

## **1. CERTIFICATION OF COMPLIANCE**

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

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

## **2. ROLL CALL**

Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Flancbaum, Mr. Rennert, Mr. Cautillo

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

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

## **4. MEMORIALIZATION OF RESOLUTIONS**

### **1. Resolution of Appointment – Oak Street Core Residential Development Subcommittee**

Mrs. Morris said the plans were emailed to the board members as there were some questions and concerns at the last meeting. She is not sure if there is a consensus on who should be on the subcommittee.

Mr. Franklin said the plans show the road, sidewalks, drainage. He said no parking is shown, they are 100 x 100 lots...(inaudible).

Mr. Rennert said each house has the required amount of parking which is 4 parking spaces per unit.

Mr. Vogt said that is his understanding.

Mr. Franklin said this is the most ridiculous thing he has seen since he's been on the Planning Board. Everything that has been built before this has either gone before the Planning or Zoning Board. He asked why these lots get to completely bypass that process.

Mr. Brian Flannery, P.E., P.P. said what is coming to the committee is a plan that is completely conforming. In order to be conforming, it has to show the parking that meet the parking requirements. If there is something on the plans that doesn't meet the ordinance, then you don't get approval. It is the same as the zero lot line duplex ordinance. If someone comes in with an administrative zero lot line application where there is a variance or not enough parking is shown, it gets bounced back. The subcommittee would look at the application and if it is completely conforming, following that CAFRA permit completely, then it moves forward.

Mr. Franklin asked why these applications can't just go through the Planning Board.

Mr. Flannery said a conforming minor subdivision doesn't require any notice and there is really nothing the Planning Board can say on a conforming minor subdivision. The Planning Board has seen this twice and both

times this board said after discussion, this makes sense. Why should they have 100 applications that come to the board and take up time when there is nothing they can do if it meets all of the ordinance requirements.

Mr. Jackson said the decision to have this is a political decision. He understands Mr. Franklin's concerns but in most towns, you can do a minor subdivision on an exemption basis. In Brick, for example, you can come in, submit an application for a 2 lot subdivision and if you meet all of the criteria, it is administratively approved. That's what this is like, it is something that otherwise can be done administratively. It does not necessarily require Planning Board approval. He thinks that latitude is in the MLUL for the governing body to set this up that way. The idea of the subcommittee, is to make sure the applications do conform. So, instead of an administrative land use officer making that decision, it is going to this subcommittee.

Mr. Flannery said the decision has been made and now the Planning Board has to appoint the subcommittee so that they can review these applications.

Mr. Flancbaum said if this is an administrative review then why can't the board engineer just review it. Why is the Planning Board involved.

Mr. Jackson said by the governing body appointing this subcommittee, it is giving it an extra layer of protection.

Mr. Vogt said this project is within the R-10A zone which allows for duplex development on 10,000 sf lots. They are doing something similar now with the zero lot line ordinance where if you have an existing duplex or if you are building a duplex and it meets the criteria of the ordinance, they approve those administratively. Nine out of ten times the application does meet the zero lot line ordinance and at that point they would do a recommendation letter, mylars would be submitted for signature and then filed with the County. Occasionally, they will get an application that doesn't comply with as the engineer may have missed a bulk variance or there is a deck that now encroaches because of a change in ordinance or the impervious coverage is greater. They notify the applicant that either they have to fix the application such that it does comply or they can not approve it. At that point, it either goes to the board here or there are cases where the application had to go to the Zoning Board as they didn't have the lot area or lot width. He envisions something similar to this. The subcommittee should get copies of the applications and their review letters and if there are any concerns, it could come before the Planning or Zoning board. The alternative is, the Planning Board will be getting 149 virtually identical conforming applications coming in. They can do it either way but this is a more expedient process.

Mrs. Morris said the chairman suggested that only he and the board engineer be on the subcommittee but only board members are allowed to be on the committee and she is not sure whether they would need additional members.

Mr. Jackson said the ordinance says members of the Planning Board.

Mr. Vogt said the Sunshine Law would have to be met so it would probably be limited to no more than three.

Mr. Jackson said he would have to look into that.

Mr. Ed Liston, Esq., representing Laurie Leeds, opposed this ordinance when it was adopted and had put onto record his reasons. He will not go into those reasons as it is the jurisdiction of the Township Committee. He does want to point out that the time within which they can challenge this court has not yet run. Unless his client changes her mind, they are going to challenge this ordinance in the superior court. The board may want to wait and see what happens on that front before a lot of time and energy is wasted forming a committee that may not be able to operate until the court decides whether the ordinance is valid or not.



5. **SD 2001 Joseph & Renee Klein**  
East 8th Street Block 166, Lot 2.44  
Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

6. **SP 2194AA Jacob Steinberg**  
Buckwald Court Block 27, Lot 1.09  
Change of Use/Site Plan Exemption to convert an existing home into a synagogue and mikva

A motion was made and seconded to approve the resolution.

