

## **1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE**

Chairman Yechiel Herzl 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. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Flancbaum, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

## **3. SWEARING IN OF PROFESSIONALS**

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

## **4. OAK STREET CORE RESIDENTIAL DEVELOPMENT SUBDIVISIONS**

- 1. SD 2204AO Vine Property Holdings, LLC**  
Edgecomb Avenue                                  Block 1025, Lot 1  
Administrative Minor Subdivision

Mrs. Morris announced the applicant has requested to carry this project to a future meeting date.

Mr. Robert Shea, Esq., on behalf of Tashbar of Lakewood Inc., had sent a letter to the board attorney and township council concerning a variety of issues. He claimed the agenda online versus what is before the board tonight is different.

Mr. Brian Flannery, P.E., P.P. was sworn in. He provided a rendering of a tax map and has colored in all of the nine other applications. The tenth one that was tabled was in block 1025 which was adjacent to Tashbar, none of the other properties are even in close proximity.

Mr. Shea asked if this matter has been scheduled to a particular date.

Mrs. Morris said it has not been scheduled.

Mr. Shea asked to meet with the board attorney to discuss some of these issues.

Mr. Jackson said he has had conversations with Mr. Shea and believes it is appropriate for the board to hear what his concerns are. Essentially, there is a title issue to the property. He believes that the property belongs to his client as conveyed by the Township and the applicant obviously believes that the title to the property in question is theirs.

Mr. Vogt asked what particular property they are referring to.

Mr. Flannery said the disputed area is the vacated portion of Nassau Avenue adjacent to blocks 1017 and 1024. As indicated on the map, that is nowhere near any of the applications before the board tonight. It would strictly relate to applications within blocks 1016 and 1025.

Mr. Shea stressed that this is more than a title issue. These are two pieces of property, one being his clients which was purchased in 2005 from Lakewood Township and subsequently approved by this board which included the entire roadway of Nassau Avenue. At that point in time, he went through a very long process which included the 50 ft of the Nassau roadway as part of the application approved by this board and also approved by various other township officials. There is no question Tashbar received it back in 2011/2012 included Nassau Avenue.

Mrs. Morris said this application has carried and the other Oak Street applications on the agenda are not adjacent to Tashbar's property. They have a very heavy agenda tonight and to debate an application that is not up for consideration seems to be a waste of time.

Mr. Jackson agrees. He does not think this is anything they can resolve tonight but he thinks Mr. Shea should succinctly lay out what the issue is. In his view, questions of this nature are questions of title. His recommendation to the board is that this is a matter the respective parties have to decide themselves or in court. He does not think in instances like this, it is the Planning Board's role to decide who owns and doesn't own property. From what he has gathered after talking to the township attorney, they both have claims to it and they're going to have to resolve that one way or the other. This board cannot do that and since they cannot do that, he believes the board has to hear the application and if someone feels their property rights are infringed they can go to court and get an injunction.

Mr. Flancbaum personally doesn't have any objection to Mr. Shea laying out his issues on the record but the board would not comment as this matter has been carried.

Mr. Jackson said in fairness to him, the board should let him make his argument so they can absorb it so when it's actually on the agenda it's not new to anyone.

Mr. Shea said his client purchased this property in 2005 from Lakewood Township. As part of that arrangement with Lakewood, there were a variety of items contained within that deed. One being the fact that his client was purchasing a 50 ft right-of-way on Nassau Avenue. It is directly adjacent to his client's site and there is absolutely no question that along with another parcel of property was included in the purchase. His client sought approval from this board in and around 2011 and submitted a variety of applications for construction of a school and housing for students which was subsequently approved by this board. That particular application also included the 50 ft right-of-way from Nassau. There was never an issue brought up during the course of that hearing that his client did not own or control that parcel of property. If you look at the deed that was transferred from the township to his client, there is an absolute restriction to subdivide out any other portion of property they received. In 2016, his client became aware at that point in time that there was interest in the development of these particular lots. However, what he was not aware of, in 2016 a deed was transferred to AMT, which are the owners of a significant portion of Oak Street, from the Township which did include a section of Nassau. Obviously in error and obviously including a portion of his client's property that was already part of a major site plan. There is a title issue but at the same time there is an issue relating to transfer by a municipal body to various property owners. His client's first knowledge that something was awry, was when he noticed a bulldozer to the rear of his property. They then discovered the existence of this deed and then discovered there was a minor subdivision pending before this board involving a portion of his client's property. There are also significant issues dealing with the granting of right-of-ways to NJAW by the township which happen to put water mains and sewer lines through his client's property with absolutely no permission whatsoever. The board can appreciate the fact that his client is upset and finds himself in a position where his property and approvals are affected, there are potential situations where there are lot coverage issues

presented and also potentially affected if an approval of this sort is granted. If you take away a 50 ft section of this parcel of property from his client's site, it affects his site significantly. There are about 12 to 15 buildings that will ultimately not usable, the playgrounds could be affected, and the roadways would have to be maneuvered around. His client should not be responsible but the municipal bodies that created this situation. He asked that the board table this matter until he has an opportunity to speak with township officials.

Mr. Jackson explained that this is a little complicated and obviously the objecting attorney has put a lot of time and research into this. In his discussions with the township attorney, it may appear the property was conveyed to both of them but it is not the position of this board to sort that out. If the applicant has some sort of reasonable claim to the property, they should move on the application as usual and the board cannot be the arbiter of who owns it. Ultimately he thinks this will have to be resolved in court.

Mr. Shea said there is also a jurisdictional issue. In his process of analyzing the case, they have discovered that Lakewood Township has not properly noticed pursuant to the Open Public Meetings Act. It appears as though there has only been notice sent to one newspaper at the beginning of the year. If that is the case, that is in strict violation of the Open Public Meetings Act which affectively means that not only this hearing is void but any potential action the board may have made since January could potentially be void. A Monmouth County superior court judge has ruled that if the Planning Board's do not send notices to two newspapers at the beginning of the year for reorganization at that juncture, all decisions and determinations from that year forward will be deemed to be void. They did a diligent search of the record and could only find notices were sent to Asbury Park Press.

Mrs. Morris said notices are also sent to the Tri-Town News.

Mr. Shea said that is not indicated on the agenda. He asked if the notice of reorganization is sent to that newspaper as well.

Mrs. Morris confirmed. The board attorney's office prepares those notices.

Mr. Shea asked if they would be notified when this matter comes back before the board.

Mrs. Morris said she would try to remember to notice them individually but legal notice is not required.

Mr. Jackson said it is their obligation to check the agendas, the obligation should not be on the board secretary but at a courtesy, they will try to remember to notify them.

Mr. Flannery said for the record, Mr. Shea said a lot of things are obvious but there are other parties to this suit that may not feel they're obvious. Those parties should get together and try to resolve the problem so when this does come back before this board, the board doesn't have to get involved.

