

## I. CERTIFICATION OF COMPLIANCE

Chairman Neiman called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: *The Asbury Park Press*, and *The Tri-Town News* at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

## 2. ROLL CALL

Mr. Herzl, Mr. Neiman, Mrs. Koutsouris, Mr. Akerman, Mr. Banas, Mr. Schmuckler, Mr. Percal

Mr. Kielt said there were no changes in the agenda

## 3. SWEARING IN OF PROFESSIONAL

Mr. Vogt was sworn in.

## 4. MEMORIALIZATION OF RESOLUTIONS

1. SD # 1687 (Variance Requested)  
Applicant: Eli Schwab/Open Apple LLC  
Location: corner of Carlton Ave. South, Lafayette Blvd. & Thorndike Ave.  
Block 266 Lot 4  
Minor Subdivision to create 2 lots

Motion was made by Mr. Schmuckler, seconded by Mrs. Koutsouris, to approve

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

Mr. Franklin arrived at the meeting

2. SD # 1688 (Variance Requested)  
Applicant: YNG Management LLC

Location: southwest corner of Clifton Avenue and First Street  
Block 89 Lot 4  
Minor Subdivision to create 2 lots

Motion was made by Mr. Koutsouris, seconded by Mr. Herzl, to approve

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

## 5. NEW BUSINESS

1. SD # 1686 (Variance Requested)  
Applicant: Levi Steiner  
Location: Edgewood Court, west of River Avenue  
Block 414 Lot 13  
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated November 2, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide existing Lot 13 in Block 414, a 100' X 150' fifteen thousand square foot (15,000 SF) lot into two (2) single-family residential lots of 50' X 150', seven thousand five hundred square feet (7,500 SF) each. An existing two-story dwelling, slated to remain, is located on the westerly side of the property (proposed Lot 13.02). There are two (2) existing garages on the property. The existing garage behind the existing dwelling will remain and the existing garage in the northeast corner of the lot will be removed. A two-story single family dwelling with a building box of 32' X 55' is proposed on proposed Lot 13.01. The lots are situated within the R-10, Residential Zone. The surrounding land uses are predominantly residential. *We have the following comments and recommendations per our initial review letter dated August 17, 2009:* Zoning - The parcels are located in the R-10 Residential District. Single-family dwellings are a permitted use in the zone. *Fact.* Variances are requested for minimum lot area. A minimum lot area of ten thousand square feet (10,000 SF) is required and both proposed Lots 13.01 and 13.02 are proposed to contain seven thousand five hundred square feet (7,500 SF). *Fact.* Variances are requested for minimum lot width. A minimum lot width of seventy-five feet (75') is required and both proposed Lots 13.01 and 13.02 are proposed to be fifty feet (50') wide. *Fact.* Variances are requested for the minimum side yard setbacks on proposed Lot 13.01. A side yard setback of ten feet (10') with an aggregate of twenty-five feet (25') is required and a proposed side yard setback of nine feet (9') with an aggregate of eighteen feet (18') is proposed. *Fact.* A variance for the minimum aggregate of the side yard setbacks is required for proposed Lot 13.02. An aggregate of the side yard setbacks of twenty-five feet (25') is allowed and an aggregate of the side yard setbacks of 24.1' is proposed. The proposed side yard setback of the front easterly corner of the existing dwelling to the proposed property line is 12.0'. The existing side yard setback of the rear westerly corner of the existing dwelling to the existing property line is 12.1'. Dimensioning shall be to the nearest hundredth of a foot to provide the exact amount of the required variance and the proposed setback lines adjusted on the drawings to minimize the extent of the variance. *Per the applicant's surveyor's response letter, this information will be provided.* An existing nonconformance will be retained by the existing garage remaining on proposed Lot 13.02. The existing garage is an accessory building requiring minimum rear yard and side yard setbacks of ten feet (10'). The existing rear yard

nonconformance of 2.8' and the existing side yard nonconformance of 3.0' are proposed for continuance with this minor subdivision application. *Fact.* The plan contains a note that states "Architectural dimensions of proposed structure are not known at this time". However, the building box (32' X 55') as shown will provide 23.5% coverage for proposed Lot 13.01 which complies with the twenty-five percent (25%) allowable coverage. *The plan has been clarified.* The applicant must address the positive and negative criteria in support of the requested variances. *Fact. At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area.* Review Comments- The NJ R.S.I.S. requires 2.5 off-street parking spaces for a single-family dwelling when the number of bedrooms is not specified. The proposed number of off-street parking spaces (driveways) for each lot has not been addressed. However, it appears that the driveways for both proposed lots have room for at least three (3) off-street parking spaces. Testimony shall be provided and dimensioning added to the plan. *The revised plan indicates an 18'x36' driveway proposed, capable of providing four (4) off-street parking spaces for proposed Lot 13.01. This item has been addressed.* Parking shall be provided to the satisfaction of the Board. *Fact.* Sidewalk and curbing exists along the entire property frontage. The existing sidewalk and curbing is in poor condition and should be replaced. The appropriate construction details shall be added to the plan, including proposed driveways. *The revised plan includes a note indicating proposed sidewalk and curb replacement, and the appropriate details. This item has been addressed.* Per review of the subdivision plan, it is assumed the existing dwelling unit is served by public water and sewer. An existing water meter is shown. The proposed dwelling unit on proposed Lot 13.01 shows proposed water and sewer connections. *Fact.* Proposed grading information is provided. Building corner and finish floor elevations are shown for the dwellings. More detailed grading information will be necessary for the forthcoming plot plan on proposed Lot 13.01 (if the minor subdivision is approved). *Additional grading information has been provided, and is adequate for subdivision approval purposes.* Per review of the plans and our 8/14/09 site inspection, stormwater will continue to flow from these properties onto the adjoining lots to the rear of the site. Testimony should be given regarding measures (if any) to offset the anticipated increase in runoff. *The revised plan indicates the front of the proposed dwelling on proposed Lot 13.01 to drain towards Edgewood Court, and the rear portion of the dwelling to drain via roof leaders into a dry well proposed in the rear yard. Additionally, the existing garage is being removed. Stormwater management has been addressed for subdivision approval purposes. The sizing of the drywell shall be provided as part of the forthcoming plot plan if/when this subdivision is approved.* No shade trees are proposed even though a deciduous tree planting detail is shown. A six foot (6') wide shade tree/utility easement should be provided on the subdivision plan (unless waived by the Board). *One shade tree is shown on the revised subdivision plan, as well as a detail. The type of tree shall be indicated during compliance if/when this subdivision is approved.* An existing chain link fence crosses the existing property line between proposed Lot 13.02 and existing Lot 14. The disposition of the fence must be addressed. *A note has been added to the revised plan, indicating the fence will be removed. This item has been addressed.* The proposed rear property lines must be dimensioned. *The aggregate dimension of both lot line (100 feet) is provided on the revised plan.* The signature block indicating the proposed lot numbers have been approved by the Lakewood Township Tax assessor must be signed. *An approval letter has been provided by the Tax Assessor. This item has been addressed.* Compliance with the Map Filing Law is required, including but not limited to setting monuments for the proposed lot line. *Fact.* Should approval be granted, the monuments shown to be set must be in place prior to signing the map for filing with the County. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Water and

**PLANNING BOARD MEETING  
NOVEMBER 17, 2009  
MEETING**

**TOWNSHIP OF LAKEWOOD  
REGULAR**

**Sewer Approvals (prior to occupancy); Ocean County Soil Conservation District (if necessary); and all other required outside agency approvals.**

**Mr. Charles Surmonte appeared on behalf of the applicant along with Mr. Glenn Lines as the planner for the applicant. Mr. Lines said the application is to subdivide an existing lot. The majority of the lots in the area are 7500 sf; in the 2 block radius there are 17 existing lots, 10 of which are 50 x 150 ft. lots and 3 lots are 100 x 150 ft. The house behind them has a house with an apartment garage and that is on 50 ft. of the lot and the other 50 ft. is vacant. He said their lot used to have 2 houses and one house was removed so they have one house with 2 detached garages. Mr. Banas asked what sheet they can refer to and Mr. Neiman said the exhibit is a tax map and Mr. Banas said he cannot see the display. The exhibit was marked A1 and was a colored rendering of the tax map. Mr. Banas said it does not look the same as the one he has.**

