

## **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. Flancbaum, Mr. Herzl, Mr. Follman, Mr. Garfield

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

Mr. Dave Magno, P.E., P.P., C.M.E. was sworn in.

## **4. CORRESPONDENCE & ORDINANCES**

- **SP 2219 Congregation Mishkan Hatorah** – Requesting relief from providing old CAFRA permit in support of the design waiver for providing curbing along Lucerne Drive

Mr. Joshua Schmuckler said there are no curbs in the entire Brook Hill development due to a CAFRA permit from 20 or 30 years ago. He has spoken to the Township engineering office as well as the design engineer and no one has been able to find that permit. They have provided a letter signed and sealed by their engineer attesting the fact that a permit did exist.

Mr. Herzl asked why curbs were not included.

Mr. Schmuckler said the State did not allow curbs due to drainage. There are sidewalks throughout the development.

Mr. Flancbaum asked if they tried to get a copy from the State.

Mr. Schmuckler confirmed, they do not have a copy.

Mr. Herzl asked if sidewalks are being provided along their property frontages.

Mr. Schmuckler confirmed, they are only asking for relief for curbs which the board granted but that was subject to them providing the CAFRA permit which they cannot find.

A motion was made and seconded to grant relief from providing curbs along the project's property frontages without proof of a CAFRA permit.

All were in favor.

- **SP 2069 Pine Belt Enterprises** – Request for additional parking spaces and design waiver for the location of the same

Mr. Bill Stevens, P.E., P.P. was sworn. The board approved a new Chrysler building on Route 88 just before you get to the Brick town line to the east. They are working on phase two which is the construction of the western parking lot. Going through this process, they have also signed Dodge and Ram so they need some additional parking stalls. He applied to the Township engineer for an administrative approval to add an additional 47 parking spaces shown highlighted in yellow on the map presented. These parking stalls are located in areas which were previously paved as this was a site to a previous dealership. In his opinion it is a small change but the Township engineer pointed out the spaces located along Route 88 technically need a design waiver as some of them are closer than 20 ft to Route 88. However, if you look at the shading on the plan, that area was previously paved.

Mr. Herzl asked if they'll be an issue if they widen Route 88.

Mr. Stevens said there is plenty of room. There's another 10 ft between the curb and right-of-way line. He doesn't see any issues.

Mr. Herzl asked if any variances are being requested.

Mr. Stevens said no.

Mr. Ray Shea, Esq. said this change doesn't increase the impervious surface beyond what is permitted.

Mr. Garfield asked if they contacted the State concerning this change.

Mr. Stevens confirmed, they have no objections.

Mr. Jackson said if the state wants to widen Route 88 then they would just take that land. The only consequence he sees is the business would lose space for inventory. He doesn't see any detrimental impacts.

Mr. Garfield asked if this change affects drainage.

Mr. Stevens said this was a fully developed site before they built the new Chrysler building. They are actually reducing the impervious coverage on this site, even with these additional parking spaces.

A motion was made and seconded to approve.

All were in favor.

- **SP 2190AA Bais Medrash of Medina Road Inc** – Request to change from landscape buffering to fencing instead

Mr. Mordechai Tolchinsky was sworn. The original approval proposes a row of arborvitae around the property but the neighbors prefer a vinyl fence. It would be a 4 ft high white vinyl fence from the sidewalk until the building on both sides and 6 ft high white vinyl fence along the sides of the building as well as a 6 ft high wood stockade fence around the perimeter of the backyard.

Mr. Herzl asked if this was noticed.

Mrs. Morris said it was not.

Mr. Herzl doesn't know if some of the neighbors prefer the trees.

Mr. Jackson said the trees would get 30 ft high at some point.

Mr. Tolchinsky said there is 10 ft between the trees where kids can get through.

Mr. Herzl knows a lot of people prefer trees.

Mr. Tolchinsky said they did speak to all of the neighbors.

Mr. Garfield said the fence doesn't look as good as the trees.

Mr. Flancbaum asked if the arborvitaes were a condition of approval.

Mrs. Morris believes they were proposed by the applicant. She doesn't think there was board input or public comment concerning them.

Mr. Tolchinsky believes a fence was originally proposed.

Mr. Herzl asked if there was any opposition.

Mrs. Morris doesn't recall.

Mr. Jackson thinks this is a tough one. The question is if this is a material change. They do spend a lot of time talking about trees and fences to provide for proper buffering.

Mr. Flancbaum feels uncomfortable approving this change. The board does talk a lot about buffering especially when it comes to shuls and residential neighborhoods. He thinks this should require notice.

Mr. Tolchinsky asked if he could provide letters from the neighbors.

Mr. Jackson said that would be hearsay. Notice should be provided.

• **Chapter 18 Section 815: Stormwater Management**

Mrs. Morris believes this is just adding specifications on what the Township's collected stormwater management fees can be used for.

Mr. Franklin thinks this ordinance is proposing that Public Works take over maintenance of all the catch basins.

Mrs. Morris said the Township already collects stormwater management fees for developments which are proposing improvements which they are not maintaining themselves. This is just to tweak what those fees are allowed to be used for. It is not changing when the fees are collected or what the Township maintains. She believes the new director of Public Works questioned if the fees could be used for vehicle purchases or a certain type of maintenance and she thinks that's where this adjustment stemmed from.