7. **SP 2195AA Gershon Eichorn**  
West Cross Street Block 508, Lot 2  
Change of Use/Site Plan Exemption to convert an existing home into a school

A motion was made and seconded to approve the resolution.

## 5. CORRESPONDENCE

- **SD 1735 Chaim Greenes** – adjustment to approved lot layout

Mr. Brian Flannery, P.E., P.P. said they are just moving the bigger lot to the other side of the tract. No variances are being created as a result of this lot adjustment.

Mr. Rennert asked if this was noticed.

Mr. Flannery said no as there are no variances requested and it is not a significant change.

Mr. Rennert said there are variances.

Mr. Flannery said it is the same variance. The wider lot is going from the west side to the east side.

Mr. Rennert thinks that is significant as it may affect that neighbor. Notice should be provided.

Mr. Jackson agrees.

No action was taken.

- **SP 2071B Bais Medrash of Coughlin Street** – adjustment to approved building footprint

Mr. Joshua Schmuckler said there was a miscommunication over a couple of feet of the building. No variances or waivers are being requested.

Mr. Vogt said if you have an addition of less than 1,500 sf then it would be approved administratively. There is a shift in the building location that is not creating or exacerbating any variances. It is still conforming to the zoning requirements.

Mr. Schmuckler said that is correct. They are only here out of caution and to get the board's blessing so there isn't any issues down the road.

Mr. Rennert asked which side of the building is being changed.

Mr. Schmuckler said the front towards Manor Drive.

Mr. Rennert said 30 ft is required and they are providing 30.21 ft.

Mr. Schmuckler said that is correct.

A motion was made and seconded to approve.

Affirmative: Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Flancbaum, Mr. Cautillo

Abstain: Mr. Rennert

- **SD 2053 Ahuva Eisen** – adjustment to approved lot and road layout

Mr. Joe Kociuba, P.E., P.P. said they are here to show minor changes as a result of working with the County. The road has shifted slightly to be perpendicular to Cross Street. The approved road hugged the right hand property line. The County had an issue with them coming out at the intersection on an angle so they had them relocate it so it is perpendicular to the street. No new variances or additional lots are being created.

Mr. Vogt asked if Public Works reviewed this plan.

Mr. Kociuba said Public Works looked at the hammerhead prior to the realignment but they will send the revised plan to DPW for their approval.

Mr. Jackson asked if the lot to the right along the roadway is his client's property.

Mr. Kociuba said it is not.

Mr. Jackson said then they have a different road configuration.

Mr. Kociuba said that is correct. There is a small amount of area that lot 68 will dedicate to the town to allow for the curb return.

Mr. Rennert asked if they were noticed.

Mr. Kociuba said they have agreed to the change. They didn't submit this to the County without their authorization.

Mrs. Morris asked if the little piece of property inside the curb is a neighboring property or is that leftover.

Mr. Kociuba said it is a leftover part that they would dedicate back to the other lot.

Mr. Jackson said this is based on a County directive.

Mr. Kociuba confirmed.



extension of that. When they first submitted, they were not proposing a cul-de-sac and those neighbors did not want to turn this into a cut through and have all kinds of traffic going through there.

Mr. Vogt said Netherwood and Elmhurst are not improved on this particular block.

Mrs. Weinstein said yes but Netherwood is improved on the other side of Bell Court.

Mr. Jackson said these parcels are separated by right-of-ways. He questioned whether they should be separate applications and then be consolidated.

Mr. Vogt said in this particular case, although there are right-of-ways, the infrastructure is not constructed.

Mr. Jackson understands but the parcels are not contiguous with one another. He just wanted to bring up that formality. He assumes everyone within 200 ft of all of these parcels were notified.

Mrs. Weinstein said it is four separate blocks.

Mr. Flannery said two of the blocks, it is all of the lots included in those blocks and the other two it is not all of the lots. The original application looked different as it had a hammerhead configuration that connected to Netherwood Drive.

Mrs. Weinstein asked if there was a previous application on part of this property that was already approved.

Mr. Flannery said there was an application on the lower part of the property but not the entire property.

Mr. Jackson said the cul-de-sac could be opened up and become a through street.

Mr. Flannery said that is correct as it is a township right-of-way.

Mr. Jackson said sometimes there will be land around it to kind of block it off.

Mr. Flannery said they haven't proposed that. He has faith in the governing body listening to the residents and if the residents prefer it this way, he doesn't see them changing it.

Mr. Vogt has a concern about maintaining emergency access. If approved, they recommend that the evergreen buffer proposed at the north end of the cul-de-sac bulb be replaced with a break-away barrier, such that access for emergency vehicles from Netherwood Avenue could be provided into the cul-de-sac as necessary. It wouldn't be a barrier but it would be something if a fire truck, if necessary, could deal with and come in the other end.

Mrs. Weinstein said it would be similar to what was done at Shonny Court. It is a cul-de-sac where you can't get through but it can be used for emergency access.