**Mr. Lines continued and said there are 4 lots on River Avenue in the HD6 zone that are also undersized (7500 sf lots) so as far as the lot area and lot width they are proposing, it is in keeping with the neighborhood. Further south to James Street and Birch, those are mostly 50 ft. lots so he feels they are keeping with the neighborhood. Mr. Lines said the variances will not be detrimental to the zone plan or zoning ordinance. Mr. Neiman asked about the lots on River Avenue and if there were homes on those lots and Mr. Lines said they are homes. Mr. Lines said there were originally 2 houses on the lot but when the one house was taken down, there was an accessory structure on the lot, so the lots were merged. The existing home on this lot is situated on the side. Many of the homes in the area have garages in the back and have a 10 ft. side yard setback and varying side yard setbacks on the other side. Mr. Lines said the variances they are requesting conform with and are the comparable to the R7.5 zone which most of the surrounding homes conform to. Mr. Jackson asked Mr. Lines why he thinks it is still and R10 zone and not an R7.5 zone and Mr. Lines said this section really is R7.5 based on 74% of the lots, so it is R7.5 in practice not on the zoning map. Mr. Neiman asked Mr. Surmonte if he could comply with the comments in the engineers report and Mr. Surmonte said yes.**

**Mr. Schmuckler asked if they can provide 4 parking spaces for each lot and Mr. Surmonte said yes.**

**Mr. Neiman opened the microphone to the public**

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

**Motion was made by Mr. Akerman, seconded by Mr. Herzl, to approve the application**

**ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; no, Mr. Schmuckler; yes, Mr. Percal; yes**

- 2. SD # 1690 (Variance Requested)**  
**Applicant: Chaim Abadi**  
**Location: southwest corner of Central Avenue & Hollywood Avenue**  
**Block 284.18 Lot 3**  
**Minor Subdivision to create 2 lots**

**Mr. Vogt prepared a letter dated November 2, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide an existing 21,225 square foot lot into two (2)**

proposed residential lots, using the same configuration before consolidation by the tax assessor's office. The existing property, Lot 3, is an existing vacant tract with some large trees on the site and frontages on two (2) streets. Central Avenue borders the property on the north side and is a County Road with a sixty-six foot (66') wide right-of-way. Hollywood Avenue borders the site to the west and is a municipal road with only a forty foot (40') right-of-way in front of the site. The applicant proposes to subdivide the property into two (2) residential lots. Proposed Lot 3.01 will be a corner lot containing 10,565 square feet and have frontages on Central Avenue and Hollywood Avenue. Proposed Lot 3.02 will contain 10,660 square feet and have frontage on Hollywood Avenue. Variances will be required for lot area and lot width on both proposed lots and variances will be required on proposed Lot 3.01 for front yard and rear yard setbacks. No road dedications and improvements are proposed for Hollywood Avenue. The proposed lots are situated within the R-12, Single-Family Residential Zone. The surrounding land uses are predominantly residential. No construction is proposed with the minor subdivision application. *We have the following comments and recommendations per testimony provided at the 10/13/09 Planning Board workshop hearing, and comments from our initial review letter dated August 20, 2009.* Zoning- The parcels are located in the R-12 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. *Fact.* Per review of the application, Subdivision Map, and the zone requirements, the following variances are required: Minimum Lot Area – twelve thousand square feet (12,000 SF) is required and 10,565 square feet is proposed for New Lot 3.01 and 10,660 square feet is proposed for New Lot 3.02. *Fact.* Minimum Lot Width – ninety feet (90') is required and 70.44' is proposed for New Lot 3.01 and 75.49' is proposed for New Lot 3.02. *Fact.* Minimum Front Yard Setback – thirty feet (30') is required and twenty-five feet (25') is proposed along the Hollywood Avenue frontage of New Lot 3.01. *Fact.* Minimum Rear Yard Setback – twenty feet (20') is required and ten feet (10') is proposed for New Lot 3.01. *Fact.* Per review of the application, Subdivision Map, and the zone requirements, the following waivers are required: Road Widening Dedication – The half right-of-way width of Hollywood Avenue in front of the site is twenty feet (20'), where twenty-five feet (25') is required. Therefore, a five foot (5') wide dedication would be required for compliance. It should be noted that if a waiver from the road widening dedication is not granted, the magnitude of all the variance requests would be increased except for the minimum rear yard setback. The existing right-of-way width of Hollywood Avenue is fifty feet (50') further south of the subject property. *Fact.* Construction of Curb and Sidewalk along Hollywood Avenue – construction of curb and sidewalk for all roads is required and no curb and sidewalk is proposed along the Hollywood Avenue frontage of the property. *Fact.* The applicant must address the positive and negative criteria in support of the requested variances and waivers. *Fact.* At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. Review Comments- The NJ R.S.I.S. requires 2.5 off-street parking spaces for a single-family dwelling when the number of bedrooms is not specified. The parking data on the plan incorrectly lists two (2) off-street parking spaces are required and proposed, while the application lists three (3) off-street parking spaces for the proposed lots are provided. Therefore, the zoning table shall be corrected. *Testimony was provided at the October 13, 2009 workshop hearing that four (4) parking spaces will be provided per lot. The zoning schedule still indicates two (2) spaces proposed. The schedule must be requested or a waiver is necessary.* Parking shall be provided to the satisfaction of the Board. *Fact.* We note that sidewalk and curbing exists along the property's Central Avenue frontage. No improvements are proposed along the Hollywood Avenue frontage. Waivers have been requested for no road dedications or improvements along the Hollywood Avenue frontage. *Fact.* Per review of the subdivision plan, we note that the proposed lots will be served by public water and sewer supplied by New Jersey American Water Company. *Fact.* The lot numbers should be consistent with the numbers assigned by the Tax Assessor. *Fact.* A proposed six foot (6') wide

shade tree and utility easement is shown along the Hollywood Avenue frontage. No easement is shown along the Central Avenue frontage of the property since a County Sight Triangle Easement is proposed which would preclude any shade tree planting. No shade trees are shown within the proposed six foot (6') wide shade tree/utility easement on the Hollywood Avenue frontage of the subdivision plan. Shade trees should be provided to the satisfaction of the Board (or waiver sought). *This item remains outstanding.* Bearings, distances, and areas must be provided for the proposed shade tree and utility easements on the proposed individual lots. *This information is provided on the revised plan.* A proposed Sight Triangle Easement dedicated to Ocean County is depicted at the intersection of Central Avenue and Hollywood Avenue on proposed Lot 3.01. Two (2) existing large trees within the proposed easement and its extension into the right-of-way of Hollywood Avenue should be removed. *The revised plan indicates that these trees will be removed. This item has been addressed.* Existing contour lines are missing within the pavement area of Hollywood Avenue and must be added. *These contours were added to the revised plan. This item has been addressed.* Compliance with the Map Filing Law is required. *Fact.* Should approval be granted, the necessary monuments to be set (for the proposed lot line) must be in place prior to signing the map for filing with the County. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Water and Sewer Approvals (if necessary); Ocean County Soil Conservation District (if necessary); and all other required outside agency approvals.