- 2. SD 2205AO Oak Street Equities LLC**  
Broadway Avenue    Block 1039, Lot 3  
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 17, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

Mr. Rennert said for the past two meetings he has been requesting that when these come back, the table should be corrected. The board is approving this administratively and the board should at least have the correct plan in front of them.

Mr. Flannery said any of the applications where the table has not been fixed is because they had been submitted prior to the last meeting.

Mr. Rennert said he has been requesting this for over a month.

Mr. Flannery said he didn't get any of the reports in time to see which ones were not corrected but if the board engineer indicated that none of them have been fixed, that would lead him to believe that all of these applications were submitted prior to the last meeting. The plans would all be revised prior to filing so it really doesn't hurt anything.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**3. SD 2209AO SGKL, LLC**

Bradhurst Avenue

Block 1027, Lot 6

Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 20, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

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A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**4. SD 2210AO SGKL, LLC**

Broadway Avenue

Block 1036, Lot 4

Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 20, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

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A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**5. SD 2211AO ABGK, LLC**

Wadsworth Avenue    Block 1026, Lot 2  
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 21, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

Mr. Rennert said for the past two meetings he has been requesting that when these come back, the table should be corrected. The board is approving this administratively and the board should at least have the correct plan in front of them.

Mr. Flannery said any of the applications where the table has not been fixed is because they had been submitted prior to the last meeting.

Mr. Rennert said he has been requesting this for over a month.

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A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**6. SD 2212AO ABGK, LLC**

Broadway Avenue    Block 1045, Lot 2  
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 21, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

Mr. Rennert said for the past two meetings he has been requesting that when these come back, the table should be corrected. The board is approving this administratively and the board should at least have the correct plan in front of them.

Mr. Flannery said any of the applications where the table has not been fixed is because they had been submitted prior to the last meeting.

Mr. Rennert said he has been requesting this for over a month.

Mr. Flannery said he didn't get any of the reports in time to see which ones were not corrected but if the board engineer indicated that none of them have been fixed, that would lead him to believe that all of these applications were submitted prior to the last meeting. The plans would all be revised prior to filing so it really doesn't hurt anything.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**7. SD 2213AO ABGK, LLC**

Bradhurst Avenue

Block 1035, Lot 2

Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 21, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

Mr. Rennert said for the past two meetings he has been requesting that when these come back, the table should be corrected. The board is approving this administratively and the board should at least have the correct plan in front of them.

Mr. Flannery said any of the applications where the table has not been fixed is because they had been submitted prior to the last meeting.

Mr. Rennert said he has been requesting this for over a month.

Mr. Flannery said he didn't get any of the reports in time to see which ones were not corrected but if the board engineer indicated that none of them have been fixed, that would lead him to believe that all of these applications

were submitted prior to the last meeting. The plans would all be revised prior to filing so it really doesn't hurt anything.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**8. SD 2214AO ABGK, LLC**

Broadway Avenue    Block 1038, Lot 3  
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 21, 2017 was entered as an exhibit.

Mr. Herzl asked if there are any issues with any of these Oak Street applications.

Mr. Vogt said they are not aware of any variance relief required.

Mr. Rennert asked if the schedule of bulk requirements has been corrected.

Mr. Brian Flannery, P.E., P.P. believes they have been but he did not look at all of them.

Mr. Vogt said they have not been corrected but they will make sure they are prior to signatures.

Mr. Rennert said for the past two meetings he has been requesting that when these come back, the table should be corrected. The board is approving this administratively and the board should at least have the correct plan in front of them.

Mr. Flannery said any of the applications where the table has not been fixed is because they had been submitted prior to the last meeting.

Mr. Rennert said he has been requesting this for over a month.

Mr. Flannery said he didn't get any of the reports in time to see which ones were not corrected but if the board engineer indicated that none of them have been fixed, that would lead him to believe that all of these applications were submitted prior to the last meeting. The plans would all be revised prior to filing so it really doesn't hurt anything.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

**9. SD 2215AO ABGK, LLC**

Wadsworth Avenue    Block 1028, Lot 1  
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated February 28, 2017 was entered as an exhibit.





Mr. Flannery said any of the applications where the table has not been fixed is because they had been submitted prior to the last meeting.

Mr. Rennert said he has been requesting this for over a month.

Mr. Flannery said he didn't get any of the reports in time to see which ones were not corrected but if the board engineer indicated that none of them have been fixed, that would lead him to believe that all of these applications were submitted prior to the last meeting. The plans would all be revised prior to filing so it really doesn't hurt anything.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Hibberson

Mr. Herzl asked if anyone from the public would like to speak.

Mr. Shlomo Klein said these applications are part of an administrative approval and there shouldn't be public notice. If the board had given proper notice, the property owners could have discovered any issues sooner. Two of these applications are on Pinehurst which is not being improved and it has been determined by the township that sidewalks are not required. He looked up the township code and anybody with approvals has to put in roads. He does not believe the township committee can grant waivers, the Planning Board has to do that.

Mr. Joel Schwarz said he lives in the Chestnut area and the residents are all up in arms concerning this development within the Oak Street Corridor.

## **9. PUBLIC HEARING**

### **1. SD 2176 Tovia Halpern**

Woodland Drive

Block 12.07, Lot 28

Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated December 7, 2016 was entered as an exhibit.

Mr. Grunberger arrived.

Mr. Vogt said variances include minimum lot area, width, side yard and aggregate side yard setbacks.

Mr. Brian Flannery, P.E., P.P. was sworn in. This application is for a 23,440 sf lot on Woodland Drive in the R-12 one. A lot area variance requested is de minimis as the proposed lots are 11,841.98 sf and 11,598.33 sf whereas 12,000 sf. The variance sought which is not de minimis is for lot width. The proposed lot width is 50 ft whereas 90 ft is required. A map of the area was provided to the board. When you look at Woodland Drive, there are 40 lots and 15 of them are already 15 ft wide so 38% of the lots in the area are similar to what the applicant is asking for. An additional six lots are less than 90 ft required by ordinance so more than half of the lots on that block do not comply with the ordinance. He understands the board does not want to set a precedent where more people do the same but if you look at the tax map, it shows that there are only three other lots similar in size. At the southerly side of the block are smaller lots so they don't have close to the lot area they would require in order to present the same application. There are three lots in the vicinity, one of them is an objector, one of the other two is a recently developed house so it would be unreasonable that in any current time frame that that applicant would be coming

in. So there are potentially one or two lots which could potentially submit a similar application. In addition to those variances, since it is only a 50 ft wide lot, they are asking for side setbacks of 7.5 ft whereas 10 ft and an aggregate of 15 ft whereas 25 ft is required. It is difficult in deciding if the benefits outweighs the detriments and that is something the board would have to weigh. The application is pretty simple, the lot is grossly oversized and they would like to provide additional housing opportunities. The Master Plan indicates that there aren't enough housing opportunities and the Master Plan recommends development and redevelopment based on smart growth planning principles. The MLUL indicates that the board should development of the property in a method that promotes the general welfare and by providing the housing opportunities that are needed, it is his opinion that it promotes the general welfare. Additionally, development should be provided that is consistent with the density proposed and this is consistent. It is his testimony that the board can grant these variances without any detriment to the zone plan and zoning ordinance. The positive criteria includes providing redevelopment and housing opportunities in accordance with the Master Plan. The negative criteria would be additional traffic but they are only adding one dwelling unit so it is his opinion that is minimal. It really comes down to an aesthetic situation and everybody has different ideas with respect aesthetics. There is a house there that is in need of redevelopment and it would be replaced with two beautiful houses and provide housing opportunities for two additional families.

