

1. CERTIFICATION OF COMPLIANCE

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

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

2. ROLL CALL

Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

4. MEMORIALIZATION OF RESOLUTIONS

1. SD 2076 Joan Hertz

Miller Road Block 11.01, Lots 3.01 & 4.08
Minor Subdivision to realign lot lines

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

2. SP 1947A Congregation Pri Aharon

East County Line Road Block 208, Lot 163
Amended Preliminary and Final Major Site Plan for a school (existing) and dormitory

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

3. SP 1883 Sudler Lakewood Land LLC

Oak Street & Paco Way Block 1160.04, Lot 54 & 383
Extension of approved Preliminary and Final Major Site Plan

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

4. SP 2011 Sudler Lakewood Land LLC

Route 70 & Paco Way Block 1160.04, Lot 49
Extension of approved Preliminary and Final Major Site Plan

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

- 5. SP 2079 Sudler Lakewood Land LLC**
Oak Street & Paco Way Block 1160, Lot 240 & 251
Extension of approved Preliminary and Final Major Site Plan

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

- 6. SD 2066 Yehoshua Frankel**
Albert Avenue Block 827, Lots 1 & 3.02
Minor Subdivision to create four lots

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

- 7. SD 2073 ARM Realty and Construction**
East Fifth Street Block 189.01, Lot 178
Minor Subdivision to create two lots

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

- 8. SP 2139AA Yossi Adler**
Chestnut Street Block 1094, Lot 1
Change of Use/Site Plan Exemption to convert existing house to a school

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

- 9. SP 2135 Somerset Development**
East County Line Road Block 174.11, Lots 41.01, 42, & 43.07
Preliminary and Final Major Site Plan for a retail and grocery store

Mr. Follman said he has been to this site and there are a lot of tractor trailers delivering. He thought there was a condition in the resolution stating no tractor trailers shall deliver to this site.

Mrs. Morris said the wording in the resolution specifically states that no trucks over an SU40 or shown to fit on the site by an approved traffic circulation by the Board engineer would be permitted.

Mr. Vogt said the applicant would have to make their case during compliance.

Mr. Follman said he has seen tons of trucks that are bigger than that and it is a disaster. He asked how this would be enforced.

Mr. Jackson said this application has already been voted and approved with that condition. The question is whether the resolution reflects what the vote was. To reopen this now, the Board would have to find new evidence or a mistake. He believes the Board should rely on the Board Engineer resolving this during resolution compliance. If the applicant brings in trucks that don't work with the circulation, then they could get a violation and summons.

Mr. Vogt said there was a lot of back and forth concerning one of the entrances on the road. As a condition of approval, they had that reversed versus what was shown on the plans. One of the conditions of approval is that the applicant has to submit a revised circulation plan based upon what was represented. They have truck templates for a certain size truck and they would show that it could navigate through that revised site design. If they cannot make that proof, then they would be limited to what they can demonstrate or they would have to come back before the Board.

A motion was made by Mr. Flancbaum, seconded by Mr. Flancbaum to approve the resolution.
Affirmative: Mr. Flancbaum

- 10. SD 2068 Lakewood Investments, LLC**
Williams Street Block 411, Lots 18, 20, 22-24, 73, & 81
Preliminary and Final Major Subdivision to create seventeen lots (16 duplex units and 1 single-family)

Mrs. Morris said the applicant requested that a line be added to the resolution to allow the applicant to separate this project into two phases which would allow them to post two separate bonds. She has reviewed this with the Township Engineer and she does not believe this affects the nature of the approval. There is an existing house on a portion of the site and the applicant would like to keep the existing house while they are constructing the first phase. The applicant would demolish the house once phase two commences.

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman,

- 11. SD 2027A ARM Land Group LLC**
Bergen Avenue Block 246, Lots 25 – 28, 36, 37, 64
Amended Preliminary & Final Major Subdivision to create twenty fee-simple duplex lots (10 buildings)

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

- 12. SP 2137 Masoras Avos**
Congress Street Block 536, Lot 10 & 17
Preliminary & Final Major Site Plan for an addition to an existing school

A motion was made by Mr. Flancbaum, seconded by Mr. Follman to approve the resolution.
Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

ORDINANCE FOR DISCUSSION

- Oak Street Corridor Improvement District

Mrs. Morris said the Board had previously looked over the Oak Street Core Overlay with improvement districts which had been approved as separate rezones by the committee some time ago. This is just laying out the way fees and funds would be collected from developers in accordance with that district. It is not any type of rezone and appears to be more administrative than anything.

Mr. Jackson said it is a requirement that the ordinance go before the Planning Board to determine if it is consistent with the Master Plan.

A motion was made by Mr. Herzl, seconded by Mr. Follman to recommend adoption of this ordinance by the Township Committee.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

5. PLAN REVIEW ITEMS

1. SP 2147AA 301 Madison, LLC

Madison Avenue Block 92, Lots 10 & 11
Minor Site Plan for grading and drainage changes

Applicant is requesting a combined plan review and public hearing this date

A review letter prepared by Remington, Vernick & Vena Engineers dated October 5, 2015 was entered as an exhibit.