Mr. Nicholas Graviano appeared on behalf of the applicant as a planner. Mr. Chaim Abadi also appeared to testify. Mr. Abadi said these lots were originally Lot 3 and Lot 4 and were merged by the Tax Assessor about 5 years ago. The lot is a misshaped lot and he does not know why it was merged, there is no deed on record and no paperwork in the county. Mr. Jackson said under state law it would merge if it is an undersized lot. Mr. Graviano showed a tax map of the surrounding vicinity marked exhibit A1 and he distributed to the board exhibit A2 which is the original subdivision plat of the parcel from the 1940's as well as a previous tax map which indicates Lots 3 & 4. The current Lot 3 is an "L" shaped parcel consisting of 21,225 sf located at the intersection of Hollywood and Central Avenues; it has 70.44 ft. of frontage on Central Avenue and 75.49 ft. frontage on Hollywood Avenue. The applicant is requesting lot area variance as well as lot width variances for the existing lot widths on Hollywood and Central. Mr. Graviano cited case law that was similar to this (Kerakill ??Zoning Board of Adjustment v. Monmouth Park) where the court distinguished circumstances where the lot merger doctrine would not apply and one of those instances were "L" shaped lots because they said it would be a total disregard of the fact that each lot fronts on a different street and creates an irregularly shaped parcel. Mr. Graviano feels that this application satisfies the C1 & C2 criteria; under the C1 variance it is by reason of narrowness, shallowness or shape of a specific piece of property and this is an irregularly "L" shaped piece of property and is 76.8% larger than what is required in the zone. He said a study of the lots on the south side of Central Avenue reveal that no parcel shaped in an "L" formation exists except for this. He said Lots 6, 7, 8 & 9 in Block 284.17 also do not meet the 12,000 lot requirement and the parcels at the intersections of Central Avenue do not meet the requirement. The applicant is proposing a single family dwelling on lots that are 88%-89% of what is required in the district. He has the ability to provide all required setbacks to the neighboring properties and said the proposed lots better conform to the zone plan than the existing "L" shaped lot; therefore he believes the applicant meets the C1 criteria. Mr. Graviano said he also believes the variance can be granted under the C2 standard where a hardship is not necessarily required. The purpose of the MLUL would have to be advanced by the deviation in the zoning requirement and the applicant's proposal advances the following: criteria G-provide sufficient space and location for variety of agricultural, residential, etc. uses to meet the need of its' citizens and these lots are of sufficient size and in an appropriate location. Mr. Neiman said

the board understands the legal standing and asked about sidewalks on Hollywood and asked if they were proposing to add curbs and sidewalks and Mr. Graviano said yes. Mr. Neiman asked if they will comply with the comments in the engineer's report and Mr. Graviano said yes.

Mr. Banas said he could not see the display but the prior applicant presented an exhibit with homes in the area that were less than the 12,000 sf requirement and asked if there were substandard lots in this area and Mr. Graviano said there were various and he mentioned a few in his testimony-specifically Lots 6, 7, 8 & 9 in Block 284.17 that do not meet the 12,000 sf requirement and have frontages similar to what the applicant is proposing. Mr. Banas asked if the board was going to require drawings and a statement of that and Mr. Vogt said if they look at the plat and Lot 11 they are identical and Mr. Neiman said it is even smaller.

Mr. Schmuckler asked if they were providing 4 spots per house and Mr. Abadi said yes. Mr. Graviano pointed out the applicant is requesting a front yard setback for the corner lot (25 ft. requested where 30 ft. are required).

Mr. Neiman opened the microphone to the public

David Zell, 1214 Central Avenue, Lakewood. He said he is not really in favor but he guesses he will go along with it but to protect himself he asked that it be an appropriate house that he will feel comfortable having as a neighbor. Mr. Vogt said he thinks the applicant agrees that they are going to develop within the lot lines and Mr. Abadi said yes. Mr. Abadi said he will not go according to the plot plan that says 10 ft.-he is going to do 15 ft. on the eastern property line. Mr. Abadi said he also agrees to maximize the house at 30 ft. high and the house should be 1,500 sf house and should start at the front yard setback of Central Avenue.

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

Motion was made by Mr. Schmuckler, seconded by Mr. Percal, to approve the application with the stipulations made by Mr. Abadi.

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

3. SD # 1692 (Variance Requested)  
Applicant: JG Ridge  
Location: southeast corner of Leonard Street & Park  
Block 228 Lot 2  
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated November 3, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide an existing L-shaped 12,346 square foot lot known as Lot 2 in Block 228 into two (2) proposed residential lots. All existing improvements on the property, including a two-story frame dwelling and an existing garage would be removed. Proposed Lot 2.01 would become a 4,846 square foot corner lot fronting on Park Avenue and Leonard Street. Proposed Lot 2.02 would be created as a 50' X 150', 7,500 square foot lot with frontage on Leonard Street. The site is situated within a residential area. Curbing exists along the entire frontage of the property. Sidewalk exists on the Park Avenue frontage, but not the Leonard Street frontage. However, there is existing sidewalk across the adjoining property on Leonard Street and sidewalk is being proposed across the Leonard Street frontage of the site.

*We have the following comments and recommendations per testimony provided at the 10/13/09 Planning Board workshop hearing, and comments from our initial review letter dated October 8, 2009 Zoning-* The parcels are located in the R-10 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. Per review of the Subdivision Map and the zone requirements, the following variances are required: Minimum Lot Area (proposed Lots 2.01 and 2.02, 4,846 SF and 7,500 SF are respectively proposed, 10,000 SF is required) – proposed conditions. *Fact.* Minimum Lot Width (proposed Lots 2.01 and 2.02, 50 feet is proposed for both, 75 feet is required) – proposed condition. *Fact.* Minimum Front Yard Setback (proposed Lot 2.01, 15 feet is proposed from Leonard Street, 30 feet is required) – proposed condition. *Fact.* Minimum Side Yard Setback (proposed Lots 2.01 and 2.02, 5 feet and 7.5 feet are respectively proposed, 10 feet is required) – proposed condition. *Fact.* Minimum Aggregate Side Yard Setback (proposed Lot 2.02, 15 feet is proposed, 25 feet is required) – proposed condition. *Fact.* The applicant must address the positive and negative criteria in support of the requested variances. At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. Review Comments- The minimum lot width in the zoning table for proposed Lot 2.01 shall be corrected to fifty feet (50'). The definition in the UDO states that lot width is the mean horizontal distance between the side lines measured at right angles to its depth. *This correction is still necessary, and can be provided during compliance if/when this application is approved by the Board.* Based on the proposed footprint shown for proposed Lot 2.01, the lot coverage shall be corrected to twenty-two percent (22%). The percentage is within the allowable coverage. *Both proposed lot coverages are within the 25% limit.* The proposed dwelling on proposed Lot 2.01 will be served by a new driveway from Park Avenue, which provides four (4) parking spaces. The proposed dwelling on proposed Lot 2.02 will be served by a new driveway from Leonard Street, which provides four (4) parking spaces. *Fact.* Testimony should be provided as to whether basements are proposed for either of the new dwellings. Parking shall be provided to the satisfaction of the Board. *Testimony is necessary at the public hearing.* The plan depicts the existing curbing along the frontage of the entire site, and sidewalk along the Park Avenue frontage. Sidewalk is proposed along the Leonard Street frontage. An existing driveway serving the existing dwelling and garage will be removed along with those structures. Full height curb will replace the driveway cut to be removed and should be noted on the plan. Depressed curb and driveway aprons are proposed for the new driveways. The proposed aprons should extend to the back edge of the sidewalk to insure reinforced six inch (6") thick concrete is installed to the proper locations. The existing concrete is in fair condition and should be replaced at the direction of the Township Engineer. Accordingly, a note shall be added to the plan. *The plan has been revised as requested.* According to the plan, the proposed sidewalk along Leonard Street requires the removal of a large diameter tree. However, based our site investigation on 9/25/09, the existing tree appears to be much smaller than designated. The base map may require correction. Preservation of other large existing trees on the site should be addressed. *The plan has been revised to indicate that the proposed 24" diameter tree within the Leonard Avenue ROW to be removed, as well as all mature trees within proposed Lot 2.02 (with the exception of those along the rear property line).* *Testimony should be provided by the applicant's professionals regarding the mature trees present along the easterly property line of Lot 2.02, and whether any of these trees can or should be preserved.* Detectable warning surface must be added to the existing handicapped ramp at the intersection. The appropriate details shall be added to the plan. *A detail is provided on the revised plan.* Existing and proposed grades are provided on the subdivision plan. Additional spot elevations are necessary for the proposed driveways and off-street parking spaces for both lots. Additional grades are required to ensure there are no adverse impacts on adjoining lots. *Additional grades have been provided and are satisfactory for subdivision approval purposes.* The plan indicates



proposed water and sewer connections for proposed Lot 2.02. The plan also indicates that proposed Lot 2.01 shall utilize the existing sewer lateral and water service from the dwelling being removed. Depending on the locations of the services, this may not be feasible since the proposed dwelling is in a different location. In any event, trenching and road repair construction details must be added to the plan. *A pavement restoration detail has been added to the plan.* Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. *An approval letter dated August 28. been provided from the Township Tax Assessor.* A six foot (6') wide shade tree and utility easement has been provided on the plan for the property's frontage. Bearings, distances, and areas must be provided for the easement. Four (4) shade trees are being provided. *Fact.* A sight triangle easement is proposed for the intersecting streets. Testimony is required as to how the dimensions of the easement were determined. Survey information for the proposed easement must be completed. *Testimony is required at the public hearing.* Compliance with the Map Filing Law is required. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Water and Sewer Approvals (if necessary); Ocean County Soil Conservation District (if necessary); and all other required outside agency approvals.

