areas (and aprons) serving each dwelling unit are proposed. The property fronts the south side of West Spruce Street, in between River Avenue (Route 9) and Shelley Lane. The subdivision plan depicts West Spruce Street as having a 50' wide right of way (including a 32 foot wide paved cartway), and curbing. Sidewalk is proposed along the property frontage. The property is situated in a predominantly residential area and directly across the street from the Kimball Medical Center.

Miriam Weinstein, attorney for applicant – Proposing to demolish the existing building and construct a duplex. The property is 11,850 square feet where 12,000 is required for construction of a duplex. Asking for zero lot lines.

Brian Flannery, sworn.

Chairman – short 150 square feet.

Mr. Lankry – no problem with the application.

Open to Public.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**DECEMBER 20, 2010
PAGE 4.**

Carl Jensen, 36 W. Spruce Street, sworn. Adjacent to subject property. Asked that this not be a rental property and the property be owner occupied. There have been problems with noise and traffic, etc. next door. House will only be 12 and ½ feet from his property line. Asked for a 6 foot white vinyl fence.

Mr. Cherkos – cannot require that the property will not be rented.

Mr. Vogt – have no issues, there will be fencing for the adjacent lot for a buffer.

Closed to Public.

Motion to approve with an elevation approval by Mr. Vogt and plantings in the front and a 6 foot white vinyl fence – Mr. Gelley

Second – Mr. Mund

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

Appeal # 3748 - Eli Schwab, Oak Street, Block 1158 Lot 3, R-40 Zone – Use variance to construct a 2 story office building.

Secretary read reports.

From Terry Vogt, October 5, 2010

The applicant requests a use variance for construction of a 2-story office building with the R-40 (Single-family) zone on Oak Street. Commercial uses are not permitted in the zone. The project as depicted on the Variance Map was designed in accordance with the bulk requirements stipulated in the Ordinance for the R-40 zone.

Abe Penzer, represented applicant. This property is surrounded on 3 sides by the water company which has an 8 foot fence with barbed wire around it. Mr. Krupnick had an approval for a single family house but was not able to market it. This is a hardship situated because this property does not lend itself to residential.

Brian Flannery, sworn.

Mr. Flannery – asking for use only will come back for site plan. Described the area, with schools across the street - an office use makes more sense than residential.

Mr. Gonzalez – don't think that an office building belongs in that area, other than the schools it is all residential.

Mr. Flannery – this property is surrounded by NJ American Water with the fence and the barbed wire. An office would look more in place with that facility.

Mr. Penzer – an isolated residential single family home on this lot would not be marketable.

Mr. Flannery – there are 2 affordable housing projects proposed in this area.

Mr. Lankry – being that this is basically surrounded by NJ American Water he would be in favor of the application.

Open to Public. Closed to Public.

Motion to approve use only – Mr. Naftali

Second – Mr. Mund

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

Mr. Mund, Mr. Halberstam

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**DECEMBER 20, 2010
PAGE 5.**

Recess.

Appeal # 3754 – Simon Kaufman, Park & Ridge Avenue, Block 238 Lots 29 & 30, B-2 zone. To construct a 6 unit multi-family building.

Secretary read reports.

From: Terry Vogt, Engineer/Planner – October 18, 2010

The applicant is seeking preliminary and final site plan approval. This site plan proposes construction of a 4-story multi-family residential building of six (6) units. The property is 11,700 square feet in area and has double frontage on Park Avenue & Ridge Avenue. The tract consists of 2 existing lots, lots 29 & 30. Existing lot 29 contains an existing dwelling which will be removed and existing lot 30 is vacant.

The applicant proposes to construct 6 multi-family residential units on the site. All units are within 1 building structure and they all contain 4 bedrooms. Two of the units are proposed on the ground floor of the building. Four of the units are proposed on multiple levels of the above floors.

Sam Brown represented applicant. This project has no basements. This allow for 2 units on the ground floor and then 2 story units above. There is a density issue of less than 1%.

Nicholas Graviano, Planner, sworn.

Glen Lines, Engineer, sworn.

Mr. Graviano – this zone permits 22 units per acre – the applicant would be permitted 5.9 units per acre and is proposing 6 units per acre. This application was submitted to the planning board but .091 density was thrown back to zoning board.

Mr. Cherkos – its really 1 unit too many 5 would be permitted and they are proposing 6.

Mr. Brown – there is no underground anything this will remain 6 units.

Mr. Graviano – the ground level will have 2- 4 bedroom units and will be accessed at grade and will be ADA compliant. It is a 3 ½ story building at 37 feet high. The additional 4 units begin on the second floor and are also 4 bedrooms and 2 ½ stories.

A-1 rendering of outside

A-2 rendering of 4 different elevations

A-3 floor plans

A-4 site plan

Mr. Graviano described the area. The proposal meets all the RSIS parking standards for the site. The parcel is located on Ridge & Park Avenue in the B-2 district. The neighborhood consists of higher density multi family residential, commercial uses and institutional uses. Proposing a multi family structure. This site is particularly suited for the proposal. The parcel is within walking to shopping, cultural, library, etc. Meets goals and objectives of the Master Plan. Conforming they could construct a commercial building of approximately 54,000 square feet at 65 foot high. This is a uniquely shaped lot with 2 frontages. The applicant attempted to purchase the adjacent lot from the Township but was denied. The proposed building footprint is 4,000 square feet. Required is 12 parking spaces and they are proposing 13.

