

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. Garfield, Mr. Sabel, Mr. Herzl, Mr. Isaacson, Mr. Meyer

3. SWEARING IN OF PROFESSIONALS

Mr. Dave Magno, P.E., P.P. was sworn.

4. MEMORIALIZATION OF RESOLUTIONS

1. SD 2288 Locust Holdings, LLC

Locust Street Block 1086, Lot 6-15, 29, & 30

Preliminary and Final Major Subdivision to create twenty-nine lots

Ms. Morris said one of the board members had pointed out there was discussion that in accordance with this approval, June should be paved prior to any COs being issued and sidewalk will be installed on the applicant's side of Evergreen Ave.

A motion was made and seconded to approve the resolution.

2. SD 2063 Eli Schwab

Joe Parker Road Block 189.16, Lot 157

Extension of Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

3. SD 2310 BMW Homes, LLC

East 5th Street Block 242, Lots 3.01, 3.02, 4.01, 4.02, 5.01, 5.02, & 19

Extension of Minor Subdivision to create ten lots

A motion was made and seconded to approve the resolution.

4. SD 2185 Mark Properties, LLC

Netherwood Drive Block 435, Lot 6

Extension of Minor Subdivision to create 2 lots

A motion was made and seconded to approve the resolution.

5. **SD 1752A 1275 River Holdings, LLC**
Blue River Way Block 1077, Lots 39.03-39.50
Amended Preliminary and Final Major Subdivision to relocate tot lot

A motion was made and seconded to approve the resolution.

6. **SD 2334 David Herzog**
E Kennedy Blvd, 1127 E Co Line Rd Block 183, Lots 1, 2, & 4
Preliminary and Final Major Subdivision to create seven lots

A motion was made and seconded to approve the resolution.

7. **SD 2342 Jacob Mermelstein**
87 Lucy Road Block 1248.01, Lot 44
Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

8. **SD 2088A Ephraim Steinberg**
Peach Tree Court Block 11.04, Lots 10.03 & 10.04
Amended Preliminary and Final Major Subdivision to remove retaining wall

A motion was made and seconded to approve the resolution.

9. **SP 2145 & SD 2089 Somerset New Hampshire LLC**
570 Route 70 Block 1248, Lot 2
Extension of a Preliminary and Final Major Subdivision and Preliminary and Final
Major Site Plan to create thirty-seven duplex buildings, two retail buildings, and a community building

A motion was made and seconded to approve the resolution.

10. **SD 2322 Ave of the States Office, LLC**
Cedarbridge Ave and Ave of the States Block 961.02, Lot 1
Extension of Minor Subdivision to create four lots

A motion was made and seconded to approve the resolution.

5. PUBLIC HEARING

1. **SD 2118A Yehoshua Frenkel**
River Avenue & Blueberry Court Block 534, Lots 7.02 & 7.03
Amended Major Subdivision to consolidate two lots for commercial use
2. **SP 2299 Autozone, Inc.**
River Avenue & Blueberry Court Block 534, Lots 7.02 & 7.03
Preliminary and Final Major Site Plan for a commercial building

Review *letters prepared by Remington & Vernick Engineers dated October 15, 2018 were entered as exhibits.*

Mr. Ron Gasiorowski, Esq., representing an objector, believes this should be heard as one application and by doing it as two separate applications is somewhat misleading as the notices are not clear. He also believes the notices did not sufficiently notify property owners within 200 ft. The subdivision will also create an undersized lot which would remain vacant.

Ms. Kimberly Bennett said she had reviewed the notice with Mr. Jackson and they feel it is adequate.

Mr. Gasiorowski said the applicant is creating an undersized lot which was not listed in the notice.

Ms. Miriam Weinstein, Esq., representing the applicant, said they are not creating an undersized lot. That lot already exists on a map which was already filed.

Ms. Morris doesn't have the file but she knows there were questions concerning the lot numbers listed on the application and the lot numbers listed on the engineer's review letter. The engineer's review letter for the amended subdivision did reference all of the lots on Blueberry Court.

Mr. Isaacson asked how many people weren't notified.

Ms. Weinstein isn't certain that Mr. Gasiorowski is correct in that they didn't notify all of the neighbors based on the subdivision.