Mr. Franklin said the ordinances states 'to purchase equipment, tools, material and supplies as required and maintain equipment necessary to perform the task.' They certainly don't want to throw all of these things onto

Public Works if they're not maintaining all of the pipe lines because all of the dirt in the pipe lines will wash down into the basins.

Mrs. Morris doesn't think the intent is to change Public Works responsibility. It is just to change the way the fees are allotted so that they have additional resources at their disposal.

Mr. Franklin disagrees.

Mrs. Morris said that is her best guess. No one from the Township is here to explain this ordinance.

Mr. Herzl said it before, someone from the Township should be presenting proposed ordinances.

Mr. Jackson said it is pretty self explanatory in the language. It says there will be a one-time maintenance fee that the Township will use for maintenance and repair of facilities so they are just trying to collect money to offset the costs.

Mrs. Morris said that is already existing. The changes are the underlined parts that's just changing what these fees are used for.

Mr. Herzl asked if this is excluding anything.

Mr. Jackson doesn't think so. This ordinance requires a fee and it's saying the fees can be used for tools, supplies etc. and it also says the plans have to show inlet, outflow piping, overflow, trash racks, ladders, steps, etc. They are just trying to make it a requirement that the applicants put more details on their plans as to how the facilities are to be designed and then it give the Township a bit more latitude on what it can use the money for.

Mrs. Morris thinks the issue is these fees could be sitting in one giant account and the new director of Public Works questioned whether they can use these funds for certain things.

Mr. Flancbaum thinks this is a clarification out of abundance of caution.

Mr. Jackson thinks it gives a broader definition as to what they can use the money for.

Mr. Flancbaum said the Township maintains certain basins.

Mr. Franklin said they do not. There was a few from years ago but everything which came afterwards, they made sure the homeowner's association would be responsible.

Mr. Magno said whenever there is a residential subdivision in which any stormwater management facilities are going to the Township for ownership, the fees get collected and it is based on the type of subdivision. If it is single family then it is \$750 per unit, duplexes \$500 and multi-family \$300. You'd also have a project where there are some public facilities and some homeowner facilities but the fact of the matter is that whenever you have any public facilities that the Township is going to own, then they pay a fee.

Mrs. Morris said it is sort of like an impact fee but it is for maintenance rather than development.

Mr. Magno said that is correct. The town is not installing it but they are stuck with the maintenance.

Mr. Jackson said all this ordinance does is give direction and latitude of what Public Works can use the money for.

Mr. Flancbaum said it is for all proposed drainage basins serving a residential community, the Township shall be responsible for all maintenance. That is a current ordinance.

Mr. Franklin said it wouldn't be in effect with the ones the Township isn't maintaining.

Mrs. Morris said that is correct. Anything maintained by a private property owner or HOA is still being maintained by them, this ordinance is not proposing to change that.

Mr. Franklin said for years they would make sure to not maintain these catch basins and that the HOA had to do it. He doesn't want to see an ordinance come in now where the Township is taking over all of the basins.

Mr. Jackson doesn't think it effects that. This only gives Public Works more latitude and direction as to how to spend the money from this fund.

Mr. Flancbaum said this ordinance has been in effect for years.

Mr. Franklin said the Township isn't maintaining them.

Mr. Flancbaum said they are maintaining something.

Mr. Franklin said a lot of these subdivisions were put in and the HOA was responsible for all of the drainage so the Township wouldn't be involved with the equipment. If they took money for the drainage it should go to paying for the remedial action on the drainage not for Public Works to take the money for something they are not maintaining.

Mr. Herzl said if it owned by a HOA then Public Works would not collect fees.

Mr. Franklin asked how they determine that. If they are not cleaning all of the pipes and catch basins in the development, all of it will run down into the final pond and then you spend a fortune cleaning it.

Mr. Jackson said this ordinance directs the Township as to how they can spend the money.

Mr. Jackson said the committee just needs the board to say whether the ordinance is consistent with the Master Plan and that they reviewed it and then they can do whatever they want. He will tell the committee the board reviewed it and rejected it because more clarification is required.

Mr. Herzl said someone should be presenting these ordinances to the board.

Mr. Jackson said he had a meeting with the mayor, administrator and township attorney and they said it is very expensive and cumbersome to send a Township attorney so he would help explain these ordinances.

Mr. Magno thinks one reason why this coming up is if you look at maintenance as just the work involved with cleaning the system and that was the only way you can spend the money but the way this is written it says if they need more equipment to do the cleaning work they can use the money that way as well.

Mr. Jackson said the ordinance as it was written in its earlier drafts before any amendments earmarks that money for maintenance and what they're saying is maintenance includes going out and buying the equipment they need to do the maintenance.

Mr. Franklin said in the beginning that is probably what the ordinance did but afterwards when the Township stopped doing that work and the HOA's were doing it then if they collect that money it should be used by the HOA.

