

I. 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 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. Advance written Notice has been filed with the Township Clerk for 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 the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Franklin, Mr. Fink, Mr. Neiman, Mrs. Koutsouris, Mr. Schmuckler, Mr. Percal

Mr. Neiman announced that Committeeman Miller was also present.

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

Mr. Neiman announced a change in the agenda and that is that the resolutions will be memorialized at the beginning of the meeting instead of at the end. Mr. Jackson added that a procedure has been implemented which there are deadlines when the minutes and the resolutions are due from the attorney and the applicants attorney has a deadline in which to request changes. This is another way in which the applicant's attorney can request changes after the resolutions are mailed out to the members.

Mr. Neiman announced that Mr. Banas had arrived.

4. MEMORIALIZATION OF RESOLUTIONS

1. **SP # 1899** (Variance Requested)
Applicant: Yeshiva Yesodei Hatorah
Location: South Pershing Avenue and Towers Street
Block 806 Lots 1 & 8
Block 821 Lot 5

Block 822 Lot 4
Preliminary and Final Major Site Plan for proposed school, dormitory &
faculty housing and subdivision into 15 lots

Motion was made by Mr. Franklin, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

2. SD# 1650 (Variance requested)
Applicant: Scott Wegeman
Location: 766 Albert Avenue, north of Salem Street
Block 1159 Lot 62
Minor Subdivision for 2 lots – 1 flag lot

Motion was made by Mr. Franklin, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

3. SD # 1654 (Variance requested)
Applicant: Shmuel Perlstein
Location: 179 Spruce Street – east of Cypress Avenue
Block 778.01 Lot 18
Minor Subdivision for 2 lots – 1 flag lot

Motion was made by Mr. Franklin, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

4. SD# 1655 (Variance requested)
Applicant: Aryeh Weinstein
Location: 5 North Apple Street, north of East County Line Road
Block 172 Lot 17
Minor Subdivision to create 2 lots

Motion was made by Mr. Fink, seconded by Mr. Franklin, to approve

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

5. SP # 1911 (Variance Requested)
Applicant: Dr. Israel England
Location: Kennedy Boulevard & Princeton Avenue
Block 141 Lots 6 & 7
Preliminary & Final Site Plan for proposed medical office to realign lot lines

Mr. Penzer said there was an issue that they have come across in which the square footage that their engineer thought was in the building is much less than the actual square footage. In addition, their engineer took a conservative approach and counted a breezeway as part of the square footage which is not a building and the UDO does not include that as part of the floor area of a building. Mr. Penzer said based on that they need less parking spaces than they have. Mr. Vogt reviewed it and submitted a report to the board. Mr. Jackson feels there is a notice issue and Mr. Penzer said it is his opinion that it is not because it is a clear issue of how many square footage it is and it happens to be less square footage so they need 4 less parking spaces. Mr. Vogt agreed and issued a letter dated March 16, 2009 and they have looked at the architectural plans and looked at what the engineer gave him and based on that, because each building functions independently, each building is going to have its' own separate office, waiting area and rooms. The breezeway is not serving any other function besides having a shelter for people who are going to be walking up the main entrance and if you look at the code of the UDO, it excludes breezeways which would make it 19 parking spaces.

Mr. Jackson said the issue with the notice was if there was a material change to an action by the board it requires notice to the surrounding property owners. He said the board has to determine is whether going from 23 spaces to 19 spaces is a material component of the application and the board's decision and if it is than the notice issues comes into play because you are changing what the board's decision was without giving people who might have been at the meeting an opportunity to speak on the changes. Mr. Penzer said the difference is now they have no variances. Mr. Neiman gave his opinion and said at the hearing the board did not even think they needed the 23 and some members were fine with the 19 spaces. It is his opinion that this would be ok without a notice. Mr. Banas asked what item are they discussing and Mr. Neiman said the resolution for memorialization. Mr. Banas asked Mr. Neiman if he recused himself from that hearing and Mr. Neiman said he had and he is not voting on this, he is just giving his opinion. Mr. Banas said offering opinion is contrary to procedure and Mr. Neiman said no problem.

Mr. Banas had a e question on this and said the discussion they had on this application stemmed particularly about the number of parking spaces and without the plans presented in front of them at this time, he thinks they should table the matter until they have plans in front of them and he made the motion for same.

Mr. Penzer said the plans were before the board at the same time but it was misread as to the square footage. The same plan that was before you then is before you now but the question was the square footage was miscalculated and that the breezeway was counted incorrectly in the square footage. Mr. Jackson said there is also a provision that talks about mistake, inadvertence etc. and it can be corrected but the thing that makes this difficult to him is that apparently the correct figures don't require that many parking spaces, so there are 2 concepts; the reconsideration concept and the mistake concept. Mr. Banas said he still suggests that without the plans, he cannot make a rationale decision and so he moves that they table this until then.

Mr. Fink asked Mr. Jackson for his opinion again on this because he said after reviewing this; he does not see any issues why this needs to be rescheduled. Mr. Neiman said they have a motion on the table and said he is waiting for a second, but no one has come forward yet.

Mr. Kielt announced that Mr. Herzl and Mr. Akerman have arrived.

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MEETING**

**TOWNSHIP OF LAKEWOOD
REGULAR**

Mr. Schmuckler said he feels very comfortable voting on this without the plans and asked if there was a legal problem with the board acting on this without the plans. Mr. Jackson explained the concept again. The board can amend a resolution but it becomes a question of degree when it crosses over the line into a material change then you have to have notice and you have to have a hearing. The board has to determine whether the change is material (23 spaces to 19) because there was a mistake based on the square footage. If it is a significant condition it can be changed administratively without hearing. It is really a notice issue. Mr. Jackson said he thinks it would be except to the fact it doesn't require 23, it requires 19 and that makes it a conforming application so that is why he does not know if this is a material change and that was an important part of the board's decision.

Mr. Percal asked if it was now a conforming application and Mr. Vogt said yes. Mr. Percal said if it is conforming, why would they anticipate opposition. Mr. Schmuckler said he also recalled the application and said there was no one opposing the application at that time.

Mrs. Koutsouris asked Mr. Penzer when the originally made the application, it was for 19 spaces and the square footage of the building now calls for 19 spaces and it was just an error in the calculation of the square footage and Mr. Penzer said absolutely. Mrs. Koutsouris said she remembers the plans with detail, and the board had questions about the amount of offices and the seating area and she recalls the issue was based on the square footage and because that was a mistake, she would like to convey she does not have an issue with making the correction.

Motion was made by Mr. Herzl, seconded by Mr. Percal, to amend the resolution and approve.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; abstain, Mr. Neiman; abstain, Mrs. Koutsouris; yes, Mr. Akerman; abstain, Mr. Banas; no, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Kielt was instructed to change the resolution to read 19 spaces instead of 23 spaces.

6. **SD# 1567A** (Variance requested)
Applicant: S&H Bldrs (formerly Kelli Darlymple)
Location: Whitesville Road and Lafayette Boulevard
Block 252 Lot 4.02 (new lots 4.03, 4.04)
Amended Minor Subdivision to eliminate proposal for water main extension on Whitesville Road

On Hold per the applicant's attorney Mr. John Doyle

7. **SP# 1903** (No variance requested)
Applicant: Seventy GSP Assoc. LLC/Garden Walk
Location: Route 70, west of Garden State Parkway
Block 1160.01 Lots 41.20 & 219
Block 1160.10 Lot 219
Block 1160.11 Lots 1, 2, 3 & 4
Preliminary & final Major Site Plan -472 apartments, clubhouse, bank, restaurant and retail

Mr. Kielt said he received information that there were some changes to the resolution and Mr.

Jackson agreed and suggested they table it until April.

8. SP# 1801A (No variance requested)
Applicant: Yeshivat Keter Torah
Location: Apollo Road, west of Squankum Road
Block 104 Lots 57 & 60
Amended Site Plan for proposed school

Motion was made by Mr. Franklin, seconded by Mr. Miller, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; abstain, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

- 9 SD # 1649 (No variance Requested)
Applicant: Lakewood Realty Assoc. /EZ Storage
Location: New Hampshire Avenue, north of Route 70
Block 1160.03 Lot 44
Minor Subdivision – two lots

On Hold per the applicant's attorney Mr. John Doyle

10. SD # 1656 (Variance Requested)
Applicant: Stanislawa Rybska
Location: 768 Albert Avenue, north of Salem Street
Block 1159 Lot 61
Minor Subdivision – two lots (1 flag lot)

Motion was made by Mr. Franklin, seconded by Mr. Schmuckler, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; abstain, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; abstain, Mr. Banas; abstain, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Kielt said there were 3 changed to the agenda. Items #11, #12 and #13, all Shmuel Friedman, were withdrawn per letter from the applicant's attorney. They will be back at a future tech meeting with a revised application.

5. NEW BUSINESS

PLANNING BOARD MEETING
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REGULAR

1. SP # 1915 (Variance Requested)
Applicant: Bnos Orchos Chaim
Location: 388 Chestnut Street, west of New Hampshire Avenue
Block 1087 Lot 15
Amended Preliminary and Final Site Plan for addition to existing school

Mr. Vogt prepared a letter dated March 12, 2009 and is entered in its entirety. The applicant is seeking Amended Preliminary and Final Site Plan and Variance approval. The applicant proposes to construct an approximately 15,500 square foot two-story addition (8,380 SF on the first floor and 7,120 SF on the second floor) to an existing 6,983.5 square foot one-story school building. The proposed addition will contain ten (10) classrooms, two (2) tutor rooms, one (1) library, one (1) multi-purpose room, and one (1) office. The existing building will continue to contain nine (9) offices, four (4) classrooms, and one (1) multi-purpose room. The result will be a total of fourteen (14) classrooms, ten (10) offices, two (2) tutor rooms, two (2) multi-purpose rooms, and one (1) library for the complex. An existing one-way through parking lot is proposed to be modified to contain twenty-six (26) parking spaces, two (2) being handicapped accessible, and a school bus drop-off/pick-up area. Access to the site is provided from Chestnut Street, a County road. The tract consists of one (1) lot that totals 1.408 acres in area. The site contains an existing one-story school with parking lot, playground areas, pool, shed, and classroom trailer. The existing shed, pool, and classroom trailer would be removed to allow for the addition. Site improvement modifications are proposed to accommodate the addition. The property is located in the southern portion of the Township on the south side of Chestnut Street, west of the Route 70 and New Hampshire Avenue interchange. Vacant land borders the site to the west. An existing dwelling is across the street to the north and there is an existing dwelling east of the site. A Bank of America is located to the south with its neighboring access drive immediately to the east of the tract. **Waivers.** The following waivers have been requested from the Land Development Checklist: B2 -- Topography within 200 feet thereof. B4 -- Contours of the area within 200 feet of the site boundaries. C13 -- Environmental Impact Statement. C14 -- Tree Protection Management Plan. The indicated reason for waiver requests on B2 and B4 is that access to neighboring properties has been denied. A waiver has been requested for an EIS because of the developed nature of the site. *Per Section 18-820 of the UDO, and EIS is only required for major site plans including 5,000 square feet or more of commercial space, and may not be necessary.* A waiver has been requested from a Tree Protection Plan since no trees of significance exist on the site. *Per our interpretation of the UDO, a Tree Protection plan is only required for major site plans if three (3) specimen trees or ten (10) 12" or greater caliper trees are present. Similarly, a plan may not be necessary. In any event, we support the requested waivers as required.* **Zoning.** The site is situated within the B-5, Highway Development Zone. Per Section 18-903 E. 1. j., of the UDO, under "permitted uses" in the B-5 Zone cites "Private Schools" as a permitted use in accordance with the requirements of Section 18-906 and the bulk standards of Section 18-903 E. 3. **Fact.** According to Section 18-903 E. 3. a., the required minimum lot area is 2 acres. The subject site contains 1.408 acres. The lot area is an existing nonconformance. **Fact.** According to Section 18-903 E. 3. d., a rear yard setback of 50 feet is required. The proposed rear yard setback is incorrectly listed as seventy-eight feet (78'). The proposed rear yard setback must be corrected, but it appears the building addition will comply with the requirement and no variance will be necessary. *The proposed rear yard setback is at least 55.4'. Therefore, the building addition complies with the rear yard setback requirement and no variance will be necessary.* According to Section 18-903 E. 3. e., a side yard setback of 50 feet is required. The proposed side yard setback for the addition is approximately twenty feet (20') and a variance has been requested. *Testimony for this variance request shall be provided at the public hearing.* Maximum Lot Coverage shall be added to the zoning schedule of the bulk

requirements. It appears the site will comply with the ordinance since the allowable coverage is 90%. *The Maximum Lot Coverage has been added to the zoning schedule of the bulk requirements. The proposed lot coverage for the site is fifty-seven percent (57%), well below the allowable coverage of ninety percent (90%).* Buffer requirements shall be addressed in accordance with Section 18-906 A. Variances or waivers may be necessary. *Testimony shall be provided at the public hearing.* The parking requirements shall be corrected. Our calculations indicate that twenty-three (23) parking spaces are required, one (1) space for each classroom, tutor room, library, meeting room, and office. Twenty-five (25) parking spaces are proposed. *According to the revised architectural plans based on the two-stories now proposed, we calculate that twenty-six (26) parking spaces are required, fourteen (14) for the classrooms, ten (10) for the offices, and two (2) for the tutor rooms. Twenty-six (26) parking spaces are proposed on the revised site plan. Parking shall be provided to the satisfaction of the Board.* Review Comments- Site Plan/Circulation/Parking. Dimensions to the hundredth of a foot shall be provided to the proposed corners of the building addition. *This requirement is outstanding and must be met to insure the addition is constructed in the correct location.* Per our 2/25/09 site inspection of the property, a number of existing site improvements (i.e., lighting, fencing, paving, etc.) appear to be in need of repair. Testimony should be provided regarding proposed repairs (if any). *The applicant's engineer has indicated that testimony will be provided at the public hearing.* Virtually the entire existing sidewalk along the parking lot has settled and dropped below the existing top of curb elevation. This sidewalk appears to be in need of replacement. *On the revised plans the curb and sidewalk discussed above is being replaced.* The proposed improvements and existing improvements to remain need to be better depicted on the revised plans. *Plan clarification matters still need to be better addressed.* A circulation plan is required for review. *A circulation plan has been provided and alterations to the one-way access driveways are proposed to allow school buses to circulate through the site. Testimony should be provided with respect to the potential conflicts with two (2) parking spaces in front of the school. These spaces appear to be in the bus circulation route. A potential solution to address this issue is to designate these spaces as "employees only", and to coordinate parking as needed with bus drop-offs and pick-ups.* Testimony shall be provided regarding the adequacy of the existing trash enclosure with respect to the proposed building addition. *The revised plans propose a new trash enclosure. A detail must be provided.* Curb exists along the entire frontage of the property. Sidewalk does not exist across the frontage of the property and is being proposed as part of this amended site plan application. *Fact.* The general notes reference that outbound survey information has been taken from a 1996 property survey. No information has been provided with regard to how topographic information was obtained. Testimony should be provided by the Applicant's professionals. *The applicant's engineer has indicated that testimony will be provided at the public hearing.* Architectural. An architectural plan was submitted for review. Per review of submitted plan, the building addition will be far less than the allowable height and will match the height of the existing school building. *Even though the revised architectural plans propose a two-story addition, the proposed height will still be below the allowable height.* The architectural plans show only a front elevation view. All four (4) views should be provided. The floor plan implies there may be a basement associated with the addition since stairs are shown adjacent to the vestibule. *The revised architectural plans include all four (4) elevation views. The plans confirm there is a basement, but no floor plan of the basement has been provided. The architect should address this matter.* Information on the existing building to remain must be supplied in order to properly evaluate the parking needs for the site. *The revised architectural plans include information on the existing building to remain.* Information should be provided for utility connections. Location of air conditioning equipment should be shown. Said equipment should be adequately screened. *The building utilities should be addressed by the Architect.* –Grading. We have concerns with respect to the grading for the handicapped parking spaces. We wish to review this matter with the applicant's