Ms. Morris said she never prepared a certified list for the entire subdivision as it wasn't requested.

Mr. Sabel thinks there is one property in question on the corner of Honey Locust and Route 9 which he believes were on the certified list for the original application.

Mr. John Jackson, Esq. said once you subdivide and take action, you can't go back and revisit the original subdivision every time you do a subsequent subdivision or every time you do a subsequent site plan. A new application only affects the four corners of that new application.

Mr. Magno said there is a subdivision to create the parcel for the AutoZone site plan and in order to do that, they are amending a subdivision that has been previously acted upon. A minimum area variance is required for the commercial lot as 1 acre is required whereas 29,314.86 is proposed. Submission waivers are required for proof of submission to Ocean County Planning Board, topography, contours and man-made features within 200 ft, an environmental impact statement and architectural drawings of the proposed structures. It appears the proposed site plan may be small enough to receive a waiver from the Ocean County Planning Board, the 'B site features' waivers are supported since only the development of the newer surrounding sites has not been updated on the topography. The submission waiver was previously granted from providing an EIS for SP 2165/SD 2118. Architectural plans for the proposed duplexes were not provided with the original SD 2118 application. It is noted, the architectural plans for the proposed AutoZone project would be provided with SP 2299.

The board granted the waivers as recommended by the Board Engineer and Planner for the subdivision and site plan.

Mr. Magno said variances are required for minimum front yard setback, side yard setback, rear yard setback, and minimum parking setback. The desirable typical section for Route 9 is 57 ft so they did go beyond that but the requirement is 65 ft. A site identification sign setback is also required. With this amended subdivision, they are taking a lot which was half of the duplex structure and putting it into the site plan lot which means they would have to leave the other half of that lot vacant as it would be too small to build anything.

Mr. Herzl is concerned they will come back for variances on the undersized lot.

Mr. Jackson said they would have to go to the Zoning Board.

Mr. Magno questioned why the rest of that lot isn't going towards the site plan lot which would reduce the magnitude of these other variances. Design waivers are required for perimeter buffer relief along the westerly boundary line, and along adjoining lot 8 to the south. A 25 ft wide buffer shall be provided for this non-residential use. The revised plans require a design waiver to permit a 6 ft high fence adjacent to lot 8 to the south.

Mr. Joe Kociuba, P.E., P.P. was sworn. Exhibit A-1 is the filed map for the original subdivision and they are proposing to consolidate two lots.

Mr. Jackson asked if they are developed.

Mr. Kociuba said they are not developed other than lot 7.01 which has an existing commercial building. They are consolidating two lots and submitted a subdivision out of abundance of caution purely to consolidate the lots. Typically they would come in with a site plan and the board would make it a condition of approval that the lots be consolidated but in this case, the original subdivision did show a duplex extending onto one of these lots and out of the abundance of caution, they wanted to notice properly and get a proper approval to combine those two lots in case there is any question later. This was filed as a minor subdivision but they are not actually subdividing anything, they are only combining two lots.

Ms. Weinstein said the lot Mr. Gasiorowski referred to earlier which is undersized and exists today, they in fact they are making that lot larger so they are actually decreasing the nonconformity.

Mr. Jackson asked if they noticed to modify the shape, configuration and size of the referenced lot.

Mr. Kociuba said yes, they filed the minor subdivision application for that very reason rather than just coming in and saying they would consolidate.

Mr. Jackson said everyone within 200 ft of that lot line being moved was noticed.

Mr. Kociuba said that is correct. There is a note on this subdivision that no residential development be proposed on these two lots.

Mr. Jackson questioned which lots.

Mr. Kociuba said lots 7.03/7.04 and 7.13/7.14 would not be developed with residential. It was supposed to be a duplex but before the map was filed, it was determined by the engineering office there was a use variance created by having residential within 200 ft of Route 9 so they had them add a note stating residential could not be built without a use variance.

Mr. Sabel asked what is happening with lot 7.04.

Ms. Weinstein said AutoZone did not wish to purchase lot 7.04. They are not asking for any variances which weren't already granted as part of the previous approval. If anything, they are diminishing the nonconformity.

Mr. Herzl said this is a new application and Route 9 has become much busier since that time.

