

**LAKWOOD PLANNING BOARD
MINUTES
APRIL 24, 2007**

I. CERTIFICATION OF COMPLIANCE

Chairman Banas 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 Ocean County Observer 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, The Ocean County Observer, or 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. Herzl, Mr. Franklin, Committeeman Miller, Mr. Neiman, Mr. Banas, Mr. Klein, Mr. Gatton, Mr. Percal

3. SWEARING IN OF PROFESSIONALS

Mr. Peters and Mr. Truscott were sworn in.

Mr. Kielt stated item **#8 SD 1542 – Rye Oaks**, tabled to May 15th 2007 because the revised plans were not received in time.

Motion made by Mr. Neiman, seconded by Mr. Miller to table to May 15th 2007

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Klein; yes, Mr. Gatton; yes, Mr. Percal; yes

Item #9 SD 1550 Seymour Investments LLC. This will be tabled to a future meeting, no date scheduled because they are waiting on the applicant to submit revised plans and reports and the attorney for the applicant will re notice.

Motion made by Mr. Neiman, seconded by Mr. Herzl to table to a future date

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Klein; yes, Mr. Gatton; yes, Mr. Percal; yes

4. NEW BUSINESS

1. SD # 1571 (VARIANCE REQUESTED)

APPLICANT: WALTER LUCAS

Location: Newport Avenue @ corner of Bellevue Avenue
Block 499 Lot 19

Minor Subdivision to create four lots

Mr. Kiert stated this was a continuation from a prior meeting, so only those members at that meeting can vote. (Mr. Herzl, Mr. Miller, Mr. Neiman, Mr. Banas, Mr. Akerman, Mr. Klein, Mr. Gatton)

Mr. Doyle, Esq. represented the applicant and said there were issues at the last meeting with the requirement of sidewalks and curbs in this area along with the width of the roadway and certain other improvements. The applicant will provide appropriate bonding and/or security by letter of credit pursuant to the statute for the construction of sidewalks and curbs. Given the nature of this, hopefully the board would consider that the sidewalks and curbs would not have to be actually installed though they would be secured until the building permit is sought for the first house in the proposed subdivision. Mr. Flannery stated they were proposing curb and sidewalk, belgium block mountable curb at a 20 ft. cartway and a meandering concrete sidewalk 4ft. wide but rather than 4 ft. off the curb, it will vary from 10-20 ft. off the curb to miss the trees. A bond will be posted for the curb and sidewalk prior to filing the map but will actually be built prior to the first unit.

Mr. Banas opened the microphone to the public.

Bill Hobday, 30 Schoolhouse Lane, was sworn in. He asked what the zone is for this property, and thought it was A-1 but was told it was R-40 according to the July 2005 ordinance. He asked the size of the lots and was told they all exceeded 40,000 sf.

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

Motion was made by Mr. Neiman, seconded by Mr. Hezl, to approve this application with the bonding (or a letter of credit) of the sidewalks prior to the signing of the map and all the recommendations from the professionals.

ROLL CALL:

Mr. Herzl; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Klein; yes, Mr. Gatton; yes

2. SP # 1851 (VARIANCE REQUESTED)

APPLICANT: CONDOR JACKSON LLC

Location: West Kennedy Boulevard @ east corner of Forest Avenue
Block 57 Lot 1

Preliminary & Final Major Site Plan for 2 story office building

Mr. Peters stated the Applicant is seeking site plan approval to construct a 6,300 SF, two story office building and site improvements. The subject property, known as Block 57, Lot 1, lies at the intersection of Forrest Avenue and Kennedy Boulevard West, in the OT Zone. The property currently contains a one story multi-family dwelling. The Soil Erosion and Sediment Control Plan has been approved by the Ocean County Soil Conservation District. Ocean County Planning Board Approval will be required as a condition of final Site Plan Approval. The applicant has reduced the building size to 6300 S.F and now meets the required rear yard setback of 15 ft. In section 807 of Lakewood Township UDO for general parking requirement, The ordinance states a minimum of one parking space per 300 square feet is required for "business and professional offices and banks other than medical or dental"; however, one space per 200 square feet is the minimum off-street parking requirement found in section 903 of the UDO, for development in the OT zone. If one parking space per 300 S.F of office space is the governing regulation, no variance should be required for the 21 proposed parking spaces. The Planning Board should determine the adequate parking spaces for this development. If the Board uses the one space per 200 square feet standard, a variance is needed. The applicant has increased the size of the small parking lot on Forest Avenue; however, we remain concerned as to the maneuverability allowed by the parking lot. Depending on which spot will be accessed, an extra back-up maneuver will be required either entering or exiting the parking lot. The lot has been designated as employee parking only. The board should determine if the familiarity of the employees with the parking lot will overcome the safety issue of the extra maneuver. Easements are proposed for sight rights and a portion of sidewalks located on the sight. Legal descriptions shall be provided to the planning board engineer for review and the wording of the easement agreements shall be provided to the planning board solicitor for review. The easement agreements shall be finalized as a condition of final approval.

Mr. Truscott read from a letter dated April 10, 2007. The applicant requests preliminary and final major site plan and variance approvals to construct a two-story office building of 6,300 square feet and associated off-street parking areas containing 21 spaces. The applicant has modified its original proposal for the site, which called for a 7,314 square feet building and associated parking areas containing a total of 24 spaces. The property is a corner lot and has frontage on both Kennedy Boulevard West and Forest Avenue. The site is 13,880 square feet (0.319 acres) in area and contains a one-story multifamily dwelling (utilized as an office), which will be razed. The surrounding land uses are a mixture of residential, office and commercial. The parcel is located in the OT Zone District. Offices are a permitted use in the OT Zone. The applicant has not requested any variances. A total of 32 parking spaces are required for the OT Zone and 21 spaces are provided. While it would appear that technically a variance is required, it would be our opinion that the Planning Board should measure the proposed off-street parking against the one space per 300 square feet of floor area such that 21 spaces are required ($6,300 \text{ square feet} / 300 = 21 \text{ spaces}$). For the Board's consideration: The Office Transition Zone has a zone-specific parking standard for office space of one space per two hundred (200) square feet. Therefore, the off-street parking requirement is 32 spaces ($6,300 \text{ square feet} / 200 = 31.5 \text{ spaces}$ or 32 spaces) rather than twenty-one (21) spaces as shown on the site plan. The off-street parking requirement for "business and professional offices and banks other than medical or dental" uses is one space per three hundred (300) square feet of gross floor area, in accordance with Section 807 of the Lakewood Township UDO. Section

807 is the section of the UDO which establishes minimum parking standards for most of the permitted uses in the Unified Development Ordinance. The 2005 comprehensive UDO revision to the Office Transitional (OT) Zone did not modify the zone-specific parking standard. We are not aware if the lack of change was purposeful (i.e., intentional), or an oversight. We would request the Planning Board members offer any insight on this issue as appropriate. Applicant should submit revised architectural drawings to reflect the reduction in building square footage noted above. Two street trees are proposed on the Kennedy Boulevard frontage within site triangle dedications to Ocean County. As per Section 18-814.F plantings in site triangles shall not be more than three (3) feet above the street centerline. The plans should be revised to conform to existing standards. We have a concern about the parking area along Forest Avenue as the four (4) spaces provided are restricted as far as backing out of the spaces. The site plan designates these spaces as "employee only" and indicates signage will be placed to indicate as such. If this is acceptable to the Planning Board, then we recommend that the parking identification signage and pavement markings be conditions of approval. The site plans have been revised to remove the proposal to place a parking area containing three (3) stalls in front of the building along Kennedy Boulevard, near the intersection with Forest Avenue. We note that no street trees or landscaping are proposed along any part of Forest Avenue abutting the tract. We recommend the landscaping plan be revised and expanded to the former parking area to provide a better visual screen from the Forest Avenue/Kennedy Boulevard corner. Any landscaping added to areas restricted by the site triangle easement should adhere to the standards set forth in Section 18-814.F cited previously in C.1 of this review letter. The applicant's engineer should provide testimony concerning the maneuverability of the end parking spaces (i.e., closest to the building) on the west side. The spaces should be wider or an indentation provided for backing maneuvers. General Note #24 on the site plan indicates that "no Medical or Any Dental Offices permitted on site". We recommend that approval should be conditioned on a limitation that medical or dental office uses within the proposed structure. The positive and negative criteria for any variances, if required, should be addressed. Proposed sidewalk and sidewalk easements are noted on the site plans; street tree easements are not. The balance of the comments are technical in nature.