Mr. Magno said this has nothing to do with an HOA. If there is a project which has a HOA then the Township is not maintaining anything the HOA owns. It is only for public streets and public basins. You can look at the tax maps and if there is a lot owned by the Township which has a basin then Public Works is maintaining that.

Mr. Jackson asked if he can say the board is in favor of this provided that the money is only used for existing and they are not in any way encouraging the Township to take on other basins.

Mr. Magno said you also have to include any future subdivisions.

A motion was made and seconded to recommend the adoption of the ordinance provided that it does not expand the Township's responsibilities.  
All were in favor.

## **5. PUBLIC HEARING**

- 1. SD 2279 Mordechai Eichorn**  
Sylvan Court Block 411, Lot 18.02  
Preliminary and Final Major Subdivision to create four lots

*A review letter prepared by Remington, Vernick & Vena Engineers dated September 14, 2017 was entered as an exhibit.*

Mr. Magno said submission waivers are requested including a traffic study, plans/profiles of proposed utility layouts, an environmental impact statement, a tree protection management plan and architectural drawings. This project is also adding 3 additional units so a traffic study is not going to do much for the board, the plans and profiles for the utilities can be waived for completeness purposes, an environmental impact statement was previously waived from a previous subdivision application, a tree protection management plan and architectural plans can be waived for completeness purposes only.

The board granted the waivers as recommended by the Board Engineer and Planner.

Mr. Magno said a variance is required for minimum lot width. Design waivers are required for proposed lots 18.04 and 18.05 not fronting a public road and it is unclear whether there will be any curb or sidewalk going into that private driveway.

Mr. Brian Flannery, P.E., P.P. was sworn. He entered three exhibits, A-1 is the subdivision application which was approved by this board previously which left this large remainder lot and duplexes surrounding it, A-2 is the colored rendering of the proposed plan and A-3 is a tax map. This property was subdivided into all duplex lots and this remainder lot can fit a duplex or a school now which would not be a significant increase. It is a 30,000 sf lot where 10,000 sf is required for duplexes so if it was designed in a different way they could get 3 duplexes but it is not what the applicant wants to do as he feels this plan will fit well with the neighborhood. The one variance requested is for lot width and that is due to the unusual shape of this lot. The requirement is 75 ft and they have close to 150 ft when you get further back where the actual units are going to be.

Mr. Herzl said it is like a long driveway.

Mr. Flannery confirmed. They will provide curb and sidewalk along Sylvan Court but not along the driveway.

Mr. Herzl asked if there is frontage on Sylvan.

Mr. Flannery said they have frontage on Sylvan but they didn't chop it up into four little pieces of frontage, they provided it on easements. They could've had 12.5 ft strips going back with easements across all of them but in his opinion, that would be silly. A variance is needed as 75 ft is required and 25 ft is proposed. A design waiver is required for the back unit of the duplex not having frontage because they are proposing the zero lot line subdivision of the back units at the same time.

Mr. Herzl questioned whether this is considered a flag lot.

Mr. Flannery said if you read the definition of a flag lot, in his opinion it is not considered a flag lot and even if it was, a flag lot requires a bulk variance and they are asking for a bulk variance. The ordinance where it states flag lots are prohibited is in the design section which really only means you need a design waiver.

Mr. Follman said an emergency vehicle can't get down there.

Mr. Flannery said it would come out to Sylvan Court.

Mr. Follman said if it's either this or school then they should build a school.

Mr. Flannery said it is a 30,000 sf lot and this fits in best with the neighborhood. This meets all the requirements of the Master Plan.

Mr. Herzl asked about garbage pickup.

Mr. Flannery said the garbage is going to be rolled out to Sylvan Court.

Mr. Herzl said it is 250 ft to Sylvan Court.

Mr. Flannery said yes.

Mr. Franklin said if you put a 'T' turn down at the end then they can get a garbage truck down there.

Mr. Flannery doesn't think the garbage truck should come down the driveway. The truck is going to come down Sylvan Court anyway so they would have the people roll the cans out. They would meet with Public Works for their approval.

Mr. Garfield asked if emergency vehicles could get down there.

Mr. Flannery said there is sufficient room for an ambulance to pull in and if the house is on fire, a fire truck isn't going to pull up to the house. They are going to stop on the road, run hoses and fight the fire. If the fire truck wanted to pull in, it can pull in the driveway as it is wider than streets allowed by RSIS. In his experience, fire trucks don't like to get that close to the fire anyway.

Mr. Herzl said basically this whole property is landlocked.

Mr. Flannery said it is a property where the majority of the usable area is not in close proximity to the roadway.

Mrs. Morris asked if he remembers when the original subdivision was approved, what the testimony was as to what they would do with this remainder lot.

Mr. Flannery does not recall but it is a 30,000 sf lot so he would assume that anything permitted on that size of a lot. They are only talking about one extra duplex here but it is his testimony that it fits and it's compatible with the neighborhood.

Mr. Herzl asked if he is before the right board if this is a flag lot.

Mr. Flannery said yes, the only time you go to the Zoning Board is if it's not a permitted use.

Mr. Herzl said this board does not permit flag lots.

Mr. Jackson said historically this board has determined that a flag lot is a non-conforming type of use.