engineer. *The revised plans alter the building access and reconstruct a portion of the parking lot to flatten the area where the handicapped parking spaces are located. The applicant's engineer has done an excellent job of addressing the ADA issues.* The site plan indicates exterior stairs behind the building, yet the architectural plans and grading plans show an at grade building access. Clarification is required. *The revised site plan eliminates the exterior stairs behind the building. The grading plan needs to be revised to show the correct elevations for the at grade building access.* Stormwater Management Testimony should be provided regarding proposed stormwater management provisions. A storm sewer system already exists on-site and it is not clear what upgrades are proposed in conjunction with the amended site plan. *A revised Stormwater Management Report has been submitted. The revised design proposes to address the minor increase in stormwater runoff from the additional impervious area created by amending the previously approved Phase II of this site. During our review, we note discrepancies between the latest plans, details, and report. We believe these matters can be easily addressed with a meeting among the professionals.* Landscaping. It appears the existing landscaping in the front yard of the project is being replaced. Testimony should be provided on the proposed landscaping amendments. *The revised plans need to better depict existing and proposed landscaping. It appears there will be some minor alterations to the existing front yard landscaping to account for the proposed site access changes. Testimony should be provided to confirm our assessment.* Except for a proposed row of white pines in the rear of the site, no other screening is provided. Additional screening may be warranted. *The revised plans indicate existing landscape screening in the rear of the site. Testimony shall be provided on screening.* The overall landscape design is subject to review and approval by the Board. *Fact.* The applicant has not provided a six (6) foot shade tree and utility easement along the property frontage, or any sight triangle easements for the proposed project. The applicant must show the easements and should provide legal descriptions and easement language for review. The easements shall be filed as a condition of approval. *The revised plans propose a six foot (6') shade tree and utility easement along the property frontage and a County sight triangle easement at the vehicular exit.* Lighting Testimony should be provided on how the existing site lighting will be altered with the amended site plan. *The applicant's engineer has indicated that testimony will be given at the public hearing.* Utilities. Public water and sewer services will be provided by the Lakewood Township Municipal Utilities Authority. New services are proposed for the addition. *Fact.* –Signage No signage information is provided other than traffic signage. 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 revised plans indicate that only traffic signage is proposed and no free-standing or building-mounted site identification signs. Proposed one-way signs shall be added to the site plan. "Penalty" and "Van Accessible" signs shall be added to the details.* All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with Township ordinance. *Fact.* Existing traffic signage requires relocation/replacement in conjunction with the amended site plan improvements. *The revised plans still require clarification.* Environmental-Site Description. Per review of the site plans, aerial photography and a site inspection of the property, the site is developed. Per our 2/25/09 inspection of the site, the lot contains an existing one-story school building with associated improvements. The school fronts Chestnut Street and has a one-way through circulation system for access and parking. *Fact.* Environmental Impact Statement. The applicant has requested a waiver from submission of an Environmental Impact Statement; contingent upon comments (if any) received from the Environmental and Shade Tree Commissions. 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 following data layers were reviewed to evaluate potential environmental issues associated with development of this property: Known Contaminated Sites (including deed notices of contaminated areas); Threatened and endangered species habitat areas; and NJDEP Landscape Project areas, including known forested wetlands, emergent wetlands, forest, and grassland areas. Per NJDEP mapping, there were no environmental issues found to be associated with this developed property. *Fact.* Tree Management Plan. A waiver from submission of a Tree Management Plan has been requested; contingent upon comments (if any) received from the Environmental and Shade Tree Commissions. It should be noted that there are no trees of significance existing on-site. The applicant must also comply with the requirements for tree protection and removal (if any) as applicable on the site. *Fact.* Construction details are provided on Sheet 9 of the plans. Details include both county and site improvements. *Additional details have been provided with the revised submission.* All proposed construction details must be revised to comply with applicable Township or NJDOT 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 @ 4,500 psi. *The on-site pavement detail on the revised plans is inadequate. A base course must be added. A driveway exit apron detail is required since the driveway apron detail provided only matches the entrance configuration. The handicapped parking space striping detail needs to be corrected for the van accessible configuration shown on the site plan.* Proposed fence details are shown on the plans, but the location of proposed fencing is unclear. *The applicant's engineer has indicated that testimony will be provided on this matter.* Proposed playground details are indicated on the plans. The location of proposed playground equipment shall be addressed. Acceptable safety surface for the existing and proposed playground areas is required. In addition, playground accessibility must be addressed along with any associated details. All play equipment shall meet all required safety standards. *The revised plans indicate existing playground areas to remain. Engineered wood safety surface and landscape tie edging is proposed for the existing playground areas. Playground accessibility ramps and safety matting should be added where necessary.* The plans shall be amended to include handicapped ramp details from sheet 37 of the 2001 NJDOT Standard Details to account for the multiple types of ramps on the project with truncated domes. *The revised plans do not show the correct handicapped ramp details.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Fact.* Outside Agency Approvals. Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Water and Sewer Service (LTMUA); Ocean County Soil Conservation District; and All other required outside agency approvals. *Fact.*

Mr. Penzer Esq. appeared on behalf of the applicant with Mr. Flannery as engineer for the applicant. Mr. Flannery said the application is for a 15,500 sf 2 story addition to an existing school. They are asking for 2 variances, one for lot area; this is an existing school and they are doing the second phase which is a little different from the second phase they got approval for. The other variance requested is for side yard setback; 50 ft. is required and 20 ft. is provided. Mr. Flannery said that setback is to the driveway that goes to the bank and the area of Charlie Brown's but said he thinks the setback that is required in that area does not violate any planning principles with what they are proposing and it allows the expansion of inherently beneficial use and provides needed classroom space and that is the positive criteria. Mr. Flannery said it is his professional opinion that there is no negative impact to the requested variance.

Mr. Neiman wanted to talk about the bus circulation and drop off and Mr. Flannery said they did submit a plan which shows the bus coming in, there is a drop off area and there are 2 spaces that were indicated in the engineer's report that would be in conflict and they will be designated

as employee parking spaces who will not be using those spaces when the bus is coming in. The site has a large driveway which can accommodate the stacking of 3 buses but in schools of this nature, they stagger the buses so that you only have one there at a time and possibly 2 but there is sufficient room to stack 3 buses. They have 26 parking spaces total which is what is required by ordinance. Mr. Penzer said they don't have a problem with overflow parking because the bank is next door and the PTA meetings are at night and the bank is closed.

Mr. Banas said he noticed that at the bank they have a lot of signs that prohibit parking except for their patrons and Mr. Penzer said they don't consider the school a patron, they consider them a neighbor and like the idea that there is someone there at night. Mr. Flannery said the signs are there because of the problem they have with Charlie Brown's. Mr. Banas told Mr. Penzer it might be worth while to get a letter of approval for that from the bank and Mr. Penzer said they will attempt to do that. Mr. Banas asked what would they do if they could not get one and Mr. Flannery said they would have to have a valet method of parking and the school will have to address that but the ordinance says they need 26 spaces and they have provided 26. There are a lot of commercial properties where they can make arrangements with. Mr. Banas said if they have not made those attempts now, how can you ask for approval of the plans and Mr. Penzer said they meet ordinance in regard to parking.

Mr. Fink asked about the curbs and Mr. Flannery said they will have curbs surrounding the front. Mr. Flannery said there is sidewalk existing on site and if there is any damage to it during construction they will repair. Mr. Franklin said the dumpster is going to have to be another 4 ft. wider and he will have to get 2 dumpsters in there because the first of the year they are going to single storage recycling so there will be one for the garbage and one for the single storage recycling. Mr. Flannery said there is an outdoor playground area.

Mr. Banas said there are 2 educational trailers on site now and they are not shown on plans and asked if they planned on eliminating them and Mr. Flannery said yes and all the services will be provided within the building. They will be going beyond the footprint that is currently there.

Mr. Neiman asked about landscaping and Mr. Flannery said there is landscaping on site and they have areas for more landscaping and would agree to supplement as directed by the board engineer. Mr. Neiman said they are not asking for any signage on the site and Mr. Flannery said yes. Mr. Flannery said they will satisfy all the conditions in the report. The existing fencing is in need of repair and they will repair it.

Mr. Neiman opened the microphone to the public

Linda Halm, Pasadena Street, Lakewood was sworn in. She said she travels Chestnut Street every day and said the parking at Tiberias for overflow is probably ¼ mile away without sidewalks between the 2 locations and it is not an easily traveled route.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Miller, seconded by Mr. Schmuckler, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

2. SP # 1913 (Variance Requested)
Applicant: Congregation Tefreth Menachem
Location: 23 High Street, east of Route 9
Block 782 Lot 17
Minor Site Plan for synagogue with mikvah

Mr. Vogt prepared a letter dated March 12, 2009 and is entered in its entirety. The applicant is seeking Minor Site Plan and variance approvals. The applicant proposes to construct a two (2) bedroom dwelling with a synagogue and mikvah at the above-referenced location. Six (6) off-street parking spaces are to be provided on proposed driveways located in the front yard. In addition, an exhibit has been submitted indicating a total of fifteen (15) leased parking spaces from the adjoining school site to the north of the project. Access will be afforded the site by a proposed walkway connecting the existing parking on the school site to the rear of the property. The tract consists of a 50'X140' lot that totals 7,000 SF (0.16 acres) in area. The property contained a two-story frame house (#23) with a frame garage in the rear. The existing buildings have been demolished. The property is located in the central portion of the Township on the north side of High Street, east of Route 9, and south of the Bais Rivka Rochel property. The majority of the adjacent and surrounding property is developed and consists of residential uses. The adjoining lots to the east and west are single-family residential dwellings. A new residential development to the south is on the opposite side of High Street. The Bais Rivka Rochel property borders the site to the north. The property is located in the R-10 Zone District. Single-family detached housing and places of worship including parish house and classrooms are permitted uses. Zoning. The site is situated within the R-10, Single-Family Residential Zone. Per Section 18-902 F. 1. c., of the UDO, "Places of worship including parish house and classrooms." is listed as a permitted use, subject to the provisions of Section 18-905 in addition to 18-902 F. 5. *Fact.* According to Section 18-902 F. 5. a. The required minimum lot area is 10,000 square feet. The subject site contains 7,000 square feet. A variance has been requested for this existing nonconformance. *Fact.* According to Section 18-902 F. 5. b. The required minimum lot width is 75 feet. The property is 50 feet wide and a variance has been requested for this existing nonconformance. *Fact.* According to Section 18-902 F. 5. e. A side yard setback of 10 feet with an aggregate of 25 feet is required. The proposed side yard setback on the east side of the building is 6.67', which is the distance from the side lot line to the proposed deck accessing the first floor. The proposed side yard setback on the west side of the building is 7.17', which is the distance from the side lot line to the proposed handicapped ramp access to the first floor of the building. Therefore, the proposed aggregate of the side yards is 13.84'. Variances must be requested and the bulk requirements corrected in the zoning schedule on the plans. *The revised plans correctly indicate the proposed minimum side yard of 6.67' and the proposed aggregate side yard of 13.84'. The zoning table has been revised accordingly and the side yard variances requested.* According to Section 18-902 F. 5. f. The maximum allowable building coverage is 25%. A variance is being requested to allow a building coverage of 28.7%. This figure should be verified since there are discrepancies between the site plan and architectural plans. *The revised plans stipulate the 28.7% percent building coverage is correct. A variance has been requested from relief of the 25% allowable building coverage.* According to Section 18-905 B. 1. Perimeter Buffer: For properties adjacent to residential properties, if the site leaves a twenty (20) foot undisturbed area then there is no requirements for buffering. If the twenty (20) foot buffer is invaded or disturbed than requirements indicated in 18-905 B. 3 shall be put in place along the invaded area. A variance has been requested from the twenty foot (20') buffer requirement. *The revised plans request a variance from the twenty foot (20') buffer requirement. A five foot (5') buffer has been provided and landscape screening added to the plan.* According to Section 18-905 B. 2. No parking area shall be located closer than five (5) feet to any side

