

## 1. CERTIFICATION OF COMPLIANCE

Chairman Neiman called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meeting 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. Advance written Notice has been filed with the Township Clerk for the purpose of public inspection and, a copy of this agenda has been mailed, faxed or delivered to the following newspapers: The Asbury Park Press, and The Tri Town News at least 48 hours in advance. This meeting meets all criteria of the Open Public Meetings Act."

## 2. ROLL CALL

Roll Call Mr. Franklin, Mr. Fink, Mr. Neiman, Mr. Banas, Mr. Follman, Mr. Percal and Mr. Schmuckler.

A vote was taken to provide a special meeting on December 14, 2010, because there are approximately 30 applications backlogged. Moved by Mr. Schmuckler 2<sup>nd</sup> by Mr Follman.

Roll Call Mr. Franklin, yes, Mr. Fink, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal , yes and Mr. Schmuckler, yes.

## 3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

## 4. PLAN REVIEW ITEMS

1. **SP# 1762** (No Variance Requested)  
Applicant: Rochel Rubin  
Location: Henry Street east of Rose Place  
Block 418 Lots 7,8  
Minor Subdivision to create 3 lots

### Project Description

The applicant seeks minor subdivision approval to subdivide two (2) existing lots totaling 22,400 square feet (0.514 acres) in area known as Lots 7 & 8 in Block 418 into three (3) new residential lots consisting of a single-family unit and a duplex unit on two (2) zero lot line parcels. The proposed properties are designated as proposed Lots 7.01, 7.02, and 8.01 on the subdivision plan. The sites each contain existing two-story dwellings and existing sheds. Existing Lot 8 also contains an existing in

ground pool. It appears all structures will be removed from existing Lot 7 along with all other existing site improvements. The existing shed on existing Lot 8 will be relocated to comply with the proposed lot line and the rest of the improvements will remain. Proposed Lots 7.01 and 7.02 will become two (2) zero lot line properties for a duplex unit. Proposed Lot 8.01 will become a new single-family residential lot for the existing dwelling on old Lot 8. Public water and sewer is available. Curb and sidewalk exist across the frontage of the tract. The site is situated in the central portion of the Township on the south side of Henry Street between Route 9 and Rose Place. Proposed Lots 7.01 and 7.02 will be equal 60' X 100' zero lot line lots of six thousand square feet (6,000 SF) each in area. Proposed Lot 8.01 will be a larger single-family lot of 104' X 100', for an area of ten thousand four hundred square feet (10,400 SF). The lots are situated within the R-10 Single Family Residential Zone. No variances are required to create this subdivision. We have the following comments and recommendations: (I) **Zoning** (1) The parcels are located in the R-10 Single-Family Residential Zone District. Single-family detached dwellings and duplex housing on zero lot line properties are permitted uses in the zone. (2) Per review of the Subdivision Map and the zone requirements, it appears no variances or waivers are required. (II) **Review Comments** (1) Testimony should be provided on whether the existing shed shown on the plan for Lot 7 will be removed. Should the shed remain in its current location a rear yard variance for an accessory structure will be required for proposed Lot 7.02. (2) A signed and sealed copy of an outbound and topographic survey prepared by Clearpoint Services, LLC, has been submitted. Correcting fence encroachments should be a condition of the Minor Subdivision approval since existing fences cross property lines in multiple locations. (3) Zoning data for accessory structures must be added to the Schedule of Bulk Requirements since an existing shed will be relocated to a conforming location on proposed Lot 8.01. (4) The Building Coverage for proposed Lot 8.01 shall be revised to ten percent (10%) in the Schedule of Bulk Requirements to include the relocated shed. (5) The NJ R.S.I.S. requires 2.5 off-street parking spaces for unspecified number of bedroom single-family dwellings. The Schedule of Bulk Requirements indicates that four (4) off-street parking spaces will be required for each unit. The proposed driveways on the proposed Lots 7.01 and 7.02 have been dimensioned to be large enough to accommodate four (4) spaces. The Schedule of Bulk Requirements indicates there are three (3) existing off-street parking spaces for proposed Lot 8.01. However, the existing driveway and garage can only accommodate one (1) space each. Therefore, the existing driveway should be widened to provide the required number of off-street parking spaces. Testimony should be provided regarding the number of bedrooms in order to determine whether additional off-street parking is required. (6) Testimony should be provided as to whether basements are proposed for the proposed dwellings on proposed Lots 7.01 and 7.02. Parking shall be provided to the satisfaction of the Board. (7) The proposed building boxes shown on the Improvement Plan should have dimensions added. The proposed building boxes are within the allowable coverage of twenty-five percent (25%). (8) Proposed lot and block numbers must be approved by the tax assessor's office. (9) The Certifications on the Minor Subdivision Plan shall be in accordance with Section 18-604B of the UDO. (10) The Surveyor's Certification has not been signed since the monuments have not been set as shown in the Legend of the Minor Subdivision Plan. (11) Based

on the anticipated disturbance and the condition of the existing sidewalk, curb, and pavement in front of the property. We recommend replacing the entire sidewalk and curb, as well as a six foot (6') pavement swath in front of proposed Lots 7.01 and 7.02. The sidewalk, curb, and pavement in front of proposed Lot 8.01 should be replaced on an as needed basis. (12) New sanitary sewer and potable water connections from New Jersey American Water will be needed for proposed Lots 7.01 and 7.02. The services for the existing dwelling on proposed Lot 8.01 may remain. (13) A proposed six foot (6') wide shade tree and utility easement is provided for the project. Proposed easement areas have been indicated for the individual lots. Three (3) "October Glory Maples" and three (3) "Pin Oak" shade trees are proposed along the property's frontage. Landscaping should be provided to the satisfaction of the Board. (14) Our site investigation indicated a number of mature trees exist on the site. Some of these trees are unsalvageable if the proposed lots are developed as shown, but some of these trees appear salvageable. The proposed grading should limit the area of disturbance. Compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. The final plot plans for proposed Lots 7.01 and 7.02 submitted for Township review should include tree protective measures to save mature vegetation where practicable. (15) Testimony should be provided on storm water management and the disposition of storm water from roof leaders. (16) Due to no construction of new dwellings on proposed Lots 7.01 and 7.02 at this time, the Board may wish to require the cost of the improvements to be bonded or placed in escrow to avoid replacing them in the future. (17) Compliance with the Map Filing Law is required. (18) Some minor corrections to the construction details are required and details must be provided for driveways, aprons, curb, depressed curb, pavement repair strip, and pavement restoration. (III) **Regulatory Agency Approvals** Outside agency approvals for this project may include, but are not limited to the following: (a) Ocean County Planning Board; (b) Ocean County Soil Conservation District; (c) New Jersey American Water (water & sewer); and (d) All other required outside agency approvals. **A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.**

Mr. Lines, PE for the applicant. There are two existing lots each with a house on it we are going to subdivide, take a piece of the single family lot and create a zero lot line duplex lot. We have no problem with all the requests made in Mr. Vogt's letter

A motion was made by Mr. Fink and seconded by Mr. Schmuckler to carry this application to the Special Public Hearing on 12/14/10 no further notice required

Roll Call Mr. Franklin, yes, Mr. Fink, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

Mr. Jackson stated the application will be advanced to the December 14, 2010 meeting, no further notice is required.

**2. SP# 1766** (Variance Requested)  
Applicant: Barbara Flannery  
Location: Oak Street, west of Albert Ave.  
Block 1159 Lots 79,80  
Minor Subdivision to create 3 lots

### **Project Description**

The applicant seeks minor subdivision approval to subdivide two (2) existing properties to create three (3) new single-family residential lots. The two (2) existing lots, totaling 58,901 square feet (1.352 acres) in area, are known as Lots 79 and 80 in Block 1159. Existing Lot 79 is one hundred ten feet (110') wide and contains just over twenty-three thousand square feet (23,000 SF). Existing Lot 80 is 191.21 feet wide, containing just under thirty-six thousand square feet (36,000 SF). The three (3) proposed residential lots are designated as proposed Lots 79.01, 80.01, and 80.02 on the subdivision plan. All proposed lots are designed with an undersized width. The area of proposed Lot 79.01 will be nineteen thousand square feet (19,000 SF) and proposed Lot 80.01 will be 19,901 square feet, both undersized. Only proposed Lot 80.02 will be conforming in area at twenty thousand square feet (20,000 SF). The site is situated in the southern portion of the Township on the south side of Oak Street, west of the intersection with Albert Avenue. The properties are vacant and wooded. The lots are located on a newly constructed section of Oak Street, which has a fully paved width of forty foot (40'). The survey depicts recharge pipe within the right-of-way and the drainage structures are readily evident. Public water and sewer does not appear to be available. New curb exists and sidewalk is proposed along the street frontage of the project. No construction is proposed under this application. The proposed lots are situated within the R-20, Single Family Residential Zone. The site is in a developing section of the Township and is surrounded by vacant land, other projects under construction, and other residential lands. Lot area and width variances are required to create this subdivision. We have the following comments and recommendations: (I) **Zoning** (1) The parcels are located in the R-20 Single Family Residential Zone. Single family detached housing is a permitted use in the zone. (2) Per review of the Subdivision Map and the zone requirements, the following variances are requested: (a) Minimum Lot Area (proposed Lots 79.01 & 80.01, 19,000 SF and 19,901 SF respectively; 20,000 SF required) – proposed condition. (b) Minimum Lot Width (proposed Lots 79.01, 80.01, & 80.02, 97.87 feet, 96.22 feet, and 95.84 feet respectively; 100 feet required) – proposed condition. It should be noted the mean lot widths are less than the proposed lot widths at the front building line since all proposed lots narrow towards the rear. (3) The applicant must address the positive and negative criteria in support of the requested variances. **At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area.** (II) **Review Comments** (1) Sidewalk is

proposed along the frontage of the project. Otherwise, Oak Street is newly improved and paved to a forty foot (40') width.

