

1. CERTIFICATION OF COMPLIANCE

Acting Chairman Schmuckler 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. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

4. MEMORIALIZATION OF RESOLUTIONS

- 1. **SP 2095** (No Variance Requested)
Applicant: Excel VII, LLC
Location: 1790 Swarthmore Avenue
Block 1603 Lot 2
Preliminary and Final Major Site Plan for a building addition

A motion was made by Mr. Sussman, seconded by Mr. Follman to approve.
Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 2. **SP 2097** (Variance Requested)
Applicant: Monmouth Medical Center, Inc.
Location: River Avenue
Block 421 Lot 1

Preliminary and Final Site Plan for alterations and improvements to the existing entrance and for additional parking at the existing hospital

A motion was made by Mr. Sussman, seconded by Mr. Rennert to approve.
Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 3. **SP 2098** (Variance Requested)
Applicant: Cedarbridge Holdings, LLC
Location: Cedarbridge Avenue
Block 1603 Lot 1.04 (Approved Lot 1)
Preliminary and Final Major Site Plan for a 4-story office building

A motion was made by Mr. Rennert, seconded by Mr. Franklin to approve.

Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman

Abstain: Mr. Rennert

- 4. SD 2002** (Variance Requested)
Applicant: Sanz of Lakewood
Location: River Avenue & Gila Place
Block 423.14 Lot 13
Minor Subdivision to create 4 fee-simple duplex lots

A motion was made by Mr. Franklin, seconded by Mr. _____ to approve.

Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 5. SD 1989** (Variance Requested)
Applicant: Robert Cormack
Location: Seminole Drive
Block 2.04 Lot 3.01
Minor Subdivision to create 2 lots

A motion was made by Mr. Sussman, seconded by Mr. Franklin to approve.

Affirmative: Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 6. SD 1992** (Variance Requested)
Applicant: Aaron Furst
Location: Ocean Avenue
Block 189 Lot 175
Minor Subdivision to create 2 fee-simple duplex lots

A motion was made by Mr. Sussman, seconded by Mr. Follman to approve.

Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 7. SD 1994** (Variance Requested)
Applicant: Jonathan Schlesinger
Location: Mountain View Drive
Block 1077.03 Lot 21
Minor Subdivision to create 2 lots

A motion was made by Mr. Sussman, seconded by Mr. Follman to approve.

Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 8. SD 1997** (Variance Requested)
Applicant: MNYK Developers at Prospect, LLC
Location: Lewin & Rachel Avenues
Block 472 Lots 1, 4, & 7
Preliminary and Final Major Subdivision to create 20 fee simple duplex units

Mr. Schmuckler stated the Board wanted to add a few changes. He asked about the community center.

Mrs. Miriam Weinstein, Esq. stated she had given the Planning Board secretary either block 471 or 445 as options. It may be either because block 471 lot 2 is owned by the applicant so they can definitely use that one but they would prefer to use the lot in block 445 if they can acquire it from the Township.

Mr. Schmuckler would like the wording in the resolution to a nominal fee.

Mrs. Weinstein said that is fine but in reality the owners are probably going to have to pay some type of membership fee but if he wants to say for a nominal fee they can purchase shares in the not-for-profit corporation, she doesn't have a problem with that. Typically the community center is owned by the homeowner's association and you automatically become a member of the HOA by acceptance of the deed. There are fees that are paid at the time of the closing into the HOA. In this case, there is no HOA so they are actually giving the residents the option to buy shares into the actual not-for-profit corporation that is going to own the community center.

Mr. Schmuckler just wants to make sure it is clear so it is easier for everyone down the line.

Mrs. Weinstein asked if the point is to make sure the homeowners don't have to pay some sort of hefty fee to become a member.

Mr. Schmuckler said that is correct.

Mrs. Weinstein has no issue with it.

Mr. Rennert asked if they could reference a specific block and lot for the community center.