property line adjacent to residential zoned properties. Board on board fence six (6) feet high plus shrubs with a four (4) foot arbor vitae every four (4) feet will be required to hide all parking adjacent to residential properties, unless there is a buffer of greater than twenty (20) feet in which case it shall not require screening. The plans indicate that an existing gravel driveway with an approximate width of ten feet (10') is to remain. The driveway is long enough to allow for the parking of two (2) vehicles in a stacked arrangement. The distance from the driveway to the property line is not indicated, so ordinance compliance cannot be determined. From scaling of the drawing it appears the driveway is too close to the property line. Furthermore, no screening has been proposed. The applicant shall address these issues or request the appropriate variances. *The revised plans abandon the use of the existing gravel driveway. Two (2), three-car driveways are proposed at a minimum distance of five feet (5') from the side property lines. The proposed driveways are long enough and wide enough to allow for the parking of two (2) vehicles in a stacked arrangement with an additional vehicle to the side. Testimony shall be given regarding the screening of these parking areas and whether any variances are required.* According to Section 18-905 C. Other Site Standards: The front yard, exclusive of walkways, pavilion areas, or driveways, shall be landscaped with grass, trees, shrubs, groundcover, flowers, existing vegetation, or any suitable combination thereof. The applicant shall address this matter since no landscaping is proposed. A waiver may be necessary. *Except for areas of landscaping, the revised plans shall indicate that any other pervious areas will be grass.* Review Comments Site Plan/Circulation/Parking
The proposed two (2) bedroom dwelling requires 1.5 off-street parking spaces. The proposed place of worship contains less than eight hundred square feet (800 SF) and the proposed mikvah has less than five (5) changing rooms. Therefore, according to Section 18-905 A. Parking Regulations, no additional off-street parking spaces are required. The proposed project proposes two (2) off-street parking spaces stacked in an existing driveway. *The revised plans propose six (6) off-street parking spaces on two (2) proposed three-car driveways. In addition, fifteen (15) parking spaces are to be leased from the adjoining school site. The applicant should consider adding circulation walkways to the building access points.* Testimony is required regarding refuse removal. *Testimony shall be provided with respect to curb side pick-up.* Curb exists along the entire frontage of the property. A note has been added to the plan indicating that any damaged or deteriorated curb will be replaced as directed by the Township Engineer. The existing curb cut is too close to the property line and the limits of curb replacement to relocate the curb cut must be added to the plans. Sidewalk is being proposed across the front of the project. *The revised plans need forty feet (40') of depressed curb for the two (2) proposed driveways. Therefore, we recommend that the entire fifty feet (50') of curb across the property frontage be replaced.* Various layout discrepancies between the site plans and architectural plans must be rectified. *The only remaining discrepancy noted between the revised site plans and revised architectural plans involve the stairs and deck on the east side of the building. The north arrow shall be corrected on the site plan to avoid any confusion about this location. Our review indicates the locations of the buildings on the adjoining school site are not in the locations shown on the Parking Exhibit Plan with respect to the proposed project. Per our recent site inspection, the school buildings appear to be located further to the east of the site. Additional field information may be necessary for the construction of the proposed access to the leased parking spaces.* Architectural. The architect shall dimension the building to demonstrate the overall height. The current plans exceed the allowable building height. *The revised architectural plans insure the allowable building height is not exceeded.* The proposed elevations do not show all the proposed building access points in all views. This must be corrected. *The proposed handicapped access is missing from the front and rear views on the latest architectural plans.* We recommend that location of air conditioning equipment should be shown. Said equipment should be adequately screened. *Testimony should be provided at the public hearing.* Grading. The grading is incomplete. The current plans indicate runoff being

directed onto adjoining property to the northeast. This matter must be addressed and the provisions of Section 18-822 Soil Removal and Grading complied with. *Minor grading corrections are required to the revised site plan. Testimony shall be provided regarding runoff being directed off-site.* Stormwater Management. The disposition of stormwater runoff must be addressed. The elevation in the rear of the site is lower than the road. Currently runoff is being directed onto adjoining property to the northeast. *Testimony shall be provided.* The architectural plans propose a drain for the basement access landing. No sizing or outlet information is shown for this proposed drain. *The revised architectural plans indicate the proposed drain to be tied into a proposed dry well. A detail with elevations shall be added to the site plan.* The site plan lists an estimated seasonal high water table elevation of 83.5. The basis for this estimation needs to be provided. *The revised submission has provided a soil log which gives the basis for the estimated seasonal high water table elevation.* Landscaping No landscaping or screening has been proposed for the project. At the discretion of the board, buffering should be considered along the side yard property lines. *The revised plans have added 23 proposed American Arborvitae to be planted in the side yards. A six foot (6') wide shade tree and utility easement along with two (2) shade trees has been proposed.* The applicant must provide a legal description and easement language for review. The easement shall be filed as a condition of approval. *Fact.* Utilities. The plans indicate the site will be served by public water and sewer. If possible, the existing connections will be used. The existing water shutoff valve and existing sanitary sewer cleanout are located just behind the curb. *Fact.* Construction Details. Curb and depressed curb details are required for the associated curb replacement along High Street. Pavement repair details shall also be included to account for curb and possible utility connection replacement. *Curb, depressed curb, and pavement repair details have been added to the revised plans.* Dimensioning must be included on the Concrete Driveway Apron/Sidewalk Detail to assure the proposed sidewalk is constructed in the correct location. *The applicant's engineer shall confirm the proposed sidewalk is located the same distance behind the curb as the property two (2) lots to the east. The plan and detail be dimensioned accordingly.* All proposed construction details must comply with applicable Township or NJDOT 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 @ 4,500 psi. *The details have been revised appropriately.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Fact.* Outside Agency Approvals Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Water and Sewer Service (NJAW) prior to occupancy; Ocean County Soil Conservation District (disturbance exceeds 5,000 SF); and All other required outside agency approvals. *Fact.* Contingent upon the Board acting favorably on this application, a revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.

Mr. Penzer Esq. appeared on behalf of the applicant and said they have a signed lease for parking from Bais Rivka Rochel for 20 years, 15 parking spaces. Mr. Jackson suggested it be marked and left with him and the board to go with the resolution. Mr. Jackson said he did not have a change to read it, as well as Mr. Vogt, and marked it exhibit A-1.

Mr. Penzer said this application is only an 800 ft. sanctuary and Mr. Mack originally approved it and told them to knock down the building. After he told them to knock down the building Mr. Mack said he wanted them to go to the planning board. It was Mr. Penzer's legal opinion that they did not have to go anywhere because they are less than 1,000 ft. but regardless, they are here. Mr. Hopkin is the engineer for the applicant and Mr. Penzer said at the last meeting it was commented that there were only 6 parking spaces and they need 10 to make a minyan so they

got 15 spaces from Bais Rivka Rochel. The only thing that is in the sideyard is the railing and the building they built now is less encroaching than the building that was pre existing.

Mr. Hopkin said there are 4 variances requested; one for lot width-50 ft. exists where 75 ft. is required; side yard setbacks on both sides, 10 ft. on each side/25 ft. combined and they have 6.67 ft. and 13.84 ft. proposed. Mr. Penzer indicated that in the existing condition, there is 6 ½ ft. minimum and the garage that was in the back was only ½ ft. off. The lot coverage is 25% allowed and they are at 28.7 % and that is only 250 sf difference between the two. The residential buffer is the other variance where 20 ft. is required and 5 ft. is the minimum proposed but it fluctuates between 5 & 10 ft. and they have added landscaping all along the sides of the building as requested at the last meeting. Mr. Penzer said they are going to replace the 50 ft. of curb across the property frontage. The discrepancy between the stairs and the deck, that is in the side yard and Mr. Hopkin said that is a drafting error in the architectural and he will coordinate that to make sure that does.

Mr. Penzer said they can meet all the other requests that the board's engineer stated in his report. They will fix the sidewalks and replace the curb. The lot width is currently at 50 ft., it is an existing condition. Mr. Jackson said it is a lawful existing lot and they are seeking their variances based on the conditions of that lot in order to make the lot work and be viable for what they need it for. Mr. Penzer said they are less encroaching and a smaller building than what was existing before, so they improved that and did not make it worse, they are making it better.

Mr. Hopkin marked exhibit A2 but did not describe it on record. Mr. Neiman asked if there was handicap accessibility into the building and Mr. Hopkin said there is a ramp along the left side of the building.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Herzl, seconded by Mr. Miller, to approve the application with all the comments in the report and stipulations that were made.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

3. SP# 1898 (Variance requested)
Applicant: Kennedy Ventures LLC
Location: East Kennedy Boulevard, between Lexington & Monmouth Avenues
Block 140 Lots 3 & 5
Preliminary & Final Site Plan – 7,500 sf 2-story office building

Mr. Vogt prepared a letter dated February 10, 2009 and is entered in its entirety. The applicant seeks preliminary and final major site plan approval and associated variances and design waiver to construct a 7,500-square foot two-story office building. The site improvements will include related off-street parking, storm water management, landscaping and lighting facilities. The subject site contains two existing residential structures which will both be demolished as part of this application. The tract is 15,000 square feet in area. The property is situated on the

South side of Kennedy Boulevard East. The closest intersection is Monmouth Avenue. The applicant indicates that the proposed building will contain 7,500 square feet of office space with a full-story basement. The plans note that the basement will be used as storage space only. Access to the office space will be provided by two driveways. The surrounding land uses are generally residential. The following comments in *(bold)* indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated September 24, 2008) Zoning and Waivers The site is located in the Office Transitional Zone District (OT). Office uses are permitted in this zone. The applicant has noted in the site plan application form that they intend to have commercial uses on the site. The applicant should clarify this inconsistency. *Per the applicant's cover letter, the application form has been revised to indicate office for the proposed use.* Variances. The applicant requires variance approval for the following deviations from the OT zone standards: Side Yard Setback. A minimum side yard setback of twelve (12) feet is required and a ten foot side yard setback is requested. *Fact.* Rear Yard Setback. A minimum rear setback of fifteen feet is required and a 7.8 foot rear setback is requested. The applicant must also note on the zone schedule the correct rear yard setback. The applicant notes that the variance requested is eight (8) feet and not 7.8 feet as indicated on the plan. This should be revised accordingly. *This item has been addressed.* Building Coverage. The maximum permitted building coverage is 25 percent of the lot. The applicant has proposed 28.6 percent. The applicant indicates that the variance requested is for lot coverage and building coverage. The OT zone district does not contain standards for maximum permitted lot coverage, only building coverage. *The zone schedule has been revised to list maximum building coverage of 25% and indicates proposed building coverage of 21%. This item has been addressed.* Parking. The Local Development Ordinance sets specific off-street parking requirements for the OT zone district. The requirement is one parking space for every 200 feet of office spaces. The applicant is required to provide 37.5 off-street parking spaces or 38 parking spaces for the proposed office. The applicant has provided 23 off-street parking spaces and noted incorrectly the number of parking spaces required. This is a deficiency of fifteen (15) off-street parking spaces. The plan should be revised accordingly. *The zone schedule has been revised to indicate the 38 spaces required as well as indicating that a variance is sought for the proposed condition of 23 spaces.* Parking Buffer. A five (5) foot solid buffer is required for parking areas that are adjacent to residential properties. The applicant has provided a five (5) foot solid buffer on eastern side of the property and none has been provided on the western side. The land uses of the adjacent western lot should be denoted on this site plan. *Per review of aerial photos, the adjacent western lot appears to be vacant. The applicant must provide testimony.* The applicant must address the positive and negative criteria for the requested variances. Design Waivers. The applicant requires design waivers as follows: Landscape Buffering. The applicant is requesting a design waiver from the Township's buffering requirements. Section 18-803E states that buffers of 25 feet as measured from the property line toward the proposed use shall be provided for all non-residential use. The buffer shall be increased to 50 feet wide where non-residential development is adjacent to residential development. On the site plan application the applicant indicates that a 12-foot setback is provided. Along the eastern edge a five (5) foot buffer is provided from the existing vegetation. The remaining side of the building and parking areas are moderately landscaped and no landscaping has been proposed on the rear of the building. The applicant should indicate their intent to provide additional landscaping around the building. *Per the applicant's cover letter, additional landscaping has been provided around the building. The applicant shall provide testimony regarding proposed landscaping.* These design waivers should be listed on the site plan. *Design waivers do not appear to be listed on the plan.* The applicant should provide testimony addressing the need for the design waivers. The Planning Board has the power to grant exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review if the literal enforcement of

one or more of the provisions is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. *As noted, testimony must be provided in support of the requested waivers.* Review Comments. Site Plan Application. The applicant notes that the lot area proposed on the site plan application is 13,000 square feet. On the site plan, the applicant notes that the subject tract is 15,000 square feet. The applicant should indicate the correct lot area for the subject tract. *This item has been addressed.* Application Waivers. The Board discussed the following waivers at the meeting of August 5, 2008: Environmental Impact Statement. The applicant requested and the Board granted the waiver request for an Environmental Impact Statement for this application. *Fact.* Tree Protection Plan. The applicant requested and the Board denied the waiver request for a Tree Protection Plan for this application. The applicant included on the boundary and topography sheet an indication of trees to be preserved. As proposed, the applicant has not provided a tree protection plan as required. The applicant should provide a tree protection plan in accordance with Section 18-803H. The plan should note the proposed preservation strategies as well as clearly identify the trees to be removed and the compensation provided. This plan will require Shade Tree and Environmental Commissions approval. *Per the applicant's cover letter, a tree protection plan has been submitted. Our office has not received a copy of this plan, though we defer to the Shade Tree and Environmental Commissions in general, and have no objection to the tree protection plan being included as a condition of any forthcoming approval.* Signs. The applicant should note whether a sign is proposed for the subject tract. In addition, the applicant should note the proposed sign location, dimensions, and proposed illumination. A proposed sign would be subject to the requirements of the OT zone district regulations. *Per the applicant's cover letter a proposed sign has been added to the plans. However, our review of the plans shows no proposed sign. Testimony must be provided or the plans revised.* Basement Use. The applicant indicates that the intended use of the basement is for storage. Both the site plan and architectural drawings should clearly label the basement level as storage only. *The sites plans include a note that the basement is for storage only and the architectural plan shows the space as unfinished basement. This item has been addressed.* Driveway. The applicant has proposed two driveways to access the proposed office building. The applicant should indicate whether it is feasible to provide one-driveway to the site due to the greater intensity of uses proposed for the site. *Testimony must be provided.* ADA. The plan indicates ADA parking; however, per ADA regulations, the site is required to have one van accessible stall which incorporates a minimum of an 8-foot wide ADA aisle. The plans should be revised to include a van-accessible stall in accordance with ADA standards. *This item has been addressed.* Shade Tree Easement. The applicant has not provided a shade tree easement on the site plan as required. *A shade tree easement has been added to the front of the property. We defer to the Board's discretion in regards to the curbing and paved parking area that falls within the easement.* Fence. The applicant has not indicated on the site plan whether the existing chain link fence will be removed as part of this application. We recommend that a solid fence or landscaping be provided along the rear of the building to buffer the adjacent lot. *The existing chain link fence is marked "to remain" and a proposed 6 foot high board on board fence or approved equal is depicted. This item has been addressed, though we defer to the Board's discretion on what specific solid fence is required.* Lighting. The applicant's lighting plan is subject to review by the Board Engineer. *Lighting information has been provided and is generally well prepared. The ordinance calls for a minimum of 0.5 foot-candles throughout the commercial parking area, which is not met in the vicinity of the eastern driveway. Our office recommends the applicant consider adjusting or increasing the lighting, though we recognize that avoiding excess light spilling onto the neighboring property is a concern.* Sidewalk/Curb. The applicant notes that the existing curb will be replaced on the site plan. On the grading plans, the applicant notes that a four foot wide sidewalk is proposed. This should be noted on the site plan as well. *This item has been addressed.* Architectural Plans. The architectural plans should include the dimensions

