

1. CERTIFICATION OF COMPLIANCE

Chairman Michael 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. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

3. SWEARING IN OF PROFESSIONALS

Mr. Terence M. Vogt, P.E., P.P., C.M.E. was sworn in.

4. MEMORIALIZATION OF RESOLUTIONS

1. Resolution of Appointment – Oak Street Core Residential Development Subcommittee

Mrs. Morris said after the last meeting, the board had questioned whether the whole board could be on the subcommittee. If that were the case and they were to meet to review the plans in person, would have required notice under the Sunshine Law. She did speak with Mr. Jackson, who couldn't be here tonight, but he did say that if a quorum of the Planning Board were to meet in person as a subcommittee or have a continued discussion over email about these applications, then it would require legal notice. So the best option is to either appoint less than a quorum of the Planning Board to informally discuss these applications over email because then they would not need to notice under the Sunshine Law and that would be what they feel is the intent of the ordinance, a true subcommittee of the Planning Board.

Mr. Neiman asked if all of the members can still see the plans via email to see if they have any questions.

Mrs. Morris said they can and if the full board wanted to be on the subcommittee and to meet in person to actively discuss the applications, then they would require that each individual application be noticed.

Mr. Franklin thinks the full board should be on the subcommittee and the meetings should be noticed so the public knows what is going on with this project. They could have it the same night as the meetings and make it part of the agendas.

Mrs. Morris thinks that defeats the purpose of the subcommittee.

Mr. Franklin said he doesn't want just three members of the board making these decisions, he believes the entire board should be involved and the public should be aware.

Mrs. Morris wants the board to understand that the board engineer will be reviewing these applications and they will either comply with the ordinance or not comply and be required to come before the board for a regular

approval. The original thought was to have the board engineer and two other members on the board but since the ordinance said the subcommittee of the Planning Board, the board engineer is not permitted to be on this subcommittee.

Mr. Neiman said these plans are CAFRA approved. The road structure and lot sizes are already laid out and no variances can be requested.

Mr. Vogt said the applicant can ask for variances, but in that case, they must come before the board as a conventional application. The application cannot be a major subdivision and it would have to fully comply with the Oak Street ordinance. If so, it could be administratively approved based on the recommendations of their review. If there are any deviations, they are not allowed to approve and it would have to come before the Planning Board.

Mr. Flancbaum said the entire board should be in the subcommittee but as opposed to the board just giving the review engineer the ok via email, these applications would be listed on the agenda for approval. They would not have a full public hearing per se but if there are any questions or concerns from the board or public, they could be addressed then.

Mrs. Morris said they would essentially be listed the same way resolutions are. They are considered a typical action by the board and if the board knows there are people present that want to speak then they could open to the public.

A motion was made by Mr. Flancbaum and seconded by Mr. Cautillo to approve the resolution and appoint the entire Planning Board as members of the Oak Street Core Residential Development Subcommittee.

Affirmative: Mr. Grunberger, Mr. Herzl, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo
No: Mr. Franklin, Mr. Hibberson

2. SD 1410V - Resolution of Vacated Approval

Mrs. Morris said this is a resolution in order to vacate a prior approval. If she recalls, this is with regard to a bond that had been posted which the applicant wants back as they do not intend to develop the site. The board attorney prepared a formal resolution vacating the approval so that could be accomplished.

Mr. Rennert would like to see what is being developed around this application.

Mr. Neiman said this resolution will be carried to the next meeting.

3. SD 2025 – Amending Resolution clarifying landscaping requirements

Mrs. Morris said this is a previous approval on Cedarbridge Avenue in front of the existing Shenandoah Manor development. One of the neighbors had concerns about whether the landscaping being installed accurately reflected the testimony that had been given at the meeting. After the board attorney looked at the minutes and the resolution, he felt it was appropriate to pass an additional resolution clarifying the landscaping buffer that had been proposed under testimony at the meeting. It essentially matches the approved plans except for the fact that the approved plans show a single row of arborvitaes whereas the testimony provided by Mr. Flannery, did indicate multiple rows of dense plantings.

Mr. Benny Aryeh said there was representation made at the meeting stating that buffer will belong to himself and his two neighbors on each side. They felt it was necessary so they could care for the landscaped trees. For some reason, it was pulled out during resolution compliance and he would like to know at this point where those trees will be placed. He asked if the buffer will belong to him and his neighbors or to the applicant.

Mr. Neiman said usually buffers are on the applicant's property.

Mr. Vogt said he is not sure if there is room along there as there is an easement in the back.

Mrs. Morris said the buffer is proposed to be on the applicant's property adjacent to the neighbors in the rear. The board engineer had concerns about whether or not that would be feasible due to the easement and existing drainage in the area. She advised that it would need to be worked out with the applicant because they testified they would do it and if they need to adjust the drainage, it would be their concern.

Mr. Neiman asked if he would rather have the buffer on his property.

Mr. Aryeh confirmed, they were going to give him and his neighbors that property.

Mrs. Morris said the board attorney has discussed this at length and reviewed the testimony and disagrees with the applicant's impression of what was testified to and she doesn't think there is anything further this board can do. The applicant's property was not part of the application and they cannot just subdivide a piece off and give it to the neighbors.

Mr. Aryeh said he has an email stating that his neighbor's property was actually part of this application, lot 170.42.

Mrs. Miriam Weinstein, Esq. said she represented the applicant and wants the board aware that the buffer is supposed to be on the applicant's property. The applicant does not agree to the buffer to be on the neighbor's property.