Mr. Bernard Riley, Esq., on behalf of several objectors, asked where the R-12 one is.

Mr. Flannery said the R-12 zone encompasses a large area and there are areas on this map he did not mention as the lots relevant for this application would be on Woodland Drive.

Mr. Riley asked if it is fair to say that the governing body has determined that this area ought to be developed with 90 ft frontages.

Mr. Flannery said it is fair to say that the governing body thinks the R-12 zoning for that property is appropriate unless an applicant shows they have a reason for a variance.

Mr. Riley asked if he agrees that the criteria established for development or redevelopment in this area should have a 90 ft frontage.

Mr. Flannery agreed.

Mr. Riley asked how many lots are similar to the subject property and could be subdivided in the same fashion.

Mr. Flannery has not done that study. This zone goes all the way down to Route 9 and it is quite an expansive area. His experience with the board is typically they look at the neighborhood where the application is taking place. The Master Plan of 2007 tells the board to take cognizance of the neighborhood.

Mr. Riley said in the past, it was permissible to have 50 ft wide lots.

Mr. Flannery has no knowledge of that. This neighborhood has been there since he moved into Lakewood in 1979.

Mr. Riley asked if he is familiar with any other variances that had been given in this neighborhood to subdivide a conforming lot into two non-conforming lots.

Mr. Flannery said the property across the street was subdivided into 75 ft lots with an area deficiency of 7,500 sf rather than the 12,000 sf required.

Mr. Riley said there was a very similar application a few years ago under Bauman where the application was denied.

Mr. Flannery does not recall.

Mr. Riley said he indicated that there is a house next door which was recently reconstructed on a lot similar in size to the subject lot.

Mr. Flannery said lot 19 in block 12.07.

Mr. Riley said there are a number of properties in the immediate neighborhood where new houses have been built on the same size as the subject lot.

Mr. Flannery only sees 3 other lots on Woodland Drive that are comparably the same size as the subject lot.

Mr. Riley said there are many lots which have 90 ft wide frontages.

Mr. Flannery said half the lots on Woodland Drive have less than 90 ft.

Mr. Riley asked if the 50 ft lots preexist the R-12 zoning.

Mr. Flannery does not know.

Mr. Riley asked what the benefit to the neighborhood is by splitting a conforming lot into two non-conforming lots.

Mr. Flannery said the benefit is to the public good.

Mr. Rennert asked if these lots would conform to the R-7.5 standards.

Mr. Flannery said yes.

Mr. Steve Reinman, 752 Lakeview Drive, was sworn in. He lives behind and one lot over on a 21,000 sf lot. He has been living in the neighborhood for almost 22 years. It was smaller houses on larger lots and now it is very large houses on large lots. He was told by old time Lakewood residents that this is an area which used to be almost exclusively 50 ft wide lots. Over the years, many of the lots have been consolidated into 100 ft or wider lots and people are building larger beautiful homes. In particular, one of them mentioned earlier went before this board for a similar application and it was denied for the simple reason that they don't create 50 ft lots. Around the corner there is a whole slew of open area property that has been recently bought for high prices and if this gets approved, he can see every one of them asking for 50 ft lots. The neighborhood is not geared to handle that.

Mr. Israel Eichenholz, 830 Woodland Drive, was sworn in. He moved to this neighborhood about 8 years ago from Brooklyn. He feels it would set a precedent if the board approves this application. He is also concerned about the increased density and traffic.

Mr. Riley said this area has been zoned for R-12 for many years. There are pre-existing non-conforming lots which happens all the time but obviously as testified, the trend of the neighborhood is to develop conforming structures on conforming lots.

Mr. Moshe Deutsch, 124 Rosebank Street, was sworn in. He asked if there would be basement apartments and requested that the board deny this application.

Mr. Frederick Robison, 79 Eagle Ridge circle, was sworn in. He asked how an engineer could offer testimony on the work of another engineer particularly when that engineer is not present and part of the same firm. In 30 years as a planning and zoning official, he has never experienced that.

Mr. Jackson said this is a quasi-judicial board, the rules of the evidence do not strictly apply. That said, even if they were in court, they looked at the rules of evidence and an expert very frequently is allowed to rely on the data and information provided by other experts provided that it is customary for experts in that field to rely on the data or information. He sees that all the time at planning board hearings. The board engineer often times testifies off of information from their traffic engineer that was provided internally. It is a very common thing and believes it would be permitted in court.

Mr. Shlomo Klein was sworn in. He complained about the timer and had nothing relevant to say concerning this application.

Mr. Bill Hobday, 30 Schoolhouse Lane, was sworn in. He is against this application and is concerning about density, quality of life and rising taxes.

Mr. Aaron Bauman, 931 Woodland Drive, was sworn in. He has lived on the block for about 11 years. He would like to see the neighborhood built up as he has many family members looking for housing. He urged the board to approve the application.

Mr. Aaron Hirsch, Chestnut Street, was sworn in. He urged the board to deny this application as it is only hurting the Township. The property should be developed in accordance with regulation.

Mr. Herzl closed to the public.

A motion was made and seconded to deny the application.

Affirmative: Mr. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

No: Mr. Grunberger

**2. SP 2220 Pine Holdings, LLC**

Pine Street

Block 961.01, Lot 5

Preliminary and Final Major Site Plan for a daycare

A review letter prepared by Remington, Vernick & Vena Engineers dated February 27, 2017 was entered as an exhibit.

Mr. Vogt said the revised plans indicate Sims Avenue will be improved. However, design waivers will be required from providing sidewalk as well as shade tree and utility easements. A maximum impervious coverage also appears necessary. Testimony shall be provided regarding parking. Based on the proposed usage and square footage indicated on the new architectural plans, it appears that 200 off-street parking spaces are required, so a variance would not be necessary. Variances are also required for front yard off-street parking setback, side yard off-street parking setback, relief relative to the landscape buffer area, from providing sidewalk along Boulevard of the Americas and from providing curb along the Pine Street frontage. Finally, a design waiver is required for proposed access driveways from Sims Avenue.

Mr. Adam Pfeffer, Esq. said this is a four-story building which would be utilized as a day care facility and office building. The property is irregularly shaped which is located in the Cedarbridge office park. They have proposed 240

parking spaces and are asking for a few minor variances for setbacks but so the board understands, they can make this a fully conforming application but they would lose parking. He believes the benefit of additional parking would outweigh any detriment to granting these minor variances. This building will primarily service the workers in the office buildings so when they come to work they would be able to drop off their children in a brand new day care facility at the same location.

