

## 1. CERTIFICATION OF COMPLIANCE

Vice Chairman Stan Banas 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. Flancbaum, Mr. Follman, Mr. Rennert

## 3. SWEARING IN OF PROFESSIONALS

Mr. Terry Vogt, P.E., P.P. was sworn in.

## 4. PLAN REVIEW ITEMS

1. **SD 2044 Preferred Enterprises, LLC**  
Rutgers Boulevard Block 1607, Lot 13  
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated May 4, 2015 was entered as an exhibit.

Mr. Vogt stated no variances are being sought, however, a design waiver is requested from providing sidewalk and a shade tree and utility easement along the project frontage.

Mr. Tim Lurie, P.E. stated this is a subdivision to create two lots from one. Proposed lot 13.01 will contain 8.7 acres and lot 13.02 will contain 3.3 acres. No variances are requested. A design waiver is being requested for the lot line not being perpendicular to the street. Waivers are also sought from providing sidewalks. A cross access easement is requested for the portion of the existing parking which will be beyond the property line.

Mr. Banas asked what the use will be for these lots.

Mr. Lurie said they are just subdividing at this point. They would come back to the Board with a site plan sometime in the future.

Mr. Herzl asked what is currently on the property.

Mr. Lurie said there is a metal framed building. The current use is a warehouse and office.

Mr. Franklin said the parking lot is going to overhang into the other property.

Mr. Lurie said yes, a portion. A cross access easement will be done.

Mr. Rennert asked if it normal to subdivide a lot and have a cross access easement.

Mr. Liston said they aren't seeking any variances. They are just trying to create a lot so that they could market it and come back with a site plan for a new development on that lot which would be consistent and conforming with the ordinance and provide another ratable.

Mr. Follman asked if they require additional parking on the current lot.

Mr. Liston said no, they have an excess of parking.

Mr. Rennert asked why they can't just move the lot line a few feet to the right.

Mr. Flancbaum asked why a cross access easement is being requested.

Mr. Liston said there will only be one entrance to the entire parcel.

Mr. Flancbaum said a cross access easement is encouraged as opposed to having additional traffic on the street.

Mr. Vogt said these allow better circulation within the property.

Mr. Follman asked if there is one entrance into this property.

Mr. Lurie said there is one entrance shown on Rutgers University Boulevard. There is a secondary entrance located to the north of the property.

Mr. Liston said they are not proposing any new entrances nor will they be proposing new entrances when they come back with a site plan for the vacant lot.

Mr. Rennert doesn't understand why they can't move the lot line over a few feet. Then maybe it is more marketable.

Mr. Liston believes it will be more marketable with the access easement in terms of the types of uses in the Industrial Park and they want to make sure it is a conforming lot and they would like to divide the properties as equally as they can for marketing and conformity purposes.

A motion was made by Mr. Flancbaum, seconded by Mr. Herzl to advance this application to the January 19, 2015 meeting.

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

**2. SP 2150 Wawa Lakewood, LLC**

Route 9 and Prospect Street Blocks 420; 420.01, Lots 16; 12, 14, & 23  
Preliminary and Final Major Site Plan for a convenience store and gas station

A review letter prepared by Remington, Vernick & Vena Engineers dated November 25, 2015 was entered as an exhibit.

Mr. Jackson said he may have a conflict and will step down for this application.

Mr. Vogt stated submission waivers are requested for tree protection management plan and architectural drawings. The tree protection management waiver is supported for completeness purposes only. Compliance with the tree protection ordinance would be done during compliance. It is recommended that architectural drawings be provided prior to the public hearing.

Mr. Herzl asked what is currently on the property.

Mr. Adam Pfeffer, Esq. said there is currently a basin.

Mr. Herzl asked if surrounding properties need that basin.

Mr. Pfeffer said it is his understanding that they could do a different drainage system so as to alleviate the need for that basin. The rest would be underground.

Mr. Vogt said the applicant would have to demonstrate that what they propose is going to accommodate what is existing as well as any future development.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the submission waivers as recommended by the board engineer and planner.  
All were in favor.

Mr. Vogt stated that no bulk variances are requested, however, there are a number of sign variances.

Mr. Pfeffer said they have reviewed the engineer's review letter and would address all comments.

Mr. Herzl asked if a traffic study was done.

Mr. Pfeffer said one will be submitted prior to the public meeting.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to advance the application to the January 19, 2015 meeting.

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

**3. SP 2152 David Flam**  
Ocean Avenue Block 246, Lot 44  
Preliminary and Final Major Site Plan for a synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated November 23, 2015 was entered as an exhibit.

Mr. Vogt stated that waivers are being sought including an environmental impact statement, design calculations and architectural drawings. Temporary waivers are recommended for calculations and architectural drawings but shall be provided prior to the public hearing.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the submission waivers as recommended by the board engineer and planner.  
All were in favor.