Mr. Neiman doesn't think the neighbors have an issue with those trees not being on his property but he wants to ensure they are maintained.

Mr. Flannery said they are within an easement and he would have the absolute right to water the trees. The buffer as agreed to would be on the applicant's property and the applicant would be responsible for maintaining it. The problem with the trees is sometimes they die right after they are planted. If they live for a couple of years, they are fine. A maintenance bond needs to be posted afterwards to ensure that. It sounds like the neighbors want property that could not have been part of the application. The applicant is not going to be giving him property. They prefer the resolution the way it was approved initially. If the board attorney wants to change it, they would not object because they are not going to fight over something like that.

Mr. Aryeh said the resolution states specifically that that extra land belongs to him and his neighbors.

Mr. Neiman said they will hold off on this resolution so he can work with the board attorney to resolve this.

- 4. SD 2069A Sam Rabinowitz c/o Accurate Builders**
Locust Street Block 1081, Lot 4
Amended Preliminary and Final Major Subdivision for 74 residential units

Mrs. Morris said the there was an error found on the plans showing a private road with a lot number. Since all of the lot numbers are going to change, they will hold off on this.

- 5. SP 2197 Sporrelli, LLC**
Swarthmore Avenue Block 1609, Lot 16
Preliminary and Final Major Site Plan for an addition to an existing warehouse

A motion was made and seconded to approve the resolution.

- 6. SP 2200 Congregation Williams Street**
Williams Street Block 411, Lots 12.01, 12.02, & 13
Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to approve the resolution.

- 7. SP 2201 Congregation Rachmistrivka Inc**
Delaware Trail Block 2.04, Lots 2.05, 2.06, 22, & 24
Preliminary and Final Major Site Plan for a school

A motion was made and seconded to approve the resolution.

- 8. SP 2203 Congregation Chabad of Lakewood**
Central Avenue Block 12.04, Lot 46.02
Preliminary and Final Major Site Plan for a synagogue and mikva

A motion was made and seconded to approve the resolution.

- 9. SD 2147 DYA Investment & Development Group, LLC**
Miller Road Block 11.03, Lots 2 & 90.03
Preliminary and Final Major Subdivision to create 6 lots

A motion was made and seconded to approve the resolution.

- 10. SP 2187 KG Investments**
Chestnut and River Avenue Block 1070, Lots 1 & 3
Preliminary and Final Major Site Plan for a combined retail and office building, existing gas pumps to remain

A motion was made and seconded to approve the resolution.

- 11. SD 2145 ARM Realty & Construction**
Netherwood Drive Blocks 433, 434, 435, & 436
Denial of a Preliminary and Final Major Subdivision to create 21 lots

A motion was made and seconded to approve the resolution.

12. SD 2150 Platinum Developers

South Bell Avenue Block 830, Lots 42 & 43
Preliminary and Final Major Subdivision to create eleven lots

A motion was made and seconded to approve the resolution.

13. SD 2152 JMR Enterprises, LLC

Henry Street Block 777, Lot 16
Minor Subdivision to create four lots

A motion was made and seconded to approve the resolution.

14. SP 2204AA Congregation Zichron Chazon Ish

Williams Street Block 420, Lot 31
Change of Use/Site Plan Exemption to convert existing house into a synagogue

A motion was made and seconded to approve the resolution.

15. SP 2209AA Shmuel Pepper

30 Gudz Road Block 11.30, Lot 13
Change of Use/Site Plan Exemption to convert existing house into a school and synagogue

A motion was made and seconded to approve the resolution.

5. CORRESPONDENCE

- **SP 1856 Yeshiva Toras Emes** – request return of funds held for future sidewalks

Mrs. Morris said the applicant had received an approval from the Planning Board to be able to post a bond for landscaping and sidewalks. The bond was to be held for two years at which point the board directed that the applicant come back to see if sidewalks are warranted in the area and if not, the board may release them from the requirement for sidewalks.

There was no representation for this correspondence item, therefore it was not heard.

- **SP 2038 Yeshiva Tifereth Torah** – clarification on sidewalk waiver

Mr. Glenn Lines, P.E., P.P. stated they are installing curbs and sidewalks on their side and only curbing on the other side. The issue is the other side of the street is owned by New Jersey American Water where they have a filtration plant on the corner of Vine and Oak. NJAW is not going to want sidewalks and the Rabbi is not going to want sidewalks as they do not want kids crossing the street. The plans do not propose sidewalks but there is a note that says proposed concrete sidewalk. He asked that the sidewalk be waived.

Mr. Neiman said he remembers that sidewalks were never proposed along there.

Mrs. Morris thinks it may have been an oversight in that it wasn't specifically addressed in testimony and outlined in the resolution.

Mr. Lines said it was waived but they made an error on the plans indicating sidewalk is proposed.

A motion was made and seconded to approve.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Neiman, Mr. Flancbaum, Mr. Cautillo

Abstain: Mr. Follman, Mr. Rennert

- **SD 2136 Aaron Finkelstein** – clarification on approved lot coverage

Mr. Brian Flannery, P.E., P.P. said condition number 12 of the resolution reads that R-7.5 zone setbacks are to be applied to the lots. At the meeting, he had asked for R-7.5 bulk standards which he thought would include the coverage. If they don't have the coverage, the side setbacks don't work anyway.

Mr. Neiman said usually it includes everything including coverage.

Mr. Flannery requested a clarifying resolution that states R-7.5 bulk standards so that the coverage would be included. The little bit extra coverage provides for covered porches and stairs which makes them more compatible with other houses in the area. These lots will actually be less developed than other lots in the area.