Mr. Glenn Lines, P.E., P.P. was sworn in.

Mr. Herzl said the zoning chart on the plan does not indicate any variances required.

Mr. Lines said there are no variances related to the building. There are variances relative to parking setbacks to the property lines and a landscape buffer to an adjacent property.

Mr. Franklin believes these plans are incomplete looking at the board engineer's review letter. He counted at least 48 items which need to be added to the plan. He questioned why these items aren't taken care of before it gets to this board.

Mr. Vogt said he doesn't know if they would ever get an application prior to a board hearing that would have no items.

Mr. Franklin understands but there are 48 items pointed out in the review letter which aren't complete including drainage, setbacks, parking.

Mr. Vogt said on this particular application, the initial meeting was prior to the tech meeting format. Going forward, he thinks if applications go to tech first then to public hearing if they meet most of these items.

Mr. Franklin said the rest of the applications on the agenda are in the same situation.

Mr. Vogt asked if there is anything in the report the applicant can't agree to.

Mr. Pfeffer said no. A lot of the comments are just statement of facts.

Mr. Franklin referenced comment #14 concerning proposed retaining walls. He would like to see this added to the plans. That is not a minor comment.

Mr. Pfeffer reiterated they have no problem complying with all of the comments.

Mr. Franklin understands but the board has the right to see more complete plans before they pass it. He would like to make a motion to table this as it is an incomplete submission.

Mr. Pfeffer said that particular item is no longer required. If the board hears the testimony, there is another road being installed so the retaining wall is no longer needed.

Mr. Franklin stressed that these items must be addressed so the board understands what they are approving.

Mr. Pfeffer understands and that is why the process has changed. This was submitted before that change.

Mr. Vogt said they will have the tech meeting and if the applicant agrees to address these comments then they would schedule for a public hearing. They would have two to three weeks to make the changes and they have two

weeks with all of the other applications just to get letters out. He is confident they would not sign off until they are comfortable that they've met these comments. That being said, he is not a board member and if the board is not comfortable with what they are seeing, it is reasonable to tell the applicant what you want.

Mrs. Morris said they had a tech meeting today. Applicants were advised they would be scheduled for the April 25th public hearing provided they revise the plans adequately and submit them by March 23rd so the applicant has three weeks to revise the plans and three weeks for the board engineer to review them.

Mr. Franklin would like to see revised plans that address the majority of these comments before approving the resolution.

Mr. Pfeffer has no objection.

Mr. Lines said this application is for an approximately 20,000 sf four-story building located on a parcel between Boulevard of the Americas and Pine Street. The first and second floors would be a daycare center and the third and fourth stories will be office. Parking is proposed between Boulevard of the Americas and the proposed building which will primarily be for use by the upper two floors. Another parking area is located between the building and Pine Street which will have a two lane drop off for parents who will be dropping off their children at the daycare center plus parking for the daycare center and additional parking for the offices. There is one entrance drive to the site coming in off Pine Street which will access the rear parking lot. They are constructed Sims Avenue which was part of a recently approved subdivision by the board. Sims Avenue will have three access drives, one for the front parking area and two for the parking area closer to Pine Street. Pine Street access is only right and left in. There is no exit to Pine Street from that driveway.

Mr. Franklin asked how they would keep people from using that access as an exit.

Mr. Lines said they would provide signage.

Mr. Herzl said to make sure it is striped with arrows.

Mr. Lines said arrows are shown on the plan, they would stripe it and provide appropriate signage. The Pine Street entrance is 24 ft wide and the other entrances are 30 and 32 ft wide.

Mr. Flanbaum asked why it has to be so wide if it is only one way. If the access is narrower then it would help prevent people from using it as an exit.

Mr. Herzl questioned the left turn from Pine Street. It is a heavily traveled road.

Mr. Pfeffer has no objection.

Mr. Herzl asked how wide Sims Road will be.

Mr. Lines said 32 ft wide RSIS compliant roadway with sidewalks.

Mr. Rennert asked if it was Sims Road that was supposed to cut across half the town in the Master Plan.

Mr. Joshua Schmuckler was sworn in. Charity Tull was supposed to be the cross from North to South and South to North but because of the Somerset Run development, they switched it to Sims and this is going to line up with Sims.

Mr. Pfeffer wants to be clear that this applicant is not required to improve Sims but to make the application better they are improving that road.

Mr. Herzl said this application would not work with access only on Pine Street with the amount of traffic there.

Mr. Rennert asked if Boulevard of the Americas is a four lane highway.

Mr. Lines said no, it is one lane in each direction.

Mr. Scott Kennel was sworn in. His office prepared a traffic report which addresses this application dated February 21, 2017. The first two floors of the building consist of a daycare which is approximately 40,000 sf with a student enrollment capacity of 420 and the third and fourth floors would be general office space. The intent of this project is to serve the needs of not only the employees of this building but of the other office building that have recently been approved or proposed within the Cedarbridge Corporate Campus which based on his estimation is approximately 350,000 sf among 6 or 7 buildings. This is a good application from a traffic management perspective as daycare services are being provided at the same location as the employees and it will also serve other residents in the area as well. Their traffic analysis did not take any internal credits, it is expected that 25% of the children enrolled would have parents working in the third and fourth floors of this building and you could match as much as 25% from the remaining buildings in the area. But they prepared a conservative analysis and did not take any of those credits in projecting the traffic volumes as identified in the report. This site is going to be served by the driveway on Pine Street which would be ingress only. The site plan has been designed for that driveway to be less than 24 ft. It is not going to be wide enough to encourage two way and it will be signed from inside the parking 'Do Not Enter' towards Pine Street as well as other appropriate signage. He questioned if the board wanted that entrance to be right turn only because their analysis considered left turns from Pine Street at both Sims Drive and at this ingress only driveway opposite Albert Avenue. The reason for that is based on the way the site plan is designed, it is set up to have the primary entrance to the daycare center on the south side of the building so it sets it up for a counter clockwise traffic flow and the intent was to bring as much of the traffic in from the Pine Street access. Obviously, it is subject to the board.

Mr. Herzl asked if there would be a light.

Mr. Kennel said based on the Master Plan, Sims Drive is a Master Plan roadway which is supposed to be constructed and aligned on Pine Street opposite Charity Tull which would then eventually extend all the way to Oak Street. Those Master Plan documents recognize or identify a traffic signal at that location. It was considered in the T&M report, they also considered dedicated left turn lanes on Pine Street as part of that signal installation. Again, those are the recommendation in the T&M report but as far as he knows there has not been any plans developed at this time so he cannot speak to the final intersection design.

Mr. Herzl said as long as there is no dedicated turning lane or light, it is impossible to make a left turn into the site from Pine Street with the amount of traffic.

Mr. Rennert said there is one intersection on Pine Street rated 'F' for traffic and the area isn't even fully built up yet. At what point do they say 'F' is too much.