Mr. John P. Doyle Esq. appeared on behalf of the applicant. He said this application is also an "L" shaped lot which the applicant wishes to subdivide into 2 lots. The depths of the lots are consistent with the adjacent lots and the frontage is consistent with the lots next to it. Mr. Doyle marked exhibit A1 which is a colored rendering of the tax map and exhibit A2 is an aerial photograph. Mr. Doyle also stated that every lot within this block is undersized and there are townhouses in the area so it is a good fit. Mr. Flannery is the engineer for the applicant and said the subdivision is for a 12,346 sf lot and they are proposing to subdivide it into 2 lots of 7,500 sf and 4,846 sf. This area of Lakewood was a subject of the Master Plan re-examination and it was recommended to change this area to R7.5 because everything in the area is R7.5; there are townhouses in this area and the aerial exhibit shows the downtown regional center with this in the middle of it and the smart growth indicates the downtown regional center is a district that is surrounded by high to moderate density residential neighborhoods and he said that is what this is. It provides needed housing opportunities and Mr. Flannery said they have a unique lot that is "L" shaped and this subdivision results in 1 lot that is 50 x 150 which is consistent with the other lots in the area and they are left with a piece that is 4800sf. He said they could build a duplex on the entire lot but putting a large structure would look out of place and not take advantage of the lot so their alternative is 2 lots, one of which is conforming and the smaller lot they will build a smaller house on it. Mr. Flannery said the plans show 4 parking spaces and Mr. Neiman said they could make a park there. Mr. Flannery said the board is familiar with the smart growth plan and it shows that 1/3 of Lakewood is provided as open space and park area and a private property owner is really not inclined to build a park but to look at his options and his option is to build a duplex which gives 2 dwelling units and he hears from the planning and zoning boards that there should be some lots with smaller houses on it and that is what they did. If you took their property out of Block 228 it is 3.8 acres and there are 25 dwelling units on it which is 7 dwelling units per acre and they are asking for is 7 dwelling units per acre. In the R10 with duplexes you are allowed a density of 7.26 dwelling units per acres and if it does get changed to the R7.5 after plan endorsement, that would allow 8.71 so Mr. Flannery said they are really not overdeveloping the lot but coming up with a unique plan to react to this unique lot.

With regard to the engineer's report, Mr. Doyle said they will do the trees with respect to the comment #6 and they will have 4 parking spaces and Mr. Flannery said the site triangle easement is larger than the ASHCO regulation they need to comply with and they looked at what area would be available for site plan and put in a larger site triangle than is required but the maximum that can be put in and still leave the develop ability of the lot intact. Mr. Vogt asked if

the site triangle is ASHCO compliant and Mr. Flannery said yes. Mr. Flannery said the remaining comments are technical in nature and they will be complied with. Mr. Flannery said addressed the comment about basements and said obviously, houses in Lakewood attempt to put basements in and if the board acts favorably on this application they would look at the groundwater depths and see if it was feasible in this area. Most of the other houses in the area do have basements and if it is feasible, basements will be constructed. With respect to the zoning issue, Mr. Flannery said with respect to the lot areas, they are providing 7500 sf on the one lot and the 4800 sf lot is smaller but it is his professional opinion is that it is the most logical development of this unique piece of property; they are asking for 15 ft. front yard setback where 30 ft. is required and it is his professional opinion that there are other lots in the area with smaller setbacks and for 1 unique lot it would not cause an undue burden and no substantial negative impact. To make this smaller lot work, they are requesting 7.5 ft. sideyard setback on Lot 2.02 and 5 ft. setback on Lot 2.01 and the aggregate side setback of 25 ft. and it is his testimony that the board can grant them without detriment to the zone plan or zoning ordinance. Mr. Doyle asked Mr. Flannery if the maximum coverage on this smaller lot is only going to be 21.7% instead of 25% and Mr. Flannery said yes. The footprint of this lot will only be 1050 sf and Mr. Flannery said it does meet a need for smaller housing.

Mr. Neiman said it looks small to him and said they have never approved a lot this small and Mr. Jackson said what is a greater evil-having a lot that is 2,000 sf too big or having a lot that is 5,000 sf too small. Mr. Doyle said the question of what can be done with this lot is-is it better to have a duplex when the general character is single family homes or to have single family homes consistent with the general nature of the area and to have houses that fit on the particularly sized lots. Mr. Neiman said to forget any side setbacks, build it on a slab and you will have your small home on a small lot, but you are asking for a small lot and you are asking to go into the side yard setbacks so you want both really. If you want a small home, build it in the envelope without asking for any sideyard variances and build it on a slab without a basement and there is your small home. Mr. Flannery said if the issue is the basement and Mr. Neiman said the issue is a small lot, you are asking for sideyard variance and you are building; if you want to put in a duplex without creating a 4800 sf lot maybe that is better. You can't compare this "L" shaped with the other; that one was 22,000 sf. and this is a 12,000 sf lot. Mr. Flannery said "L" shaped lots, due to their nature, create a problem in that they have double frontages, double frontyard setbacks and the usability of the lot is compromised. Most of the housing opportunities provided here are townhouses or larger single family and this would provide a smaller unit for a unique person that could live there. Mr. Doyle said in the central business district where you would walk this would work and be more appropriate.

Mr. Banas asked how large a home are they building on 2 pieces of property and Mr. Flannery said the 4800 sf lot they are proposing to construct a 30 x 35 dwelling and Mr. Banas asked how many bedrooms and Mr. Doyle said it has not yet been designed but the footprint would be limited to 1,050 ft or less than the allowed 25% (21.7%). Mr. Flannery said typically a dwelling that size would have 3 bedrooms. Mr. Banas asked about the other building and Mr. Doyle said that has a footprint of 1875 sf and the house would be consistent with the neighborhood; in terms of bedrooms, he would assume it would be more than 3. Mr. Banas said if you take the square footage of the total lot of 12,346 sf and divided that evenly, would that give you a better proportion for both, since they are asking for variances, and extend it is such a fashion that they might have it divided equally. Mr. Doyle said they are looking at other possibilities but just followed the recently subdivided lot adjacent to this one. Mr. Flannery said in order to do what Mr. Banas suggested, they would probably need easements across the frontage of the lot that is now smaller in order to get to the bigger lot because the majority of that property is behind it. Mr. Banas asked if there were any restrictions to having a diagonal line. Mr. Flannery said the

problem is the lot (2.02) is going to have very limited frontage and it would be reminiscent of a flag lot; from a number standpoint it would look better and would be a whole lot easier for him to testify to that but he doesn't think it lays out as nice. They have an existing home that is the front setback and is in need of redevelopment and he does not think anyone is really hurt. Mr. Banas said he agrees with the concept that there should be different sized homes for different sizes of families however he suggests that 3 bedrooms and 4 bedrooms does not fit that mold- 2 and 4 fit it better. The one on Leonard Street and the one adjacent to it- 3 and 4 bedrooms are the same size home. Mr. Flannery said they are here for a subdivision, they have not done the architectural plans.

Mr. Akerman said from the voices he is hearing, he is recommending they take a step back, maybe pull the application and explore the idea of putting in a duplex. The board generally feels it would serve this property a lot better than trying to get an approval on this size lot. Mr. Doyle suggested they hear from the public and the rest of the board and see what develops with their decision.