Mrs. Morris said this is a minor site plan which only requires Board approval because they are changing grading of the site. From her understanding, the applicant is proposing to install some underground drainage structures to improve existing conditions. The applicant may also be redoing the front façade as well.

Mr. Charles Surmonte, P.E. said they are proposing to modify the front entrance off of Madison Avenue. Presently access comes off of Third Avenue. They would like to make an entrance off of Madison Avenue and come in right in the front door at the lower level removing a set of steps along the front façade. The other change is to correct a somewhat undesirable drainage situation along the north side of the building. They would like to regrade that portion of the parking lot to get the water to runoff away from the building. As part as this application, they are improving the overall drainage situation by installing some drywells on the south side of the building to take the runoff from the entire roof area.

Mr. Franklin asked if the State is permitting access on Madison Avenue.

Mr. Surmonte said that driveway already exists. They are not modifying the layout at all.

Mr. Vogt said they are not changing the access to the site. This is just modifying the entrance to the building, not vehicular changes.

Mrs. Weinstein said the access to Route 9 is not being touched as that would require DOT approval. She said the applicant is trying to make the site better and believes this could have been approved administratively but they were asked to come before the Board.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the application.

Affirmative: Mr. Franklin, Mr. Flancbaum, Mr. Follman

6. PUBLIC HEARING

1. **SD 2091 Fire House Holdings LLC**
Clover Street & Bergen Ave Block 245, Lots 8 & 10
Minor Subdivision to create six fee-simple duplex lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 22, 2015 was entered as an exhibit.

Mr. Vogt state that no variances are being requested.

Mr. Adam Pfeffer, Esq. on behalf of the applicant stated they have reviewed the Board Engineer's review letter and have no objections. Terry did have one comment regarding the staggering of the duplex which will be addressed by Mr. Hilla.

Mr. Warren Hilla, P.E. was sworn in. He said based on the definition of a duplex, the stagger is supposed to be a maximum of 3 ft but based on the shape of the lot, they had to stagger a little further north for lots 8.01 and 8.02. He believes it would be more of a waiver than a variance. This staggering gives the duplexes a little more character and depth.

Mr. Vogt asked what the estimated stagger would be.

Mr. Hilla said he could put the back corner right on the property line. He could probably limit it to about 10 ft.

Mr. Vogt said it would be somewhere between 5 and 10 ft versus the code definition of 3 ft.

Mr. Pfeffer said the applicant prefers to leave the staggering as is but if the Board feels it necessary, they would be happy to comply with the ordinance. All other comments in the review letter can be agreed upon including a dedication along East Fourth Street to correct the existing jog in the right-of-way.

Mr. Lankry asked if entrance to the basements would be to the front or side.

Mr. Pfeffer said they are not sure at this time.

Mr. Lankry said if entrances are located on the side he would request that the doors open inwardly.

Mr. Pfeffer said they have no objection.

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

A motion was made by Mr. Lankry, seconded by Mr. Flancabaum to approve the application.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancabaum, Mr. Follman, Mr. Lankry

2. SD 2071 Esther Weiser
South Street Block 855.05, Lot 29
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 14, 2015 was entered as an exhibit.

Mr. Glenn Lines, P.E., P.P. was sworn in. He said this is a minor subdivision to create two lots. The only variance requested is for minimum lot width of 90 ft whereas 100 ft is required. The entire side of the street has 90 ft wide lots.

Mr. Flancbaum said there is a comment concerning wetlands in the review letter.

Mr. Vogt said there are potential freshwater wetlands in the rear of the site. The applicant would need to stay out of the wetlands and buffer area or seek the appropriate permit from NJDEP.

Mr. Lines said he does not believe there are wetlands, it is just on the State's DEP mapping.

Mr. Vogt said prior to development, he recommended an assessment be done by an environmental consultant. It would be dealt with during compliance.

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

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the application.
Affirmative: Mr. Lankry, Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman

3. SP 2133 Jack Aviv
Vassar Avenue Block 1602, Lot 6
Preliminary & Final Major Site Plan for a storage building

Mrs. Morris said there was a notice issue and this application will be carried.

A motion was made by Mr. Follman, seconded by Mr. Flancbaum to carry the application to the November 10, 2015 meeting.
Affirmative: Mr. Lankry, Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman

4. SD 2075 Gefen Construction
East Seventh Street Block 223, Lot 3
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 14, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum lot area, lot width, side yard setback and aggregate side yard setback. Design waivers appear necessary with regard to providing street trees and a shade tree/utility easement.

Mrs. Miriam Weinstein, Esq. stated that this is a subdivision of an oversized lot into two lots upon which single family homes will be constructed. The property is large enough to accommodate a duplex as of right. The total

number of families and incoming/outgoing traffic will not be affected by this application. There are bulk variances associated with this application for which testimony will be provided. They believe single family homes to be the superior use of this property.