Mr. Brown, Esq. appeared on behalf of the applicant. The building has been reduced to accommodate the concerns of the immediate neighbor. They do have one parking area for 4 cars that would be designated as employee parking only and would be clearly marked. Mr. Flannery is the engineer for the applicant and testified that the ordinance isn't very clear on the parking issue. He recited the ordinances quoted by the professional and said the board in the past has gone with the industry standards which is one per 300, and that is what the surrounding towns have and that is the opinion that is what the intent is. He feels there is adequate parking for this application and there is no negative criteria. The remaining comments in the reports are technical and they agree to comply with all of them.

Mr. Neiman asked about the on street parking and felt that it is a detriment with the area and would not like to see street parking on Forest Ave. Mr. Brown said they would provide signage if there is not already some from the township. Mr. Miller asked about the curb and sidewalk and was told they would make sure it is adequate.

Mr. Banas opened the microphone to the public.

William Hobday, 30 Schoolhouse Lane was sworn in. He said the board needs to determine whether a variance is required and if the UDO is very specific about the # of parking spaces required, they need to decide whether to grant a variance or not. They need to decide that first. This is a lovely building and will be a major improvement to the landscape of Lakewood.

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

Mr. Neiman commented about the landscaping and said they should sit down and add more and Mr. Flannery agreed.

Mr. Jackson said Mr. Truscott thought a variance was needed and said the testimony of Mr. Flannery that the parking was adequate and the board agreed to grant a variance. Mr. Truscott said they are going to be sending a memo to the Township Committee listing all the changes that will be necessary based on the Master Plan re-examination report and they could add this parking discrepancy to that memo.

Motion was made by Mr. Neiman, seconded by Mr. Herzl, to approve the application with the comments from the professionals and the parking variance.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Klein; yes, Mr. Gatton; yes, Mr. Percal; yes

- 3. SP # 1859 (VARIANCE REQUESTED)**
APPLICANT: BATIM MANAGEMENT/MICHAEL BURZTYN
Location: Sixth Street
Block 130 Lots 11, 12
Preliminary & Final Site Plan for multi family dwelling with 4 dwellings

Mr. Peters stated the applicant is seeking Preliminary & Final Site Plan Approval to construct one multifamily building with four units on Block 130, Lots 11 & 12. The units will be fee simple on four new lots. The site is located on Sixth Street, approximately 130± feet east of its intersection with Lexington Avenue, in the Multi-Family Residential (R-M) Zoning District. As per section 18-902 H.1.d of the UDO each townhouse shall be considered two units if the structures have basements. The applicant has revised the plans to eliminate outside entrances to basements. It appears that variances will be required for the following: Side yard setback: The Applicant has proposed 9ft/21ft where 12ft/25ft is required. As per section 18-803.E.2.b of the UDO buffers are required between townhouse units and single family dwellings or lots zoned for single family dwellings. The board may wish to impose a 30 foot buffer around the proposed site; this buffer may be reduced by the Board if the applicant provides a dense landscape screening. Outside agency approvals will be required from the Ocean County Soil Conservation District and Ocean County Planning Board. The RSIS requires 2.4 parking spaces per unit for a three bedroom townhouse, the largest listed in the regulations. In the RM Zone the basement

must be considered a separate unit. The RSIS requires 2.0 parking spaces per unit for a garden apartment with an unspecified number of bedroom units, yielding a total of 4.4 parking spaces per unit. However, from previous technical meeting, the Planning Board has decided the 12 parking spaces would be adequate, if the applicant eliminated the outside entrances to basements. The applicant will be required to form a home owners association to be responsible for the common areas and stormwater management facilities. Home owners Association documents shall be submitted to the Planning Board Engineer and Solicitor for review. The applicant shall note on plans basements are allowed for storage only, as a condition of final approval from the Planning Board. At the technical review meeting it was determined the project will be regarded as multifamily and not a townhouse project. The zoning table and plan notes shall be revised. A Tree Management Plan has been included within the plan set. The applicant shall include the location of the Tree Protection Fence on the plans. The applicant shall add cleanouts to the proposed roof leader system. Also, invert elevations for the roof leader system shall be included on the plans. The applicant shall include a detail and location for the detectable surface to be installed on the handicapped ramps on the plans. The spot elevations in the front and rear of the building shall be moved outside of the building footprint. The applicant shall revise the plans to include a stormwater pretreatment device to handle the stormwater runoff from the paved surfaces in front of the proposed dwellings, or prevent the runoff from these paved areas from entering the proposed underground recharge system. In the Stormwater Management Report, the applicant has stated that "all runoff which is not infiltrated in the emergency condition will be detained within the underground recharge system and discharge through an outlet control manhole into the existing system within Sixth Street," but an outlet control manhole is not shown on the plans. The applicant shall address this issue. The applicant has listed the total offsite flows, including infiltration, as 0.09 cfs, 0.30 cfs, and 0.79 cfs for the 2-, 10-, and 100-year storm event (page 4 of 8 in the Stormwater Management Report), respectively, and listed the total offsite flows, excluding infiltration, as 0.00 cfs, 0.06 cfs, and 1.76 cfs for the 2-, 10-, and 100-year storm (page 6 of 8 in the Stormwater Management Report), respectively. The applicant shall explain why the offsite flows, when infiltration is excluded, are smaller than when infiltration is included for the 2- and 10-year storm events. The applicant shall provide soil boring locations and information, and calculations in the Stormwater Management Report demonstrating that the soils on-site will adequately infiltrate the stormwater. The Layout Plan indicates that the existing 6' wood fence along the eastern property line is to be removed. It appears that a portion of the fence is on Lot 10. Testimony should be provided as to fence ownership, responsibility, etc. The drainage easement limits are not clear. We recommend some type of light hatch or shade of the easement area. A 24' parking and sidewalk easement dedicated to Lakewood Township is shown on the Final Plat. The Planning Board should determine if the easement will be accepted. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated March 16, 2007. The applicant seeks preliminary/final major site plan and variance approvals to construct a 4-unit multi-family development upon existing Lots 11 and 12. Lot 11 is currently unimproved, and a two-story single-family home is located on Lot 12. Cumulatively, Lots 11 and 12 are approximately 0.43 acres (18,750 square feet) in area and are located on Sixth Street between Monmouth and Lexington Avenues, in the R-M Multifamily Residential Zone. The tract is located in the northern part of the township. The site and contiguous lots are zoned R-M (Multi-Family

Residential), with surrounding land uses being single and multi-family residential. The Clifton Avenue Grade School is one (1) block west of the tract. This application was previously reviewed by this office in June 2006. At that time, we offered the opinion that the proposed project density exceeded the permitted density in the RM Zone. The applicant has modified the application to substitute condominium ownership of the tract by the prospective owners. The prior application proposed fee simple townhouse lots. As noted, the site is located in the R-M Multifamily Residential Zone. The proposed use, multi family housing, is a permitted principal use in the zone. The applicant requires the following variances: Side Yard Setback: 25 ft. / 50 ft. cumulative required, 9 ft. / 21 ft. proposed.