on the elevation drawings to confirm that the building height complies with ordinance requirements. *We have not received updated architectural drawings that verify the building height. This item remains outstanding.* Utilities. Public water and sewer will be provided by NJ American Water Company. *Fact.* Trash/Refuse. The site plan shows a five-foot by seven foot trash enclosure area in the rear of the property for the structure. Landscaping has been proposed to surround the enclosure. *Fact.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Fact.* Agency Approvals. The required outside agency approvals may include, but are not limited to: Ocean County Planning Board; Soil Conservation District; Sewer and water utilities, prior to construction permits; and, all other required Outside Agency approvals. *Fact. The applicant should explain the status of all other outside agency approvals.* Engineering Review Comments (T&M letter dated October 6, 2008) General. The Applicant is seeking a Preliminary and Final Site Plan Approval construct a 7,500 SF two story office building, and corresponding site improvements. The property has frontage along Kennedy Boulevard East, west of its intersection with Monmouth Avenue. The site is located within the OT, Office Transitional Zoning District. *Fact.* Outside agency approvals from Ocean County Planning Board, Ocean County Soil Conservation District are required, and an NJDEP permit for treatment works approval. Evidence of the approvals shall be made a condition of the Planning Board approval. *Fact.* The applicant is requesting the following variances and design waivers: Side Yard Setback: The applicant has provided a setback of 10 feet, where 12 is required. Rear Yard Setback: The applicant has provided 7.8 feet, where 15 feet is required. Maximum Permitted Building Coverage: The applicant has provided 28.6% building coverage where a maximum of 25% is permitted. Number of Parking Spaces: The applicant is required to provide 25 parking spaces based on one parking space being required per each 300 SF of office area. The number of required parking spaces will increase if the proposed use is for medical or dental offices. A design waiver is required for not providing the required buffer. Fifty feet is required between a residential and non-residential use. *As noted above, the applicant has revised the zoning schedule to reflect the required spaces based on the OT zoning requirement of one space per 200 square feet of gross floor area. The applicant will provide testimony as to the potential for medical or dental uses which increase the parking required. The waiver(s) for buffering are also noted above and have been requested.* Site Plan Review. Concrete curb existing along the property frontage, four foot wide sidewalk is proposed. The applicant should increase the width of the sidewalk to five feet and add a note to the plans stating that any deteriorated or damaged curb will be replaced as directed by the Township Engineer. *The plans have been revised as requested. This item has been addressed.* Water and sewer will be provided to the site by the New Jersey American Water Company. Water and sewer lines will be extended within Kennedy Boulevard East as part of this project. *Fact.* We recommend the applicant make every effort to remove the two site entrance configuration and provide a parking lot with one access point. The applicant shall discuss with the board what options are available. *Testimony must be provided.* The two lots shall be consolidated by deed as a condition of approval. *Fact.* The applicant had proposed to construct an office building with a basement. The applicant shall confirm the basement will be used for storage only. *Per the applicant's cover letter, a note has been added to the plans that the basement is to be for storage only.* Stormwater Report Review. The applicant has provided soil boring information on the plans and within the Stormwater Management Report but has not provided permeability tests for the soils below the proposed infiltration basin. The applicant shall address this issue. *Per review of the report provided to our office, this item remains outstanding. The date of the report submitted to our office is June 25, 2008, which may not be the most recent revision.* The underground detention basin will require maintenance by the applicant. A maintenance plan shall be submitted for review. *Per the applicant's cover letter, a maintenance manual has been provided with this submittal. However our office has not received this manual to date.* Additional comment/recommendations (RVV) We have concerns regarding the potential conflict between

the proposed sanitary extension and the existing gas main and storm sewer and the proposed water main extension. Additional elevation information is necessary. The sanitary profile included in the plans does not include any other utilities, several of which may pose a conflict. Full details of all locations where utilities cross must be provided. Valves must be provided on the proposed water main extension. The rim elevation of Manhole 1 on the site plan is a typographical error that should read 99.79. A detail should be added to the plans depicting the connection of the cleanouts with the recharge piping. Our office has concerns about the proposed recharge system being located partially within the right-of-way of Kennedy Boulevard East. The plans should be revised to keep all elements of the onsite recharge system within the property lines, otherwise County approval will be required for the recharge system, as well as long term maintenance of the system. Our office notes the offices on the architectural plans are labeled #1, #2, #5, #6, implying two additional offices. This should be clarified. This should be clarified via applicant's testimony. While the handicapped ramp satisfies barrier free access to the building itself, our office notes no method of allowing barrier free access to the second floor. This should be clarified via applicant's testimony.

Mr. Brown Esq. appeared on behalf of the applicant and said this application is a classic site plan for the type of property that is in question. This zone encourages office use and this is a building that make sense for the site and based on the dimensions of the site and the particular layout of the parking, etc. there are certain restrictions that the applicant had in designing the building. Mr. Brown said one variance that he wants to address is the requirement for 38 parking spaces that Mr. Vogt stated in his report and Mr. Brown said 38 parking spaces would be required under a reading of the ordinance where it would require 1 parking space for every 200 ft. and said it has been the practice of the board that where the office use is limited such that is not for medical use which would be 1 space for every 300 ft. That being the case, Mr. Brown said they would only need 25 spaces and 23 spaces are provided. Mr. Flannery is the engineer for the applicant and Mr. Neiman asked him to go over the parking because 23 spaces vs. 38 spaces is a big discrepancy and with the amount of parking that is needed in this area they might at times grant variances but this seems rather large.

Mr. Flannery said the 38 parking spaces is based on a ratio of 1 per 200 sf and the ordinance under the OT section (18-902K) has use requirements and parking requirements and said it was done before the UDO was updated and it says 1 space per 200 sf but if you look under the heading, it is under houses of worship and churches so it is really not pertaining to offices. It is not crystal clear whether that is supposed to be for general office type. The UDO itself has parking requirements that are consistent and make sense from current design standards and they show for commercial- 1 per 200 sf ; for medical offices 1 per 150 sf and for general offices, which is what this application is for, 1 per 300 sf so there is really no reason to think that the intent of the ordinance is that in an OT zone a general office would require more space and he said it is his professional opinion that the standard that really makes sense is 1 per 300 sf and by that standard they need 25 parking spaces and they have provided 23.

Mr. Jackson asked Mr. Flannery to mark his colored site plan as exhibit A1 and he asked if there were architectural submitted and Mr. Brown said yes. Mr. Jackson asked if they showed how the offices were going to be broken down and configured and who worked there and said that might have bearing on the parking demands. Mr. Brown said not in such particular and Mr. Flannery said it is restricted to non medical offices. Mr. Jackson asked Mr. Flannery if the standard in the rest of the town is 1 per 300 sf and Mr. Flannery said it is his opinion that the standard in this area is also 1 per 300 sf. Mr. Jackson asked how many people they envisioned working there and Mr. Flannery said he would anticipate for an office this size that the 23

parking spaces are sufficient. Mr. Flannery said it would be an office breakdown of 60-70% are employees and the visitors that take up the other 30% and said in the B zones and HD zones and the industrial zones it is 1 space per 300 sf for general office and that is enough. Mr. Flannery said if this was in section 2 of the OT zone then it would be clearly under general office.

Mr. Neiman said his concern is twofold: what has the board done in the past and said he thought they always asked for 1 per 200 sf. Mr. Jackson said every case is unique and stands on its' own merits. Mr. Flannery said since the UDO was updated in 7/05 any general office has been held to the standard of 1 per 300 sf and the exceptions has been were variances have been requested in the OT zone and there have been 2 of those applications that have been presented by Mr. Flannery's office and the standard that has always been presented and accepted is 1 per 300 sf for general office.

Mr. Fink asked Mr. Flannery how many people does he honestly feel will be working in this building of 7500 sf and said with this economy, 1 per 300 ft. just does not exist anymore. Mr. Brown said they can't go by opinion but by what the ordinance states and it is not a medical office. Admittedly Mr. Brown said they still need a variance to take them from 25 spaces to 23 spaces but it is much lesser of a variance than if they were going from 38 spaces to 23.

Mr. Vogt said looking at the UDO Section 18-902K it does site what was in T&M's prior letter and that is where the first comment is from. Mr. Vogt's office used that comment to do this letter and it does cite the requirement that said 1 space per 200 sf however if you look at where it is couched the parking requirement is under a subsection which is entitled churches and houses of worship, it is not pertaining the way it is written to office space. Mr. Neiman said they have always asked for 1 space per 200 sf and Mr. Flannery said he respectfully disagrees.

Mr. Akerman said he understands Mr. Brown's point that it is a matter of what is in the ordinance but what Mr. Fink is asking, Mr. Akerman would also like an answer to that question. Mr. Neiman said there is no way to answer that and Mr. Akerman said there are other issues here and they need a little clarity as they go along. Mr. Flannery said the answer is they really don't know how many people and he would anticipate they would have approximately 20 people and that would leave 5 additional spaces but the argument is to decide whether the standard is 38 or 25 and his opinion is that it is 25. They do concede they only have 23 so they are missing that by 2 spaces but they need to decide what the number is; whether it is 38 or 25. If the board is saying the number is 38, there is no way he is going to convince the board that 23 is enough.

Mr. Banas said he remembers arguments over the past years where Mr. Flannery would appear before the board and try to win over the argument just as he in attempting to do today. Mr. Banas indicates to the board his recollection is that at times he was successful and at times he was not and if Mr. Banas were to place the number of times that the board would agree with him, he thinks they would be in the minority rather than majority. He said they always looked at the number of spaces that are needed for office buildings would be in the neighborhood of 1 per 200 sf. He said he would also indicate that Toms River's laws and ordinances are entirely different than Lakewood's. He does not want to have this board consider having an ordinance built on variances and if they keep going to variances, they are adopting a new ordinance and he thinks that is negative. If that is the case, the board should draw up an ordinance with the requirements of what they expect and forward it to the governing body and have them reconsider it and said until then, they should follow the ordinance. Mr. Neiman agreed.

Mr. Schmuckler said they are showing an unfinished basement and asked if there is going to be an ability to put more offices in the basement? Also, he said if there is a busy day one day, where is the overflow parking going to go? Parking is very tight and Kennedy Boulevard no longer has parking. Mr. Flannery said they would limit the basements with this site plan and there would be no offices in the basement. The basement is for utility and storage and construction purposes. As far as the overflow parking spaces he said he understands that in that area there is no place for those cars to go but said it goes back to the threshold argument of what the standard is. If the ordinance was crystal clear, there would be no problem if the board agrees with him. Since that section of the OT zone does not say what the parking should be for general office and said they would use the general parking section of the ordinance which is 1 per 300 sf.

Mr. Neiman said if they were not asking for any sideyard setbacks and if they had a smaller building that was conforming to the setbacks then they can have the discussion regarding the parking; but if you are not willing to make the building smaller and conforming with these setbacks then he takes the conservative approach of 1 per 200 sf. Mr. Flannery said he thinks they are mixing 2 issues what he hears the board saying is the setbacks they are requesting are not appropriate and Mr. Neiman said with the deficient parking. Mr. Neiman said if they were coming in with a conforming building; but they are coming in with a big building that is bigger than what the ordinance allows plus they are asking for a waiver on parking and he thinks that is asking for too much. Mr. Miller said he agrees with the chairman's logic and he would also take a conservative step on this and said they are asking for too much.

Mr. Flannery said at this point he was putting in the testimony on the positive and negative criteria and he would like to proceed and Mr. Brown said it is the position of the applicant that the variances that they are requesting for setbacks and parking are diminimus from 25 spaces to 23 spaces or a variance of several feet and he would like to have the Mr. Flannery put the positive and negative criteria on the record so the applicant has the option to take issue with any decision that might be forthcoming from the board. Mr. Flannery said they are requesting several variances with the application; the parking and additionally they need a sideyard setback where 12 ft. is required and they are requesting 10 ft. and a rear yard setback of 15 ft. is required and they are requesting 7.8 ft. Mr. Flannery said these variances all fall under the MLUL as a C2 variance where it can be granted if the benefits outweigh the detriments and he feels that is what this application is; the benefits outweigh any detriments. The positive criteria is they advance the purposes of the MLUL under section G it states to provide sufficient space and appropriate location for a variety of uses and said this is providing that space for office use and in Lakewood there is a lot of area designated for housing and there is a shortage of housing and that housing also generates an office need and that is what the intent of the OT zone. Mr. Flannery said this office also fitting in the OT zone does promote a good desirable visual environment as stated in section I. Mr. Flannery continued and said it is his opinion they need 25 spaces per the ordinance and they have provided 23 and they are short 2 which he feels is minimal and the benefits of having an office that provides a needed office space and a good ratable outweighs the detriments. As far as the sideyard setback, Mr. Flannery said the 10 ft. provided is to a vacant lot in an area that is mostly residential and an area that should transition into office which was the purpose of the OT zone. He feels the benefits of approving this application outweighs the detriment and the rear setback variance that they provide 7.8 ft. where 15 ft. are required would fall into the same category as the side setback and it is his opinion that the benefits outweigh the detriments and the board can grant that without any detriment to the zone plan or zoning ordinance.

Mr. Miller asked him to repeat what is required for the rear setback and what they are providing and Mr. Flannery said 15 ft. required and 7.8 ft provided and Mr. Miller said he heard enough.

Mr. Percal said it is up to this board to determine whether or not granting the variance will have a negative impact on the neighborhood and surrounding area. He said he does not feel satisfied with the applicant's answers regarding the parking situation and he is unhappy about it. His position is they should not approve this application.

Mr. Neiman opened the microphone to the public

Larry Simons, 7 Schoolhouse Court, Lakewood was sworn in. He said he thinks from listening to the comments of the board, logically speaking a 1/3 reduction from 38 to 25 on parking is tremendous and Mr. Percal's comments were absolutely correct. It is a detriment to the neighborhood, it is not a positive. When you have cars that can't park in an area that is heavily trafficked now and they are going to be circulating around waiting for a parking spot you are more prone for accidents and mishaps and he thinks this is a very horrible situation and to reduce it down from a 38 to a 25 and then even having the guts or backbone of saying they want even a further reduction for 2 more. He thinks it is absolutely insane.