Mr. Neiman asked what the coverage is now.

Mr. Flannery said 30% and they are requesting 35%.

A motion was made and seconded to approve.

Affirmative: Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Flancbaum, Mr. Cautillo

No: Mr. Grunberger, Mr. Neiman, Mr. Follman

Abstain: Mr. Follman

- **SP 2059AA Congregation Tiferes Shmuel Corp** – request to utilize synagogue full time rather than weekends only as originally proposed

Mrs. Miriam Weinstein, Esq. said this was a shul that received approval back in 2013. Currently that shul has only been holding services really on shabbos and Jewish holidays. This is in the Hearthstone neighborhood which has grown tremendously and there is a great need to use this shul for weekday services as well. There is no new construction or variance relief being requested. They are not really sure if they have to be here but they did want to do things right and notice the neighbors to hear what they may have to say but really there is nothing in the resolution that prohibits the applicant from using the shul during the week.

Mr. Neiman asked if additional parking will be provided.

Mrs. Weinstein said they are not providing additional parking but many members of the shul are here in support of this. Many of these congregants live within the Chateau Park, Cushman area. If you are familiar at all with the area, you would know it would take longer to drive through Route 9 traffic than it would to walk.

Mr. Herzl asked how large the synagogue is.

Mrs. Morris said the resolution states that the square footage of the main sanctuary is 799. If it is over 800 sf, it requires parking. Four parking spaces were to be provided per the resolution.

Mrs. Weinstein believes four parking spaces were provided for the shul and two for the rabbi's residence.

Mr. Neiman opened to the public.

Mr. Shlomo Steinberg, 950 Princewood Avenue, was sworn in. He complained that the notice was sent on a Saturday so he was unable to sign for it. He mailed it back after the holiday but he has still not received the letter. He objects to this as he wants to keep the area safe and serene. He was told that when the addition was proposed, it would only be used for shabbos only and that is the reason they did not object then.

Mr. Naftuli Levi, 41 Cushman Street, was sworn in. He said there are about 25 members in the shul which he attends. There are about 10 to 15 that live in the Chateau Park area. He walks up Cushman Street to the dead end and takes a short cut to the shul. That is how a large percentage of the congregants travel to the shul.

Mr. David Farkas, 942 Princewood Avenue, was sworn in. He lives across the street from the shul. It is a very quiet street as it is a dead end and were willing to pay more to avoid the hustle and bustle associated with a street that has through traffic. He is deeply concerned with the traffic, noise, parking issues and safety hazards that a fully operational shul would bring to such a tight enclosed area. The shul currently only has two parking spots which were not shown on the aerial map. They were not shown because they were only installed a few weeks ago despite the fact that this board required them in the original approval. He is fine with having a shul in such close proximity but he asked that all shul attendees should be restricted from driving or parking in the cul-de-sac as well as adding a suitable parking lot in the back of the shul that can be accessed via Claire Street which is slated to be completed within the next couple of months.

Mrs. Weinstein is not aware of claire street being improved. If the street is in fact being paved by someone else, she doesn't think the applicant would have an issue with that solution. The applicant would be amendable to adding one or two more parking spaces and would agree that the congregants would not park in the cul-de-sac.

Mr. Yosef Kahn, 1011 Morris Avenue, was sworn in. He said many cars are typically parked within that cul-de-sac and none of the neighbors complain about that.

Mr. Abe Waldman, 45 Cushman Street, was sworn in. He is a member of the shul and he does walk.

Mr. Hannah Steinberg, 950 Princewood Avenue, was sworn in. She said there was a minion this week and every single mailbox gets blocked as cars are parking all along the street. There may be some people walking to the shul but a majority are driving and when the weather is bad, they will not be walking.

Mr. Jerry Hellman, 1008 Princewood Avenue, was sworn in. He said this is a unique shul. He pointed out that a nearby shul that has only 6 parking spots and is about four times as big.

Mr. Neiman said when shuls are specifically for weekends it is because it is in a quiet neighborhood and there is no need to park a car. To change this to a weekday synagogue is really changing the whole face of it.

Mr. Weinstein asked if Mr. Neiman is related to any of the objectors.

Mr. Neiman said he is related to two of them. One of them is objecting and the other is in favor. He looks at it as if he was living on this cul-de-sac. The whole quality of life would be affected by this change.

Mrs. Weinstein said the applicant does agree to add as many parking spaces as feasible and they do understand that mailboxes shouldn't be blocked.

Mr. Vogt asked if the approval would be contingent upon more parking. If so, they don't know where the parking would go or how it would be accessed.

Mr. Herzl asked if the applicant would be willing to come back with a plan showing additional parking.

Mr. Avrohm Katz, 959 Morris Avenue, was sworn in. He said it is a very small close knit shul and they are not looking to open it up to more members.

Mr. Neiman said parking still needs to be added. On a rainy day, people aren't walking here. There is a lot of land on this property and the applicant should come back with a plan showing additional parking.

Mrs. Weinstein said she has been told they can fit 8 parking spaces including 2 for the rabbi's residence.

Mr. Neiman said he wants to see a plan.

Mrs. Morris said a legal announcement should be made so the applicant doesn't have to re-notice.

A motion was made and seconded to carry this application to the November 15, 2016 meeting.
All were in favor.