The positive and negative criteria for the requested bulk variance must be addressed. The architectural plans indicate townhouses are to be built. We recommend that the drawings be amended to indicate a multi-family structure is proposed. The architectural plans indicate that the proposed dwelling units will have a basement and living area on two (2) floors and bedrooms and bath facilities in the attic level. A total of six (6) bedrooms are identified. We recommend that these plans be amended to indicate that the ceiling height of the basement area must not be exceed 7 feet. The applicant proposes a total of twelve (12) off-street parking spaces, or three (3) spaces per unit. Expert testimony should be provided to indicate that the proposed parking complies with the N.J.R.S.I.S. and is sufficient for the proposed dwelling units. The following must be amended: Layout Plan (Sheet 3): "Proposed Townhouse Unit" should be changed to "Proposed Multi-family Unit," General Notes – change references from "Townhouse" to "Multi-Family," Bulk Table: Change all bulk requirements to Multi-Family standards as enumerated in Section 18-901.H.b., Final Map: change bulk table to match that of amended Sheet Landscaping. Applicant has provided landscaping (White Pine) along the rear of the subject parcel, but not in the side yards. The applicant has proposed a 6-foot wide shade tree easement dedicated to the Township. This easement is almost entirely composed of the impervious cover of the parking area. The Tree Management Plan indicates that trees currently in the easement are to be removed. The existing conditions plan indicates an existing structure on the tract. The structures must be removed or a bond posted for such removal prior to the signature of the plat by the Planning Board. All improvements must be designed and constructed in accordance with N.J.R.S.I.S. Applicant should confirm if any areas will be put into common ownership. All areas put into common ownership for common use by all residents shall be owned and maintained by a non-profit homeowners association in accordance with the requirements of the Department of Community Affairs and the provisions of §1010 of the UDO. The remaining comments are technical in nature.

Edward Liston, Esq. appeared on behalf of the applicant. Mr. Carpenter is the engineer for the applicant. Mr. Carpenter said in response to the variance for the side yard setback, if you look at the site Lot 13 has a parking lot and a multi family structure that is about 30-40 feet away from the property line and that is where they propose the 9 ft. setback and a 12 ft. setback on the other side adjacent to an existing single family dwelling. The 12 ft. setback complies with the setback on that side. They feel is it not an impairment to that side because there is an existing multi-family dwelling on that site and feel there is no negative criteria for a variance for this application. They marked the map A-1. Mr. Carpenter said there is no opportunity for the applicant to acquire more property because the surrounding property is developed. Mr. Banas asked if there were enough

parking spaces and Mr. Carpenter said at the technical meeting, the board was satisfied with the parking as long as they eliminated the outside entrances to the basement. Mr. Peters agreed with the testimony from the technical meeting but wanted to correct an error in his letter about the side yard setback. In the section for multi family buildings, the sideyard setbacks should be 25 ft. one side and 50 ft. required.

Mr. Carpenter said they are willing to provide more densely landscaped areas both on the right, left and the rear of the site if the board chooses to make up for the shade tree easement having no trees in it. A note will be added to the plans that the basements are for storage only. He believes the 6 ft. fence does belong to the applicant and they will remove it because it is in poor condition. They agree the remaining comments in the engineer's and planner's report.

Mr. Banas said both the professionals have indicated that the plans are still talking about a different kind of designation. Mr. Carpenter said the project will be a condominium/ multi-family project, not a townhouse project. Mr. Banas said these plans say townhouse and Mr. Carpenter said the notes will reflect condominiums and townhouse wording will be removed. It would eliminate the need for a final map and Mr. Miller said this was a fee simple townhouse project with no outside access to the basement. Mr. Carpenter apologized for the error and agreed it was a townhouse project with fee simple lots, and there will be a final map. The agenda is incorrect, it should read townhouse units. Mr. Truscott said it was multi family and the board agreed they had to decide what this project was. Mr. Peters recalled they had to remove the townhouse designation because it is not permitted in this zone. Mr. Banas is concerned why changes were not made to the plans based on the comments and minutes from the technical meeting and if maybe the board would like to put this aside for a month until the plans are revised. The minutes from the technical meeting reflect that Mr. Akerman asked why they couldn't do what they want if they only have 4 units, townhouses are fine and they could do that. When the professionals look at it there were entrances in the basement making it 8 units.

Mr. Carpenter said townhouses are a multi-family dwelling. Mr. Kiert said fee simple is a type of ownership and not a condominium that is the purpose of a final map. Mr. Liston said that part of the confusion is that even condominium ownership is fee simple as to each unit. It is just within the condominium scheme, and that is what they thought they were going to do, that is what the board at the technical meeting said that is what they would like to see, townhouses with 4 lots, separate tax lots, still common property managed by a homeowners' association. It is a distinction without a difference, in the context of this particular project. Mr. Jackson said he is okay with that, as long as it is multi-family, that is permitted in the zone. The nuances between condos, townhouses, etc. is really not a critical distinction as long as what they are doing is what the board is satisfied with. Mr. Truscott agreed.

Mr. Neiman said the board decided there are no entrances to the basement, on the conceptual plans they received tonight, it does show entrances to the basement. The board looked at the conceptual plans and Mr. Carpenter said those were steps up to the first floor. Mr. Banas re-iterated that the board will be looking at the letters from the technical meeting and see if the items that were suggested from that meeting be carried through for the public meeting. Mr. Miller asked about the sidewalks and Mr. Peters stated

there were sidewalks and he also stated there is a proposed 24 ft. wide sidewalk and parking easement along the front and it was his opinion that the parking area should not be in an easement to the township, that should be the responsibility of the homeowners, and left it up to the board. Mr. Banas said that is what it should be and Mr. Carpenter said they could change that.

Mr. Banas opened the microphone to the public.

Noreen Gill, 192 Coventry Drive, was sworn in. She said she needed clarification on Lot 12, is there a 2 story home on Lot 12? Mr. Carpenter said yes there is. She asked how many bedrooms are in that 2 story home and does that have a basement? Mr. Carpenter said it did have a basement, and was not inside the structure so he does not know how many bedrooms there are. She asked on the first floor of the multi-family and second floor, and the attic, how many bedrooms are there on the second floor, attic and how many bathrooms? Mr. Carpenter said on the 1st floor, there are no bedrooms indicated, the second floor there are 4 bedrooms and 2 bedrooms in the attic. The basement is unfinished and for storage. Mr. Banas said the home on Lot 12 will be demolished. She asked what size the windows are in the basement and Mr. Carpenter said they were casement windows.

Mr. Hobday was sworn in. He said he is not clear how many dwelling units there are going to be in these 4 dwellings, they have heard that there is optional bilco doors in the back, and we know that after a year with a cover over it, it could become a stairway. They know that with 2 bedrooms and a bath in the attic, but don't know if there is a direct access to that or if there is only one entrance into the home to be used by all. Mr. Carpenter said in reviewing the architect's plans, there is one entrance to the building in the front and one entrance off the deck in the rear, with an optional bilco door to the basement. The bilco door to the basement is a necessity to get things in and out. There is one set of stairs going from the first floor to the attic and it appears there are no other entrances to the building. Mr. Franklin said the 2 side entrances of doors going to the basement from the outside. He said where you can go up, you can go down, and there you would have outside entrance to the basements. Mr. Hobday said there will be more dwelling units. Mr. Banas said the board will discuss that but it was agreed there would be no outside entrances to the basement.

Mr. Larry Simons, 7 Schoolhouse Court, was sworn in. He was confused on the number of bedrooms. There are 4 buildings, how many bedrooms in each building. Mr. Carpenter said each dwelling unit had 6 bedrooms, and Mr. Simons said that was 24 bedrooms, not counting the bedrooms. Mr. Carpenter said the basements will have a 7 ft. ceiling which makes it uninhabitable. Mr. Simons asked what the standards were for parking requirements and Mr. Banas said it was 2.1 for a 3 bedroom so it would be 2.4, so it does not increase proportionally.