Mr. Neiman opened the microphone to the public

Noreen Gill, Coventry Square, Lakewood, was sworn in. She said it was stated that this was surrounded by townhouses and they could put duplexes on it and it seems that when you are doing one it is 7500 sf and another is 4800 sf she doesn't know how this fits in with the neighborhood and she has a concern if they do a 35 x 35 dwelling. She has 1400 sf and she is having a hard time with this- who will be living in it, will it have a basement, the water table is etc. but if you are going to do something like this it should be on a slab, it seems very small.

Bill Hobday, 30 Schoolhouse Lane, Lakewood, was sworn in. He said he heard multiple references to the smart growth plan but it has not been adopted- only proposed. He thinks that was misleading in that what that smart growth plan proposed is one of the areas will be rezoned, but that is not today and they could put a duplex there because it is a permitted use. But instead they are asking for is something that is not permitted. These kinds of applications are not good for Lakewood in any shape or form. This takes apart neighborhoods when applicants do this and therefore it should conform to the standards that the members of the Planning Board, the Township Committee have put together as their zoning guidelines. The Planning Board has an obligation to not only the neighborhood but the Township of Lakewood and he asks them to deny this application.

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

Mr. Doyle said no one from the neighborhood who would be directly affected by the board's decision came to suggest that this was not amicable to their interest or the neighborhood, but there were specific points raised with respect to the way they subdivided as well as if it should be subdivided at all and have a duplex. They would like the board to reserve decision and allow them the opportunity to subdivide this lot in a way that would respond to the comments they have heard-could they make the lot area more equal and the most sensitive setback issue is the side yard on Lot 2.01 adjacent to 1601, that is the 5 ft. and perhaps a less square and more linear house would allow for greater side setback and be the kind of home that would fit in. He pointed out that each of the lots that they are adjacent to on Park Avenue run the distance that theirs does except that Park Avenue runs away on an angle. Mr. Doyle thinks with those changes they can provide a subdivision that is more closely attuned to the comments they heard from the board without having to do a duplex. He requested that they be carried and have an opportunity to re submit.

Mr. Banas said he would move that motion and seconded by Mr. Herzl to carry the application to later date to reconfigure this property. Mr. Doyle was more specific and said if the house on Lot 2.02 were pushed back so the line could be continued on Lot 2.01 another 10-25 ft. it would create more square footage and would narrow the frontage for Lot 2.02 and create a variance but the change would more equalize the lots. Mr. Jackson asked about re noticing because they are going to have a different application process and Mr. Doyle said whatever the board wants them to do they will do and Mr. Jackson said to be conservative route would be to re notice and Mr. Doyle said that will be fine.

Mr. Neiman also suggested when you are asking for a lot that small, he thinks the board would be more perceptive to granting the variance if you are within the side setbacks. To ask for a small lot and then go over the setback lines is really over utilizing this small lot. Mr. Doyle said this lot is a corner lot which results in double frontage and it makes that difficult.

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

Mr. Doyle suggested they come back to a public hearing since the other issues have been resolved and Mr. Kielt said to see what Mr. Vogt has to say and Mr. Vogt said to wait to see the new submission and then decide.

4. SD # 1693 (Variance Requested)  
Applicant: Samuel Greenes  
Location: Princewood Avenue & Netherwood Drive  
Block 432 Lot 1.03  
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated November 3, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide an existing (irregular) 17,890 square foot lot known as Lot 1.03 in Block 432 into two (2) proposed residential lots. An existing two-story frame dwelling on the property will remain on proposed Lot 1.05, which will become a 10,342.25 square foot lot fronting Princewood Avenue. Proposed Lot 1.04 would be created as a 7,547.75 square foot lot with frontage on Netherwood Drive. (Plan corrections are required to the proposed lot areas.) The site is situated within a residential area. The improvements to Princewood Avenue end after the property frontage, this includes curb and sidewalk. Netherwood Avenue is not yet constructed along the frontage of Proposed Lot 1.04, but is proposed (including curb and sidewalk) by others. *We have the following comments and recommendations per testimony provided at the 10/13/09 Planning Board workshop hearing, and comments from our initial review letter dated August 20, 2009:* Zoning - The parcels are located in the R-12 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. Per review of the Subdivision Map and the zone requirements, the following variances are required: Minimum Lot Area (proposed Lots 1.04 and 1.05, 7,548SF and 10,342 SF are respectively proposed, 12,000 SF required) – proposed conditions. *Fact.* Minimum Lot Width (proposed Lot 1.04, 79.45 feet proposed, 90' required) – proposed condition. *Fact.* Minimum Front Yard Setback (proposed Lot 1.04, 20 feet proposed, 30 feet required) – proposed condition. *Fact.* Minimum Rear Yard Setback (proposed Lot 1.05, 10 feet proposed, 20 feet required) – proposed condition. *Fact.* It appears that the 20 foot front yard setback variance requested for proposed Lot 1.04 can be reduced or eliminated by relocating and/or reducing the size of the proposed dwelling footprint. Testimony must be provided to justify why

the Board should approve this variance as proposed. *Testimony is required at the public hearing.* The applicant must address the positive and negative criteria in support of the requested variances. At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. Review Comments- The existing dwelling on proposed Lot 1.05 will be served from an existing concrete driveway, which provides at least four (4) parking spaces. As indicated on the subdivision plan, four (4) spaces are proposed for the proposed dwelling on Lot 1.04. *Fact.* Testimony should be provided as to whether a basement is proposed for the new dwelling. Parking shall be provided to the satisfaction of the Board. *Fact.* The plan depicts the existing curbing, sidewalk and apron serving the existing dwelling on Lot 1.05 (along Princewood Avenue), all of which are in good condition and do not require repair. *Fact.* Existing and proposed grades are provided on the subdivision plan. Additional spot elevations are necessary for the proposed driveway and off-street parking spaces for Lot 1.04. Proposed Lot 1.04 is being filled and grading is proposed on adjoining lots; this must be addressed. *Additional grading information is provided and is adequate for subdivision approval purposes.* The plan indicates proposed paving, water, sewerage, sidewalk and curbing along Netherwood Drive, to be installed as part of an "approved plan by others". The approved plan is referenced on Note #10 of the plan. Testimony must be provided by the applicant's professionals regarding the timing of this work, and by whom. If this subdivision is approved by the Planning Board, a condition of approval should be included that all necessary road, sidewalk and utility work along the property's Netherwood Drive frontage must be complete and approved by the Township and other applicable agencies prior to any applications for Certificate of Occupancy for proposed Lot 1.04. *Per the response letter, the applicant agrees to comply with this item as a condition of Board approval if/when forthcoming,* Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. *A letter from the Tax assessor was provided.* A six foot (6') wide shade tree and utility easement has been provided on the plan for the property's Netherwood Drive frontage, but not the Princewood Avenue frontage. Shade trees should be provided (unless waived by the Board). *One shade tree is shown on the revised subdivision plan, as well as a detail. The type of tree shall be indicated during compliance if/when this subdivision is approved.* Mature trees are indicated on the subdivision plan. Based on available information, several mature trees, including one (1) 32" diameter tree will be removed for the development of Lot 1.04. Compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing at drip lines) should be provided. *Fact.* Compliance with the Map Filing Law is required. At a minimum, monuments or pins are necessary for the proposed lot subdivision line, and at all property corners. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Water and Sewer Approvals (if necessary); Ocean County Soil Conservation District (if necessary); and all other required outside agency approvals.

