

1. CERTIFICATION OF COMPLIANCE

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

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

4. MEMORIALIZATION OF RESOLUTIONS

1. SD 2090 Rela Alstadter Trust

Brook Road & Ridge Avenue Block 190.04, Lots 8, 10, 35, & 44
Minor Subdivision to create four lots

A motion was made by Mr. Flancbaum, seconded by Mr. _____ to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Flancbaum

2. SD 1728A 126 Forest Developers, LLC

Ocean Avenue & Bergen Avenue Block 189.05, Lots 138-142 & 144-146
Amended Preliminary & Final Major Subdivision to create 26 residential units on 29 lots

A motion was made by Mr. Flancbaum, seconded by Mr. _____ to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Flancbaum

3. SP 2134 3G Corporation

East County Line Road Block 172.01, Lot 1
Preliminary and Final Major Site Plan for a building addition

A motion was made by Mr. Herzl, seconded by Mr. _____ to approve the resolution.
Affirmative: Mr. Herzl, Mr. Neiman, Mr. Flancbaum

4. SD 2091 Fire House Holdings LLC

Clover Street & Bergen Ave Block 245, Lots 8 & 10
Minor Subdivision to create six fee-simple duplex lots

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Follman, Mr. Flancbaum

- 5. **SD 2071 Esther Weiser**
South Street Block 855.05, Lot 29
Minor Subdivision to create two lots

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Follman, Mr. Flancbaum

- 6. **SD 2075 Gefen Construction**
East Seventh Street Block 223, Lot 3
Minor Subdivision to create two lots

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Follman, Mr. Flancbaum

- 7. **SD 2078 Nathan Lowinger**
Park Terrace Block 208, Lot 152
Minor Subdivision to create two lots

A motion was made by Mr. Franklin, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Follman, Mr. Flancbaum

- 8. **SD 2079 Joseph Gutterman**
St. Nicholas Ave Block 278, Lot 2
Minor Subdivision to create two lots

A motion was made by Mr. Herzl, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Follman, Mr. Flancbaum

- 9. **SP 2148AA Avrohom Bromberg**
Forest Drive and Miller Road Block 12.01, Lot 5
Change of Use/Site Plan Exemption to convert an existing house into a school

A motion was made by Mr. Herzl, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Follman, Mr. Flancbaum

- 10. **SP 2048A 945 Airport, LLC**
Airport Road Block 1160.01, Lot 222
Amended Minor Site Plan for a warehouse with parking lot and storage changes

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Follman, Mr. Flancbaum

5. PLAN REVIEW ITEMS

1. **SD 2098 Destiny Homes, LLC**
Hope Chapel Road Block 26, Lots 8 & 8.01
Concept Plan review for a minor subdivision to create three lots

A review letter prepared by Remington, Vernick & Vena Engineers dated November 9, 2015 was entered as an exhibit.

Mrs. Miriam Weinstein, Esq.

Mr. Joe Kociuba, P.E., P.P. said this is in the R-12 zone. They are proposing to subdivide the property into three conforming lots. The proposed access will be via a hammerhead roadway through an easement which will extend back to the rear property. The hammerhead will be located between the rear and front property. The proposed rear lot is 19,000 sf and would contain the majority of the roadway. The remainder lots would be 12,000 sf lots.

Mr. Rennert asked if these are flag lots.

Mr. Kociuba said yes, these are existing flag lots. They feel it would be a better plan to provide a proper road to all three lots.

Mrs. Weinstein said it would be a private roadway. The roadway will be part of the lot area.

Mr. Neiman asked if the 12,000 sf includes the roadway.

Mrs. Weinstein said no. The road is all part of the back lot which is 19,000 sf.

Mr. Neiman asked if the back lot is 12,000 sf if you exclude the roadway.

Mr. Kociuba said it is a little over 11,000 sf.

Mr. Neiman said then the back two lots do not have frontage to a public road.

Mrs. Weinstein said that is correct.

Mr. Flancbaum asked who is going to maintain the road.

Mrs. Weinstein said there will have to be an HOA formed who would have to agree to insure and maintain the road.

Mr. Flancbaum asked if the road is RSIS compliant.

Mr. Kociuba said it is compliant with the rural street standard which is permitted for this low number of units.

Mr. Neiman asked if they have an alternative plan.

Mr. Kociuba said the other option would be to make this a true flag lot. They would extend the driveway back and eliminate the road.

Mrs. Miriam said that has already been approved.

Mr. Neiman said then there would be two lots as opposed to three.

Mr. Herzl asked how wide the road is.

Mr. Kociuba said pavement is 24 ft and the right-of-way is 40 ft. The 24 ft road under RSIS permits parallel parking on one side.

Mrs. Weinstein said they would provide sidewalk on one side where the houses are. She said the other side is already developed so there is no potential for there to ever be houses on that side.

Mr. Kociuba said that is correct. It is only a 73 ft wide property with an existing home.

The Board feels the existing layout is better than this proposed layout.

6. PUBLIC HEARING

1. SP 1838C NJ Hand

Towers Street & Vine Avenue Blocks 807-809, 815, 815.01, 818, 819, 831
Preliminary and Final Major Site Plan for Phases 4 & 5 of the Lakewood Commons for 122 affordable units

A review letter prepared by Remington, Vernick & Vena Engineers dated November 5, 2015 was entered as an exhibit.

Mr. Vogt said he does not believe the applicant is requesting variances. He said there needs to be discussion concerning the parking.

Mr. Abraham Penzer, Esq. said the application before the board tonight is they are continuing phases four and five with 122 units. Currently there are 190 existing units. No variances are being requested and they can agree to all of the comments in the engineer's review letter.

Mr. Neiman asked how many more phases there will be.

Mr. Penzer said probably one or two.

Mr. Neiman said there was talk of another opening onto Bellinger Street or one of the other streets back there.

Mr. Penzer said Funston Avenue. If the board wants them to do that, they would.

Mr. Franklin said that should be opened up now with the amount of existing homes.

Mr. Neiman agrees.

Mr. Banas suggested an additional street be opened.

Mr. Neiman said they do have access off of Spruce and Vine. That has sufficed for the existing houses but now that the applicant is coming in for additional units, another access should be opened.

Mr. Penzer said that is not a problem.

Mr. Neiman said when they come back for additional phases, perhaps look to see if an additional access is possible.

Mr. Penzer agrees. The only issue is that at the tech meeting, there was one member of the board that suggested that they should take away parking on Coles Way. The residents have approached them and have asked that that parking remain. It is not a variance situation, it is just something that was taken away and no one is parking there.

Mr. Neiman believes it was taken away because of the street width.

Mr. Herzl said Coles Way bends onto Washington and over there the parking is dangerous. It is safer further up.

Mr. Franklin said Washington Avenue is a very narrow road.

Mr. Penzer said there was never any parking by Washington, it was all the way up but it is at the discretion of the board.

Mr. Franklin asked how wide Coles Way is.

Mr. Ralph Petrella, P.E. was sworn in. The road is 30 ft wide.

Mr. Neiman said they are asking for parking on one side of Coles, not both sides.

Mr. Penzer said that is correct.

Mr. Franklin said they would be stretching it, but they probably could get away with having parking on one side of Coles Way. He asked how many parking spaces per unit.

Mr. Penzer said two, which is why they need the additional on-street parking.

Mr. Penzer said there are no basements.

Mr. Petrella said, under phases 4 and 5, are already designed to come out onto Funston. So they will be improving the rest of Coles Way, Towers and Funston to Bellinger.

Mr. Neiman would like to approve this without the parking on Coles Way, for now. When construction is done, see how the traffic is and come back to the board then if need be.

Mr. Herzl asked how wide Funston is.

Mr. Petrella said 24 ft wide.

Mr. Franklin said that won't work. It is going to be a heavily trafficked street. It must be 32 ft.