Mr. Vogt stated a variance is requested for minimum rear yard setback. Also, partial perimeter buffer relief is required.

Mr. Rennert would like the parking addressed at the public hearing. There is no where to park on Ocean Avenue. He understands that they do meet the parking requirement of 9 parking spaces but that is not enough. There should not be any Simcha hall or catering facility proposed.

Mr. Kociuba said he does not believe one is proposed but he would be prepared to testify to that at the public hearing.

Mr. Flancbaum asked what this property backs up to.

Mr. Kociuba said residential homes.

Mr. Flancbaum would like to hear testimony concerning that rear yard setback variance as well.

Mr. Kociuba understands. The application would be amended to provide fence and landscaping as recommended by the board engineer.

Mr. Rennert asked if they could look to see if they can fit any more parking spaces on the property.

A motion was made by Mr. Herzl, seconded by Mr. Franklin to advance the application to the January 19, 2015 meeting.

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

**4. SP 2153 32 Cross, LLC**

Cross Street                      Block 533, Lots 14 & 15  
Preliminary and Final Major Site Plan for a 3-story office and retail building

A review letter prepared by Remington, Vernick & Vena Engineers dated November 25, 2015 was entered as an exhibit.

Mrs. Morris stated the subdivision which created this lot was recently approved by this board. The applicant is requested a combined hearing tonight.

Mr. Brian Flannery, P.E., P.P. was sworn in. The variances were previously granted. Waivers are being requested.

Mr. Vogt stated that submission waivers are requested for topography, contours and man-made features within 200 feet. They have sufficient information on the site plan, therefore, the waivers can be granted.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the submission waivers as recommended by the board engineer and planner.

All were in favor.

Mr. Vogt said waivers are required for the minimum buffer adjoining both commercial and residential. A design waiver is required from providing sidewalk along the project frontages on Cross Street.

Mr. Banas asked why no sidewalks are being provided.

Mr. Flannery said they would amend their plan and provide sidewalks. The application is for a site plan for a three story building. Retail will be on the first floor and office on the second and third floors. The applicant will be putting his office in this building. Buffer relief to proposed residential dwellings is being requested and it is the proposed residential dwellings that were part of the subdivision application. A 10 ft buffer is being provided and anyone purchasing a home here will know it. The ordinance requires 30 ft but can be reduced to 15 ft if it is densely planted. The 10 ft buffer will be densely planted along with a fence. Another waiver is requested for a buffer between commercial properties. Basically, it is the buffer between their parking lot and the American Legion parking lot. The ordinance says 30 ft but if you drive down Route 9, you will not see 30 ft of trees on any lot unless it is one that hasn't been developed yet. They will be providing 94 parking spaces whereas 93 are required by ordinance. The facility has a one way in entrance closer to River Avenue and parking and circulation around the building and a two-way entrance with an interconnection where the residential development is. With respect to the trash, there is a dumpster and it would be private pick up. The other items in the engineer's report can be satisfied.

Mr. Herzl asked where the loading and unloading for the store will be.

Mr. Flannery said the rear of the building has curb all along it. It is not a designated, separate loading zone. They could designate the rear parking spaces for employee parking and that would facilitate less conflicts if the board found that a better solution.

Mr. Vogt asked if the applicant has had any dialogue with Ocean County.

Mr. Flannery said they have as it is a County roadway and would need their approval. The plan shown tonight, the County has indicated that it is approvable. Cross Street is being widened and channelized and there are improvements to increase the capacity of the intersection and there would be traffic impact contributions that the County requires. The applicant is not going to fix the traffic on Cross Street but the improvements that the applicant is going to put in and the requirements by the County are designed so that there will not be an increase impact. This is a conforming use where the developer could have put more housing in but this developer thought this is a route 9/HD-7 and what makes sense is some retail and office for smart growth and development. Instead of all of these people needing to go further up or down Route 9, there would be shopping and work opportunities right within the same project.

Mr. Rennert asked if the parking calculations accounts for certain types of offices.

Mr. Flannery said the parking requirements are 1 per 200 sf for the retail which they comply with and the office would be general office, not medical, the requirements would be 1 per 300 sf.

Mr. Flannery asked what the square footage of the retail will be.

Mr. Flannery 7,960 sf of retail and the balance will be office.

Mr. Banas asked what the distance is between entrances.

Mr. Flannery said center line to center line it is about 175 ft. The most easterly entrance will be right in only.

Mr. Banas said that is awfully close. He asked if they could move the entrance more west.

Mr. Flannery said they can't move it anywhere that it's going to make any sense. The distance that is there for a right in only doesn't cause any conflicts with turning movements. The other entrance requires County approval so that all the turning radii, site distance and facilities within the County roads would have to meet their criteria.