- **SP 2167 Congregation Lutzk** – request to remove condition requiring fence installation

Mr. Adam Pfeffer, Esq. said at the public hearing, there was a recommendation by Mr. Follman to install a 6 ft high vinyl fence along the westerly property line of New Egypt Road. To accomplish that, they would have to remove the current tree buffer which extends approximately 100 ft onto the property. The applicant would like to keep as many trees as possible so a certified letter was sent to the one neighbor this was for, asking them if they would be in agreement. They had not heard back from that neighbor but again sent certified letters to all of the neighbors in the area.

Mr. Neiman feels uncomfortable approving this change if the board and the applicant agreed in front of this objector.

Mr. Pfeffer said they sent her a notice months ago but had never heard back. This hearing was noticed as well. To clarify, the fence was not her request, it was a request of the board.

Mr. Neiman asked if the applicant would plant 4 ft evergreens in any open spaces along the property line.

Mr. Pfeffer agreed.

Mrs. Morris advised that the applicant is looking for a CO so the landscaping should be at the discretion of the Township Engineer as he is more familiar with the site.

A motion was made and seconded to approve the change.

Affirmative: Mr. Herzl, Mr. Neiman, Mr. Follman, Mr. Cautillo

No: Mr. Grunberger, Mr. Franklin, Mr. Hibberson

Abstain: Mr. Rennert

- **SD 1958 Paramount Developers** – relocation of approved AC units from rear to side of dwellings

Mr. Adam Pfeffer Esq. said the resolution does not discuss the location of the AC units at all. He believes the original architectural plans showed that they would be in the rear but it was not a condition of approval or anything the board requested. In constructing the units, they decided they would be better on the side.

Mr. Neiman asked how much space is in between the duplex units.

Mr. Brian Flannery, P.E., P.P. said 7.5 ft from the side to the property line. The AC units are approximately 3 ft.

Mrs. Morris believes in most cases, the board engineer would not have noticed or cared but because these duplexes have very small side setbacks and they are now moving the units to the side, they are not left with much space.

Mr. Franklin said this has come up before and one of the reasons they put them in the rear rather than the side is due to the noise.

Mr. Flannery said there is nothing in the resolution or the ordinance which indicates that the units need to be in the rear. In his opinion, it was just a mistake on the plans. There is a little designation of a box in the back of the units. The majority of the duplexes built have the AC units on the side because you would need bigger pipes if they run everything from the front to the back. In the past where an applicant has asked for 5 ft side yard setbacks, the boards would require that the AC units be put in the back because there would not be sufficient room to pass in between the units. This is four duplexes going down a private street so there are no new neighbors and all of these neighbors are benefited by the AC units being on the side rather than the rear. If it was next to existing homeowners, he could see an issue.

Mr. Vogt asked if the building department has any issues with regard to the existing passage in between the homes.

Mr. Flannery said he has looked at them and there is certainly no issue walking in between the homes. The building department didn't raise the issue, the Township Engineer did.

Mr. Vogt said the Township Engineer's concern is safety, it is just what the board approved.

Mr. Flannery said that is correct.

Mr. Pfeffer said it was not even a discussion at the public hearing.

Mr. Rennert asked if AC units would cause a variance.

Mr. Flannery said Lakewood has never considered the AC units a variance. The only time the AC units on the side would enter into it when the smallest side setback allowed by ordinance is 7.5 ft is requested.

A motion was made and seconded to approve the change.
All were in favor.

6. PLAN REVIEW ITEMS

1. SD 2165 Isaac Anemar

Gudz Road

Block 11.02, Lot 15

Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated September 28, 2016 was entered as an exhibit.

Mr. Vogt said variance relief is sought for minimum lot width.

Mr. Neiman said they are asking for a 20 ft variance in the R-12 zone. The applicant is really going to have to explain to the board why they should grant this variance.

Mr. Glenn Lines, P.E., P.P. understands. They can address all of the board engineer's comments.

Mr. Rennert asked that a Percal map be provided at the public hearing.

A motion was made and seconded to advance this application to the November 15, 2016 meeting. All were in favor.

2. SP 2206 Congregation Dover Sholom, Inc

Squankum Road

Block 104, Lot 18

Preliminary and Final Major Site Plan for a dwelling with a house of worship

A review letter prepared by Remington, Vernick & Vena Engineers dated September 28, 2016 was entered as an exhibit.

Mr. Vogt said variance relief is requested including combined side yard setback, maximum building coverage and perimeter buffer. A design waiver is required from providing curbing along the property's Squankum Road frontage.

Mr. Abe Penzer, Esq. said they agree with all of the comments. They will be meeting with the County on November 15th. They hope to resolve some issues and the variances may change. He asked that this matter be advanced to the December meeting.

Mr. Neiman said this is on a very, very busy street. He just passed by there and believes Milton Street should be a one-way street. He asked that sufficient parking be provided.

Mr. Penzer said they exceed the parking requirements.

Mr. Neiman said they should push the Township Committee to make Milton a one-way street.

Mr. Penzer agrees. He asked if any neighbors would like to meet with him in advance of the meeting, to contact Mrs. Morris.

A motion was made and seconded to advance this application to the December 6, 2016 meeting. All were in favor.

3. SD 2170 Thomas Rosenberg

Ridge Avenue

Block 223, Lots 83.03 (future 83.05) & 89

Minor Subdivision to create three lots

A review letter prepared by Remington, Vernick & Vena Engineers dated September 28, 2016 was entered as an exhibit.

Mr. Vogt said variance relief is requested including minimum lot area, lot width, front yard, side yard and aggregate side yard setbacks.