(2) The existing property slopes southward, away from Oak Street. Since no units are depicted at this time, testimony is required to address proposed grading and drainage. Furthermore, we recommend that a resubmission of the plan be made prior to the Public Hearing using a conforming building box to delineate proposed layout, grading, and drainage schemes. If approved, these concepts could be finalized at plot plan review. (3) The General Notes indicate the outbound information was obtained from the survey provided for the project. The source of the topography must be provided, which appears to be from the same survey. Only the new poles observed during our 10/18/10 site investigation do not show on the survey. (4) General Notes 3 & 4 should be revised to state the existing use is vacant and the proposed use is single-family residential. (5) No construction or dwelling units are proposed at this time. Parking has not been addressed in the General Notes or Schedule of Bulk Requirements. The NJ R.S.I.S. requires 2.5 off-street parking spaces for an unknown number of bedrooms for single-family dwellings. The application indicates that four (4) off-street parking spaces will be provided for each lot. Testimony should be provided on off-street parking. (6) Testimony should be provided as to whether basements are proposed for the future dwellings on proposed Lots 79.01, 80.01, and 80.02. Should basements be proposed, information on seasonal high water table will be required. Also, parking shall be provided to the satisfaction of the Board. (7) The proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. (8) Testimony should be provided on storm water management and the disposition of storm water from roof leaders. (9) A proposed six foot (6') wide shade tree and utility easement is depicted on the plan along the property frontage. The easement dimensions and areas have been provided on both an overall and a per lot basis. (10) No shade trees are proposed for the project. Landscaping should be provided to the satisfaction of the Board. (11) The Plan does not indicate any existing trees on the site. Testimony should be provided regarding whether there are any specimen trees located on the property. Compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. If this subdivision is approved, the final plot plans submitted for Township review should include tree protection measures to save mature vegetation where practicable. (12) Due to no construction of new dwellings at this time, the Board may wish to require the cost of any improvements to be bonded or placed in escrow to avoid replacing them in the future. (13) Construction details will be necessary for curb and pavement replacement which may be needed when the driveways are installed. A distance of 4.6 feet from the back of sidewalk to the right-of-way shall be used on the cross section views of the various details. (14) The plan is silent on whether public sewer and water will be provided by New Jersey American Water Company. Testimony should be provided on existing utilities. Should individual septic systems and/or potable wells be required, approval from the Ocean County Board of Health will be necessary. (15) The Surveyor's certification on the Minor Subdivision Plan should be revised since the survey indicates a corner marker

waiver was given. Also, the signature shall be removed since the monuments shown as "set" are not in place. (16) The date must be corrected on the certification for the Planning Board Secretary. (17) Compliance with the Map Filing Law is required. (III) **Regulatory Agency Approvals** Outside agency approvals for this project may include, but are not limited to the following: (a) Ocean County Planning Board; (b) Ocean County Soil Conservation District; (c) Ocean County Board of Health (if necessary); (d) New Jersey American Water (if necessary); and (e) All other required outside agency approvals. **A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.**

Mr. Flannery for the applicant. One of the comments was providing house boxes and grading plans there 19000 sq ft lots it is obvious that you can fit a house on these lots so that is not required by the check lists in the ordinance all the items that are required at building permit will be provided at the public hearing testimony will be provided. Mr. Follman asked if there was a tax map, it was provided

Carried to the 12/14/10 meeting no further notice is required

Motion made by Mr. Banas and seconded by Mr. Percal.

Roll Call Mr. Franklin, yes, Mr. Fink, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

Mr. Jackson stated the application will be advanced to the December 14, 2010 meeting, no further notice is required.

**3. SP# 1768** (Variance Requested)  
Applicant: Pinchos Wohlender  
Location: Spruce Street east of Route 9  
Block 778.06 Lot 60  
Minor Subdivision to create 2 lots

### **Project Description**

The applicant seeks minor subdivision approval to subdivide an existing lot totaling 21,450 square feet (0.492 acres) in area known as Lot 60 in Block 778.06 into two (2) new residential lots consisting of a duplex unit on two (2) zero lot line parcels. The proposed properties are designated as proposed Lots 60.01 and 60.02 on the subdivision plan. The site contains an existing two-story dwelling. It appears the structure will be removed from existing Lot 60 along with all other existing site improvements. Proposed Lots 60.01 and 60.02 will become two (2) zero lot line properties for a duplex unit. Public water and sewer is available. Curb and sidewalk

exist across the frontage of the tract. The site is situated in the central portion of the Township on the north side of Spruce Street between Route 9 and Sharon Court. Proposed Lots 60.01 and 60.02 will be equal 32.50' X 330' zero lot line lots of 10,725 square feet each in area. The lots are situated within the R-10 Single Family Residential Zone. Variances are required to create this subdivision. We have the following comments and recommendations: (I) **Zoning** (1) The parcel is located in the R-10 Single-Family Residential Zone District. Duplex housing on zero lot line properties is a permitted use in the zone. (2) Per review of the Subdivision Map and the zone requirements, the following variances are required: (a) Minimum Lot Width for zero lot line properties (proposed Lots 60.01 and 60.02, 32.50 feet, 37.50 feet required) – proposed condition. (b) Minimum Side Yard for zero lot line properties (proposed Lots 60.01 and 60.02, 7.50 feet, 10 feet required) – proposed condition. (3) The applicant must address the positive and negative criteria in support of the requested variances. **At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area.** (II) **Review Comments** (1) A copy of a topographic survey prepared by Clearpoint Services, LLC, has been submitted. The Minor Subdivision map must be based on a current outbound survey. (2) Variances required for Minimum Lot Width must be added to the Schedule of Bulk Requirements. The proposed undersized lot widths of 32.50 feet would be created from an existing undersized lot width of sixty-five feet (65'). (3) The proposed building on the plans shall be revised to match the architectural plan submitted. Proposed building dimensions shall be added. The proposed front yard setbacks for both new lots shall be revised to 49.75 feet in the Schedule of Bulk Requirements. (4) Based on the architectural plans submitted, each duplex unit will contain five (5) bedrooms and an unfinished basement. According to the new parking ordinance, this would equate to seven (7) bedroom units thereby requiring four (4) off-street parking spaces per unit. The Schedule of Bulk Requirements indicates that four (4) off-street parking spaces will be required for each unit. The Improvement Plan shows a proposed circular driveway configuration for the proposed duplex which is an excellent design along a heavily traveled road. However, only three (3) off-street parking spaces are proposed for each lot. Since the proposed lots are extremely deep, we recommend moving the duplex unit further back from the road and reconfiguring the parking in the front yard by double stacking the end spaces. Parking shall be provided to the satisfaction of the Board. (5) Basements are proposed for the units on proposed Lots 60.01 and 60.02. Seasonal high water table information will be required. (6) The proposed building shown on the Improvement Plan should have dimensions added. The proposed units are within the allowable coverage of twenty-five percent (25%). (7) Proposed lot and block numbers must be approved by the tax assessor's office. (8) The Certifications on the Minor Subdivision Plan shall be in accordance with Section 18-604B of the UDO. (9) The Surveyor's Certification has not been signed since the monuments have not been set as shown in the Legend of the Minor Subdivision Plan. (10) The date needs to be corrected on the Notary Public signature block. (11) Based on the anticipated disturbance and the condition of the existing sidewalk, curb, and pavement in front of the property. We recommend replacing the entire sidewalk and curb, as well as a

two foot (2') pavement swath in front of proposed Lots 60.01 and 60.02. (12) General Note #13 on the Improvement Plan must be revised. It will not be possible to reuse the existing water and sewer connections. New sanitary sewer and potable water connections from New Jersey American Water will be needed for proposed Lots 60.01 and 60.02. (13) A proposed six foot (6') wide shade tree and utility easement is provided for the project. Proposed easement areas should be indicated for the individual lots. Three (3) "October Glory Maples" shade trees are proposed along the property's frontage. Ten (10) "Japanese Holly" are proposed to break up the parking area. Landscaping should be provided to the satisfaction of the Board. (14) Our site investigation indicated mature trees exist on the rear portion of the site. If the proposed lots are developed as shown, these trees will remain. If necessary, compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. The final plot plans for proposed Lots 60.01 and 60.02 submitted for Township review should include tree protective measures to save mature vegetation where practicable.(15) Testimony should be provided on storm water management and the disposition of storm water from roof leaders. (16) Proposed grading should be revised to reduce the amount of runoff being directed to adjoining properties. The proposed basement floor elevation should be added. (17) Compliance with the Map Filing Law is required. (18) Some minor corrections to the construction details are required and details must be provided for driveways, aprons, curb, depressed curb, pavement repair strip, and pavement restoration. (III) **Regulatory Agency Approvals** Outside agency approvals for this project may include, but are not limited to the following: (a) Ocean County Planning Board; (b) Ocean County Soil Conservation District; (c) New Jersey American Water (water & sewer); and (d) All other required outside agency approvals. **A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.**

Mr. Abraham Penzer for the applicant stated that the reason for the request of variances is because of the width of the lot instead of the width being 37.5 we are requesting 32.5 feet, and Side yard 10 feet is required and we are asking for 7.5 feet. Mr. Vogt asked us to put 8 parking spots which we have the room for and we have no problems replacing the curb and sidewalk all of the other requests are minor in nature and we have no problem with them.

Motion to move to the December 14, 2010 meeting was made by Mr. Banas and seconded by Mr. Fink.

Roll Call Mr. Franklin, yes, Mr. Fink, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

Mr. Jackson stated the application will be advanced to the December 14, 2010 meeting, no further notice is required.