Mr. John Doyle Esq. appeared on behalf of the applicant. He said this is a street to street, oversized lot and a double fronted lot is generally not in the public interest. There is an existing house that could have a sufficiently sized lot in the Hearthstone area where 8,000 sf lots are commonplace. Netherwood is where the newly created lot would front and that was where a recently approved 2 lot subdivision was done near this and they would piggyback on their improvement to further develop the area with new single family housing. Mr. Flannery was sworn in as professional for the applicant. Mr. Flannery said this is a 17,890 sf lot that they are proposing to subdivide so one lot would have frontage on Netherwood and one lot on Princewood. There is an existing home on Princewood and they are proposing to construct a home on Netherwood, which is a roadway that has started construction for a few houses that

were started and now are vandalized and this application would ensure the completion of that road and would stabilize the condition of the neighborhood. The homes in the Hearthstone Development are typically 8,000 sf and he pointed to a colored tax map and showed the lots and their sizes. In reference to the professional's report, he said when you compare this lot to the other lots in the area the zoning is consistent with them. As far as lot area, they are asking for 7,548 sf on one and 10,342 sf on the other where 12,000 sf is required but the typical Hearthstone lot was 80 x 100 or 8,000 sf. They are requesting 79.45 ft. minimum lot width which is an existing condition for the frontage on Netherwood where 90 ft. is required. They are requesting 20 ft. front yard setback on Netherwood because they want to ensure there are rear yards in between the 2 dwellings and they set the rear yard setback to 10 ft. to provide as much rear yard and equalize the area to the greatest extent. Netherwood will not be a roadway with a lot of units on it because on the east side there is wetland issues and further down it dead ends and cannot come out to Cross Street. Mr. Flannery said it is his professional opinion that the benefits of creating the separation between the 2 units outweighs the detriment of the front yard setback and it can be eliminated by moving the building back.

With respect to the positive and negative criteria, Mr. Flannery said there is no adverse impact to the general welfare and will not cause any detrimental effect to the zone plan or zoning ordinance. Aesthetically, the 20 ft. is not something you are going to see and the other variances are something that is consistent with the houses in the area and it is his opinion that the board can grant that without any detriment to the zone plan or zoning ordinance.

Mr. Neiman asked if Netherwood was an unimproved road and Mr. Flannery said it is a semi-improved road and Mr. Neiman asked if they planned on improving it more and Mr. Flannery said this applicant will need to have a fully improved road; there was a bond posted for the construction of the road and the houses that are under construction were started and if they don't finish the road prior to this applicant getting a CO he would have to finish the road.

Mr. Franklin asked how much of the road would he be required to finish and Mr. Flannery said across his frontage- from Finchley Boulevard to his frontage. Mr. Flannery said they would be looking at the availability for vehicles to turn around and possibly they could do that by providing a gravel roadway to that next intersection and providing an area for vehicles to turn around to the satisfaction of the Public Works Department.

Mr. Banas asked with a proposed gravel roadway, in light of the comment of vandalism in that area, do they want gravel there to cause or allow someone to throw at buildings and said he doesn't think so. Mr. Flannery said the reality is the Township has a bond for that road, so if at any point they Township felt that the entire roadway should be constructed, it would be a matter of pulling the bond and having it done. Mr. Vogt suggested they go with a dense grade aggregate and Mr. Banas said he would accept that and Mr. Flannery agreed also.

Mr. Schmuckler said whatever they can improve on that block is a tremendous improvement.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Herzl, seconded by Mr. Akerman, to approve

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

5. SD # 1695 (No variance Requested)  
Applicant: Benzion Green  
Location: Harvard Street, west of Apple Street  
Block 171 Lots 3, 11 & 19  
Minor Subdivision – 4 lots

Mr. Vogt prepared a letter dated November 11, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide three (3) existing lots, known as Lots 3, 11, and 19 in Block 171 into four (4) new residential lots, designated as Lots 3, 11, 19.01, and 19.02 on the subdivision plan. The subdivision will also resolve a deed overlap between existing Lots 3 and 19. There is a dwelling on existing Lot 3, which will remain on proposed Lot 3 subsequent to the subdivision. Dwellings and structures on existing Lots 11 and 19 will all be removed. The plans state that new single family dwellings will be proposed for new Lots 11 and 19.02, and a new duplex dwelling will be proposed for new Lot 19.01. The site is situated within a residential area, and has frontages along Harvard Street and East County Line Road. Lot 3 is located on the south side of East County Line Road and Lots 11 and 19 are located on the north side of Harvard Street. Curb exists along the Harvard Street and East County Line Road frontages. No existing or proposed conditions, as well as topography, are shown along East County Line Road and Lot 3. *We have the following comments and recommendations per testimony provided at the 10/20/09 Planning Board workshop hearing, and comments from our initial review letter dated October 15, 2009: Zoning and Waivers-* Partial topography without any spot elevations has been provided. No topography is shown for Lot 3 and along East County Line Road, and the topography for the remainder of the site is incomplete. Therefore a waiver is required. As a result, the status of improvements along East County Line Road, as well as the rest of the site is not addressed. Therefore, we recommend the topographic survey be completed. *Per testimony provided at the 10/20/09 workshop hearing, topography in the area in question will not be impacted by this proposal, and is included with an adjacent application before the Zoning Board. We therefore support the waiver as requested.* The parcels are located in the R-7.5 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. Duplex Housing is also a permitted use in the zone, provided a minimum lot size of 10,000 square feet is proposed. Duplex Housing is only proposed for new Lot 19.01 which would be in excess of 10,000 square feet. Therefore, the proposed uses of all proposed lots are conforming. *Fact.* The required minimum lot width for proposed Lot 19.02 has not been provided. The UDO definitions state lot width is the mean horizontal distance between the side lot lines measured at right angles to its depth. Required lot width shall be measured at the most forward allowable setback line. Furthermore, the mean width of the lot is less than the required width since the lot is narrower behind the front setback line. A reconfiguration of the proposed lot lines can remedy the unintended nonconformity. *Per the applicant's professional's 11/9/09 letter, the applicant disputes our interpretation of the UDO that lot widths are to be measured perpendicular to lot lines. As referenced in Section 18-200B of the UDO, lot width is defined as "The mean horizontal distance between the side lot lines measured at right angles to its depth. Required lot width shall be measured at the most forward allowable setback line". We defer to the Planning Board solicitor for an interpretation of how lot width should be measured for this application based on the UDO definition. If our interpretation is correct, a variance (or lot line revisions) is necessary.* Review Comments- The proposed lot widths in the Zoning Data table are all less than indicated because of the skewed side lot lines. A reconfiguration of the proposed lot lines is required to make the project conforming. *Refer to zoning comment (3), above.* The NJ R.S.I.S. requires 2.5 off-street parking spaces for a single-family dwelling and 5 off-street parking spaces for a duplex when the number of bedrooms is

not specified. No specific parking data for the existing and proposed lots is provided. This information must be provided on the plans. *Parking information is provided on revised Sheet 1 of 2. As proposed, three (3) off-street parking spaces are proposed for proposed lots 11, 19.02, and lot 3. No information is provided relative to the proposed dwellings, or if basements are proposed. Parking shall be provided to the satisfaction of the Planning Board.* No driveways and/or off-street parking spaces are proposed for all four (4) new lots. A turnaround is recommended for the driveway on proposed Lot 3 so vehicles do not back out onto a highly traveled County road. *Testimony is required from the applicant whether this condition is acceptable.* Testimony should be provided as to whether basements are proposed for any of the proposed dwellings. Parking shall be provided to the satisfaction of the Board. *Per the applicant's professional's cover letter, testimony will be provided.* Curbing exists along the property's Harvard Street and East County Line Road frontages, even though no plan information is shown along the site's East County Line Road frontage. Sidewalk is proposed along Harvard Street, while no information has been provided for the East County Line Road frontage. *Per the applicant's professional's cover letter, "a waiver for Lot 3 is requested".* The areas of the three (3) existing lots and the bearings and distances of all existing lot lines shall be shown. The area of the deed overlap must be included. *Supplemental information is provided on the revised plans.* A proposed five foot (5') wide road dedication will be given to Lakewood Township from existing Lot 11. As a result of this dedication, it appears all proper right-of-way widths will be attained on all road frontages. *Fact.* Typical dimensions shall be added to the proposed setback lines shown on the plat. *Dimensions were provided on the revised plan.* The plan indicates that new structures are to be serviced by public water and sewer. The plan should identify that NJAWC will provide the services. Existing utilities shall be added to the plan. Testimony shall be provided regarding existing water and sewer service to the dwelling remaining on Lot 3. *Note 8 on revised Sheet 1 has been revised accordingly.* Proposed lot numbers have been assigned by the Tax Assessor and the plat signed by the Tax Assessor. *Fact.* Six foot (6') wide shade tree and utility easements are illustrated on the plan along the property's East County Line Road and Harvard Street frontages. The easements on the proposed individual lots must be labeled on the plan with bearings, distances, and areas. The area for the proposed easement on new Lot 3 should be 588.0 square feet. No shade trees are proposed within the easements. Landscaping should be provided to the satisfaction of the Board. *Per the applicant's professional's cover letter, the easement area was corrected, and the applicant will provide easements as a condition of Board approval if forthcoming. The applicant proposes to provide Shade trees with plot plans as a condition of Board approval if forthcoming. If the Board is amenable, we recommend shade trees be provided as specified by the UDO.* Due to no construction of new dwellings at this time, the Board may wish to require the cost of the improvements to be bonded or placed in escrow to avoid replacing them in the future. *Per the applicant's professional's cover letter, the applicant is seeking a waiver of bonding future improvements, and that said improvements would be required prior to the UDO.* Compliance with the Map Filing Law is required. At a minimum, monuments or pins are necessary for the proposed lots subdivision lines, and at all property corners. *Fact.* Construction details should be provided on the subdivision plan such as concrete sidewalk, concrete aprons, concrete curb, depressed curb, and road restoration details. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; *Fact.* Water and Sewer Approvals; *Fact.* Ocean County Soil Conservation District (if necessary); *Fact.* And all other required outside agency approvals. *Fact.*