Mr. Flannery said in order to determine that then there would have to be something in section 9 of the ordinance that says that and there's not.

Mr. Jackson has always believed that flag lots are dimensions and dimensions are typically bulk variances, not a use. He doesn't think flag lots are a use because the use is a residential lot. To him it is just incompatible with the whole idea of a use. If they wanted to make it non-conforming and they did put it in the actual land use ordinance then he would be ok with it but just because this doesn't invoke a 'D' variance doesn't mean that this board should approve it.

Mr. Herzl asked why they can't make it a regular 32 ft road.

Mr. Flannery said then the Township is going to have to maintain it.

Mr. Franklin said then the garbage truck could fit down there. In the engineer's report it says Public Works is not going to be picking up the garbage and recycling. If they pave the road 32 ft wide and add the 'T' turn at the end then maybe they will pick it up.

Mr. Flannery said they can do that if the board thinks it is a better design.

Mr. Jackson asked where they would put the trash cans so that cars can still make the turns and see around the corner.

Mr. Flannery said if they go with the board's suggestion then the garbage trucks can pull in.

Mr. Jackson asked if that would affect stormwater management.

Mr. Magno said they would have to make the stormwater a bit larger.

Mr. Follman asked if curbs and sidewalks are being proposed.

Mr. Flannery said yes, along Sylvan Court.

Mr. Herzl said the board seems to agree that if they provide the 32 ft road with curb and sidewalk then they are ok with the plan.

Mr. Jackson asked how many estimated trips in a day.

Mr. Flannery said 40. He suggests sidewalk on only one side of the driveway.

Mr. Herzl asked if they would make a hammerhead turnaround.

Mr. Flannery confirmed.

Mr. Franklin said they would have to go back to Public Works.

Mr. Herzl thinks the plans should be revised and come back.

Mr. Flannery said a neighbor has asked that if they are providing sidewalk, it only be on the left side.

Mr. Herzl said if there are no houses then he would be ok with one side.

Mr. Follman asked about the flag lot issue.

Mr. Flannery said it was agreed that this is not a 'D' variance so they are before the correct board and are asking for variance relief where they have to show the benefits outweigh the detriments.

Mr. Jackson said he would have to research it but he is unsure if this board has determined whether flag lots are 'D' variances.

Mrs. Morris believes they have rejected anything which has resembled a flag lot and told them they need Zoning Board approval.

Mr. Herzl said since they changed the law, this board has not approved a flag lot.

Mr. Flannery has been to many Zoning Board meetings and they have never seen a flag lot as a use variance.

Mr. Jackson asked which lots are flag lots.

Mr. Magno said the front two and then the back two do not have a frontage on a public street.

Mr. Jackson is uncomfortable just reversing what this board has done for years and just winging it.

Mrs. Morris thinks somewhere in the code it says flag lots are prohibited.

Mr. Flannery said in section 8, there is a flag lot section and when that section was revised it said flag lots are not permitted in any zones but that is in section 8 which is design standards.

Mr. Jackson said zoning ordinances are set forth in section 9 and anything in section 8 is a design criteria. He would have to look into this further.

Mr. Magno said it is not a flag lot because they are asking for different relief, lot width of 25 ft where 75 ft is required and a design waiver for not having two lots with road frontage. He asked what is being proposed.

Mr. Flannery said 32 ft of pavement with curb and sidewalk on one side and a hammerhead for a truck to be able to turn around.

Mr. Magno asked if it would be public or private.

Mr. Flannery believes it would be private. He doesn't understand why the Township would want to maintain this.

Mr. Magno said if they keep it private then they would need the same relief. If they came up with a little cul-de-sac then the application could be compliant.

Mr. Flannery said the board has not been appeased to hammerheads in the past, especially on a public roadway. If he is telling them to put in a RSIS compliant cul-de-sac then it would eat up all of the property.

Mr. Herzl said if it a 32 ft road then it would be RSIS compliant and the Township would take over ownership of that road.

Mr. Flannery said if the board feels the Township should have that responsibility.

Mr. Herzl said the board was in agreement the road should be public.

Mr. Follman is not satisfied either way.

Mr. Jackson said things they deal with is people talking about overcrowding, overdevelopment, bad designs and then they get something they need variances on and this board has the authority to deny it. Then the default is, the lots are bigger and then everything is less crowded.

Mr. Herzl said he could make a conforming application by creating a road.

Mr. Follman said a variance is still required for lot width.

Mr. Mordechai Eichorn was sworn. He agreed to provide a 32 ft wide road with sidewalks on one side and a hammerhead at the end of the road. He said there is a school on Prospect Street where there are a lot buses coming in and out and they have been looking for another option to be able to provide another driveway for their buses similar to what Bais Rivka Rochel did on High Street. To everybody's dissatisfaction, High Street become a long driveway of buses coming in and out all the time which creates a lot of traffic on the corner of Route 9 and High Street. It was proposed that the school use this driveway to come out instead of using it on Prospect Street, come down Sylvan Court, make a right turn and turn onto Williams Street. They are building a brand new 10,000 sf shul on the corner so it is going to be a very busy corner. From what he has heard from neighbors, these people should not use it as their driveway coming out onto Sylvan Court so it won't be a disaster with that new shul and school.