Mrs. Weinstein would not like to do that. The lot they thought they were going to reference, block 454, but she has been made aware that that lot is adjacent to a shooting range.

Mr. Rennert said the resolution could reference one of the six blocks or within 1,000 ft.

Mrs. Weinstein said that is fine.

Mr. Herzl arrived.

Mr. Schmuckler wants to make sure the community center will be used for up to 110 houses in the area. He wants to max out the number of shares for this community center.

Mrs. Weinstein agrees.

Mr. Flannery said the only people who are being offered a share are the ones who are purchasing these homes.

Mr. Rennert does not want to use a specific number.

Mr. Schmuckler said a maximum of 120 shares for the community center.

Mrs. Weinstein asked that it be at least 150.

Mr. Schmuckler said he is ok with that. That would cover anyone else in the area that builds and 10,000 sf should be able to handle that amount of members.

A motion was made by Mr. Follman, seconded by Mr. Rennert to approve.

Affirmative: Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

Abstain: Mr. Herzl

9. SP 2099AA (No Variance Requested)

Applicant: Bais Medrash of Raintree, Inc

Location: Newport Avenue
Block 187.04 Lot 18

Change of Use/Site Plan Exemption to convert an existing residence into a synagogue and study hall (kollel) with an addition

A motion was made by Mr. Sussman, seconded by Mr. Follman to approve.

Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

10. SP 2096 (Variance Requested)

Applicant: Bais Kaila Torah Preparatory School for Girls

Location: Spruce Street & Washington Avenue
Block 778.01 Lot 1

Preliminary and Final Major Site Plan for a building addition, 2 houses, and a gym

A motion was made by Mr. Sussman, seconded by Mr. Follman to approve.

Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 11. SD 1968** (Variance Requested)
Applicant: Barbara Flannery
Location: James Street
Block 375; 377; 378 Lots 1; 26 & 26.01; 1
Amended Final Major Subdivision (Phases 1 & 2) to create 20 duplex buildings and 1 single-family lot

This resolution was not prepared in time and will be carried to the March 17, 2015 meeting.

- 12. SD 2019** (Variance Requested)
Applicant: Central Oasis, LLC
Location: Gudz Road and Lakewood New Egypt Road
Block 11.30 Lot 4, 18.01, 18.02, & 18.03
Minor Subdivision to create 5 lots

A motion was made by Mr. Sussman, seconded by Mr. Follman to approve.
Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

5. PLAN REVIEW ITEMS

- 1. SP 2057A** (Variance Requested)
Applicant: Congregation Satmar of Lakewood
Location: Nussbaum & Amsterdam Avenues
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

This applicant did not submit plans for the application to be deemed complete at least 10 days prior to the meeting. This application will not be heard.

- 2. SP 2102** (Variance Requested)
Applicant: Congregation Zichron Binyamin
Location: 701 Princeton Avenue
Blocks 165 Lots 19.01, 19.02, & 19.03
Preliminary and Final Major Site Plan for a building addition

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

Mr. Schmuckler said if there are variances associated with this application then he would rather hear this in two meetings because typically neighbors/objectors know that.

Mr. Adam Pfeffer, Esq. said the notice did mention that this would be heard in full tonight.

Mr. Jackson said it is up to the Board.

Mr. Vogt said there are two new variances. One for rear yard setback and one for maximum building coverage. The rest of the variances are pre-existing.

Mr. Jackson asked if there is anyone here for this application in the audience.

There is one person who is here and is in favor of this application.

Mr. Jackson asked if there is any opposition to this application being heard in full tonight.

No opposition heard.

Mr. Schmuckler does not mind in this case because it was written on the agenda ahead of time and posted on the website that it would be heard as one application. He will allow this to be heard tonight as plan review and public.

Mr. Joe Kociuba, P.E., P.P. was sworn in.