Mr. Glenn Lines, P.E., P.P. said this property was the subject of a previous application with a private road and duplexes. Basically now they are increasing the size of the one lot and cutting off that back portion and joining it with another lot that is off of Highgrove Crescent. The variances requested are necessary in order to keep the existing homes.

A motion was made and seconded to advance this application to the November 15, 2016 meeting. All were in favor.

4. SD 2160 Madison Holdings LLC

East Fifth Street

Block 236, Lots 23, 24, & 29

Minor Subdivision to realign lot lines for three lots

A review letter prepared by Remington, Vernick & Vena Engineers dated September 26, 2016 was entered as an exhibit.

Mr. Vogt said variance relief is requested including minimum lot area, lot width, side yard and combined yard setback. Also, unless all existing sheds are relocated, there could be accessory structure setback variances needed as well.

Mrs. Miriam Weinstein, Esq. said this is a simple lot line realignment. They would address the comments in the board engineer's review letter.

A motion was made and seconded to advance this application to the November 15, 2016 meeting. All were in favor.

7. PUBLIC HEARING ITEMS

1. SP 2144 Yosef Hirsch

East County Line Road

Block 208.01, Lots 14 & 15

Preliminary and Final Major Site Plan for a mixed use site (retail, office, shul)

Mr. Ed Liston, Esq., representing an objector, said there is an issue with the notice jurisdictionally. If the notice doesn't fully describe the application, then the board does not have jurisdiction and should not hear it. There is a comment in the review letter stating that the design of trash enclosures shall blend with the building exterior. Board on board fencing has been proposed for the refuse areas. The board shall take action on the required design waiver. The ordinance, unless it has changed since 2013, specifically says with regard to this zone, a variation or a deviation from the zoning standards in this subsection shall be addressed by the board of proper jurisdiction as a bulk variance. No trash enclosures shall be located less than 50 ft from the side or rear property line when adjacent properties are developed with residential use. That is proposed here and it is being called

out as a design waiver which it is not. It is a bulk variance. Secondly, the trash enclosures shall be located less than 15 ft from the side or rear parking lot where the adjacent properties are developed with a non-residential use. Again, a variance is required and it is called out as a design waiver. The ordinance goes on to say full compliance with section 18-803 landscaping and buffers is required. That is not a design waiver, it is a variance. The applicant is proposing buffers that are half the width of the buffers that are required by the ordinance. Full compliance with section 18-807 off-street parking, loading and circulation is required.

Mr. Neiman asked if there was a catch all in the notice.

Mr. Liston said the catch all doesn't do it because the board engineer's letter wrongly calls it out as a design waiver.

Mr. Vogt said the applicant should not be advertising based on their letter. The applicant should be advertising based on the application and whether the public notice meets the standards of whatever legalities apply he would defer to the objecting attorney, applicant's attorney and board attorney. This is not uncommon in many municipal ordinances as to where the line is drawn with regard to variances or waivers. He can tell them where they draw it as a general policy, section 900 of the UDO refers to zoning standards. Those standards typically they would consider variances. Section 800 of the UDO refers to design standards which they would refer to as design waivers. This is the first he has heard this in 8 years but he would defer to the attorneys.

Mr. Liston said he would generally agree but the ordinance is very specific. He believes the notice is deficient and he is going to attack this if it's approved on jurisdictional grounds and it's going to come right back here again. He suggests that the applicant amend the application to indicate that these are all variances and noticing for them as variances and then the jurisdictional issue goes away.

Mrs. Miriam Weinstein, Esq. said the legal notice was not relied on the board engineer's letter. These matters are always matters that this board has considered to be design waivers which is the reason there is no need to notice them. There is a catch all in the notice which she believes would cover them if they go to litigation but they would re-notice to be safe.

2. SD 2119 1495 East Spruce, LLC

East Spruce Street

Block 855.01, Lots 26 & 29

Preliminary and Final Major Subdivision to create five lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 19, 2016 was entered as an exhibit.

Mr. Vogt said submission waivers were granted at the tech meeting. A revised layout has been submitted. However, the designs required for the proposed layout shall be completed during resolution compliance if approval is granted. Testimony must be provided to justify that a destiny variance is not necessary. There was a question regarding RSIS compliance, variances have been identified for minimum lot area and lot width. A design waiver is required for proposed non-radial lot lines.

Mr. Adam Pfeffer, Esq. said this is an application for 5 single family dwellings on 15,000 sf lots. At the tech meeting, there were some objectors in the area who thought this would change the feel of the neighborhood. Additionally, one of the board members had suggested flipping the plan as there is a school next door.

Mr. Brian Flannery, P.E., P.P. was sworn in. There was quite a bit of discussion at the previous meeting concerning the proximity of the driveway to the school. At the suggestion of a board member, the plan was

flipped so they have now eliminated the conflict with the school. There were questions at the last meeting about changing the character of the neighborhood. There are a few schools nearby as well as townhouses to the rear. He believes a 5 lot subdivision is going to be a better alternative. Two exhibits were shown including the subdivision map and a plan showing applications recently approved by the planning board with similar lot sizes. With respect to density, he feels the ordinance allows 5 dwelling units. If the application were for 6 units, he would have advised his client that he is before the wrong board. Along Albert Avenue, there were two separate subdivisions creating lots less than 20,000 sf with lot widths of 65 ft to 75 ft. There are 10 to 15 lots that were approved by this board where the housing opportunities were approved and limiting factor is 15,000 sf which is what the applicant is proposing here. The Albert Avenue area extends further to the south and the criteria has also been the same. In order to be a good neighbor, the application was flipped. When the school was built, they received a waiver from providing the buffer in between the school property to the east and this property. By flipping it this way that is now in the rear yards and the uses will be more compatible. There is a comment concerning the cul-de-sac not being RSIS compliant. They are providing a 32 ft pavement which is what the Lakewood standard is and exceeds RSIS and they are doing it in a 40 ft right-of-way. As the board engineer points out in his report, that causes the pavement to be 8 ft closer to the property line but part of the reasoning for that is they have provided more pavement than is required by RSIS. In his opinion, he would call this an RSIS compliant cul-de-sac with a de minimis exception for that separation to the property line.