Mr. Scott Kennel, P.E. was sworn in. A traffic report was submitted dated August 12, 2015. The traffic study is based on providing a third means of access to the development. Creating the additional access provides relief for the other two access points, most specifically for Spruce and Washington.

Mr. Petrella said only a small portion of Funston has not been improved. The rest of Funston has been improved at 30 ft. It looks like there could be room along their frontage where they could get the additional 2 ft but the road would have a jog.

Mr. Flancbaum asked if it has been improved with curb, sidewalk, etc.

Mr. Petrella said down towards Oak Street but Bellinger to Towers is not.

Mr. Franklin said they should be able to get 32 ft from Towers all the way out.

Mr. Penzer said they do not have control over that.

Mr. Neiman said he is speaking about their frontage.

Mr. Penzer agreed that the applicant will provide a 32 ft wide road along their frontage.

Mr. Neiman said, in the future, if the applicant ever wants parking on Funston it would be must easier to grant that.

Mr. Neiman asked about garbage pickup.

Mr. Penzer said it is consistent with the prior approvals. Everything works and there has been no problem with that.

Mr. Neiman asked about the addition to the community building.

Mr. Penzer said they are going to make it sizeable.

Mr. Neiman opened to the public.

Mr. Rennert was sworn in. He lives in Lakewood Commons. He appreciates the applicant opening up Funston to Oak. It will definitely help traffic. The neighborhood is in favor of allowing parking on one side of the street. The reason is there is an existing parking lot in between the building. Sometimes kids are playing in the lot and it gets a little dangerous.

Mr. Neiman closed to the public.

Mr. Herzl asked about parking on Coles Way where it curves.

Mr. Vogt asked if there is any issue with regards to site distance and site triangles.

Mr. Patrella said no.

Mr. Vogt said based on his opinion of the design, he has no issue if there is parking along the curve.

Mr. Petrella said they do not.

Mr. Vogt said they can look at it again during resolution compliance.

Mr. Banas said there should be a comment in the resolution dealing with additional access points.

Mr. Neiman said the applicant would investigate an additional access point for phases 6 and 7.

A motion was made by Mr. Herzl, seconded by Mr. Franklin to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman

A motion was made by Mr. Herzl, seconded by Mr. Franklin to approve the resolution.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman

2. SD 2063 Eli Schwab

Joe Parker Road Block 189.16, Lot 157

Minor Subdivision to create three lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 21, 2015 was entered as an exhibit.

Mr. Vogt said that variances are requested for minimum lot area, lot width and a design waiver for non-radial lot lines.

Mr. Brian Flannery, P.E., P.P. was sworn in. The application is for the creation of three lots from one. All of the lots would be in excess of 12,000 sf prior to dedication along Joe Parker Road. This property is in the R-20 zone. The plan as submitted was marked as exhibit A-1 and A-2 is a tax map of the area showing another development in the R-20 zone. This is on the fringe of Raintree and as the board is aware, the residents of Raintree are very vocal and are not afraid to come and express their concerns. This really is not in the R-20 area and not in Raintree. It is along Joe Parker Road and if you look at all the development along Joe Parker, this was an area that years ago had some problems including crime. The Zoning Board has approved substantial development along that corridor so that it would be redeveloped in an area where it is a safer, nicer neighborhood. Right up the street is a subdivision with 11,000 sf lots, a few schools, preserved farmland, horizons and the Woodlake golf course. This particular area has not been redeveloped because similar to other major collector roads, it is not attractive for single family homes on large lots. Along County Line Road, people would go to the board and ask for offices and retail and all those uses progressed. Here it is different types of residential being approved. It is his testimony that this application fits in with the other development along the road and it makes sense.

Mr. Neiman opened to the public.

Mr. Mike McLaughlin, 11 Eldorado Drive, was sworn in. He asked how many lots there will be.

Mr. Flannery said it is currently one lot and they are proposing three lots total.

Mr. Neiman closed to the public.

Mr. Franklin said the lots are not 12,000 sf.

Mr. Flannery said prior to dedication they are.

A motion was made by Mr. Franklin, seconded by Mr. Herzl to approve the application.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman

- 3. SD 2067 Mark Moskovitz**
Central Avenue & Bradshaw Road Block 83, Lot 7
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated August 31, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum lot area and lot width. There was an issue relative to a right-of-way dedication that was required by the County along Central Avenue. That should be part of the application as well.

Mr. Graham MacFarlane, P.E., P.P. was sworn in. This is an application to create two lots. The lot sizes are 7,600 sf and 7,400 sf whereas 12,000 sf is required. A minimum lot width of 76 ft and 74 ft are requested whereas 90 ft is required. The application will provide parking in accordance with the ordinance as well as some other upgrades that they believe would be better than existing conditions. They would agree to comply with all of the comments in the engineer's review letter as well as comments from the Shade Tree Commission. The application will provide a sewer extension to bring sewer service to both of the homes.

Mr. Brian Flannery, P.E., P.P. was sworn in. The minor subdivision plan was marked as exhibit A-1 and a tax map was marked as A-2. The tax map shows surrounding lots within 200 ft. More than half of those lots are non-conforming.

Mr. Neiman asked if there are homes on these lots.

Mr. Flannery said most of them do.

Mr. Follman asked what the lot sizes are.

Mr. Flannery said a lot of the lots are 7,500 sf. This application will be consistent with the development in the area. It is his opinion that the Board can grant these variances without any detriment to the zone plan and zoning ordinance and the benefits outweigh and detriments.

Mr. Neiman opened to the public, seeing no one come forward, he closed to the public.

A motion was made by Mr. Flancbaum, seconded by Mr. Banas to approve the application.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman

4. SP 2112 Monlu LLC – Stuart Lubowsky
Princeton Avenue Block 162, Lots 2 & 4
Preliminary and Final Major Site Plan for a building addition

A review letter prepared by Remington, Vernick & Vena Engineers dated September 3, 2015 was entered as an exhibit.

Mr. Herzl stepped down.

Mr. Vogt said the plans have been revised since the tech meeting. Variances are requested for minimum lot width, front yard setback, parking and a sign.

Mr. Penzer said they took a couple of the suggestions from the board. They have reduced the size of the building to a third of the size that it was before. There is still one neighbor that is objecting but they have spent a tremendous amount of time discussing any issues with the neighbors. Access will be from Princeton Avenue only and the exit will be on Mary's lane. The FoodEx will be making a left and they have also agreed to put up some trees along the building.

Mr. Neiman asked about Mary's Lane.

Mr. Brian Flannery, P.E., P.P. was sworn in. He said that is the railroad right-of-way that has been there a long time and has been used as a roadway. He does not believe that will change any time soon.

Mr. Vogt said they are not aware of any plans as far as Mary Lane's goes. They cannot guarantee that though. If for some reason they lose that access they would have to come back before the board.

Mr. Flannery said the applicant agrees with that. This application proposes a 2,800 sf addition. The existing parking lot has 16 parking spaces. An additional 28 spaces are being provided. A 2,800 sf addition requires 14 spaces and they are providing twice as much as required. The addition is consisting of first floor retail and second floor storage. The applicant met with the neighbors who expressed their concerns about traffic on Princeton Avenue. The current parking lot has ingress and egress on Princeton, this plan proposes a one way entrance on Princeton. The second parking lot which also currently exits and enters on Princeton would be revised so it would be exit only on Mary's Lane. It is his testimony that a parking variance is not needed because they are adding an addition that requires 14 parking spaces and are providing 28. The variance they are asking for is with respect to the sign on the building. The area that is proposed exceeds the ordinance.

Mr. Neiman asked if the sign lights up.

Mr. Flannery said yes.

Mr. Neiman asked if they can turn the sign off at a certain time so it doesn't bother the neighbors.

Mr. Flannery said yes.

Mr. Neiman said it looks like the dumpster was moved from the back to the front. He asked why.

