

## 1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

## 2. ROLL CALL

Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Flancbaum, Mr. Garfield

## 3. SWEARING IN OF PROFESSIONALS

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

## 4. MEMORIALIZATION OF RESOLUTIONS

1. **SP 2172 Center 101, LLC**  
100 Clifton Avenue                      Block 90, Lot 9  
Preliminary and Final Major Site Plan for a five-story office and retail building

A motion was made and seconded to approve the resolution.

2. **SD 2266 Claire Drive, LLC**  
Claire Drive                              Block 430, Lots 13-16  
Minor Subdivision to create five lots

A motion was made and seconded to approve the resolution.

3. **SD 2272 Congregation Talmud Torah Inc**  
1411 East Spruce St and Pine St Block 855.01, Lots 21, 34.03, & 37  
Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

4. **SP 2227 Yerek, LLC**  
Airport Road                              Block 1160.01, Lots 242.01 & 242.02  
Preliminary and Final Major Site Plan for warehouse storage units

A motion was made and seconded to approve the resolution.

- 5. SP 2109 RD Lakewood, LLC**  
Pine St Block 961.01, Lots 2.02 & 2.03  
Extension of a Preliminary and Final Major Site Plan for a bank and a hotel

A motion was made and seconded to approve the resolution.

Mr. Follman and Ms. Zografos arrived.

## **5. CORRESPONDENCE**

- **SP 2208 Lakeside Holdings, LLC** – addition of mezzanine to approved office building

Mr. Joe Kociuba, P.E., P.P. said this is an application approved a number of months ago and they are now in the process of resolution compliance. It is an addition of an office building to an existing site. During the process of the application, they had submitted architectural plans and as a result of resolution compliance, the board engineer's office identified they are showing a mezzanine not shown on previous plans which adds 1,963 sf. That building as proposed was 16,060 sf so it would be a slight increase. They are in excess of parking, 132.6 stalls were required and 149 were provided. With the addition of the mezzanine they are still compliant as they would need 139 spaces.

Mr. Herzl asked if any new variances are being created.

Mr. Kociuba said no.

Mr. Follman asked what the purpose of the mezzanine is.

Mr. Kociuba said the second story has small 300 sf offices and the intent is really to the boss' office up on the third floor.

Mr. Follman said it is a large increase.

Mr. Jackson asked what the increase in percentage is.

Mr. Kociuba said 13 or 14%.

Mr. Jackson said that is a pretty significant change.

Mr. Kociuba said they are not changing the footprint or the look of the building and they are compliant with parking.

Mr. Herzl asked why this is under correspondence.

Mr. Kociuba said out of abundance of caution, the board engineer picked up there was a mezzanine not shown before.

Mr. Vogt wanted to make sure the board was comfortable with the change. If the board acts favorably, the application is still in compliance stage so they would look at all the other site design aspects of the applications to make sure what is shown on the plans is going to be adequate. The question is, based on what the board is hearing, if it is consistent with the original approval.

Mr. Jackson asked if the zoning officer would approve the mezzanine if this building were existing.

Mr. Kociuba believes it would be permitted administratively. It doesn't create any variances and it wouldn't be considered a major site plan as sufficient parking is provided.

Mr. Herzl said it is large increase.

Mr. Kociuba noted that it is 13% increase for this particular building but the entire site consists of 40,000 sf with multiple buildings on the site.

Mr. Vogt asked what the building coverage would be with the mezzanine.

Mr. Kociuba said it would be the same, 15.39% where 40% is permitted.

Mr. Vogt said they are not asking for an increase in size, it is more of a clarification. He asked what purpose the mezzanine serves.

Mr. Kociuba said it is up above the second floor with access from the interior of someone's office.

Mr. Vogt said then that additional square footage is not contributing to the parking demand like a retail or office use would.

Mr. Kociuba said there is an office up there and that is why they are including it in the parking calculations.

Ms. Zografos suggested that in the future, the board should be provided with the minutes and resolutions of the original approval when considering a change like this.

Mr. Herzl said this is a major change. The board should know what was originally approved.

Mr. Vogt said from a site perspective, it doesn't sound like it is changing the site improvements per se. They could make a case that a mezzanine is not going to be something which would generate parking and even if it does, they are still compliant.

Mr. Jackson said there was testimony that it is not just an open area, it is an office.

Mr. Kociuba said it is open to below. It is a mezzanine so you can see downstairs.

Mr. Jackson asked if they are setting up cubicles.

Mr. Kociuba said it is small for cubicles as they are in the range of 370 sf to 500 sf. There isn't going to be multiple cubicles, it would be the boss' office.

Mr. Jackson said they are proposing five individual offices.

Mr. Herzl questioned to what point is this de minimis. They are asking for an increase of 13%.

Mr. Kociuba said it is de minimis if they have the parking. Obviously, if they are creating a parking variance then they would come back with a site plan.

Mrs. Morris said if the board feels it is a fairly large change then an amended approval may be warranted.

Mr. Vogt suggested before going that route, the applicant may want to come back and doing what Angela suggested which was looking at the original resolution of approval which may or may not make the board more comfortable voting on this.

Mr. Jackson would like to know if there is any kind of exemption from the Zoning Officer. A lot of towns do have latitude for small additions.

Mr. Vogt asked that they provide a one page rider explaining the change.

Mr. Kociuba agreed and asked to be carried to the next meeting.

## **6. PUBLIC HEARING**

### **1. SD 2208 Prospect St. Holdings, LLC**

Blanche Street Block 445, Lots 9 & 19  
Preliminary and Final Major Subdivision to create 9 lots

### **2. SP 2231 Prospect St Holdings, LLC**

Blanche Street Block 445, Lots 9 & 19  
Preliminary and Final Major Site Plan for a synagogue

*A review letter prepared by Remington, Vernick & Vena Engineers dated July 31, 2017 was entered as an exhibit.*

Mr. Flancbaum stepped down.

Mrs. Morris said the board may recall there was a motion for approval for the subdivision which did not pass at the last meeting followed by a motion to retain jurisdiction. The site plan portion of this project had not received any motions at this point.

Mr. Jackson's recollections is the site plan was not discussed at all and that this is a fully conforming application for the subdivision.

Mr. Adam Pfeffer, Esq. said one of the board members indicated they wanted input from the Township Committee. Mr. Liston had written a letter to Steve Secare on behalf of the Township Committee and he had provided a response which he believes confirms everything indicated. He would like to go through all of their testimony and to hear each application individually as they are two separate applications. He understands if the board wants to wait to hear testimony for the site plan before voting on the subdivision but he would like to keep the applications separate during testimony.

Mr. Ed Liston, Esq. would like to go over the letter which he sent to the Township.

Mr. Jackson said the board has been provided a copy of the letter. It is a complicated circumstance as it is a different entity and property. He knows the board was uncomfortable and thinks the board should hear what Mr. Liston has to say.

Mr. Pfeffer urged to board to hear testimony first. The letter deals with other applications and entities which are unrelated.

Mr. Liston does not believe that is fair to the objectors as Mr. Pfeffer raised the issue indicating Mr. Secare is fien with this but that is not the truth.