Gerry Ballwanz, Governors Road, Lakewood was sworn in. She said she lives off of Kennedy Boulevard and she is glad to see that the board is asking questions and saying they should stick to the ordinance. This is a very unusual situation because between County Line and Kennedy it is probably only 100 ft. difference so it is jammed the way it is and perhaps OT and office building is the appropriate use but the question is this size building with this size variances requested is not appropriate to the area. She knew the man who used to live there, Mr. Kravatz, and he would go up and down Kennedy Blvd. picking up all the trash, he had a garden area and used to grow tomatoes, etc. and he would be very upset with this developing going on. Just the way it is, she hopes it will be defeated.

Seeing no one else, this portion was closed to the public

Mr. Flannery said the rest of the report is technical in nature and they would agree to comply if the board acts favorably.

Motion was made by Mr. Fink, seconded by Mr. Banas, to deny this application based on the parking. He feels that the parking should be 1 per 200 sf as previously mentioned by this board and he also thinks the variances for this size building is too much and the cons outweigh the pros.

ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes

4. SD # 1633A (Variance Requested)
Applicant: Paradise Realty Group LLC_
Location: Squankum, 9th & Monmouth Ave triangle (old VFW building)
Block 154 Lot 1
Preliminary and Final Major Subdivision for 10 multi family lots

Mr. Vogt prepared a letter dated February 11, 2009 and is entered in its entirety. The applicant seeks Preliminary and Final Major Site Plan Approval for a proposed multifamily development at

the above referenced site. The property is 31,150 square feet (0.715 acres) in area and has street frontage on all sides. The site is the former VFW property. The applicant proposes to construct ten (10) multifamily residential units on the site. All units are within one building structure, with eight (8) out of ten (10) units separated vertically from the next unit, and two (2) of the units above/below one another. Nine (9) two-car driveways are proposed. Eight (8) one-car garages are proposed in conjunction with the vertically separated units. The property is located in the RM Multifamily Residential Zone, and multifamily residential units are permitted in the Zone. The applicant received an interpretation of the Zoning Board that the Planning Board has jurisdiction of this application. The following comments in *(bold)* indicate the current submission's compliance with previous planning and engineering review comments: Planning Review Comments (T&M letter dated December 30, 2008) Zoning According to Section 18-902.H. 4.b.: The current submission requests a variance for front yard setback. Since the triangular shaped tract has street frontage on all sides, it only contains front yards. Twenty-five feet (25') is the required front yard setback. A variance has been requested for relief to allow a front yard setback of twenty feet (20'). However, the end of the building closest to the Squankum Road and Monmouth Avenue intersection is proposed at less than ten feet (10') from the right-of-way where Squankum Road curves. Review Comments. Off-street parking: It appears that each unit will have 5 bedrooms each, with the exception of Unit One, which will have 2 bedrooms. The Planning Board should decide if the proposed 23 parking spaces are adequate for this residential development. We calculate a minimum of 26 spaces based on the Planning Board's and RSIS standards. Previously, the Planning Board has required a minimum of 2.5 off-street spaces for a five bedroom townhouse. (The NJ RSIS requires at least 2.3 parking spaces for a 3 bedroom townhouse but does not provide a required number of spaces over 3 bedrooms.) The applicant should also provide testimony regarding basements since the elevation indicate that each unit with one exception will have a basement. We note that it appears that access to the basement will be limited to interior access (i.e., no exterior access). *The current submission indicates that each unit will have four (4) bedrooms each, with the exception of one (1) unit, which will have two (2) bedrooms. The Planning Board should decide if the proposed number of parking spaces is adequate for this residential development. We calculate a minimum of twenty-five (25) spaces are required based on the Planning Board's and RSIS standards. This assumes, the Planning Board requires a minimum of 2.5 off-street spaces for a four (4) bedroom multifamily unit (the NJ RSIS requires at least 2.4 parking spaces for a 3 bedroom multifamily unit but does not provide a required number of spaces over 3 bedrooms) and a minimum of 2.3 off-street spaces for a two (2) bedroom multifamily unit. We have determined that twenty-nine (29) off-street parking spaces have been provided on the project. The breakdown consists of eight (8) one-car garages, nine (9) two-car driveways (18 spaces), and three (3) satellite spaces near the corner of Ninth Street and Squankum Road. The applicant should also provide testimony regarding basements since the architectural plans indicate that eight (8) of the units will have a basement. We note that it appears that access to the basements will be limited to interior access (i.e., no exterior access). It should be noted that unit 1.01.04 proposes 2 separate driveways for one unit which is not desirable. The applicant should discuss the proposed number of driveways. The plan revisions basically negate this comment. It should be noted that the driveway and garage location do not match on the above referenced unit. We believe the architectural plan requires the correction.* Sidewalk is proposed along the Ninth Street frontage. We recommend that all sidewalks along the property frontage be replaced since the majority of it will be disturbed given the number utility installations and driveways. *A note has been added to the plan that existing curb and sidewalk shall be removed and replaced as directed by the Township Engineer. Concrete curb details shall be added to the plans. All concrete for curb and sidewalk shall be Class B with strength of 4,500 psi.* The applicant should discuss where garbage will be stored for each unit since an area is not provided for each unit. Additionally, given the grade change and the number of driveways proposed, it is unclear where garbage

cans would be stored. *Testimony and subsequent plan revisions shall be provided.* One of the units is proposed without a deck. The applicant should discuss the lack of sufficient private outdoor space. *The ground floor unit does not have a deck. Furthermore, the decks shown on the site plans do not match the architectural plans. Also, the access steps do not match on the respective plans in two instances.* Given the proposed layout, the rear decks may be visible from Squankum Road. The applicant has proposed landscape buffering to minimize visibility of the decks. The applicant should testify regarding the visual affect of the decks and the proposed buffering. *Testimony shall be provided.* Landscaping, labeled "annual color," is proposed within Monmouth Avenue and Ninth Street right-of-way. The applicant should be aware that this landscaping will not be maintained by the Township. *The revised plans have moved the landscaping behind the right-of-way line.* The right-of-way on Squankum Road is 41.5 feet. A road widening or right-of-way dedication or easement may be necessary. *The half right-of-way width is twenty-five feet (25') along the project frontage. A five foot (5') right-of-way dedication should be considered. This will increase the half right-of-way width to thirty feet (30') which is consistent with the surrounding roads without exceeding the maximum site density. A road widening to provide on-street parallel parking is also being proposed.* The plan should be revised to indicate ADA ramps at all intersections. *The locations of ramps at all intersections shall be shown. The details shall be amended to include handicapped ramp details from sheet 37 of the 2001 NJDOT Standard Details to account for the correct types of ramps on the project with truncated domes.* The shade tree easement is depicted and labeled on sheet 3; however, it is not depicted on sheet 6 which is the landscape plan. The shade tree easement should be depicted, since it appears that the majority of the proposed shade trees are outside of the easement. The shade trees should be relocated into the easement. We also recommend that the proposed utilities be depicted on the landscape plan to confirm that there are no conflicts between trees and laterals. *The shade tree locations and proposed utility locations must still be addressed.* The proposed development has been classified as a multifamily development. However, the units are essentially town homes and the applicant should be "guided" by some of the townhouse requirements of the Ordinance. They are as follows: Section 18-900H10: A structure shall not have more than two (2) connected townhouse units on one facade without providing a variation in setback of at least two (2) feet. It appears than currently the townhouses do not meet this requirement. Section 18-900H16: All units shall be designed with a unified architectural style. The applicant should testify regarding the architectural style of the units. Section 18-900H17: Variations in setback and building facades shall be provided. The architectural plans should be revised to comply. Section 18-900H18: All HVAC equipment shall be located in rear or side yards and shall be buffered from adjoining properties and units, or shall be placed on rooftops. The plans should be revised to indicate HVAC equipment and any appropriate buffer. *Testimony shall be provided.* Section 18-900H14 states that all areas put into common ownership for common use by all residents shall be owned by a non-profit homeowners association in accordance with the requirements of the Department of Community Affairs and the following: Deed restrictions and covenants shall be provided in accordance with the requirements and standards of the Department of Community Affairs. The homeowners association shall be responsible for the ownership and maintenance of all common space not accepted by the Township. This organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise, except to another organization conceived and established to own and maintain the common open space and non-dedicated streets. The homeowners association shall be established prior to any certificates of occupancy being issued. Membership of the association shall be automatic and mandatory for each owner of a dwelling unit and any succeeding owner thereto, being accomplished by the purchase of a dwelling unit in the development. The association shall guarantee access to all the common areas to all persons legally residing in the development. The association shall be responsible for liability insurance, taxes certificate of incorporation shall contain provisions so that

adequate funds will be available for maintenance. The documents establishing the association shall provide a plan for the maintenance of all common areas. The applicant should verify in testimony that they will comply. We defer to the Board Attorney for further comment. *Testimony shall be provided.* Given the number of proposed utility trenches we recommend that the applicant repave the entire width of Monmouth Avenue and Ninth Street along the property frontages. *The existing water mains are on the far side of the streets fronting the project. Should the project be serviced by gas, there will be even more utility trenching than presently indicated. The plans should indicate the limits of paving and the associated construction details.* Outside agency approvals which will be required include: Ocean County Planning Board; Soil Conservation District; and, Sewer and water utilities, Any Planning Board approval shall be conditioned upon obtaining all regulatory approvals. Engineering Review Comments (T&M letter dated December 31, 2008) General The applicant is seeking a Preliminary and Final Site Plan approval to construct a multi-family, townhouse style, building containing ten (10) residential dwellings and other associated site improvements on Lot 1, Block 154. The architectural plans show each townhouse unit contains four (4) bedrooms. A basement floor (BF) elevation is provided on the Grading and Drainage Plan, and it appears that no separate entrances to the basements are proposed. An existing building and its associated site improvements will be removed as a part of this project. The property has frontage along Monmouth Avenue, Ninth Street, and Squankum Road. The site is situated within the R-M, Multi-Family Residential Zone. *Based on the current submission the applicant is seeking a Preliminary and Final Site Plan approval to construct a multi-family building containing ten (10) residential dwellings and other associated site improvements on Lot 1, Block 154. The architectural plans show nine (9) units containing four (4) bedrooms and one (1) unit containing two (2) bedrooms. What should be a garage floor and a ground floor elevation is provided on the Grading and Drainage Plan. However, the end ground floor unit should have only one elevation designated since there is no garage. Except for the ground floor unit, it appears that no separate entrances to the ground floors are proposed. An existing building and its associated site improvements will be removed as a part of this project. The property has frontage along Monmouth Avenue, Ninth Street, and Squankum Road. The site is situated within the R-M, Multi-Family Residential Zone.* The applicant is requesting a front yard setback variance for Lot 1.01; 25 FT is required, where, according to the Schedule of Bulk Requirements, 20 FT are provided. The plans show that the applicant is providing 22 FT to the building front and 18 FT to the porch front. *As indicated previously, according to Section 18-902.H.4.b.: The current submission requests a variance for front yard setback. Since the triangular shaped tract has street frontage on all sides, it only contains front yards. Twenty-five feet (25') is the required front yard setback. A variance has been requested for relief to allow a front yard setback of twenty feet (20'). However, the end of the building closest to the Squankum Road and Monmouth Avenue intersection is proposed at less than ten feet (10') from the right-of-way where Squankum Road curves.* The applicant should also request the following variances: Rear yard setback; 21 FT is proposed (1.01.01), where 25 FT is required. Side yard setback; 9 FT with an aggregate of 40 FT is proposed, where 25 FT with an aggregate of 50 FT is required. *Testimony is required to justify all required setback variances.* The applicant should revise the Schedule of Bulk Requirements to reflect that Lot 1.01 has two frontages, one (1) along Monmouth Avenue and another along Ninth Street. The applicant should also revise the Schedule of Bulk Requirements to provide all required information on the plans. *The Schedule of Bulk Requirements has been revised to indicate three frontages. The site is surrounded by Ninth Street, Squankum Road, and Monmouth Avenue. The parking requirements in the schedule require clarification.* Outside agency approvals from Ocean County Planning Board and Ocean County Soil Conservation District will be required. Evidence of the approvals will be made conditions of Planning Board Approval. *As indicated previously, the applicant agrees to this condition.* The proposed dwellings will be served by public water and sewer. *Fact.* The

applicant has used 2.3 parking spaces/unit as the design number, which, based on the Residential Site Improvement Standards (RSIS) corresponds to Townhouse with an unknown number of bedrooms; however, the architectural plans show four bedrooms for each proposed unit. The RSIS standards for Townhouse parking space requirements top out at 2.4 parking spaces for townhouse units with three (3) bedrooms. To comply with this standard a total of 22 parking spaces will be required. The applicant has indicated in the Schedule of Bulk Requirements that 20 driveway parking spaces and three (3) additional off-street parking spaces for a total of 23 parking spaces are proposed; however, the plans only show 19 driveway spaces and three (3) additional off-street parking spaces, for a total of 22 parking spaces being provided. The applicant should address this discrepancy. It appears that no separate entrances are proposed for the proposed basement. The board should determine how many parking spaces will be required for the proposed development. *As indicated previously, the current submission indicates that each unit will have four (4) bedrooms each, with the exception of one (1) unit, which will have two (2) bedrooms. The Planning Board should decide if the proposed number of parking spaces is adequate for this residential development. We calculate a minimum of twenty-five (25) spaces are required based on the Planning Board's and RSIS standards. This assumes, the Planning Board requires a minimum of 2.5 off-street spaces for a four (4) bedroom multifamily unit (the NJ RSIS requires at least 2.4 parking spaces for a 3 bedroom multifamily unit but does not provide a required number of spaces over 3 bedrooms) and a minimum of 2.3 off-street spaces for a two (2) bedroom multifamily unit. We have determined that twenty-nine (29) off-street parking spaces have been provided on the project. The breakdown consists of eight (8) one-car garages, nine (9) two-car driveways (18 spaces), and three (3) satellite spaces near the corner of Ninth Street and Squankum Road. The applicant should also provide testimony regarding basements since the architectural plans indicate that eight (8) of the units will have a basement. We note that it appears that access to the basements will be limited to interior access (i.e., no exterior access). The applicant should provide testimony regarding the ownership and maintenance responsibility of the public portions of the site. Testimony shall be provided. The applicant shall provide testimony on how solid waste generated from the proposed development will be stored and how it will be removed from the site. Testimony and subsequent plan revisions shall be provided. The plans note the existing lot is Lot 1 and the proposed lot is Lot 1.01. We question the change in lot number when there is no subdivision proposed. The applicant shall provide clarification on this issue. Any references to "major subdivision" must be removed from the plans. It appears the entire property will remain as one (1) lot and the proposed units purchased on a fee simple basis with common area. Clarification shall be provided. Plan Review. The applicant is providing new concrete sidewalk along the site's frontage to Ninth Street. Existing sidewalk along the site's frontages of Monmouth Avenue and Squankum Road will remain. Existing concrete curbing is present along all three site frontages. A note shall be added to the plans stating any damaged or deteriorated concrete curb or sidewalk shall be replaced as directed by the Township Engineer. As indicated previously, a note has been added to the plan that existing curb and sidewalk shall be removed and replaced as directed by the Township Engineer. Concrete curb details shall be added to the plans. All concrete for curb and sidewalk shall be Class B with strength of 4,500 psi. The applicant should provide the information from the three (3) soil borings performed on-site to the Board Professionals for review. This information must be submitted. The applicant should include the appropriate sight triangles and sight triangle easements, for the intersections of all three (3) roads on which the site has frontage. The sight triangles must be added. A Stormwater Management Report should be provided to the Board Professionals for review. It appears that more than 0.25 acres of new impervious coverage is being provided as a part of the site development. A Stormwater Management Report has not been submitted and is required. Additional comments/recommendations (RVV) Two (2) sets of curb lines are indicated on the opposite side of Squankum Road from the project site. It is not clear whether any off-site*