Mr. Kennel said that intersection has been identified for a traffic signal. The current traffic volumes projected with the known developments within the campus would not warrant a traffic signal. Albert Avenue, today based on the current volumes, is on the threshold of meeting those warrants but that would be in conflict with the Master Plan circulation element where they have identified Sims location on Pine for the traffic signal. He can speak to the fact that the site driveways all operate at acceptable levels of service. The intersection of Sims and Boulevard of the



Americas would be an 'A' level service. The analysis, when they consider left turns into Sims and to Pine, were projected to operate at level service 'A'. As far as the 'D' and 'E' levels of service from Sims onto Pine, the 'D' level service is projected for the morning peak hour and a level service 'E' in the afternoon. To be clear, the analysis did not take any credits for internal trips.

Mr. Rennert asked how the board is supposed to consider this when they have an intersection being created they know is not going to work.

Mr. Kennel said that level of service is based on ten year projections, growth rate and the consideration of thirteen other developments as well as the proposed shopping center being heard later tonight. He included thirteen other developments in the analysis which represented a 30% increase in traffic on Pine Street. In his opinion, he has done a conservative analysis.

Mr. Herzl said Albert will be a level service 'F'.

Mr. Kennel said yes, if you look at everything built out, Albert Avenue will be a level service 'F' at northbound approach. If there is a traffic signal provided at Sims, there will be a reassignment of Albert traffic to Sims or Charity Tull on the south because you are providing drivers an opportunity to access Pine Street. Again, that is all going to take place over the next 5 to 10 years and their traffic volumes are based on 10 year projections.

Mr. Rennert recommended that an acceleration and deceleration lane be provided on Boulevard of the Americas and Sims. There should be a cut out where they are going to be comfortable where it's only going to be a right in and right out.

Mr. Kennel is trying to understand the question. Right now there is a grass median which would prohibit left turn movements.

Mr. Rennert understands.

Mr. Vogt said that intersection is right in and right out only.

Mr. Kennel confirmed.

Mr. Rennert asked if they would agree to provide some sort of indentation on Pine Street so they could enforce the right in only.

Mr. Kennel said if that is the board's desire, they can design that access to only permit right turns.

Mr. Vogt recommends that prior to the resolution, Mr. Kennel work with a civil designer to make sure they get it right.

Mr. Kennel said right now the only access is directly opposite Albert Avenue. If they put the geometry suggested and their property line exists right against the drive aisle, the access would have to shift anywhere from 25 to 40 ft in order to achieve the proper curb returns, the radius and geometry to prohibit left turns. If you are making it a right turn only, that should not be an issue because you are prohibiting people from Albert Street from coming across.

Mr. Flancbaum questioned whether they need access from Pine Street at all. The intersection of Albert and Pine is crazy. You cannot make a left from Albert onto Pine and if you're going to have another access directly across the

street into a major office building, it's going to be a big problem. He suggested to just have access off of Sims Avenue.

Mr. Pfeffer said if that makes the board more comfortable then they would make it work internally as to the traffic flow on their site.

Mr. Flancbaum thinks the access on Pine just exacerbates the whole problem.

Mr. Kennel said they would have to do some modifications and improve some geometry but they can make it work.

Mr. Flancbaum said maybe then they can have the deceleration lane on Sims.

Mr. Kennel said Sims and Pine would be a full movement intersection which will be stop sign controlled until a point in the future where the traffic volumes warrant the installation of a traffic signal.

Mr. Herzl asked if a turning lane can be provided from Sims into this site.

Mr. Kennel said they did not propose that.

Mr. Rennert asked if the service levels would be improved if a traffic signal was put up at the intersection of Sims and Pine.

Mr. Kennel confirmed.

Mr. Rennert asked if the applicant would be willing to provide a traffic signal.

Mr. Kennel said based on his review of the data, it doesn't warrant a traffic signal. Typically what happens is there is a fair share contribution because they are only one element or need for a traffic signal but the applicant is actually constructing a 600 ft roadway. In his opinion, that is already a public benefit which has been satisfied.

Mr. Lines said they have requested waivers from providing sidewalks on Sims Avenue, Pine Street and Boulevard of the Americas as they are not looking to encourage foot traffic.

The board was in agreement that sidewalks shall be provided.

Mr. Pfeffer agreed.

Mr. Follman asked if there is a basement.

Mr. Lines said no, it is on a slab.

Mr. Vogt confirmed a waiver from sidewalks is no longer being requested. He asked if the applicant is still requesting a shade tree and utility easement waiver.

Mr. Lines said they are not seeking a waiver. The report notes that a maximum impervious coverage variance is required whereas 80% is allowed but they calculate 73.92% so they disagree they need that variance. By eliminating the driveway going out to Pine Street, which would decrease their impervious coverage even more. Off-street parking setbacks are required as the zone requires they provide a 50 ft setback from Sims and Boulevard of the Americas for all parking and driveways. They could comply but they would lose parking.

Mr. Rennert asked how many parking spaces would be provided if the variances are eliminated.

Mr. Lines said they would lose the front two parking areas. Per their calculations, they need 137 spaces to comply.

Mr. Vogt said their interpretation is 200 spaces are required.

Mr. Rennert asked if the other buildings on Boulevard of the Americas meet the setbacks.

Mr. Lines said yes, they put the building right next to the road and the parking behind it.

Mr. Follman questioned why they are asking for more spaces than what is required.

Mr. Lines said the main problem in Lakewood is that everything is built exactly to the number of parking spaces the ordinance requires and almost every site in town has a small parking issue. So they are providing 20% more than is required which is a definite advantage to the town.

Mr. Rennert is looking at Sims Avenue like it is going to be a major thoroughfare. He questioned the playground being close to Sims and the setback variances being requested. He asked what sort of buffer is being provided.

Mr. Lines said the normal landscaping of shade trees and some low buffer plantings.

Mr. Franklin asked if 6 additional handicap spaces could be provided at the other entrance. That way there are handicap accessible spaces at both entrances.

Mr. Lines has no objection. They are not improving anything on Pine Street so they are requesting a waiver from providing curbs. Pine Street doesn't have curb now on any of the properties.

The board was in agreement that curbing shall be providing on Pine Street. The waiver would not be granted.

Mr. Pfeffer has no objection.

Mr. Lines said they would agree to all of the remaining comments in the report.

Mr. Follman asked how they can get a traffic signal. He doesn't see how this works without one.

Mr. Rennert suggested they could reach out to the town.

Mr. Pfeffer said they have no problem submitting a request to the township but they have given traffic testimony and have heard what the situation is both currently and at future build out of all of these buildings. The traffic would not be any worse by building this, in fact, they are providing an improvement to the area by improving the street.

Mr. Herzl asked if the board is within their right to request a traffic signal.

Mr. Jackson is unsure, he would have to look into it.

Mr. Vogt said in his experience, no one is specifically forced to put in a traffic signal for an application unless there is an abundance of proof that the application doesn't work without it. What is typically done in Ocean County, is the

applicant may be asked to a pro-rate contribution. If the signal, for arguments sake, with all of the improvements is \$400,000 and they contribute 10% of the need for that cost, then their pro-rated share is \$40,000.