Mr. Jackson said if this is approved, there will be a half lot which was supposed to be a full sized lot which would have hosted a duplex. Now it is going to be undersized, he questioned what can be done with that lot.

Mr. Kociuba said that lot would remain vacant. It couldn't be developed commercially unless they came before the board for site plan approval.

Mr. Jackson asked if it is his opinion that that would be a self created hardship as the applicant is creating an undersized lot.

Mr. Kociuba said they are not creating it as it already exists.

Mr. Herzl reiterated that lot should go to the commercial lot.

Mr. Jackson said if you have an applicant coming in with an undersized lot and they are alleging a hardship, it is certainly the right of the board to explore whether property is available nearby.

Mr. Kociuba understands it is an extremely unique situation but they are not creating a hardship as the lot already exists and they can't put a duplex on the lot anyway.

Mr. Jackson said it really is a unique circumstance because that lot is developable when it is connected with another undersized lot.

Ms. Weinstein said they cannot put a duplex on the lot as no residential is allowed within 200 ft of Route 9.

Mr. Herzl said the owner should sell the entire lot which would eliminate issues down the line.

Ms. Morris asked if the board could recommend donating the land to the Township for a park.

Mr. Kociuba said if that park is part of a residential subdivision then it still needs a use variance.

Ms. Morris said not if it stands on its own and is owned by the Township.

Mr. Jackson would not speculate what might happen with a lot that somebody owns when they sell it off to a commercial developer. People have undersized lots for years all over town and all over the country.

Mr. Herzl questioned why this board should grant all of these variances if the property can be bought by AutoZone.

Mr. Jackson said it is hard to force somebody to buy property. It sounds like the board is not happy with the application at this stage. The applicant may want to come back with a better plan and possibly more property. They have had several cases which have resulted in litigation where they have these lots that become unwanted and someone picks the lot up either through foreclosure or tax sale and then they try to do something with it that had nothing to do with the original subdivision and it really becomes a problem.

Ms. Weinstein agreed to waive time requirements and to re-notice both applications.

Mr. Herzl questioned if this went before the Zoning board.

Mr. Kociuba said they submitted an application to build duplexes within 200 ft of Route 9 which was denied.

Mr. Herzl asked the applicant to go back to the drawing table and try to eliminate some of the variances.

3. SP 2307 Elinson Corporation
501 Forest Avenue Block 69, Lot 7
Concept Plan for bais medrash

A review letter prepared by Remington & Vernick Engineers dated October 30, 2018 was entered as an exhibit.

Mr. Magno said this is a conceptual plan, there are two existing apartment buildings on site. One will remain and the other will be renovated for dormitories. A rear yard variance would be necessary and testimony should be given as to the adequacy off-street parking.

Mr. Brian Flannery, P.E., P.P. said this is located on the corner of 5th Street and Forest Avenue and it is right next to the Congregation Sons of Israel parking lot. Currently, there are two apartment buildings with a parking area in the back. This plan proposes to change the apartments to a bais medrash and putting the bais medrash on the second floor.

Mr. Herzl asked how much parking will be required for the bais medrash and how much parking will they be losing.

Mr. Flannery said they are not losing any parking, the difference is they don't have enough parking for the buildings there now. The one building will change to a dormitory and above the existing parking lot, they are proposing a bais medrash. The other apartment building would remain and would use the parking. The dormitory proposed would be for 13 rooms and theoretically would have less of a parking need as you'll have students that won't have cars. If you look at the parking requirements per ordinance, the dormitory rooms need .25 spaces per unit so 3 spaces would be required for the dormitories as opposed to the apartments which requires 14 spaces per building.

Mr. Herzl asked how many apartments are there total.

Mr. Flannery believes it is 24 apartments.

Mr. Herzl questioned how they are going to construct a building above the parking lot and not lose any parking spaces.

Mr. Flannery said the poles would be near the edge of the parking spaces so there would be sufficient room.

Mr. Meyer asked if they are attaching it to the existing apartment building.

Mr. Flannery confirmed.

Mr. Herzl is concerned as to the lack of parking.

Mr. Meyer said it is so congested in that area now.

Mr. Flannery said they are taking away twelve apartments so that is at least twelve cars which park there now.

Mr. Sabel asked if there is going to be access from the parking lot to the dormitory or would they have to walk around.