Mr. Liston said he represents forty one residents of this neighborhood. It is being developed essentially by the same developer although using different entities. This entity was bound by a formal resolution which was discussed in his letter which required the property being used for the subdivision and shul. In addition, there were requirements in the Township's developer's agreement, resolution and minutes supporting the resolution of the earlier approval which required several things including that there be a \$10,000 per unit escrow payment for every certificate of occupancy. He spoke to the former attorney for the applicant and she indicated to him she has been collecting the escrow but is unsure as to how much has been collected thus far. The other issue not answered by Mr. Secare has to do with the requirement that there be a bond posted after 25 COs are issued on the former development to guarantee that the shul and park be built. Mr. Secare did not address that and he does not believe any bond has been provided. Under the circumstances, there are problems with this application and the subdivision application because he believes it was contemplated by the earlier resolution that the entire property including what is being proposed for the shul and subdivision would be one property for the shul and community building which would provide enough parking because there would be two sanctuaries in this building, not one. The park has never been identified or bonded for and the ownership of the shul and community center is supposed to be in a homeowner's association which hasn't been formed. Now he is being informed by his clients that the applicant is going around saying he is going to own it and he is going to sell it if he wants to.

Mr. Jackson thinks this is a different entity and property. It is the same principal but different corporate entity and he doesn't think this application should be used as a means of enjoining what may or may not be wrong with that other application. He thinks that is an administration and compliance issue and the people who bought houses could go to court or complain to the administration.

Mr. Herzl said he read the prior resolutions and everything has to do with issuing COs

Mr. Jackson said they are not the police or the administrative enforcer. He thinks the board should look at this application on its own four corners. If Mr. Liston is correct then he has other available avenues of relief.

Ms. Zografos looked at case law regarding this because the MLUL really doesn't address the developer's agreement. There is a Supreme Court case, Toll Brothers vs Burlington, which talks about the developer's agreement being an extension of the resolution and the resolution attaches to the property. So although it was with a different applicant, she is concerned that the board does have to address it. There is relief with regard to what a developer can be bound to for off-tract improvements and it has to be proportionate to what the improvements are. She is not saying the current applicant doesn't have a basis to come to the board to ask for relief based on that prior resolution but she does think the procedure may have to be that they have to come back and ask for relief and then they can go forward. She believes they may be bound by it based on the fact the case law says the developer's agreement is tied to the resolution.

Mr. Jackson agrees but his understanding is the resolution does not reference the property.

Ms. Zografos said the developer's agreement does. On page 11, 2.9b, it references block 445 lot 9.

Mr. Follman said the applicant didn't own the property then.

Ms. Zografos said they don't have to, the resolution ties to the land. Otherwise people would just get land use approvals and people would buy it and then they can do whatever they want.

Mr. Follman said Mr. Krupnick bought this piece of property so he didn't even know it.

Mr. Pfeffer said the Township sold it.

Mr. Jackson said Angela is correct. If there is a developer's agreement then it would attach to this property. He would like to know whether the person who created that developer's agreement at the time had a property interest they could tie this property into.

Ms. Zografos said the resolution required a developer's agreement so if it is in existence she thinks the applicant has to ask for relief from it. She thinks there is a procedural issue they need to address first.

Mr. Pfeffer is not familiar with the case and he is unsure as to whether that case talked about the developer's agreement and the approval as different entities as it is here. The developer's agreement in the prior approval is MNYK Developers Prospect, LLC. Tonight they are talking about Prospect Street Holdings. That being said, it is their opinion and their testimony that they meet all of the criteria which was in the developer's agreement, the prior resolutions and all other criteria. They disagree that all of these things are tied in and some of the opinions of Mr. Liston but they would address each of those points.

Ms. Zografos thinks the last time they were here their position was they were not bound by the developer's agreement.

Mr. Pfeffer agrees but that being said, they are going to meet all of the criteria. In the end, the applicant MNYK Developers, has conditions they have to meet. He is not saying they are not bound by it but they are certainly going to satisfy it.

Mr. Brian Flannery, P.E., P.P. was sworn. Four renderings were submitted as exhibits including sheet 3 of the plans which shows the outbound of the tract in orange, lots 9 and 19. As indicated prior, lot 9 was owned by the Township, the Township sold it at a public auction to Mr. Krupnick and this application bought lots 9 & 19 and is back before the board to build a shul and recreation area which meet the requirements listed in the resolutions of prior applications that have nothing to do with this.

Mr. Jackson thought it was one lot being subdivided.

Mr. Flannery said Mr. Krupnick owned lot 19 and the Township owned lot 9 which this applicant purchased. As part of this process, the lots would be merged to accomplish the shul talked about for the other applicants in the other resolutions.

Mr. Jackson asked if Mr. Krupnick is still the title owner of that property.

Mr. Flannery said no, this applicant purchased the property. Exhibit A-1 shows the outbound of both lots, the pink shows the lot lines for the 5 conforming lots and in yellow is where the shul is intended. A-2 is just a tax map, A-3 is an exhibit showing prior MNYK applications so the board can see the close proximity to them, block 445 and 471 are also shown. A-4 shows the site plan proposed.

Mr. Jackson asked if the resolution was done before or after the lot was purchased from the Township.

Mr. Flannery said it was before so if the Township felt this lot was bound, they should have not sold it at public auction.

Mr. Jackson asked if there were any restrictions or covenants which went with that sale.

Mr. Flannery said no.

Mr. Jackson said as far he knows the title was free and clear.

Mr. Flannery confirmed.

Mr. Liston said the developer's agreement is dated less than a year ago.

Ms. Zografos said it is dated December 15, 2016.

Mr. Liston said by that time, the developer's agreement was signed by Jack Klugman on behalf of the other entity and is the principal of this entity.

Mr. Jackson understands. He asked when Mr. Krupnick bought this property.

Mr. Flannery said it was a long time after the prior applications and resolutions.

Mr. Zografos said looking at the prior resolutions, one of them is from February 2015 and it says the applicant shall acquire the property. It doesn't say that they already own it so the resolution acknowledges that it was not yet owned.

Mr. Liston said Mr. Krupnick then sold the property to Jack Klugman, the person of the LLC that is before the board now who owned it in December 2016 when he signed the developer's agreement and he agreed to use lot 9 for the shul.

Mr. Herzl said Mr. Krupnick could have done anything he wanted with the lot.

Mr. Flannery agreed. At the last meeting, Mr. Liston suggested they look at the minutes of the prior approvals although it is still his contention that it is not part of this application. On page 7 of the January 20, 2015 minutes 'Mr. Flannery said the applicant is working with the Township to provide both recreation and a shul. The game plan is to do recreation on a Township owned property' and that was the discussion with MNYK and the Township at the time, to take Township own property of about 2 acres and MNYK would pay for the development of a park and it would be a public park. 'The applicant would be responsible for development of the recreation which would then be a public park which would far exceed the 5% set aside requirement'. Mr. Liston portrayed the applicant as subversive and getting around the rules. At that time, there was no requirement for the applicant to agree to put in a shul and recreation. He did it at the prompting of Mr. Schmuckler and he did it because he intended to do it anyway which he told the buyers because he knows in order to sell the units, you need to have a place for them to pray and associated with that is a recreation area. But if you took a 10 acre area in here, you need to set aside 5% and that would be half an acre. This shul is 30,000 sf so it is 50% greater than if it was all developed as one piece.

Mr. Jackson said whether the applicant was required or not required or whether Mr. Schmuckler asked, that is in the resolution and those are the facts they are dealing with. He is testifying that the set aside is supposed to be half an acre.