Mr. Vogt stated there are waivers requested including topography, contours, man-made features, location, names and widths of all existing and proposed streets on the property within 200 ft. EIS and tree protection management are also requested. They have no objections to any of the waivers with the exception of tree protection management. That would be enforced during compliance, if approved.

A motion was made by Mr. Herzl, seconded by Mr. _____ to approve the waivers.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

Mr. Pfeffer said they have received and reviewed the engineer's review letter and have no objections and can comply with all of the conditions.

Mr. Kociuba said the application is for an addition to an existing synagogue on the corner of Princeton Avenue and Seventh Street. There is a parking lot east of the property. They propose to build the addition over a portion of that lot and pave the gravel parking lot which is north of the site. They do need a rear yard setback of 8 ft where 15 ft is required. That setback is adjacent to an existing structure on 7th Street. There are numerous buildings in the area that have similar variances. The proposed setback will not create any negative impact on the area. In addition, a maximum building coverage of 37% where 35% is required. They had miscalculated the amount of parking spaces required so 21 parking spaces are required rather than 29 spaces.

Mr. Vogt stated that is correct for just the synagogue but it appears there is a school use as well.

Mr. Kociuba said there are some minimal classrooms but those are associated with the synagogue. There is no intended school use with children.

Mr. Vogt asked if the school portion is a separate entity.

Mr. Kociuba said not to his knowledge.

Mr. Vogt said if that is the case, the amount of parking depends on the size of the main sanctuary space.

Mr. Kociuba said that is correct. They have supplied 27 spaces where only 21 are required so they do not require relief from parking.

Mr. Schmuckler asked what the plan is for the basement and how that would affect parking.

Mr. Kociuba said they do not have a specific plan for the basement at this time other than mechanicals.

Mr. Schmuckler said the architectural plans do indicate it will be used as a kiddush.

Rabbi Bitton was sworn in. He said the basement will be mainly for shabbos.

Mr. Schmuckler asked if they would agree to not rent the basement out during the week. He is concerned about parking.

Mr. Bitton said it is basically for the members. The shul is for learning, he is not in the business of making money.

Mr. Schmuckler said with this addition, they could use this as a rental hall. During the week when there is a bris, classes etc. there will be nowhere for people to park.

Mr. Bitton said they will park in the lot.

Mr. Schmuckler said there are only 27 parking spaces. That is not sufficient.

Mr. Saul Mizrahi, 3 Sienna Way, was sworn in. He said there is street parking available on 7th Street and Princeton Avenue.

Mr. Rennert asked if they have a problem if they put a condition in the resolution that the basement will not be rented out.

Mr. Mizrahi said that is fine but it will be used for the synagogue members.

Mr. Bitton said there is no one here opposing this application. Everyone in the area is happy with this shul.

Mr. Sussman said they not only have to look at past issues but future ones as well and the Board knows the parking will be a problem. Other shuls have been approved in the past and it is now a disaster because they rent out the hall for other uses.

Mr. Bitton reiterated that everyone in the neighborhood is in favor of this application. He is not planning on having big parties. He would have 40-50 people maximum.

Mr. Schmuckler would like to restrict the shul from 9am to 6pm for congregational use only.

Mr. Bitton agrees with that.

Mr. Schmuckler said the hall will be used for synagogue members only and cannot be used between the hours of 9am and 6pm except for Saturdays.

Mr. Sussman asked what the current parking situation is as they are losing parking spaces.

Mr. Kociuba said they would be increasing the amount of spaces as they are paving and striping the gravel portion. Handicap spaces will be provided as well as a handicap ramp. A proper ingress/egress is also being provided off of Princeton Avenue.

Mr. Schmuckler asked about buffering.

Mr. Kociuba said there is an existing evergreen buffer which straddles the property lines.

Mr. Schmuckler opened to the public.

Mr. Moshe Lankry was sworn in. He believes the layout is much better than what is existing. Currently they are coming out onto 7th Street and Princeton Avenue and 7th Street is always congested. He believes 28 spots for a shul in Lakewood is very sufficient. He is pleased with this project.