Mr. Jackson asked if they would need township approval to put a barrier within the right-of-way.

Mr. Flannery said they would need Public Works approval.

Mr. Hibberson asked if they are closing off Elmhurst Boulevard.

Mr. Flannery said they are leaving it unimproved. Right now it is a paper street, when they are finished it will be a paper street. There is no need to improve the road.

Mr. Franklin asked the width of Netherwood Drive.

Mr. Flannery said 32 ft paved cartway with an RSIS compliant cul-de-sac.

Mr. Flancbaum has struggled with this application since plan review. A 21 lot subdivision is being created in an R-12 zone and almost half the lots need variances. He questioned that.

Mr. Flannery said minimum lot area is being requested for two of the lots. One of the lots is in block 435 and in that block they have a total of 28,000 sf. They are creating an 8,000 sf lot which is the lot that needs the variance relief, and they are leaving a 20,000 sf lot. They certainly could have added more to that 8,000 sf lot but, in his opinion that would detract from the overall plan. These two lots are better than a 12,000 sf lot that has a little flag lot or something else creative. Additionally, this is near the Hearthstone area which is also an R-12 zone and the minimum lot size is 8,000 sf. A lot of the lots in the Times Square area are also 8,000 sf. They are not asking for any density relief. They are providing 12,000 sf for each of the lots but in this particular block they are asking to chop it up a little differently. The applicant has advised that if the board prefers them to take an additional 4,000 sf from the larger lot, they would be amendable to that.

The other variance for lot area is in block 436. In talking to the neighbors, they wanted the lots on the end larger than all of the other lots. So they have one lot with a little cut out in the back that is the same 60 ft wide as the other lots but because it has that little piece cut out at the back from a lot that is not part of this application, that lot is 11,080 sf. If the board doesn't like that, they can take back from the 80 ft wide lot which has 15,000 sf and make that a little bigger. It is his opinion, as you come down the street, this is all going to look normal, the layout is nice and it makes the neighbors happy.

Mr. Jackson said 4 of the lots are 60 ft wide.

Mr. Flannery said the majority of the lots are 60 ft. When they first came in, they were 60 ft and deep enough so they all had 12,000 sf. They readjusted for the neighbor.

Mr. Jackson said they believe it is a fair trade off to have the additional area rather than the 90 ft wide lots.

Mr. Flannery confirmed. Those are the only lot area variances requested. Predominately, lot area is the major bulk variance that applicant's have trouble meeting with because if you cheat on the lot area, you get some extra lots. He is not trying to get extra lots, he is trying to create lots that makes sense and that make the neighbors happy. The applicant would change the application if the board does not want to grant those variances. Minimum lot width variances of 60 ft whereas 90 ft is required is being requested as they have narrower, deeper lots. The lots are not inconsistent with what's in the area and instead of having more municipal roads improved that the Township has to maintain, creating more traffic, the applicant feels that this makes more sense and that the benefits of the narrow lot width are outweighed. It is his testimony that this is a classic C-2 variance where the benefits outweigh the detriments.

Mr. Grunberger asked what narrow lots have to do with improved roadways.

Mr. Flannery said the alternative would be to draw a line down the middle and have wider lots facing on all of the right-of-ways and you would get the same number of lots.

Mr. Grunberger asked what would be wrong with that.

Mr. Flannery said the useable rear yards aren't as nice and you are creating more roadways that the Township has to maintain. The roadways that would be improved would be Princewood Avenue and Time Square Avenue.

Mr. Herzl said if they split Princewood and Netherwood, they could have the same number of lots but with no variances. This is just a better configuration with the variances.

Mr. Flannery said that is correct.

Mr. Jackson asked about the houses on the other side of Princewood when they are developed. The town would have to maintain that road.

Mr. Flannery said the Hearthstone area developed most of this area and there is a detention basin in this area, one of the lots on the other side of Princewood is Township owned and lot 3 fronts on Waldorf Terrace. So, looking at it there is no need to improve those roads.

Mrs. Morris asked about the blocks further to the north that won't be able to be accessed as Princewood is not being improved.

Mr. Flannery said those lots are owned by the neighbors that are here. This configuration provides nice, usable lots for all of the homes there rather than all of the homes being jammed in.

Mr. Grunberger said if they widen the lots, the houses would be jammed in.

Mr. Flannery said the rear yards are more useable in this configuration as they are deeper lots.

Mrs. Weinstein said they are getting the same number of units, it is just a different configuration.

Mr. Flannery said the only one that is going to see them lined up, one after another, are the people that will be moving to this cul-de-sac. It is not like they are putting this out on a main road where the public is going to have to look at this and decide that it doesn't make sense. If you look at some of the lots that were approved on Times Square, they were approved on this kind of a width. The Hearthstone lots are typically 80 x 100 ft.

Mr. Grunberger said maybe it makes more sense to have two roads improved and to have them a little bit more spread out instead of jamming them all on one road.