Mr. Flannery said the mandatory would be half an acre. Continuing on page 8 of the minutes, 'Mr. Schmuckler said 110 seats is not going to be sufficient, the shul should have a minimum of 220 seats. He asked if a 10,000 sf shul could be built with 5,000 sf on each floor.' That is what this application is for.

Mr. Jackson said that is in the minutes but what does the resolution state.

Mr. Flannery said the resolution SD 1997 memorialized on January 20, 2015 under f on page 3, #1 the applicant is seeking subdivision approval, #2 the applicant agrees to enter into a developer's agreement with the Township whereby a recreation area within 1,000 ft of the subject property and a community center on either block 445 or 471 will be constructed.

Mr. Jackson said that resolution does not address the specific block and lot they are here for tonight.

Mr. Flannery said it lists block 445.

Mr. Jackson asked if there is anything in the resolution requiring how large the lot has to be.

Mr. Flannery said the applicant has agreed to acquire a nearby parcel and to construct a 10,000 sf community center to be available for nearby residents. The residents of the proposed subdivision shall be provided the opportunity to purchase shares of the community center for a nominal fee. The applicant shall place \$10,000 per lot as sold in an attorney escrow account.

Mr. Jackson said they believe the applicant fulfills the criteria of the community center.

Mr. Flannery said condition #4 is the applicant will make a diligent effort to acquire land from the Township to develop a park which would be owned by the Township. That comes from the minutes where the applicant, MNYK, had discussions with the Township about taking a 2 acre park because the Smart Growth plan showed Township owned property to be a park. The applicant thought a good solution would be he'll spend the money, develop the park and there would be a park serving the public.

Mr. Jackson said their position is the applicant did make diligent efforts to obtain property for a park.

Mr. Flannery said yes, there is a recreation area proposed in the back of the shul area.

Mr. Herzl asked who would own the park.

Mr. Flannery said it would be owned by the entity which owns the shul.

Mr. Herzl asked if it supposed to be owned by the Township.

Mr. Flannery said the applicant is making a diligent effort to have the Township allow him to build a park which would be a Township owned. The Township did not want to do that so in lieu of that, he is providing recreation and a shul in accordance with the requirements in the resolution.

Mr. Herzl said he is not required to provide a park.

Mr. Flannery said he is not required, the resolution said he is required to make a diligent effort. The other resolution and the minutes say more. Back to the minutes of January 20, 2015, after Mr. Schmuckler makes his comment. 'Mr. Flannery said the condition would be that it would be deeded over to a separate non-profit' and that is what it is. MNYK would provide that information at such time they have to do it in accordance with the requirements they have stipulated. Right after that, Mr. Jackson commented that he was unsure they could do that as part of this application because at the time, he was a little uncomfortable with at how, as part of a 20 lot



subdivision, you can require somebody to do something and the reason it went so easily is because this applicant intended to do it anyway.

Mr. Jackson said it wasn't part of the requirements for this size application but they did it anyway. That doesn't matter now because they did agree with it and it is in the resolution. The question is whether they comply with it or not. So far they have testified the community center is 10,000 sf and they have made provisions to meet the spirit of the park and they have made diligent inquiry. He asked if the developer's agreement goes further than what the resolution says.

Mr. Flannery said the developer's agreement mentions a community center on block 445. This will be a community center that meets the intent of what was required.

Mr. Jackson asked what the developer's agreement specifically says concerning the size and location of the community center.

Mr. Flannery said there would be a community center on block 445 lot 9. They are here this evening to put a community center on block 445 lot 9, 10,000 sf just as indicated. It doesn't say all of block 445 lot 9 will be the shul, it says a 10,000 sf shul will be constructed. In the February 17, 2015 minutes for block 461, SD 1998, page 4, Mr. Schmuckler talked about the 120 shares and Mrs. Weinstein asked that it be at least 150 which Mr. Schmuckler was ok with and it would cover anyone else in the area that builds and 10,000 sf should be able to handle that amount of members. On page 3, with respect to the lots, 'Mr. Rennert said the resolution could reference one of the six blocks or within 1,000 sf' because the discussion at that time was that they didn't know exactly where it could be. The resolution dated February 17, 2015, under g 'the applicant agrees to enter into a developer's agreement with the Township whereby a recreation area within 1,000 ft of the subject property and a community center on either block 445 or 471 will be constructed.

Mr. Jackson asked if it was the intent to use the same community center for both of those developments.

Mr. Flannery said yes.

Mrs. Morris believes the resolutions do specifically say that it is the same community building referenced in SD 1997.

Mr. Flannery said the resolution says 'There shall be no CO until the recreation and community center have been constructed' so on that particular block there was a provision to make sure this gets done.

Mr. Jackson remembers there was an enhanced ratio.

Mr. Flannery said originally there was talk about 110 or 120 and then it went up to 150 seats. The resolution states 'the community center and recreation area are the same as those required under approval number SD 1997'.

Mr. Jackson said their position is that both of the developments shown on Exhibit A-3 are supposed to make one community center of 10,000 sf, 2 floors of 5,000 sf each, plus they are supposed to have efforts to have a park.

Mr. Flannery said an effort to develop a Township park or provide recreation.

Mr. Jackson said there were provisions were the money was going to be escrowed and shares were going to be offered and this developer was going to fulfill those promises from that escrow and build a recreation center on the lot they are here for tonight. Their position is the developer's agreement is in accord with that.

Mr. Flannery confirmed.

Mr. Jackson would like to hear if Mr. Liston agrees or disagrees with that analysis.

Mr. Flannery said the other issue which will come up is parking.

Mr. Jackson said they will segregate the parking issue. Right now he wants to know if there were any promises, covenants or handshakes from any source that says that this applicant is not fulfilling that responsibility with this proposal.

Mr. Liston said as he knows, there is a catch all provision at the end of all of the resolutions under conditions which says 'any and all promises or representations made by the applicant or his professionals are binding and are made part of the resolution' so you can't really segregate the minutes from the resolution because they are included by reference in the resolution and that's where all of this colloquy and the 120 seats became 150 seats.

Mr. Jackson said there is also dialogue during a hearing. A promise and a representation is different than a discussion and talking about the possibility so he is talking about things during the hearing which he believes should be in the resolution.

Mr. Liston said he was supposed to provide amenities for 120 families and suddenly it got bumped up to 150. Be that as it may, lot 9 in block 445 which existed when Mr. Klugman signed the developer's agreement in December of 2016 is not the lot 9 they are asking to be created now, it is less. He is carving out of that lot 9 for the subdivision to build for-profit housing.

Mr. Jackson asked if there is anything in the resolution or the developer's agreement that talks about the size of the lot.

Mr. Liston said on December 15, 2016 'funds shall be utilized by the developer towards the construction of a community center on block 445 lot 9.' Block 445 lot 9 as it existed on the date that Klugman signed is not the same lot 9 they are asking to create, it is a lot less and they are trying to cheat these people out of what they are entitled to.

Mr. Jackson said his position is that those promises and representations, the resolution and developer's agreement contemplated all four corners of lot 9.

Mr. Liston confirmed.

Mr. Jackson said Mr. Flannery pointed out a section in the resolution which talked about a 5,000 sf community center with two floors.

Mr. Liston agrees that a 10,000 sf community center is being proposed but it is on a smaller lot 9 so they can chop out some property for profit.