Mr. Lines reviewed Mr. Vogts report.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**DECEMBER 20, 2010
PAGE 6.**

Mr. Lines – the trash enclosure is on the northerly side of the site. Will provide sprinklers on the property and the bottom half of the building will be brick. Everything that isn't pavement will be landscaping, shrubs and grass. The landscaping is not on the architectural plan.

Mr. Graviano - The building covers 4,000 square feet of the site and the rest of the site about 40% is lawn area. The units are stacked so they will have to be condominium and there will be an association. They are proposing high quality vinyl siding. There will be brick along the base of the building and there is ornamentation around the windows and doors. Agreed to the entire first level of the building in brick. The Lakewood Community center is within walking distance where there is a playground and basketball court.

Mr. Brown – if the board wants they will center the building.

Mr. Vogt – he likes the building not centered. There are 13 parking spaces proposed, 2 of the spaces are stacked, will they be assigned spaces?

Mr. Graviano – there will be assigned parking.

Mr. Halberstam asked the board how they feel about centering the building.

Open to Public.

Chaim Zimmerman, 463 Park Avenue, affirmed. President of the Ashrenu Estates which is the neighboring complex, lot 28. There are about 100 people in the complex. The neighborhood is very populated. The traffic there is horrendous. To open the driveways on Ridge Avenue and Park Avenue is very dangerous. There is no room for this project on this site. Children walk to the old shul and it will not be safe. This will make an over

populated neighborhood more over populated. There is now a building there now with at least 5 rentals. Will there be any decks on these units.

Mr. Graviano - Each upper unit has balconies.

Mr. Zimmerman – concerned about the garbage cans. The children cannot cross the street to the community center.

David Kalatsky, 449 Park Avenue, affirmed. There are also buses that drop kids off at Park Avenue & Ridge and have to walk after the car place and it is not safe now. There are too many cars coming in and out and this is a safety issue.

Jacob Bleir, 7 Windsor Court, affirmed. Live around the corner from this project. In favor of the application. The applicant should address the safety concerns.

Closed to Public.

Mr. Brown - the application does not propose individual garbage cans. It is better and safer to have trash enclosure.

Mr. Graviano – the enclosure is large enough to either hold individual bins or a dumpster.

Mr. Lines - They are proposing a dumpster. They will get the approval of Public Works.

Mr. Halberstam agreed that a dumpster would work better.

Mr. Brown – there are 6 units – 13 parking spaces - more than ample.

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**DECEMBER 20, 2010
PAGE 7.**

Mr. Naftali – I do see a safety issue – would like to see restructure for some sort of recreation and safety for Park & Ridge Avenue.

The board discussed site plan issues.

Chairman suggested that there be a tot lot on the site.

Mr. Lankry – recreation, grass, etc. should be shown on the plan. There are serious safety issues of backing out onto Ridge Avenue.

Chairman – he has no problem with cars backing out onto Ridge Avenue. Suggested that they re-do the site plan with our concerns and come back.

Mr. Brown – They could provide 2 more spaces on Ridge Avenue and eliminate 3 on Park Avenue

Mr. Chairman suggested that the application be bifurcated and they come back with a revised site plan.

Motion to approve use only of 6 units and will return on January 10th for site plan – Mr. Gelley

Second – Mr. Mund

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

Mr. Brown – there will be no further notice and the site plan will be a continuation.

Appeal # 3756 – Dennis Iannaccone/Robert Shanik, 400 Madison Avenue, Block 70
Lot 7.03 R-OP zone. Use variance to allow a pharmacy use to the site.

Secretary read reports.

From: Terry Vogt, Engineer/Planner – October 19, 2010

The applicant requests a use variance and other relief necessary for a change or addition of a pharmacy use to the site. A pharmacy is not a permitted use in the zone.

The existing property is situated in the northeast corner of the intersection of Fourth Street and Madison Avenue. It is 1.03 acres in size. Both street frontages are paved.

Abe Penzer represented applicant. Dr. Shanik's office has 59 parking spaces and he only needs 51. The building was 4 different condominium units. He wants to do a pharmacy in the building. It is a use variance. There are no bulk or any other variances needed. There will be no changes outside everything is internal. This is where the dentists office used to be. If the building disappears the variance disappears.

Mr. Vogt – this is pre-existing non-conforming

Open to Public. Closed to Public.

Motion to approve – Mr. Mund

Second – Mr. Gelley

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

**ZONING BOARD OF ADJUSTMENT
MINUTES**

**DECEMBER 20, 2010
PAGE 8.**

Motion to carry **Appeal # 3755 MTR Ventures** with a waiver of time and no further notice – Mr. Mund

Second - Mr. Gonzalez

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

Resolutions

Appeal # 3747 – Aharon Rottenberg, Burnside & Creston Avenues, Block 190.04, 190.05, 99, 200, 201 & 202 Lots Various, R-15 zone. Resolution to approve a use variance to construct townhouses where they are not permitted.

Motion to approve – Mr. Gelley

Second – Mr. Naftali

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

Appeal # 3750 – Prospect 1500 LLC, Prospect Street, Block 490 Lot 43, M-1 zone. Resolution to deny a use variance for the construction of townhouses.

Motion to approve – Mr. Lankry

Second – Mr. Gelley

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

Appeal # 3760 – Star Developers, 29-33 North Apple Street, Block 172 Lot 17.01, B-4 zone. Resolution to determine that a variance was needed for the projections. Variance was granted for the southerly side. Northerly side had to remove the entire first floor cantilever with conditions.

Motion to approve – Mr. Gelley

Second – Mr. Lankry

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

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 11:00 P.M.