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

Mr. Banas wanted to discuss the basement. He asked for the minimum height to make it uninhabitable and Mr. Peters said that would be a building code issue and he felt it was 8 ft. but the members said 7 ft. Mr. Jackson said they could add to the resolution that is be

below the BOCA code minimum as an added measure to insure it is uninhabitable, and Mr. Liston said that is what they represented at the technical meeting. Mr. Banas said he thought it was decided the entrance to the basement was interior only, not exterior, so there was no need for bilco whatsoever. Mr. Liston said the only reason the bilco doors were an option, was so people can store larger items in the basement without having to bring them in to the home. Bilco doors can never serve as an entrance to a habitable area. Mr. Miller said this board has been very firm on eliminating the front entrances and requesting a 7ft. ceiling height. He feels making a ceiling level should be restrictive enough without causing hardship. Mr. Banas said if they eliminated half the basement it would save the builder a bundle and keep it from being inhabited. Mr. Liston said these units are for large families and they tend to accumulate a lot of stuff and feels it makes sense, as long as they create a situation that under no circumstances any inspector ever approve that basement for habitation by virtue of making the ceiling lower than the minimum BOCA code height. Mr. Banas said there are only a few who acquire permits for the basements, and there are too many that are there illegally, and we only hear about them when there is a fire and find out they are over occupied. He is only trying to eliminate that. Mr. Liston said they would deed restrict it if the board requests it. Mr. Miller suggested they take out those optional bilco doors and 7ft. height everyone would be comfortable and Mr. Liston agreed to take them out and not make them optional. Mr. Banas said there would be no entrance to the basement other than through the interior of the dwelling.

Motion was made by Mr. Herzl, seconded by Mr. Miller, to approve this application with taking out all the bilco doors, with the agreed parking spaces, no side door for the basement, and the recommendations from the professionals.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Klein; yes, Mr. Gatton; yes, Mr. Percal; yes

Mr. Jackson wanted it on the record that the board has a lot of experience with the problems of enforcement of the basements and they are trying to be pro active in preventing it.

4. SD# 1576 (NO VARIANCE REQUESTED)

APPLICANT: MARK PROPERTIES

Location: Albert Avenue, between Salem Street and Oak Street

Block 1159 Lot 65

Minor Subdivision to create 2 lots (1 flag lot)

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 1159, Lot 65 into two lots. Proposed Lot 65.01 has no new development proposed at this time. Proposed Lot 65.02 is a flag lot with a proposed single family dwelling. The property is situated on Albert Avenue, within the R-20 Zoning District. The applicant has revised the plans to include the access drive as part of the rear lot in a fee simple arrangement; as a result, the applicant is requesting a variance for lot width. 100 ft lot width is required by the Lakewood UDO and 95 ft lot width is proposed. The applicant has provided copies of

the Soil Erosion and Sediment Control Certification and Ocean County Planning Board Approval. A note has been added to the plans to state that a minimum of three off street parking spaces will be provided for Lots 65.01. Three (3) off-street parking spaces have been provide for lot 65.02. The proposed residence will be serviced with individual septic and well systems. The applicant shall testify to the location of the nearest public utilities. The applicant is proposing curb and sidewalk along the property frontage. The applicant has proposed a 10 ft landscaping buffer between the two proposed lots and around the other three side of the flag portion of the flag lot. A 4 ft buffer along the both sides of the "pole" portion of the flag lot was also proposed by the applicant. A 6' shade tree easement has been provided.

Mr. Truscott read from a letter dated April 4, 2007. The applicant seeks minor subdivision approval to create two new tax lots from Block 1159, Lot 65, located on the west side of Albert Avenue. Proposed Lot 65.01 will have frontage along Albert Avenue. Proposed Lot 65.02 is a flag lot located to the rear (west) of Lot 65.01, with access to Albert Avenue provided by an access easement. A proposed two (2) story dwelling is indicated on the submitted plans for new Lot 65.02. The tract is located in the southern portion of the Township, three (3) blocks west of New Hampshire Avenue. Albert Avenue is improved at this location. The properties along Albert Avenue are a mix of improved residential lots and vacant lots. Single-family residential is the predominant use type. The area to the west of the tract contains unimproved mapped streets and lots and is zoned R40/20 Cluster. The tract and adjoining lots in Block 1159 that front Albert Avenue average 384 feet in depth. Properties to the east of the tract located within Block 1159.1 that front Albert Avenue average 218 feet in depth. Lot 66 (next lot north of the tract) is owned by the applicant and is currently unimproved, with Lot 64 to the south containing a single-family residence. The tract is located in the R-20 Residential Zone. Single-family residences and flag lots are permitted in the zone. The applicant has requested the following variance for Lot 65.01: Minimum Lot width: 100 feet required, 95 feet proposed. The positive and negative criteria for the requested bulk variance should be addressed. Section 805.G.5 provides the following criteria for creating flag lots: "Flag lots shall be created only in conjunction with an overall development plan of the entire tract of which the flag lot is a part and the applicant shall demonstrate a need, consistent with good planning principles, for the creation of the flag lot and shall further demonstrate that normal subdivision techniques are not practical because of topography, lot or land configurations or other physical characteristics or constraints of the land related to the proposed development concept." The applicant should be prepared to discuss with the Board how this application complies with the above requirements. The "flag staff" providing access to the rear (flag) lot is part of proposed flag Lot 65.02. The Proposed Improvement Plan indicates landscaping along the access drive and an area for temporary storage of solid waste containers. Applicant should detail efforts made to reconfigure the lot lines with the tract and contiguous vacant Lot 66 to the north in order to create conformance with the one hundred (100) foot minimum lot width for the R-20 zone. A preliminary review of Lakewood Township Assessor records indicates that applicant is fee owner of both Lot 65 and Lot 66. The plans (submitted as part of this application) for a proposed single-family residence on proposed Flag Lot 65.02 indicate it will contain five (5) bedrooms. Applicant should confirm if the submitted Plans and Elevations (dated January 26, 2005) supersede previous submissions, which indicated four (4) bedrooms. Parking for both proposed lots must comply with NJ RSIS standards. Applicant has indicated on the

submitted plans that three (3) off-street parking spaces will be provided for both proposed lots. The plans contain a proposed shade tree/utility easement, but do not indicate any proposed sidewalks. Two (2) shade trees are indicated on the Landscape Plan. A performance guarantee should be posted for any improvements in the public right-of-way. The balance of the comments are technical in nature.

Mr. Steve Pfeffer, Esq. appeared on behalf of the applicant and introduced Tim Shea, whose father is Ray Shea, and said he would be appearing in front of this board in the future. Mr. Flannery is the engineer for the applicant. Mr. Flannery said because the board requested fee simple, that is why they are requesting the variance for side yard. The property is narrow and deep and these are the kind of lots that were envisioned by the township. They have provided buffering around the flag portion of the lot. Mr. Truscott asked who owned lot 66 and was told the applicant owns it but it has a flag lot subdivision on it so there is no land to give for this application. Mr. Banas asked for a double wide parking by the garage to make 4 parking spaces, and Mr. Flannery agreed. He agreed to comply with the remaining comments from both professional's reports.

Mr. Gatton asked about public water and sewer and Mr. Flannery said the nearest public sewer and water was about ½ mile away on New Hampshire Avenue. Mr. Percal was looking at a letter from Environmental Commission where it states he does not recommend flag lots and he is concerned with the length of the flag pole (211 ft.) and the quality of life of the individual who will have to carry the trash to the street. Mr. Flannery said the environmental commission is an advisory committee who is supposed to raise environmental concerns, which they have not. The ordinance has a different consideration when the flag pole exceeds 300 ft. so they were envisioning that length. Mr. Banas indicated that any application that comes before the board, and is fully conforming, the board has an obligation to approve that. Mr. Jackson said there is some lee way to the approval. Mr. Peters asked where the extra parking spot was going to go and Mr. Banas said a double wide driveway at the garage for both lots.

Mr. Banas opened the microphone to the public.

