**ZONING BOARD OF ADJUSTMENT AUGUST 1, 2016**

**SPECIAL MEETING**

Meeting advertised in accordance with the NJ Sunshine Law.

Roll call: attending: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

Absent: Mr. Lankry, Mr. Ribiat

Also attending: Jerry Dasti, attorney

Terry Vogt, engineer/planner

Jackie Wahler, Court Stenographer

Fran Siegel, Secretary

Salute to the Flag.

Motion to approve minutes of July 25, 2016 – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Halberstam

**Appeal # 3966 – Newport Estate, LLC,** Newport & Bellevue Avenue, Block 496 Lot 2, Block

498 Lots 1 & 10 and Block 501 Lot 1.01, R-40 zone. To construct single

family homes using the R-12 requirement

Secretary read report.

**From: Terry Vogt, Engineer/Planner – May 31, 2016**

The property is within the R-40 single family residential zone. The applicant seeks a bifurcated use (density) variance in accordance with the UDO to permit future subdivision of these properties in accordance with R-12 single family residential zone standards. If approved, a major subdivision application per R-12 standards would be filed for up to 31 residential lots as a future application.

Adam Pfeffer, attorney represented applicant. This is a bifurcated use variance application to create 12,000 square foot lots in a R-40 zone.

Brian Flannery, sworn**.**

Board accepted his credentials**.**

A-1 copy of tax map

A-2 conceptual

A-3

Mr. Flannery reviewed Mr. Vogts review letter. They are only her for a “D” variance to allow single family homes in an R-40 zone on 12,000 square foot lots. The land is approximately 12 acres. The area has well and septic. The town is working on a Master Plan update. 12,000 square foot lots make sense. This is a bifurcated application and asking for a use variance to create 12,000 square foot lots in an R-40 zone. Schools are a permitted use in this zone. Surrounding development is schools and residential. Permitted is 1.1 dwelling units per acre and they are asking for 2.6 units per acre. If the Board doesn’t vote favorably on this application he would say that there would be schools. The only way to get public sewer and water is for smaller lot sizes. Cross Street has public water. Sewer would be on James Street which is about a mile away. All the lots shown on A-1 are serviced by septic. There are currently 21 lots and one has an approval for a school. There would be maybe be 60 conforming lots and nobody is going to build on 40,000 square foot lots. This is a unique area, it joins Jackson Township. It has access to Cross Street which is a County Road and will accept the additional traffic. The housing demand in Lakewood has not been met. There will be negligible detrimental impact.   
The only way to encourage residential development would be on smaller lots.

Mr. Ingber said that the streets are dark at night and there are no sidewalks in the area.

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Mr. Flannery – Schools are inherently beneficial and there is a need for them. Newport Avenue is 75 feet wide. There is enough right-of-way to put a road. The applicant would accept any reasonable conditions. Schools are not required to put sidewalks and 4 schools could fit here. This whole area is well and septic. The applicant envisions sewer and water, they haven’t done the study to see if they can justify sewer and water.

Open to public.

Ron Gasiorowski represented objector, Abraham Gobioff, who is a resident in the area.

Mr. Gasiorowski cross examined Mr. Flannery.

Mr. Flannery – The applicant does own half of the property. There are existing homes on the property. Existing problem is that this is a dead end street with 21 existing homes and a school approved by the Planning Board. This is a very narrow roadway. There are only 4 houses on the property.

Andrew Thomas, sworn.

Board accepted his credentials.

O-1 aerial zoning map

O-2 – O–12 photos of homes in the area

Mr. Thomas - Reviewed site and surrounding area. All areas surrounding the subject property is R-40 or A-1. One of the lots he could not get a picture of because the house was so far back and wooded. He stated that the character of the neighborhood would change. Street addresses are on the photos. These lots are 1- 2 acre sites. This is a rural estate area. The houses in this neighborhood are 3 – 4,000 square feet and this would be detrimental to the zone and out of character with the neighborhood. The proposal does not conform to the Master Plan. 12,000 square foot lots are not appropriate.