Mr. Glenn Lines, P.E., P.P. was sworn in. A minimum lot width variance of 50 ft and 55 ft is being proposed whereas 75 ft is required, minimum lot area variance of 8,407.13 and 7,639.50 sf is being proposed where 10,000 sf is required, minimum side yard setback of 7.5 ft is being proposed whereas 10 ft is required. Most of the lots in the area have been subdivided in accordance with the R 7.5 standards. The Master Plan calls for rezoning of this area. There is a 5,000 sf lot next door to this and a duplex on a lot less than 10,000 sf. They are in keeping with the area as there are other small lots around them including a flag lot behind them. They could put a duplex with the same number of people as two single family homes but they feel single family homes are better for the area. He does not believe this would be a detriment to the area and would not affect the zone plan or zoning ordinance.

Mr. Herzl said the Board recommended this area be rezoned as R 7.5. He asked if there would be any variances if that were the case.

Mr. Lines said no.

Mr. Flancbaum said they have done a few of these in the past where the Board prefers to see single family homes as opposed to a duplex.

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

Mr. Lankry asked about the location of the basement doors.

Mr. Lines said they do not have houses designed yet. This is just a subdivision.

Mr. Vogt said that would get reviewed during time of plot plan.

Mr. Lines said they would have at least 5 ft from the property line to the steps.

Mr. Lankry asked if the doors are located on the side of the homes that they make the doors open inwardly.

Mrs. Weinstein said this is just an approval to create the lots. All requirements would be addressed at time of plot plan approval.

Mr. Vogt said the applicant would have to comply with the UDO unless they receive relief at the Board.

A motion was made by Mr. Lankry, seconded by Mr. Herzl to approve the application.

Affirmative: Mr. Lankry, Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman

5. SD 2077 S. Greenes

Idalia Avenue Block 1051.04, Lot 9
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated August 19, 2015 was entered as an exhibit.

Mrs. Morris said there were some questions as to the legal notice. The original plan review meeting was on September 1st. Any legal notice would have been sent ten days prior to that meeting. On September 1st, an announcement was made that it was being carried so no additional notices were sent. The Planning Board file can be reviewed in the office.

Mr. Flannery said the applicant has asked that this application be carried to the next meeting. That will give the neighbors time to confirm if there was an issue with the notices. If there was, they would renotice.

A motion was made by Mr. Flancbaum, seconded by Mr. Herzl to carry the application to the November 10, 2015 meeting.

Affirmative: Mr. Lankry, Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman

6. SD 2079 Joseph Gutterman
St. Nicholas Ave Block 278, Lot 2
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 20, 2015 was entered as an exhibit.

Mr. Vogt said variances are being requested for minimum lot area and lot width.

Mrs. Miriam Weinstein Esq. stated there is also a variance requested for aggregate side yard setback of 23 ft whereas 25 ft is required. This minor subdivision is to create two new lots from one oversized lot. The applicant is proposing the relocation of the existing home that is currently on the mother lot onto new proposed lot 2.01. The existing inground pool is also proposed to remain on lot 2.01. The subdivision lot was drawn based on the relocation of the existing house rather than merely splitting it in half. The only variance proposed for lot 2.01 is for lot width of 88.16 ft whereas 90 ft is required. The applicant is proposing to construct a new 50 ft wide home on lot 2.02 which is a typical size being built nowadays. As such, this would require a variance for lot width and aggregate side yard setback.

Mr. Joe Kociuba, P.E. was sworn in. This is an existing oversized lot in the R-12 zone. The lot is 228 sf shy of being a full 24,000 allowing a minor subdivision without area variances. They are keeping the existing home on the property. A minimum lot area variance of 10,950 sf is proposed for new lot 2.02 whereas 12,000 sf is required and a minimum lot width variance of 87.09 for lot 2.01 and 73 ft for lot 2.02 ft is being proposed whereas 90 ft is required. He displayed a tax map showing other undersized lots in the area and further explained how the benefits outweigh the detriments. The side yard setback variance requested is also very minimal. In order to provide a 50 ft wide home, which is a standard width, they need a 2 ft side yard setback which is to the interior lot and would still provide 23 ft between the structures.

Mr. Franklin opened to the public.

Mayer Rogosnitzky, 109 Columbus Avenue South, was sworn in. He read a letter onto the record. He is in objection to this application as he feels this is overcrowding the neighborhood. He complained about traffic, parking and the overall quality of life. He read a letter to the Board which was entered as an exhibit.

Mr. Herzl asked if they could restrict parking on the street because it is a corner property.

Mrs. Weinstein believes most of the busses go on Central Avenue and don't even turn on to those side streets.

Mr. Kociuba said he is not aware of any issues in the area.

Mr. Vogt said this application is not going to alter what is already there.

Mr. Kociuba said that is correct. Both homes will face out towards St. Nicholas Avenue and the rear of the homes face towards lot 1.

Mrs. Weinstein pointed out that Central Avenue is a County road so it will be subject to County Planning Board approval.

Mr. Rogosnitzky requests that no windows from the attic face his property.

Mrs. Weinstein said the applicant will comply with that.

Mr. Rogosnitzky would also like additional landscaping to help screen the property.

Mr. Kociuba said the properties join for only 20 feet.

Mr. Flancbaum asked where he would like trees planted.

Mr. Rogosnitzky said along the sides of the corner house.

Mr. Kociuba said he does not own that lot.