Seeing no one further, Mr. Schmuckler closed to the public.

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

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

6. PUBLIC HEARING

1. **SD 1998** (Variance Requested)
Applicant: MNYK Developers at Prospect, LLC
Location: Nussbaum & Amsterdam Avenues
Block 461 Lots 1, 4, & 5
Preliminary and Final Major Subdivision to create 20 fee simple duplex units

A review letter prepared by Remington, Vernick & Vena Engineers dated October 23, 2014 was entered as an exhibit.

Mr. Brian Flannery, P.E., P.P. was sworn in.

Mrs. Miriam Weinstein, Esq. stated this application is very similar to SD 1997. They are looking to construct 10 duplexes on 20 fee simple lots. She understands the Board will raise the same questions concerning the community center and recreation area. They are asking that no certificate of occupancy will be issued until the recreation area and the community center have been constructed. By the time this project comes to fruition there should be 60 homes built in the vicinity of this project and therefore the community center should already be constructed and there should be no issue.

Mr. Flannery said there is only one minor variance for the corner lots where they dedicate the corner. The only comment in the engineer's review letter that he would like to address is with respect to the stormwater management. They will meet with the department of public works and whatever they indicate, that is what they will go along with.

Mr. Schmuckler opened to the public seeing no one, he closed to the public.

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

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 2. **SD 1999** (Variance Requested)
 - Applicant: Charles Aderet
 - Location: Cedarbridge Avenue & Arlington Avenue
Block 762 Lots 20 & 21
 - Minor Subdivision to create 4 fee-simple duplex lots

A review letter prepared by Remington, Vernick & Vena Engineers dated November 17, 2014 was entered as an exhibit.

Mr. Rennert stepped down.

Mr. Vogt stated the applicant is seeking minimum front yard setback for lot 20.04 as well as for maximum building stagger for the duplex on lots 20.03 and 20.04.

Mr. Glenn Lines, P.E., P.P. was sworn in. They are proposing a four lot minor subdivision to construct two duplexes. All of the comments have been addressed in the engineer's review letter. A front yard setback of 15 ft is being provided where 25 ft is required. It is the same situation that they have on Melville Avenue because of the odd lot shape and the way Cedarbridge Avenue cuts across. On the other side of the street there is a similar situation which is right on the highway. The other variance is for a setback for the permitted maximum offset in a duplex. According to the ordinance, 3 ft is permitted. That was really put in the ordinance so that you didn't have one duplex completely behind the other but because of the strange lot shape and the angle on the side, they are requesting this variance.

Mr. Vogt said there is a paved driveway and concrete patio from adjoining lot 19 encroaching on lot 20.

Mr. Lines said that will all be removed when they demo the existing homes. A note was added to the plans addressing that.

Mr. Sussman asked if sidewalks and fences will be provided.

Mr. Lines said sidewalks will be installed along all frontages. If they do put up a fence, it has to be at the site triangle easement line.

The Board is in agreement that a fence shall be provided.

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

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

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman

Abstain: Mr. Rennert

- 3. SD 2000** (Variance Requested)
Applicant: Chaim Abadi for Ohel Torah
Location: 2nd Street
Block 73 Lot 2
Preliminary and Final Major Subdivision to create 7 lots (2 duplexes and 1 triplex)

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

Mr. Vogt stated that variances are requested for minimum side yard setback and maximum building coverage for the duplex and townhouse lots.

Mr. Chaim Abadi, 245 Miller Road, was sworn in.

Mr. Joe Kociuba, P.E., P.P. was sworn in. The application is for a subdivision to create seven lots including two duplex and one triplex building. Relief is required for minimum side yard setback for the duplex lots of 5 ft where 7 ft is required. They do provide 7 ft setbacks to the exterior of the duplex lots adjacent to existing properties. The 5 ft setbacks are only measured to the interior units. A maximum building coverage variance is requested for 32.9% where 30% is required. A maximum building coverage variance is also requested for the townhouse lots for 35.5% where 25% is required.