Mr. Flancbaum inquired about the County improvements to Cross Street.

Mr. Flannery said it is widening and channelization for the intersection so that they'll be a dedicated left turn lane which would be lengthened. A concrete island would be added as well.

Mr. Flancbaum said there would be a left turn into the residential area, not the commercial area.

Mr. Flannery said the commercial is a right turn only.

Mr. Rennert asked how the residents would be notified concerning the 10 ft setback variance next to the commercial lot.

Mr. Flannery said there is a disclosure required on any sales contract. They would have this map as well.

Mr. Flancbaum asked about any additional traffic lights.

Mr. Flannery said they are not proposing any traffic lights. They are doing traffic impact fees. That is when the County decides how much extra work they need to do because of this project.

Mr. Rennert wants to ensure that the residents know there would only be 10 feet from the commercial site.

Mr. Flannery said the subdivision approval that was granted and all the plans show the commercial site.

Mr. Rennert asked what the board's guarantee would be that the potential buyer is going to be aware that they are 10 feet away from the commercial site.

Mr. Flannery said the board can make it a condition of approval that disclosure be provided to any of the homeowners.

Mr. Pfeffer said that is not a problem. They would make sure it is in the contract.

Mr. Jackson asked if there will be an association for this development.

Mr. Pfeffer said no. The streets would be Township.

Mr. Banas opened to the public.

Mr. Robert Bellantoni, 318 Damiano Way, was sworn in. He said he sat on the Seaside Park planning board for over 10 years and was chairman of the committee which formulated a new Master Plan in 2008/2009. He also served as a commissioner on the redevelopment agency in Seaside Heights for 11 years. He said this project is a huge planning mistake as both the MLUL and RSIS are not being followed. The applicant has already requested variances and waivers. These variances would make a poorly designed development and an even worse situation. The projects proposed within this block will severely impact the safety and quality of life for all

residents living in and around that area as well as the surrounding businesses. He asked that this application be denied.

Mr. John McCrossan, 607 Quail Court, was sworn in. He asked if any board member had a conflict of interest.

No board member has a conflict.

Mr. McCrossan said this project is too dense and will create a major unsafe condition in the Cross Street area. He asked where the egress would be on this site.

Mr. Flannery said all of the access is on Cross Street. If the board remembers at the public hearing, the public comment was not to connect to Chestnut Street. There is a right in only on the southeasterly entrance that comes into the property. There is a connector road where all of the traffic would exit out onto the residential cul-de-sac and at that point there is a full service intersection where the vehicles would exit.

Mr. McCrossan is concerned about the left turn. Currently in the Enclave, they have an exit on Damiano Way which is part of the Enclave property. There are no left turns allowed. In addition, east of this project is the liquor store which has two driveways. One driveway has an entrance and exit on Cross Street and a second exit on Route 9. He is concerned that there will be a major traffic issue with left turns. It is going to create a safety issue for emergency vehicles, pedestrians, etc. A traffic study was done by the principals for this property and that study was flawed. It omitted the project west of it which is block 533 lots 3 and 10. The increase of the number of cars are estimated to be 500. The traffic study did not also take into account queuing conditions. He asked that this application be denied.

Mr. Banas asked if a traffic study was done.

Mr. Flannery said there was a traffic study when this application was submitted. He thinks one of the issues coming up is the public thinks the project includes the dwellings. The dwellings have already been approved. When that was approved, they showed this commercial development which in his opinion is a good thing for the property. That property is approved for multi-development. There could be a 28 unit multi-family building by right which would put more traffic on the road and would not be smart growth. There was a traffic study done, as indicated there were some things that needed to be changed. This is a conforming application and the traffic study was done for the County and was submitted to this board for informational purposes. The traffic study has been updated and will be updated again in the process with the County which has just started. As indicated, if approval is not received from the County, they have no approval and would have to come back to this board. At that point, the public would have the opportunity to talk about some of the things that were already approved. It is his testimony that the traffic from this site is insignificant and the housing that has already been approved and the 74 townhouses next to it that were approved years ago and were fought about for years are not part of this application.

Mr. Tom Gatti, 547 Bennington Lane, was sworn in. He understands the application has already been approved but there is a potential of 300-400 cars exiting and entering on Cross Street. He is concerned about children crossing Cross Street. It doesn't seem logical to force that amount of cars out into the street where the County has not given approval. This application will also be fought at the County level.

Mr. Mayer Cohen was sworn in. He is the fire commissioner in Lakewood, a 6 year volunteer firefighter and a resident on Evergreen Avenue. He is concerned about access for emergency vehicles entering and exiting this parking lot and getting around the sharp turns. It is a three story building so ladders, long trucks would be

needed and when you have cars parked in such density as in this application, he is concerned about the safety of getting the vehicles in case of an emergency.