Mr. Lankry asked about parking.

Mrs. Weinstein said there will be four parking spaces per unit.

Mr. Herzl is concerned about people parking on the street.

Mrs. Weinstein said there should be no need to park on the street because there will be ample parking. As far as the screening, the applicant cannot promise anything because it does not appear necessary. His property hardly touches this property. They can represent that there will not be any windows in the attic facing lot 8.01 but there will be windows in the attic.

A motion was made by Mr. Lankry, seconded by Mr. Flancbaum to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

7. SP 2138 Flea Market Developers, LLC
Route 70 Block 1077, Lot 22 & 23
Preliminary & Final Major Site Plan for a mixed use development

A review letter prepared by Remington, Vernick & Vena Engineers dated October 22, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum distance between buildings, minimum area of recreational facilities as well as a parking variance for the community center.

Mrs. Miriam Weinstein, Esq. stated this is a major site plan and subdivision of the existing flea market site located on Route 70 to create a mixed use development under Section 18-1017b of the UDO. That section provides for a grouping of retail and residential uses on a single site, planned and constructed as an integrated entity without on-site customer, employee and residential parking. The proposal calls for 166 townhouse units that can be classified as multi-family dwellings as defined in that section of the UDO as they have two or more dwelling units located in a single building with a private entrance to each dwelling. There will also be 8,000 sf of retail space, a community center, roadways, parks and open space. Any approval granted by this board, will be subject to approval by CAFRA and NJDOT.

Mr. Brian Flannery, P.E., P.P. was sworn in. The application is for a subdivision under the conditional use standards permitted in the ordinance. The board engineer's report indicates that testimony should be provided for the B-5 zone under conditional uses number G is mixed use multi-family development. They meet all the conditions including minimum tract size of 20 acres, 21 is being provided, maximum gross density is 18, they propose 15.74, maximum building coverage is 30%, they propose 25.06%, maximum building height of non-residential buildings will be less than 55 feet. The majority of the buildings are residential which will be less than 35 feet. The tract shall have at least 500 feet of frontage on a state highway, they provide 1,309 feet, the tract depth shall be not less than 500 feet, they propose 800 feet, minimum tract setback from a state highway is 75 feet from residential and 25 feet for non-residential. Other building setbacks include residential is 35 feet, they provide 40 feet, non-residential is 50 feet, they proposed 380 feet. The interior roadway driveway setback is 25 feet as well as the interior paved parking of 15 feet. The ordinance also requires that a minimum of 15% of the tract be non-residential in nature and the intent was that there be non-residential uses along Route 70. They have provided 17.99% non-residential uses. He disagrees with some of the variances listed in the Board Engineer's review letter. They did request those variances to be conservative. In his opinion, the only variance they need is for minimum distance between buildings. The ordinance states a minimum distance of 35 feet between proposed townhouse buildings, they are providing 20 feet which is typical. The solution would be to move the buildings closer together and you would have no gaps or to have longer buildings with wider gaps. It is his testimony that what is proposed here, is consistent with the intent of the ordinance and it makes sense. The building height criteria typically relates to the commercial buildings and they do not have any issue with that up front. It is strictly with relation to the residential buildings in the remainder of the site. Item 5 indicates that a bulk variance has been requested for minimum area of recreational facilities. The definition of recreational facilities says active and passive areas. They have three pocket parks which are 9,000 sf in area, a main sitting area which is a combination of active and passive which is another 13,000 sf and the area around the clubhouse. On most applications, he would include the clubhouse as part of the active recreation area but for this application he can take the clubhouse out of it. Taking that out, there is still another 16,000 sf there so they exceed the ordinance requirements of 33,000 sf. Additionally, passive recreation could be in the tree save area which double the area again. They did ask for that relief in case there was a question raised. Item 6 indicates a parking variance for the community center. If you look at the general standards of the ordinance that may be the case but in this particular section, 18-1017, it specifically says in item 2C, separate off-street parking for the clubhouse community center shall not be required. The board engineer's review letter indicates that 81 spaces are needed for the clubhouse whereas 40 spaces are being provided, in fact no spaces are required and in turn exceed the requirements. He was involved in the creation of this ordinance and the creation of the ordinance was so that you could have a community center and share some parking. It is their testimony that the 40 parking spaces would provide the need for that facility.

Mr. Vogt said they do not have a problem with the number of parking spaces. The way they interpret it, the applicant has the requisite number of parking spaces. Some of those spaces are parallel that are located on-street so they're not technically off-street. If you look at the mixed use in its entirety, they do agree that the applicant provides adequate parking.

Mr. Flannery said the plans were submitted that way so there would be no disagreement on the plans coming in but that it would be explained in testimony. With respect to the buffer in item 11, it indicates that in section 18-803, a buffer of 30 feet is required. That section also says that the buffer can be reduced to 15 feet if dense screening is provided. This particular section of the ordinance, 18-1017, indicates that a buffer of 25 feet with dense planting is required so this standard is actually greater. They have provided 25 feet with a double row of evergreens which is a dense screen.

Mr. Vogt said they have no problem granting that relief based upon the buffer provided.