Mr. Flannery said Biltmore comes right out to Cross Street and then Netherwood would be built right next to Biltmore. He thinks that would be better for traffic flow rather than having 42 families coming out onto one more road.

Mr. Flannery said he would hear from the neighbors that if they improve the right-of-ways it would be a disaster for them because people would be cutting through.

Mr. Grunberger said maybe if you built it this way it would be a disaster but if they widen it and keep it nice it won't be.

Mrs. Weinstein said the applicant has received approval from Public Works for the cul-de-sac design.

Mr. Vogt understands the concerns from the neighbors not wanting to have through traffic. As he said earlier, he would like to see emergency access. In terms of the number of lots, the average lot size meets or exceeds 12,000 sf so there is not a lot density issue. No side yard variances are being sought for the new lots.

Mr. Flannery said the only variance relief, with respect to setback, would be front yard on 3 of the corner lots. No side or combined side setbacks are being requested.

Mr. Vogt said other than that, they would be within the approved building envelopes with respect to setbacks. He would be a little more concerned if they were building next to somebody with one of these homes. But if you look at the plan, these are all going to be new homes. So if someone is buying here, they should know what they are buying into in terms of what will be surrounding them.

Mrs. Morris asked if the County has any preferences with respect to the layout as Cross Street is a County road.

Mr. Flannery said the County certainly has a preference to limit the number of access points. So they would have a cul-de-sac with 21 houses that are used to coming in and going out. It is a very simple procedure and the residential site improvement standards for cul-de-sac limit the number of trips to 250 trips per day and this meets that requirements. If the cul-de-sac was bigger than that and was generating more traffic then that may be a problem for the County but the County would certainly prefer this. This is making more useable rear yards, allowing more trees and less pervious coverage. All of the pervious coverage creates runoff and then they get the EPA coming to the township to ensure they are enforcing regulations. It is less intensity of development while providing the same number of housing opportunities. Everybody that is subjected to this 60 ft lot width are all the people moving into this development and it is his opinion that they will love it.

Mr. Jackson asked if there will be basements in these homes.

Mrs. Weinstein said yes, basements are legal. They will conform to the basement ordinance and they could get CO's for two families. She confirmed with New Lines Engineering that there was a previous application on a portion of this site and County approval was obtained.

Mr. Flannery said minimum front yard setback is required for the 3 lots on the unimproved right-of-ways. Setbacks of 20 - 27 ft are requested, whereas 30 ft is required. There will be no reason to improve those right-of-ways.

Mrs. Morris asked if a vacation will be requested.

Mr. Flannery said the owners may come in and ask for a vacation. It is a 50 ft right-of-way with a force main that runs down the middle.

Mr. Herzl asked why not pave it in order to alleviate traffic from Netherwood.

Mr. Flannery said if you go out to Princewood, you would then have to go out to Cross Street and now there are two points of access which the County doesn't like. Additional stormwater runoff would be created due to the increased pervious surface. Another alternative would be to bring Princewood out to Finchley and all of the people in Hearthstone aren't going to like that a cut through is being created in their development. This development is going to generate traffic for 21 regular homes and their traffic is only going to impact Cross Street which is a County road. The County is already working on improving the road to handle the traffic. Side and rear yard setback variances are required for the existing dwelling to remain on proposed lot 1.01. Design waivers are needed for some of the lot lines which aren't perpendicular to the side lines. A design waiver is

required for not improving all of the right-of-ways, partial design waivers for not putting in curb and sidewalk where they are not developing, design waivers from planting street trees, as well as providing shade tree and utility easements along all right-of-ways. It is his testimony that a single roadway limits the interactions with the existing residents. The Master Plan looks to not disrupt existing residents and this would certainly accomplish that goal.

Mr. Herzl asked about garbage pickup.

Mr. Flannery said the Township would pick up. Each house would have their own receptacle.

Mr. Herzl asked how many parking spaces are being provided.

Mr. Flannery said 4 spaces per lot.

Mr. Flancbaum asked if curb and sidewalk is being proposed along Cross Street.

Mr. Flannery said curb and sidewalk will be provided along Netherwood and the cul-de-sac as well as only the improved areas of Cross Street. The applicant is willing to provide sidewalks all along Cross Street if the board prefers.

Mr. Herzl opened to the public.

Mr. Lionel Diamond, 1025 Netherwood Drive, was sworn in. He is in favor of the revised plans with the cul-de-sac and the 80 ft wide lots on the end. He would like to see a condition in the approval that the street does not open up.

Mr. Jackson said this board cannot give that guarantee. It is a Township right-of-way.

Mr. Yitzchak Goldsmith was sworn in. He is more concerned with the traffic and safety. He did not understand the emergency access in the cul-de-sac.

Mr. Vogt said the cul-de-sac would be closed off to everyday traffic but in case of an emergency, there would be a breakaway barrier so a fire truck or other emergency vehicle can break through that. Another alternative would be to have a locked gate that only the Township would be able to open.