**4. SP# 1769** (No Variance Requested)

Applicant: Canterbury Investments LLC

Location: Kennedy Blvd. East , east of Somerset Ave.  
Block 174.04 Lot 30

Minor Subdivision to create 2 lots

**Project Description**

The applicant seeks minor subdivision approval to subdivide an existing lot totaling 1.0914 acres in area known as Lot 30 in Block 174.04 into two (2) new residential lots consisting of single-family uses. The proposed properties are designated as proposed Lots 30.01 and 30.02 on the subdivision plan. The site is vacant and overgrown. Proposed Lots 30.01 and 30.02 will become two (2) new single-family residential lots. Public water and sewer is available. Curb exists across the frontage of most of the tract. Sidewalk does not exist across the frontage of the property, terminating just west of the site. The site is situated in the northern portion of the Township on the south side of Kennedy Boulevard East, east of its intersection with Somerset Avenue. Kennedy Boulevard East is a fairly new paved County Road with a one hundred twenty foot (120') wide right-of-way. Proposed Lot 30.01 will be irregular in shape with an area of 25,375 square feet. Proposed Lot 30.02 will also be irregular in shape with an area of 22,845.9 square feet. The lots are situated within the R-15 Single Family Residential Zone. No variances are required to create this subdivision. We have the following comments and recommendations: (I) **Zoning** (1) The parcels are located in the R-15 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. No variances have been requested. (2)\_ Testimony is required as to whether a waiver is being requested from providing sidewalk across the frontage of the property. No proposed sidewalk is indicated, but there is a construction detail for concrete sidewalk on the plan. (II) **Review Comments** (1) The General Notes reference a Survey by Gerald J. Scarlato, P.L.S. #35873 dated 8/20/10. The Minor Subdivision shows an apparent gore adjoining the property to the east and an apparent overlap adjoining the site to the west. A signed and sealed copy of the survey must be submitted. (2) Fairly new curbing runs from the existing intersection west of the proposed project to an existing inlet in front of proposed Lot 30.02. Unless a waiver from the construction of curb is requested and granted, we recommend that proposed curbing be extended across the remaining frontage of the site from the existing inlet to the projection of the eastern property line. (3) Unless a waiver from the construction of concrete sidewalk across the frontage of the site is requested and granted, concrete sidewalk shall be extended from its terminus in front of the adjoining lot to the west to the projection of the eastern property line. (4) The NJ R.S.I.S. requires 2.5 off-street parking spaces for unspecified number of bedroom single-family dwellings. The Schedule of Bulk Requirements indicates that three (3) off-street parking spaces will be required for four (4) bedroom units. The proposed number of off-street spaces for proposed Lots 30.01 and 30.02 are listed as four (4) off-street spaces per dwelling unit in the Schedule of Bulk Requirements. (5) Testimony should be provided as to whether

basements are proposed for the future dwellings on new Lots 30.01 and 30.02. If so, seasonal high groundwater table information should be provided. Parking shall be provided to the satisfaction of the Board. (6) No proposed building boxes are shown on the Plan. The Schedule of Bulk Requirements indicates the proposed lots intend to comply with the allowable coverage of twenty-five percent (25%). (7) A Legend must be provided on the Plan. (8) Proposed lot and block numbers must be approved by the tax assessor's office. (9) The Certification for approving streets shall be removed from the Plan. (10) The Secretary's Certification on the Minor Subdivision Plan shall be corrected to state "Planning Board" instead of "Zoning Board". (11) The Surveyor's Certification has not been signed since the monuments have not been set as shown on the Minor Subdivision Plan. (12) Zone Boundary Lines should be added to the Area Map. (13) Coordinates for a third property corner should be added to the Plan. (14) Potable water is readily available in front of the site and connections from New Jersey American Water will be needed for proposed Lots 30.01 and 30.02. The existing sanitary sewer manhole just west of the site appears to be a terminal manhole and new sanitary sewer will have to be extended across the front of the site by New Jersey American Water. (15) A proposed six foot (6') wide shade tree easement is provided for the project. The easement shall be revised to a proposed six foot (6') wide shade tree and utility easement. Proposed easement dimensions and areas must be provided for the individual lots. (16) The General Notes indicate shade trees will be planted as per Lakewood Township Ordinance. Landscaping should be provided to the satisfaction of the Board. (17) Testimony should be provided as to whether any specimen trees exist on the site. Compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. The final plot plans for proposed Lots 30.01 and 30.02 submitted for Township review should include tree protective measures to save mature vegetation where practicable. (18) Colonial type street lights which are not shown on the plan exist in front of the site. (19) Testimony should be provided on storm water management and the disposition of storm water from roof leaders. (20) Due to no construction of new dwellings on proposed Lots 30.01 and 30.02 at this time, the Board may wish to require the cost of the improvements to be bonded or placed in escrow to avoid replacing them in the future. (21) Compliance with the Map Filing Law is required. (22) Construction details will be reviewed in the future after the Board determines the extent of improvements that are required for the project. (III) **Regulatory Agency Approve.** Outside agency approvals for this project may include, but are not limited to the following: (a) Ocean County Planning Board; (b) Ocean County Soil Conservation District; (c) New Jersey American Water (water & sewer); and (d) All other required outside agency approvals. **A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.**

Mr. Penzer stated that the lots are over 25,000 sq feet. We will be putting in sidewalks and curbs. There is water and sewer at the site so we will not need septic. All other requests will be met.

Motion to move to the December 14, 2010 meeting was made by Mr. Follman seconded by Mr. Banas.

Roll Call Mr. Franklin, yes, Mr. Fink, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

Mr. Jackson stated the application will be advanced to the December 14, 2010 meeting, no further notice is required.

## 5. PUBLIC HEARING ITEMS

### 1. SP #1939 (No Variance Requested)

Applicant: Yeshiva Gedola of Woodlake Village Inc.

Location: southeast corner of Joe Parker Road and County Line Road  
Block 189.15 Lots 44.01, 44.02 & 45

Preliminary & Final Site Plan for proposed school and dormitory

### Project Description

The applicant is seeking Preliminary and Final Site Plan approval for the construction of a two-story boy's high school building and dormitory, which includes an unimproved basement, within a 14,523 square foot footprint and to keep two (2) existing dwellings and a garage on the site. The site plans and architectural plans indicate the proposed first floor of the high school building will contain six (6) classrooms and four (4) offices. The second floor will contain nineteen (19) dorm rooms for ninety-two (92) students and a counselor, complete with bathrooms and a laundry. An interior parking area consisting of eleven (11) parking spaces, one (1) being handicapped accessible, and site improvements are also proposed within the property, including a one-way bus drop-off area. Access to the proposed high school is provided from Joe Parker Road, a County Road. The existing two-story dwelling and garage at 1360 Lanes Mill Road and the existing one-story dwelling at 1366 Lanes Mill Road will remain. Proposed access to 1360 Lanes Mill Road will continue to be from Lanes Mill Road. Proposed access to 1366 Lanes Mill Road will be switched to Joe Parker Road. Curb and sidewalk are proposed across the entire frontage of the project. The proposed project would be serviced by sanitary sewer and potable water. The existing three (3) lots would be consolidated as part of the site plan approval. The surrounding land consists of mainly residential uses. ***We have the following comments and recommendations per testimony provided at the 10/5/10 Planning Board Plan Review Meeting, and comments from our initial review letter dated September 30, 2010:*** (I) **Zoning** (1) Per review of the Site Plan and the zone requirements, the following variance is required for the proposed project: (a) In accordance with Section 18-906A of the UDO, a 20' foot wide perimeter landscape buffer is required from residential uses and zones. Said buffer is required along the southerly property line (adjacent to proposed parking)

and at the rear corner of proposed Lot 46, where relief appears necessary. **A six foot (6') high board on board fence is proposed along the adjoining property lines of neighboring Lot 46. A six foot (6') high board on board fence is also proposed along the adjoining property line of neighboring Lot 43. No landscaping is proposed with the fencing. In excess of twenty feet (20') of natural vegetation will remain from the adjoining property line of neighboring Lot 47.** (2) The site plans appear to indicate that six (6) classrooms and four (4) offices are proposed for the facility. Confirming testimony regarding the facility should be provided by the applicant's professionals. **The applicant's professionals indicate that testimony will be provided. The revised site plans indicate a staff of eleven (11), the same as the number of spaces provided.** (II) Review Comments (A) Site Plan/Circulation/Parking (1) As indicated previously, an eleven (11) space parking lot with one (1) handicapped space is being provided for the proposed high school. Since a total of ten (10) classrooms and offices are proposed, ten (10) off-street parking spaces are required. Testimony should be provided as to whether any Tutor Rooms, Libraries, or Meeting Rooms are proposed as described per Section 18-906C of the UDO. **Per consultation with the applicant's professionals, there are not tutor rooms, libraries or meeting rooms.** (2) Testimony should be provided by the applicant's professionals as to whether students (including those using the proposed dormitories) will be bused, or will be allowed to park on-site, as well as the maximum number of staff professionals at the site during school operations. **The revised plans indicate a staff of eleven (11). The applicant's professionals have indicated that testimony will be provided that students will be bused and dormitory students will not be allowed to have vehicles.** (3) A one-way bus drop off area, separate from the parking area, is proposed parallel to Joe Parker Road. Although it appears that adequate turning movements will be provided for the proposed bus drop off area, refuse collection, and deliveries, a vehicle circulation plan should be provided as confirmation. **A scale is required for the School Bus Turning Radius Detail provided.** (4) Testimony is necessary from the applicant's professionals regarding how the proposed bus drop off area will be used, including but not limited to times, sizes, and types of vehicles anticipated (i.e., buses, vans, cars, others). **The applicant's professionals indicate that testimony will be provided that two (2) buses are anticipated in the morning and in the evening. Also, during school hours the bus drop off area will be available as parking for parents.** (5) A proposed refuse enclosure is depicted on the northern side of the proposed bus drop. Testimony is required from the applicant's professionals addressing who will collect the trash. If Township pickup is proposed, approval from the DPW Director is necessary. **The applicant's professionals intend to pursue approval from the DPW.** (6) The General Notes reference an outbound and topographic survey. A signed and sealed copy of the referenced survey must be provided as a separate document. **A signed and sealed copy of the survey has been provided.** (7) It is not clear whether a minor subdivision or a lot consolidation is proposed. **A lot consolidation is proposed and General Note #20 has been added to the plans.** (8) The proposed parking area extends beyond the limits of the proposed delineated parking spaces. An explanation for this proposed configuration is required. **The area beyond the delineated parking spaces has been designated for deliveries and service**