work on Squankum Road is part of this project. *This latest submission clarifies the parking issues previously questioned. The twenty-nine (29) off-street spaces proposed exceed our calculated quantity of twenty-five (25) off-street spaces required. The latest submission has added a parallel parking lane consisting of nine (9) on-street spaces along the Squankum Road frontage of the site. If the project receives approval including the proposed on-street parking, the following design information should be provided during compliance review: Road Widening Plans for Squankum Road which would include at a minimum proposed construction details, proposed curb and gutter elevations, proposed drainage, and utility relocations. Revisions to the Site Grading Plan. The road widening would make the proposed slope between the end unit and Squankum Road too steep as currently designed. Based on the Landscape Plan, it does not appear thirty-six (36) new deciduous trees are being planted as required per the proposed Tree Protection Management Plan. Testimony regarding the landscape plan's compliance with Township Code should be provided, and a waiver sought if necessary. We defer adequacy of the proposed landscape plan to the Board.* Subsequent to the Planning Board Hearing, we recommend the applicant's professionals meet with our office to review the remaining design work required for project completion.

Mr. Penzer Esq. appeared on behalf of the applicant and said the only variance is the front yard setback. This application was sent to the zoning board for a jurisdictional question but this board had suggested moving the houses closer to the road to give it a town effect which is why they need a front yard setback. The zoning board ruled that this application belonged at this board and they adopted every one of the planning board's suggestions and said what they see tonight is the culmination of 7 appearances and that is why they only have one variance and they could have avoided that variance but this board felt it would look better aesthically. The shade tree commission said this is the best landscaped plan they have ever seen. The board said they do not see it in their package and Mr. Penzer marked his copy exhibit A1. Mr. Kiehl said it was handed out to the members at one of the prior meetings. Mr. Penzer said the letter is dated August 19, 2008 and read the letter to the board. He said there are a lot of people who wish to speak tonight and the board will hear them talking emotionally and it is the board's job to be the judge and separate what the facts are; whether or not they meet the burden that the variance requesting is what they board agrees with.

Mr. Flannery is the engineer for the applicant and said the application is for 10 multi family units and Mr. Neiman asked if there were basements in these units and Mr. Flannery said they consist of 2 units that are up and down and 9 units that have a basement underneath them and they are attached multi family units. Mr. Neiman said to assume there will be tenants in those basements and asked what the maximum amount of tenants for this building and Mr. Flannery said the basements have been designed to not have an outside access and that will prohibit the tenants in the basement. Mr. Flannery said 10 multi family units mean 10 families not 20 families. Mr. Flannery said they have provided parking in accordance with RSIS.

Mr. Banas asked Mr. Flannery if the board had asked them to eliminate one building and Mr. Flannery said there was a lot of discussion at the board and the board wants to eliminate units or change the scope. He said as indicated at the tech meeting, this is a multi family zone and it allows 15 units per acre and it is housing units that are needed in Lakewood and the Master Plan lists how many families are going to be needed to move into the town and what the housing stock is and there is 8-10,000 deficiencies in the housing units. The applicant's plan is to put 10 dwelling units as permitted on the site and they re-arranged the units in accordance with the direction of this board so there is one large fenced in play area. Other comments from the board was that they would rather see the units closer to the road and provide a large play area and another comment from a board member recommended providing a 5 ft. road widening

easement along Squankum and that will allow 9 parallel parking spaces in addition to the onsite parking which meets the parking requirement by the RSIS. Someone may have asked to reduce units and that is one of the things they did not do. Mr. Banas said basically the entire board asked the applicant to consider eliminating one building. Mr. Flannery said his recollection was that it was not the entire board and said other than reducing the number of units and in his opinion it would be irresponsible to reduce the number of units if you can provide a plan that is an enhancement to the neighborhood. They have no driveways that back out onto Squankum Road but they do have driveways backing out onto 9th and Monmouth and it is his opinion that it is that it is a benefit because those roads are larger than the smaller residential access roads and the width of those road leave themselves to being a speedway if there aren't driveways that people see is a residential street. He believes this will improve the traffic flow in the area and it provides a homeowners association that will maintain that large play area for this one lot. The variance requested is a C2 variance and they have to show that the benefits outweigh the detriments and to him, the benefits that they are getting is no vehicular access on Squankum, a large play area, 15 multi family units that instead of having a large ugly building, they have units that will fit in more with the neighborhood, they are improving the traffic on 9th & Monmouth by making it more residential and if you look at what was there before, Mr. Flannery said the VFW site in that area was a eyesore and a problem. This is replacing a needed housing opportunity. Under NJAC40:55-D2 it say to promote the establishment of appropriate density population and concentration that will contribute to the well being of the persons, neighborhoods, etc. and said he believes this fits that to a tee. Mr. Flannery stated it is a piece of property that is not environmentally sensitive, it provides the appropriate population density and provides housing opportunities that the Master Plan shows they need. This housing with the fenced in play area, adding an additional 9 parking spaces for the neighborhood has benefits that far outweigh any detriment. This plan is consistent with the zone plan and zoning ordinance so there is no way it would impair the intent and there is not substantial detriment to the public good. It is his opinion that the board can and should grant the one variance that they are requesting because the benefits far outweigh any detriments.

Mr. Flannery said they will satisfy the comments in Mr. Vogt's report but there are 2 items that he wanted to discuss. Mr. Neiman asked him to discuss the off street parking and Mr. Flannery said 25 parking spaces are required and 29 spaces are provided which is 4 more than are required. There are 8 one car garages, 9 two car driveways, and 3 remote spaces along 9th Street. There are 29 onsite and 9 offsite which would total 38. Mr. Neiman asked if these garages will be used as parking spaces and Mr. Penzer said they have no problem restricting them as a condition of approval. Mr. Flannery said the right of way on Squankum is 41.5 ft and the recommendation is that they give a 5ft. dedication; but Mr. Flannery said 50 ft. is what is typically requested by the right of way is offset and it was established when the roadway was reconfigured so it is 25 ft. from centerline, so them giving additional right of way does not give it a 50 ft. right of way all the way down and said additional right of way on the other side needs to happen. They have indicated on the plans an additional 5ft. roadway easement and that allows the parking spaces to be in there and they comply with the intent of the comment in the engineers report. Mr. Neiman asked Mr. Vogt to comment on the 9 spots because that corner is a very busy corner (9th & Princeton where Squankum ends) and said he is concerned with the safety even putting in an easement and indenting the road. Mr. Vogt said revisiting how they got here with those spaces the applicant's attorney said they have been to the board 8 times and Mr. Vogt said this is only his second but he recalls the issue of parking came up at the technical meeting and the board wanted more parking than what was shown on the old plans and the question was where do you put the parking and there were 2 options; one was an option of off-street and the only other option was if they were to add more off-street parking similar to the 3 they have. The only other place they could to that is in the open space triangle and then

you would have those spaces backing out which would be even worse in his opinion than the parallel. Mr. Flannery continued and said the last comment is the variation in the setback and what they have done in the past is rather than jog the units, architecturally they have relief in them.

Mr. Penzer entered into exhibit A2 as the elevation of the units and A3 is a colored rendering of sheet 3 of 8 and A4 is an aerial photo of the subject site and the red mark circling the triangular lot portion. Mr. Flannery said looking at A2 you can see they jog the units architecturally and you get the relief that satisfies the intent of the ordinance without actually jogging units. The rest of the comments they would agree to. Mr. Penzer stated from a legal standpoint, they could move back the houses, close the greenery and have no variances and then they would have a conforming application that could not be turned down. They did not do that and the board suggested they move back the houses so there could be some green and they have done everything that the board suggested to make this the best under the circumstances, but if the board does not like the variance, all they have to do is move it back.

Mr. Schmuckler said he wanted to confirm with Mr. Vogt that if they moved the houses back where there would be no variance, with the 9 on street parking spaces there and Mr. Vogt said the only variance they are currently evaluating is the front yard setback and they don't have a variance for the parking. Mr. Flannery said they would be able to fit that many units without a variance.

Mr. Banas said the only thing that bothers him to a degree is that when they spoke, he thought they were going to eliminate one home. He knows it meets the constraints of the ordinance but it is in his estimation a very crowded block and he thinks it would just add aesthetically a better degree if they did do that. Mr. Fink said Mr. Banas is 100% correct, they did talk of 9 units, not 10, at the tech meeting and he thought they were all in agreement with on and said it is too crowded and he would like them to rethink this.

Mr. Penzer said it is 9 buildings with one multi family and Mr. Fink said it would be better with one less unit. Mr. Akerman said he was not at the tech meeting but he does not see why they should require the applicant to loose a unit here. They are only going with the board's suggestion which is why they are requiring a variance.

Mr. Neiman opened the microphone to the public

Elise Ohnouna, 21 9th Street, Lakewood approached the podium. She said she heard the board being very concerned about this parking issue and right now you are going to be taking all the available to the people in the neighborhood away by giving it to these units. The only place for people who come to he neighborhood to park is on Monmouth and on 9th, there is no place else and this is going to be removed by putting only driveways which are very dangerous to back out onto Monmouth and 9th. She said from her house she can view Squankum and any time a car dared to park there in the morning it was smashed; the amount of tractor trailers zooming up Squankum to the end is not to be believed. It is dangerous for the buses and the children are not even supposed to cross in that area and there is no traffic light by 8th and Monmouth so they all have to either end there and turn left or right onto Monmouth and it is extremely congested and dangerous area as it is. She also said as she looks at the picture and said it is very pretty but most of the people are familiar with the triangle and said right now in that green area there is one structure and it is not a large structure and the applicant wants to multiply that by 10; she said there is no room on that lot for 10 houses and said this is just a pretty picture but you can draw anything in a picture but to have it in reality it is almost impossible. It is not a

city block it is quite a pointy triangle and it is very hard to imagine all this. She said she saw other plans that did not have the large green space and she can't imagine where all these children are going to play. These units are for families with children and she estimates from the very beginning that there will be between 50-100 children on this small lot; add the congestion with all the buses and the safety of the these kids trying to cross these streets and asked if this play area is going to be sufficient for these 50-100 children and more to come. She said if they are going to make parking on Squankum, all those tractor trailers are very dangerous. She said she is not against developing this property but putting in what looks right now like townhouse tenements or (in the picture) like chicken coops and that does not add to the quality of the neighborhood and said all around on 9th it is private homes except for the institution and on the other side there is a fire station and a dormitory and to add this many homes on a concentrated and dangerous corner seems a little bit out of place. She said the people interested in doing this are out for their personal gain and they are not out for those who live in this area. She suggests that if it is approved, that they oblige the builder, owner, realtor and the lawyer to live in this place for 5 years at least.

Yanky Braunstein, Lakewood was sworn in and asked if she ever saw a chicken coop in her life. He did the survey work for the developer on this property and the developer asked him to speak. He used to live in the neighborhood, it is an RM zone which was meant to be multi family and this does give it a certain town look. As far as all the accidents and that no cars are parked on Squankum, she is incorrect because Squankum is a cul de sac and there is no trucks going up there. The audience said he is incorrect and Mr. Neiman said to let him speak. Mr. Braunstein continued and said there is a cul de sac there and he always drive there on his way to work and he never sees smashed cars and there are townhouses down the road across the road and people always park there and he does not see accidents whenever he drives there and he drives there in the morning. He also said Squankum Road becomes a county road by County Line Road and truck routes are designed to turn on County Line Road and they are not designed to come down Squankum Road. He said he also drives down Monmouth Avenue on his way home and he notices that the curb on Monmouth Avenue by the fire station is closer to the right of way line than the rest of Monmouth Avenue and maybe explain the traffic pattern and why it is a little different. Mr. Flannery said the fire house is there and Mr. Braunstein asked if the yellow line off center and Mr. Flannery said yes the line is closer to the proposed houses. Mr. Flannery said Squankum Road used to come down into a triangle; it was changed where 8th St. has a cul de sac and Squankum Road turns and comes to a "T" intersection. The situation that they are providing is that there are no back out spaces onto Squankum Road and they are providing 9 spaces which will be parallel and if cars park there now, they are right in the road and the applicant is providing a pull in place where they will be out of the way. They don't need those 9 spaces if the board says they do not want them. The parking that they are doing on 9th & Monmouth are very large roadways and it is his opinion that the cars backing out will actually provide a traffic calming benefit rather than having nothing there and providing more of a speedway. Mr. Braunstein continued and said he drives down Monmouth Avenue every day and every night and said the site has been sitting there empty for so long it just takes away from the beauty of the town. He said the people like the town feel of this area and most of the people that want to buy there are friends of his and they told him the reason why they want to live there is because they like more of a community life, they don't like more of a suburban life and they want more of a condensed life and maybe that it why they designed a RM zone to be multi family. The traffic at the intersections is during the school hours when there are buses and his testimony is that there are traffic cops there during the school hours in the morning and the afternoon and that adds to the safety for the cars backing out and coming in and so he does not think there will be a problem.