Mr. Klein was sworn in. He said Lakewood is gridlocked, Route 9 is jammed up. All of this comes from vacating a lot of streets off of Route 9 and not having through traffic from one development to the next. The applicant is proposing to eliminate roads when they should be improving more roads.

Mr. Herzl said the County does not want another road opened up to Cross Street.

Mr. Vogt said they have no authority over what the County does or does not do. It is their experience that County and State typically limit the number of curb cut access. If the board acts favorably, the applicant would need to get all outside agency approvals including the County. If the County doesn't like this proposal, it will end up back at this board.

Mr. Yitzchok Boylan, 1026 Netherwood Drive, was sworn in. He said the barrier should be permanent.

Mr. Vogt said the intent of a barrier is to allow for emergency access for emergency vehicles.

Mr. Jackson said that is ultimately up to the governing body.

Mr. Boylan asked for some type of fence or trees between the properties.

Mr. Flannery said they could put a 4 ft high fence along the property.

Ms. Barbara Riley, 90 Finchley Boulevard, was sworn in. She is concerned about the through street to Cross Street and she understands that there is no guarantee that it will not happen. She is not in favor of this application.

Mr. Kevin Percal, 1020 Netherwood Avenue, was sworn in. He asked that the Township do whatever they can to keep the road as a cul-de-sac and not a through street.

Mr. Moshe Norman, 1005 Princewood Avenue, was sworn in. He is in favor of the application as long as the road is not opened up as it would congest the Hearthstone area.

Mr. Herzl closed to the public.

Mrs. Morris said the applicant has agreed to provide curb and sidewalk along the entire Cross Street frontage, a 4 ft fence along the northern end of the subject property on the private lots as well as the breakaway barrier.

A motion was made and seconded to approve the application.

Affirmative: Mr. Franklin, Mr. Herzl

No: Mr. Grunberger, Mr. Hibberson, Mr. Flancbaum, Mr. Cautillo

The motion failed.

A motion was made and seconded to deny the application.

Affirmative: Mr. Grunberger, Mr. Hibberson, Mr. Flancbaum, Mr. Cautillo

No: Mr. Franklin, Mr. Herzl

Motion passed.

**2. SD 2119 1495 East Spruce, LLC**

East Spruce Street

Block 855.01, Lots 26 & 29

Preliminary and Final Major Subdivision to create five lots

Mr. Adam Pfeffer, Esq. asked that this matter be carried to the next public hearing meeting in order to give them time to address some concerns from the neighbors.

Mrs. Morris said at the last public hearing, there was testimony that a revised layout be provided for the board's consideration. The applicant did not provide those plans and were intending on using them as an exhibit but some of the neighbors were not happy with that as a review letter could not be issued by the board engineer. If the board recommends to carry this application, she recommends that they receive those revised plans at least 10 days before the meeting.

Mr. Pfeffer said that is fine. The revised plans being discussed is the same exact application but they are flipping it.



**7. SD 2150 Platinum Developers**

South Bell Avenue Block 830, Lots 42 & 43  
Preliminary and Final Major Subdivision to create eleven lots

A review letter prepared by Remington, Vernick & Vena Engineers dated September 8, 2016 was entered as an exhibit.

Mr. Grunberger arrived at the meeting.

Mr. Vogt said there is a minimum lot depth variance. Relief is required for off-street parking. Fourteen perpendicular spaces are proposed along the west side of South Bell Avenue. Therefore, these proposed spaces are on-street parking and should be counted in the tally.

Mrs. Miriam Weinstein, Esq. said this is a fully conforming application which the engineer will testify to shortly. This area is within the Oak Street Core Neighborhood Overlay Zone 2 of the R-40/20 Cluster Zone. The Yesodei Hatorah townhouse development pretty much surrounds the site on all sides. This is a townhouse project with a private roadway and tot lot that will be owned by a homeowner's association.

Mr. Brian Flannery, P.E., P.P. was sworn in. South Bell Avenue runs from Bellinger Street to the cemetery. The application is surrounded by other townhouse development. This is a by right application. The board engineer points out a few items in his report including parking. The plan as submitted showed the parking in the right-of-way similar to what was done across the street. What is done there is the sidewalk goes around it so anybody walking on the sidewalk doesn't have to cross the driveway. To him, that is a benefit and they mimic that benefit but as the board engineer indicates, it is not typically on-site parking. Proposed off-street parking spaces vary from 0 to 3 spaces on the individual lots. If the board doesn't like that, they can do it in typical fashion where they would run the sidewalk along the street and have the parking on the property but the drawback would be anybody walking down the street would be walking across the driveways. It is a concept that was done across the street and down the street.

Mr. Herzl asked if the road would be Township.

Mr. Flannery said the 24 ft wide road would be a private road that services just the townhouses. South Bell is the public road.

Mr. Herzl asked about garbage pickup.

Mr. Flannery said they would meet with Public Works. There is availability for a dumpster.