Mr. Vogt said based on how you interpret the UDO relative to lot width measurement there is some disagreement and latitude between the applicant's engineer and himself in terms of how lot width is measured. The lot lines are not perpendicular, they are slightly askew and the UDO



has a definition of lot width and he read it to the board and said the key is how you define lot depth which unfortunately is defined but not completely defined. Lot depth in the UDO talks about the distance between the front and back lines and when we interpret lot depth for purposes of this application they would look at lot depth as measured along the lot line. The applicant's interpretation is defining lot depth as perpendicular line between the front and lot lines and if Mr. Vogt takes that interpretation, then what he is showing as 50 ft. is correct, so it comes down to how the board is going to interpret this- Mr. Vogt's interpretation means a diminimus variance will be necessary or as an alternative they could jog the westerly lot line on Lot 19.02 a few more feet and avoid the variance. The alternative is to act on the variance, unfortunately they did not advertise so it would have to come back.

Mr. Neiman said they needed the board attorney for a ruling and Mr. Jackson said he would go with the board engineer's recommendation on the interpretation of the UDO but it is ultimately the board's call. Mr. Neiman asked if there was a notice question on this and Mr. Lines said they did not notice for a variance because of his interpretation. Mr. Neiman asked Mr. Vogt how many feet are they talking about and Mr. Vogt said he does not have the exact measurement but if you take his interpretation, you are probably off by 1 ½ or 2 ft. It is a minor variance at worst.

Mr. Banas said he believes that question was answered once by the zoning officer and he doesn't remember how the answer came about but it was agreed upon as that would be the method by which they would do it. He asked Mr. Kielt to fill the board in and Mr. Kielt said what he remembers is if it is measured at the setback line or is it measured the mean of the front to back and they decided that it was definitely at the setback line which everybody agrees to- the question is the perpendicular and the parallel to the rear lot line and he does not think that was answered. Mr. Neiman said he thinks because it is diminimus (only 1 ½ ft.) he would continue with this application. Mr. Vogt said there is a problem and they are at risk because if you do the variance they did not advertise. Mr. Schmuckler said that is their risk. Mr. Jackson asked Mr. Vogt was the practical difference and Mr. Vogt said it is a couple of feet and showed the members on the plans and said there is a slight jog in the westerly lot line near Harvard Street and said if they make that jog a couple feet further to the west, you could eliminate the variance condition based on his interpretation. Mr. Jackson asked Mr. Lines why he didn't notice this if they knew there was an issue just to play it safe. Mr. Lines said they can resolve the issue by moving the lot line over 1.06 ft. so the lots would be the same as the other lot he has and it was a matter of they only agreed to purchase that 3 or 4 ft. from the neighbor and said they can most likely purchase the other 1.06 ft. from the neighbor and they would agree to move the lot line over that amount so they would have the 50 ft. Mr. Jackson asked Mr. Vogt if they go with Mr. Lines interpretation does it do violence to anything and Mr. Vogt said the difference if anything is going to be precedent and Mr. Jackson said this is not binding and Mr. Neiman said he thinks they should go ahead with this and not treat this as a variance.

Mr. Glenn Lines appeared on behalf of the applicant. He said the rest of the application is very simple. While doing the survey they discovered there is a 15-16 ft. deed overlap between Lot 19 and Lot 3 so to resolve the deed overlap they are including Lot 3 in this subdivision and the parties are splitting the difference (each getting 8ft of the lot). The rest of the lots are conforming, they have a 10,000 sf lot (Lot 19.01) which will most likely be for a duplex, a 7500 sf lot for single family and the remainder which will also be for a single family lot. Lot 3 is part of an application that is before the zoning board now for a use variance for a shopping center for the 4 corner lots on Apple and East County Line and the waiver they requested was from doing anything to Lot 3 because that is part of another site plan. Mr. Neiman asked where is he going to have frontage on Lot 19.01 where they plan on putting the duplex and Mr. Lines said it will be a front to back duplex so there will be a unit to the front and a unit to the rear and all the parking

will be in the front on Harvard Street although it has not been designed yet. Mr. Neiman asked Mr. Vogt if they can fit a duplex on that lot and Mr. Vogt said he does not think it fits the zero lot line criteria and Mr. Lines said they are not asking for one and Mr. Vogt asked how they are going to get around the zero lot line and Mr. Lines said they can do that with condominium assoc.

Mr. Banas asked if they are adding to Lot 19.02 and Mr. Vogt said the consensus of the board was to hear this application for purpose of this application only that it complies without granting the variance and forget the 1 ½ ft. Mr. Jackson said that would be adopting Mr. Lines interpretation for this application only. Mr. Percal said it also depends on each individual project and in this case the difference is 1 ft. so we take it as they come. Mr. Banas said he is not comfortable with all those reasons given and thinks what if a variance is required, where does he stand and Mr. Jackson said if a variance is required he would have to come back and notice because you can't grant a variance if there is no notice. Mr. Franklin said why don't they send him back and get it done right and Mr. Neiman said this could be right according to Mr. Lines interpretation and Mr. Franklin said the board should interpret it and Mr. Jackson agreed and Mr. Franklin said they should send it back, let him get it squared away and let him come back. Mr. Vogt said in worst case he could re design in lieu of the variance and Mr. Franklin said lets skew it and Mr. Kielt said the problem is the seller only agreed to so much and Mr. Franklin said they have to take it back work it out and come back here. Mr. Banas said he is not against the concept of what is before them but what he is upset with is the fact that they may be doing something that may not be okay and rather than take the chance they should be careful when they make these decisions and he is uncomfortable with this.

Mr. Franklin made a motion for the applicant to come back. Mr. Lines said they will go with Mr. Vogt's definition and they will revise the line to make it conforming so there is no variance. They will worry about the negotiating process and if it doesn't work out they will be back to request a variance. This way they can finish the application and move along. They will revise it to meet the interpretation from Mr. Vogt.

Mr. Neiman opened the microphone to the public

Noreen Gill, 192 Coventry Drive, Lakewood was sworn in. She asked about the shopping center and Mr. Neiman said that is not this application, it is one before the Zoning Board.

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

Mr. Schmuckler requested 4 parking spots per lot and 8 on the duplex lot and Mr. Lines said yes.