Mr. Herzl asked if Sylvan Court is narrow.

Mr. Eichorn said yes, that is why this particular plan was the alternative. He has heard there may be a girl's high school coming in the area as well so with all of the buses from the elementary school and high school, Sylvan Court is going to be a mess. He has no objection to making this a public street.

Mr. Jackson read "A lot not satisfying the conventional minimum lot frontage requirements of the zone district, generally configured in the shape of a flag, with its road frontage provided by a strip of land referred to as the "flag

staff' portion of the lot." Flag lots as defined in Section 18-805 G, 1 shall not be permitted in any residential zoning district." So while it is a design standard question, it certainly seems to prohibit them throughout all zones. It is kind of in the wrong place in the ordinance but he doesn't think that takes away from the intent. It is a pretty strong message that flag lots are not permitted.

Mr. Flannery said if you look at the legislative intent, it previously said flag lots are permitted in every zone. So when they decided they didn't want flag lots, they changed the language to not permitted in any zone. It wasn't that they thought flag lots were something bad because the Planning Board gets to weigh in on that anyway. It is a variance needed but the question is whether it is a 'C' or 'D' variance and in his mind it is clearly a 'C' variance. It is not a use because the use is residential.

Mr. Jackson said 18-806 continues and it talks about non-conforming uses and lots can't be continued and that is not a design standards so this ordinance isn't conventional.

Mr. Flannery asked if they could carry this application with the board's recommendations or do they have to vote it down.

Mr. Jackson said they could resubmit it but there is a question if they have to re-notice.

Mr. Magno said if they make a 50 ft cul-de-sac then the flag lot goes away.

Mr. Flannery said they would provide a hammerhead turnaround and RSIS does have provisions for a hammerhead turnaround.

The board feels the applicant should come back with a revised plan. The applicant agreed to a time waiver.

A motion was made and seconded to carry the application to the December 5, 2017 meeting. No further notices unless additional relief is required.

All were in favor.

**2. SP 2260 Brixmor Operating Partnership LP**

1700 Madison Avenue

Block 27, Lot 63

Concept Plan Review for a bank

Mr. Grunberger arrived.

*A review letter prepared by Remington, Vernick & Vena Engineers dated October 25, 2017 was entered as an exhibit.*

Mr. Scott Quigley, P.E. was sworn. This is located in an existing 22 acre shopping center on the corner of Kennedy Boulevard and Route 9. Some of the tenants include Gourmet Glatt, Dollar Tree, and a gym. Their proposal involves the demolition of an existing Payless and replacing it with a Chase Bank.

Mr. Herzl said there is a Chase Bank in the area already.

Mr. Quigley said that is correct, they want to move locations and add some drive thru lanes.

Mr. Herzl asked if they are losing any parking spaces.

Mr. Quigley said they are losing 28 spaces but they would add 28 spaces in the rear to maintain the overall total for the shopping center.

Mr. Herzl asked if there any existing variances for parking.

Mr. Quigley said right now there are existing non-conforming variances for parking. There are 1,120 spaces required and 784 are provided. The parking requirements are based on the aggregate uses for the shopping center, it is not a straight ratio.

Mr. Herzl has an issue with that. The parking lot is always full. He asked if any additional spaces could be added.

Mr. Quigley said they are adding 28 spaces in the rear. There would be no net gain in spaces.

Mr. Flancbaum asked if the proposed bank building is existing.

Mr. Quigley said yes, they would be demolishing the building and replacing it with a slightly larger building.

Mr. Flancbaum asked how much larger.

Mr. Quigley said the existing building is 2,800 sf and the new building will be about 4,700 sf with drive thru ATM's only.

Mr. Flancbaum asked if that is why they are losing 28 spaces.

Mr. Quigley said yes, due to the larger building and the drive thru lanes.

Mr. Herzl said this board has an issue with any application which needs a parking variance. He asked if the drive thru will be internal.

Mr. Quigley confirmed, no new access on Route 9 or Kennedy Boulevard is proposed. It would all be interior.

Mr. Flancbaum said that shopping center is heavily trafficked. He thinks it is going to be a lot worse with the addition of a drive thru.

Mr. Herzl agrees.

Mr. Quigley said the drive thru is in a remote area of the parking lot.

Mr. Flancbaum said there is nothing delineated in that shopping center, cars just fly all over the place. It may be necessary to have some overall traffic improvements in that shopping center.

Mr. Herzl asked how many spaces are currently being used and how many do they anticipate would be used with this larger building.

Mr. Quigley said the bank taking over for retail is a slight reduction in parking requirements. Bank requirements are 1 per 300 and retail is 1 per 200.

Mr. Herzl thinks they should have a traffic engineer sit down and figure out what improvements could be made in that shopping center.

Mr. Magno said the access onto Route 9 is terrible. They all drive Route 9 enough that they know it is fearful going passed that access. They may want to look into redesigning that access which may improve the project immensely.

Mr. Flancbaum said the only way to make a left turn onto Kennedy Boulevard from there is to go to the traffic light and that light can back up.