Mr. Flannery said that is where the dumpster is supposed to be when it was approved originally.

Mr. Neiman asked if it is easier to pick up in the front. He would think they wouldn't want a dumpster right on Princeton Avenue.

Mr. Flannery said that is why they don't keep it in the front currently. The applicant certainly is good with leaving the dumpster in its current location.

Mr. Neiman thinks it should remain in the back as it is now.

Mr. Flannery agrees and would change the plan to reflect that.

Mr. Neiman asked where the trucks would make deliveries.

Mr. Flannery said it would be on Mary's Lane. No deliveries would be on Princeton Avenue. The lot width is an existing situation and it is the lot width along 4th Street which is measured at the setback line. There is a half foot setback to Mary's Lane which is existing and not being exacerbated. The setback to Princeton Avenue is the same setback as the existing building so that is not being exacerbated either. They can satisfy the rest of the comments in the review letter.

Mr. Neiman opened to the public.

Ms. Chaya Sommerstein, 408 Princeton Avenue, was sworn in. She complained about traffic along 4th Street and Princeton Avenue. She said there is an empty lot next to FoodEx where about 30 cars park. Mr. Lebowski is planning on building on that lot so in essence they are not adding parking.

Mr. Neiman said Mr. Lebowski is allowed to build. He believes this plan is nice and much better than it was. They addressed many of the issues that previously came up.

Mrs. Sommerstein asked that if Mary's Lane ever gets taken away that no deliveries will be on Princeton Avenue.

Mr. Neiman said they have addressed that. If Mary's Lane gets taken away then the applicant would have to come back before the board.

Mrs. Sommerstein asked how late the store will stay open.

Mr. Flannery said the store is open Thursdays to 12 am and every other day until 11 am.

Mr. Follman does not think this would increase the traffic in any way. There are some big supermarkets in the area and he is only trying to compete and keep his clientele.

Mr. Neiman closed to the public.

Mr. Flannery said that with respect to the one way on Princeton Avenue, they would do some sort of channelization to make it clear so drivers don't ignore that.

Mr. Neiman reopened to the public.

Ms. Esther Krisnef was sworn in. She said she is happy to see this store expand as it is always clean and a pleasure to shop. She said there is currently a no left turn sign on Princeton Avenue and it is a joke. No one follows it and people make lefts all the time. Signs are not enough.

Mr. Neiman said there will be some type of curb to help prevent that.

Mr. Flannery said they would channelize with concrete curbing.

Ms. Sommerstein asked if the second floor will be used for storage only.

Mr. Flannery said yes.

Ms. Sommerstein asked if the dumpster will remain where it is.

Mr. Flannery said yes.

Ms. Sommerstein asked about the loading and unloading.

Mr. Flannery said it would only be on Mary's Lane.

Mr. Neiman closed to the public.

Mr. Neiman said the light on the sign would go off when the store closes.

A motion was made by Mr. Follman, seconded by Mr. Franklin to approve the application.

Affirmative: Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman

- 5. SP 2060B Toms River Torah Center**
Seminole Drive Block 2, Lot 38
Preliminary and Final Major Site Plan for an addition to the existing school

A review letter prepared by Remington, Vernick & Vena Engineers dated October 22, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for front and rear yard setback. Relief is sought for the perimeter landscape buffer and a partial design waiver with respect to providing interior curb for the parking lots and curb along the entire property frontage. An additional design waiver is necessary parking is shown abutting property lines.

Mrs. Weinstein, Esq. stated that this application is for an addition to an existing school. There are people here opposed to this application as well as one neighbor being represented by an attorney. To be clear, all the applicant is asking for is to construct an addition to an already existing school. There are rumors out there concerning a planned educational campus and the like. This is not an application for a planned educational campus.

Mr. Neiman would like to get that one the record now. This school is not and will never be coming in for a planned educational campus.

Mrs. Weinstein said she is not the applicant but she will say that she will not be representing the applicant if they do in fact come back for a planned educational campus.

Mr. Neiman said they will deed restrict this property.

Mr. Jackson asked if the applicant would agree to that.

Mrs. Weinstein said the applicant is not present.

Mr. Neiman said that is what the board wants. They can carry this application or the applicant can agree to it now. He was told by the applicant that they never want to do a campus.

Mrs. Weinstein said a deed restriction is very hard to remove once it is applied.

Mr. Neiman said Seminole is one of the few remaining beautiful, serene areas in Lakewood. The residents do not care about the addition to the school. They do not want this to look like a townhouse development.

Mrs. Weinstein said this is for a simple addition. It is not a campus.

Mr. Neiman said they are not listening to this application unless the applicant agrees to deed restrict the property.

Mr. Gasiorowski said he has an issue with this because they are not going to have a hearing on the merits of the application. Mrs. Weinstein is going to go to court and then come back again to have a hearing on the merits of the application.

Mrs. Weinstein said they would like to carry this application to December 15, 2015.

A motion was made and seconded to carry to the December 15, 2015 meeting.

All were in favor.

- 6. SD 2069 Sam Rabinowitz**
Locust Street Block 1081, Lot 4
Preliminary and Final Major Subdivision to create fifty-seven lots

Applicant is requesting to carry this project to a future meeting date.

A motion was made and seconded to carry this application to the December 15, 2015 meeting.
All were in favor.

- 7. SP 2138 Flea Market Developers, LLC**
Route 70 Block 1077, Lot 22 & 23
Preliminary & Final Major Site Plan & Subdivision for a mixed use development

Applicant is requesting to carry this project to a future meeting date.

A motion was made and seconded to carry this application to the December 15, 2015 meeting.
All were in favor.

Mr. Neiman said if this application gets pushed off again then the applicant must renounce as it has been carried several times.

- 8. SD 2083 Benjamin Weber**
Ridge Avenue Block 189.03, Lot 171.01
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated November 9, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are being requested for minimum lot area and lot width. A design waiver is required for the proposed subdivision line not being perpendicular to the right-of-way.

Mr. Brian Flannery, P.E., P.P. was sworn in. They came to the tech meeting and said this was a very simple application and thought it could be approved in one meeting but there was an objecting neighbor. A tax map showing the surround area was entered as exhibit A-1 and a colored version of the plan shown in greater detail as A-2. The applicant did meet with some of the adjoining neighbors and has agreed to plant a row of evergreens along the back property line so it would buffer those houses. To the northeast of the project, is the Joe Parker subdivision with a minimum lot size of 11,000 sf. The average lot is less than 12,000 sf. There are 15 lots less than 12,000 sf. There are seven lots between 12,000 and 13,000 sf so clearly this application is consistent with a majority of the lots in the neighborhood. Again, this is in the R-20 zone but it is not really developed as R-20. The same map used for SD 2063 would apply to this area. The proposed lot sizes are 11,733 and 11,951 sf which both are greater than the average lot size in the adjoining development which is 11,586 sf. A lot width variance of 75.55 whereas 100 sf is required which is consistent with other lots in the area. The design waiver for the lot lines not being perpendicular to the right-of-way is being requested. The other comments in the review letter

are minor in nature and would be addressed. He said this is consistent with the Master Plan as it calls for R-12 lots in this area. It is his opinion that the Board can grant these variances without any detriment to the zone plan and zoning ordinance and the benefits outweigh and detriments.

Mr. Neiman opened to the public, seeing no one come forward, he closed to the public.

A motion was made by Mr. Herzl, seconded by Mr. Follman to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert

9. SD 2086 One Olive Court, LLC
Olive Court Block 251 Lot 1.11
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated September 24, 2015 was entered as an exhibit.

Mr. Vogt said variances are requested for minimum lot area, lot width, front yard, rear, side and combined side yard setbacks. A design waiver is required for a proposed lot line that would not be perpendicular to Olive court.