Mr. Carl Fink was sworn in. He asked if the commercial building was a right in and right out only.

Mr. Flannery said the access drive that comes directly to the commercial building is a right in only on Cross Street. All of the traffic exiting the site will travel through the access drive to the proposed cul-de-sac that is being constructed as part of the residential development and then exit onto Cross Street.

Mr. Fink asked where the left hand turn will be on Route 9 entering the development.

Mr. Flannery said it is based on County approval but his understanding is that there would not be a left hand turn coming in.

Mr. Vogt said this is the jurisdiction of Ocean County Engineering. This approval does not exist unless or until Ocean County approves.

Mr. Fink said then this board should take no action until County approval is granted.

Mr. Vogt said that is not the procedure.

Mr. Fink asked how far from Route 9 that intersection is. He asked what the length of a school bus is and how many would back up to Route 9.

Mr. Flannery said this is an application that gets reviewed by the County. The County reviews the geometry of it. The application does not make that decision, the County does. It looks like about 375 ft which would accommodate 6 or 7 buses.

Mr. Fink said it would only be 5 buses. There is going to be a large amount of children living in these developments. If it is a 5 bedroom house, it would be approximately 700 children. There are 52 children that fit on a school bus. He said the amount of school buses that have to go in and out between 7 to 9 am, school buses are going to be backed up all the way onto Route 9 and they will never be able to make that left turn. He believes Chestnut Street should be opened up and have the traffic go through that development into this area.

Mr. Bill Hobday, 30 Schoolhouse Lane, was sworn in. He said every inch of land is being developed to the detriment to everyone that lives here. He said that is not planning. It is allowing developers to put structures where they shouldn't be for the common good and quality of life of all. He understands that Lakewood is growing exponentially and there are areas that can sustain this kind of growth but the southwest sector is not it. He said this going to affect the quality of life.

Mr. Jackson said the Planning Board took an oath and has a duty to follow the regulations that exist. They have certain limitations and it is not up to their discretion to disregard what the development regulations are. In this case, the applicant is seeking a buffer to a residential neighborhood that has not yet been built and whomever buys into that development will be advised of such. They are talking about buses being stacked up and people making left hand turns but the reality is the applicant predominately complies with the regulations.

Mr. Hobday said the board is supposed to plan and they need to realize what this is going to do to the community.

Mr. Jackson said it is the Planning Board's job to plan per the Master Plan. It is the governing body's job to enact the ordinances. It is the board's duty to follow those ordinances.

Mr. Hobday said this is unacceptable and the board should agree because they wouldn't want this next to their home.

Ms. Kathleen Dory asked if the board has the power to turn down this application because of traffic.

Mr. Jackson said the board does not. The board has the responsibility to make sure the setbacks, lot dimensions, adequate parking, etc. The board follows the UDO. There have been applications that comply and don't comply. If an applicant is seeking a variance, evidence must be shown as to whether they have satisfied their burden as to why they should grant that variance. Here, the relief the applicant seeks is minimal. It is not even a variance, it is a waiver which is one of the most liberal things to be granted. The applicant is proposing commercial and it is their testimony that it promotes smart growth.

Ms. Dory said the issue is the traffic.

Mr. Jackson said there is a Master Plan which is like a vision. Then the governing body adopts ordinances that carry out that vision.

Ms. Dory asked who develops and controls the Master Plan.

Mr. Jackson said the Planning Board.

Mr. Tom Gatti asked if the future residents of these developments are going to be told about the fire commissioner's concern about getting emergency vehicles to them.

Mrs. Morris said all plans are sent to the Fire Commissioner. It is very rare when we see comments from them.

Mr. Jackson said the board engineer has reviewed this application to see whether it complies with standards for turn radii, etc.

Mr. Cohen said the Fire Commissioner's office does get a lot of plans for review. He has been told that any time they do give their advice or oppose a plan, it is ignored.

Mr. Herzl asked if the board is allowed to hold off until the County approves this first.

Mr. Jackson said as a general proposition, the County is an outside agency that gives approvals. They could make it subject to an outside agency approval. Under the MLUL, there is a time period in which this board has to act or the applicant can claim an automatic approval. He believes it is 95 days from the date an application is made for a site plan.

Mr. Robert Bellantoni said having worked on a Planning Board, what was said is correct. If the applicant was requesting variances then the application could be denied. But the point is, when you see the concern and the problems they are facing, it is time to look at a new Master Plan and do this right.

Mr. Banas closed to the public.