Christine Abrams, 755 Coral Avenue was sworn in. She asked what it meant by fee simple and Mr. Jackson said that is a form of ownership which means you own it forever, there is no limitations or until you convey it. She asked how many lots are undeveloped on that portion of Albert Avenue and Mr. Flannery said more than ½ is developed, the one to the north is not, the one above that is and the one immediately to the south is. This board approved a flag lot to the next property. Her neighborhood is an endangered species, there is not many more of them left.

Bill Hobday was sworn in. He talked about flag lots and the statement that they don't like them, because they change the character of the neighborhood. There are so few areas in Lakewood where there is open space. It is time for the board to re-examine flag lots and make a strong recommendation to the Township Committee. Mr. Banas said that is already done and Mr. Hobday said they should make it a point to have the Committee work on it.

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

Motion was made by Mr. Herzl, seconded by Mr. Klein, to approve the application with the variance.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; abstain, Mr. Banas; yes, Mr. Akerman; yes, Mr. Klein; yes, Mr. Gatton; yes, Mr. Percal; yes

Mr. Jackson wanted the record to reflect the colored rendering used was marked as exhibit A-1

5. SD # 1578 (NO VARIANCE REQUESTED)

APPLICANT: RACHEL ROSENFELD

Location: 257 East 4th Street, east of Sampson Avenue
Block 243 Lot 28

Minor Subdivision to create 2 lots (1 flag lot)

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 243, Lot 28 into two lots. Proposed Lot 28.01 contains an existing two family dwelling that will remain, and proposed Lot 28.02 is a flag lot for a proposed 2 unit residential duplex structure. The property is situated on East Fourth Street, within the R-7.5 Zoning District. It appears no variances will be required. Ocean County Planning Board and Ocean County Soil Conservation District approvals will be required. Evidence of the approvals shall be made a condition of final subdivision approval. Three (3) off-street parking spaces have been provided for each dwelling. Both proposed lots will be serviced by public water and sewer. At the technical meeting the applicant agreed to show the location of the neighboring dwellings, these have not shown on the plans. The applicant has dedicated a 6 ft wide shade tree easement to the Lakewood Township. Page 805G6c of the UDO requires “applications for a flag lot subdivision shall submit architectural plans for the proposed dwelling to be constructed on the flag lot.” The applicant should submit architectural plans in accordance with this requirement or request a waiver. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated April 5, 2007. The applicant is seeking minor subdivision approval to subdivide existing Lot 28 into two lots, one of which is a flag lot. A 2-story residential structure is located on the current lot, which will remain. The parcel totals 28,566 square feet in area and is located on East Fourth Street, between Manetta Avenue and School Garden Street. The lot abuts a Board of Education parcel. The revised drawings submitted by the applicant show a proposed two (2) family duplex on flag Lot 28.02, which is a change from the single-family structure previously indicated. The site is located in the R-7.5 Residential Zone. Single-family and two (2) family (duplex) homes are a permitted use in the zone. No variances are requested. §805G5 of the Lakewood Unified Development Ordinance reads “Flag lots shall be created only in conjunction with an overall development plan of the entire tract of which the flag lot is a part and the applicant shall demonstrate a need, consistent with good planning principals (sic) for the creation of the flag lot and shall further demonstrate that normal subdivision techniques are not practical because of topography, lot, or land configurations or other physical

characteristics or constraints of the land related to the proposed development concept.” The applicant should provide testimony to satisfy these requirements. We recommend that a map showing the location of other residential dwellings located on the adjoining lots be presented to the Planning Board. Applicant should address if the temporary area for trash cans for the flag lot is of sufficient size to support the proposed duplex housing on Lot 28.02. Applicant should address concerns raised by the Lakewood Township Fire District #1 in a memo dated January 29, 2007 regarding the width of driveway and emergency vehicle access to the rear (flag) lot. We recommend that applicant also address the intensification of traffic along the flag staff caused by changing the proposal from a single family to duplex units. §805G6c of the UDO requires “applications for a flag lot subdivision shall submit architectural plans for the proposed dwelling to be constructed on the flag lot; the applicant needs to submit such plans. In other applications, the Planning Board has accepted the delineation of the dwelling footprint. As the plans have been altered to proposing a duplex with two (2) separate entrances on the Flag Lot, we are of the opinion that the applicant should submit architectural plans in accordance with this requirement or request a waiver. The applicant’s intention concerning the contemplated ownership arrangement of the duplex units on (flag lot) 28.02 should be discussed. If a Homeowners Association (HOA) will be established for Lot 28.02 the proper documents should be filed with the NJDCA, establishing the HOA and they should be reviewed by the Board Attorney, prior to filing. Off-street parking shall comply with the NJ RSIS, which provide that single-family residential requirements shall apply to each separate housing unit. A note should be provided on the plan to indicate requirements for each unit, and the total amount of spaces provided for each separate tax lot. The bulk chart must be changed to indicate 10,000 square feet lot area is required for duplex units and the duplex unit on Lot 28.02, not 28.01. A landscaping detail of the buffer plantings, a shade tree easement (with tree details) and existing sidewalks are indicated on the plans. Applicant must provide proof that all proposed lot numbers have been approved by the Lakewood Tax Assessor, and compliance with the Map Filing Law is required. Performance guarantees should be posted for any improvements in the right-of-way. The garage on new Lot 28.01 and dirt drive are shown “to be removed”. These improvements must be removed or a bond posted for such removal prior to the signature of the plat or deeds by the Planning Board. Required approvals include, but may not be limited to, the following: Ocean County Planning Board; Ocean County Soil Conservation District; Sewer and water utilities, prior to issuance of construction permits

Mr. Kenneth Pape, Esq. appeared on behalf of the applicant. The architectural plans were prepared and given to the professionals. Mr. Carpenter is the engineer for the applicant. They also have a planner, Mrs. Allison Coffin to review the standards for flag lots. He brought exhibit A-1 which is an aerial photograph that he super imposed the subdivision on. Mr. Banas asked him to do it on his plans for the members. He described the surrounding area to the site. They are proposing to put the flag portions, there are not existing structures. The added landscaping and made the driveway a full 12 ft. in width and additional parking facilities were added to the site. Exhibit A-2 showed those improvements on the plans, and there is temporary trash area at the end of the stem for the rear lot to place their cans for pick up only. The rear lot (lot 28.02) shows a 2 – 2 story frame dwellings with 3 parking spaces for each dwelling unit. The area for trash is 4 ft. x 12 ft. which is 5 or 6 cans which he feels is adequate for the units. He feels the driveways are adequate for emergency vehicles and traffic into the lots. They agreed to add a note

that parking complies with RSIS. They agreed to the comments on both professional reports. Mr. Banas said they are going to end up with the rear lot containing 2 buildings on it. Mr. Pape said it would be one duplex with each unit being 30 x 50 ft. The board was concerned with a duplex being in a flag lot. Mr. Truscott said it is an unintended consequence of the flag lot allowance in every zone. He didn't believe it was the intention at any time to allow duplexes in flag lots, but it is entirely legal. Mr. Jackson conferred to the professionals. Mr. Franklin said there were 2 – 8 bedroom units. Mr. Banas said that would be pushing the envelope really. Mr. Gatton said the flag portion here is 303.8 ft. and Mr. Pape said it is measured to the beginning of the flag (163 ft). Mr. Jackson said they could limit the number of bedrooms, parking, etc. even though the ordinance does not provide for that. Mr. Franklin said with that size bedrooms, you will need a road that is at least 18 ft. wide so you can pass two cars. Flag lots were never designed for something like this, you need a road for this type of street. Mr. Jackson asked Mr. Franklin if in his opinion based on safety issues, this is a flaw, and he draws from his experience as public works director. Mr. Pape said they could very easily add 6 more feet into the flag and make it 18 ft. Mr. Carpenter agreed with Mr. Pape. The applicant also stated that the 2 bedrooms in the attic can be deleted and they could stipulate that they can not be habitable area which would make them 6 bedroom units. Mr. Franklin said they have a full basement also and Mr. Pape said he was following Mr. Miller who restricted the height of the basement and eliminated the outside basement entrances. He is prepared to further restrict this with a deed restriction that runs with the land to prohibit the basement from becoming habitable space.