Christine Allen, 23 9th Street, Lakewood was sworn in. She said she heard the gentleman just speak about accidents. The first woman to speak is her neighbor and she has not lived here long but she has lived here for 15 years and there have been a lot of accidents. She said she does not understand when he said the parking will be okay because now there are 2 schools, both on Monmouth and 9th and the majority of times when she comes home all the cars are on 9th and she asked where are the people who go to the schools supposed to park. She is not against the building going up but she believes it is too many buildings. Someone asked if she saw a chicken coop and she can guarantee that she has and that is what it is. She is not rejecting the building but said they should not have a building this size.

Aharon Kaplinsky, 900 Monmouth Avenue, Lakewood was sworn in. He lived diagonally across where this proposed development. He has in his possession a letter from the Lakewood Police Department and he asked them how many accidents have happened on his corner. Mr. Penzer objected. Mr. Jackson asked to see the letter and Mr. Jackson said he thinks the board can take notice of it and asked that Mr. Penzer see it. Mr. Fink said he thinks they should considering that one of their offices. Mr. Jackson asked to hear Mr. Penzer's objection and Mr. Penzer said there are statements made in the letter and definitions that he would like to cross examine that he can't; like crash data, he asked what does that mean, a fender bender? He said you can 't even go and take this letter at its' face without his cross examining. He said he objects and thinks it is heresy and highly prejudicial because he can't cross examine and he is positive that if he had the officer in front of him, it would have a completely different meaning than what it says in this letter.

Mr. Jackson said the rules of heresy can be relaxed in a board setting like this. He said he thinks this was prepared by the Lakewood Police Department and does not think there is any question to its' authenticity; its' weight and its' interpretation Mr. Penzer can certainly argue that and he can continue the hearing and bring back the officer if he thinks that is important. Mr. Neiman asked him to read the letter into evidence. Mr. Kaplinsky continued and said the letter is dated February 17th, 2009 and is addressed to Mr. Kaplinsky and is referencing Monmouth Avenue and 9th Street. It says the letter is to confirm and certify the crash data collected by the Lakewood Police Department Traffic & Safety Unit. This information is for the intersection of Monmouth and 9th Street and for the last 4 years to date. Total amount of accidents starting from the year 2005 to date is 18. There was a 250% increase (not a part of the letter) starting from the year 2005 to the current date. The last accident occurred a month ago. Mr. Kaplinsky said Mr. Penzer doesn't live there and neither do members of the board but he does; he lives right across the street from there and a lady over her (audience) has a child that was almost hit by a car crossing over to the school in the days when the school was on the corner across the street from him. He said they have a Bais Medrash, which is a higher study school where the convalescent home used to be; they have Skolem Bais Medrash which he said Mr. Penzer is familiar with; and he also mention other names all located on that corner and to put this large amount of houses and he said he can appreciate that people want to make a living and he realizes that this land is not going to be dormant but speaking on behalf of his family and on behalf of many of the neighbors, he would appreciate seeing single family homes to retain the character of the neighborhood. There are some developments of townhouses but in this area alone, right across the street from this development, there are private houses. He is glad they fulfilled the requirements of the Shade Tree Commission but as far as the neighbors, they would like to see single family homes. As the first lady said, when you put driveways with cars coming in and out, 9th Street going up to Madison to where the yeshiva is, and they have another proposed building of 1,000 students, all the traffic coming from I95 as well as all the other communities come up 9th Street and come up Squankum Road so how do you expect cars to pull in and out of their driveways with all these cars coming down. He wanted to know if the

township did a feasibility study and how it will affect the traffic that is currently there. It is a very intense corner and to go and stick in another 10 or 11 houses and he then asked Mr. Penzer is it possible that the front door of the houses could give access to make a basement? Right now there is a garage door and it can easily be changed over to put in a door so theoretically speaking it is possible they will have rentable basements there at one point or another, legally or illegally. He said he is opposed to the current project the way it is now.

Mr. Jackson asked him what the applicant is supposed to do and what is the board supposed to say to this applicant. Mr. Kaplinsky said honestly he did not know there was 8 previous applications and had they known about it before, they were told by the parties that it was just technical and they were not really going in front of the board. Otherwise they would have opposed it from the get-go. He said the applicant should downscale what he had in mind now and address these concerns of the public and the neighborhood. He said he doesn't mind people moving but they would appreciate having single family homes instead of putting 10 families, reconfigure the property and put private family homes whether it is 4 or 5.

Mr. Jackson said the law says when you have a conforming application, the board is pretty hard pressed to grant an approval unless there is extraordinary reason not to. Mr. Kaplinsky said it is a safety factor to stuff so many houses with all the people that have come in and spoke about the 50-100 children that will be coming in. He said somebody has to be here to pick up the pieces. Mr. Jackson said he goes to court on these things on behalf of the board and when the board turns it down on a basis that is not in the ordinance, the judge reverses it and there is a lot of money wasted etc. and the law says an applicant can use its' property in accordance with the ordinance. Mr. Kaplinsky stated again it is a safety hazard and there is no crossing guard on 9th & Monmouth, they are on 8th & Monmouth, and he also said he has been witness to plenty of accidents, and so has everyone who lives in the neighborhood, he doesn't just drive by, he lives there.

Mr. Jackson marked the letter from the police as exhibit Kaplinsky1, He also directed Mr. Penzer to mark his exhibits A2, A3 and A4 for the architectural elevations. Mr. Flannery said they previously marked the A2 for the architectural, A3 for the site plan and A4 for the aerial. Mr. Jackson said the mark the letter as A5.

Rhonda Stein, 910 Monmouth Avenue, Lakewood was sworn in. She said she has also seen a lot of accidents and the applicant made a point that the Planning Board recognizes the need for more housing but that housing does not have to be in congested neighborhoods; there is a lot of open spaces in other parts of Lakewood. She also stated the applicant, when requesting a variance, has to show if there is a detriment to the public good and she said if a large number of neighbors object and feel that it is going impact on the quality of their lives, that is a detriment to the public good. She also has a question and said whoever changes the zoning should think about the fact when zoning was designed they were probably designed for a family of 4.2 inhabitants and if we look at the average size (she herself has 9 children and most of her neighbors do as well) when you put 10 families into a small area, she thinks the zoning should be reexamined and in order not to impact on the quality of life of the people that live in the neighborhood. Whether that impacts on this application or some future planning, she thinks that should be considered.

Aharon Ohnouna, 21 9th Street, Lakewood was sworn in. He said he is directly across the street. He said the sidewalk is like rollercoaster because they put aprons and no sidewalk and he would like to know if this has an apron and a sidewalk and was told yes. He asked where it is and they showed him. He said on paper it looks very nice and he would buy 2 units. He asked

how wide the sidewalks will be and how wide the aprons and Mr. Flannery said 4 ft wide sidewalks and the aprons will as wide as the driveway. Mr. Ohnouna said the law asks for 6 ft. from the apron and the sidewalk should be 5 ft. Mr. Ohnouna asked how deep are the driveways and Mr. Flannery said all of the parking spaces are 9x18ft. Mr. Ohnouna went to the plans and his conversation was muffled as he was pointing to the exhibit. Mr. Ohnouna said in Brooklyn, from experience, and he asked for a variance for a 2 family house and was turned down; he said maybe if he had Mr. Penzer he might have gotten it. This application, he stated, was very nice on the picture, but there are accidents and Mr. Kaplinsky, it is not scratches, it is people hurt, so there is nothing to cross examine. Mr. Ohnouna said this project, the federal government sold it for peanuts and it should have been given to the Township for a park for the kids to play. Let the owner make money by building 5 single family houses and if multi doesn't mean more than 1, delete it. He said they will hold the board responsible for any serious accidents and if they are willing to take that chance, take it.

Asher Brodt, 67 Whispering Pines, Lakewood was sworn in. He lives on Squankum in Whispering Pines and said he is a realtor and he understands Mr. Kaplinsky's concerns but said the one thing he has to understand is nobody got killed in front of Whispering Pines and the people living on Lawrence in those townhouses that are literally on the street and he walks it every Saturday, there are so many houses on there, and he said building on 9th and Monmouth should be looked at by the Traffic and Safety and there should be something done if that is the case, but he does not think that 9 houses plus there is a school across the street, but as a person living there he has never seen an accident by Whispering Pines but the board has to make the right decision, there are people that want to buy there.

Chaya Kaplinsky, 900 Monmouth Avenue, Lakewood was sworn in. She said she is in agreement with everything her neighbors said but wanted to say because she lives at the corner of Monmouth & 9th, everyone else that drives down Monmouth to work and on the way home, she is there who has called the EMS umpteen times from the accidents that have occurred. She stated there are many accidents and the very nice people that pass by, if there is not an accident when they happen to pass by but she has already had 2 cars on her lawn.

Rochel Furman, 906 Monmouth Avenue, Lakewood was sworn in. She said she is not against housing being built across the street but wanted to tell everybody her daughter was walking on the sidewalk to school and she was a hairs breath away from a car right onto the sidewalk into the fence from 9th & Monmouth because people coming down I95 going to yeshiva, they don't recognize that stop sign so well and there is a lot of cars coming up and down Monmouth Avenue and she has also had a car in her lawn just 2 ft. away from her house (through a fence, through a bush). She is not against a few houses there but she is talking about congestion and it is just too many for that little triangle.

Gerry Ballwanz, Governors Road, Lakewood was sworn in. She said Mr. Flannery was talking about the reason for the C2 variance as appropriate population in the neighborhood and whether or not there is detriment to the public good. She thinks for this little piece of triangle that is a little more than ½ acre (.7 of an acre?) to have possibly 100 people with the children living in this triangle that is bordered by 3 streets; it is one thing to say you live in Whispering Pines where you are not really right on Squankum Road, but to be in this triangle, she cannot imagine that many units there. Maybe this was miss-zoned somehow, it is probably closer to the R10 zone and this was a little patch that because it was the VFW they thought it was going to be there forever, and it just got overlooked when things were being redone with the Master Plan. This is really a very inappropriate zoning for that area but because of the uniqueness of this land, being a triangle, bordered by 3 streets, it makes a consideration that maybe it is not

appropriate population for this area and for the good and welfare of the people living there it is a detriment, it can't be a positive.

Esther Basch, 921 West Kennedy Boulevard, Lakewood was sworn in. She is also a realtor and sold 2 houses directly across the street from this development. She asked the new homeowners what they thought about so many houses being built across the street and backing out of their driveway and she said they were very excited and said they wanted to have neighbors and right now it is desolate. Mr. Jackson reminded Mr. Neiman that her testimony is heresy and Mr. Neiman asked those people are here to testify and she said no. Mr. Jackson asked her if she thought it will be good for the neighborhood and she said yes, it is aesthetically designed with more parking being generated on Squankum and the people across the street will now have a place to park. She spoke to Hatzolah and they told her they actually have less calls in a busy neighborhood than they have in the quiet neighborhoods because in the quiet neighborhoods the mothers are much more complacent and they allow their kids to roam the streets. She has worked with Paradise Realty in the past and is selling for them now in Tamarind Park and said every project he works on is beautiful and he makes more parking. There was a shooting at the VFW and it was maybe more dangerous than the traffic.

Yisroel Kaplinsky, 900 Monmouth Avenue, Lakewood. He said since they are talking so much about parking and generating so much parking, he would like to know what that factor is. Two years ago, he was not at his house and he got a call that there was an accident and somebody crashed into his car and it was parked. If this was in NYC and this happened it would be normal, but this is in Lakewood. He appreciates them bringing in the nice development, without it the VFW would probably be there another 20 years but said safety is the main issue and mothers may keep their kids out of the street, but can they keep the cars off the street? He said if you want to have accidents, then push it right through.

Seeing no one else, this portion was closed to the public

Mr. Penzer said Mrs. Ballwanz brought up an interesting point. Mr. Penzer said he has done, on all 5 sides of this project, townhouses that were approved. On 9th Street, from street to street, Lakewood Cheder School did 22 units to the acre because they wanted to have the rabbis for the school be there. On the next corner he did townhouses; and all around that area he has not done single family houses, they are all townhouses. He said there are no single family houses there (members of the audience objected) and he said the reason for it is ...and then he objected to the comment of the chicken coops and said he was raised on a chicken farm and Mr. Jackson asked him to please keep his comments to the application. Mr. Penzer said the area around this application is all townhouses and much more cluttered and saturated and that is what he did. This application is a reduction in the amount of townhouses in the area. This is the center of the puzzle, the last piece. The law is clear that traffic is not a consideration for this board; 18 accidents in 4 years is horrendous but he said let's not exaggerate the situation to fit what fits them. He must instruct the board as to the law and the attorney stated it as well. They were willing to do everything; move buildings, put landscaping, put garages, etc. to try to make this thing work. They cannot make it economically work and all they have to do is get rid of the greenery and they comply, there would be no variance, no judge in the world can stop him but nobody wants to do that. This is the best they can do with the variance; if the board does not like the variance then they will build it without the variance. They do care and that is why they were here 8 times and asked to board to consider that when they take their vote.

Mr. Percal said he had a point of information to ask Mr. Jackson and said assuming they had a fully conforming application is it within the boards' jurisdiction to turn it down because they

believe that it could be a danger to the neighborhood? Mr. Jackson said in the rarest of circumstances you can base it on safety issues; however he said it has to be based on scientific data, competent testimony, concrete things that somebody can point to ex: site triangle, dangerous curve, etc. and if they had an alternative, but it has to be something that is not what the court refers to as arbitrary and capricious (based on a standard that is not in the ordinance). When you have a fully complying application, you are duty bound to approve it.

Mr. Miller said he is caught in a dilemma; on the one hand they hear from the residents their valid concerns and on the other hand the variance that has been requested is one that this board asked the applicant to do. Mr. Jackson stated the applicant said if that is not what the board wants them to do, they will move the building back and make the application fully compliant. Mr. Miller continued and said he recalls an application for Georgian Court University and the board turned it down due to the fact that the intersection did not make sense and ultimately they were dragged through the court system and lost. Mr. Jackson said that winds up costing the town time and money and going to court time and time again diminishes the reputation of the board and in a close case the court might say they never follow the rules and it hurts the board down the road. Mr. Miller asked what the rules are when there is no variance requested and Mr. Jackson said the rules are you must grant the application; you can ask for slight modifications within the realm of reason but when it is fully complying without providing any alternatives, you have to approve it. Otherwise, the court could also say it is an inverse condemnation (used the zoning power to condemn property, or take it from the government) in which case the town would have to pay the applicant the full value of the property with the approval.