Mr. Brian Flannery, P.E., P.P. was sworn in. A minimum lot area variance of 33,882 and 25,310 sf whereas 40,000 sf is required, which is consistent with a subdivision that was done down the street, other lots in the area and consistent with the Master Plan, minimum front yard setback of 30 ft whereas 50 ft is required is consistent with this type of development and the Master Plan, minimum rear yard of 20 ft whereas 30 ft is required is consistent with the Master Plan, side yard setbacks of 10 ft whereas 15 ft is required. The 10 ft setback would be on the center so it would only be the new lots that would get a 10 ft setback and the exterior would get 15 ft. This area was recommended for R-12 zoning in the Master Plan. It is his opinion that the Board can grant these variances without any detriment to the zone plan and zoning ordinance and the benefits outweigh and detriments.

Mr. Neiman opened to the public.

Mr. Ron Gasiorowski, Esq. is representing Mr. Lefkowitz and his wife who owns property adjacent to the subject property. He asked when this lot was originally subdivided.

Mr. Flannery said about six years ago.

Mr. Gasiorowski said it was a recent approval that was approved by this board and the property was and still is zoned R-40. He stated that the contract purchaser or owner should have been well aware that this property was zoned R-40 so there really is no hardship here as he/she knew what they were buying.

Mr. Flannery said he did not testify that there is a hardship. He testified that it is a C-2 variance.

Mr. Gasiorowski said the applicant could build a single family home on this property variance free. Instead of doing that, he is coming before this board seeking eight variances. It is deficient with regard not only to the square footage of the lots but more importantly it is deficient with regard to the lot width. That impacts the ability to conform to the side yard setbacks.

Mr. Flannery said the Master Plan did recommend changing the lot width requirement for the R-40 to 100 ft in which case he would comply.

Mr. Gasiorowski said the Master Plan is only a recommendation, has never been adopted and the property has not been rezoned.

Mr. Flannery said that is correct.

Mr. Andrew Thomas, P.P. was sworn in.

Mr. Gasiorowski said this is basically an application to take a conforming lot and create two non-conforming lots. These lots would be so diametrically different from the existing zoning that in order to construct them, the applicant must seek from this board eight separate variances.

Mr. Thomas said yes, significant variances. The lots would be deficient in area by 15,000 and 6,000 sf, setback, side and rear yard setback variances would be required. The lots as you can see on the tax map would not be in conformance with the surrounding neighborhood. One of the goals of the Master Plan is to protect the existing residential neighborhood and this does not do that. This would also discourage deviations from established land use patterns.

Mr. Gasiorowski said this property was re-zoned sometime last year but was subsequently overturned in court due to a notice deficiency. If the governing body was so determined that this property should be rezoned, they could have done that but so far they have chosen not to. It would be more appropriate to see what the governing body does rather than seek all of these variances.

Mr. Adam Pfeffer, Esq. asked if he believes that this application is consistent with the current Master Plan.

Mr. Thomas said no. It does not meet a few objectives in the 1999 Master Plan including discourage deviations from established land use patterns that would permit incompatible or conflicting uses especially this where the parcel property is being subdivided into two non-conforming lots.

Mr. Pfeffer said there was an amendment in 2014.

Mr. Thomas believes it is still not consistent with the zoning.

Mr. Gasiorowski said there was testimony that this existing R-40 zone in its entirety was rezoned to an R-12 zone pursuant to an ordinance that was passed by the governing body. That ordinance change was thrown out because the public was not given proper notice. If this matter were to come back before the governing body with a new ordinance, notice would have to be given to each and every one to those property owners who are residing in that R-40 zone as well anyone residing within 200 ft.

Mr. Thomas said that is correct unless they go through a Master Plan amendment and re-examination report.

Mr. Gasiorowski said the Township has not done that. He said that would be a more democratic way of rezoning property giving notice to all the people within this R-40 zone, not just people within 200 ft of the subject property.

Ms. Miriam Benedict, Olive court, was sworn in. She said these are one acre lots and she would like to keep it that way. This would affect their quality of life and would like to keep all the lots consistent with the R-40 zone.

Mr. Neiman closed to the public.

Mr. Pfeffer said there are several houses on this block that are on lots less than 40,000 sf.

Mr. Flannery said lots 16.02 through 16.05 are roughly 16,000 sf lots and were approved by this board.

Mr. Rennert said he would like to see how the Township addresses this whole area before they start piece mealing all over the place. He would also like to see the infrastructure to go into this if the zoning does get reduced. They should also look at the side yard setbacks on those four undersized lots that were already approved.

Mr. Flannery said the applicant would eliminate the request for a 10 ft side yard setback so they will request 15 ft on both sides.

A motion was made by Mr. Banas, seconded by Mr. Franklin to deny the application.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Rennert

10. SD 2087 George Topas
Central Avenue Block 85 Lot 5
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated November 9, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum lot area, lot width, side yard and combined side yard setbacks.

Mr. Brian Flannery, P.E., P.P. was sworn in. The application is for a minor subdivision to create two lots with areas of 8,296 sf and 8,929 sf. This is across the street from the application that was heard earlier with the 7,500 sf lots. The subdivision map as submitted was entered as exhibit A-1 and a tax map showing surrounding lots in the area as A-2. He indicated that the blue lots are all smaller in area than what is proposed.

Mr. Neiman asked if there are homes on all of those lots.

Mr. Flannery said yes. The applicant is asking for lot areas variance of 8,296 sf and 9,929 sf whereas 12,000 sf is required, minimum lot width of 55.42 ft and 50.06 whereas 90 ft is required. It is his opinion that the Board can grant these variances without any detriment to the zone plan and zoning ordinance and the benefits outweigh and detriments. There is a comment in the review letter indicating that the project is within 300 ft of a riparian buffer and NJDEP notification is required. Since this is just a minor subdivision, nothing is being proposed to be built and DEP notification is not required and would request that it not be indicated that way. All of the other comments in the review letter can be satisfied.

Mr. Neiman asked where the frontage is.

Mr. Flannery said Caranetta.

Mr. Neiman would think it would be better if the frontage was on Central.

Mr. Ruel Topas said it does have frontage on Central but access is on Caranetta. Central Avenue gets very backed up and you can't back out of your driveway. Caranetta is a much better option.

Mr. Flancbaum asked if they are all older homes.

Mr. Flannery said yes. The subject house on this property is old as well and in need of redevelopment.

Mr. Flancbaum said all the houses on the undersized lots are all older houses that were probably built 40 or 50 years ago.

Mr. Topas said the houses are much older than that.

Mr. Banas asked about lots with similar variances in the area.

Mr. Flannery said three on Central Avenue from the corner and three on the corner from Freeman and two to the east of the subject property.

Mr. Neiman opened to the public, seeing no one come forward, he closed to the public.

Mr. Banas said they just finished denying an application previously because they were asking for a lot of variances. This is a similar application. He believes they should consider this and make it easier for Lakewood. They are squeezing in too much. They are changing the ordinance by variance and it's wrong.

Mr. Flannery said the MLUL provides for a C-2 variance.

Mr. Herzl said there are a bunch of undersized lots in the area.

Mr. Flancbaum said there are old houses on them.

A motion was made by Mr. Banas, seconded by Mr. Follman to deny the application.

Affirmative: Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert

No: Mr. Herzl

11. SP 2113A Yeshiva Shaar Hatalmud

Edgecomb Avenue Blocks 1009; 1019; 1022; 1023, Lots 1.04 & 1.06; 2.01; 3; 1
Amended Preliminary & Final Major Site Plan for a school with duplexes

A review letter prepared by Remington, Vernick & Vena Engineers dated November 12, 2015 was entered as an exhibit.

Mr. Vogt said he does not believe the applicant is seeking any waivers. There are a few design waivers requested. The applicant shall provide testimony concerning the perimeter buffer.