Mr. Schmuckler said those lots are in desperate need of rehabilitation.

Mr. Kociuba agrees. He has reviewed the engineer's review letter and have no objections to any of the comments. The drainage will be taken care of on each individual lot.

Mr. Vogt asked about trash/recyclable.

Mr. Kociuba said they will be storing on the lots. An area will be provided for the trash to be located.

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

A motion was made by Mr. Herzl, seconded by Mr. Sussman to approve.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Rennert

- 4. SD 2003** (Variance Requested)
Applicant: Imants Smildzins
Location: Lakewood-New Egypt Road & Miller Road
Block 11.03 Lot 3
Minor Subdivision to create two lots

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

Mr. Vogt stated that variances are required for minimum front yard setback for proposed lot 3.01. A waiver is required for the proposed subdivision line not being perpendicular to the right-of-way line.

Mr. Imants Smildzins, P.P., A.I.A. was sworn in. He stated this is for a minor subdivision on the corner of Miller Road and Lakewood-New Egypt Road to create two lots. The lots are conforming except that the existing house on lot 3.01 will require a front yard setback variance due to an Ocean County road widening requirement. He has reviewed the engineer's review letter and will comply with all of the comments. Concerning the lot lines not being perpendicular, the design of the subdivision was to provide a good spatial utilization of the lot so they have the proper setbacks and area.

Mr. Vogt has no problem with that.

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

A motion was made by Mr. Herzl, seconded by Mr. Sussman to approve.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 5. SP 2100** (No Variance Requested)
Applicant: Legacy Lakewood LLC
Location: 999 Airport Road
Block 1160.01 Lot 221
Site Plan for a building addition

A review letter prepared by Remington, Vernick & Vena Engineers dated December 17, 2014 was entered as an exhibit.

Mr. Jackson stepped down due to a conflict.

Mr. Schmuckler said there are no variances associated with this application. If the Board finds a need for a board attorney then they will carry to the next meeting.

Mr. Robert Shea, Esq. stated he has spoken with the objector's attorney, Mr. Russ Gertner, and they have come to an agreement and have satisfied their concerns.

Mr. Russ Gertner, Esq., on behalf of the objector, 1000 Bennett Boulevard, LLC, was sworn in. They have agreed with the applicant to place certain conditions onto the record and that the applicant would acquiesce in having those conditions placed in the resolution. There was an issue as to whether street parking is permitted on Bennett Boulevard. He believes there is no street parking in the industrial park unless it is specifically allowed.

Mr. Vogt stated he does not know whether there is on street parking allowed.

Mr. Franklin does not believe there is any parking on Bennett Boulevard.

Mr. Schmuckler asked if any of these conditions would create any new variances and/or waivers.

Mr. Gertner said no.

Mr. Gertner stated the following conditions:

1. The applicant agrees to construct and/or replace a 6 ft chain link fence of high quality with top and bottom rails on its property adjacent to the 1000 Bennett Boulevard property.
2. The applicant shall plant mature trees, preferably white pines or similar, along the fence line but on the objector's property. Mature would be at least 6 ft high with 8 ft centers. The trees will be maintained by the objector.
3. The applicant shall provide refuse and recycling enclosures for both the existing building on the site and the proposed structure.
4. The applicant shall provide, to the objector, no parking, loading/unloading signs to be placed on Bennett Boulevard and signs on the objector's property that will indicate that parking on the 1000 Bennett Boulevard site shall be restricted to tenants of that site. The exact language of the sign shall be subject to objector's approval. This would be subject to the Township and Industrial Commission.
5. The applicant and the objector will join in a request that the Township pass the required ordinance indicating that there should be no parking, loading/unloading on Bennett Boulevard. Should the municipality not enact such an ordinance, unless one already exists, the applicant and objector shall jointly seek alternatives acceptable to the objector to restrict parking on Bennett Boulevard and the resolution shall include a restriction that there may be no parking, loading/unloading of trucks on Bennett Boulevard. This would be subject to the Township and Industrial Commission.
6. The applicant shall provide at least one bathroom located within the new structure.