Mr. Vogt stated that the plans indicate that this is an access easement. He asked if this would be an easement or a public right-of-way.

Mr. Flannery said the answer to that lies with Public Works. The applicant's intention is that this would be a public right-of-way but if DPW doesn't agree then it would have to be a private road. The lot widths requested are on 3 lots that are on the cul-de-sac which is typical. The lot width is measured at the setback lines and because the lots converge, you get that. If it appeases the board, they could push the front setback line back and come up with bigger numbers.

Mr. Rennert asked if there are any other lots in the area that have a 51 ft width.

Mr. Flannery stated that the Albert Avenue area are all rectangular blocks. The only thing similar would be the flag lots that were approved so there's lots that have 20 ft wide. It's also these lot widths are at the front setback line and the houses are going to be set further back. They could agree to a larger front setback which would in turn give them a larger lot width. It doesn't really accomplish anything other than makes the numbers sound better.

Mr. Rennert said they wouldn't comply with the lot width if they took it down 2 zones.

Mr. Flannery said it is not a fair comparison for cul-de-sac lots to lots on a rectangular grid. Lots on a rectangular grid measured at the front setback are the same as their average lot width because they don't converge. The only piece of property in this area that has a similar situation is the cul-de-sac that was approved by the Zoning Board which is three properties away.

Mr. Rennert asked what the lot widths of those lots were.

Mr. Flannery believes they were 50 to 60 ft. This is a difficult situation because it is the only cul-de-sac that has come before this board in the Albert Avenue area. He knows the board is concerned about lot width but if this was located on Central Avenue or any other neighborhood where there are cul-de-sacs, it wouldn't be.

Mr. Rennert said the next application that comes in, he'll point to this. He asked why they should start in this neighborhood.

Mr. Flannery said it is similar all over Lakewood. In Raintree, they did an application on a cul-de-sac that had lot width issues and he pointed to six different places where there are cul-de-sacs and again, the lot widths are smaller because they are measured at the front setback line.

Mr. Neiman said not like this. He lives on a cul-de-sac and every lot has a 90 ft frontage.

Mr. Flannery said that cul-de-sac is loaded on both sides. They are not off the end of the cul-de-sac where they feed in this direction.

Mr. Rennert asked if the lot width conforms in the back.

Mr. Flannery said it is 180 ft across so the two that take up that area are 90 ft wide each in the back. Other lots that have been approved in the area that are rectangles are 75 ft so they are really not talking about a substantially different lot with respect to usability. It would be an issue for the neighborhood if this was somewhere where people drove by and were looking at narrow lots but the only people that are going to see these narrow lots are the people that are going to live here and come down the cul-de-sac.

Mr. Neiman opened to the public.

Mr. Schlomo Goldwasser, 1446 East Spruce Street, was sworn in. He lives directly across from the proposed subdivision. He is in favor of the application. He doesn't believe traffic will be an issue and he thinks a cul-de-sac would be a safe place for his children to play.

Mr. Isaac Simins, 1429 Read Place, was sworn in. He is concerned that creating a cul-de-sac will change the face of the whole neighborhood.

Mr. Chaim Mayerfeld, 1450 East Spruce Street, was sworn in. He is not in favor of this application and also believes it would change the character of the neighborhood as it is too dense for the area. He said he was assured that the Zoning Board application nearby would not set a precedent in this neighborhood as it is in a different zone.

Mr. Nafali Levi was sworn in. He is not in favor of this application. He said there is something special about this neighborhood with the nice sized lots.

Mr. Joshua Swartzman, 1506 East Spruce Street, was sworn in. He is in favor of the application. He is more concerned with the school purchasing one of the adjacent lots to expand and create more traffic or if another Yeshiva was proposed as there are already several in the area.

Mr. Rennert asked if it is true that the Zoning Board approval nearby was in a different zone.

Mr. Flannery said there is a strip along Pine Street that is in the M-2 zone. The bulk of the property is in the R-20 zone. He never said this creates a precedent and you have to do it. He explained what's around and what makes sense.

Mr. Finkel, 1442 East Spruce Street, was sworn in. He objects to this application as it would change the face of the neighborhood.

Mr. Kleinman, 1464 East Spruce Street, was sworn in. He objects to this application as it would change the face of the neighborhood.

Mr. Chaim Klein, 1421 East Spruce Street, was sworn in. He objects to this application.

Mr. Mordechai Sidell, 224 Jamescrest Court, was sworn in. He is concerned this application will set a precedent.

Mr. Neiman closed to the public.

Mr. Neiman said Spruce between New Hampshire and Albert is a small street. Houses all face Spruce, Read streets and are all deep lots. If the applicant comes in with 4 lots and the lots are all conforming then there is nothing the board can do. But to give that extra fifth one, they would have to greatly convince this board.

Mr. Flannery said if variances aren't being granted then a Yeshiva will most likely buy it. In his opinion, that would adversely affect the neighborhood. By right, this could be a 4 lot subdivision with only lot width variances.