Mr. Jackson said Mr. Liston believes they are not fulfilling the spirit and intent of what their agreement is by carving out the residential units and the applicant believes they are fulfilling that requirement because they are providing an adequate 10,000 sf recreation center. The board can make the decision at the end of the case to determine if the applicant is or is not fulfilling their promises. He doesn't see anything in the resolutions which specifically address the size of the lot or what the final configuration of what lot 9 will be.

Mr. Liston said this agreement is with the Township of Lakewood. The only way this agreement can change from the lot 9 that existed in December 2016 is if the Township agrees to it and he doesn't see how this board can consider the subdivision until the Township clarifies that.

Mr. Jackson asked if he has any documents, restrictions, covenants or contractual specifications that would restrict the purchaser of lot 9 from altering its configuration or from using it however they want to use it.

Mr. Liston said no but you have to look at the date of the contract and who the contracting parties are. Lot 9 in block 445 on the day Mr. Klugman signed the agreement with the Township is not the lot 9 he is asking the board to approve this on.

Ms. Zografos disagrees with Mr. Liston. The case law says the developer's agreement is attached to the resolution and an applicant can come back before the board to request relief from the developer's agreement if there is a change in circumstances. What she views is happening here is the applicant is coming to the board asking for relief and requesting to subdivide the property. She thinks this board does have jurisdiction.

Mr. Herzl said the resolution doesn't specifically state the whole of lot 9 must be utilized for the community center.

Mr. Jackson said if the applicant needs relief from that prior approval then it has to be in the context of that prior application.

Ms. Zografos said she did look on the Ocean County Clerk's website to check the ownership of the property as it is a little confusing. There is a deed dated February 14, 2017 where Prospect sold the property to Buckwald which is not on the application as the owner. Before that, Buckwald did a notice of settlement saying that they were going to enter into a lease agreement with the original applicant.

Mr. Jackson thinks the board should note that and it should be part of the record.

Mr. Liston thinks it raises a jurisdictional issue because they don't have the property owner before the board.

Mr. Jackson said you could be a contract purchaser, as long as you have an interest in the property.

Mr. Liston said there has been no notice for the relief being sought to change the size of lot 9. Also, the applicant bound by that isn't also before the board so what has to happen is MNYK has to come back before the board and ask for that relief.

Mr. Flannery wanted to point out as Mr. Liston seems to think the developer's agreement says you have to use all of lot 9 as it exists at the time but that is not their position at all. Their position is that they are required to build a shul there.

Mr. Jackson asked if he meets the ordinance requirements for a community center for parking.

Mr. Flannery said they exceed it.

Mr. Herzl believes lot 9 is listed because the resolution states it has to be in proximity of 1,000 ft but it doesn't have to be the whole lot.

Mr. Flannery agrees and the meeting minutes clarifies that the intent is to have a community center 5,000 sf per floor within 1,000 ft of either block 445 or 471. With respect to zoning comment 2, if you look at exhibit A-4, the

issue is that the plans drawn by New Lines show the rear line to the north and the ordinance defines through lot and corner lots but this is like a super corner lot because there's two corners and they have frontage on three streets. The entrance of the building clearly faces Blanche and his interpretation is the rear is behind that with a side next to it. The only relief requested is for one parking space that is too close to the residential property line. They have more parking spaces than what is required by ordinance so if the board doesn't want to grant that relief then they would remove the parking space but it is his professional opinion is it makes sense.

Mr. Vogt said he had an opportunity to look at the property and how they first interpreted the different setbacks. He does agree this is a corner lot as defined in the UDO. He also agrees if the primary entrance to the shul is facing Blanche Street as currently depicted then that would be the primary frontage and by default, in a lot corner definition, you have two front yards, a minimum of one side and one rear yard so what Mr. Flannery just testified to, in his opinion, is accurate.

Mr. Flannery said the main sanctuary is 2,847 sf which requires 23 parking spaces and they have provides 33. The ordinance clearly says they only need parking for the main sanctuary but since they show a second sanctuary, as a practical matter they have 10 more for the one sanctuary and they have 34 on-street parking spaces.

Mr. Herzl asked how large the second sanctuary is.

Mr. Flannery said it is the same size.

Mr. Herzl said then they would need 46 if they were both considered main sanctuaries.

Mr. Flannery said as common sense, if both are operating at the same time, then they need 23 for upstairs and 23 for downstairs and they would have 68 when you count the on-street parking. In addition to that, Mr. Liston's clients live within 1,000 ft.

Mr. Jackson said he is talking about parking demands for a sanctuary but this is supposed to be a community center. He asked if there is a good chance that once all of the shareholders take control it would be used as a house of worship.

Mr. Flannery said if they did it a different way than they would do 1 space per 400 sf which would be less.

Mr. Jackson anticipates that this would be used as a house of worship to serve the people in the two areas on exhibit A-3 and they are all within walking distance and that is why the parking works. He asked if this is a community center for those two communities, how will the ownership be transferred to the property owners so that it truly is a community center and what restrictions are going to be placed on the property to make certain that it will be governed, owned and operated by the community it is supposed to be serving.

Mr. Flannery said the minutes and resolutions clearly state that it would be deeded over to a separate non-profit. He doesn't get building permits on block 461 until he meets that condition. The non-profit is going to take these 150 people in for a nominal fee which is stipulated in the resolution.

Mr. Pfeffer said there won't be owners, it will be a non-profit community center. It would be an association that owns and controls the property.

Mr. Jackson said they would have to craft a recorded instrument which assures that the residents shown on A-3 will have a controlling interest however it is done in this facility when it's completed.

Mr. Pfeffer said he is unclear as to who the 150 are.

Mr. Jackson said as far as the resolutions that have been brought up by Mr. Liston, he thinks this board is going to want to be ensured that those representations made are fulfilled.

Mr. Flannery said those 40 purchasers get to own 1/150th share. The other 110 shareholders are whoever the non-profit entity brings in.

Mr. Jackson asked how many households are shown on A-3.

Mr. Flannery said there's 40 property owners and there could be 40 basement apartments but there was never a representation that the basement apartments get the 1/150th. It was clear each lot gets 1/150th and then the separate non-profit entity will proportionate it in a way that makes sense. It is really not the jurisdiction of this board.

Mr. Herzl asked if the property could be sold.

Mr. Flannery said it certainly should be restricted to a separate non-profit entity so they can't sell it to somebody who would turn it into something different.

Mr. Jackson said in a conventional multi-family housing unit where you would typically have a community center, there are property rights to that community center. He thinks that is what the intent is that the members of that community would be able to use this facility for what their needs are.

Mrs. Morris said there were at least two other subdivision applications by very similar principals on other blocks in the immediate area. She believes there are six altogether with about 20 units on each block that are all being developed by several similar developers. That is where the math came up to 120 which was increased to 150 probably to err on the side of caution.

Mr. Jackson said the point is this center is going to be servicing this neighborhood. He thinks it all started because there were over a hundred units and the board was concerned there would be no community center and he thinks those provisions in the resolution were to try to accomplish that objective.

Mr. Flannery said if this was done altogether then they would be required to do a community center but there is no requirement in the Lakewood ordinance.

Mr. Jackson said it is in the resolutions.

Mr. Flannery said it is in the resolution because MNYK agreed to it because they were doing it anyway.