Mr. Flannery said this is a variance free application. Variances were granted as part of the application that approved the residential but none are being requested for this commercial site plan. Design waiver relief is sought between their parking lot and the American Legion parking lot. There was a lot of talk about school buses. No one on this site is going to have children that will require school buses. It is a retail/office building. The applicant has rights with this property. The property is located in the HD-7 zone. It certainly makes sense to update the Master Plan but there is a time of submission rule. When an applicant submits a completed application, which this applicant did, the rules are frozen at that point to make it fair. This applicant is entitled to HD-7 zoning on this property. HD-7 zoning permits all uses in the HD-6 including hotels, motels, professional offices, teacher studios, photographers, insurance, new motor vehicle salesroom, wholesale business and distributors, places of worship and public and private schools. The HD-7 takes it further than that as it also allows retail/business establishments, personal service establishments, restaurants, lunchrooms, service organizations, automobile rooms, places of worship, public hospitals, townhouses and two family dwellings. The HD-7 zone also allows a 65 foot high building so what is permitted by ordinance would be a lot higher and more contentious to deal with. This is a good application as it provides a ratable and it doesn't propose more houses which would mean more school buses. It takes a property that is permitted for houses, multi-family apartments that would cause more traffic and buses and it provides retail opportunities so that the houses next door don't have to travel so far. No variances are being requested. The entrance here is on a County road and the County is very vigilant on safety. The objectors have an opportunity to go to the County to make sure that it is a safe entrance. They are meeting all fire codes and there is adequate access around the building. The building itself will be built in accordance with all applicable codes.

Mr. Herzl asked what stores would be in this building.

Mr. Flannery said they are not sure yet but it would comply with the zoning.

Mr. Jackson said it would be a permitted commercial use in that zone.

Mr. Pfeffer said that is correct.

Mr. Flannery said some of the permitted uses are drug stores, pharmacies, hardware, liquor, flower shops, luncheonette, dress goods, barber and beauty shops.

Mr. Herzl said it is not like a supermarket where you have a high volume of people coming in.

Mr. Flannery said no, it is not a supermarket site.

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

Affirmative: Mr. Franklin, Mr. Banas, Mr. Flancabaum, Mr. Herzl, Mr. Rennert

**5. SP 2068 Yeshivas Ohr Yissochor Academy, Inc.**

Cross Street Blocks 525; 528; 529; 530, Lots 1.01 & 1.02; 1, 3, & 8; 1; 1  
Preliminary and Final Major Site Plan for an academic campus

A review letter prepared by Remington, Vernick & Vena Engineers dated November 25, 2015 was entered as an exhibit.

Mrs. Morris said there are two factors at play primarily in this application regarding the use. One being the fact that this is an application for a campus which is not an accredited school, however, this application was

submitted and deemed complete in May of 2014 and the zoning requirements in effect at that time are what would prevail over this application.

Mr. Jackson said under state law there is a time of application rule so that the rule that is in effect at the time the application is deemed complete governs the application. A subsequent change to the law would not take away the regulations that are applicable when the application was deemed complete.

Mrs. Morris said at the time the application was deemed complete, the definition for a campus was an accredited or similarly leveled institution. The second factor was that there was a recent rezone in the area of the Enclave and the Fairways to create the R-40B zone which does not explicitly permit schools as do most, if not all, other zones in the Township.

Mr. Adam Pfeffer, Esq. said as indicated, they are under the time of submission rule. They have reviewed the board engineer's letter and would address any concerns at the public hearing.

Mr. Rennert asked what length of time the applicant has to come before this board.

Mr. Jackson said as long as they process the case diligently. There could come a time where the board could say the applicant is not pursuing and dismiss it without prejudice. He recommended that the board keep this issue in mind.

Ms. Alexis Gasiorowski, Esq. wanted to make the board aware that they are here on behalf of objectors.

Mr. Vogt said no submission waivers are requested. A lighting plan must be provided.

Mr. Brian Flannery, P.E., P.P. said they have read the report and will address any issues at the public hearing.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to advance the application to the January 19, 2016 meeting.

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

**6. SP 2155 Congregation Williams Street**

Williams Street                                      Block 411, Lots 12.01 & 13  
Preliminary and Final Major Site Plan for a synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated November 23, 2015 was entered as an exhibit.

Mr. Vogt stated that submission waivers are requested for topography, contours and man-made features within 200 ft as well as an environmental impact statement. The waivers are supported.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the submission waivers as recommended by the board engineer and planner.

All were in favor.

Mr. Vogt said it appears variance relief is required for the number of off-street parking spaces.

Mr. Glenn Lines, P.E., P.P. said they are short one parking space and there is a possibility of a setback variance. The plan would be reviewed before the public hearing and they would either add a space or revise the size of the building so they do not create any variances.

Mr. Rennert asked if this is an existing building.

Mr. Lines said there is an existing building within the area that is now the parking lot. The concept is they would build a new synagogue on the lot next door which has an existing house being used for the synagogue and then once the new building is complete, they would tear down the existing house/synagogue and build the parking lot.

Mr. Franklin said the plans says the basement contains a kitchen and dining room which may require additional off-street parking spaces. He asked where that would be.