Mr. Flannery said the remaining items in the report can be addressed. He knows there was comment at the technical meeting concerning the one entrance into the site. As Miriam has indicated, they need a CAFRA and NJDOT approval for this particular property. There is no way they are getting those approvals if they have more than one entrance. It is a boulevard entrance and they do have a traffic engineer who can address that it is sufficient. They are presenting virtually a by right application with the only relief required is the separation between the buildings and the 20 feet between the townhouses is a normal separation and a better alternative than pushing them together to leave larger gaps.

Mr. Lankry said this is a commercial zone.

Mr. Vogt said there was an overlay that was approved by the Township Committee several years ago which allows for mixed use development in this area if it meets the eight criteria.

Mr. Flannery said the mixed use specifically says that you need to have 15% non-residential. This overlay was specifically for this area and the reasoning is the Township was looking to encourage commercial development along the highway and provide for housing opportunities in the rear.

Mr. Lankry would think that in a commercial area, the Township would want to build commercial. He believes the community building should really be part of the residential because it is usually a shul or mikva.

Mr. Flannery said it is not residential. No one will be sleeping there.

Mr. Lankry said he would think on Route 70 they would want more rateables.

Mr. Flannery said that is correct but the town also needs housing.

Mr. Herzl asked about garbage pickup.

Mr. Flannery said they would be meeting with Public Works. The residential trash would be picked up in the development from dumpsters. The dumpster locations will be added per Public Works recommendations.

Mr. Lankry asked about parking. He said it looks like certain units do not have four parking spaces.

Mr. Flannery said there are four parking spaces per unit on the entire site. The people that buy those units will not have four in close proximity but there will be four on the site. There are 664 parking spaces for the townhouses, 40 spaces for the retail building and 46 spaces for the community building.

Mr. Lankry asked what the average number of parking spaces there are per townhouse unit.

Mr. Flannery said the townhouses along the back and side have four parking spaces. In certain areas some have two and some have four.

Mr. Lankry is concerned about the strip of townhouses that have less than four parking spaces per unit. They are doing a disservice to those townhouses.

Mrs. Weinstein said they are meeting the requirements of the ordinance.

Mr. Lankry just wants to make sure this development is done right. He said this is like a little city. He does not see enough parking, play area, retail. He sees this as a net loss for the town but the town is the one who wrote the ordinance.

Mrs. Weinstein said taxes are beyond the purview of the Planning Board.

Mr. Lankry said if someone is coming for a variance, he looks at it as a positive or negative for the Township. If it is a negative to the taxpayer then it is a negative to the town.

Mr. Flannery said if they were at the Zoning Board looking for those variances it would be a different story. This is a virtually conforming application. The Governing Body has been empowered to make the rules and they are following them. The only relief is something they could eliminate by making it uglier. With respect to parking, the potential homeowners will be well aware that there are only two parking spaces in front of the unit before they purchase it.

Mr. Lankry said 16,000 sf of recreation area is not sufficient for all of these families.

Mrs. Morris asked what the purpose of the sitting area is and she asked if it could be incorporated as part of the active recreation area.

Mrs. Weinstein said it is being governed by CAFRA.

Mr. Flannery said the 16,000 sf does not include that sitting area.

Mr. Vogt asked if they can meet the 33,600 sf requirement if they include the sitting area.

Mr. Flannery said yes.

Mr. Vogt said they are not requesting that variance based on his interpretation.

Mr. Flannery said yes, if the Board agrees with his interpretation.

Mr. Vogt said that interpretation is reasonable provided they provide that 33,600 sf minimum.

Mrs. Weinstein asked if there are dense trees in the tree save area.

Mr. Flannery said it is not as dense as it looks on the plan. It is an oak/pine type area.

Mr. Lankry asked about the retail buildings.

Mr. Flannery said to the west is a retail building and to the east is a community building.

Mr. Lankry asked how you would enter into the development in order to get to the retail building.

Mr. Flannery said you would come in from the entrance on Route 70, make a left turn and into the parking lot.

Mr. Lankry asked how large the retail building is.

Mr. Flannery said it is a 6,000 sf footprint. The middle building has 2,000 sf upstairs. So it is 8,000 sf total.

Mr. Lankry asked what is on the second floor.

Mr. Flannery said it is a lounge type area.

Mrs. Weinstein said it is meant to be like the upstairs of a restaurant for overflow.

Mr. Lankry asked if they could add more parking spaces.

Mr. Flannery said they are providing 46 more parking spaces than what is required by ordinance. Some of the uses will overlap so they will have more parking than what is needed.

Mr. Vogt said looking at the off-street parking requirements, there is a section that says the total off-street parking provided on the site plan for the residential and non-residential portions of the development may be reduced based on the shared parking analysis at the discretion of the Board. The applicant hasn't offered that. His interpretation is the applicant does not have to. The total number of spaces including those parallel spaces exceed what they interpret is required which exceeds what Mr. Flannery interprets as required. Shared use of the site is a mixed use concept.

Mr. Franklin asked if the roads would be public or private.

Mr. Flannery said the main roads will be public. The parking areas would be maintained by the Homeowner's Association.