Mr. Miller asked the chairman what type change can they make that will make it work? Mr. Schmuckler had a request for Mr. Flannery about the basements and not having them make the application more congested than it is currently. Right now there is an entrance right off the garage directly to the basement and Mr. Flannery said there are 2 ways of getting in: interior from the unit or when you get out of your car you can go directly in to the basement. Mr. Schmuckler said his concern would be that this garage would turn into a front door garage for a possible tenant to use the basement which would create an additional 8 residents to total 18. He asked what the applicant can do to make sure that would not happen and Mr. Flannery said Mr. Penzer indicated that they would be willing to stipulate that the garage would be there and with the size of the garage and basement you have reduced the size of the basement to one that really does not lend itself to an apartment as they would agree that there be no apartments in the basement. Mr. Schmuckler asked if there was a way to have the door from the garage go up to the first floor instead of going right into the basement, He said his reasoning is because there would not be enough parking for basement apartments and this is a congested area and if you are coming in without 4 spots, can you do that? Mr. Jackson asked if Mr. Schmuckler believed that having an entryway directly into the house because it would be less suitable for a dual family and designate the garage as a parking area. Mr. Flannery said the garage is already designated and as far as the entrance from the garage, what they would have to do if they close the entrance into the basement, the residents would have to walk outside and up their front steps into the home; there is no room to create steps into the unit. Mr. Schmuckler said those stairs and basement is the difficult part of this application because of the parking.

Mrs. Koutsouris said touching on what Committeeman Miller said with regard to what change can be made to this design, she understands the emotional comments by the objectors and the emotional Mr. Penzer but what she is hearing from the objectors is that this intersection is inherently dangerous but she does not have any data to back that up and that is one of the issues she has with turning down this application. She does not know what change can be

made to this application to make that intersection better and she does not know if this application would necessarily make that intersection worse so unfortunately it is difficult for the board because they do feel for how the neighbors feel about their neighborhood and the safety of their children. When they were looking at that application before, they were contemplating parking in that small square area in the top left and that is not there now so to her that prior design was less safe than what they are dealing with now. Mr. Penzer said they did everything the board asked except for the suggestion by Mr. Fink.

Mr. Schmuckler said he would like the garage to be non living space, designated as such and he would really rather they have going from the garage you go back outside and up the stairs because he wants to minimize the possibility of this turning into a rental in the basement. Mr. Neiman asked why they can't just deed restrict it; there cannot be any tenant living in the basement and it could never be rented out. Mr. Jackson said that can be an additional enhancement and that can be enforced in court by a neighbor. Mr. Penzer said he would rather have it as part of the resolution as opposed to deed restriction for a marketing purposes and Mr. Neiman said in something like this, if you want it you have to look for ways. Mr. Jackson said he does not think in this instance a deed restriction would hurt; it is not a single family home, it is an association anyway and you are subject to the bylaws and the master deed. Mr. Penzer said you can put it in the bylaws and Mr. Schmuckler said the bylaws can be changed with 75% and Mr. Jackson said you can put it in the master deed. Mr. Penzer said he never saw it that way and Mr. Banas said bylaws can be changed, master deed cannot. Mr. Penzer said they can put it in the bylaws that it has to be 95% and Mr. Neiman asked him why he is so against putting it in a master deed. Mr. Penzer said in the mortgage market today, any kind of restriction kills him; it is hard enough to get a mortgage and Mr. Jackson said this mirrors the site plan approval and the basis upon which this was approved but it is the board's call. Mr. Neiman said when it comes to basements everyone knows there are no enforcement powers and Mr. Penzer said this is a basement which is ½ garage so how much of a basement do they have and Mr. Neiman said they will find a way somehow. Mr. Neiman said he thinks a deed restriction is something that should be put on this application for a basement. Mr. Banas said he does not like a deed restriction on this but would like a master deed restriction for the reason he cited earlier. Before the board goes into a motion, he suggested that someone tell the board all of the things that will be in the resolution and said Mr. Jackson has been itemizing them and can run them by real fast.

Mr. Jackson said he has been taking notes but does not recall any special conditions and stipulations and Mr. Banas said he heard several: the master deed was one; the garage with no living habitation; the stairway going down to the basement be through the house; the variance stands. Those are the things he recalls and Mr. Jackson said he does not recall the applicant agreeing to the stairs going through the house and Mr. Penzer said it emasculates the house and makes it into a nullity. Mr. Banas asked what the basement will be configured to hold; is there water down there and Mr. Penzer said it is unfinished and Mr. Banas asked again if there is water down there and can a kitchen be added and Mr. Penzer said someone would have to go for approval to do that. Mr. Fink said to knock out a unit. Mr. Penzer said whatever the board feels they need to do, do it and they will do what they have to do.

Mr. Banas said himself he would talk about the stairway going through the kitchen to get to the basement and if not he needs to know what the plans are for the design of the basement; unfinished doesn't establish any dimensions whatsoever. If it is unfinished then he suggests that the size of the basement be for a limited area to house the furnace and storage and that is about it. With the amount of people that he envisions living in that area, it will be sizable; it will be congested and to have the possibility of a living quarters in the basement will be a

horrendous amount of people and he thinks the safety of not only those people but the safety of everyone is at jeopardy.

Mr. Penzer said it is his position that giving the board the power to limit that there is no livable quarters in the garage, giving a master deed restriction and saying that at this point there is no plans for anybody living there gives the board a mechanism and by saying that they are not letting them go down to the basement, you are effectively emasculating the use of the basement and that he does not think is fair. Mr. Banas said no, just make the basement smaller for storage and Mr. Penzer said even storage, it is not the biggest unit that he makes it out to be; they need someplace to be able to move on it and he has a problem with it. There is a problem with not having access to the basement; all the other conditions they can meet.

Mr. Neiman said once they are master deeding the basement, he knows he has a playroom in his basement for his kids, etc. and deed restricting the basement is enough. He said he does not want to say you have to have 4 ft. ceilings and just have a furnace down there, it is additional area for the kids to play and do homework. Mr. Banas said it is his understanding that a deed restriction works, but someone in the neighborhood needs to go and report that there is a deed restriction and tell him who will be that individual and who would report if there is a violation. Mr. Penzer said the same enforcement arm that is a neighbor will talk, someone will talk and he guarantees they have very vigilant neighbors and he does not think they will be down on the job and if they somebody there they will be proactive and do what they have to do. Mr. Banas said he is a humanist and he knows that does not happen very frequently.

Mrs. Koursouris said they have had someone come up and discuss that there could possibly be between 50-100 children living in this area and it is important that these children have access to the basement to be able to play, Mr. Neiman agreed and Mr. Schmuckler said he thinks they all agree that the basement should be accessible but his biggest point is that it should be accessible from the outside at all, even through the garage. Mr. Flannery said allowing that door from the garage into the house is going to more encourage it to be used as a parking space; when the wife comes home with the groceries and it is raining, she can park inside and bring the groceries in without getting wet.

Mr. Neiman said this application is not an easy one and the board took all their comments and digest those comments. Sometimes when you are not asking for a variance it is hard to deny it, and they have been turned over in court a number of times. Safety is not something that the board takes lightly and they understand that that corner of Monmouth, 9th, Princeton, is a tough corner but they have been here a number of times trying their best to make this a safe application. He thinks by deed restricting the basement makes it safer, by adding the indentation for parking on Squankum adds more spaces and as a board they need to make this application as safe as possible and as less dense as possible. Mr. Percal asked if Mr. Penzer would agree to the deed restriction and Mr. Neiman said if it is in the resolution, he has no choice but to agree to that and Mr. Banas' master deed restriction is probably something that is better here and they just have to hope that there are neighbors that are going to say something if they see tenants moving into the basement. Mr. Jackson said a deed restriction is a little easier to manage than a master deed restriction; it can be recorded and that can be a condition of resolution compliance and it could say it is incorporated into the master deed.

Motion was made by Mr. Banas, seconded by Mr. Franklin, to approve the application with the conditions that they agree to all the terms in the review letter, the deed restriction, no living in the garage or basement.

**PLANNING BOARD MEETING
MARCH 17, 2009
MEETING**

**TOWNSHIP OF LAKEWOOD
REGULAR**

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Neiman said at this time he knows the next application is not going to be a quick one either so they are going to end the meeting now, at 9 o'clock which is when they end them. Mr. Kielt said they will carry some of these applications to the meeting on April 7, 2009 which will be a combination meeting of tech/pubic hearing. The remainder will be carried to April 21st.

- 5. SD# 1636 (Variance requested)
Applicant: Yehuda & Adina Kirshenbaum
Location: 1385 Pasadena Street, west of Alvarado
Block 187.13 Lot 15
Minor Subdivision for 2 lots**

Mr. Alfieri, Esq. representing the applicant, requested they start the application because there are many people who are here that have been waiting for 3 hours and they would like to speak if the board can do it. Mr. Neiman said he is sorry but they cannot. Some in the audience said they can't make the 7th and Mr. Kielt said they can put them on the 21st. Mr. Alfieri said April 7th.

- 6. SP # 1905 (Variance Requested)
Applicant: Congregation Bnei Giborei Yisroel
Location: 1193 W. County Line Road-across from Cedar Row
Block 27 Lot 22
Preliminary & Final Site Plan and Change of Use Site Plan from single family home to a synagogue**

The attorney for the applicant, Steve, agreed to be carried to April 7, 2009

- 7. SD # 1641 (No variance Requested)
Applicant: Raquel Schorr
Location: White Road @ intersection with Drake Road
Block 251 Lot 8
Minor Subdivision for 2 Lots**

Mrs. Weinstein agreed to be tabled to April 21, 2009 and agreed to the time waiver. All were in favor

- 8. SD # 1659 (No variance Requested)
Applicant: JG Ridge LLC
Location: 240 & 244 Ridge Avenue, east of Negba Street
Block 236 Lots 33 & 34
Minor Subdivision to realign lot lines**

Tabled to April 21, 2009 and Mr. Doyle agreed to the time waiver. All were in favor

9. SP # 1900A (Variance Requested)
Applicant: Primax Properties/Advance Auto Parts
Location: River Avenue (Route 9), north of Locust Street
Block 534 Lots 8 & 10
Preliminary and Final Site Plan for auto parts store

Tabled to April 21, 2009. All were in favor

10. SD # 1662 (Variance Requested)
Applicant: Jonathan Rubin
Location: 1120 Lexington Avenue @ sw corner of Carey Street
Block 111 Lot 4
Minor Subdivision for 2 Lots

Tabled to April 21, 2009 and Mr. Rubin agreed to the time extension. All were in favor

11. SD # 1657 (Variance Requested)
Applicant: Shmuel Friedman
Location: River Avenue & Cushman Street
Block 430 Lots 9 & 54
Minor Subdivision to realign lot lines

Withdrawn by applicant

12. SP # 1908 (Variance Requested)
Applicant: Shmuel Friedman.
Location: River Avenue (Route 9), north of Cushman Street
Block 430 Lot 9.01
Preliminary & Final Site Plan for office and retail building

Withdrawn by applicant

13. SP # 1909 (Variance Requested)
Applicant: Shmuel Friedman
Location: Cushman Street, off Route 9
Block 430 Lot 54.01
Preliminary & Final Site Plan for auto dealership with service bays

Withdrawn by applicant

6. CORRESPONDENCE

Mr. Kielt said they already handled the correspondence. It was Dr. England

7. PUBLIC PORTION

8. APPROVAL OF MINUTES

- Minutes from March 3, 2009 Plan Review Meeting

Motion was made by Mrs. Koutsouris, seconded by Mr. Schmuckler, to approve. Mr. Banas had a question on the minutes and said he has spoken to Ms. Johnson and he has indicated some of the things that he has difficulty with in terms of these minutes. He stated minutes should be a reflection of the occurrence of the meeting and if he reads the minutes in the method they are presented to him, he did not answer the roll call; however, 2 issues in he voted on a matter that came before the board which took place at the end of last meeting and these do not reflect him showing up. Mr. Kielt said Ms. Johnson said the recording did not reflect an announcement that Mr. Banas showed up. Mr. Banas said that is not the point; if they started at 6 o'clock we would have heard this matter someplace about 6:20 yet he did not arrive until 7:30-7:45 and these are not a true representation of our occurrence. When Mr. Banas identified the problem, she indicated that she followed the agenda rather than the sequential presentation and he thinks that if they make that a part of their minutes, which would suffice. Mr. Neiman asked Mr. Kielt to remind him to announce when a member arrives and to let Chris know to listen out for that and count the roll call then they come in.

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

9. APPROVAL OF BILLS

Motion was made by Mr. Percal, seconded by Mr. Schmuckler, to approve

ROLL CALL: Mr. Franklin; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

Mr. Banas said before they adjourn there is one matter he would like to bring forth. He said they have had discussions before dealing with the number of parking spaces needed for a office complex. He thinks they can have the attorney address that issue with the Township Committee to straighten that problem out and get rid of it once and for all. Mr. Neiman agreed told Mr. Jackson they need to have more clarification in the ordinance to differentiate between a physicians office, regular office, synagogue, church; it is vague. When it comes to regular office space, is it one per every 200 sf, one every 300 sf; it should not be Mr. Flannery's discretion when it should be 200 or when it should be 300; it should really be in the ordinance.

Mr. Jackson recommended they consult a traffic engineer because they have published studies of what the trip generators are and what the parking demands are for different types of professions and that is how the ordinance should be approached. He is sure Mr. Vogt has the resources to do that and Mr. Jackson suggested the board ask him to give recommendations on what they should be for various uses and then the board can recommend to the Township Committee to change the ordinance to reflect that. Mr. Neiman asked Mr. Vogt when he thinks he can have that and he said he could have that by May; there are various data sources, and then there is Lakewood. Mr. Neiman said sometimes they do conform to the ordinance but they have to recognize that it is different here and maybe taking away one house would have been the right thing to do and they can't always worry about the judge. He did hear what the objectors said and they were right and he was very torn by this last application. Mr. Akerman said if they treated it as an R7.5 they still would have had 4 houses with basements, there would have been 8 units there anyway. Mr. Schmuckler said the lot is just overbuilt. Mr. Akerman said it should have been a park, there should be nothing built there, the lot never should have ended up in their hands. The board members continued to discuss it amongst themselves and Mr. Neiman adjourned.

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

submitted
Johnson
Board Recording Secretary

Respectfully

Chris
Planning