Mr. Herzl said this way is safer for the kids as they go straight from the sidewalk and do not have to worry about cars backing in and out of the driveway.

Mr. Vogt wanted to get Public Works approval to ensure they can get in and out with their vehicles. He is fine with this layout with the condition that they receive approval from DPW.

Mr. Franklin doesn't see any issues.

Mr. Flannery said the review letter points out that a minimum lot depth variance is required for new lot 42.08 of 75.41 ft whereas 80 ft is required. That is the small, internal lot in the back. Section 18-900h6 of the UDO says when you have an approved townhouse use, you can do fee simple lots. The fee simple lots do not have a lot

depth variance. In his opinion, they do not need that variance but will be conservative and ask for it anyway. It would be a typical C2 variance where the benefits outweigh the detriments. It is a nice lot with a wider unit with a useable rear yard. The board can grant this variance without any detriment to the zone plan or zoning ordinance. With respect to parking, they do provide enough parking spaces with overflow spaces along the roadway. If the board does not like this layout, they have the room to alternate it. The difference there is the cars cross the sidewalk. The whole concept is to not to have the cars do that.

Mr. Vogt said per the plans, it looks like relief is being sought for the decks.

Mr. Flannery said that is an error which they would correct during resolution compliance. Section 18-902n says all residential developments shall provide a useable rear yard depth of at least 15 ft including the rear yard setbacks. Decks shall be permitted within the useable rear yard.

Mr. Vogt said if that is the case, the table should be changed and have that notated as to why the minimum 10 ft or whatever is allowed and indicate what is shown on the plan.

Mr. Flannery said they would address all other comments in the report.

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

Mr. Franklin asked if site drainage will be the responsibility of the homeowner's association.

Mrs. Weinstein confirmed.

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

**8. SD 2152 JMR Enterprises, LLC**

Henry Street

Block 777, Lot 16

Minor Subdivision to create four lots

A review letter prepared by Remington, Vernick & Vena Engineers dated September 12, 2016 was entered as an exhibit.

Mr. Vogt said the applicant is seeking relief including a 10 ft road widening easement, minimum residential setback and front yard setback from Route 9, minimum rear yard setbacks for decks on proposed lots 16.01 through 16.04. Design waivers are requested from providing street trees as well as providing shade tree and utility easements along a portion of the frontage for new lot 16.02 and the entire frontages of proposed lots 16.03 and 16.04 because of the existing drainage facilities.

Mrs. Miriam Weinstein, Esq. said this is a minor subdivision to create 4 zero lot line lots upon which 2 duplex structures will be built. The main relief sought is from the setback to Route 9. The current dilapidated structure is closer to Route 9 than what is being proposed.

Mr. Brian Flannery, P.E., P.P. was sworn in. The application is for 2 duplex structures on the corner of Henry Street and Route 9. Duplexes are permitted in the HD6 zone on 8,500 sf lots which is what's proposed. The two duplexes are pushed as far east on Henry Street as possible away from Route 9. The Township is looking to develop property along Route 9 in a non-residential fashion and that is the purpose of the setbacks they have proposed. This particular property is more of a Henry Street lot than it is a Route 9 lot. The only relief needed is

with respect to front setback from Route 9 and there is already an existing house pretty much sitting on Route 9 so they are improving the situation. They would be moving it back 70 ft whereas 75 ft is required. The applicant is requesting a 10 ft wide road easement rather than a dedication along Henry Street. It will serve the same purpose without infringing on the usability of the property. Minimum rear yard setbacks variances of 8.17 ft whereas 15 ft is required for the decks. It is his testimony that those decks would be a useful accessory structure for the residents. If the board doesn't feel relief is warranted, patios would be provided. The impact on the adjoining property would be no different with patios and decks. If the board remembers, up until last year, decks were not including in the setback but people started building decks way too close to the property and the ordinance was changed. The rest of the comments in the report can be met.

Mr. Herzl asked what would happen if they widened Route 9.

Mr. Flannery said they are 70 ft away which is plenty of room.

Mr. Herzl opened to the public.

Mr. Judah Bergman, 105 Henry Street, was sworn in. He lives two houses down and he would like to see this block stay residential. He is in favor of the application.

Mr. Herzl closed to the public.

A motion was made and seconded to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Herzl, Mr. Flancbaum, Mr. Cautillo

Abstain: Mr. Hibberson

**9. SD 2153 Meir S Kaufman**

South Street

Block 855.06, Lots 26 & 32

Minor Subdivision to create three lots

A motion was made and seconded to carry this application to the October 5, 2016 meeting.

All were in favor.

**10. SD 2154 Bais Rivka Rochel**

4th Street

Block 127, Lot 4

Preliminary and Final Major Subdivision to create 5 lots

Mr. Adam Pfeffer, Esq. asked that this matter be carried to the next meeting in order to give them time to address some concerns with a neighbor.

A motion was made and seconded to carry this application to the October 5, 2016 meeting.

All were in favor.