Alexander Litwornia, sworn. Traffic Engineer. Streets are 16-18 feet wide. They are not required to pave both sides of the street

Mr. Vogt - They have to install sidewalks along property frontages of Newport Avenue and Bellevue Avenue.

Mr. Litwornia – traffic will increase to from 50 trips a day per day to over 360 trips a day.

Mr. Pfeffer - Do not have a set number of units. All these issue will be addressed at time of subdivision.

Open to Public.

Adam Lieberman, 14 Esti Circle, affirmed. Not in favor of this application. There is an inability to turn onto Cross Street coming out of Newport Avenue. It is not feasible to put a school where you cannot get out. It is a danger once you are trapped in there. Cross Street is a County Road. I live on a 2 acre lot.

Richard Errickson, 253 Newport Avenue, sworn. In favor of this application. Would not want to see schools here. Fear that it will turn into a school zone which would be worse than residential.

Abraham Notis, 963 Bellevue Avenue, affirmed. Lakewood needs housing that’s why people are moving to Jackson & Toms River. This is a quiet neighborhood. Not in favor of this application.

Joseph Feldman, 160 Doria Lane, affirmed. This is a beautiful wooded area. Should not be threatened that schools will be there. This should not be approved.

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**SPECIAL MEETING PAGE 3.**

Abraham Gobioff, 830 Wenstrom Avenue. This area is tranquil and serene and rural. This neighborhood is all large lots. There is only one way in and one way out. The road is approximately 25 feet wide with no shoulder. People are building large homes with 2 basement apartment rentals. They are asking for 32 homes which will be 64 families in a small part of this rural area. This will cause a tremendous hardship for the families living there now. Implored the board to not approve this.

Adam Buckwald, 825 Wenstrom Avenue, affirmed. They want to live life and not choke. Not in favor of this application.

Deborah Erikkson, 253 Newport Avenue, sworn. The town is changing. 2 houses on an acre is not going to make a difference. Do not want to look at schools.

Closed to Public.

Mr. Flannery – more houses are going to in and schools will be built. If approved they will come back and show the traffic and the sewer and water.

Mr. Naftali – Lakewood does need single family homes. Something has to be built here.

Mr. Halberstam - R-12 does not fit in this area. 40,000 square foot lots is not going to happen.

Mr. Gonzalez – There are now 2 schools that have gone up on Chestnut Street and one with a double trailer. Would rather have residential housing than the schools that are developing. He is living that right now.

Mr. Flannery – 15,000 square foot lots would be 24 lots.

Motion to approve minimum of 15,000 square foot lots – Mr. Naftali

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Ingber, Mr. Gonzalez, Mr. Halberstam

Nayes: Mr. Halvorsen, Mr. Mund

Recess.

**Appeal # 3969 – Yeshivas Ohr Yissochor Academy,** 350 Cross Street, Block 529 Lot 1,

Block 530 Lot 1, R-40B zone

Secretary read report.

**From: Terry Vogt, Engineer/Planner – July 18, 2016**

The applicant proposes to construct a one-story school with basement and a gymnasium on the referenced site which currently contains an existing two-story building, an existing one-story building and an existing paved basketball court. The structures are indicated to remain. The applicant is requesting preliminary and final major site plan approval.

Chairman announced that the planner and attorney have to leave by 10:00 P.M.

Edward Liston represented applicant. This is presently a non-conforming use, however 14 years ago when this school was started it was a permitted use. A few years ago the school use was taken out of the zone.