Ms. Zografos asked if the SD 1998 resolution specifically states that there has to be 1/150 shares sold, would the applicant have to come back to amend the application.

Mr. Jackson doesn't think it goes outside the four resolutions and how the math works out. He thinks there has to be a deed restriction on this community center so that only those people in the four resolutions, somehow the shares have to be divided up so they have control over the management and ownership.

Mr. Herzl asked if any remaining shares would be owned by the applicant and if he has a right to sell to a third entity.

Mr. Flannery said the 27% will go to the two shown on exhibit A-3. The remaining 73% the separate non-profit can take in people wanting to participate and they have to pay a nominal fee.

Mr. Jackson said they are going to have to have some kind of protection for minority shareholders in the by-laws so they would have some sort of veto power. He doesn't want to have a 73% shareholder defeating the purpose of a community center for the first two by being able to outvote them.

Mr. Flannery said there are 110 lots approved and in selling them, the applicant has represented to them that they are going to get a share so he is not holding onto the 73%.

Mr. Jackson understands but they must make sure there is an equitable protection as the resident's expectations is this would be their house of worship for their neighborhood.

Mr. Pfeffer wants to make it clear that they will be members, not owners as it is a non-profit.

Mr. Jackson said the interest is tied into the property.

Mr. Pfeffer said they are no longer asking for waivers from improving Blanche and Columbus. That is how they would be getting additional on-street parking. There will be more than sufficient parking in the event they decide to use the second floor as a second synagogue between the on-site and off-site.

Mr. Flannery said there is nothing in the ordinance prohibiting on-street parking towards the calculations. So if they need 46, they have provided 33 on-site and they have 13 on-street parking spaces they are improving so he doesn't think they even need relief.

Mr. Jackson said they are not providing that parking, they are only showing it is available nearby.

Mr. Flannery said they are providing it in that it's a paper street they are improving.

Mr. Jackson asked why the applicant needs those extra lots.

Mr. Flannery said he doesn't need them but he is entitled by ordinance to the subdivision. He committed to providing a 10,000 sf shul with parking and recreation and he's doing that.

Mr. Jackson asked what is being built on those lots.

Mr. Flannery said two duplexes.

Ms. Zografos asked if those residences will have the ability to be shareholders.

Mr. Flannery confirmed. He said there would be no catering in the basement.

Mr. Jackson asked if it will be built on a slab.

Mr. Flannery said there will be a basement where the congregants will meet after services but there is no catering.

Mr. Pfeffer said other than the Sabbath and holidays.

Mr. Herzl said no outside parties.

Mr. Flannery agreed to satisfy all of the comments in the board engineer's review letters.

Mr. Jackson asked if there will be curb and sidewalk.

Mr. Flannery said all three right-of-ways will be improved with curb and sidewalk. They would do curb on both sides but not sidewalk across the street.

Mr. Garfield asked if the extra space could be used for a bike rack.

Mr. Flannery said there is plenty of room for a bike rack. The applicant agrees to provide it.

Mr. Jackson asked about trash pickup.

Mr. Flannery said they would agree to whatever Public Works requires. The duplexes units would roll out the cans and he assumes the shul would do the same.

Mr. Vogt asked how trash would be handled on the shul lot.

Mr. Flannery said the intention would be that there would be cans behind the shul that would be rolled out to one of the streets wherever DPW wants to pick them up.

Mr. Vogt said they are not proposing a traditional trash enclosure.

Mr. Flannery said they have not shown one, if DPW wants that then they would have plenty of room along Columbus Avenue.

Mr. Herzl thinks they should provide one as DPW likes to pick up the big container and not the small containers.

Mr. Franklin said it depends on the amount of garbage.

Mr. Liston asked for the size of lot 9 at the time of the developer's agreement and as it exists today.

Mr. Flannery said 1.40 acres or about 44,400 sf.

Mr. Liston asked how much sf would exist on new lot 9 after this subdivision.

Mr. Flannery said 30,489 sf.

Mr. Herzl asked if that is just the synagogue lot.

Mr. Flannery said it includes recreation and parking.

Mr. Liston said they are reducing lot 9 by about 14,000 sf.

Mr. Flannery confirmed.

Mr. Liston asked how many parking spaces could be provided on that 14,000 sf.

Mr. Flannery hasn't done any sketches on that. It is not something material to the application.

Mr. Jackson asked him to make an educated guess.

Mr. Flannery said if the 14,000 sf is laid out nicely in that you didn't waste any land, you could probably get another 20 parking spaces.

Mr. Liston asked if he recalls discussion of a park being required of one of the developers.

Mr. Flannery remembers the resolution stating that the application should diligently try to work out with the town where he could build a park on public land which would be a public park.

Mr. Liston asked if he couldn't build a park on public land then he is still committed to build a private park of some sort.

Mr. Flannery said there is nothing in the resolution stating that. The application before the board shows approximately 8,000 sf behind the building where there would be recreation for the children associated with the community center which is typical of community centers in Lakewood.

Mr. Liston said then he is not going to build a separate park.

Mr. Flannery said if the Township governing body agrees to identify two acres where he can build a park then he would do it. MNYK would be the entity which would have to demonstrate that they diligently tried to accommodate that and were unable to do it.

Mr. Liston said if they added 14,000 sf to the 8,000 sf then they would get a park that would be about 22,000 sf.

Mr. Flannery said if the layout was such that it fit in there.

Mr. Liston said instead of adding additional parking or recreation area, the applicant wants to build duplexes on the balance of the property which won't be part of the old lot 9.

Mr. Flannery said there is no requirement for him to use the entire old lot 9. His requirement was to build a 10,000 sf shul.

Mr. Jackson asked if there is anything in the developer's agreement or resolutions that says that the applicant must provide a park that's beyond that the applicant shall ask the governing to provide a park.

Mr. Liston said there is language in the minutes which talks about a recreational area or a park being provided by the applicant.

Mr. Jackson said the resolution states that the applicant will make a diligent effort to acquire land from the Township to develop a park which would be owned by the Township.

Mr. Liston said there is discussion in the minutes concerning a park.

Mr. Jackson replied but it is a specific condition in the resolution. He asked if there is anything in the resolutions or developer's agreement which says the applicant has to provide a park as opposed to them asking the Township to provide a park.

Mr. Liston can't answer that without going back through the minutes. There has been representations made to his clients about a park being provided by the developer. This property, according to his interpretation of the



developer's agreement, was all supposed to be devoted to the community. The applicant is taking part of lot 9 and building duplexes for profit.

Mr. Flannery said that is what the application shows.

Mr. Franklin said they are going to need a turnaround on Columbus Avenue if they are planning to roll the garbage cans out to that street.

Mr. Flannery agreed. They would meet with Public Works and whatever they think is the appropriate terminal situation, they would accommodate that.

Mr. Herzl asked if they have room for a turnaround.

Mr. Flannery confirmed.

Mr. Herzl opened to the public.

Mr. Baruch Blaustein, 28 Empire Lane, was sworn. He lives north of the subject property. There is a shul and a park on lot 1.54. The southern border of their property, lot 1.54, is a 609 ft property length not including lot 153 which is around another 100 sf. He would say approximately 80% of that has a retaining wall which is about 15 ft tall. He would like to know if any engineering studies have been done on the facts of this subdivision, removing the trees etc to that retaining wall.

Mr. Flannery said no.

Mr. Blaustein asked if it will be required.