**parking.** (9) All proposed curb radii have been shown for accuracy of the layout. The proposed tangent points should be added. **The applicant's engineer has agreed to provide the information on the final construction plans.** (10) Proposed building dimensions are required on the site plan to check coordination with the architectural plans. There is a discrepancy in the footprint square footages between the plans. **Said discrepancies can be resolved during compliance if/when the project is approved.** (11) Proposed building setback lines must be added to the site plan. **Proposed building setback lines have been added to the plans. The proposed setback line adjacent Lot 46 perpendicular to Lanes Mill Road shall be the second side yard of fifteen feet (15'). Provided zoning information in the Schedule of Bulk Requirements needs to be corrected.** (12) Survey data must be provided for all proposed easements. **The applicant's professionals indicate that survey data will be provided on the final construction plans.** (13) Parking must be addressed for the existing dwellings to remain. Complete dimensioning of the driveways is required. **Parking data for the existing dwellings must be added to the plans.** (B) **Architectural** (1) The proposed basement depth needs to be clarified on the plans. It appears the proposed basement floor will be ten feet (10') below the first floor level and eight feet (8') below finished grade. Seasonal high water table information is required to substantiate the proposed basement floor elevation. **The proposed first floor elevation has been revised on the site plan but does not correspond with the architectural plans. All floor elevations must be shown. Seasonal high groundwater table information has been provided to show the proposed basement floor elevation should not be lower than elevation forty (40). This issue can be resolved during compliance if/when board approval is granted.** (2) As noted on the proposed architectural plans, the basement is unfinished, the first floor contains numerous facilities, and the second floor contains dorm rooms. An elevator is proposed to make all floor levels handicapped accessible. Testimony is required from the architect on the specific uses for the individual floors. **The applicant's professionals have indicated that testimony will be provided on floor usages and ADA accessibility. The exterior elevator doors as depicted on the site plans need to be added to the rear building elevation.** (3) Proposed water and sewer connections are shown for the proposed high school building. Testimony should be provided as to whether the proposed building will include a sprinkler system. **A second water connection for a sprinkler system has been added.** (4) We recommend that the location of proposed air conditioning equipment be shown. Said equipment should be adequately screened. **The applicant's professionals indicate that air conditioning equipment will be in the rear of the building, but final locations have not been determined.** (C) **Grading** (1) Per review of the proposed grading plan, the design concept is feasible. However, additional proposed elevations and proposed contours are required to complete the grading design. Proposed elevations should be provided at control points, such as curb returns and corners, building access points, and building corners. Final grading can be addressed during compliance review if/when approval is granted. **The applicant's engineer has agreed to complete the proposed grading on the final construction plans.** (2) The proposed floor elevations should be added to the grading plans. Proposed outside access to the elevator must be clarified. **Only the proposed first floor**

**elevation has been shown. All floor elevations are required. The proposed building corner elevations are not consistent with the architectural plans. This issue can be resolved during compliance if/when Board approval is granted.**

(D) **Storm Water Management** (1) A recharge system of twenty-four inch (24") perforated polyethylene (P.E.) pipe in a stone trench is proposed for the storm water management system. As indicated in the Storm Water Management Narrative, impervious area will be increased by more than 0.25 acres thereby classifying the project as major development. **The applicant's engineer has agreed to revise the proposed storm water system to meet the requirements as a condition of approval.** (2) A storm water collection system for the roof of the proposed high school building is recommended. **The applicant's engineer indicates that roof drains will be designed to connect to the recharge system.** (3) While the storm water management concept for this project appears viable, additional design information must be provided during compliance (if approved). **The applicant's engineer has indicated the required design information will be provided as a condition of approval.** (4) A Storm Water Management Facilities Maintenance Plan must be provided. **The applicant's engineer has indicated a Storm Water Management Facilities Maintenance Plan will be provided.** (E) **Landscaping and Lighting** (1) A six foot (6') wide shade tree and utility easement is proposed across the frontage of the property. Ten (10) Red Maple shade trees are proposed within the easement. **The proposed shade trees are subject to any sight triangle easements required by the County. An existing sight triangle easement at the intersection of Joe Parker Road and Lanes Mill Road must be labeled.** (2) The remainder of the proposed landscaping consists of nine (9) American Arborvitae, eighteen (18) Japanese Holly, and thirty-four (34) Anthony Waterer Spirea. Plant counts on the plan for the Anthony Waterer Spirea require correction. Screening should be proposed for the trash enclosure. **Plant counts on the plan for the Anthony Waterer Spirea still require correction. Screening has been added for the trash enclosure bringing the proposed American Arborvitae plant count to nineteen (19).** (3) Testimony should be provided as to whether compensatory landscaping is proposed (or necessary). **Testimony shall be provided.** (4) Landscaping should be provided to the satisfaction of the Board. **The Board should provide landscaping recommendations, if any.** (5) Corrections are required to the Planting and Seeding Notes. **Our office can review the corrections with the applicant's engineer.** (6) The Lighting Plan shows six (6) sixteen foot (16') high pole mounted lights, three (3) for the proposed parking area, and three (3) for the bus drop off. **The applicant's engineer has agreed to provide the additional construction detail information as a condition of approval.** (7) Lighting should be provided to the satisfaction of the Board. **The Board should provide site lighting recommendations, if any.** (F) **Utilities** (1) The plans indicate the site will be served by public water and sewer. Proposed water service to the proposed high school building from Joe Parker Road is depicted on the plan. A proposed sanitary sewer lateral for the new high school is indicated behind the building and connects to an existing manhole in Joe Parker Road near the south end of the property. **The applicant's engineer has indicated that water and sewer service to the existing dwellings is from Lanes Mill Road and no changes are proposed.** (G) **Signage** (1) No signage information is provided. A full signage package for free-standing and

building-mounted signs identified on the site plans (requiring relief by the Board) must be provided for review and approval as part of the site plan application. ***The applicant's professionals indicate that the only signage to be proposed will be building mounted signage which will be in compliance with the UDO.*** (H) **Environmental (1)** No Environmental Impact Statement (EIS) was prepared for this project. (2) To assess the site for environmental concerns, our office performed a limited natural resources search of the property and surroundings using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The data layers were reviewed to evaluate potential environmental issues associated with development of this property. No environmentally-sensitive areas exist per available mapping. (3) We recommend that all on-site materials from the proposed demolition activities be removed and disposed in accordance with applicable local and state regulations. ***A note should be added to the plans.*** (I) **Construction Details (1)** All proposed construction details must comply with applicable Township and/or applicable standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific, and use a minimum of Class B concrete. A detailed review of construction details will occur during compliance review; if/when this application is approved. ***Review of construction details may be a condition of approval.*** (III) **Regulatory Agency Approvals** Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; (a) Ocean County Soil Conservation District; (b) Lakewood Township MUA (water and sewer service); and (c) All other required outside agency approvals.

Mr. Penzer introduced exhibit A1 a rendering of the Yeshiva and A2 the landscaping for the building. This is a High School and there will be two busses, two in the morning and two at night. The housing is for the faculty and the students. We have met almost each requirement as per Mr. Vogts letter. There is a maximum staff of eleven and there is more than enough parking there are no tutor rooms, library or meeting rooms, the yeshiva will not have any of that. The Yeshiva will not allow any student to have a car. We still need to work out with Public Works the garbage pick up. With regard to the issue about the architectural plan we will resolve that at the time of the resolution. The suggestion that Mr. Vogt has made with regard to #11 we think it is an excellent suggestion and we will be able to accommodate all the other suggestions. The only concern we have is at the end of the report, there are no specimen trees so I would like to get testimony for the record from Mr. Lines on Page #6.

Mr. Glenn Lines PE was sworn in.

Mr. Follman asked how many students will be going to the Yeshiva. Mr. Penzer stated approximately 180 maximum.

Mr. Neiman asked about busing drop off. Mr. Lines explained that the main frontage is on Joe Parker Road and we have provided a wide bus lane that turns in off of Joe Parker Road and then back out, it is provided on the turning diagram on sheet two which shows the busses can exit the site in either direction, there is adequate site distance on Joe Parker Road. The County will be making this part of their approval also. There is enough room to park two busses one behind the other, the driveway is 20 plus feet wide so one bus will be able to pass the other if need be. The bus drop off is separate from the parking.

Mr. Banas asked if the board on board fencing will detract from the beauty of the building and could anything else be done instead. Mr. Penzer stated that they were trying to maintain the buffer but if the board wanted trees they would be able to be done. Mr. Banas thought that some type of trees or vegetation may be better. Several of the Board members may be better served with a vinyl fence.

The meeting was opened to the public.

Mr. Harold Altman and Mrs. Altman of Lanes Mills Road were sworn in. Several years ago we where approached about selling their house. At the time they were told that there would be a small school would be sold. There is a lot of traffic in the area. Mr. Altman spoke about the fact that two busses will not be enough and the eleven parking spaces will not be enough. He would like a ten foot fence not a six foot fence so that he could have more privacy. There are documented accidents at this intersection and the busses will not be able to make a left turn into this driveway. The safety of the children is in jeopardy. There are large deciduous trees that should remain to provide privacy.

Mr. Penzer stated that there are other schools in the area that has less parking at these other schools. There will not be any type of rental at the Yeshiva. The parking will be adequate. There is no problem with a ten foot vinyl fence. Mr. Lines spoke about the existing trees on the lot they would protect the trees on the property as best they can. The Yeshiva only expects two busses but there is enough space for more busses. If there is no left in the busses would have to go further down Lanes Mills into Cederwood Development to turn around. There is no parking on Lanes Mills Road at all.

Mr. Schmuckler asked about Garbage removal. Mr. Lines said the pick up would be in the front of the building to provide the truck with a turn around.

Mr. Franklin said to get rid of the road in the front of the building and make all the busses and garbage go to the back of the building and make the traffic one way in and one way out. Mr. Lines stated that the building can only be moved forward a few feet and there would be more trees removed in the rear of the building.

Mr. Penzer spoke that only ninety students will be bussed and ninety students will be boarding. Maybe an additional five foot variance can be requested to move the building forward about twenty feet and provide play space in the front of the school to provide more space in the rear.

Mr. Vogt explained that there are more concerns about the additional parking that may be needed so you can use ghost parking.

Mr. Neiman asked if a bus can make a left turn in, is there enough room. Mr. Vogt said that he does not see any reason that a bus can not make a left but that would be looked at during compliance.

Mr. Franklin asked that they provide a plan to locate all the trees and what trees may be lost or saved by changing the driveway.

Mr. Fink had a Board of Ed meeting and had to leave the meeting.

Mr. Banas stated that the Board has come to a point that this plan has to be reexamined, both Mr. Lines and Mr. Penzer have heard the concerns and maybe we should move in that direction to mak everyone happy if that is possible.

Mr. Penzer stated that he did not think that would happen if the busses were moved to the back it would offend the neighbors and everyone's concern is the safety of the children, our engineer has stated that as the way the plan stands it has met all the criteria the way it is, and we stand with this plan.

Mr. Schmuckler asked what is on lot 47 and what is behind it. Mr. Lines stated that it is a residence is on the front of the lot and the rear of lot 47 is wooded. Mr. Schmuckler stated that there could be more parking spaces in the rear of the building and maybe garbage can be moved to the back also.