A-1 rendering of plans submitted

A-2 cover sheet of plans submitted

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A-3 architectural elevation

A-4 Aerial photo

Mr. Flannery described the neighborhood. It is 3.6 acres. Currently there is an existing school on the site. The property is on Cross Street. Fairways community to the South and west of the site. Property is in the R-40B zone. The R-40 zone was changed to R-40B and eliminated the permitted use of schools. Asking for a “D” Variance for an inherently beneficial use. This is an existing pre-conforming use which predates the ordinance. There is a study hall and a basketball court in the back. This is an expansion of an existing permitted use. This is a boy’s high school. There is currently 4 classrooms and will remain 4 class rooms. Same amount of students and same staff amount of staff but in a new nicer facility. Maximum staff would be 20. Located the gymnasium building and the school up towards Cross Street to provide as much buffer as possible to the adjoining neighbors. The amount of water flowing will be reduced by the storm water management facility. The entire site is surrounded by paper streets. Taking an old house that is now a school and the goal is to get out of the start-up house and get into an appropriate facility with indoor recreation. Reviewed Mr. Vogt’s report.

Mr. Halberstam – the school is part of the next lot also?

Mr. Flannery – this application does not incorporate the other property.

Mr. Vogt – There is a right-of-way which abuts the property.

Mr. Flannery – there are trailers on the site now but are not being used.

Mr. Liston – they are not being used now but will use them during construction if needed. This is an existing school. The ordinance was changed last May and they removed schools as a permitted use. The school was existing prior to the ordinance change.

Noach Hackerman, affirmed. Showed where the existing trailers are on the site. This is not a complete site plan.

Mr. Dasti – the application has been deemed complete.

Mr. Flannery – The existing buildings will not be demolished, they will be used for administrative office and study hall purposes. They need County approval for the access and egress to the site. Proposed school is 9,295 square feet. The existing school building is 50 x45 and two stories. The school will have an unfinished basement.

Ron Gasiorowski represented Fairways of Lakewood.

Mr. Flannery – the applicant has indicate that the existing structures will be for remedial issues.

Will satisfy Mr. Vogt’s comments.

Mr. Halberstam – was there a campus ordinance approved on this site?

Mr. Flannery – The campus ordinance was approved on the east side of Cross Street.

Mr. Liston - Not asking for any bulk variances.

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**SPECIAL MEETING PAGE 5.**

Mr. Hackerman – the problems that Mr. Hobday had with the parking etc. we satisfactory addressed. Mr. Hobday said that he was fine with this. His students do not stay overnight. Had a meeting with Mr. Hobday and he was okay with it. The building is being used right now as a dormitory for another Yeshiva. They have nothing to do with us. Never was us and we are not there at night. They have a lease agreement with the adjoining Yeshiva. They are not part of the future building. Don’t know how many dorm rooms. They have their own approvals. He has not stepped foot in the building in about 2 years. Have been renting the building for about 4 years.

They were there and operational prior to the zone change. The building that they have now is 4 classrooms. Not part of the new building. It is a rental. Nothing to do with the Yeshiva. Have been renting the building about 4 years. Our students are 9-12th grade. Yeshiva next door is a Bais Medrash and a dorm. They rent one building from him. The building and the house in the front is not his. Lot 8 is vacant.

Mr. Gasiorowski cross examined Mr. Hackerman.

Mr. Hackerman – the adjacent school is completely separate in every single aspect. The basement will be used as a dining room.

Mr. Gasiorowski – he said that the basement would be unfinished.

Mr. Hackerman – The intent for the basement is for a dining hall.

Mr. Flannery – thought the plans showed all the details. Part for dining hall and the rest for storage. Don’t know if there is a kitchen. Plans do not show a kitchen on the first floor. Some schools have their lunches catered. The plan says that there is 7,000 square feet of useable space in the basement. The gymnasium is 61 x 117. The plan show 22 parking spots. The parking requirement is 1 per classroom and 1 per office. The parking per ordinance is 18 spots. They do not plan on increasing the student body. There is no parking shown for the gymnasium area because the staff will be parking in the parking area. They will have the same staff and the same number of students. They will provide satisfactory evidence to the Zoning Board engineer that the seasonal high water table will be a depth of at least 85.

Mr. Gasiorowski cross examined Glenn Lines, engineer/planner sworn. A-1 & A-2 was prepared by him.

Andrew Thomas, sworn.