Allison Coffin, professional planner, was sworn in. She reviewed this application and testified about its character. She testified about the surrounding lots and said this application's existing lot is substantially oversized for the neighborhood and is out of character for the area. The bulk requirements for this application are fully conforming so there are no bulk variances requested. The applicant meets all the specifics for a flag lot. She testified as to the positive criteria for the creation of a flag lot in this area. She testified the proposed subdivision helps prevent urban sprawl and provides for a more efficient use of land. It is not feasible to subdivide this property in the more conventional manner and the lot has sufficient area to accommodate the increased residential density and provide for 2 conforming lots with respect to area. The existing lot width of 94.03 is not enough to provide for a 2 conforming 50 ft. wide lots and a variance for lot width would be required and it would result in 2 new lots that would be long, narrow spaghetti box lots. A subdivision without a flag lot could be accomplished on this property by creating a short new roadway up one side of the parcel, but this alternative is contrary to good planning and the purposes of the MLUL which encourages the appropriate and efficient expenditure of public funds and coordination of various public and private procedures and activities shaping land development. Adding a new roadway when there is an alternative available would increase the cost of development and unnecessarily increase the public expenses associated with road maintenance, therefore a flag lot is a better planning solution for this property.

Mr. Banas asked if she felt this was good planning principle to put a duplex as the second dwelling on a flag lot in this particular case and she said in this case yes. She said a concern is the increased traffic not just the driveway but the street and this lot is unique in that it abuts township owned land, there is no possibility that additional driveways are

going to be placed on this block between the proposed flag lot driveway and the corner. There is no opportunity for another flag lot to be created on this block without creating variances. Mr. Banas said his question was to put a duplex in lieu of a one unit residence and she said yes she does because this is more efficient use of land, and it can help slow urban sprawl. Mr. Banas stated he disagreed with the statement.

Mr. Percal disagreed with what he just heard. He doesn't think it was in the spirit with whoever came up with the idea of flag lots to have a multiple lot dwelling in the back and it concerns him terribly. He is also concerned about the precedent that could be set here because it could be catastrophic and he dislikes this intensely.

Mr. Jackson said his thoughts on the ordinance regarding flag lots is that it never contemplated a duplex or multi family housing on a flag lot and the board has never had one before. The language in the ordinance itself uses the word dwelling (singular) not dwellings etc. so it does use the singular when it describes it, and might simply be a loop hole that needs to be corrected, but if the board is disinclined and not in favor of this application, he recommends they be aggressive and we will take our chances with an appeal. Mr. Pape said this is fully conforming with no variances and this is permitted and it is offensive to hear "let's take this applicant to court and be aggressive and break it down". The ordinance expressly permits flag lots and duplex or 2 family homes in this zone. They have complied with the recommendations from the professionals and is fully conforming with the ordinance. If on another day, you want the ordinance to be changed, he suggests bringing it to the attention of the governing body, but the law of the case is the law of the Township when the application is before the board. Mr. Jackson said this is unprecedented and untreaded territory. Mr. Banas said he understood what each attorney said and will give him his day in court right now and they will go on. Mr. Truscott said for the record, the plan reviewed at the tech meeting was for a proposed two story framed dwelling, it did not at that point out it was a duplex but a one family dwelling. Mr. Pape said at that meeting that the structure was a duplex to ask to make sure the architectural drawings were submitted. Mr. Banas asked to call attention to the small piece of the aerial and Mr. Pape said it read a proposed two story framed dwelling. Mr. Pape said on the submitted plans all the information was given that it was a duplex, and even the front property is a duplex. Mr. Banas said this supported Mr. Truscott's statement and Mr. Pape said he disagreed. Mr. Pape said A-2 was requested by the board to demonstrate the surrounding uses. Mr. Franklin said it shows a 75 x 40 and the drawings show 100x 40. Mr. Carpenter said this is a picture supplied to the board at their request to show the adjacent property uses, not to particularly show the uses on the proposed subdivision. Mr. Franklin said you showed the plans laid out the plans show 100 ft. Mr. Pape said the plans prepared by Mr. Carpenter and the plans that were reviewed, the architectural plans supplied and supported identify it as a 2 story framed dwelling and identified as duplex on the plan submitted. The advertisement and notice prepared was identified as a duplex, the application and correspondence all identify it as a duplex. Mr. Jackson asked Mr. Pape if he would identify any other duplexes that are on flag lots and Mr. Pape said no. Mr. Jackson said you can deny a fully conforming site application if you can hang your hat on something that was not whimsy and this may well be one of those situations.

Mr. Banas asked when he appeared in front of the board for the tech meeting and Mr. Pape said February. Mr. Kielt thought it was January. Mr. Truscott said in his mind flag lots are

permitted but the board has to make certain findings, such as if the overall development tract of the parcel must demonstrate a need for good planning principles and there is discussion of that already. The board needs to make those findings before they allow the flag lots. Mr. Pape said they were at the board on February 6, 2007.

Mr. Klein asked Mrs. Coffin if there were any duplex dwellings within the 200 ft. area and she said she did not know although she tried to get that information from the tax office.

Mr. Franklin pointed out the attorney stated there were 8 dwellings, and they have always thought it was one unit being put on a flag lot and this is how they always handled it, and didn't think someone would misinterpret their thoughts and put this monstrosity on a flag lot.

Mr. Banas opened the microphone to the public.

Mr. Hobday was sworn in. He said it appears to him with what he just heard that this is substantially different from the application shown in February in that the size of this dwelling is so much larger than that depicted at that time, first it was a 2 story dwelling and now it is a duplex. He has already told the board of his displeasure with flag lots but this goes way above and beyond that, because you will be putting so much density back there, even if reduced to 6 bedrooms, there would be 12 bedrooms on this lot. He said Mr. Franklin brings up a valid point about emergency vehicles, and how are they going to get back there. This is so far out of character for the other homes in the area that there would be no question in his mind that this does not fit in and he would ask this board to deny this application.

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

Mr. Pape stated this is an application for a residential minor subdivision with no bulk variances and fully consistent with the R 7.5 zoning district. The applicant will amend the driveway to 18 ft. and it would appear it meets all reasonable safety concerns. They have complied with the recommendations of the professionals for landscaping buffers. They would also agree to no outside access to the basements and a height requirement, and also eliminate 2 bedrooms, with removal of the bathroom with tub in the attic and pull down stairs for the basement.

Mr. Peters also reminded the board that the front lot is also a duplex and there are only 3 parking spaces shown for that duplex and it comes through a one car wide area. That is a pre-existing legal duplex. Mr. Banas requested 6 parking spaces there. Mr. Pape said they would accommodate the board for 6 parking spaces.

Motion was made by Mr. Percal, seconded by Mr. Gatton, to DENY this application because of the multi-family situation on the flag lots. This is uncharted territory. Mr. Banas asked Mr. Truscott to read the definitions that make a sound determination to incorporate that into the motion. Mr. Truscott read from paragraph 5 under G of flag lots "flag lots shall be created only in conjunction with an overall development plan of the entire tract of which the flag lot is a part and the applicant shall demonstrate a need consistent with good planning principles for the creation of the flag lot and

shall further demonstrate that normal subdivision techniques are not practical because of the topography, lot or land configurations of other physical characteristics or constraints of the land relate to the proposed development concept”

ROLL CALL:

Mr. Herzl; no, Mr. Franklin; yes, Mr. Neiman; yes Mr. Banas; yes, Mr. Klein; abstain, Mr. Gatton; yes, Mr. Percal; yes

Application DENIED

Mr. Pape said the reasons given were limited to those that were to establish where a flag lot should be created. Mr. Jackson stated he will prepare a resolution and the board will review that resolution for the comments and legal criteria and that will be the basis for the board to make it's decision on. This is a vote based on the up or down of the application and the resolution is the final manifestation of the board's reasoning. You will have the opportunity to get the resolution in advance and can address the board when it adopts the resolution if you so choose.