Mr. Kennel said that is correct. To remind everybody, the traffic study, traffic volumes and analysis is based on thirteen other developments, 10% growth or approximately a 30% increase in traffic on Pine Street. You have to hit certain volume thresholds at the intersection to meet the warrants for installation and with just this building, you do not hit that threshold. Whether it's the State, County or municipality, you monitor the growth and traffic as a potential candidate for a signal.

Mr. Jackson said it is a difficult question to answer. The case law suggests the applicant is not responsible for off-site traffic conditions. If, however, the traffic is directly caused by their application then yes, he believes the board can require a signal. It has been his experience though, most of the time you are dealing with the NJDOT.

Mr. Kennel said if it is a State highway, yes. The recent change to the administrative code 5 or 6 years ago gives the municipality authority. Previously, the municipality had to go to the NJDOT and have their review and sign off before you could install a traffic signal. Now the municipalities have the authority to do their own investigation and to evaluate whether the traffic warrants are met.

Mr. Jackson thinks if the board found that this specific application caused that need then he thinks they could require that traffic signal to be part of the approval. If it is on a municipal road then the governing body would have to initiate it.

Mr. Vogt cannot determine tonight whether this application is creating a need for a signal. In part, this application is contributing to the need of a future traffic signal. That is typically why agencies such as Ocean County use a pro-rated formula.

Mr. Pfeffer asked if this particular application warrants the requirement of a traffic signal because of this application.

Mr. Kennel said at Sims Avenue, not in his opinion.

Mr. Rennert asked how the circulation would work now that they have eliminated access on Pine Street.

Mr. Lines said you would come in from Sims Avenue, through the parking lot drive to the easterly side of the site.

Mr. Kennel said the daycare would have access from both the north and south side of the buildings so it's not like all of the children would have to be concentrated to the south end. As far as eliminating Pine Street and changing the circulation, he would suggest there be adjustments to some of the intersections as far as the geometry and they would work with the township engineer.

Mr. Pfeffer said they would provide revised plans prior to the resolution.

Mr. Herzl opened to the public.

Mr. Akiva Mayer, 1430 Towers Street, was sworn in. He said the left turn from Albert onto Pine is on an incline so the cars are going very fast and it is almost impossible to see as there are cars parked on Pine Street. He is concerned about all the individual cars dropping off and picking up their children at the daycare at the same time. He believes 40,000 sf for a daycare is too large for this area.

Mr. Shlomo Klein was sworn in. He would like to see revised plans showing all of these changes including the elimination of the Pine Street access driveway and sidewalks.

Mr. Herzl said the board has already requested that revised plans be provided prior to the resolution.

Mr. Billy Hobday, 30 Schoolhouse Lane, was sworn in. He thinks there are too many items not complete. He doesn't want the board to set a precedent by granting these variances.

Mr. Herzl closed to the public.

Mr. Pfeffer reiterated that they are asking for setback variances but are greatly exceeded the parking requirements.

Mr. Jackson said the applicant could easily shrink the building and eliminate those variances.

Mr. Pfeffer said this will be another ratable for the Township. The drop off times usually are between 8:30 and 9:30 am and they are typically staggered. If there is any change of use, for example medical, in the future they would have to conform.

Mr. Herzl wants to ensure the extra parking is only being used for this building.

Mr. Jackson doesn't know how to enforce that.

Mr. Pfeffer thinks the board is asking that they do not dedicate those extra 40 spaces to a future application. All of these parking spots are for this building.

Mr. Rennert is very conflicted because the circulation was great before eliminating the Pine Street access. The board wants Pine Street closed but he would like the applicant to sit down and figure out how to get it to work beautifully again.

Mr. Pfeffer said they would submit a circulation plan to the board engineer for review before the board passes the resolution.

Mrs. Morris asked if the board is obligated to pass the resolution even if the board is not satisfied with the revised plans.

Mr. Jackson said in that instance, the resolution and the vote would be provisional and the resolution has to be adopted. The board could deny the resolution at that point for non-compliance.

Mr. Pfeffer believes that the internal traffic flow can be worked out to a point where the board is satisfied.

Mr. Rennert asked if Sims and Pine will be a four way stop intersection.

Mr. Kennel said that is something that must be considered by the town as a whole, you have to look at the Pine Street corridor. You would have other impacts as far as traffic flow. Also, someone making a left turn from Sims onto Pine, would have another option by going up to Boulevard of the Americas, make the right turn and then the right turn onto New Hampshire to work their way back around so there is really two options. He doesn't believe they should prohibit left turns as during off-peak hours it would be more convenient.

A motion was made and seconded to approve the application including but not limited to the following conditions: the applicant has agreed to no leasing of parking spaces to other properties, 6 handicap parking spaces will be added on the left side of the building, there will be no driveway entrance to the property on Pine Street, there is no basement, no sidewalk or curb waivers are being granted, no waivers being granted for the shade tree easement and no impervious coverage variance is needed per the applicant. The approval is subject to the board's final review of fully conforming plans that show all of the changes.

All were in favor.

**3. SP 2226 Bnos Devorah**

Oak Street

Block 1154, Lot 1.01

Preliminary and Final Major Site Plan for a day care

A review letter prepared by Remington, Vernick & Vena Engineers dated March 1, 2017 was entered as an exhibit.

Mr. Flancbaum left the meeting.

Mr. Vogt said submission waivers are requested from providing shade trees, proposed or existing easements, an environmental impact statement, a tree protection management plan and a shade tree easement. Per review of NJDEP mapping, there are no known environmental constraints and the site is currently developed so the waiver of an EIS and a tree protection management plan is supported provided that existing/proposed shade trees, existing/proposed easements and shade tree/utility easements are added to the revised plans.

A motion was made and seconded to approve the waivers as recommended by the Board Engineer and Planner. All were in favor.

Mr. Vogt said no bulk variance relief is being requested, however, relief is required for the proposed buffer and partial design waivers are required from completing road improvements across all of the project frontages.

Mrs. Miriam Weinstein, Esq. said this application is for a pre-school and daycare facility on the campus of the Bnos Devorah Girls Elementary School. This daycare is already being operated in the basement of the existing Bnos Devorah school building. This is a fully conforming application with a few design waivers.

Mr. Glenn Lines, P.E., P.P. was sworn in. A two-story daycare facility is proposed on the southeast corner of the property. Lambert Avenue would be extended in order to provide access to the daycare center as well as additional parking between the school and daycare. There are buffer waivers along all of the property frontages. They would not be able to access Lambert Avenue unless there is a waiver of the buffer along that frontage. The buffer along Madeline and Vermont can remain. The buffer from Madeline Avenue to Oak Street along Lambert Avenue is the only buffer relief requested at this time.

Mr. Rennert asked if Lambert is improved.