Mrs. Miriam Weinstein, Esq. said when they came before this board several months ago, the application was for both a school and duplexes in order to house faculty on this lot. At the time, the board elected to approve the school building only as the board had concerns about the infrastructure as the roads were not yet built. Since that time, other developers have received approvals to construct homes in the area and it's clear that the roads and appropriate infrastructure will be installed in accordance with the CAFRA permit that was issued. They are back here tonight for approval for seven duplex buildings as the school has already been approved. The duplex units will not be sold and would be used for the faculty members to live. The school currently has a 9th, 10th and 11th grade registration. Registration is open for next year for a new 9th grade which would mean that by the time this building is built, they would have a full-fledged four year high school. This school is an exceeding popular school as the board can see much of the parent body is here tonight. There is currently a Kollel that has four married men and is looking to expand. The basements would be used for the Kollel. There is currently a Bais Medrash for college age boys for three years post high school. Each high school class has two teachers. There is one teacher in the morning and one in the afternoon. The board had raised concerns as to the number of units needed. At the technical meeting there was a question raised concerning subdividing the lots. They have no problem subdividing the lots but they do have an issue when the lots can't be sold. This is a property that was acquired from the Township and it is deed restricted to be used for educational purposes only. The land can also not be sold for a period of 15 years from the date they received title which she believes was the end of January 2015.

Mr. Glenn Lines, P.E., P.P. was sworn in. A design waiver is requested from improving Argyle Avenue. At the very northeasterly edge of the property, the school owns the corner lot which is not proposed to be developed at this time so they have no reason to improve that portion of Argyle. The other part of Argyle is on the plans for the Tashbar school to improve. They are proposing to improve to 32 ft with curb and sidewalk on their side of the street and when Tashbar gets to that phase of their project, they would construct their side of the street. That is already on their plans to do all of Argyle Avenue. Another design waiver requested is to not improve the frontages of their site along Wadsworth Avenue and Pinehurst Avenue. There are no facilities fronting those streets and they are not accessing those streets. Under the recently approved Oak Street corridor improvement district, someone will probably improve these streets at some point in time.

Mr. Vogt said these roads do not need to be improved to keep this project functional.

Mr. Lines said that is correct. There was another comment concerning access on Vine Avenue. Again, Wadsworth from Argyle out to Vine will be improved by someone else. The buffering issue will be worked out with the engineer. They may have to move the school over 5 ft in order to get that buffer waiver.

Mr. Vogt asked if they are willing to provide buffering.

Mr. Lines said he does not feel it is necessary as that side of the building butts up to another school. They are also requesting a waiver from providing screening for the HVAC equipment on the roof of the building. It is not a requirement in the ordinance, it is just a recommendation.

Mr. Rennert asked if it is ok for students and faculty to live here as the project is deed restricted for educational purposes only.

Mr. Jackson said he is not going to hazard what the municipal restriction would be as that would be the municipality's problem. Their argument is that an educational facility requires faculty. If the board finds that to be a reasonable proposition, if it is credible and fits in with this type of school. It is really not the Planning Board's role to determine deed restriction. That is outside of the board's jurisdiction.

Mr. Rennert asked if they should be comfortable approving houses on a deed restricted property for educational purposes.

Mr. Jackson said it is up to the board to decide. Their argument is that this is compatible with the needs of the educational facility. He asked how many students there are.

Mrs. Weinstein said there are currently 90 students in 3 classes. In another year there will be at least 120 students. There are currently 12 faculty members.

Mr. Jackson asked if the faculty members will be living full time at the school.

Mrs. Weinstein said yes.

Mr. Herzl said the school can sell this property after 15 years.

Mrs. Weinstein said yes but to another educational facility only.

Mr. Flancbaum asked if the school will own the duplexes.

Mrs. Weinstein said yes.

Mr. Rennert said he was told by the Township that they are willing to lift the deed restriction but some consideration would have to be paid. Perhaps there is some happy medium they can work out with the Township committee to put this property back on the tax rolls when it's sold and not everybody else gets hurt in town.

Mrs. Weinstein said they would be happy to do that but that is beyond the jurisdiction of this board. This is a fully conforming application. They can certainly try to do that but there is no guarantee.

Mr. Jackson said he does not think it's the board's role to preside over the deed restriction but it is the role of the board to preside over whether this is conforming or not. Part of it being conforming is that this is faculty housing, it's all part of the school. In that way, it is the board's business.

Mr. Rennert asked how many duplex units are being proposed.

Mr. Weinstein said 28 total living units.

Mr. Rennert said the town wanted to deed restrict this property in order to put a school here. He knows there are other schools in town looking for land. Perhaps another school could fit on this property.

Mrs. Weinstein said they can't sell the land.

Mr. Neiman said the land in this area was auctioned off for schools because there is a need for schools in this town. Perhaps the extra land should be given back to the town so another school could go here.

Mr. Jackson asked what the maximum number of students will be.

Mrs. Weinstein said about 300 students.

Mr. Jackson said the students don't live here.

Mrs. Weinstein said the high school students do not, the Bais Medrash students will.

Mr. Jackson asked how many schools there are where you have 300 students who are day students where you have 28 families live on campus to support that student body.

Mr. Lines said right across Argyle Avenue there are 116 units going in with Tashbar.

Mrs. Rennert asked if they are willing to take minimal consideration to get these lots.

Mrs. Weinstein said yes.

Mr. Rennert would like to hold off this application and speak to the Township.

Mr. Neiman said there are four other applications near here that are going to come up with similar plans and he thinks it is not fair to taxpayers to have homes which are tax free. If this is granted, there will be other schools coming in. They should sit down with the Township and work something out where they could pay the town X amount of dollars to subdivide the lots.

Mrs. Weinstein said it really is not the purview of this board.

Mr. Flancbaum said the board does not feel comfortable granting an approval for residential houses on a property that was sold specifically for schools when there is no way for them to guarantee that only faculty is going to live in those houses.

Mr. Jackson asked if they have any more proofs.

Mrs. Weinstein said the faculty members are all present. They are willing to be sworn and tell the board that they are going to be living in these houses.

Mr. Jackson said that would be duplication of testimony. The board understands that.

Mrs. Weinstein said the applicant is willing to give their best effort to work with the Township to get these lots back on the tax rolls.

Mr. Rennert asked if they would like approval subject to that or to go and work it out with the Township first and then come back.

Mrs. Morris said if the board is trying to approve the lots so they could potentially be sold, the applicant would need a subdivision which isn't included in the design plans or notice. They are only here for a site plan.

Mr. Rennert would definitely want these lots subdivided.

Mrs. Weinstein doesn't see why the land can't be subdivided. Subdividing the land won't violate the deed restriction.

Mr. Neiman would like clarification from the township attorney. If the township has no problem with this, then the board doesn't have a problem.

Mrs. Morris said the only communication she has had with the township is a township official asking what the difference between this plan and the previous plan the board wouldn't approve which is the applicant is back asking for more duplexes.

Mr. Banas said perhaps they should table this application to give the applicant time to approach the Township.

Mrs. Weinstein said they will request this application be carried to the December 15, 2015 meeting.

Mr. Neiman said it is a beautiful application but he just wants to make sure they are following the ordinance. He would like confirmation from the Township that the school can have tax free housing here for faculty members.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to carry this application to the December 15, 2015 meeting.

All were in favor.

- 12. SD 2088 Moshe Shvarzblat**
Gudz Road Block 11.04, Lots 10, 11, 12, & 23
Preliminary and Final Major Subdivision to create seven lots

A review letter prepared by Remington, Vernick & Vena Engineers dated November 12, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum lot width and aggregate side yard setback. Clarification is need for parking. It appears that only two off-street parking spaces are proposed for each lot. Unless the number of proposed bedrooms for the project is restricted to three per dwelling, a parking variance will be required.