Mr. Flannery said no, the plans get submitted to the board engineer. It is a normal retaining wall built to the property line. He is familiar with the retaining wall because they did that subdivision application and houses that are built to the setback from there are not going to cause a problem for that retaining wall.

Mr. Herzl said if it is not safe to build then the engineer or building department would pick it up.

Mr. Flannery said if the Township engineer feels differently then there would be studies done but there is nothing unusual about this. It is a little unusual for Lakewood because Lakewood is pretty flat but as engineers they work all over the state and there are places this is done all the time because in some of the northern areas the properties go up and down.

Mr. Blaustein knows the subdivision has been revised but originally when they were requesting additional lots there was discussion about needing an undisturbed buffer of 20 ft.

Mr. Flannery said there is a perimeter buffer required. This shul now is 80 ft from their property. He thinks this is a layout that certainly respects the neighbors to the north more than the original application and there is nothing in that 20 ft between the property line so no relief is required. There is relief mentioned in the board engineer's report with respect to the new duplexes concerning the perimeter buffer and the plans show a fence along there which meets the intent of the ordinance.

Mr. Blaustein said the trees will be torn down, there will be a park over there and there will be one or two houses as well. He asked if those are things they have to factor in with regard to that 20 ft buffer.

Mr. Flannery said the house does not have a buffer requirement, only the shul. The shul is leaving 20 ft that they're not putting any structures on and it complies with the ordinance. The recreation area is backing up to their recreation area and shul so even prior where the building was closer, it would have been his testimony that no buffer was required but the buffer is being provided because there are no structures within that 20 ft.

Mr. Blaustein said they are allowed to tear down the trees in that area, they just can't have structures.

Mr. Flannery said perimeter buffer means no structures.

Mr. Blaustein said there was testimony that the parking is conforming. In one of the original reviews when the property was being subdivided into more lots, there was mention in the engineer's report that the main sanctuary will be 3,248 sf. Now the proposed sanctuary is 2,834 sf and what he sees is the difference in the language is the first was going by the actual square footage of the sanctuary and the second is referencing to a number of parentheses that says usable.

Mr. Flannery said sanctuaries for Lakewood shuls are always calculated on the useable area. Any items where nobody is going to use them aren't counted in that calculation.

Mr. Herzl said if it is not useable then you don't need parking.

Mr. Blaustein asked how they calculate what is usable and what is not. He asked if it is something specified in the UDO.

Mr. Flannery said the UDO says to use the main sanctuary. The architect puts a figure on the area of the main sanctuary and the board engineer reviews it.

Mr. Blaustein asked if it has been represented to anyone that this community center would be used as a shul.

Mr. Flannery said the application this evening is for a shul. He doesn't know what anyone else has represented.

Mr. Blaustein questioned the parking calculations.

Mr. Vogt agrees with the proposed calculations.

Mr. Blaustein questioned why the second story shul does not require parking as it was clear in the minutes of prior applications that two separate shuls would be provided.

Mr. Flannery said the plan shows two shuls. One is the primary and one is the secondary and they have provided a total of 68 parking spaces when you count the on-street spaces.

Mr. Blaustein said if they were both primary shuls then the second story would require another 48 spaces. He asked why the second story shul is not the primary shul as it is larger.

Mr. Flannery said he believes he has outdated plans as the plans he has shows both shuls as the same size.

Mr. Blaustein said in the developer's agreement dated December 15, 2016, besides what is in the resolution, it does say very clearly on page 2 'in addition, the developer shall construct a community center within 1,000 ft of the subject property which shall be located on block 445 lot 9 as well as a recreation area that will be located within 1,000 ft of the subject property.' He mentioned that once this lot is subdivided, the shul will be located on lot 9.05

so he is unsure if that needs to be modified in order for the board to approve it. If you look through the original deed, Mr. Krupnick won the property in a bid, assigned it to Baruch Burnbaum who then assigned it to Prospect Street Holdings, LLC so it was never deeded over to Mr. Krupnick himself. He said there is another deed after that which mentions a different principle. The Township owned it at the time when the application came before the board and that is when the developer's agreement was enforced so it kind of means the Township at the time agreed to let them use it for a shul and the fact that the Township went ahead and signed the developer's agreement shows they are allowing it to be a shul.

Mr. Pfeffer asked how many units are within his development.

Mr. Blaustein said about 50 units.

Mr. Pfeffer asked if he is the only member from that development.

Mr. Blaustein is unsure. He knows there were people from his development who came the first few times but this is like the 6th or 7th hearing for this application but unfortunately most residents tend to fizz out which works out to the applicant's benefit.

Mr. Pfeffer asked how large the synagogue is in his development.

Mr. Blaustein thinks it is around 2,000 sf.

Mr. Pfeffer asked if there is a secondary sanctuary.

Mr. Blaustein said there is a ladies section upstairs but it is much smaller.

Mr. Pfeffer said there are approximately 100 families using a 2,000 sf shul in his development. He asked if it suits their needs.

Mr. Blaustein said it is tight.

Mr. Pfeffer said the applicant tonight is proposing a 10,000 sf building. He asked how this subdivision is affecting him.

Mr. Blaustein said there are many new developments going up in the area where traffic is already a disaster. He is not objecting to the synagogue but to the duplexes and the parking that will be diminished because of it. He's afraid there will be cars parked on all of the surrounding streets and Prospect Street.

Mr. Pfeffer said they will be improving two streets and will be providing approximately 40 off-site parking spaces.

Mr. Blaustein said that parking is not reserved for the shul. If there is any additional development then people will use that parking. If there is going to be some sort of recreation area then those spaces would be used for that. Unfortunately the UDO doesn't require more parking as this isn't going to cut it.

Mr. Follman asked Mr. Blaustein how many parking spaces are provided for the shul.

Mr. Blaustein doesn't know. He thinks there are 15 but there are 4.7 spaces per unit so that is factored in. He said garbage pickup is going to limit the number of off-street parking spaces.

Mr. Raphael Freund, 13 Lewin Avenue, was sworn. Right now they have a temporary shul and everybody drives there so there is no parking now. He urged the board that they need as many parking spaces as possible and to grant any waivers necessary. He is concerned the shul will be sold to a third party.

Mr. Jackson said they are going to make sure the shul is tied into this property.

Mr. David Hertz, 141 Pressburg Lane, was sworn. He is a contract purchaser represented by Mr. Liston. His main concern is the shul and the opportunity to be a shareholder.

Mr. Jackson said he had to put in \$10,000 into escrow towards the shul.

Mr. Hertz said he put down 10% just like everyone else.

Mr. Jackson said the developer put up the share which was built into the price of the home. The question is how they equitably let other people to be shareholders of this shul.

Mr. Hertz said only people in the adjoining neighborhoods should be shareholders. The resolutions don't just cover the 40 homes they are talking about tonight but all of the previous approvals in the area as well. He said one of the streets being improved abuts land which may be developed in the future so that street should not be considered to be providing ample parking. He thinks the intention is that the recreation area is in addition to the community center on lot 9.

Mr. Kaganoff, 25 Nussbaum Avenue, was sworn. He said it was clear the resolutions include not only these 40 units but the additional houses already built. He said parking is only being provided for one of the shuls, not both.

Mr. Joseph Wilhelm, 1 Lewin Avenue, was sworn and is being represented by Mr. Liston. He said the reason the community building is 10,000 sf is to reflect the number of shareholders.