Mr. Lines said partially. It is actually open for about 60 or 70 ft just pass the entrance/exit to the front school parking lot. They would improve Lambert all the way down to Madeline Avenue.

Mr. Rennert asked if Madeline Avenue is being improved.

Mr. Lines said no. No access is being proposed on Madeline.

Mr. Vogt is aware there has been a request to vacate Madeline Avenue but does not know the status.

Mr. Rennert said the Township is not vacating anything right now and with the Vermont area being built up Madeline Avenue should be improved.

Mrs. Weinstein said the applicant had made a request years ago for the vacation of that paper street but he hasn't followed up on it and doesn't really have any intention to.

Mr. Rennert said the frontage of Madeline is being improved. He asked if the applicant is required to improve the street. He asked if it goes to Vermont.

Mr. Lines said it is a paper street that goes to Vermont and then continues to Vine Street but they are not providing access from that street.

Mr. Vogt said the vehicular access for the daycare is solely on Lambert.

Mr. Lines said the existing school was already granted these waivers when it was approved. There was no requirement to improve Vermont, Madeline or most of the Lambert.

Mr. Rennert said when areas get developed, the board expects the developers to improve the street's frontages.

Mr. Lines has reviewed the remainder of the engineer's report and have no objections to any of the comments.

Mr. Rennert asked if a Simcha Hall is proposed.

Mrs. Weinstein said no.

Mr. Franklin said there are a number of items which need to be added to the plan before the resolution is approved.

Mr. Jackson said if the plans are not revised to the board's satisfaction, the application will either be adjourned or denied until such time they are satisfactory.

Mrs. Weinstein agrees.

Mr. Rennert asked for the maximum enrollment.

Mrs. Weinstein said 100 with a maximum of 20 staff members.

Rabbi Notis was sworn in.

Mr. Herzl asked if the parking on the side of the daycare center is strictly for the daycare.

Mr. Notis said that is correct. There are currently 19 spaces and they would be adding additional spaces for a total of 46. There will be a designated pick up and drop off area for parents.

Mr. Herzl asked if the daycare is only for the school.

Mr. Notis said no. They are not making the daycare any larger but since the code was changed, the daycare must be on ground level and not in the basement. That is why they are constructing this new building.

Mr. Rennert asked how many cars could fit in this driveway at once. He wants to ensure the cars don't back up onto Oak Street.

Mr. Lines said probably about 20 cars.

Mr. Herzl opened to the public.

Mr. Moshe Zeines, 112 Elmhurst Boulevard, was sworn in. He wants to ensure the applicant is responsible to improve their portion of Vermont Avenue.

Mrs. Morris asked if a design waiver was granted with a previous application on this property, does the board need to reaffirm that or is it grandfathered in, specifically for improving a roadway frontage.

Mr. Jackson said when an applicant comes in for an amendment to a site plan, everything is up for grabs. The fact that it has granted, the board should consider that in their decision, but everything is on the table.

Mr. Herzl asked why the applicant doesn't improve Vermont instead of Lambert.

Mrs. Weinstein said the building being constructed for the daycare is on the other side so paving Vermont is not going to help people get to this daycare because it doesn't go through. If they pave Vermont to the end of the property, it is not going to help the circulation for the existing school or the daycare.

Mrs. Morris said the road certainly doesn't go nowhere because applications are going to be coming in this area.

Mr. Shlomo Klein was sworn in. He does not agree to granting waivers from improving roadways. Any developer, even if it is a school, should be responsible to improve their frontages even if it is not to the schools benefit as it is really for the public's benefit.

Mr. Aaron Hirsch was sworn in. He drops off his child at that school every day and he sees cars driving down that dirt road all the time. He stressed that Vermont needs to be extended to help improve traffic.

Mr. Herzl closed to the public.

Mrs. Weinstein understands the concerns of the neighbors but it really would be cost prohibitive for this school. It was a waiver granted in connection with the previous application. Paving that stretch of Vermont doesn't help this application in any way. She understands Vermont is one of the roads that is the subject of a traffic study currently being conducted by Maser Consulting on behalf of the Township but to throw this problem onto a not-for-profit corporation when it really is a global issue, it doesn't even help this application because it won't even enable the patrons who are coming to use the daycare to use that road as they can't get from there to the other side.

Mr. Herzl asked if the daycare could be moved to the other side and to improve Vermont Avenue instead.

Mr. Lines said they were using a small unused area of the property for the daycare. The other side of the property is the play area for the children so if they move the daycare to the Vermont side, they basically ruin the playground area and then you're left with a little piece of land for the play area. It would ruin the whole utilization of the property by moving the daycare.

Mr. Rennert said the board asks for every single applicant to do this whether it is a school or not. The town needs sidewalks and roads.



Mr. Grunberger asked how many spaces are proposed for the daycare.

Mr. Lines said there are 22 existing and after some reconfiguration, there would be 32.

Mr. Notis said the land behind is owned by New Jersey American Water and there are wells on the property which cannot be developed as he has tried to purchase it. If the board wants to condition them to improve the road once an application comes in next door, they would agree to do that.

Mr. Jackson said typically people have to put in half of the roadway with sidewalks and curbs along their property line and then it fills in later.

Mr. Vogt agreed that is how it's typically done.

Mr. Jackson said otherwise you are making them do the whole road through the neighborhood. The board can require the applicant to improve half the road along their property line.

A motion was made and seconded to approve the application.

All were in favor.

**4. SP 2225 Yosef Notis**

James Street

Block 284.06, Lot 23

Preliminary and Final Major Site Plan for a house of worship

A review letter prepared by Remington, Vernick & Vena Engineers dated February 22, 2017 was entered as an exhibit.

Mr. Herzl and Mr. Flancbaum left the meeting.

Mr. Vogt said a submission waiver is requested from providing an environmental impact statement. The site is previously developed and there are no known environmental constraints, therefore the waiver is supported.

A motion was made and seconded to approve the waiver as recommended by the Board Engineer and Planner. All were in favor.

Mr. Vogt said variance relief is necessary including rear, side, combined side yards, building coverage and perimeter buffer relief is also necessary, parking relief for the proposed number of spaces and from providing street trees.

Mr. Brian Flannery, P.E., P.P. Was sworn in. This is an existing congregation that prays in New England Village in a basement. A new shul is being proposed with no basement so there are no questions concerning renting it out.

Mr. Follman said there will be no Simcha Hall or kitchen.

Mr. Flannery confirmed, it is a shul strictly for praying. Variance relief is required to make the most out of the lot. It is an existing residential lot. The applicant has spoken to the adjoining neighbors to get input on the relief requested. A minimum rear yard setback of 10 ft whereas 20 ft is required. Arrangements have been made with some of the neighbors for fencing to provide buffering for window treatments so they are not going to be looking and imposing on the neighbors. A side yard setback variance of 8 ft whereas 10 ft is required, combined side yard setback of 23 ft whereas 25 ft is required, building coverage of 30% whereas 25% is required. Perimeter buffer relief and parking where the ordinance requires 14 and they are providing 11. The existing congregation has no spaces so

this would be 11 more than they have and it is certainly an improvement over the existing condition. This is a neighborhood shul so if there is not enough parking, they have the ability to walk.