Mr. Lines said they would address that at the public hearing.

Mr. Rennert said 26 parking spots in a residential neighborhood does not justify a catering facility rented out.

Mr. Lines understands.

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

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

**7. SP 2057A Congregation Satmar of Lakewood**

Kennedy Boulevard East Block 174.11, Lots 38.02, 39.01, & 39.02

Amended Preliminary and Final Major Site Plan for proposed synagogue, addition to existing residence, and Minor Subdivision to adjust lot line

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

Mrs. Morris said this was a subdivision and site plan previously approved by this board. The applicant is looking to adjust the lot line and add a side yard setback variance due to the relocation of a handicapped ramp for the building as well as get a side setback variance on the adjacent vacant residential lot created by the minor subdivision.

Mr. Adam Pfeffer, Esq. said they have reviewed the board engineer's review letter and have no objections.

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

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

## 5. PUBLIC HEARING ITEMS

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

*This is a continuation. Please refer to the minutes from the November 24th, 2015 meeting for previous testimony.*

Mr. Banas stepped down.

Mr. Adam Pfeffer, Esq. said when they last left the application, Mr. Gertner was giving his testimony regarding the objections from Leisure Village. Subsequently, they have been able to have some meetings and has handed a copy of a signed agreement between Leisure Village and the applicant.

Mr. Sean Gertner, Esq. stated that trustees of the board took heed of this board's request and called a special meeting. A presentation was made to the members after receiving an outline from Mr. Pfeffer of some items. Their engineer had an opportunity to review and comment and then a presentation was made to their constituents yesterday and since that time they have come up with this final agreement. Although it has been submitted to the board, they believe it is important for members of the public to hear the conditions of said agreement. There may be residents of Leisure Village not represented by this board that may want to be heard individually. This agreement binds the board and the association as an entity with Mr. Pfeffer's client and a third party client.

Mr. Gertner read the agreement onto record.

1. *New Hampshire currently is before the Lakewood Township Planning Board (application SP 2145 & SD 2089 titled Somerset New Hampshire LLC (the "Application") seeking Preliminary and Final Major Site Plan and Major Subdivision approval for a mixed use site. The site as proposed after discussion by and between the parties shall contain approximately 25000 square feet for retail and commercial space, and 74 dwelling units in the form of duplex units with habitable basements (the "Application").*
2. *In return for the Village not objecting to the Application, New Hampshire and Somerset agree to the following:*
  - a. *New Hampshire agrees that during Resolution Compliance for the above-referenced Application, New Hampshire will confirm that in the event the storm system fails, the overflow drainage will flow away from the Village and the property in its control or management.*
  - b. *New Hampshire has provided an area adjacent to Lot 1 in Block 1248 that may be converted to an interconnected roadway after full build-out of both Lot 1 and Lot 2, as long as that connectivity will not create state mandated environmental applications to be made by New Hampshire. New Hampshire will provide for cross access easements to Lot 1 in Block 1248 and New Hampshire and its members shall cooperate with the owner(s) and developer(s) of Lot 1 Block 1248 to make certain that such cross access easement shall be built so that such road bed may be dedicated to the Township of Lakewood as part of the overall circulation pattern for New Hampshire and the anticipated development of Lot 1 Block 1248 by Somerset, the parties acknowledging that Lot 1 Block 1248 is the subject of an existing Agreement between the Village and Somerset. In the event that this interconnection is not feasible, either due to regulatory issues or due to any other reason New Hampshire agrees to contribute Fifty Thousand Dollars*

- (\$50,000) towards signage or other improvements to the Village entrance or the Towbin Avenue jug-handle.*
- c. In conjunction with the Application, New Hampshire shall send a separate request to the New Jersey Department of Transportation requesting that the Department of Transportation address the Village's concern that the Towbin Avenue Jughandle is under-utilized by the travelling public and offers an alternative for access to Airport Road for individuals travelling East on State Highway 70.*
  - d. New Hampshire will install a vertical impermeable liner along the basin slope adjoining the village extending a minimum of five (5) feet below existing grade at the tract boundary*
  - e. New Hampshire, through their engineer/planner, will provide the proper certification including their professional license numbers and seals to the Lakewood Township Planning Board confirming that this application is exempt from CAFRA regulations.*
  - f. New Hampshire will install an 8 foot high solid PVC fence, white in color by the open-space play area adjacent to the Village, New Hampshire acknowledging that the open space shown on its plan. Additionally, along this area of the fence, New Hampshire will install Leyland cypress trees 8 feet tall at the time of planting.*
  - g. New Hampshire will install a 6 foot high solid PVC fence white in color along the balance of the property adjacent to the Village as high on the proposed slope as possible, minimum 9 feet from the tract boundary.*
  - h. New Hampshire agrees to plant new trees as high on the slope as practical between the tract boundary and the PVC fence a double row of evergreen trees installed 8 feet high. The trees will be planted 10 feet on center and will consist of a 50 -50 mix of white pine and Norway spruce trees.*
  - i. New Hampshire agrees to shield the lighting so that it has minimal effect and illumination of zero (0) foot candles on the Village property.*
  - j. New Hampshire agrees that the off road storm water management system will be maintained by the anticipated Home Owners/ Property Owners Association.*
- 3. If requested, Village shall have the President or Vice-President of the Board of Trustees of the Leisure Village HOA appear before the Lakewood Township Planning Board to indicate that the HOA Board has worked with New Hampshire on the development of the site plan and have agreed to the provisions set forth herein.*
  - 4. The terms and conditions of this Agreement shall become part of any memorializing Resolution of Approval of the Application such that to the extent permitted by Law, the Township of Lakewood shall have the power, right and jurisdiction to enforce this Agreement as part of Resolution compliance. Moreover, it is understood that the New Hampshire's anticipated Home Owners/Property Owners Association to be created by New Hampshire shall have the obligation and responsibility to comply with this Agreement and maintain the improvements to be developed hereunder.*