Mr. Franklin said they are going to need a K-turn at the end of Naple Lane on each end in order to get the trucks turned around.

Mr. Flannery said they will be placing dumpsters.

Mr. Franklin said there is not going to be any room for dumpsters. You need one dumpster for every five units.

Mr. Flannery said they can fit dumpsters in between all of the openings.

Mr. Vogt said as a condition of approval, a circulation plan will be provided. Testimony should be provided concerning the accessibility for the largest DPW, emergency and delivery vehicles anticipated in the development.

Mr. Flannery said they have agreed to do that and they would meet with the board engineer and DPW but it would probably be after they receive feedback from CAFRA.

Mr. Franklin believes this should go to DPW before this Board votes because there are definitely going to be changes made. There is not enough room for dumpsters and the trucks will not be able to get turned around on certain streets.

Mr. Flannery said if they can't satisfy DPW, then they would have to do private pick up.

Mr. Jackson said this is a mixed use concept yet the applicant is subdividing the property. He asked how that stays compatible with a mixed use where presumably you have an association that would govern and manage the entire site.

Mr. Flannery said it is mixed use because the project came in as one project on over 20 acres and it is designating an area that is non-residential. That area will have to remain as the retail and clubhouse so that it complies with all of the rules of the ordinance.

Mr. Jackson asked how you can make certain that the retail and clubhouse are dedicated to the community association. He is defending a lawsuit against the Planning Board right now where the clubhouse and the road were sold off to a different entity. Now the residents who live in that development have no community center.

Mrs. Weinstein said that was a result of a foreclosure. There were two different lenders.

Mr. Jackson understands that but it was still broken off and now that community does not have a clubhouse. If it is subdivided, how can they ensure that this amenity that is supposed to be for this large scale development is devoted, owned and managed by the association.

Mrs. Weinstein said there is going to be an HOA and the clubhouse will be managed by the HOA.

Mr. Flannery said that can be designated on the map and in the resolution. To be clear, the commercial building is not going to be owned by the HOA. That is a separate entity which is being created as part of this mixed use development.

Mr. Jackson asked if there would be cross access easements for the parking areas.

Mr. Flannery said yes.

Mr. Jackson asked if the sitting area can be just a grass field without the walkways. That way it could be used for active recreation.

Mrs. Weinstein said if the Board likes that idea then the applicant would be amendable.

Mr. Lankry thinks it is a good idea.

Mrs. Weinstein said it would be maintained by the HOA. The HOA would own the clubhouse and all of the common areas including the recreation areas.

Mr. Jackson asked about the parallel parking spaces along the main roadways.

Mr. Flannery said there are parallel parking spaces along the road.

Mr. Jackson asked if they would dedicate those streets to the Township.

Mr. Jackson said this is really a complex. He asked why they don't maintain ownership of those roadways to make certain that they are plowed and maintained. In theory, if the Township takes over the roads, those parking spaces could be made into a no parking area.

Mrs. Weinstein said the association typically does their own plowing in these developments because development typically get plowed last. The homeowner's do not want the streets to be private because the cost of insuring the road is expensive and it tends to bring up the dues.

Mr. Jackson said the same thing happened with Charming Way. It never made its way into the master deed.

Mrs. Weinstein said there is no master deed but there would be a declaration.

Mr. Jackson asked how the HOA would have enforcement rights to make certain that the common areas are maintained.

Mrs. Weinstein said it would be in the declaration of covenants and restrictions.

Mr. Jackson said but when it is a condominium there are laws that say they can charge fees.

Mrs. Weinstein said the HOA can also charge fees.

Mr. Jackson asked what is done when someone does not pay those fees.

Mrs. Weinstein said you can put a lien on their property and foreclose the lien. The only difference on the condominium association is that, in the event of a foreclosure, they can collect six months dues prior to the lien of the mortgage which does not exist on a HOA. Other than that, they are pretty much identical.

Mr. Lankry said the HOA can change how they do business by a simple vote whereas a condominium it is written into the master deed.

Mrs. Weinstein said it is the same thing. They have certainly no problem with the Board making a condition of approval that the HOA will be responsible for the landscaping, mowing and snow plowing.

Mr. Vogt said the HOA will also maintain stormwater.

Mr. Flannery said yes.

Mr. Lankry asked about the retail space and community center.

Mrs. Weinstein said the community center will be owned by the HOA.

Mr. Lankry is concerned about the shared parking spaces for the retail building

Mrs. Weinstein said there will be a cross access easement between the HOA and the owner of the commercial property.

Mr. Franklin said there will be a problem getting a truck in the retail area too.

Mr. Flannery said it is a small building. They are used primarily to serve the development.

Mr. Franklin said large trucks will not be able to turn around there.

Mr. Flannery said the truck would pull in and back out.

Mr. Mike Dipple, P.E. was sworn in. He said it is a small retail building. The retailers do have control of what truck could come and bring their product there. It is a small area but they assume they can back up. It is not for tractor trailer deliveries. He anticipates mainly box trucks.

Mr. Follman said they don't know what kind of trucks will come and you can't request what type of trucks to deliver.