Mr. Flannery said his thought would be there would be a door on the lower level so they can go in to the dorm that way.

The board was in the general agreement that there is a lack of parking.

4. SD 2069A Sam Rabinowitz
124 Locust Street Block 1081, Lot 4
Extension of Preliminary and Final Major Subdivision

Mr. Brian Flannery, P.E., P.P. was sworn. He asked for an extension as this is located on Route 70 and they are in the process of obtaining a permit from the NJDOT.

Mr. Sabel said there was discussion as to a 25 ft emergency exit as a secondary means of access.

Mr. Flannery said there is an unnamed road coming off of Route 70 and that is where the main access to the project is located. Then there is an emergency access to the property next door.

Mr. Sabel thinks another house was added which eliminated the 25 ft access.

Mr. Flannery said they did leave space in between for emergency vehicles to drive through.

Mr. Sabel said that is a parking lot, he questioned if there is sufficient room if cars are parking there.

Mr. Flannery said any emergency access, if someone parks in front of it, creates a problem.

Mr. Sabel argued they are legal parking spaces which is part of the development.

Mr. Flannery drove by and he could see space in between. He can't imagine how they would have cars parked which would block it.

Mr. Sabel wants to ensure there is 25 ft of access.

Mr. Magno said the plan may need some revisions to line up as the site is under construction next door but the drive aisles will have to match so emergency vehicles can get from one side of the other, it is a requirement.

Mr. Herzl asked if anything changed from what was originally approved.

Mr. Magno said not yet, there is an issue with the end unit with respect to an access easement as they are having trouble trying to figure out how to make it fit even though it is approved.

Mr. Sabel reiterated that the 25 ft of access must be required.

Mr. Magno said it is a requirement and they will not receive final resolution compliance until that is satisfied.

A motion was made and seconded to approve two (2) one year extensions.
All were in favor.

5. SD 2356 BJFM Partners, LLC
Halsey Street Block 1019, Lots 1, 2.02, 3, & 4
Minor Subdivision to create five lots

A review letter prepared by Remington & Vernick Engineers dated October 31, 2018 was entered as an exhibit.

Mr. Magno said variances are required for minimum lot area and minimum front yard setback. Technically, a design waiver is required from providing sidewalk but from what he understands, it will be shown at time of plot plan.

Mr. Brian Flannery, P.E., P.P. was sworn. He said they are readjusting four existing lots to create five new properties. It is a property that is in the Oak Street area but not part of the Oak Street Core. Exhibit A-1 is the map submitted, exhibit A-2 is the tax map. As the board can see from the tax map, this property is located at the corner of the HD-7 zone where duplexes are already being developed. To the north, east and south there are schools so it is a little piece of that Oak Street Core leftover that ultimately is going to be duplexes. Curb, sidewalk, street trees and whatever else is required would be provided. Currently, the applicant who would be developing those duplexes is developing this road and there was an application associated with the end lot to provide an access and a turnaround for the property at the end so that road is bonded as well. The review letter indicates dedications should be provided but they would propose right-of-way easements which provides the same thing without giving away land and changing the lot area which would create a variance. There will be three frontages including Halsey, Parkview and Edgecomb. Edgecomb is not going to be developed and the school is behind them so theoretically that would not need to be improved.

Mr. Herzl said they are requesting a waiver from improving Edgecomb Avenue.

Mr. Flannery confirmed.

Mr. Herzl asked if Halsey Street is improved.

Mr. Flannery said it is currently bonded. The original developer was going to stop right at the intersection which would have created more grading issues for Yeshiva Kol Torah. The road will be improved and additional drainage will be put in.

Mr. Magno said Edgecomb will be improved as part of another application as they are coming from the Parkview intersection to get access to their school site. The school isn't built yet but it has approval.

Mr. Flannery said this applicant would certainly bond curb and sidewalk along his frontage if that road gets developed. He referenced sections in the Master Plan and MLUL to justify the variances requested.

Mr. Sabel said there is only a 20 ft frontage.

Mr. Flannery said that is a mistake. On Edgecomb they are asking for 20 ft because the houses aren't going to be fronting there, it will be a side yard. There will be 25 ft on Parkview and 25 ft on Halsey.