*A copy of the entire agreement can be obtained in the office of the Planning Board.*

Toban. Just for some background for the board, what has been occurring is people traveling east on 70 drive past Toban and get to the entrance of Leisure Village where there is no turn around to Airport Road, do not want to drive back to Shorrock Street and therefore use Leisure Village as this turnaround. They are hopeful to get people to start using Toban Avenue to get to Airport Road through Oak Street.

Those are the terms and conditions agreed upon by the association as an entity with the applicant. The owner of lot 1 will be signing this agreement as well. They are hopeful that the one small additional variance for the fence will be accepted and that the board accepts the terms and conditions which they have talked about in terms of

enforcement during resolution compliance and to make certain that the governing documents of this new association also incorporate this agreement to ensure proper enforcement. If the board accepts, the association will not proceed with its cross examination.

Mr. Franklin asked if the board can accept this agreement. There have been a few revisions made to the plan.

Mr. Jackson said it is up to the board and what they are comfortable with in terms of knowing what they are approving. If the plan requires revisions, then the board could request to see those revised plans before voting. Regardless of what the parties decide, it is ultimately the board that has the authority and jurisdiction to decide what's appropriate.

Mr. Brian Flannery, P.E., P.P. said the agreement described by Mr. Gertner for the most part is what the plan already shows. They have already showed the interconnection. What Mr. Gertner indicated is that they would give \$50,000 to help the situation down the street as well as providing higher fencing and more trees along the back. All the facilities that were there are identical to what he testified. The revisions would be added to the plans and would be reviewed by the board engineer as part of resolution compliance.

Mr. Franklin opened to the public.

Ms. Kathleen Dory was sworn in. She lives in Leisure Village. She spoke to other residents of Leisure Village and they were not aware of any of this. Her concern is the application is supposed to be 74 units and yesterday they were told 5 bedroom apartments. Per the plan, it looks like the traffic is coming out onto Route 70. She is sure the board is well aware that Route 70 has major issues with traffic. For the last two years, Leisure Village has been trying to get resolution regarding gate #1. You cannot use gate #2 if you are not a resident. When you come up 70 towards Brick, you can veer into the Village and then the residents can come out straight across. Many people are coming into their village and making illegal u-turns. They have worked with the police and a no turn sign had been put up until it was damaged. They have handed out flyers stating they are recording who is making these illegal turns. She asked that a traffic study be done. She is concerned about the traffic and the number of people that are going to live there. She suggested removing the entrance on Route 70 and having it on New Hampshire Avenue. She asked that the board postpone this to give the residents more time.

Mr. Carl Fink was sworn in. He does not understand how they cannot be providing sidewalks along Route 70. Sidewalks are a must in Lakewood.

Ms. Pat Weber was sworn in. She asked what the distance is between buildings.

Mr. Flannery said the ordinance stipulates a minimum setback of 35 feet to the property line. A 15 foot dense buffer is required.

Ms. Weber said she opposes this application.

Mr. Robert Rothstein, president of the Leisure Village board of trustees, was sworn in. He said he requested a two week extension at the last meeting which was denied. That period of time would have been well utilized to inform their residents of the various changes and agreements made between the developers and Leisure Village. The proposed changes to the original plans were received on Friday. There was not enough time to inform their residents and requested again that they be given additional time.

Mr. Pfeffer said he has already worked very hard to get to this agreement. These issues that have been made have already been addressed at the previous meeting.

Mr. Jackson said he has an agreement signed by Mr. Rothstein, on behalf of the association that was presented to the board by the association's attorney. He asked why a further adjournment is being requested.