O-1 Aerial Map

O-2 photos from Google Earth

Mr. Thomas – Application is for Block 529 Lot 1 and Block 530 Lot 1 – additional lots owned by the applicant are Block 528 Lots 1 & 8 also owns Block 525 Lot 1.02 and has a single family house on it.

Mr. Gasiorowski - Mr. Hackerman represented that he didn’t own any other lots. The other lots cannot be used now or in the future with this application.

Mr. Thomas – The ordinance created the zone R-40 B which includes the Fairways and the golf course. No other areas were changed. Also includes a Yeshiva and a single family house. The change was that they eliminated Schools as a permitted use. This is a use variance and not an expansion of an existing non-conforming use. In 2002 the Yeshiva did not own the adjacent

properties. No buffer along the property line and the side property line. Planned Educational

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Campus is not permitted in this zone. This site is not particularly unique or suitable to allow this expansion.

Mr. Gasiorowski - His position is that this is creating an entirely new use. It is not an expansion of a non-conforming use.

William Hobday, 30 Schoolhouse Lane, sworn. Resident of Fairways Community. Member of Board of Directors. Statement absolutely false – was never in agreement with Mr. Hackerman.

Alexander Litwornia, traffic consultant, sworn. There has not been a traffic study and there is not a completed circulation plan.

Open to Public.

Frederick Robison, 79 Eagle Ridge Circle, Sworn. Asked the board to deny. Too many inconsistances.

Thomas Gatti, 547 Bennington Lane, sworn. Not in favor of this application.

Heshy Pinter, affirmed. Teacher at the school for 10 years. The school is a high school from grades 9 – 12. They accept only 16 boys per class. They try to be good neighbors. The school now is in primitive conditions. Asked the board to please grant this new building.

George Forrer, 78 Rosewood Drive. Sworn. These kids started a fire in the wood right behind his house. A report was made to the police. Supervision is terrible. He and his neighbors have called the police many times. They play basketball after 10 P.M. He asked for a fence and the lights from the basketball court shine in their windows. Not in favor.

Richard Gaines, 87 Eagle Ridge Circle, sworn. Am not proud of this town anymore. We are all concerned citizens. Please do not approve this application.

Joshua Sukenik, 140 Powderhorn Drive, affirmed. Teacher at the school for 12 years. They are teaching out of a house. They need a school building. There is ample parking.

Joseph Paler, 133 Jenna Court, affirmed. Teacher at the school. We need a proper school for our children. Please approve this application.

Pat Robison, 99 Eagle Ridge Circle, sworn. This new proposed school is directly behind her house. The kids have come to my house and look through our windows. The school should not be in a neighborhood with seniors.

Connie Fossa, 86 Rosewood Drive, sworn. This plan is an insensitive plan to the senior development around it and should not be approved.

Closed to Public.

Ed Liston – School is needed, it is an inherently beneficial use. The gym is an accessory use to the school.

Mr. Flannery – will make sure that the lights are shielded for the basketball court and will construct a 6 foot vinyl fence around the perimeter of the property. Will also agree to a 8 to a 10 foot double row of arbivitae. They intend to keep basketball court and will shield the lights.

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Mr. Flannery – the plans show the existing woods remaining 200 foot deep except where the basin is. They will also agree to drip irrigation. They also agree to no lights on the basketball court. All trailers will be removed once the construction is done. There will be sidewalks along Cross Street.

Mr. Vogt – Would want any conditions of that 2002 approval to be incorporated in this approval.