Mr. Flannery asked that this be carried to the next meeting to look at the issues raised by the Board and to meet with DPW.

A motion was made and seconded to advance the application to the November 10, 2015 meeting.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

- 8. SP 2060B Toms River Torah Center**
Seminole Drive Block 2, Lot 38
Preliminary and Final Major Site Plan for an addition to the existing school

Mrs. Miriam Weinstein, Esq. asked that this be carried to the November 10, 2015 meeting. The objecting attorney, Mr. Gasiorowski, could not be here tonight.

A motion was made and seconded to carry this application to the November 10, 2015 meeting.
Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

- 9. SP 2148AA Avrohom Bromberg**
Forest Drive and Miller Road Block 12.01, Lot 5
Change of Use/Site Plan Exemption to convert an existing house into a school

A review letter prepared by Remington, Vernick & Vena Engineers dated October 22, 2015 was entered as an exhibit.

Mr. Vogt stated that no variances are being requested. Design waivers are being requested from providing landscaping, lighting, sidewalk and curbing throughout the project frontage, bus loading and unloading zone, paved parking per Township standards.

Mr. Brian Flannery, P.E., P.P. was sworn in. He said this is an application to convert a house into a school. No variances are required. The school currently has ten students in one classroom. There are five parking space which exceeds the requirement of two per ordinance. The maximum number of students would be 35.

Mr. Franklin asked if the parking area would be gravel.

Mr. Flannery said yes.

Mr. Franklin said it should be paved.

Mr. Follman asked about the age of the students as well as pick up/drop off.

Mr. Flannery said it is currently only 9th grade boy's school. They would pave the gravel area.

Mr. Flancbaum asked about the parking ordinance for schools.

Mrs. Morris said she spoke with a few people who look at the parking ordinance and would require additional parking. They are not sure where they want to go with it. There are concerns that if they, for example, double the parking requirements there would be no way it would get passed by the Committee. There may be a big push back from the schools and synagogues and the question would be is it worth the fight if they are only going to gain one or two more parking spaces per site.

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

Mr. Lankry asked how large the house is.

Mr. Flannery said it is roughly 2,000 sf.

Mr. Lankry said it looks like there is space for additional parking.

Mr. Flannery said they are providing seven parking spaces for one classroom. The ordinance requires one per classroom/office.

Mr. Franklin said once they pave the parking area they are would be able to add additional spaces.

Mr. Lankry wants to lay it out now.

Mr. Flannery said they could provide overflow parking.

Mr. Lankry asked how many additional parking spaces they would need if they come in for an addition.

Mr. Flannery said it is tough to say right now because they are on septic. There are plans to connect to sewer and they would have a better idea.

A motion was made by Mr. Herzl, seconded by Mr. Lankry to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

10. SP 2048A 945 Airport, LLC

Airport Road Block 1160.01, Lot 222

Amended Minor Site Plan for a warehouse with parking lot and storage changes

A review letter prepared by Remington, Vernick & Vena Engineers dated October 14, 2015 was entered as an exhibit.

Mr. Jackson has a conflict and will step down for this application.

Mr. Vogt said no variances are being requested. A new design waiver is required. Parking facilities in the M-1 Zone may be located in any yard space but shall not be closer than 20 ft from any street line. The proposed off-street parking on the west side of the site would only be about 7 ft from the street line. The proposed gravel area on the north side of the site would only be about 5 ft from the street line. Sight distances have not been shown to ascertain whether there would be any conflicts with these proposed improvements. A design waiver

will be required from providing the new gravel area. The ordinance requires either pavement or concrete for the truck staging area.

Mr. Sean Gertner, Esq. said this was previously approved on March 18, 2014. They view this application as a cleanup.

Mr. Bill Stevens, P.E., P.P. was sworn in. He stated that this is the prior Sears facility which the applicant is now leasing to Universal Supply. It is used for an outdoor/indoor material storage yard. The Board had previously approved the application to install some outdoor storage racks, fencing and other minor modifications to the site which have all been constructed. Part of the approval showed another rack system for storage along the north face of the existing building. The applicant decided not to construct that as it really didn't fit with their operation and wishes to simply move that rack to a location along the south property line over existing asphalt. That raises an issue because in their prior application they had shown the proposed relocation as employee parking area. The parking area would be relocated out to the front along Airport Road. For all practical purposes, these spaces located behind the fence, really weren't functional as parking spaces anyway so what the applicant is doing by adding these spaces along Airport Road is really in effect doubling the amount of parking available to the public. One of the issues is loading and unloading of the trucks that aren't owned by the applicant. They need a place on site to stage those trucks so they are proposing to create a gravel yard along the outside of the existing paved yard between Airport Road and the existing paved storage area where trucks can stage and wait for their turn to come through the yard to either load and unload and not have to wait out on Airport Road.

Mr. Gertner said this proposal will increase the safety of the site.

Mr. Stevens said that is correct. The whole objection is to provide a safer environment for the loading and unloading of Universal Supply.

Mr. Franklin would like the gravel area blacktopped. It would be very tough to plow in the winter and it will be a real mess. There will be heavy trucks picking the stones up and taking them out onto the road.