Mr. Gertner said they had a good reason last Tuesday to ask for a two week extension and by the number of people here, the board can understand the reason. There are a lot of people who are interested. The president's point based on the circumstances of the denial for the request of the adjournment all parties worked diligently to get as much information across as they possibly could in a short period of time which included the Thanksgiving holiday. A few of the residents have already spoken about the fact that they were not fully informed. An agreement was made but the president has an obligation to come back and ask for additional time to fully explain what that agreement means.

Mr. Pfeffer said one of the conditions in said agreement was the board president would appear in front of the planning board and indicate that the board has worked with the applicant on the development of the site plan and have agreed to provisions set forth herein. That agreement has been signed and submitted.

Mr. Gertner understands and acknowledges that. He just wanted to get it on the record that there was a very good reason why they had asked for that two week extension.

Mr. Jackson said generally when someone has an attorney they speak through their attorney so they aren't getting two chances at it. He is not sure if the board views this as some sort of contradiction or not. It is a problem that the board president is getting up and saying he objects to the agreement.

Mr. Franklin said he is not objecting to the agreement. He needs more time in order to explain it to his residents.

Ms. Veleca Gamble, 254A Jefferson Court, was sworn in. She is concerned about flooding of their units. Her son is here to represent her and to further explain her concerns.

Mr. Noel Gamble was sworn in. He has made contributions in multiple developments to resolve drainage issues.

Mr. Jackson asked if he is a professional engineer and whether or not he has ever been accepted as an expert in this field.

Mr. Gamble said no.

Mr. Jackson said it is up to the board as to accept testimony or not. He certainly does not appear to have the basic qualifications to provide expert testimony unless further information was given to show that he somehow has expertise in drainage.

Mr. Franklin said the board would rather not hear testimony as he is not an expert or a resident of Leisure Village.

Ms. Cecilia Cahill, 211A Huntington Drive, was sworn. She said Route 70 is already a very dangerous road and now there will be school buses coming out. She asked for an estimate of people that will live in this development.

Mrs. Morris stated that Mr. Follman had to leave due to a previous engagement. Testimony needs to be stopped as there is no quorum. The next available date would be December 15<sup>th</sup>.

Mr. Jackson said under the MLUL, the board can only act with a quorum. A quorum is defined as a majority of the full membership of the board. He announced that this application is adjourned and will be carried to the December 15<sup>th</sup>, 2015 meeting.

## **6. PUBLIC PORTION**

Mr. Frederick Robison, 79 Eagle Ridge Circle, He was a planning officer for many years and has a few questions. He said that the map used to describe the location of the property was incorrect (SP 2068).

Mr. Jackson said it is a problem to discuss an application after the application was heard. He can be heard at the public portion but it is inappropriate to taint the proceedings by addressing the board on an application when the applicant is not here.

Mr. Robison understands and would like to be heard.

Mr. Jackson advised the board not to respond to any questions regarding the application.

Mr. Robison reiterated that the map used was not correct. It was missing 93 homes in the Fairways many of which abut the property. The tax map used to complete the notice requirement may or may not have been correct. This application was submitted in May 2014 and he believes in order for the application to be deemed complete and to go forward to a public hearing, it would have had to be a technical review at that point. He believes it would be prudent to look at that technical review. It may or may not be the same. In an application that has been postponed at the request of an applicant for more than 90 days can be deemed to have been withdrawn. He anticipates that this application will be withdrawn because it was not handled in a timely fashion.

Mr. Jackson asked if he has a cite of reference.

Mr. Robison said he would provide it.

Mr. Bill Hobday said he also has a problem with the application in that it refers to the prior zone being R-M. That is not the case, it was R-40 before it was rezoned R-40B. There are also five Township paper streets there that have not yet been vacated. Therefore, the applicant is saying he owns property that he does not. When this was first submitted, it was for an educational campus and the Planning Board reviewed it and tore it apart and it never really got to a public hearing. Since then, the applicant changed attorneys and went back after several months changing the plan to get rid of the housing and keep the school only. The engineers said the applicant substantially changed the plans that a new application is required.

Mr. Jackson said he really should address the board at the public hearing. It is improper to do it now.

Mr. Pat Serpico, 136 Enclave Boulevard, asked why the board is always short two or three people.

Mr. Banas said the mayor will select applicants for the Planning Board at the beginning of the year.

Mr. Mike McLaughlin, 11 Eldorado Drive, said there needs to be more members on the board. He would like to serve on the board and asked for their support.

Mr. Joel Weber said the builder has put in two trailers on the two site and got an approval from the zoning board incorrectly at the time. A stop work order was issued and they were fined. A few weeks later that decision was overturned.

Mr. John Antonis, Lions Head Woods, He would like to serve on the board and asked for their support.

**7. APPROVAL OF BILLS**

**8. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Sarah L. Forsyth, Planning Board Recording Secretary