Mr. Lines stated that the template shows that a bus has a 45 foot turning radius and there will be no problem making a left in and left out of the driveway. This is a single use driveway.

Mr. Vogt stated that the County has to OK this ingress and egress also.

Mr. Franklin stated that the busses would be coming and going at the time of the most traffic in the area and there is a curve in the road that would make this very dangerous. Mr. Lines stated that he could not go onto another lot to clear brush or trees.

Mr. Banas stated that on the cover sheet there are directional arrows shown moving in and out of the turn but they are not on sheet #4. Mr. Lines stated that they would correct this oversight.

Application was reopened to the public.

Mr. William Hobday, 30 Schoolhouse lane was sworn in, he stated that there is another school on another County Highway. He feels that there is not enough buffering between the Yeshiva and the neighbors. Secondly the school is on a curve. There should be only right turn in and right turn out only. Is the stone driveway going to be used next to the neighbor.

Mr. Lines stated that because they are putting in the turn around driveway the stone driveway will stop at the side of the house and will not be used.

Mr. Hobday would like a lot more buffering by the ten feet fence. Also the County is restricting right turn in and right turn out only.

Mr. Neiman stated that he felt that the right turn in may be more dangerous because you would have to come to a complete stop prior to the turn.

Mr. Schmuckler asked if the Senior Community down the road is a right in right out only, even if it is a straight away it is still dangerous.

Mr. Hobday stated that he agreed with Mr. Banas that the application does need to be looked at at greater length.

Mr. Banas stated that Mr. Penzer said that he is asking to either accept or reject this plan as it stands , he therefore withdrew his comment at that time.

Mr. Neiman asked if Mr. Penzer had gone to the county with any of this application at this time. MR. Penzer said no.

Mrs. Ann Richardson, 1870 Lanes Mills Road was sworn in, she stated that this is a very bad situation here, particularly on the curve on the road. The Board has approved the Synagogue down the road from this school, she asked if the Board recollected how many parking spaces were asked for. Mr. Neiman stated that there were more than eleven spots called for. Mrs. Richardson stated that when there are services at the Synagogue there are more than fifty cars parked on Joe Parker. The school is on a curve and it is very dangerous and the school should not be built in this area at all. The Applicant is saying that there are only two school busses at this time but there will be more in the future. There should be no parking on Joe Parker at all. She feels that the Board should take a ride out to Joe Parker and check out the traffic.

Mr. Schmuckler said that the parking at the Synagogue is for an outside function and that the school should put into the resolution that there will be no parking on Joe Parker for any outside functions at all.

Mrs. Richardson stated that she feels a traffic survey should be asked for on this application before the Board makes any final decision.

Mrs. Nora Gill 192 Coventry Dr. was sworn in, stated that the curve in the road is very bad and today as she was coming down Kennedy Blvd. there were busses parked on Kennedy by Barneys. She is all for schools in Lakewood but she feels that saying there are only two busses going to be used is not looking at the future she feels there will be more busses in the future and the Board should recognize this.

Mr. Alexander Rias 1153 Marcella Ct. Was sworn in and stated that he also feels that the right turn in tight turn out is the best way to handle this property.

Mrs. Altman stated that she thought that saying that the busses should be able to turn around in a residential neighborhood. Due to the aesthetics in the area please try to leaves as many trees in place, she also would like to not have sidewalk put in front of the property because it may encourage jay walking in front of the property instead of people going to the corner and using the crosswalk.

Mr. Altman spoke about if there were a fire at this property there would not be enough exits and if the children had to exit the building there would not be enough area for the children to evacuate to. He then offered to show the applicant other properties in the area more suited to the needs of a school because he is a real estate broker.

Seeing no other speakers from the public this portion of the application was closed.

Mr. Penzer stated that there are six exits in the building and it is fully sprinklered. On page two of Mr. Vogt's report the site plans and architectural plan show that the first floor will contain six classrooms and four offices the second floor will contain the dormitory if the applicant goes beyond this capacity they will have to come back to the Board for approval. The Rabbi would not like to have a large school he is fine with 180 students. The location is important and Mr. Lines will explain.

Mr. Glenn Lines stated that the County requested that the driveway entrance be aligned with the Joe Parker extension.

Mr. Penzer stated that if the driveway is put in the back there will be more tree loss. If the Board wants a ten foot fence the applicant will comply, he would rather have as much trees as possible and put in a buffer of trees and shrubbery in the buffer area. All the engineers state that the turning radius will be enough for the busses. This is the best plan we could come up with to minimize the area, it is a permitted use in the area. I have three more schools that have contacted me about putting schools in the area.

Mr. Banas stated that the Board should decide on the fence issue.

Mr. Neiman stated that if he was the neighbor he would pick the fence. He also suggested that Mr. Penzer and Rabbi Shain meet with the neighbors in the area to discuss all of the plans.

Mr. Schmuckler made a motion to approve the application with the following changes; around the lot 46 property there should be an eight foot vinyl fence with arborvitae as well as arborvitae along the areas where it gets tightest to the building, there should be snow fencing, twenty parking spot in total adding nine more spots, there should be any outside functions at all, No Parking signs placed on Lanes Mills and Joe Parker, as to the egress and the ingress leave the decision to the County, and there should be sidewalk around the building. Mr. Banas seconded the motion.

Roll Call Mr. Franklin, no, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

**2. SD # 1586C** (No Variance Requested)

Applicant: Thompson Grove Associates

Location: Drake Road – opposite Neiman  
Block 251.01                      Lots 32, 88

Amended Preliminary & Final Major Subdivision – eliminates sanitary sewer

**Project Description**

The applicant is seeking amended preliminary and final major subdivision approval with associated variances for Phase 2 of Serenity Estates which is new Lot 32.22 in Block 251.01. The new Lot 32.22 will be created with the filing of the Final Plat for Phase 1 of Serenity Estates. Phase 1 of the project just received a favorable resolution compliance review from our office. Phase 2 of the project proposes to create eighteen (18) lots, sixteen (16) residential, one (1) open space, and one (1) basin lot. Proposed Lots 32.03-32.09 and 32.12-32.20 will be the residential lots. Proposed Lot 32.11 will be an Open Space Lot with a playground dedicated to the Homeowners Association. Proposed Lot 32.21 would be a Basin Lot with a wet pond to be dedicated to the Township of Lakewood. This Amended Preliminary and Final Major Subdivision application also proposes individual septic systems instead of sanitary sewer for each of the dwelling units. The project will be developed in similar manner as the previously approved Amended Preliminary and Final Major Subdivision (SD# 1568B). However, instead of connection to a public sewer line which was to be located within the Serenity Way right-of-way, there will be septic fields located in the rear of each residential lot. The changes that were made to the

plans include removal of the sewer main, addition of the septic fields in the rear of residential lots, and adjustment of the storm water conveyance system to accommodate adjusted flows in correlation to the location of the proposed septic fields. The applicant has proposed a six foot (6') wide shade tree and utility easement along the frontages of all proposed lots in Phase 2. Sight triangle easements have been dedicated to the Township of Lakewood at the intersection of Serenity Way and Drake Road. A Homeowners Association will be proposed for Phase 2 to maintain the future proposed open space lot. The proposed basin lot with the wet pond is proposed to be dedicated to the Township. The original subdivision was approved including public water and sewer service for all of the proposed residential lots on the future cul-de-sac. Per our review of the amended application for Phase 2, septic systems are now proposed for all residential lots. Private wells were proposed for the three (3) residential lots in proposed Phase 1; although, the two (2) residential lots on the future cul-de-sac will be converted to public water with the construction of Phase 2. The following comments in **(bold)** indicate the current submission's compliance with our most recent review dated September 27, 2010: (I) **Engineering Review Comments**

**(A) General (1)** The applicant is seeking Preliminary and Final Major Subdivision Approval for Block 251.01, Lot 32.22, which is Phase 2 of Serenity Estates. **Phase 1 approval consisted of the creation of four (4) lots, three (3) residential lots and the remainder to be developed as Phase 2 of the project. The Final Plat for Phase 2 has been revised to indicate that eighteen (18) lots are being created, the sixteen (16) proposed residential lots (32.03-32.09 and 32.12-32.20) along the cul-de-sac of Serenity Way, the proposed open space lot with the playground (32.11), and the basin lot with the wet pond (Lot 32.21).** **(2) The applicant is requesting the following new variances for Phase 2: (a) Minimum rear yard setback for Lot 32.19: Twenty-six feet (26') is proposed, where thirty feet (30') is required. (b) The applicant shall clarify whether the bulk requirements of the R-40 Zone or the CLP Zone apply for Lot 32.21. Information for both Zones is shown on the Final Plat. Should the CLP Zone apply, a variance for minimum lot area would be required. A lot area of 2.423 acres is proposed, where three (3) acres is required. A lot width variance is required regardless of the zone, since only a twenty foot (20') width is proposed where Lot 32.21 accesses the cul-de-sac of Serenity Way.** The following bulk variances were previously granted by the Board for the original and amended application: **(a) Minimum Lot Area:** 40,000 square feet is required, whereas new Lots 32.03 through 32.09 and 32.12 through 32.20 propose between 15,003 square feet to 33,642 square feet; the remaining lots propose areas over 40,000 square feet. **(b) Minimum Lot Width:** 150 feet is required, whereas new Lots 32.01, 32.03 through 32.08, 32.12 through 32.18 propose 90.00 feet to 135.44 feet. **(c) Minimum Front Yard Setback:** 50 feet is required, whereas new Lot 32.19 proposes 26 feet and new Lots 32.01 through 32.09 and 32.12 through 32.20 propose 30 feet. It should be noted that the plans indicate a proposed front yard of thirty feet (30') for new Lot 32.19 and a proposed rear yard of twenty-six feet (26'). A rear yard variance was not granted. **(d) Minimum Side Yard Setback (combined):** 40 feet is required, whereas 37 feet is proposed for new Lots 32.03 and 32.17. **(3) The proposed dwellings will be served with individual septic systems and public water lines. The amended project**