Mr. Stuart Challoner, P.E. was sworn in. The applicant will be demolishing four homes facing Gudz Road and would construct a new public roadway that would be compliant with Township standards. Seven new homes are bring proposed that will have access on the new street. Sewer and water would be brought to the new homes. This is in the R-12 zone and all the lots will be over 12,000 sf. A minimum lot width variance is requested for two of the lots.

Mr. Franklin would like to make the road 32 ft as opposed to 30 ft.

Mr. Challoner agrees.

Mr. Pfeffer said there will be four parking spaces per units.

Mr. Challoner said there will be a two car garage plus the driveway for each unit.

Mr. Neiman asked about sidewalks.

Mr. Pfeffer said they have no problem constructing the 32 ft wide road but if possible they would like the grass area closest to the street will be shortened to allow the 32 ft roadway.

Mr. Neiman opened to the public, seeing no one come forward, he closed to the public.

A motion was made by Mr. Follman, seconded by Mr. Flancbaum to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Banas, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert

13. SP 2145 & SD 2089 Somerset New Hampshire, LLC
Route 70 & New Hampshire Avenue Block 1248, Lot 2
Preliminary and Final Major Site Plan and Major Subdivision for a mixed use site

A review letter prepared by Remington, Vernick & Vena Engineers dated November 19, 2015 was entered as an exhibit.

Mr. Sean Gertner, Esq. on behalf of Leisure Village Association stated the Board Chairman as well as several objectors are here. The Board may recall when this matter came up for tech review, there were some discussions and the applicant did have a meeting with Leisure Village. Their issue is that their engineer only received the revised plans on Friday and submitting objections to the plans this morning. They are asking that this be carried to the next meeting to give their professionals time to review these revised plans.

Mr. Neiman said their engineer submitted his comments. He asked if Mr. Gertner looked at those comments.

Mr. Adam Pfeffer, Esq., on behalf of the applicant, said they had a conference call that afternoon. They feel they can address the majority of them. They are ready to go forward with this application tonight.

Mr. Gertner said he is representing a Board so without a formal meeting they cannot approve any agreement in any event here tonight. It would be better, as it has happened in the past, to at least give the opportunity for the Leisure Village Board, to formalize an agreement in writing and be able to present it to their members.

Mr. Jackson said the objectors can have input but it is the merits of the application that the Board will consider.

Mr. Neiman said people in Leisure Village can still object to this application. They are not bound by their board.

Mr. Gertner said this board represents 3,200 constituents. The idea of being able to speak to this board, if an agreement is reached, with associations board would speak volumes as to the merits about how much they have or have not attempted to be a good neighbor obviously leaving the ultimate decision to the board.

Mrs. Morris recommended that they go through the agenda. It is possible, due to time constraints, that this application may not be reached.

Mr. Gertner said they would request this matter be carried to the December 15, 2015 meeting.

Mr. Pfeffer said they have met with Mr. Gertner, on behalf of the board, and his position is that have not had a board meeting to go ahead and formally agree or disagree with their comments. The applicant's concern is that if they carry this application, there is no guarantee that their board will be in agreement with anything that they have offered. Their position is that their attorney and their engineer is here. They can put everything on the record, everyone is here and ready to proceed.

Mr. Neiman believes they have no choice but to hear this application.

Mr. Gertner said that is not true.

Mr. Jackson said it is the board's decision.

Mr. Vogt said variances are requested for minimum side yard setback for several duplex buildings and the retail building. Testimony shall be provided in terms of parking and waivers are requested from providing curb and sidewalk along Route 70. A partial landscape buffer relief is necessary as well.

Mr. Brian Flannery, P.E., P.P. Was sworn in. The application is for 74 dwelling units. A rendered version of the plan was entered as exhibit A-1. The property had a prior approval which is still current for 144 dwelling units in 12 four story buildings on this property.

Mr. Neiman remembers that application and this layout is much nicer.

Mr. Flannery said the prior application submitted was virtually conforming and it needed relief for a side yard setback of 12 ft. At the tech meeting, he gave his opinion that there are contradictory provisions in the ordinance with respect to that. It is his testimony that there are no side yard setback variances required with the current application for the residential units. The application is being submitted under the conditional use requirements which are a conditionally permitted use in the B-5 zone in section 18-1018 Mixed Use Development. The Mixed Use Development under this criteria is subject to the following conditions: a minimum tract size of 15 useable, unencumbered acres. This site has 16.5 acres. A maximum gross density of 15 dwelling

units per acre. The duplex structures proposed come to a density of 4.47 dwelling units per acre. The maximum building coverage of the entire tract is the maximum allowed under NJDEP CAFRA regulations. CAFRA does not regulate building coverage, they regulate total coverage. The building coverage proposed on this site is 21% which is a very low number and conforms to that provision of the ordinance. The maximum building height is 35 ft for townhouses, 55 ft for commercial. The commercial is all one story building certainly less than 55 ft. The duplexes are all less than 35 ft. The tract has to have at least 400 ft of frontage on a state highway. This project has 680 ft on Route 70. A minimum depth of 500 ft, they have 540 ft. A minimum tract setback from a state highway is 75 ft, they provide 240 ft, mixed use buildings is 50 ft, residential is 25 ft and they provide 99 ft. They comply with the tract boundary requirements, the interior roadway circulation requirements and the interior parking lots. A minimum of 15% of the site needs to be set aside for non-residential. They have provided 23% set aside. Section B of this ordinance explains why they do not need the setbacks for the buildings. B states 'once applicable provisions of section 18-1018a are met, any subdivision to show ownership responsibility, deed restrictions, or covenants shall only be subject to lot provisions set forth herein. The placement of any building on such lots shall be at the discretion of the developer of the mixed use development.' That is pretty clear. There are no other requirements except what is set forth herein. Under C, it indicates what is set forth herein. 'If a tract meets these conditions, principal uses or multi-family dwellings, community, retail/commercial facilities.' Under the bulk requirements of section D it lists bulk requirements: townhouse structures on commons property. They now have duplex structures, not townhouses structures, therefore the only setback requirements that are given are for townhouse structures. The duplex structures have been placed in accordance with what is typical in Lakewood for duplex structures with four parking spaces per unit.

Mr. Neiman asked how wide the streets are.

Mr. Flannery said 32 ft.

Mr. Neiman asked if there is a community center.

Mr. Flannery said yes. The community center is located to the west of the commercial buildings. There are two commercial buildings, a smaller one to the east and a larger one to the west.

Mr. Neiman asked about the playground areas.

Mr. Flannery said there is a playground at the end of the rear cul-de-sac. A second playground is at the bend in the far back corner and there is also a recreational facility in the middle as well as open space and recreation near the community building.

Mr. Neiman asked about garbage pickup.

Mr. Flannery said the department of public works would pick up.

Mr. Franklin said it is a good plan.

Mr. Herzl asked what the black area is.

Mr. Flannery said wetlands.

Mr. Neiman said since this is right near Leisure Village, people forget and turn into Leisure Village's parking lot and make a U-turn and come around and come out. He would like to prevent that.

Mr. Flannery said these are going to be residents. The developer met with Leisure Village to address that and what they have done is change the plan to allow an opening between the buildings. There is an adjoining property next door and the developer of that property has indicated when they come in, they'll provide a connection at that point.

Mr. Neiman said there would be a second entrance onto New Hampshire.

Mr. Flannery said it would go out to New Hampshire so that anybody that wants to go west on New Hampshire can come through the other development and back. This interconnection, although they do not need it, because they are interconnected and use shared infrastructure that would jump it into a CAFRA situation. They are below a CAFRA threshold. This is a future provision that they are making available and is to the benefit of this development, Leisure Village and to the next development coming in.

Mr. Pfeffer said that was one of the items discussed with Leisure Village.