**3. SP 1867B American Classics of Lakewood IV, LLC**

1367 Ocean Ave, Ocean Ave

Block 189.03, Lots 75 & 193

Extension of Major Site Plan and Minor Subdivision for automobile show room, service center, and self storage building

Mr. Michael DiCicco, Esq. said his client bought an 18 acre parcel located on Route 88 in 2016. The property was subject to two approvals which this Planning Board granted, SD 1617 and SP 1867A, where the lot lines would be adjusted and two buildings would be constructed on two lots. One of the buildings would be an automotive repair and display center and the other being a 4 story warehouse. Those approvals were granted on August 19, 2008 and immediately after those approvals were granted, the NJ Legislature enacting the Permit Extension Act which extended any approvals in place and that act has been renewed consistently, the last extending to December 31, 2016 with a six month grace period. This piece of property is subject to that act but as of June 30, 2017, those approvals have now expired and are here for extensions.

Mr. Herzl asked why it wasn't built.

Mr. DiCicco said due to economic conditions, the property was in disrepair and his client has recently just become the owner.

Mr. Herzl asked when they plan on building.

Mr. DiCicco said they still need to get NJDEP, Ocean County Soils, Ocean County Planning Board and NJDOT approval.

Mr. Herzl asked how long of an extension they are requesting.

Mr. DiCicco said one year.

Mr. Jackson thinks it may be better to go longer for a year so they don't have to come back.

Mrs. Morris agrees, given the extension is going to go from the previous expiration date so effectively they are down to six months at this point.

A motion was made and seconded to grant two one year extensions.  
All were in favor.

**4. SD 2294 Congregation Bnei Torah**

940 East Kennedy Blvd & 1097 Somerset Ave

Block 174.04, Lots 30.01 & 33.01

Minor Subdivision to adjust lot lines

*A review letter prepared by Remington, Vernick & Vena Engineers dated October 25, 2017 was entered as an exhibit.*

Mr. Magno said submission waivers are required including submission to Ocean County Planning Board which the applicant indicates they would obtain if the board approves, topography and contours on the site. The way this site is situated is there are two properties, one is an existing dwelling on a corner and another one is a synagogue. The reason for the subdivision is so they could get a strip of land to run a sanitary sewer lateral out to Somerset Avenue.

The board granted the waivers as recommended by the Board Engineer and Planner.

Mr. Magno said the applicant requested a minimum lot width variance for that strip of land but he feels they don't need it because they have the lot width on the other road.

Mr. Samuel Brown, Esq. agrees with him on whether or not they need the variance relief but out of abundance of caution and because they are here to do this correctly, he figured it made sense to err on the side of caution. This could be done with an easement but the problem with easements is they could become sloppy, they could be extinguished, they could go back and revert. The correct way to do this is the way they are doing it tonight and the reason most people don't do it this way is it is more expensive and requires board approval. The case is very simple, they need to get the sanitary sewer out to Somerset Avenue whereas the frontage of the property is on Kennedy Boulevard. Nothing major is affected by this subdivision and there is no detriment. Everyone he has spoken with is in favor of this because it makes more sense than digging up the entire Kennedy Boulevard. This easement, if necessary, is unique to this specific lot and it is clearly a case where the benefits far outweigh the detriments, if any.

Mr. Herzl said no additional building is associated with this application.

Mr. Brown said the only purpose for this subdivision is to get a 5 ft sewer line out to Somerset Avenue. Nothing else is changing.

Mr. Magno said the applicant technically needs a design waiver from providing street trees along the Somerset Avenue frontage.

Mr. Brown said they are requesting that waiver.

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

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

- 5. SP 2255 Cheder Toras Zev**  
950 Cross St and 1000 West Cross St                      Block 494, Lots 2.01, 3, & 4  
Minor Subdivision and Preliminary and Final Major Site Plan for two school buildings

*Review letters prepared by Remington, Vernick & Vena Engineers dated October 26, 2017 were entered as exhibits.*

Mr. Flancbaum stepped down.

Mr. Herzl said they would hear the minor subdivision application first.

Mr. Magno said minimum lot area and width variances are required for proposed lots 3.01 and 3.02. These lots will be continued to be owned by the Township at this time.

Mr. Joe Kociuba, P.E., P.P. was sworn. With regard to the minor subdivision, there is an 8.5 ft wide lot owned by the Township which separates the two properties owned by this applicant as well as two properties behind them. It is an existing property the Township owns.

Mr. John Doyle, Esq. said it is an unusual situation. He spoke to Harold Hensel in the Township Attorney's office and he affirmed that this is probably a gore and that the Township has already spoken to the neighbors as they have an obligation to offer it to adjacent property owners.

Mr. Herzl said the property is being split.

Mr. Kociuba confirmed, they have spoken to Mr. Hensel as well and the applicant agreed to prepare the minor subdivision plan on behalf of the Township in order to split this up among the property owners.

Mr. Herzl opened to the public.

Mr. Walter Lucas, Newport Avenue, was sworn. He has had conversations with the Township Attorney regarding this and it sounds like they are doing the right thing.

Mr. Herzl closed to the public.