***will be served by individual subsurface septic systems, as opposed to sanitary sewer as originally approved. The Phase 1 approval indicated the two (2) new residential lots in the vicinity of the southerly frontage along Drake Road to be serviced by individual subsurface septic systems and private wells. These Phase 1 properties will be converted to public water with the construction of Phase 2. A temporary sanitary sewer easement is for an existing septic system on Lot 32.22 which services the existing house on new Lot 32.02. A new septic system is proposed for Lot 32.02 when Phase 2 is constructed. (4)*** Lot 32.11 and the improvements proposed on the lot will be owned and maintained by a Home Owner Association (H.O.A). The H.O.A. Documents shall be provided to the Planning Board Engineer and Solicitor for review. ***The H.O.A. Documents will be provided for all common areas following the approval of Phase 2 of the project. (5)*** The applicant shows on the plans driveway layouts that can only accommodate two (2) cars. ***Two (2) car garages are proposed to satisfy the parking requirements for the proposed single family dwellings. (B) Plan Review (1)*** Curbs and sidewalks are proposed along the southern Drake Road frontage of Lots 32.01 and 32.20 and along the proposed Serenity Way property frontage. The board should determine if curb and sidewalk will be required along the western Drake Road frontage along Lots 32.10 and 32.11. ***The previous resolution of approval (SD#1586B) granted a waiver from the requirement to install curbing and sidewalks on the western frontage of Drake Road and/or in front of proposed Lots 32.10 and 32.11. (2)*** The applicant has added a four foot (4') wide walking path to the playground as requested. Since the path is the only access way to the playground, it shall be revised to extend between the playground and the proposed sidewalk on Serenity Way. It shall also comply with all ADA standards. ***The construction detail for the four foot (4') wide walking path must be added for ADA accessibility to the playground. (3)*** The applicant shows the soil log information on the Grading Plans. ***However, the soil log information is in discrepancy between sheets and must be corrected. (4)*** The Serenity Way profile shall be revised to show the vertical curve and curve information at stations 0+70, 7+00, and 9+50. ***The proposed grading for the Serenity Way road profile should start at the gutter line of Drake Road. The vertical curves shown at stations 7+00 and 9+50 have been shortened to fifty feet (50') to prevent proposed slopes from being too slight at the respective low and high points which could trap runoff. The horizontal curve information must still be added. (5)*** Grading Plans will be reviewed in detail as a condition of approval. ***(C) Storm Water Report (1) Revisions are required to the proposed storm water collection system. The two (2) proposed Type E Inlets will be overtaxed by the volume of proposed runoff being directed to them. (2) A revised Storm Water Management Operation & Maintenance Manual will be required after ownership of the proposed storm water management system is determined. (II) Proposed Phase 2 Final Plat Review (A) Phase 2 Map (1)*** Because of the project phasing, new lot numbering approved by the Tax Assessor must be provided. ***The Lakewood Township Tax Assessor's Office must review the proposed lot numbering since an additional lot is proposed. (2)*** The correct wetlands transition areas with appropriate metes and bounds information must be added to the Map. ***The wetlands transition areas with metes and bounds have been added to the Map. The File Number for the wetlands associated with old Lot 88 must be corrected to 1514-01-1008.1 FWW060001. (30)*** The Schedule of

Bulk Requirements requires correction and should properly list the variances required. Proposed Lot 32.11 shows a variance requested which is not required. ***The Schedule of Bulk Requirements shall be revised to list a front yard of fifty feet (50') for proposed Lot 32.11. The front yard of proposed Lot 32.19 shall be thirty feet (30') and the rear yard twenty-six feet (26').*** (4) The Legend requires correction. ***"Monuments Set" must be added.*** (5) The General Note stating water and sewer service to be provided by New Jersey American Water Company is not true for Phase 2 of the project. ***The note must be corrected.*** (6) ***Zoning information for the CLP Zone is shown for proposed Lot 32.11. However, proposed Lot 32.11 is in the R-40 Zone.*** (7) ***The building shown on proposed Lot 32.11 shall be removed since a playground will be constructed.***(8) ***General Note #1 shall be revised to state "Property known and designated as Lot 32.22, Block 251.01 as shown on the Final Plat – Major Subdivision, Serenity Estates Phase 1, revised through 10/25/10."*** (III) ***Regulatory Agency Approvals*** The required outside agency approvals include, but are not limited to: (a) Ocean County Planning Board; (b) Ocean County Soil Conservation District; (c) Ocean County Board of Health; (d) Water utilities, prior to construction permits; and, (e) All other required approvals. ***Ocean County Planning Board approval was granted on September 15, 2010. Ocean County Soil Conservation District Certification is pending. Ocean County Board of Health approval will be required for septic systems. New Jersey American Water will only be required for potable water to be constructed in Phase 2 since septic systems are proposed instead of sanitary sewer. Evidence of approvals must be provided.***

Mr. Raymond Shea Esq. for the applicant. As Mr. Vogt stated in his November 1, 2010 report he indicated that there are no variances requested. Phase one of this application has already been approved as to the septic and as we come in with Phase two without any significant or material changes on the plan save for the request that the applicant be permitted to proceed with septic.

Mr. Brian Flannery PE was sworn in. He stated that the application is for an amended application for Phase two we had stated that we wanted to have public sewer then we went through the process of amending the 208 plan as the Board is familiar with the State is not amending any 208 plans until the Smart Growth Plans are done and the Smart Growth Plan has been dragged out and the Applicant would like to get this approval sooner than later, we have shown how septic will work and meet all the requirements, but if the State starts to amend 208 plans the applicant would rather have public sewer. It is the same property that was originally approved it is adjacent to the Crystal Lake Preserve and we are respecting all the DEP buffers and still providing all the same open space it is the same plan except with septic instead of sewer. The original approval had sewer and water we are doing water there is water in Drake Rd. and water would be extended as part of phase two. The density is the same the same number of units and layout that was originally approved. The plans that we

submitted show that we can fit conforming septic systems in accordance with all of DEP's regulations the septic systems will limit the size of buildings that can be put on the lots. Prior with public sewer we could have built right to the setback lines now we have indicated the size of the structures that we can fit on the lots. The property does provide all the buffers to the category one streams complying with the DEP regulations. The property of phase two is 17.2 acres which is going to include the sixteen dwellings, 1.7 acres of that is in the Crystal Lake Preserve the other 16.5 acres is in the R-40 Zone the area in the Crystal Lake Preserve is a field in the triangular piece of the property we referred to this as a tomahawk piece of property, that is preserved open space for the Storm Water Management basin and a wet pond with landscaping as requested by the Shade Tree Commission so that it will fit well with the natural preserve. The property is complying with all the DEP standards which will protect all the environmental issues that have been addressed and in accordance with the appropriate standards. This site does provide over nine acres of preserved open space and it is being done without any taxpayer funding it is being done because of the nature of the development there are programs for open space preservation which require the taxpayer to pay to have these areas this is a benefit that is accruing because of the type of the application. Mr. Vogt's report on page three he indicated in 2A all the previously granted variances and prior to that he indicates the relief requested with this application we ask for a separate lot for the basin, the original intent was that the Township would maintain the basin and it would be built to their specifications, we need to meet with Public Works and Mr. Vogt and if we can satisfy their specifications that would be our proposed solution for the project and that basin we are showing on a separate lot . The lot requires some dimensional variances if you look at it technically it is split between the Preserve and the R-40 and I feel that it does not need to meet all the expectations with the same frontage and area as if it was a residential lot, we are being conservative and asking for the dimensional relief. Lot area where Crystal Lake Preserve is concerned requires 3 acres and we only have 1.7 acres of area in the preserve so we could not provide a three acre preserve property we are providing a 2.423 acre piece which includes the 1.7 in the preserve plus some in the R-40. Additionally we have shown on lot 32.19 which is the lot on the south westerly side a rear setback of 26 feet rather than 30 feet, that lot does back up to a very large Township owned lot which is part of the Crystal Lake Preserve so because of the nature of the septic and the width of that lot we are asking for a four foot reduction on that lot, if the Board doesn't feel that is appropriate we would just build a narrower house there but to build a house that fits it is my professional opinion that the variance can be granted without any detriment to the Zone plan or Zoning Ordinance and the fact that it backs up to a Township owned piece of property that will be preserved as part of the Crystal Lake Preserve it would not be affecting any neighbor. What we have to show with the granted variances is that the benefits out weigh the

detriments. One of the benefits would have been public sewer and the applicant would still like to do that but that benefit is unable at this time to be provided but all of the other benefits are still there and are still justified with the granting of this variance. We are providing housing opportunities, preserved open space and additionally enhanced buffers, and the technical items we will satisfy them, the one item on page 5, C1 we will meet with the Engineer and Public Works and satisfy their concerns.

Mr. Neiman asked for any questions from the Board, this is an approved application with the one change of bringing septic to the development because the County will not at this time provide sewer.

Mr. Neiman opened this portion of the meeting to the public.

Mrs. Ann Richardson, 1870 Lanes Mills Road stated that at a previous meeting I had provided a map of a brook that runs through this property and I would like to know if you had investigated it, and I would like to know what is happening with that because that stream runs from Lakewood New Egypt Road and goes down Drake Road and is in the property that is being proposed tonight. The Watering Place brook goes into Lake Manetta and there is no mention of it in this report.

Mr. Jackson asked if Mrs. Richardson had a copy of the map with her to be provided into evidence. Mrs. Richardson stated that she did not have the map with her.

Mr. Jackson asked Mr. Flannery if Mrs. Richardson was correct in saying that there were two streams that run through this property.

Mr. Flannery stated that the term stream is used to have different meanings to different people. If you look at the Quad maps prepared by the State they show blue lines where there is a stream, that blue line stops before it gets to the property, there are drainage swails that come from Lakewood New Egypt Road they cross White Rd and it crosses Drake Rd into this property it flows through, there is a small pond and it flows out the other side. We are not doing any construction in that area. Mr. Jackson asked to show it on a map. Mr. Flannery entered exhibit A-1 a rendered version of the Site Development Plan, the map shows a pipe that comes from under Drake Rd. and flows into the property which is on the easterly part of the property shown on the plan. It flows through the property and at the southerly boundary is where the blue line on the quad map shows starting there is a wetland carter associated with that drainage way the wetlands carter is shown on the plan and there is no activity in this area at all. Mr. Jackson asked if the DEP requires you to identify that and show it on your map. Mr. Flannery answered that yes it is all shown on the maps and all the permits have been obtained. Mr. Jackson asked how far this area is from where the

septic will be. Mr. Flannery answered that the closest septic would be 500 feet away and there are regulations as to how far a septic must be from this area and we meet all the requirements. There was reference made to a second drainage way which is on the lower left-hand corner of exhibit A-1, it crosses Drake Rd in a fifteen inch drainage pipe and it flows away from the property it is offsite.