**11. SP 2204AA Congregation Zichron Chazon Ish**

Williams Street

Block 420, Lot 31

Change of Use/Site Plan Exemption to convert existing house into a synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated September 8, 2016 was entered as an exhibit.

Mr. Vogt said he doesn't believe any bulk variances are being requested. However, partial relief from the perimeter buffer requirements will be necessary.

Mrs. Miriam Weinstein Esq. said this is a change of use approval to convert a single family home into a synagogue and rabbi's residence. Initially the garage will be converted into the sanctuary area. The second phase would call for an addition to be constructed for the shul but right now it would only be the garage area to be converted. The balance of the home would be used as a residence for the rabbi and his family. This particular neighborhood along Williams Street has seen exponential growth particularly in the last year or so mostly as a result of zoning changes that now permit duplexes throughout the area. Accordingly, there is a demand for more synagogues in the area. At the last hearing, an application was approved for a very large synagogue across the street but this particular synagogue will be attracting a different crowd. No variances are being sought and there will no Simcha hall.

Mr. Herzl asked how large the shul is.

Mrs. Weinstein said the sanctuary space is less than 800 sf in which case there is no requirement for parking. But they are aware this board asks for parking even if there isn't a requirement so they would be addressing the parking.

Mr. Glenn Lines, P.E., P.P. was sworn in. A 765 sf addition is proposed onto the existing two story home. There will be renovations to the first floor including the garage. The garage will be used temporarily as the shul while they build the addition. The garage would then be converted into bathrooms, rabbi's office. They do have a driveway that is 1 ft short in width of fitting 4 cars so they would ask for that waiver for the width since it is an existing driveway.

Mr. Herzl asked if they would have to come back before the board when they are ready to do the addition.

Mrs. Weinstein said they would like to do it in phases. The first phase would be the change of use.

Mr. Herzl said the synagogue will be larger after the addition and may require more parking.

Mrs. Weinstein said the sanctuary space will still be under 800 sf.

Mr. Lines said the garage now is about 450 sf. That garage will be converted into bathrooms, office, lobby and the only area that would be the shul is the 765 ft addition.

Mr. Flancbaum asked if there is any way to delineate the parking spaces so cars don't park at an angle.

Mrs. Weinstein said the driveway is made of Belgian block so it may be difficult.

Mr. Lines agreed to stripe the driveway. A waiver is required from the buffer requirements. There are duplexes about 7 ft off their property line to the south. Behind the property is the parking lot for the hospital. There is one single family home nearby.

Mr. Herzl asked if on-street parking is allowed on Williams Street.

Mr. Lines confirmed there is available on-street parking.

Mr. Herzl opened to the public.

Mr. Binyomin Barkin, 28 Buttell Avenue, was sworn in. He has nothing against shuls and is a board member of the Williams Street shul which was before this board last month. He wants to point out this application is not a shul. It is someone who is moving to the neighborhood. He doesn't believe people have been asking him to open a shul. He is just looking to get a big house and be tax exempt. When they were before the board last month, the board gave them a hard time concerning parking. They provided 29 spaces which met the requirements but they wanted to restrict parties, having a Simcha hall, etc. After that, they put together money and they bought another lot. They came back to the board with 59 parking spaces for 16,000 sf brand new building. They provide for the neighborhood. There is another shul down the block which is also well established. He does not believe there is any further need for a shul. Usually when someone makes this kind of application, they reach out to the neighborhood. He reached out to the applicant but he refused to talk to them. He believes this will only hurt the shul across the street and the neighborhood.

Mr. Herzl closed to the public.

Mrs. Weinstein said this is a fully conforming application with no variances. The applicant is the owner, Congregation Chazon Ish. That is the name of the school. The rabbi living in the house is a trustee of that entity. There will most certainly be a shul operating in this location. There will be no Simcha hall.

Mr. Vogt assumes since no buffer is being proposed, they are seeking relief.

Mrs. Weinstein confirmed. There is a fence on one side and there are trees on both sides.

Mr. Lines said there are existing trees in the back along the parking lot.

Mr. Vogt said he is more concerned in the area of the addition.

Mr. Lines said there are existing trees along that side of the property.

Mr. Jackson asked if those trees are on the applicant's property.

Mr. Lines believe they are along the property line.

Mr. Herzl would like them to supplement where necessary.

Mr. Lines said there is a house next door but it is to the far side of the lot. They have shrubs along that property line which would buffer the proposed addition. If there any gaps, they would supplement that.

Mr. Jackson said the buffer will be provided to the satisfaction of the board engineer.

Mrs. Weinstein agrees.

A motion was made and seconded to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Herzl, Mr. Flancabaum, Mr. Hibberson

No: Mr. Cautillo

**12. SP 2209AA Shmuel Pepper**

30 Gudz Road

Block 11.30, Lot 13

Change of Use/Site Plan Exemption to convert existing house into a school and synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated September 12, 2016 was entered as an exhibit.