Mr. Pape said the practice of not letting the applicant make a statement on the record is offensive and Mr. Banas told him he thought he gave him ample opportunity. He had no umbrage with the chairman but the attorney who keeps interrupting.

6. SD # 1579 (VARIANCE REQUESTED)

APPLICANT: DANIEL GROSS

Location: 516 East 5th Street, east of Manetta Avenue
Block 243 Lot 4

Minor Subdivision to create 2 lots

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 243, Lot 4 into two lots. New Lot 4.01 contains an existing single family dwelling. The applicant proposes construction of a new single family dwelling new Lot 4.02. The property is situated on East Fifth Street, within the R-7.5 Zoning District. A variance will be required for the front yard setback of new Lot 4.01, 17 feet is proposed where 25 feet is required. This is an existing condition. The zoning schedule shall be corrected to show 7 ft side yard and rear yard setbacks are required for accessory buildings in accordance with Lakewood Township UDO. The applicant shows on the plans 3 ft side yard and rear yard setbacks are provided for the existing garage on proposed Lot 4.01, a variance will be required for the two setbacks. Ocean County Planning Board and Ocean County Soil Conservation District approvals will be required. Evidence of these approvals shall be made a condition of final subdivision approval. The existing red stone driveway shall be removed prior to signature of the final plat or a bond posted to ensure its prompt removal after the subdivision is completed. Concrete curb and sidewalk exist along the property frontage. The applicant has revised the width of driveway to provide three parking spaces for Lot 4.02, more than three parking spaces are proposed on Lot 4.01. A 6' shade tree easement is proposed to be dedicated to the Lakewood Township along the property frontage. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated April 4, 2007. The applicant is seeking minor subdivision approval to subdivide Lot 4 into two lots. A single-family dwelling is located

on the property, which will remain. The parcel totals 15,000 square feet in area and is located on the south side of East Fifth Street. The surrounding land use is generally residential. The site is located in the R-7.5 Residential Zone. Single-family homes are a permitted use in the zone. The applicant has requested the following variance for proposed Lot 4.01: Front Yard Setback: 25 feet required, 17 feet proposed. The above variance is due to a pre-existing non-conformity on existing Lot 4. The positive and negative criteria for the requested bulk variance should be addressed. Sidewalks and shade trees are shown on the plans. An area of stone primarily on new Lot 4.02 is shown to be removed. This improvement must be removed or a bond posted for such removal prior to the signature of the plat or deeds by the Planning Board. A shade tree easement is proposed. The easement document and survey description should be reviewed by the Board Engineer and Attorney if the subdivision is perfected by deed. Any site improvements shall comply with the NJ RSIS. Off-street parking shall comply with the NJ RSIS. Confirm that three (3) spaces indicated for proposed Lot 4.01 (containing the existing structure) exist, and that sufficient space is available for three (3) spaces for the proposed two-story dwelling on Lot 4.02. The balance of the comments are technical in nature.

Mr. Pape Esq. appeared on behalf of the applicant. They have no issue with the technical aspects of the professionals report. Mr. Carpenter is the engineer for the applicant. He showed exhibit A-1 which is a mounted subdivision map. The variances requested are pre existing for front yard setback and setback variances for the accessory structure, the existing frame garage. They have provided adequate parking per the RSIS. The new lot they are proposing is not proposed for development at this time but they will put a note on the plans that there will be provided 3 parking spaces for that lot. The existing remaining lot (Lot 4.01) has more than adequate space in the rear of the lot for parking plus it has an existing garage. They agreed with the rest of the comments from the professionals' report.

Mr. Gatton asked if there are other lots similar in the neighborhood and Mr. Carpenter said they really did not have to prove that these lots are concurrent with other lots in the neighborhood because they are fully conforming with the zoning requirements for 50 ft. wide and 150 ft. deep, but there are numerous lots across the street and adjacent to this lot that are also the same dimensions.

Mr. Banas opened the microphone to the public.

Mr. Hobday was sworn in. He said they are looking for a variance for a front yard setback, and he wonders how that conforms with the other lots. Mr. Banas said it was existing condition. No variances will be requested for the new lot. Mr. Jackson said the pre existing non conformity has to be renewed as a grant of a variance when a new application is submitted.

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

Motion was made by Mr. Neiman, seconded by Mr. Herzl, to approve this application.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Klein; yes, Mr. Gatton; yes, Mr. Percal; yes

The board was asked if they wanted to continue with the next application and have the next week off with no meeting, or carry it and come back next week for one application. The board members decided to continue except for Mr. Klein and Mr. Percal. There were 5 who agreed to stay.

7. SP # 1861 (VARIANCE REQUESTED)

APPLICANT: MALKIEL SVEI

Location: Chestnut Street, behind BP gas station
Block 1070 Lot 3

Preliminary & Final Major Site Plan to construct an office building

Mr. Peters stated the applicant is seeking Preliminary & Final Site Plan Approval for Block 1070, Lot 3. The site currently contains a single family residence which will be removed. The project consists of a two story office building with a basement, stormwater management measures, and parking facilities. The site is located on Chestnut Street, in the HD-7 Zoning District. Variances are required for the following: Minimum Lot Area: 0.34 acres is proposed where 1.0 acre is required. This is an existing condition. Lot Frontage: 100 feet is proposed where 150 feet is required. This is an existing condition. Front Yard Setbacks: There are three (3) front yards with setbacks proposed to be 10, 25, and 28.6 feet where 50 feet is required. Ocean County Soil Conservation District approval has been submitted. Ocean County Planning Board approval shall be made a condition of final approval. The applicant requests a wavier from section 18-803.E.2.a of the UDO which requires a 25 foot buffer. The applicant has proposed sight triangle easements on both sides of the proposed parking lot entrance, to be dedicated to Ocean County. The board should determine if a shade tree easement will be required along both frontages. Sidewalk is proposed along the Chestnut Street frontage, the Board should determine if sidewalk will be required along Chestnut Street Extension. The applicant has provided 17 parking spaces, as required for the floor area of the first and second floors, based on one space per 300 square feet. A note shall be added to the plans stating the office space will not be used for medical or dental offices which would require additional parking. At the technical meeting, the applicant stated the basement ceilings would be seven feet high, rendering the space unusable for offices and requiring no additional parking spaces. The basement height shall be shown on the plans, and made a condition of approval. The lot is a thru lot requiring a five foot (5') landscaped buffer along chestnut street extension. The buffer shall be shown on the plans or a waiver requested. The existing two story dwelling build has been noted to be removed on the plans. The concrete patio and gravel driveway should also be noted to be removed as well. The applicant shall provide testimony as to how trash pickup will be handled in order to allow safe ingress and egress of trash collection vehicles. Parking spaces may need to be eliminated to allow for a K-turn area. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated April 17, 2007. The applicant is seeking preliminary/final major site plan and variance approvals to construct a two (2) story office building and associated parking, drainage facilities and utilities on Block 1070, Lot 3. The proposed building (basement, 1st & 2nd floors) contains 7,243 square feet of interior space. Lot 3 is 14,831 square feet (0.34 acres) in size and currently contains an existing