A motion was made and seconded to deny the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Neiman, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

- 3. SD 2142 Congregation Kol Aryeh**
Hope Chapel Road Block 24.04, Lot 5
Minor subdivision to create two lots

Applicant has requested to table this item until further notice.

- 4. SP 2181 River 1161, LLC**
River Avenue Block 1064, Lot 4
Preliminary and Final Major Site Plan for an addition to an existing grocery store

Applicant has requested to table this item until further notice.

- 5. SD 2157 Dovid Berger**
Second Street Block 72, Lot 7.01
Preliminary and Final Major Subdivision to create 5 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 10, 2016 was entered as an exhibit.

Mr. Vogt said variance relief is sought for minimum lot area, front yard setback, side yard setback, building coverage and aggregate side yard setback.

Mr. Neiman asked if this board can grant bulk variances for duplexes.

Mr. Vogt said yes. If it results in a density condition, that would be subject to interpretation.

Mr. Glenn Lines, P.E., P.P. was sworn in. This property is in the ROP zone. The wording in the ROP zone is different than any other zones that permit duplexes. The other zones state duplexes on 10,000 sf lots. This zone specifically states duplexes.

Mr. Neiman understands.

Mr. Lines said they are proposing to subdivide an existing lot on the corner of Second Street and Madison Avenue that was subject of a prior application which had three single family homes on 50 ft wide lots and a proposed lot on the corner for a bank. They feel this would be a less intense use than a bank. This zone also allows townhouses. They could fit 7 townhouses on the property with 14 new families. They are proposing 10 new families with duplexes and a single. Many other single family lots in this neighborhood are undersized. The single family lot proposed is slightly larger than what has already been approved by the board on this subdivision. There is a duplex on Third Street that is on a 7,500 sf lot.

Mr. Rennert said the lot area for the duplexes could be conforming if they moved over the lot line.

Mr. Lines said the owner of the property will be living in the single family home and prefers to have the extra square footage. This is really only one of the only blocks left in the area that still has single family and duplex lots.

Mr. Rennert said he is referring to the duplex lot, not the single family lot.

Mr. Lines said in order to make the duplex larger, they have to make the single family lot smaller because the duplex on the corner needs the extra area as they need a front setback from Route 9.

Mr. Rennert asked if it would make sense if the board grants a little more of a variance for that one duplex lot. He asked what other lot widths are along Madison Avenue.

Mr. Lines said there is gas station on the corner and then a house that is probably about 25 ft off of Route 9. Then there is a townhouse which is on a 40 ft wide lot and the end unit is 20 ft off of Route 9. The lot right behind on the corner of Third Street and Madison Avenue has a 24 ft wide unit on a 44 ft wide lot so they have a 20 ft side yard setback.

Mr. Rennert said everything along Route 9 is 20 to 30 ft.

Mr. Lines said yes, they did show the desirable typical section from Route 9 which is that 57 ft from the center line but they happen to be 4 ft off that line where every other unit is 3 ft or less. Some houses have decks only 10 ft off of the property line so if the State went to their 57 ft half width, everybody along there will lose their decks.

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

Mr. Rennert asked what they could get here if it were conforming.

Mr. Lines said they could build 7 townhouses so that the majority of the property will be driveways where this way with the duplexes and the single, you would have gaps between the driveways.

A motion was made and seconded to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Neiman, Mr. Flancbaum, Mr. Rennert, Mr. Cautillo

6. SD 2159 Mark Properties, LLC

Providence Avenue Block 1048, Lots 1 & 5
Preliminary and Final Major Subdivision to create 11 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 19, 2016 was entered as an exhibit.

Mr. Vogt said variance relief is sought for minimum lot width, minimum front, rear, aggregate side yard setbacks, building coverage and possibly minimum lot area. A design waiver is required from providing sidewalk along the frontage of the proposed alley.

Mr. Neiman questioned if the board can hear this. It is in the R-10A zone where duplexes are permitted but a minimum lot area variance is being requested.

Mr. Vogt is not aware of any conditions that you would not be meeting per the R-10A standards. They apply to duplexes.

Mr. John Doyle, Esq. said you are only permitted if you meet certain conditions but that is not this situation. The use is permitted as well as the bulk variances requested. He believes they are before the correct board. This property is within the Oak Street Core area so by right, they could build 6 duplexes for a total of 12 units. Instead of seeking 12 units, they are before the board seeking 5 single family homes and 3 duplexes for a total of 11 units.

Mr. Brian Flannery, P.E., P.P. was sworn in. As indicated, the applicant is able to get 12 units by right. A sketch of that plan was handed to the board.

Mr. Rennert is concerned about the next application coming in showing so many variances that had been approved in this area. He is hoping to not have a single variance.

Mr. Flannery said the applicant is looking to do something nicer than the 6 duplexes. Variances sought include minimum lot area. For the duplexes, they are asking for 9,983 to 9,900 sf whereas 10,000 sf is required. Basically, the reason for that is because some surveyor a long time ago didn't do his job accurately and it was supposed to be a 200 ft wide block and he missed by a 10th of a foot on each lot.

Mr. Neiman asked if this is the case with most of the blocks in the area.

Mr. Flannery said there is one block which he is aware of. In those cases, the applicant will be unable to get approved administratively and would have to come before this board. Minimum lot area variances are also requested for the single family lots. Minimum lot width variances of 60 to 70 ft for the single family lots are requested whereas 75 ft is required.

Mr. Rennert said he seems to take issue with the Oak Street Core ordinance. Perhaps it should be rewritten for single family homes.