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

Mr. Magno said submission waivers are requested including site features within 200 ft and an environmental impact statement. The board can grant those waivers as there is enough topography on the plans for the design and the site is already improved so they do not need an environmental impact statement.

The board granted the waivers as recommended by the Board Engineer and Planner.

Mr. Magno said additional buildings are proposed and what is going to be needed is a cross access easement between the two properties so that the vehicular circulation can work with the parking lots. Testimony shall be provided on off-street parking with what is remaining and what is being proposed, buffer relief is required in the back where the pool is proposed and a design waiver is required from widening Newport Avenue to the proper half pavement width, along with providing curb and sidewalk.

Mr. Doyle said this school has been existing on this site for 5 years. It has been very successful and therefore would like to provide sufficient facilities and staff for the approximate 430 students and would like to grow closer to 1,500 students. Their traffic report is based upon that growth. The traffic report includes the number of students, classrooms, teachers and staff proposed and they have more than enough parking. The parking is so situated that it compliments and is close to the facilities that would be particular served by it. There was a question with respect to utilities. Water is currently at the site but sewer is not. The plans do show sewage would be taken care of others and they would like to have the flexibility of providing however the disposal would be handled conditioned upon meeting any DEP regulations. The area is mainly rural and forested and they have proposed plans based upon maintaining that look with no curbs and sidewalks but they would defer to the board.

Mr. Herzl asked how large the property is.

Mr. Kociuba said approximately 10 acres.

Mr. Herzl asked how many buildings are being proposed.

Mr. Kociuba said the larger lot fronting on Cross Street would have the elementary school, the existing gymnasium, the existing modular school building, an existing two-story dwelling as well as the apartment building are all operational and part of the existing school. The proposed building will be located in the center of the site along with parking. Right now most of the parking is there but it is gravel so they are proposing to pave and stripe. The second building will be on proposed lot 4.01 and will have its own parking area of about 70 spaces and a basketball court.

Mr. Herzl asked if the modular buildings will remain.

Mr. Kociuba said originally they intended for those to be demolished but there is a concern about the ability of the board to enforce timing on that. They felt to make the application a lot cleaner as they have enough parking is that all of it will remain. The intent is at some point they will come out but to eliminate any concerns, they have designed it so everything can operate at once.

Mr. Doyle said they believe they have the ability to handle circulation, buffers, existing and proposed building but clearly by the growth of the facility and looking into the future, they may need all of those structures.

Mr. Herzl asked if there are residential units on site.

Mr. Kociuba said there is a dormitory and faculty housing.

Mrs. Morris said the concern about the trailers is they were originally labeled to be removed and the applicant was questioning if they finish the elementary school and want to keep the trailers until the high school is being built, they didn't want the applicant to be forced to remove the trailers before they were ready to if the rest of the school hadn't been built out.

Mr. Herzl asked where access will be to this site.

Mr. Kociuba said all of the entrances will be on Cross Street. No entrances will be on Newport. They are proposing two right in/right out only access points on Cross Street at the end of the project and one fully operational left and right turn access directly across from Neimann Road.

Mr. Doyle said the County will prefer a cross intersection, not a jog and it will function best in that way.

Mr. Kociuba confirmed, they did have a formal meeting with the County regarding this application.

Mr. Herzl asked about busing circulation.

Mr. Kociuba said the busing circulation as designed will come in the main entrance, circle around and lineup. There will be room for 8 buses for staging but they could have as much as 14 buses staged on the property. They do understand they are going to have to stagger classes.

Mr. Herzl said the 14 buses will be where the parking lot is.

Mr. Kociuba said the loop only has about 8 parking stalls so it is purely for buses.

Mr. Herzl asked where garbage would be located.

Mr. Kociuba said it would be at three separate locations throughout the site.

Mr. Herzl asked if the gym and/or pool will be open to the public.

Mr. Kociuba said no, it is purely for the school.

Mr. Garfield is concerned about traffic on Cross Street. He asked if a traffic study was completed.

Mr. Kociuba said yes, it was prepared and submitted. They did find the level of service on site sufficient. The County is requiring them to widen the road 26 ft from centerline.

Mr. Doyle said the traffic study was prepared by McDonough & Rea Associates. They found that the north bound Cross Street left turn ingress movement will have a level 'A' service. Right in and right out will operate at a 'B' level. All of those counts were taken at peak hours.

Mr. Kociuba said the only variance required is for the buffer around the pool. They are 20 ft to the pool and the concrete surrounding the pool and the only improvement proposed within that buffer is a retaining wall. It will be an approximate 10 ft drop in grade.

Mr. Herzl asked if there are internal sidewalks between schools.

Mr. Kociuba confirmed.

Mr. Hibberson asked how many students are staying in the dormitories.

Mr. Doyle said there are about 36 beds. The rest of the students would be bused.

Mr. Herzl asked how many facility units are on site.

Mr. Doyle said there is one house which has been previously used for that purpose and would be continually used for that purpose.

Mr. Kociuba said the footprint is only 1,600 sf and it's one story.

Mr. Herzl asked if there is any faculty living on site.

Mr. Kociuba said on the weekends.

Mr. Herzl asked if there are any improvements being made to Newport Avenue.