The Board does not have any issues with the conditions.

Mr. Shea stated this is a site that has been in existence since 1999. The applicant is seeking approval to construct an 8,000 sf storage shed in the rear of the existing building. There are no variances being requested.

Mr. Lane, P.E. was sworn in. He entered an aerial photograph of the existing site as exhibit A-1. The applicant is proposing to provide the 8,000 sf shed within an existing fenced in area. Exhibit A-2 shows the location of the proposed shed. There are currently 58 parking spaces where 61 is proposed after the parking lot to the north and south are reconfigured.

Mr. Shea stated the shed will be used for storage. A restroom will be provided for any employees. Heating and electricity will be supplied to the storage shed. The proposed use is not changing. It would be in conjunction with the existing building which is open from 9am to 5pm Monday-Friday. A circulation plan can be provided if need be but the circulation plan was previously approved by the Board when the original building was constructed. The circulation plan remains the same.

Mr. Lane said the circulation of trucks will be confined to the existing operations where they come off of Airport Road. Anything for the new building will be limited as it will be used for storage and may be stored for a long period of time. For the most part, box trucks are used for delivery. The trash/recycling is privately hauled.

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

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

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 6. SD 2005** (Variance Requested)
Applicant: River Avenue Holding LLC
Location: River Ave & Edgecomb Ave
Block 1020 Lot 1
Preliminary and Final Major Subdivision to create 20 fee-simple duplex lots

Applicant has requested to carry this application to the March 17, 2015, meeting. This project will not be heard.

A motion was made and seconded to carry this application to the March 17, 2015 meeting. No further notices.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

- 7. SD 2007** (Variance Requested)
Applicant: Times Square Holdings, LLC
Location: Basswood Drive
Block 431 Lots 13 & 14
Preliminary and Final Major Subdivision to create 26 fee-simple duplex lots

Applicant has requested to carry this application to the March 17, 2015, meeting. This project will not be heard.

A motion was made and seconded to carry this application to the March 17, 2015 meeting. No further notices.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Sussman, Mr. Schmuckler, Mr. Follman, Mr. Rennert

8. SD 2010 (No Variance Requested)

Applicant: Joseph Lipschitz

Location: Oak Street

Block 782.01 Lots 2, 5, 11, 16.01, & 16.02

Preliminary and Final Major Subdivision to create 17 lots (14 fee-simple duplex lots and 3 remainder parcels)

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

Mr. Vogt stated variances are requested for proposed lot 5.01 as it has no frontage. Design waivers are requested for proposed non radial side lot lines, landscape buffering, curbs, sidewalks, street trees and providing shade tree and utility easements.

Mrs. Miriam Weinstein, Esq. stated this application is for 7 duplexes upon 14 zero lot line lots. The lots will be accessed via a cul-de-sac that was initially proposed to be a private roadway to be owned by a homeowner's association. At the tech meeting, Mr. Franklin suggested that it may be better that this be a public roadway provided that there would be access to the drainage system. The plans have been revised and they have including a right-of-way for maintenance purposes only from Route 9. This would in fact would be a public right-of-way and there would be no homeowner's association and the township would agree to the maintenance of the drainage system.

Mr. Vogt said if the drains are in the back of the properties, a man hole would be accessed in the right of way.

Mr. Charles Surmonte, P.E. was sworn in. He said everything but the rear yards in the most easterly lots is collected and conveyed into that underground drainage system adjacent to River Avenue. There is a water quality structure in the roadway to treat that water from the roadway runoff. They are proposing inspection chambers on all four corners of the drainage system and an access way off of Route 9 to get to that area.