Mrs. Richardson stated that there is a stream that flows through the property and goes into Lake Manetta and if there is going to be septic at this development the Board needs to know that.

Mr. Vogt stated that DEP had to approve all the building on the area and the buffer zones with regard to the environmental concerns. This has been done. This Board does not review septic applications.

Mrs. Janet Shur, Cross Street was sworn in and stated that there are citations on the DEP website against Mr. Flannery because he was doing bluestone work with regard to the same stream that is part of the Metedeconk watershed which requires a 300 foot buffer without a permit. Mr. Shea stated that that has nothing to do with this site. My understanding has been both when I had the pleasure of serving on the Master Plan Advisory Committee with Mr. Banas, in an esteemed leadership role which we very much appreciated. I was the environmental chair and my understanding is that trying to compartmentalize water is like taking a thermometer and breaking it on the ground and watching the globuols of mercury dance around and saying that you can somehow make some definition, you can not. The problem with this application and the problem with water in general in this town, which I am very fearful that we will run out of as Toms River did, is that we rely on a well system and neighborhood communities rely on a surface system as Brick does. Brick is very concerned, there MUA, about surface water such as Crystal Lake because it has a direct impact on their drinking water and what I am very concerned about and what some of my neighbors are concerned about is the terminology that this is not a significant or material change because we all believe that going from one type of a water source to another is a significant and material change and we all brought to the attention of this Board at the time that this application last came up that there was going to be no sewer going to be allowed in this area.

Mr. Jackson stated that he doesn't think the issue is weather it is material, the fact that they are here and we are conducting this hearing it says that it actually is a material change, the more important issue is I know what you are saying about ground water and surface water but do you have any authority for the proposition that the Board can effectively make it's own regulations and say that someone is prohibited from putting septic systems in?

Mrs. Shur answered that that was not where she was heading and would like to continue, the trend that I was following upon was that I don't know because I do not have any particular knowledge about land use law, what triggers a new application, my understanding is that you can come back and have revisions if they are not of a significant material change and all the previous approvals stand but my argument in this case would be that having a different water handling system is a significant material change and everything that was looked at before should be looked at again in the context of a different outflow system. I also am concerned about the fact that this application has had a variety of names as we have followed it through the years, in the initial stages it was called Thompson Grove, more recently it was called Serenity Acres and tonight it is called Thompson Grove again so my question in regard to that would be is the LOI letter of interpretation that stands on the record in relationship to Thompson Grove and perhaps not in relationship to Serenity Acres which was the terminology that was used at the time of approval.

Mr. Shea stated that the LOI goes to the property not the name of the development.

Mrs. Shur stated that she did not understand why a name change would occur in an application and it does not make sense to her. Also I know that the State is in the process of looking at new ground water management quality standards, and I don't know if this application switching it from public sewer and water to septic and water if this application would meet these standards, I agree with Mr. Jackson that it is not within the purview of this Board to look at DEP regulations and to say what is required, but I can not imagine that those requirements would be the same for a sewer and water application versus a septic and water application. The streams that we are talking about in both dry and wet weather are C1 and are part of the Metedeconk watershed and require a three hundred foot buffer. Lastly we have heard tonight that the wetlands delineation the Crystal Lake the Pristine Cedar forest the Bard Owl Habitat and the Coopers Hawk Habitat will be respected we have heard nothing about trees, there are trees in this area that are 40 to 50 years old and there is a tree save ordinance that is in the process of being considered, we are very fearful that this ordinance would save trees that which in fact will be cut down and killed before the ordinance is in place and we would encourage the Shade Tree Commission to have a forward looking sense of what is going on at this property as opposed to a backward looking sense. We came here from densely populated areas to give our kids clean air, open space, trees, grass and it is all being taken away, so I would like to read to you this comment that was posted "let the Board of Adjustments and planning Board continue giving whatever the builders/ developers want squeeze as many units as possible into every square inch way to go who cares what really happens when the residents move in and have to deal with the chaos" and this was in response to what you know about which is

the variance given to the gentleman who built Brookhill so there is no room for busses to go down the streets when there are cars parked on the streets. We are every bit as concerned as the people that are coming to this town now that you won't have the town you want if every application just gets a stamp of approval.

Mr. Shea's rebuttal was to look at the plan which is before you, it does not resemble Brookhill, it is open and green.

Carol Murray, 49 Drake Road, was sworn in she stated we live here we work here we get it. I have lived here all my life and I know this area despite what the engineers tell you this land is low lying land bordering wetlands, my farm borders on this property to the west and a beautiful cedar swamp borders it on the east, there are ponds of standing water in this swamp and a stream which flows through it to Crystal Lake, all of this sewerage will leave the property and move down the slope into the swamp and will eventually pollute the whole preserve simply because a developer wants to make money it will become a health hazard, it would be a crime against the environment as well as the residents of Lakewood every family who has ever lives on this property has had septic problems and water in their basements, and we are just talking about a single family home. The land all around it is preserved and I am going to preserve my farm, this will become a festering sore on the landscape and spoil a beautiful fragile area there is good reason why this is a sewer save area. There is another use for this property it could be sold to the Ocean County Lands Trust and become part of the Crystal Lake Preserve this would become a continuous pristine area for water recharge wildlife protection and air purification for the good of all Lakewood residents.

Mr. Bill Hobday, 30 Schoolhouse Lane, was sworn in he stated that he thinks that the change is very significant, the change of the sewer management system and its impact on the environmentally sensitive area should require a new application. I don't think that those type of conditions that you would use septic system is anywhere near what you would use for a sewer system because that gets rid of the waste, the septic system discharges the waste right into this environmentally sensitive area. I think therefore the entire application has to be considered because it puts that environment in danger again. Brick depends on that water; Lakewood depends on that water being free of bacteria and waste. I think that there is time to resubmit a new plan with the fact that there will be septic and let the planning Board ponder whether or not they wish to approve the plan with septic.

Jerry Ballwins, Governors Road, stated that she has a report on septic systems from the Division of Watershed Management Bureau of Environmental Analysis and Restoration that would seem to indicated due to the new parameters of this information that a new application would be required. Most of these lots are

15,000 sq. feet and some of them are larger but based upon that information and trying to put out some of the highlights of this report, first of all they are saying that the average household size should be 3.5 acres for a single family home with three occupants in order to have the correct dilution of the pollutants.

Mr. Jackson asked if Mz. Ballwin was an expert in this area and where this report came from. She said she was not an expert.

Mr. Shea filed a formal complaint because the author of this report was not present and he could not cross examine.

Mr. Vogt stated that the Board did not know if the County or the State used this report at all.

Mr. Neiman asked Mr. Vogt if someone was to put in a septic system whom would have to approve it.

Mr. Vogt stated that the County Health Dept would review the applications based on the State regulations, they will decide that the property meets the regulations and approve it or they will look at it and say due to environmental issues, lot size, setback, soil percolation, due to a half a dozen other issues we won't get into they are going to say you have ten properties and only five are approved, at that time the applicant has to come back to the Board.

Mr. Jackson stated that Mr. Flannery in his comments stated that the size of the sq. footage of the house may have to be less due to the septic system.

Mr. Neiman stated that the applicant has to have county approval, so that if they do not get County approval then they will have to come back before the Board. The only thing the Board is talking about tonight is if we will approve septic because they can not have sewer as per the County.

Noreen Gill, 192 Coventry Drive, was sworn in stating that the application was based on sewer not septic and she feels that the applicant will not get approval for such large homes and will therefore have to come back.

Pearl Cook, 3 Maplehurst Ave, was sworn in stating the retention basin should not be supported by the taxpayers money the developer should maintain it. Also at the end of Drake Road there are several homes that are always flooding.

Mr. Sokol, 65 Drake Road, was sworn in and stated that he has lived adjacent to this property for the past five years and has not had any water in his basement he has a nine foot deep basin which is fully furnished and has never had a problem, we have three children and are happy that the neighborhood is expanding.

Sam Paloso 45 Neiman road was sworn in, stating he would like to address weather this is appropriately an amendment or not, I would address the Board to 25-4 Governing Amendments to an Application and it says " where an amended application is very substantially different from the original it may be treated by the Board and any reviewing court as a new application." The reference to "new application" is what is significant here. Mr. Neiman asked if it defines how you are amending the application. Mr. Paloso replied that it does not state how you are amending the application. It just states where there is an amended application and the characterization for it is very substantially different that would be the standard. I think in this case where there is sliding of available lots from one area as it was referred to as a tomahawk property to the other and there is an adjustment from public sewer to septic I feel that that is a type of substantial change and I am going to refer the Board to a letter dated June 5, 2008 to Mr. Ed Mack, the zoning officer from Mr. John J. Jackson, it is a brief letter referencing this application, "this matter was heard and approved by the Lakewood Township Planning Board on April 15, 2008, with regard to certain conditions imposed by the Board but not specifically reflected in the resolution this letter shall serve to confirm that until such time as the applicant shall obtain all outside agency approvals including but not limited to NJDEP and Ocean County Planning Board the applicant shall be prohibited from any land disturbance on this site in furtherance of the subdivision, this will permit the property to remain in it's current state until all such approvals are granted and if for any reason they are not granted the land will not be disturbed without a new hearing before the Planning Board on notice to the surrounding property owners" so we have this language of new application in 25-4 we have an understanding in the letter, the final paragraph of the letter states "I would request that this letter be placed into the proper file ensuring that no clearing or building permits be issues until such time that the subdivision is perfected". So we have a regulation that speaks specifically to this uses the language of new application and the letter that states that if any of these permits are not given there should be a new hearing. We have a fact pattern by which the entire context of the prior application stated so many times about the sewer I would state that it was the lynch-pin of that application, and now they are not here. I think that this would require a new application. Most of the homes in the area have well water because there is no city water available and the septic systems could contaminate the ground water. The size of the lots and the homes will have a great effect on the septic use. The original application was based on public sewer and did not touch on these matters we now deal with by changing to septic. The reason most of these variances and there are approximately 50 in number are associated with area with these lots and area is associated with factors such as light, air, water, sewerage and those factors were not addresses in context with the present set of facts before this Board. Would this Board have considered the application differently in the concentration of septic systems

instead of sewer would there have been other questions raised, would the community brought in other experts to talk about such things we weren't given the opportunity.