Mr. Jackson is interested to hear who exactly would be eligible to get one of those shares.

Mr. Liston said Mr. Klugman tried to circumvent the ordinances of this town by using separate entities to do separate entities and the board caught him because he can't beat these people out of a community center and park by doing it that way. He is now asking the board to make the applicant live up to his undertakings. His undertaking was, in accordance with the contract he entered into with the town, all of lot 9 in block 445 had to be used for the shul and the park got pushed aside altogether. He asked that the board turn down the subdivision because it violates what he promised to do for these people. He asked that the board require him to come back with a redesigned lot 9 to provide additional parking and recreation. He asked that the board require him as a condition of approval for the shul to stop this deed game he is playing and put the shul property back into his company's name or alternatively into a homeowner's association which he can control until he has sold more than 50% of the 150 units at which time control has to pass to the homeowners.

Mr. Pfeffer said before the board tonight are two applications including a fully conforming subdivision application. The developer's agreement and prior resolutions do not mention using the entire lot 9. What it does mention is a 10,000 sf community center. Should the board vote favorably on the subdivision, they have a fully conforming site plan application with a 10,000 sf community with recreation and more parking than what is required by ordinance. They are additionally paving two brand new streets with curbs and sidewalks. With regards to how the association is going to work, and this has worked on other developments in town where there are two separate developments that have separate associations that then work together to have one community center. They end up having sub-associations for that center. The reason that is needed is because they have different developments with different

issues. He can't tell the board if the other developments are going to be in the association as well but if they are, those associations would then have access into this master association. He understands Mr. Jackson is looking for bylaws which would give some protection rights. Two resolutions mention the number of shareholders, block 472 and 461. They know if the subdivision is approved then these two proposed duplexes would be included as well. The number chosen is 1/150th so they will have to figure out what other development would have access into this association. He doesn't have that answer tonight because all the resolutions don't talk about it.

Mr. Follman asked if each individual person would have a share or is an entire entity entitled to a share.

Mr. Pfeffer said it was discussed that each individual unit number would have a share.

Mr. Herzl asked how many people were promised a piece of this synagogue.

Mr. Pfeffer doesn't know the answer to that, he doesn't know if it was promised to more than these 40. The board came up with the 150 shares.

Mr. Herzl said if only 40 are subject to it then what happens with the other 110 shares.

Mr. Pfeffer said he can only work with the resolutions they have.

Mr. Flannery said they would go to the other units built in the area, block 462, 473. They would be the other 110 units.

Mr. Herzl asked how many units are proposed.

Mr. Flannery said there were 110 at the time block 461 was approved. Then Mr. Schmuckler said let's make it 150 because they know there will be additional units in the area.

Mr. Jackson asked if there is an intent that the 150 shareholders be from that neighborhood.

Mr. Flannery confirmed.

Mr. Jackson said those 40 properties are already vested as it is in the resolution. He asked how those other 110 households buy in.

Mr. Flannery said they all buy in for a nominal fee. The \$10,000 is not a buy in fee. It is to make sure the community center is built because if 40 homes all give \$10,000 each then he is building it and it would be built before block 461 gets any COs.

Mr. Jackson imagines he would have some kind of contractual issue with the people he promised to if he doesn't do it.

Mr. Flannery said he wants them to be in. Nobody wants empty seats in a shul.

Mr. Jackson said they would agree to have protection for the minority shareholders so they don't get voted out.

Mr. Flannery thinks it should be done however it has been done in other places in Lakewood in the past.

Mr. Herzl said ultimately, the applicant will not own anything.

Mr. Pfeffer said nobody will be owning it, it is a non-profit just like any other congregation.

Mr. Flannery said once they get enough members then it gets handed over to a non-profit who then takes care of it and the applicant is out of the picture.

Mr. Herzl said then they can change the name of the synagogue if they wish.

Mr. Jackson said the board has to determine if this configuration satisfies the intent and the letter of the two prior resolutions as well as the developer's agreement.

A motion was made and seconded to approve both the subdivision and site plan applications.

Affirmative: Mr. Franklin, Mr. Herzl, Mr. Follman, Ms. Zografos, Mr. Garfield

No: Mr. Hibberson

- 3. SD 2188 Aaron Sperber**  
Locust Street                                      Block 1083, Lot 7  
Minor Subdivision to create three lots

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 4. SP 2136 Yehoshua Frenkel**  
570 Ocean Avenue                                  Block 548, Lot 29  
Preliminary and Final Major Site Plan for a synagogue and rabbi's residence

*A review letter prepared by Remington, Vernick & Vena Engineers dated August 16, 2017 was entered as an exhibit.*

Mr. Flancbaum left the meeting.

Mr. Vogt said submission waivers are required including topography, contours and man-made features within 200 ft, an environmental impact statement, a tree protection management plan, a landscaping plan and design calculations for proposed drainage facilities. They recommend the B-Site features waivers can be granted since enough information is provided for the design, a waiver from providing EIS can be supported since the site has previously been developed, tree protection/landscaping plans and design calculations can be waived for completeness purposes only.

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

Mr. Vogt said there are existing variances including minimum lot area and lot width. A variance may be required for minimum rear yard setback as the proposed HVAC unit would only be located 16 ft from the rear line, whereas 20 ft is required. Variances are also required for minimum combined side yard setback, the proposed number of off-street parking spaces, parking facilities within 5 ft of side property line and for perimeter buffer.

Mr. Joseph Kociuba, P.E., P.P. was sworn. Existing variances include minimum lot area of 8,000 sf where 10,000 sf is required and minimum lot width of 55 ft whereas 75 ft is required. The rear yard setback variance to an HVAC equipment platform is being eliminated. Instead of a platform they would make it a pad on the ground thus eliminating that variance. They do require a variance for minimum combined side yard where 25 ft is required and 23 ft is being proposed, 10 ft on the east side of the building. As the board is aware, that side backs up to the rear of lots on Waverly Place. The intent of that ordinance requirement is for proper building spacing. The 10 ft setback makes sure the building is far enough from the adjacent neighbor and 25 ft makes sure that all of the properties are

evenly spaced a little bit further away. In this particular case, they have a 30 ft rear yard setback to the existing houses which front Waverly so the buildings would be spaced 40 ft apart. A three-story shul with a 994 sf main sanctuary on the first floor as well as a five bedroom Rabbi's dwelling above is proposed. Two parking are required for the sanctuary and three for the residential portion and five spaces are provided on the plan. They have met with DPW and have provided a proper trash enclosure, they meet DOT requirements for desirable typical section and they have eliminated the rear yard setback variance. They are also asking for relief for a parking setback of 1 ft where 5 ft is required and a perimeter buffer. Those variances are due to the narrow width of the property. A hall is shown in the basement but it would be used for Shabbos only which they would agree to as a condition of approval.

Mr. Herzl said no outside Simchas.

Mr. Kociuba agreed. There is a common driveway on the property and the applicant has indicated he would relocate that driveway on the neighbor's property therefore eliminating the concern of a combined common driveway.

Mr. Herzl said the entrance is off Ocean Avenue so there is no on-street parking available.

Mr. Kociuba confirmed. Waverly Place is 100 ft down which is a cul-de-sac.

Mr. Franklin said there isn't going to be sufficient room to park on Waverly. He said there isn't enough parking.