Mrs. Morris said the board may recall there was a recent denial on this property. The board should decide if this application is substantially different than the previous one.

Mr. Jackson said res judicata is an administrative tool that the board has to not hear applications that have already been decided. It is up to the board that this application is materially different and makes it worthy of being reconsidered as a new application. It could be a passage of time, changes in the neighborhood, the building could be bigger, smaller, etc.

Mr. Brian Flannery, P.E., P.P. said this is a different applicant and application. This is for a school and a temporary shul. The previous application was just classrooms. The big difference is the condition of the property.

Mr. Vogt said additional site improvements include 5 off-street parking spaces, a row of arborvitae, trash enclosure, privacy fence and a 15 ft driveway extension to serve as turnaround. It is his opinion, that this is a different application.

Mr. Flannery said the pool is completely fenced in and maintained. One of the trailers has been removed and the other is in better condition. There will be a 4 ft fence installed across the border to keep the occupants of this facility on the property. This applicant will have a full time maintenance employee to keep the property in good shape. This is just a property that is being rented. The property owner intends to move forward with a subdivision two years from now. The applicant would agree to a two year limitation and would have to come back before the board if a time extension is needed. There will be a maximum of 30 students. No dormitory is proposed on this site. There will be at most 2 teachers. Five parking spaces are proposed which complies with the parking requirements. The parking spaces were increased and angled and would be paved.

Mr. Flancbaum asked if the students will be bused.

Mr. Flannery said they would come in vans. The students will be 18 years and older.

Mr. Flancbaum asked if this is a different school.

Mr. Flannery said someone is taking over the school.

Mr. Flancbaum asked if sidewalks are being provided.

Mr. Flannery said due to the temporary nature, they would request a waiver from providing sidewalks. The property owner will be back with a subdivision application. At that time, he would have to provide drainage, curb, sidewalks. This is a temporary situation which is helping the school to develop.

Mr. Flancbaum asked what the hours of operation are.

Mr. Flannery said 8 am to 9:30 pm.

Mr. Flancbaum asked if lighting is proposed.

Mr. Flannery said no. There is a shul here but there will be no parties or Simcha hall.

Mr. Flancbaum is concerned about the students walking at night with no sidewalks or light. He asked if fencing could be provided in the front as well.

Mr. Flannery said there is a retaining wall at the front of the property so there is a physical barrier. The applicant would prefer not to fence the front of the property. The rest of the property will be fenced.

Mr. Flancbaum asked if the trailers will remain.

Mr. Flannery said the dilapidated trailer has been removed. The other trailer would be used for the shul and office. The house would have the classroom and office. The shul would be used for classes as well.

Mr. Herzl asked if there is a pathway from the house to the trailer.

Mr. Flannery said no, but they would provide one.

Mr. Herzl opened to the public.

Mr. Avi Grossman, 9 Jule Court, was sworn in. He lives across the street and claims he and his neighbors did not get noticed.

Mrs. Morris confirmed notice was sent.

Mr. Grossman is against this application. He would like to see the property stay residential.

Nathan Schlesinger was sworn in. He doesn't believe this is a different application. The owner was only changed to one of the rabbi's that works at the school.

Mr. Jackson said the last application did not have a shul associated with it.

Mr. Schlesinger is not against this application. He only asked that certain things get done including cleaning up the property and a 6 ft fence be installed. He is concerned there will be a dormitory. He asked how they can ensure there will be maintenance on the property and if not, who can enforce that. He wants to make sure things are in place and that somebody is held responsible.

Mr. Jackson has in his notes that this is a temporary approval. There is no such thing as a temporary approval. You are either approved or you are not approved.

Mr. Flannery said the applicant is willing to accept a condition that it is only for two years. The owner already has a sketch of the subdivision he plans on doing in a few years to build four homes.

Mr. Jackson asked why he doesn't come in with that application now so there isn't any issue with res judicata.

Mr. Flannery doesn't think there is an issue as it is a different application.

Mr. Marcel Rottenberg, 135 Downing Street, was sworn in. He doesn't see how this application is any different. One of the trailers was already being utilized as a shul. He said there are people sleeping there.

Mr. Flancbaum said the applicant is testifying there will not be a dormitory there. The plans show a classroom, kitchen, office, dining room, and a shul.

Mr. Rottenberg asked where the fence is proposed.

Mr. Flancbaum said it will be along the entire property except the front. Most of the fence is within the front yard setback so the highest they can do is 4 ft.

Mr. Yechezkel Piotrkovski, 23 Tuscan Terrace, was sworn in. He is the owner of the property. He is very upset as to the condition the property was in and has put someone else in charge since. He has made it very clear to the school that they only have a maximum of two years before he submits an application to subdivide the property.

A motion was made and seconded to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Herzl, Mr. Flancbaum

No: Mr. Hibberson, Mr. Cautillo

**7. PUBLIC PORTION**

**8. APPROVAL OF BILLS**

**9. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted

Sarah L. Forsyth, Planning Board Recording Secretary