two-story dwelling. The tract is located in the southern part of the Township, east of Route 9. The tract's eastern lot line abuts the portion of the right-of-way dedicated to Chestnut Street and the Chestnut Street Extension, which is currently a triangular grassy lot, the three sides of which are bordered by the Chestnut Street Extension (northeast), Chestnut Street (south), and the tract (west). The properties surrounding the tract to the north, south and west are used for commercial purposes. The lot directly east of the tract is part of the R-12 Residential Zone and contains a residence. Lot 3 is located in the HD-7 (Highway Development) Zone. Various types of commercial and retail uses are permitted uses. The following variances are required (Note: In our opinion, the lot has three (3) front yards and one side yard): Front yard setback: 50 feet required; 25 feet proposed on Chestnut Street, 28.6 feet on Chestnut Street Extension, and 10 feet on the west frontage (basin). Lot Area: 1 acre required; 0.34 acres proposed. Lot width: 150 feet required; 100 feet proposed. The positive and negative criteria for the requested bulk variances should be addressed. A waiver from the 25-foot wide landscape buffer requirements has been requested. The existing use (residential) is not a permitted use in the HD-7 Zone. The lot currently provides a visual transition from the R-12 Residential Zone to the east of the tract and HD-7 and Route 9 to the west. We are concerned that, due to the small size of the tract (1/3 the size currently required for the HD-7 Zone), the buffer waiver requested will only exacerbate the negative visual impact due to the intensified use contemplated by the proposal. The Planning Board should discuss alternative methods of mitigating the requested variances. We note that off-street parking requirements noted on the plans (1 space per 300 square feet) is based on an office use. If medical or dental offices are contemplated, additional parking is required. The use should be stipulated and additional Board approval required if the proposed use varies from that approved. The parking computation is based on the architectural drawing and excludes the basement floor area from the computation. Use of the basement should be stipulated as for storage only and additional Board approval be required if the proposed use varies from that approved. Street trees and landscaping have been proposed for the north frontage. Foundation plantings have been proposed. Shade tree/utility easements or proposed sidewalks are not shown on the plans. The Site Plan includes a grading, drainage and utility plan, landscape and lighting plan, soil erosion and sediment control plan and parking/traffic sign details. An Environmental Impact Statement (EIS) has been submitted for Planning Board Review. Performance guarantees should be posted for all required improvements in accordance with Ordinance provisions. Applicant should discuss how it will comply with all conditions of approval issued by the Ocean County Planning Board for this application, and confirm the receipt of a Soil Erosion and Sediment Control Certification from the Ocean County Soil Conservation District. Other required outside agency approvals (excluding those discussed above) may include, but are not limited to: Sewer and water utilities; and, All other required Outside Agency approvals.

Mr. John Doyle Esq. appeared on behalf of the applicant with Brian Flannery as the engineer for the applicant. The present use as a residence is not permitted and they understand this is an irregular sized lot and the undersized nature the requirements to have 3 frontages they could not build much more than a flag pole without seeking variances. Mr. Flannery said the application is for an office building, not medical or dental. He labeled renderings, a colored sheet 2 of 10 of the site plan as A-1 and an aerial exhibit which is labeled A-2 and a site plan indicating a small area that would be permitted if they followed the front yard setbacks (A-3). Since the detention basin is in the county right of way, they

have 3 front yards. The ordinance stipulates a minimum building size of 2,500 sf and the building they propose is 2,500 and change and is 17% coverage where 30% is allowed. It is his professional opinion that the house that is sitting there now is an eyesore and what they are proposing is a building that fits in nice with the neighborhood and appropriate for the HD-7 zone. His testimony is that they can not comply with the front yard setbacks and still present a viable project. The front setback they have from the detention basin, in his opinion is a meaningless setback. The front setback from Chestnut Street extension is a busier road, so they have tried to provide the largest setback they could along that roadway, and the front setback along Chestnut Street, which is only a very short block now they have proposing 25 ft. which is more than what is there to the existing house. Overall they are improving the parcel and he feels there is no negative criteria to this application. The landscaper buffer waiver they are requesting is to the neighbor to the west which is the gas station and they are proposing a fence with some landscaping. His opinion as a professional is that these 2 uses are compatible and there is no adverse impact. They agree that no medical or dental offices are proposed. The basement is for storage only and will be less than 7 ft. in height which will restrict it from being habitable. They propose sidewalk along Chestnut Street on the southerly side but not the Chestnut Street extension which would cause grading and drainage problems if required and he feels it is an unnecessary sidewalk that nobody is going to use. There are no homes in the area and the basin and the gas station does not have sidewalks along their frontage. They would have to put a retaining wall and then a sidewalk which he feels it would be more dangerous. He said they did receive a letter from the Ocean County Planning Board and Mr. Banas asked for the letter. He said they indicated that they feel that new road improvement plans are unnecessary. Chris Rosati from his firm has met with the county engineer and he has the revised plans and are ready for signature. They have given them what they requested except for the curb and sidewalks which they said is not necessary. They agreed to comply with the remainder of the comments in the professionals report. Mr. Franklin looked at the trash pick up and they have located the trash receptacle in the rear for pick up. Mr. Flannery said if they put in the retaining wall for the sidewalk on the Chestnut Street extension, it might be as high as 3 ft. along with the fact that some of those trees lining the road there might be damaged. The drainage basin also has a fence that extends beyond where the sidewalks would go, so you would have to walk around the fence to the right of way to use this sidewalk.

Mr. Banas said the minutes from the technical meeting show him stating that sidewalks would be required. Mr. Banas said because of the strip mall having places to eat and shop, he can't see not having a sidewalk there. In the past they have asked the county to paint a crosswalk, from the property to the west to the strip mall. Mr. Flannery felt a cross walk in that area, close to the intersection was not safe. Mr. Banas said human beings will take the shortest way to get from one end to another rather than walk another 20 ft. to go to Route 9.

Mr. Gatton asked what the footprint of the building was and Mr. Flannery said it was 38 x 67 ft. and the parking was in the front. Mr. Gatton felt it was a large building compared to the property. Mr. Flannery said the building size was 1/2 what it should be but the impervious coverage is more than that. Mr. Gatton asked if it would be a right in and right out and Mr. Flannery said they planned on both right and left in and out.

Mr. Banas opened the microphone to the public.

Mr. Simons was sworn in. He asked how many individual offices will there be in this building and Mr. Doyle said it depends on how it rents out, but the applicant will use a significant portion of the building, he is in real estate management business. Mr. Simons said the more offices there, the more parking will be needed. Mr. Simons said he disagreed with Mr. Banas with regard to the importance of sidewalks along the detention basin. He said across the street is the Hagerman property that is going to be developed and you are going to ask for sidewalks to be put in there and that will be facing this office building. He uses the extension all the time and it seems to him with the size of this property, to back in a garbage truck into that extension, wouldn't that be dangerous and Mr. Franklin said they discussed early in the morning, but the township would not be picking up their garbage because they are commercial. He asked where the entrance in and entrance out is going to be and Mr. Flannery said it would be off of Chestnut Street.

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

Mr. Banas also requested sidewalks along their property frontages except for the gas station, just connect the sidewalk to the one on the extension.

Motion was made by Mr. Neiman, seconded by Mr. Percal, to approve this application with connecting the sidewalks to the north and south

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; no, Mr. Neiman; yes, Mr. Banas; yes, Mr. Gatton; yes, Mr. Percal; yes

8. SD # 1542 (VARIANCE REQUESTED)

APPLICANT: RYE OAKS LLC

Location: Ocean Avenue (Route 88) east of railroad
Block 536 Lots 1, 2 & 4

Preliminary & Final Major Subdivision for 40 townhouses and 1 retail center

Carried to May 15, 2007

9. SD # 1550 (NO VARIANCE REQUESTED)

APPLICANT: SEYMOUR INVESTMENTS LLC

Location: Cross Street, west of River Avenue (Calgo Gardens Nursery)
Block 533 Lots 3 & 10

Preliminary & Final Major Subdivision-74 townhouse units, community center and tot lot

Carried to a future meeting and must be re noticed.

5. MEMORIALIZATION OF RESOLUTIONS

None at this time

6. CORRESPONDENCE

None at this time

7. PUBLIC PORTION

None at this time

8. APPROVAL OF BILLS

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

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Gatton; yes, Mr. Percal; yes

9. APPROVAL OF MINUTES

None at this time.

10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Chris Johnson
Planning Board Recording Secretary