Mr. Kociuba said they are compliant with the ordinance.

Mr. Herzl asked if it is a community shul.

Mr. Pfeffer said it is an existing congregation servicing people within the area.

Mr. Herzl asked where people park now.

Mr. Kociuba said there is a driveway on the site now.

Mr. Pfeffer said the pool in the back will be taken down and that will more or less be the parking area.

Mr. Kociuba said the building is going in the back where the pool is and where the house is now is where the parking would be.

Mr. Pfeffer said this is to service the people who are already there. They are not building this to have people come from other areas. It is existing today and they are trying to make it better by giving themselves a bit more room.

Mr. Follman asked how long the shul has been in existence.

Mr. Pfeffer said 4 or 5 months.

Mr. Herzl asked how many congregants attend the shul.

Mr. Pfeffer said approximately 20.

Mr. Follman asked what the maximum capacity is now and for the proposed new building.

Mr. Pfeffer said currently they are at capacity. The proposed new main sanctuary will only be 994 sf so it won't be much larger.

Mr. Herzl asked what are on the second and third stories.

Mr. Kociuba said the Rabbi's residence.

Mr. Pfeffer said the first story is just the sanctuary.

Mr. Herzl said there is also a basement. He asked if there would be a Mikva.

Mr. Kociuba said there is one shown on the architectural.

Mr. Herzl said they can't have both a Mikva and a hall down there.

Mr. Pfeffer said the hall is to service just this shul.

Mr. Herzl doesn't think they can make any briss in there. It should be strictly for Shabbos.

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

Mr. Pfeffer said they agree to all of the other comments in the engineer's report.

A motion was made and seconded to approve the application.

Affirmative: Mr. Herzl, Mr. Follman, Ms. Zografos

No: Mr. Franklin, Mr. Hibberson, Mr. Garfield

Mr. Franklin would like to make a motion to deny as there is no on-street parking available. He knows they meet the requirements but there is no parking on Ocean Avenue, North Oakland is the nearest place to park cars, you can't park in the development across the street because they have driveways with no space in-between to park.

Mr. Herzl asked if he would approve if they eliminated the hall in the basement.

Mr. Franklin doesn't think it will work.

Mr. Follman said it will be the congregation's problem. If people can't park then they won't come.

Mr. Franklin said it is the board's problem too. North Oakland Street will be jammed up with cars.

Mr. Follman said it wouldn't be an option if they can't park there.

Mr. Pfeffer said if they were to request a rear yard setback and move the building back a bit further then they can add in a couple more parking spaces.

Mr. Kociuba believes if they push the building back 9 ft they can add one more parking stall on the side.

Mr. Herzl asked how many total spaces would be provided.

Mr. Kociuba said they could increase it to 6.



Mr. Jackson said if there is a motion to approve and it doesn't pass then it is a denial. The board could do a separate motion to deny but they don't have to do that. Sometimes there is an issue that can be resolved which might make a difference. The board could give some of the relief, all of the relief or none of the relief.

Mr. Hibberson thinks there is a serious parking problem.

Mr. Pfeffer said they could look at it again and possibly reduce the size of the building. He asked how many additional parking spaces would make the board more comfortable.

Mr. Franklin isn't comfortable because the streets are already jammed up.

Mr. Pfeffer said this is an existing congregation. This is only going to add a few more congregants from that area.

Mr. Herzl recommends the applicant go back to the drawing board and come back with a concept plan before submitting a brand new application.

5. **SP 2240 Lakewood Business, LLC, c/o Daniel Werbler**  
640 & 644 Cross Street                      Block 524, Lots 3.01 & 3.02  
Preliminary and Final Major Site Plan for an office and warehouse building

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

6. **SD 2273 White St Developers, LLC**  
110 White Street                              Block 251, Lot 9.01  
Minor Subdivision to create three lots

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

7. **SD 2142 Congregation Kol Aryeh**  
513 Hope Chapel Road                      Block 24.04, Lot 5  
Minor subdivision to create two lots

Mrs. Morris said this applicant has owed escrow on another project since April. She told the applicant this wouldn't be heard unless escrow was paid.

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

8. **SD 2175 Yecheskel Piotrovski**  
30 Gudz Road                                      Block 11.30, Lot 13  
Minor Subdivision to create four lots

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

9. **SP 2245 Latin American Pentecostal Church of God**  
124 2nd Street                                      Block 125, Lot 4  
Minor Site Plan for an addition to an existing church

*A review letter prepared by Remington, Vernick & Vena Engineers dated September 7, 2017 was entered as an exhibit.*

Ms. Evelina Padilla, Esq. said the church is applying for a second story addition to an existing building on Second Street.

Mr. Vogt said submission waivers are required including topography, contours and man-made features within 200 ft, an environmental impact statement plan, a tree protection management plan, landscaping plan, soil erosion/sediment control plan and design calculations showing proposed drainage facilities. They can support waiving the B-site features based on the design information as well as the EIS as the property is already developed. Tree protection can be waived since there are no existing trees on the site as well as landscaping since the property is virtually impervious. Soil erosion and sediment control would be subject to the local soil district and proposed drainage facilities can be waived as well since no impervious area will be added to the project.

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

Mr. Vogt said bulk variances include rear yard setback for the stairwell.

Mr. Brian Flannery, P.E., P.P. was sworn. A rear yard setback variance for the stairwell is requested. Right now there are no stairs going up and it would be 2.6 ft from the parking lot. This is within the B-2 zone where no parking is required. The side yard setback variances are both existing because the building is existing. The second story is being added for Sunday school and occasional use. They would agree to comply with all of the comments in the engineer's review letter.

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.

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

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 11. SD 2282 Albert Street Holdings, LLC**  
Towers Street & Pine Street Blocks 824; 824.01; 825; 828; 829; 830; 853  
Amended Preliminary and Final Major Subdivision to create forty-two single family homes  
("Somerset Run")

Mrs. Morris said the applicant is reviewing some issues with another property owner.

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 12. SP 2248 Aharon Mansour**  
512 Chestnut Street Block 1087, Lot 20  
Preliminary and Final Major Site Plan for a restaurant and office building

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 13. SP 2242 Congregation Yeshiva Mkor Chaim**  
160 Locust Street Block 1081, Lot 9  
Preliminary and Final Major Site Plan for a school

Applicant has requested to carry this project to a later meeting date.

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 14. SP 2247AA Yeshiva Stolin Karlin**  
1640, 1660, 1680 West County Line Road Block 2, Lots 24, 51, & 58  
Change of Use/Site Plan Exemption to convert three homes into a school

Mrs. Morris said adequate legal notice was not provided for this project.

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 15. SD 2281 Avenue of the States, LLC**  
Avenue of the States Block 961, Lot 2.04  
Preliminary and Final Major Subdivision to create two lots

Mrs. Morris said adequate legal notice was not provided for this project.

A motion was made and seconded to carry the application to the October 3, 2017 meeting.

- 16. SD 2271 M R Leifer Realty, LLC**  
1501 Lanes Mill Road Block 187, Lot 73  
Minor Subdivision to create four lots

Mrs. Morris said this application has been formally withdrawn.

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

- SD 2292AO JLYG, LLC, Block 1033, Lot 4
- SD 2293AO MJF Equities, LLC, Block 1034, Lot 6

## **8. PUBLIC PORTION**

## **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