Mr. Flannery said, in the engineer's review letter, a minimum side yard setback variance is required. It is his testimony they do not need that variance because it is clear in section 1018 that they do not. A minimum side yard setback variance is required. A 15 ft setback is proposed where 25 ft is required for the smaller building to the internal drive. The way to alleviate that, would be to make the building smaller but that would be a mistake as the township needs any ratables it can get, it works well and provides a nice circulation. Four parking spaces are being provided for each dwelling and one space for every 200 sf of floor area for the commercial. A waiver is being sought from providing cur and sidewalk along Route 70. They do not think people should be walking there. Access will be added at a future time when the adjoining property is developed out to New Hampshire and there is curb and sidewalk through the development. There is a comment in the review letter stating that a partial landscape buffer is required. It is his opinion that section in 1018 which says they do not have any requirements, additionally the buffer being referred to is between the small building and the retail strip store next door which is certainly a meaningless buffer. Section 800 has lots of language in it that says the buffer is in accordance with what the board feels is necessary to comply with the intent and they feel they comply with that intent. The technical items will be satisfied.

Mr. Pfeffer said, along the Leisure Village property, they are willing to provide an 8 ft white vinyl fence along with 6 ft plus high trees for additional privacy.

Mr. Gertner said they did not agree to a 8 ft fence. They would like either a 6 ft fence with the taller trees or maintaining some of the existing landscape buffer with either a fence or arborvitaes.

Mr. Neiman said perhaps the 6 ft fence and taller trees.

Mr. Flannery said the applicant would agree to that.

Mr. Pfeffer said there was an issue regarding possible stormwater system failure. The fail safe would be they are willing to grade away from Leisure Village.

Mr. Flannery said the applicant would design a system that would pick up any excess water and direct it toward the stream at New Hampshire Avenue so that it would be second system in case the existing system fails.

Mr. Vogt said they would look at that during compliance. He asked who is maintaining stormwater.

Mr. Flannery said they need to meet with DPW. The standard in Lakewood is that any of the drainage in the streets would be maintained by DPW and anything on private property would be maintained by the homeowners or homeowners' association.

Mr. Vogt said DPW would have to be a condition of approval for what is proposed within the streets. The issue with the drainage being diverted away, obviously they would need calculations from the applicant's engineer, to prove they are not exacerbating offsite conditions.

Mr. Flannery said the applicant has already submitted and the is agreeing to go a step beyond that which would be to provide a system that in the event there is a failure, a system that could accommodate that failure and direct it away from Leisure Village. The minimal relief being sought with respect to the setback, it is his testimony that the board can grant that without any detriment to the zone plan or zoning ordinance and that it is a classic c-2 variance where the benefits outweigh the detriments. Benefits in this case being additional retail space that is a ratable for the town and there is no detriment.

Mr. Rennert asked what the ratio is for commercial and residential.

Mr. Flannery said a minimum of 15% commercial is required, they are providing 21%.

Mr. Gertner asked if there are additional variances requested with this revised plans.

Mr. Flannery said it is his testimony that there are less variances required.

Mr. Gertner asked what the total impervious coverage is.

Mr. Flannery has not totaled that because there is no requirement.

Mr. Gertner asked if that total could potentially require a CAFRA submission.

Mr. Flannery said this project is exempt from CAFRA because CAFRA exempts residential developments on less than 75 and commercial developments with less than 49 parking spaces.

Mr. Gertner said after meeting with Leisure Village, one of the change in design was to provide an access easement to be available upon the next application.

Mr. Flannery said yes, that would be part of the approval.

Mr. Gertner asked what additional buffering could be offered next to the secondary playground.

Mr. Pfeffer said they have already offered additional fencing and trees.

Mr. Neiman said they may want something more because it is a playground and it may be a little noisier.

Mr. Pfeffer said they could provide an 8 ft fence by the play area.

Mr. Neiman agrees with that. He asked if there are any types of trees that would help contain the noise.

Mr. Flannery said a Leyland Cypress is a tree that thrives well in this area, grows quickly and is dense.

Mr. Neiman would like to make sure those trees do not die within a year, and if they do they would be replanted.

Mr. Flancbaum said they would be bonded. If the trees are dead before the bond release, the applicant would be required to plant new tree.

Mr. Flannery said that is why he would recommend the Leyland Cypress because if they outlive the bond, then they have been established and mature and are very hearty trees.

Mr. Gertner asked about the changes in grade.

Mr. Flannery said the site would be regraded. The grade from the property line in the back would come up several feet until it comes to the houses and then the houses are on top of a slope.

Mr. Gertner asked if there is a 9 ft increase in elevation.

Mr. Flannery said he did not look specifically. The engineer who designed the plans is here but it seems reasonable that a 9ft elevation change difference.

Mr. Gertner said the applicant would agree to maintain as much existing vegetation as possible as well as providing the fencing and landscaping.

Mr. Flannery said yes. That would be subject to the board engineer reviewing that to be sure they comply.

Mr. Gertner asked if the applicant would be amendable to having the board engineer determine whether or not jurisdiction of determination of the project should be made by CAFRA.

Mr. Flannery said it is their testimony, and certainly the board engineer checks their testimony to be sure of that, ultimately it is the board engineer's determination.

Mr. Vogt said, typically instead of going to the State, the applicant provides a regulatory citation as to why it is exempt.

Mr. Flannery said they would submit that as part as resolution compliance.

Mr. Charles Witzack, P.E., P.P. was sworn in. The proposed storm drainage system is an infiltration system. They weren't concerned about the volume of the system and the bypass in and of itself. What they are concerned about is the fact that there really wasn't some significant topography shown on the plan to allow them to understand what is happening with this project relative to Leisure Village. The topography pretty much stopped at the property line. When you take borings used to determine infiltration rates and things of that nature, they do not always cover what exactly is going on in the ground on the entire site itself. Their concern was more that when this project was constructed and the basin adjacent to the Leisure Village project did start to provide its infiltration, if there was some type of impervious clay layer beneath that area that happened to be above grade over on Leisure Village and as heard this project is being picked up between 5 and 9 ft. There was a chance that it might bleed so they have asked for some type of a safe guard to provide an impervious barrier between Leisure Village and the basin should it become an issue and present itself at time of construction.

Mr. Gertner said that is in addition to the offer that they made to send, as a fail safe, excess water out towards the stream.

Mr. Witzack said yes, he believes it is more along the lines of water routing and detention in and of itself. His is more from the standpoint of the physical displacement of the water.

Mr. Vogt said it sounds like what is in front of the board and what they have looked at is going to be changing at a minimum with some compensations had relative to diversion. He suggested the applicant's engineer give testimony.

Mr. Michael Dipple, P.E., P.P. was sworn in. He said when they go to soil erosion and sediment control, they ask them to do a failure analysis. They came up with the idea if they could run their failure analysis so that it could go the opposite way. They have designed the system to meet the NJ stormwater management rule identical to just about every system down here and every one that they have designed. It has factors of safety built into it. They have no reason that this will ever fail but because they trying to address the concerns of Leisure Village, this was an idea they threw out because they have a stream on the other side that they could run a pipe from the basin down in the lower right hand corner of the site and make it go the other way. If this were to fail, it would go the other way.

Mr. Neiman said the engineer would make sure this works during resolution compliance.

Mr. Vogt said he just wants to make sure that they are hearing the concerns of Leisure Village.

Mr. Dipple said they did do an investigation and do have geotechnical work in the vicinity of the basin. It is very consistent. Leisure Village's engineer pointed out that this basin would be elevated but it is not elevated. It is pretty much at or below grade. He thinks the concern is that they would be mounding up water that would somehow seep out of the side slope. That is not really the case they have designed here. The investigation shows that the soils very consistent is pretty much the same throughout Lakewood.

Mr. Witzack said this wasn't relative to the volume or the functionality of the basin in and of itself. They looked at the calculations and are in accordance with DEP. Their concern was, if there is a condition that was unforeseen in the field, how it would be handled. They do not know their elevation is relative to this basin because they do not have connecting topography to tell them. He recommends some type of a safe guard that could be implemented if in fact it turns out in the filed there is a problem.