Mr. Jackson stated that now is the opportunity, under the statute 40-55.D12 it says public notice of a hearing shall be given for an extension, for a modification or elimination of a significant condition or conditions and the memorializing resolution in any situation where the application requires a change, requires a public hearing which is what we are here for I think that the applicant acknowledges that this is a type of thing that a public hearing is required for. I think the Board has to make a determination as to whether this makes any difference, so I think that is a distortion of what that letter said to propose that the whole thing has to be back on the table. Just so there is no misunderstanding my opinion is that this type of a modification does not require a hearing on the entire matter. It is an application for a modification to change a condition and it relates only to the septic tanks and I don't think that requires revisiting the entire matter.

Mr. Paloso responded that the question is a new hearing which would suggest new evidence, testimony taken over once again, having the people be able to come in with an opportunity to cross examine relative to that evidence that was given at some time prior. If there is a new hearing there is new evidence and the prior evidence should not be permitted in this matter. That is an argument that I would be making at this time.

Mr. Neiman stated that the Board has to listen to Mr. Jackson as the Board attorney and he states that this not a substantial change.

Mr. Paloso stated that he is offering Mr. Jackson's letter as part of the record and the fact that it says new hearing in the letter. Also if the Board sees fit and brings this application forward the testimony from the prior hearing then I think that the testimony from the last hearing is completely inadequate because it does not include the septic system and it's effects.

Mr. Shea stated that he has no objection to entering Mr. Jackson's letter into evidence because it clearly states the law as reflected in the MLUL. The applicant had an obligation to obtain an outside agency approval which we could not and that is why we reapplied to this Board. It would be unlawful to try to put in sanitary sewer because it is not allowed by law. The only reason that we are here is because we can not get a sanitary sewer. If we had come before the Board originally with septic you would not have done a septic analysis, you would have made the approvals subject to County Board of Health under Chapter 199. There is no planning board that undertakes a soil analysis and determines the appropriateness of lots for septic. That is not within the purview of

any planning board that is uniquely within the jurisdiction of the Ocean County Board of Health.

Mr. Paloso stated that the Board may have considered was weather they would have permitted a concentration of septic in these properties. We are not saying the Board should make a choice weather the Septic is correct, we are saying there may have had an effect upon this Boards decision to concentrate them as such.

Mr. Shea responded by saying this is Phase 2, this issue has already been met and answered in Phase 1.

Mr. Jackson said if there were something that would affect the layout the proximity based on some regulation or law, or if the applicant were to come in and say such and such regulation says that septic tanks have to be a certain number of feet apart it doesn't make any sense to lay it out this way. This would be there chance to say that.

Mr. Vogt said that that may happen when the applicant goes to the county and then they will have to come back before the Board.

Mr. Jackson said that the testimony says that this will work at this site, and they can get the approvals, the Boards hands are tied on it.

Mr. Shea stated that the applicant is only doing what is required of them because they can not have sanitary sewer.

Mr. Neiman asked if in the prior application review was the fact that the applicant was going to bring in sanitary sewer and water a major factor in determining this application. Mr. Shea said it was a factor but not the major factor.

Mr. Shea stated that the Applicant has approval for Phase 1 of this application which has septic. We are simply asking for approval of Phase 2, subject to compliance with chapter 199 of the Ocean County Board of Health. This is not coming back on a new application to modify the proposal. It is just to get permission to satisfy the outside agency.

Mr. Neiman asked why the application was first put forth with the sanitary sewer in place if it is not allowed.

Mr. Shea said that for the original application of two years ago the applicant would have liked to get the sanitary sewer and thought that the area would be modified to accommodate that, since that time the County and State have not approved any other applications to add sanitary sewer and the law states that

the applicant now has to provide septic. There is no other option under the current law.

Mr. Flannery explained that there are benefits and detriment to having sanitary sewer versus septic. There are people in the area that do not want sanitary sewer because it would deplete the ground water in the area, septic replenishes the ground water. The main point of this application was the preservation of the nine acres we are not asking for any density relief we are asking for the density that is permitted by the zone. The applicant would like to do sanitary sewer but the State is holding the entire state hostage with the Smart Growth Program that they are trying to implement. They are not going to do that at this time. Also the applicant has the right to develop a certain number of lots on the property but the applicant will also be leaving the acreage of open land space also.

Mr. Shea stated that even in the environmentally sensitive lands of the Pine Barrens , clustering is the option in the area to put the houses together and leave as much open space as possible just as this application is doing.

Mr. Flannery stated that it was previously mentioned that the applicant is providing an enhanced buffer along Drake Rd. so that it will maintain the character of the area even though it is not required by the law.

Mr. Yeshoa Bernhack 18 Esti Circle, two years ago when we discussed this application there was no option for clustering because of the acreage needed. I am in my home 6 and a half years with septic and water. One of the concerns in bringing in sanitary sewer is that the area will become a more densely populated area over time. If this application can be done with the approval of the septic system I believe it is a win-win situation for everybody.

Mr. Paloso spoke saying he wished to acknowledge the point that Mr. Neiman was making about one of the benefits of the criteria being sanitary sewer which has been pulled out now. The question is to what extent has it been pulled out that is why he feels it should be addresses in a new application. He would also direct the Board further to the resolution in this matter paragraph 5 that says the applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of the resolution and the documents submitted as part of this application all of which are made part here of and shall be binding on the applicant. Now my recollection of the last time is that those documents included plans to have the sewers brought in.

Mr. Shea asked to summarize by saying the applicant is here asking to complete phase two in the same fashion that the Board approved phase one and to satisfy the legal requirements that he install septic systems because that is all he can do legally and as Mr. Jackson pointed out in his letter that if the applicant was unable to obtain an outside agency approval it was necessary to come

back to this Board and we respectfully request we move forward with this application.

Mr. Charles Rao 58 Drake Road was sworn in he stated that he goes down Drake Rd every day and the rain water drains into that property everyday and where is all the rainwater going to go. Also how will the traffic be handled with all of the extra traffic and the school busses. Also the ground water and the surface water mixes and will get into the water system.

Mr. Tony DeStafano 72 White Road was sworn in he stated that there where several homes in the area where the homes flooded. If this applicant takes topsoil away from the area there will be more water in our homes.

Mr. Neiman stated that this is an R-40 zone and this application has been approved. Are you asking if there should not be any more homes being built in the area.

Mr. DeStefano stated that he felt the whole project was ridiculous and that no one in the town listens.

Mr. Shea stated that the applicant has the lawful right to put in septic and he asked that the Board go forward with this application.

Mr. Neiman closed the public portion to the public.

Mr. Neiman asked Mr. Jackson if the Board can ask the applicant to get approval from the Ocean County Board of Health before this Board renders a decision.

Mr. Vogt stated that procedurally there may be an issue, part of the process is to show there are setbacks, I don't know how you can demonstrate a setback if the lot does not exist. There may be a procedural issue on trying to get approval on a presumed lot layout.

Mr. Neiman stated that there is a lot layout, they are just changing from sewer to septic. Can't they go to the County and get approval or not and then they will know where they have to go.

Mr. Jackson stated that the condition of them getting approval is stipulated in the documentation and each lot will be done lot by lot and they will have to meet all the criteria for each lot.

Mr. Flannery stated that these are custom homes and each home is looked at individually. The only question will be the size of the house permitted.

Mr. Neiman stated that the Board has heard enough information from the attorneys, engineers, applicant and the public to entertain a motion.

Mr. Franklin made a motion to approve subject to the approval of the Ocean County Board of Health acceptance of the septic system. Mr. Schmuckler added that this motion is being made on the advise of the Boards attorney that this change would not require a new hearing. Mr. Banas seconded the motion.

Roll Call Mr. Franklin, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

Mr. Neiman stated that the time was late and the meeting is adjourned.

**3. SD # 1756** (Variance Requested)  
Applicant: Baruch Halpern  
Location: Astor Drive, north of Kennedy Blvd. east  
Block 104 Lots 16 & 27  
Minor Subdivision to create 4 lots

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**4. SD # 1740** (Variance Requested)  
Applicant: Star Developers LLC  
Location: North Apple Street and Kennedy Boulevard  
Block 172 Lots 16.01  
Minor Subdivision to create 2 – 0 lot line lots

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**5. SD # 1759** (Variance Requested)  
Applicant: Congregation Zichron Binyamin  
Location: Northeast corner of Princeton Ave and 7<sup>th</sup> Street  
Block 165 Lot 19  
Minor Subdivision to create 3 lots

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**6. SD # 1760** (Variance Requested)

Applicant: Pine Street Development

Location: Northwest corner of Vine Ave. & Pine Street

Block 774.01 Lot 6

Minor Subdivision to create 3 lots

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**7. SD #1761** (No Variance Requested)

Applicant: King Gardens 2010 LLC

Location: Dr. Martin Luther King Drive

Block 768 Lot s 55, 56 & 58

Minor Subdivision - 4 zero lot line lots

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**8. SP # 1937** (Variance Requested)

Applicant: KT Management Services

Location: Syracuse Court, north of Oberlin Ave. South

Block 1600 Lot 8

Preliminary & Final Site Plan for proposed addition to existing warehouse

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**9. SP # 1937** (No Variance Requested)

Applicant: Lakaewood Realty/Lakewood Toyota

Location: Route 88 (Ocean Ave.) east of New Hampshire Ave.

Block 569 Lot 110

Preliminary & Final Site Plan to approve additional service bays and offices

Mr. Kielt asked if an extension could be granted. The attorney for the applicant replied that an extension would be granted.

Mr. Kielt announces that this application would be moved to the Special Meeting on December 14, 2010. No further notice is required.

**6. CORRESPONDENCE**

**7. PUBLIC PORTION**

**8. APPROVAL OF THE MINUTES**

There are no minutes at this time.

**9. APPROVAL OF BILLS**

Motion was made by Mr. Schmuckler, and seconded by Mr. Follman to approve.

Roll Call Mr. Franklin, yes, Mr. Neiman, yes, Mr. Banas, yes, Mr. Follman, yes, Mr. Percal, yes and Mr. Schmuckler, yes.

**10. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Margaret Stazko  
Planning Board Recording Secretary