Mr. Schmuckler asked who would maintain that system.

Mr. Surmonte said the Township would.

Mr. Vogt said it would subject to Public Works approval.

Mr. Franklin said maintaining the system and getting down to the cleanouts will be difficult. Asked if they would be able to drive across these pipes with heavy trucks.

Mr. Surmonte said he could extend the access drive parallel to Route 9 for the whole length of the drainage system.

Mr. Franklin would like to see another access point.

Mrs. Weinstein said she does not believe the DOT would allow them to have two access points on Route 9.

Mr. Surmonte said they could provide a 12 ft access way for the entire length of the system.

Mr. Franklin sees a problem maintaining this system.

Mr. Schmuckler said the applicant will have to work something out with Public Works.

Mrs. Weinstein said if they do not receive approval from Public Works then they would have to form a homeowner's association.

Mr. Vogt asked about the lack of frontage for one of the lots.

Mrs. Weinstein said proposed lot 5.01 is a landlocked lot. The existing lot 5 was already a landlocked lot. They simply realigned the lot lines and added a little bit of area and left it as is. Lot 5.01 and 11.01 are currently owned by different entities and are under contract to be purchased. At the last meeting they did give testimony that they are willing to consolidate those two lots which would gain access on Oak Street. She said this will be part of a future application and it will be subdivided anyway.

Mr. Schmuckler asked if the developers will be the same.

Mrs. Weinstein does not know.

Mr. Schmuckler wants to make sure this is not a creeping subdivision. There is a requirement when you have over 25 lots to have 5% of the area dedicated to recreation.

Mrs. Weinstein does not have enough information about the next application. When she comes for the tech meeting she will address it at that point. She does not believe it affects this application.

Mr. Rennert would rather address it now than to push it off and give the burden to the next applicant who may only be building 5 lots. He does not want to go forward.

Mr. Schmuckler said with larges pieces of parcels and the rezoning changes, applicants are coming in with 20 lots at a time and then you don't get the recreation areas, the community centers, etc.

Mr. Jackson said you could follow the ordinances as they are written now and it would be up to the Township Committee to make changes or you could take the pro-active approach and do what they are doing now by looking at these applications as creeping subdivisions and require certain conditions.

Mr. Rennert does not see any real way to put this in an ordinance because they are separate applicants.

Mr. Jackson said the Board has a rational basis and he does not believe it is irresponsible to impose that condition.

Mr. Brian Flannery, P.E., P.P. was sworn in. He said there is a provision in the ordinance that says if you have a development between 25 and 30 units an alternative would be a contribution of \$500 per unit. This other applicant could use that money and incorporate on their project or they also give \$500 per unit. This is not in an area where the development would get to 110 units like the applications heard earlier.

Mrs. Weinstein said there was an old subdivision that was approved in 2005 for townhouses. A very small piece of that project is actually a part of this project. That map was never filed and she believes it was approved prior to the permit extension act so that approval would be expired. Either way, that approval would be vacated because this approval would supersede it. She does not see how the Board can require that this applicant build a recreation area when this applicant has nothing to do with the nearby application.

Mr. Schmuckler said they created the smart growth impact fees where there are multiple applicants on various properties and everyone is making an impact. Unfortunately, they only discussed transportation and infrastructure. They didn't cover recreation, community buildings, etc.

Mr. Flannery said they would provide the \$500 per unit. Technically there is no requirement on this and if these applications had come in stretched out and if other applicants had not come in all together and the Board took notice, they would have nothing. The ordinance recognized that on a small development, setting something aside is silly.

Mr. Schmuckler said that is not enough money to build a community building.

Mr. Flannery said this is only a 14 lot subdivision. They are trying to meet somewhere in the middle with the fees.

Mr. Rennert said they are living here together and they must come up with something.

Mr. Franklin said this is not the place to discuss this. They must get together with the Township planner and come up with an ordinance so that when these groups come in they will be required to do what the Board is asking.