Mr. Vogt said the existing system is going to be designed per applicable standards of the New Jersey Stormwater Rule and best management practice.

Mr. Dipple said that is correct.

Mr. Vogt said this extra safe guard, there is going to be an extra level of protection where some sort of system would be put in that if the system does overflows there would be a way, in lieu of the water going into Leisure Village, would be diverted away from Leisure Village. The applicant is agreeing to work with that during compliance and make their proof and Ocean County Soils proof.

Mr. Witzack wants to ensure that the actual construction in the field does not impact.

Mr. Vogt asked what he recommends.

Mr. Witzack said some type of impervious barrier between the edge of the constructed subsurface basin and the perimeter of the tract.

Mr. Vogt asked if that could be some type of lining.

Mr. Witzack said it could be as simple as clay material left over from the site that they may find.

Mr. Vogt said an impermeable liner.

Mr. Witzack agrees with that.

Mr. Dipple said the liner would run vertically, not underneath the basin, in order to stop that because they really depend on the infiltration layer on the bottom. That is something they would be willing to incorporate into the design.

Mr. Vogt said they do not want lateral movement that could create mounding problems on Leisure Village.

Mr. Witzack said correct.

Mr. Gertner asked about buffering and lighting.

Mr. Witzack said basically the project will be clear cut. All the existing vegetation including the mature forest will be removed right up to the property line. It should also be noted that there are several buildings of Leisure Village that have been there for quite some time within 30 ft of that line. There was testimony that there will be a 5 to 9 ft slope adjacent to that up to a plateau and then a building on top of that which would be 35 ft. So technically, from the property at least there would be a 40 ft elevation to the top of the structure which is only 35 ft. They are concerned with the fact that if the plantings and the screening is provided at the property line, it will only buffer the slope which is not a concern. The other point is that this goes both ways. This will certainly benefit the residents of the new construction as well. They propose that the plantings and fence be constructed on the top side of the plateau so that there be more vertical screening to allow visual. They have also spoken about keeping some of the existing vegetation which are mature 50 to 100 ft trees along that edge and providing some type of retaining wall or something of that nature. That would be the best solution.

Mr. Pfeffer wanted to clarify that it is not 9 ft.

Mr. Neiman said this will be continued on December 1st.

Mr. Gertner asked that this be carried to the December 15th meeting in order to give the Leisure Village board time to get together and vote.

Mr. Neiman said this will be heard on December 1st.

A motion was made by Mr. Herzl, seconded by Mr. Follman to carry this application to the December 1, 2015 meeting.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert

- 14. SD 2082 MCAAA Inc**
East County Line Road Blocks 194-198, Lots 1 & 4; 1-3; 1-5; 2-8; 10
Preliminary and Final Major Subdivision to create twenty lots

A review letter prepared by Remington, Vernick & Vena Engineers dated November 19, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum lot area, lot width, front yard setback and possibly a side yard setback. A design waiver is required from the improvement for portions of paper streets Stillwell Avenue, Holland Street, and Paulding Street.

Mr. Adam Pfeffer, Esq.

Mr. Brian Flannery, P.E., P.P. was sworn in. They have met with some of the neighbors and there were five items they agreed to at that time. If the board acts favorably, they would like those items to be part of the resolution of approval. Any of the tree save areas, they would put a construction fence around them prior to construction. The cartways as shown on the revised plans that were submitted are 32 ft wide paved cartways. With respect to the dwellings around the perimeter in the wooded area, they would agree to put no hunting/safety zone signs up 450 ft as prescribed by law from any of those perimeter dwellings to the extent that they get permission on private property to do it. Any of the exterior lighting on those perimeter units would be directed down to the yard rather than into woods. Water bags would be installed on the proposed street trees to enhance the survivability of them. Variances are requested for minimum lot area, lot width.

Mr. Neiman asked why they do not open up Stillwell Avenue as opposed to curbing that area.

Mr. Flannery said one of the comments in the engineer's review letter is to make this a three way intersection so it doesn't curve. They are not going to push it in either direction because in this case they have a 300 ft C-1 buffer and there is no anticipated development but it would be a three way intersection rather than a curb going across Stillwell.

Mr. Herzl asked about the minimum lot width for lot 5.02.

Mr. Flannery said lot 5.02 is a lot behind the other lots. In the engineer's review letter, it is listed as a flag lot configuration. It is 30 ft at the front and has 13,000 sf.

Mr. Neiman asked if it could front on Stillwell Avenue.

Mr. Flannery said the C-1 buffer comes through there but they could certainly give it frontage on there so it would no longer be a flag lot.

Mr. Neiman would rather see that if possible.

Mr. Flannery said they would do a 78 ft wide extension to Stillwell Avenue.

Mr. Franklin said you would need something there in order to turn around.

Mr. Flannery said they are not putting the driveway through there. They are leaving the driveway coming out to the paved road but they are providing property that extends to it similar to what was proposed on Caranetta.

Mr. Herzl asked how the garbage would be picked up on that lot.

Mr. Flannery said they would have to bring it all the way to the front which would be Briggs Avenue.

Mr. Neiman opened to the public.

Mr. Michael Stillwell, 950 Brook Road, was sworn in. He asked what the purpose is of extending Stillwell Avenue 78 ft.

Mr. Flannery said lot 5.02 would now have the additional 78 x 122 ft of property so it would go from a 13,000 sf to roughly a 20,000 sf lot. It provides that it is no longer a flag lot and has frontage on a street. It is not an improved street. The vehicular access would be from relocated Briggs so that they do not have to get a permit from the DEP.

Mr. Stillwell said they are bringing Briggs Avenue east.

Mr. Flannery said yes. Briggs Avenue is further west but they are relocating it.

Mr. Stillwell said there will be no access coming down on Stillwell Avenue to where the paper street is on Bogart.

Mr. Flannery said that is correct. Stillwell Avenue will end at the intersection of relocated Briggs.

Mr. Stillwell said that is a paper street that goes through the woods and it is just a path that goes through there. His concern is that any traffic, anybody that is back on Stillwell Avenue will not come down Stillwell Avenue and try to use Bogart Avenue and come up to County Line Road. He asked if there is some way to make sure that that is blocked off.

Mr. Flannery said they could put bollards at the end of it. It would make sense to put them 20 feet off so it would make it close to where the C-1 line starts subject to the Township.

Mr. Stillwell said there are a lot of hunters in these woods. The reason for putting up these signs is there is a brook that goes there so the hunters are always back the deer back up to County Line Road so any of the houses that are being put in there is that there is no access. It is a dangerous area back there. He asked how close the new road would be to the new commercial building entrance on Brook Road and County Line Road.

Mr. Flannery said that was part of the decision to relocate Briggs further to the east because that moves it further away. The location they have proposed is appropriate but they do need County approval on this. If the County feels it is too close, they would make that a right in and right out so there will no conflict.

Mr. Stillwell asked if the County has a right of way now. He asked if the road will be widened.

Mr. Flannery said they are showing an additional right of way dedication there. Sometimes the County wants a little more and then they would give them a road widening easement in addition to that.

Mr. Stillwell thanked the applicant and Mr. Flannery for working with them. He believes it is a good plan.

Mr. Neiman closed to the public.

A motion was made by Mr. Follman, seconded by Mr. Herzl to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Rennert

Abstain: Mr. Neiman

- 15. SP 2143 Avraham Grubner**
East County Line Road Block 174.04, Lot 57.02
Preliminary and Final Major Site Plan for an office building

A motion was made and seconded to carry this application to the December 15, 2015 meeting.
All were in favor.

- 7. PUBLIC PORTION**
- 8. APPROVAL OF MINUTES**
- 9. APPROVAL OF BILLS**
- 10. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth, Planning Board Recording Secretary