Mr. Doyle said it is up to the board to determine if this is a better alternative to what the ordinance will allow. This is a unique site where a mix of housing is provided as opposed to cookie cutter duplexes.

Mr. Rennert can't overlook the minimum lot area variances for the single family homes.

Mr. Flannery said he would have written the ordinance is little differently as nobody is going to build a single family home on a 10,000 sf especially when you get put a duplex on it and in a neighborhood that is going to be mostly duplexes.

Mr. Rennert thinks the argument is that they would get some single family homes on 10,000 sf lots so they gave a higher density where they would have some single families and duplexes.

Mr. Flannery doesn't believe anyone working on the ordinance thought about single family homes being built on 10,000 sf lots. When the R-10A was developed, there was a lot of back and forth where they wanted smaller lots and townhouses and like a lot of things in Lakewood, it came out this way. The Planning Board must determine if the benefits of single family homes outweigh the detriment of the lot variances. He doesn't think granting these minimum lot area variances are going to set a precedent because most people will want duplexes but if people do come in wanting single family homes on 7,000 sf, he thinks the board should approve it. A minimum front yard setback of 25 ft is requested whereas 30 ft is required. If the board has a problem with that, they can be built with 30 ft setbacks but it ends up the units have less rear yards. Minimum rear yard setbacks of 10 ft for the decks whereas 20 ft is required. If the board feels that decks shouldn't be in the rear setback, the applicant would have to build patios.

Mr. Neiman asked if everyone is going to be coming in asking for rear yard variances for the decks.

Mr. Vogt said they are going to find out depending upon the layout of the homes.

Mr. Flannery said any applications being approved administratively will either have to have their deck within the setback or they would have a patio.

Mr. Vogt said if an application is approved administratively that doesn't show a deck and there are no variance conditions, the subdivisions will get approved. Now, if the builder of one of those lots come in with a plot plan review and it shows a deck that is within a setback that wasn't approved then it would go before the board.

Mr. Flannery said this would come in as a minor subdivision for 12 duplexes showing patios instead of decks and it would be approved by right. That is not what the applicant wants. He wants 11 units with a mix of single family and duplexes.

Mr. Rennert asked if there is any zone that allows single family detached housing on 5,900 sf lots.

Mr. Flannery said no. The question to the board is if the benefits outweigh the detriments. One of the benefits would be less density as they are only asking for 11 units.

Mr. Doyle said the variances are not being requested so they can build more houses, they are being requested so they can build less.

Mr. Rennert said the board has really tried to push for no variances in the Oak Street area.

Mr. Flannery said the deck variance and front yard setback variance can be eliminated. What will most likely happen is the property owners will come in one by one to the Zoning Board asking for a variance for the deck. Relief is requested for lot area and width for the single family lots unless the board feels that the benefits of that don't outweigh the detriments. A maximum building coverage variance of 35% is requested whereas 30% is required. The governing body changed all of the coverages over a year ago. The R-10A was inadvertently left out.

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

Mr. Neiman doesn't really have a problem with the decks but he brought it up because he wanted to see if it was going to be a blanket variance that everyone is going to ask for in this area.

Mr. Flannery has had developers ask him to change the ordinance. The Township Manager said that should be part of the Master Plan update. The issue with the decks is that people were building them too close to the property line and there was no emergency access.

A motion was made and seconded to deny the application.

Affirmative: Mr. Franklin, Mr. Hibberson, Mr. Follman, Mr. Rennert, Mr. Cautillo

No: Mr. Herzl, Mr. Neiman, Mr. Flancbaum

7. SD 2161 Aaron Finkelstein

Central Avenue

Block 77, Lot 2

Minor Subdivision to create two lots

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

8. SP 2198 ARM Land Group, LLC

Lanes Mill Road

Block 189.04, Lot 196

Preliminary and Final Major Site Plan to convert an existing house to a school and build a new dormitory

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

9. SP 2199 Harold Herskowitz

Third Street

Block 91, Lot 6

Preliminary and Final Major Site Plan for a 5 story office and retail building

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

10. SD 2162 LS Holdings, LLC

Locust Street

Block 1083, Lot 1

Preliminary and Final Major Subdivision to create nine lots

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

11. SD 2163 ARM Developers, LLC

Prospect Street

Block 445, Lots 17.01-17.12 & 18

Preliminary and Final Major Subdivision to create thirty-two lots

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

12. SD 2164 Barbara Flannery

Atlantic Avenue

Block 377, Lots 26.04-26.08

Minor Subdivision to adjust lot lines (no additional lots)

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

13. SD 2146 Mordechai Eichorn

Central Avenue

Block 12.04, Lot 48

Minor Subdivision to create three lots

A motion was made and seconded to carry the application to the November 1, 2016 meeting.
All were in favor.

8. PUBLIC PORTION

Mr. Neiman said the mayor and township committee has been putting pressure on the board to really look at variances very closely. The residents have been calling out to the amount of crowdedness, the lack of infrastructure. To go down Route 9 or any busy street during the day, a mile could take a half hour sometimes. They are looking at the Master Plan as far as density but they also feel that the boards should look at variances much closer.

Mr. Chaim Hertz understands that any single family house can be converted to a school. Any application that the board seems they are not going to approve, the engineer threatens they can put a yeshiva there. It seems like that ordinance is being used as a sledgehammer to make the board approve applications.

9. APPROVAL OF MINUTES

10. APPROVAL OF BILLS

11. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,

Sarah L. Forsyth

Planning Board Recording Secretary