Mr. Kociuba said he was the one who represented the application across the street about a year ago. At that time, it was the board's discretion that they did not want to have sidewalks down Newport. It was only based on that they decided not to show them. They have no objection to providing sidewalks if the board feels they are necessary.

Mr. Herzl doesn't know why the board didn't require sidewalks.

Mr. Magno said Newport is a rural area and there are applications before the Zoning Board behind this further down Newport so to not improve this portion of Newport and then those applications are approved leaving a portion that is now unfinished and is going to be narrow.

Mr. Franklin said they should start widening the road and requiring curbs and sidewalks.

Mr. Kociuba has no objection. They would like to phase the project so they do not have to install sidewalks until they are improving that portion of the site.

Mr. Magno said they would have to bond the improvements.

Mrs. Morris said typically when they phase projects, the phases are bonded individually so that permits and certificate of occupancies can be issued on certain pieces.

Mr. Franklin asked if Newport will be a 36 ft wide road.

Mr. Kociuba said they would install their 18 ft. His concern would be if they widen to 36 ft only on their side then they are going to have a road that is substantially off center.

Mr. Franklin said they want the entire road 36 ft. They would need to use the centerline.

Mr. Kociuba said typically they would only widen their half of the property so they would be responsible to widen 18 ft.

Mr. Herzl asked if Cross will have sidewalks and curbs.

Mr. Kociuba confirmed.

Mr. Garfield asked about drainage.

Mr. Kociuba said two separate stormwater management systems are proposed. The systems meet the stormwater requirements of the Township as well as the State reducing the flow to less what previously existed.

Mr. Garfield asked if it is all draining into Newport Avenue.

Mr. Kociuba said half the site drains to Cross and half to Newport.

Mr. Grunberger asked about buffering along Newport.

Mr. Kociuba said they are proposing some trees along there but they wanted to keep it more natural and didn't want to propose a fence for visual reasons. There is also a grade change there.

Mr. Herzl opened to the public.

Mr. Walter Lucas, Newport Avenue, was sworn. He said 6 ft high fencing is needed around this property to properly buffer the adjacent residential houses similar to what they did across the street. These are kids so they leave garbage, they are noisy, and they trespass onto people's properties. With the new zoning in affect there are going to be another 20 homes around here. He also suggested a chain link fence along Newport. Sidewalks are needed as there are students walking down Newport. There is a trailer in front of the house which does not belong there.

Mr. Jackson asked if there is a trailer on the proposed application.

Mr. Herzl said there are modular buildings.

Mr. Kociuba said that is not the same building.

Mr. Jackson said that may be a violation but it has nothing to do with what they are seeking approvals for.

Mrs. Morris said if it is existing then it should be shown on the plans as existing.

Mr. Kociuba said it is shown on the plan. To his knowledge, they received zoning approval for the trailer. The trailer is located right in a parking area so it has to come out anyway.

Mr. Lucas said there should be a complete topographic plan submitted as there are wells in the area.

Mr. Herzl said they must obtain approval from the Ocean County Health Department.

Mr. Lucas said there should be a 20 ft buffer all around and the pool should be 20 or 30 ft. This site is 10 acres so it really shouldn't be a problem.

Mr. Kociuba said the only thing proposed within the buffer is the retaining wall. The pool and the concrete are outside of the 20 ft buffer.

Mr. Lucas reiterated that they need a 6 ft high vinyl fence around the property.

Mr. Doyle said there is no fencing proposed on the front in order to keep the beauty and aesthetics of the neighborhood. The right hand side is currently fenced.

Mr. Herzl asked if there are houses next door.

Mr. Kociuba believes there is house and a farm. There is already a fence along that property line.

Mr. Herzl said if the fence is broken then they will fix it.

Mr. Kociuba confirmed. There is also a fence along the rear property line, mostly chain link. There are some areas which are dilapidated and broken which they will certainly replace. Their intention is to have a chain link fence with privacy slats along there.

Mr. Doyle said there will be fencing along the pool.

Mr. Kociuba said there is an existing fence there now which they would fix if needed.

Mr. Doyle said coming back out to Newport, they don't presently have fence but it is proposed. He asked on Newport, what is the relative height difference as proposed between that height and the height of the road.

Mr. Kociuba said the difference in grade would be approximately 5 to 6 ft at its greatest. A row of shade trees are proposed along that area. Their parking lot is 20 ft from the road.

Mr. Herzl would like to restrict any access to Newport Avenue.

Mr. Doyle agrees, no pedestrian or vehicular.

Mr. Herzl said if they ever want to add access on Newport then they have to come back to the board.

Mr. Herzl closed to the public. He asked if the applicant agrees to everything else in the engineer's report.

Mr. Doyle asked that they would have the flexibility either to have the septic waste be removed in accordance with the DEP whether it is provided by them or others.

Mr. Garfield said a lot of schools that have gone up on Cross has had a problem with students playing basketball at night and they had to put directional lights in so it doesn't affect the neighbors. He asked if the same is being done here.

Mr. Kociuba said a lighting plan was provided utilizing LED lights that are night sky friendly and directional with proper shielding.

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

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

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,  
Sarah L. Forsyth  
Planning Board Recording Secretary