Mr. Rennert asked if the rear and side yard neighbors agree to these variances.

Mr. Flannery said his understanding is that the applicant has contacted the neighbors to discuss and have made arrangements. It is an inherently beneficial use where the benefits outweigh the detriments.

Mr. Rennert said besides the neighbors being taken care of, he is concerned about people parking on James Street. He remembers a Yeshiva was built on the corner, the applicant promised all kinds of things but people park along James Street on both sides.

Mr. Flannery said the no parking signs would have to come from the Township and the applicant would certainly make a request to the township.

Mr. Rennert asked if the applicant agreed to make that a condition of approval.

Rabbi Yosef Notis was sworn in.

Mr. Follman asked how many services would there be daily.

Mr. Notis said there would be two services.

Mr. Rennert said even if there is a small party, there is no parking.

Mr. Follman said there should be no parties allowed at all.

Mr. Notis agreed to make that a condition of approval.

Mr. Rennert opened to the public.

Mr. Yosef & Ricky Reich, 209 James Street, were sworn in. Mr. Reich said they had met with the applicant and have been very accommodating. There were some details discussed he would like to ensure are included in the resolution. He understands the layout of the building is not finalized but he suggested that the entrance be towards the Yeshiva building next door.

Mrs. Reich said the applicant agreed to it but she noticed that one of the doors they said would be removed is still shown on the plans which was the door by the coat room in the front.

Mr. Notis said she is requesting that the first door next to her be removed. They have agreed to that but have not yet updated the plans.

Mr. Flannery said he is referring to the southerly door on the easterly property line.

Mr. Reich said the applicant removed all of the windows except one upstairs where the warming kitchen is located. He asked that be removed as well.

Mr. Follman thought there was no warming kitchen.

Mrs. Reich said there was one window on their side and she just wants to ensure it was either moved or frosted and does not open over their property.

Mr. Vogt said the building department would have to sign off but the window would have to open from the top.

Mr. Flannery said it would be an awning type which swings from the top out.

Mrs. Reich is also concerned about parking on James Street.

Mr. Reich said the applicant did agree to provide a driveway but he is concerned it would be denied by the County.

Mr. Flannery said a driveway for a residential dwelling on a County road will be no problem. The applicant would agree that the driveway would be installed before issuance of a CO.

Mrs. Reich said there is a very narrow shoulder on James Street and the way people have been parking halfway on the sidewalk and she is very concerned about the safety of her children. She asked if it is possible to put some sort of buffer to keep the cars parking there even if it is a no parking zone.

Mr. Reich said between the curb and sidewalks.

Mrs. Morris said that is a public right-of-way.

Mr. Vogt said it has to be reviewed to make sure they are not creating any visual obstructions. It sounds great but they don't want to block someone's view backing out.

Mr. Rennert said it may help the situation if there are no parking signs.

Mr. Reich said on their side of the house, there is a place where the trash is kept. He asked if it could be moved to the other side.

Mr. Flannery agreed.

Mr. Reich would like to ensure the evergreens are densely buffered as they take time to grow out. He asked for an 8 ft high fence as well.

Mr. Flannery said the plans show American Hollies down the property line which probably aren't going to grow as fast or full to provide the kind of buffer the neighbors are requesting. Normally Green Giant Arborvitaes would be planted, nine American Hollies are shown on the plans with other landscaping scattered around. The applicant would replace the Hollies with two rows of staggered green giants. The planting size shown is 5 to 6 ft but it probably makes sense to plant a 6 to 8 ft but anything more, you would have trouble with them growing and surviving.

Mr. Vogt said a staggered double row of Green Giant Arborvitaes are recommended.

Mr. Flannery confirmed. They would provide 9 along the property line with 8 behind and in between.

Mr. Reich asked if the trees could be planted to the edge of the property line.

Mr. Flannery said normally you would go to the front setback line but they would agree to provide 10 along the property line with 9 behind.

Mr. Shlomo Klein was sworn in. He said imposing conditions concerning disallowing parties is not enforceable. He spoke to code enforcement and they said any use within a synagogue is not enforceable. He recommends to ask their attorney to figure out how to enforce it.

Mr. Jackson said there may not be a practical way of enforcing it. He is unsure whether the zoning officer is going to tell a shul how to conduct their business.

Mr. Aharon Fryshman, 197 Flintlock Drive, was sworn in. He lives behind this shul and they have always been good neighbors. The applicant agreed to provide an 8 ft fence along the property line as well as lightly frosted windows on the second floor. He is in favor of this application.

Mr. Rennert closed to the public.

A motion was made and seconded to approve the application.

All were in favor.

**5. SP 2218 Lakewood Shopping Village, LLC**

Avenue of the States

Block 961.02, Lot 1

Preliminary and Final Major Site Plan and Minor Subdivision for a shopping center

A motion was made and seconded to carry the application to the April 4, 2017 meeting.

All were in favor.

**9. PUBLIC PORTION**

Mr. Rennert said there are a few suggestions the board would like to convey to the Township Committee. The first would be for shuls under 799 sf, currently there no parking required. He would like to suggest they require 1 space per every 100 sf regardless of size.

Mrs. Morris said she could submit the recommendation to the Township Committee and they would draft their ordinances, have a first hearing and send them here for comments and recommendations.

The Board unanimously approved the recommendation.

Mr. Rennert said surrounding towns require 1 space per every 200 sf for office buildings. In Lakewood, some zones it is per every 300 sf and 400 ft. The board wants to bring it down as there is a problem with parking for office buildings. All zones should require 1 spot per every 200 sf of office space. The third item discussed is concerning having two uses on one site. He thinks Lakewood is the only town which allows two permitted uses on one site. He does not want to include in that a Rabbi's residence and a shul as that is a compatible use.

Mrs. Morris said she has researched neighboring towns including Jackson and Toms River and require 1 space per 200 or 250 sf. There is nothing in the ordinance currently prohibiting two principal uses on one site.

Mr. Jackson said it is common to have two uses one site. You see it whenever you have a shopping center where you have offices above. It just has to be zoned for that and you have to indicate what uses can be permitted. It has to be studied by a planner.

The Board unanimously approved the recommendation.

Mr. Moshe Zeinas, 112 Elmhurst Boulevard, said he frequents both the Zoning and Planning Board offices and said everyone has been very accommodating.

Mr. Frederick Robison said he distributed a letter that addresses a procedural concern. He asked that it be included in the record. It addresses the issues of these questionable zonings and as the attorney pointed out, the board can only deal with the ordinances that are in effect at the time. He asked the board consider, if there is a question of zoning, add a condition to any approval that is subject to confirmation of the zoning.

**10. APPROVAL OF MINUTES**

**11. APPROVAL OF BILLS**

**12. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,  
Sarah L. Forsyth  
Planning Board Recording Secretary