Mr. Rennert said he has spoken to a few attorneys and there is no legal way to incorporate this into an ordinance.

Mr. Flannery said there is the impact fee ordinance. The master plan specifically says that there are inherently beneficial uses where you need facilities and it could assess for a development of a certain size and a certain amount of area for a community use and it could require each developer to do that.

Mr. Schmuckler said the Township committee has not even passed the impact fee ordinance that was approved over a year ago by this Board. If the board thinks this is a creeping subdivision then they will hold off on this.

Mrs. Weinstein does not see how the Board has jurisdiction to deny this application.

Mr. Flannery said this is not a creeping subdivision.

Mr. Schmuckler said they will go forward with this application but they will be subject to any impact fees prior to any CO's being issued. The next application will be creeping and let them know the Board is aware of that. It is sad that the ordinances are not written correctly.

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

Mr. Rennert asked about the drainage location off of Route 9.

Mr. Flannery said the drainage would be beyond the desired typical section.

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

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Schmuckler

No: Mr. Sussman, Mr. Rennert

9. SD 2011 (No Variance Requested)

Applicant: Bais Yaakov High School of Lakewood, Inc.

Location: James Street

Block 321, 339, 340, & 341 Lots 1, 1, 1, & 1

Amended Preliminary and Final Major Subdivision to create 51 lots (50 residential lots and 1 stormwater management lot)

Applicant has requested to carry this application until further notice. This project will not be heard and new notices will be required.

7. CORRESPONDENCE

8. PUBLIC PORTION

Mr. Schmuckler stated the Board recommended the new zones be passed with certain conditions including infrastructure and impact fees but unfortunately those plans are not done yet. The impact fee ordinance was not passed yet. There are a lot of applicants coming in going for approvals and are being told to pay an impact fee but there is no ordinance or plan in place. He believes the Board should give notice to any applicant coming in those zones to please hold their applications as they do not know what to charge for impact fees. If they do come, it would be at the discretion of the Board.

Mrs. Morris stated the transportation improvement district ordinance was passed which lays out particular areas in the town that would be subject to the impact fees. The separate fee schedule breaking down what those costs are and what they are going towards has not been passed. From what the Township Planner has said, it gives the opportunity to impose impact fees it just hasn't stated what those specific fees are yet.

Mr. Schmuckler will not vote in favor of any application coming in those zones until the impact fees have been laid out. They were told by the planner that these upgrades are going to happen and none of it happened.

Mrs. Morris said the Board has 190 days to approve an application over 10 lots so they could just carry applications until something is done.

Mr. Schmuckler would recommend doing that.

Mrs. Morris said unfortunately the submission schedule was published in the paper and approved by this Board that says what the submission deadline is for a particular hearing. She would put the application on that hearing and it would be up to the Board to carry.

Mr. Rennert agrees. The only way they will get anything imposed on builders is by having the developers going to the Township because they are not getting their applications approved.

Mr. Franklin said they have no means to deny the applications.

Mr. Schmuckler said they can sue the Board in court.

Mr. Franklin said that costs money too.

Mr. Schmuckler said there is a Smart Growth Plan which the Township Committee did adopt that calls for all of this. The Board does have something to hang their hat on so since they don't know what the fees are as a Planning Board they are going to make up what the fee is.

Mr. Schmuckler opened to the public.

Mr. Walter Lucas said he lives out in the cross Street area which was recently rezoned. Based on the court's ruling, the Board will have to redo everything again.

Mr. Schmuckler said this Board won't.

Mr. Lucas wanted to point out that when it was done, there was one area that slid through the cracks. He wants to try and make sure that area is included when the ordinances are passed again. He left a diagram for the Board.

Mr. Schmuckler closed to the public.

9. APPROVAL OF MINUTES
10. APPROVAL OF BILLS
11. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth, Planning Board Recording Secretary