Mr. Stevens said the business across the street does the same thing. If the Board requires paving they will but they prefer not to because of the amount of impervious surface and the ability to recharge some of the stormwater back in.

Mr. Gertner said winter is a very slow time of year so they do not expect to be plowing the snow at that location. It is more important to keep the impervious surface even for snow melt.

Mr. Franklin said they could add a little drainage under the blacktop.

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

A motion was made by Mr. Follman, seconded by Mr. Flancbaum to approve the application with the condition that the gravel area will be paved as well as any drainage necessary to compensate for the additional impervious surface.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

11. SD 2078 Nathan Lowinger
Park Terrace Block 208, Lot 152
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated October 15, 2015 was entered as an exhibit.

Mr. Vogt stated that variances are requested for minimum lot area and lot width. A design waiver is required for the proposed subdivision line since it would not be radial to the cul-de-sac right-of-way line.

Mr. Glenn Lines, P.E., P.P. was sworn in. They are proposing to subdivide an existing 22,097 sf lot into two slightly undersized lots. The lot width variance is required because the lots are deep and narrow. They can fit proposed houses onto each lot without requesting any side yard setbacks. They are proposing to move the existing house onto lot 152.01 and remove the garage so it would fit within the setbacks. Four parking spaces will be provided for each lot. While they are undersized for the zone, they are located between an R-10 on East End Avenue and lots which are under 10,000 sf on Cabinfield Circle. When YTT subdivided, on the corner of Park and East End, they subdivided to 10,000 sf lots because the majority of the property was within the R-10 zone and they do have one 7,500 lot within that parcel. On Park Avenue, there are two parcels under 12,000 sf. He does not believe the variances requested will be detrimental to the neighborhood.

Mr. Vogt asked if the new dwelling on lot 152.02 will be pushed back far enough in order to get four off street parking spaces. The existing house would be moved to lot 152.01. The garage will be removed and four off street parking spaces will be provided.

Mr. Herzl suggested perhaps a circular driveway on lot 152.01.

Mr. Lines said somebody may in fact do that if they push the house further back and could provide some type of turnaround or circular driveway.

Mr. Franklin opened to the public.

Mr. Avrohom Pollack was sworn in. He lives on the block and is not against this application. He has one concern about parking on the street especially when it snows. The Board recently gave an approval to YTT for undersized lots in an R-12 zone. Now they are giving variances for lot width. He asked what would stop the next applicant from coming in and asking for similar variances.

Mr. Lines said this lot has a unique shape. Besides the one next door which is similar on the cul-de-sac, none of the lots have the pointy shape and are generally rectangular.

Mr. Lankry remembers that a piece of the lot next door was given to Harvard Street.

Mr. Lines said that is correct. Mr. Rosenberg subdivided to build duplexes, they actually subdivided the lot next door and reduced it in size. The ability to subdivide it again would be very difficult.

Mr. Pollack said they did not answer his question.

Mr. Jackson said one of the principles that guides the Planning Board is that there is no precedent. Every case rises or falls on its own merits. You can look at the development in the neighborhood but it would be inappropriate to say you granted this one so you should grant that one.

Mr. Franklin closed to the public.

A motion was made by Mr. Herzl, seconded by Mr. Flancbaum to approve the application.

Affirmative: Mr. Herzl, Mr. Franklin, Mr. Flancbaum, Mr. Follman, Mr. Lankry

7. CORRESPONDENCE

- **SP 2096** – Block 778.01, Lot 1, Bais Kaila Torah – request to phase previous approval for bonding and construction purposes

Mr. Brian Flannery, P.E., P.P. said they would like to break this project into two phases. The first phase would be the residential dwelling units on the northern side. The second phase would relate to the other improvements.

Mrs. Miriam Weinstein, Esq. said this was approved about a year ago and this project called for the construction of an addition with a gym as well as two houses that were being built for faculty members. They are only asking for this project to be phased. The first phase would be the construction of the two residential houses and the second phase would be the rest of the approval.

Mr. Vogt said he has no issues with this.

Mrs. Morris said Mr. Lankry has a conflict as his son attends this school. She asked the Board Attorney if this requires a vote.

Mr. Flannery said he believes this can be administratively approved. He thinks the board engineer was looking for informal direction from the Board to see if there were anyone opposed.

Mr. Vogt said functionally, the site is self explanatory. There are facilities that will be built eventually on the south end of the property. There are two homes which are not on individual lots which are part of the common property and the site plan. Functionally, they are not really part of the future development.

Mr. Franklin asked if all the roads will be built around the two houses in the first phase.

Mrs. Weinstein said the road is there.

Mr. Jackson asked the Board if they believe this can just be approved administratively or if it requires formal Board action.

Mr. Vogt said the only complication here is that these houses are not on individual lots. If they were, the applicant would be handling this at time of plot plan.

The Board was in agreement that this is an administrative change and no formal action is required.

- 8. PUBLIC PORTION**
- 9. APPROVAL OF MINUTES**
- 10. APPROVAL OF BILLS**
- 11. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted

Sarah L. Forsyth, Planning Board Recording Secretary