Motion to approve with conditions

1. A 6 foot vinyl fence to be constructed bevor construction commences,
2. 2. Never to use the adjacent property for the expansion of this school.
3. Buffers for the wooded area will remain except where the retention basis is going.
4. Double row of arborvitae, 8 – 10 feet high with drip irrigation
5. 2002 approvals from the planning board resolution will remain in effect
6. No lights on the back or left side of the gym building,
7. All lights will be shielded now other than security lights,
8. The circulation plans will include additional 10 angled parking spaces,
9. All trailers will be removed upon issuance of the certificate of occupancy,
10. Sidewalks along Cross street
11. Sidewalks on the interior
12. - Mr. Gelley

Second – Mr. Ingber

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Ingber, Mr. Gonzalez, Mr. Halberstam

Nayes: Mr. Halvorsen, Mr. Mund

Resolutions

**Appeal # 3890A – 1**85-187 Ridge Ave, Block 238 Lot 14, Amended resolution

Motion to approve – Mr. Gelley

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ingber,

Mr. Gonzalez, Mr. Halberstam

**Appeal # 3917 – Primeland Holdings**, James Street, Block 366 Lot 1, M-1 zone. Resolution to deny a use variance to allow duplexes and an existing commercial warehouse to remain on site.

Motion to approve – Mr. Halvorsen,

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Halvorsen, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3961 – Tower Builders**, 415 E. 5th Street, Block 236 Lot 19, R-7.5 zone. Resolution to approve a duplex on an undersized lot – required 10,000 square feet – approved 9,888.

Motion to approve – Mr. Mund

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Halvorsen, Mr. Mund, Mr. Naftali, Mr. Ingber, Mr. Gonzalez,

Mr. Halberstam

**Appeal # 3964** – **Madison Holdings, LLC,** Block 236 Lots 23 & 24, R-7.5 Resolution to deny a use variance for a triplex.

Motion to approve – Mr. Gelley

Second – Mr. Naftali

Roll call vote: affirmative: Mr. Gelley, Mr. Naftali, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3965 – D & L Management**, East County Line Road, Block 104.02 Lot 9 OT Zone. Use variance to deny the construction stacked townhomes.

Motion to approve – Mr. Halvorsen

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

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**SPECIAL MEETING PAGE 8.**

**Appeal# 3874AA – Rishon Associates, LLC**, Block 490 Lots 6, 9 & 41. Resolution to amend site plan for building coverage of 35% where 30% is allowed.

Motion to approve – Mr. Gelley

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3960 – Brookside Equities,** No. Oakland & Cherry Street, Block 189, Lot 134 & 168, R-10 zone. Approved use variance and subdivision for duplex.

Motion to approve – Mr. Gelley

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3970 – Success Homes Capital**, 800 E. County Line Road, Block 226 Lot 1- R-10 Zone. Resolution to approve the construction of a duplex on an undersized lot – required 12,000 – approved 9,926. Zero lot line subdivision approved.

Motion to approve – Mr. Mund

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3975 – GM Trust,** 12 Courtney Road, Block 137 Lot 9, R-10 zone. Resolution to approve the construction of a handicapped accessible addition needing bulk variances.

Motion to approve – Mr. Halvorsen

Second – Mr. Gelley

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3981 – Joseph Rosenbaum,** 837 East End Avenue, Block 208 Lot 176, R-10 zone

Resolution to approve the construction of a duplex with variance approved for side yard setback.

Motion to approve – Mr. Gelley

Second – Mr. Gonzalez

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3983 – Samuel Dancinger –** 652 E. 7th Street, Block 223 Lot 22, R-10 zone. Resolution to approve the construction of a single family home with variances for 2 front yard setbacks of 25 feet.

Motion to approve –Mr. Gelley

Second – Mr. Mund

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

**Appeal # 3984 – Moshe Neiman,** 1183 Buckwald Court, Block 27 Lot 1.07, R-12 zone. Resolution to approve the construction of a single family dwelling with side setbacks of 9 feet and 11 feet where 10 feet and 15 feet approved.

Motion to approve – Mr. Gelley

Second – Mr. Halvorsen

Roll call vote: affirmative: Mr. Gelley, Mr. Halvorsen, Mr. Mund, Mr. Gonzalez, Mr. Halberstam

Motion to pay bills.

All in favor.

Motion to adjourn.

All in favor.

Meeting adjourned at 11:20 P.M.

Respectfully submitted,

Fran Siegel, Secretary