Mr. Herzl opened to the public.

Mr. Shlomo Klein, 189 Chateau Drive, was sworn. He asked if there will be access to Oak Street.

Mr. Flannery said no.

Mr. Klein wants to ensure Edgecomb will be improved with curb and sidewalk. There has been instances in the past within the Oak Street Corridor where an applicant testified curb and sidewalk would be installed by others but it never happened.

Mr. Flannery confirmed the applicant would bond for curb and sidewalk along their frontage. If the board wants to grant a variance for a 6 ft high fence along Edgecomb, they would provide that as well.

Mr. Klein urged the applicant to install sprinklers in the basement.

Mr. Meyer asked if Halsey goes to Route 9.

Mr. Flannery confirmed.

Mr. Meyer asked if there is sidewalk.

Mr. Flannery said there is only sidewalk on the south side on Route 9.

Mr. Herzl closed to the public.

Mr. Magno believes the only item which needs to be bonded is curb and sidewalk along the Edgecomb frontage as someone else is improving that road but in the event that doesn't happen, it would be bonded.

Mr. Sabel thinks there needs to be sidewalk along the hammerhead to the opposite side of Halsey.

Mr. Flannery said there is no sidewalk getting to Oak Street, none of the paper streets are improved and Route 9 has no sidewalk.

Mr. Flannery said the fence would be from the easterly most part of their property to the sight triangle easement so there aren't any sight issues.

A motion was made and seconded to approve the application. A bond will be posted for curb and sidewalk and a variance was granted for the 6 ft high fence along Edgecomb Avenue.
All were in favor.

6. SD 2355 46 Linden Ave, LLC
46 Linden Avenue Block 189.31, Lot 150
Minor Subdivision to create four lots

Mr. Grunberger arrived at the meeting.

A review letter prepared by Remington & Vernick Engineers dated November 12, 2018 was entered as an exhibit.

Mr. Magno said testimony shall be given concerning the right-of-way dedications.

Mr. John Doyle, Esq. said this is a variance free application for four new lots.

Mr. Brian Flannery, P.E., P.P. was sworn. The property is located at the corner of Linden and Sterling Avenues and as indicated, no variances are being sought. In the engineer's report, there is a comment concerning right-of-way dedications and in this area, most of the properties have given road widening easements which gives the town the same benefit but it doesn't create setback issues for the homeowners. Exhibit A-2, which is a copy of the tax map, Linden Avenue which is more of a collector road and is mostly developed, 5 ft right-of-way roadway easements were given. Mr. Flannery said the easement would also be shown on the filed map. Typically, governing agencies like to have the traveled way on the right-of-way rather than an easement because that is where most of the activity is going on. The additional 5 ft is typically for sidewalks, grading or something ancillary to the traffic on the road. Even the County accepts road widening easements in lieu of a dedications where there is a reason for it and it would adversely impact the duplexes that would house the future homeowners. Comment 19 indicates that an overlay to at least the centerline of Linden Avenue will be necessary which he believes is premature. The applicant agrees to comply with the ordinance.

Mr. Magno said when they looked at what would be disturbed between connecting gas, sanitary sewer and water and you add that to the restoration work required along the curb line, they will most likely have to go to the center of the roadway.

Mr. Flannery agrees it is very probable but it shouldn't be a condition of approval. Concerning comment 20, the applicant agrees to comply with the ordinance. Soil borings will be shown at time of plot plan review.

Mr. Magno asked that Mr. Flannery explain why the applicant is not proposing the lots face Sterling which would make the lots conforming.

Mr. Flannery believes this plan provides a better layout with larger rear yards.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn. He commented that sprinklers should be installed in the basements. He questioned why the applicants do not follow the Shade Tree Commissions recommendations.

Mr. Flannery said they don't have any recommendations from them for this application but usually the applicant agrees to most of their suggestions.

Mr. Sabel asked if there will be stacked parking.

Mr. Flannery confirmed.

Mr. Grunberger asked if the road would be wider if a dedication was provided.

Mr. Flannery said no, nobody would know the difference except if you look on the tax map or filed map.

Mr. Herzl closed to the public.

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

6. APPROVAL OF MINUTES

7. APPROVAL OF BILLS

8. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth
Planning Board Recording Secretary