Motion was made by Mr. Schmuckler, seconded by Mr. Banas, to approve this application with the new line and no variances and parking spaces they discussed

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

6. SD # 1696 (Variance Requested)  
Applicant: Mark Properties  
Location: Drake and Whitesville Roads  
Block 251 Lots 4 & 5  
Minor Subdivision- 2 lots to 4

Mr. Vogt prepared a letter dated November 3, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide two (2) existing lots totaling 48,582 square feet in area known as Lots 4 and 5 in Block 251 into four (4) new residential lots, designated as Lots 4.01-4.04 on the subdivision plan. The site is wooded, heavily-vegetated and undeveloped in its current condition. Public water is available, but public sewer is not available. The site is situated within an undeveloped area, and has frontage along Whitesville Road to the north and Drake Road to the east. A recently approved major subdivision, Oak Glen Estates (SD# 1681) borders the site to the west. Proposed Lot 4.01 will have frontage along Whitesville Road and Drake Road. Proposed Lots 4.02-4.04 will have frontage on Drake Road. Curb and sidewalk are proposed along the street frontages. The lots are situated within the R-12 Single Family Residential Zone. Variances are required to create this subdivision. *We have the following comments and recommendations per testimony provided at the 10/20/09 Planning Board workshop hearing, and comments from our initial review letter dated October 14, 2009:* Zoning- The parcels are located in the R-12 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. *Fact.* Per review of the Subdivision Map and the zone requirements, the following variances are required: Minimum Lot Area (proposed Lots 4.03 and 4.04, 11,002 SF and 11,002 SF respectively, 12,000 SF required) – proposed conditions. *Fact.* Minimum Lot Width (proposed Lots 4.02 and 4.03, 81.97 ft. and 85.85 ft. respectively, 90 ft. required) – proposed conditions. *Fact.* The applicant must address the positive and negative criteria in support of the requested variances. At the discretion of the Planning Board, supporting documents may be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. Review Comments- The applicant is proposing an 8.50' road widening easement on Whitesville Road and a variable width road widening easement on Drake Road. We recommend the Board require right-of-way dedications to attain the proper half widths for the abutting streets. A radial dedication should be provided at the intersection of Whitesville Road and Drake Road so that proposed improvements will be located within the right-of-way. Additional variances will be required unless the proposed subdivision is reconfigured. *A radial dedication is provided on the revised subdivision plan.* The NJ R.S.I.S. requires 2.5 off-street parking spaces for four (4) bedroom single-family dwellings which are specified on the plans. The Schedule of Bulk Requirements indicates that four (4) off-street parking spaces will be provided for each unit. *Fact.* Testimony should be provided as to whether basements are proposed for any of the proposed dwellings. Parking shall be provided to the satisfaction of the Board. *Testimony will be provided at the public hearing.* The plans show where new concrete curb and sidewalk is proposed. The proposed curb along both Whitesville Road and Drake Road is at fifteen feet (15') from the centerline. The curb radius at the intersection is twenty feet (20'). Existing and proposed grades are required along the site frontages for the proper widening of the roads. Road widening/reconstruction design plans are required. *Per the applicant's professional's response letter, the applicant agrees to provide his information as a condition of approval if/when granted by the Board.* The plan indicates that all future dwellings to be serviced by septic systems. Water service will be provided by New Jersey American Water Company. Our site investigation revealed that public water is available and existing water facilities should be added to the plans. *Per the applicant's professional's response letter, the applicant agrees to provide his information as a condition of approval if/when granted by the Board.* General Note 4 on the plans should be corrected to indicate the proposed use to be residential. *This item has been addressed.* General Note 7 on the plans indicates the location and size of structures within two hundred feet (200') of the site are approximate. No structures are shown on the plans, but our site investigation confirmed there are two (2) structures within two hundred feet (200') of the site on the opposite side of Drake Road. *We recommend that these structures be included as a condition of approval if/when*

*granted by the Board.* The correct owners must be listed in the signature blocks giving consent to the subdivision. *This item has been corrected.* A legend is required on the Minor Subdivision Plan. *A legend has been added to the revised plan.* Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. *An approval letter dated 10/29/09 from the Tax Assessor has been provided.* A ten foot (10') wide shade tree and utility easement is illustrated on the plan along the property's Whitesville Road and Drake Road frontages. Bearings, distances, and areas must be labeled on the plan for each individual lot. No shade trees are proposed within the easement. Landscaping should be provided to the satisfaction of the Board. *The revised subdivision plan includes a detail indicating seven (7) proposed shade trees along Drake Road and three (3) proposed shade trees along Whitesville Road. If approved by the Board as proposed, we recommend installation of the trees as the respective lots are being developed.* No sight triangle easement is indicated at the intersection. The applicant's professionals shall provide testimony as to whether the easement is necessary. *A site triangle easement is provided on the revised subdivision plan.* The Tree Management Plan for the neighboring Oak Glen Estates subdivision indicates a number of mature trees exist on the site. Many of these trees are unsalvageable if the lots are developed as proposed, but some of these trees appear salvageable. Compensatory plantings should be provided in accordance with the Township Code (if applicable). Additionally, protective measures around mature trees to remain (e.g., snow fencing or tree wells at drip lines) should be provided. If this subdivision is approved, final plot plans submitted for Township review should include tree protective measures to save mature vegetation where practicable. *Per the applicant's professional's response letter, the applicant agrees to this item as a condition of approval if/when granted by the Board.* Due to no construction of new dwellings at this time, the Board may wish to require the cost of the improvements to be bonded or placed in escrow to avoid replacing them in the future. *Fact.* Compliance with the Map Filing Law is required. At a minimum, monuments or pins are necessary for the proposed lot subdivision lines, and at all property corners. *Fact.* The joint sealer is not necessary on the concrete curb detail since the pavement will be asphalt. *Fact.* The sidewalk detail shall indicate a four foot (4') width and the location dimensions from the face of curb and property line. *This item was addressed on the revised plans.* The following construction details must be provided: Road widening and pavement restoration. *Provided.* Depressed curb. *Provided.* Concrete aprons. *Provided.* Handicapped ramps. *Provided.* All concrete details (including curb & pavement) shall specify concrete at a minimum compressive strength of 4,500 psi. Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; *Fact* Ocean County Soil Conservation District (if necessary); *Fact.* Ocean County Board of Health (septic systems); *Fact.* New Jersey American Water Company (water); *Fact* and all other required outside agency approvals.

Mr. Ray Shea Esq. appeared on behalf of the applicant with Mr. Flannery as professional for the applicant. Mr. Flannery had 2 renderings; one is a mark up of the tax map marked exhibit A1 and exhibit A2 is a rendered version of the Minor Subdivision map. The lot is 48,000 sf so divided by 4 is 12,000 sf lots and they could have done 4 conforming lots but he felt this was a better zoning alternative because the corner lot has frontage on both sides so he made that corner lot 14,000sf to balance the useable areas and Mr. Shea said that is consistent that the lot on the corner is generally larger. Mr. Flannery showed exhibit A1 and said the area to the west of it is an R40 zone, the Clayton subdivision, to the north is Westgate, to the east is R12 on the opposite side of the street where there is 2 existing single family homes and CLP behind that, so this blends in with the area. It is a virtually free variance application because they could have done it that way but because they feel it is a better zoning alternative, they are asking for variances on lot area (12,000 sf required, 11002 sf proposed) and lot width (90 ft. required and 81.97 ft and 85.85 ft proposed) so it will give the appearance of conforming lots and it is his testimony the board can grant these variances without any detriment to the zone plan or zoning

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ordinance. As far as the review comments, item 1 indicated they proposed a 8.5 ft. road widening easement rather than a right of way dedication and a road widening easement provides all the benefits the town needs for a roadway and they agree to widen the road and put in curb and sidewalk along both frontages but it doesn't take the property away. Mr. Flannery said they agree to the remaining comments in the report.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

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

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

7. SD # 1697 (No Variance Requested)  
Applicant: New Hampshire Avenue LLC  
Location: northeast corner of Route 88 & New Hampshire Avenue  
Block 189.03 Lots 81, 84-86, 91, 98, 103, 104, 201  
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated November 3, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to receive a conveyance of 0.982 acres of land from the owner of existing Lot 81 in Block 189.03. The applicant, New Hampshire Avenue, LLC, owns numerous contiguous parcels totaling 3.859 acres on the northeast corner of New Hampshire Avenue (a County Road) and Ocean Avenue (N.J.S.H. Route No. 88). The proposal would create proposed Lot 91.01, increasing the acreage to 4.877 acres. The properties owned by the applicant contain two (2) single family dwellings, a number of sheds, and other site improvements. However, the bulk of the lands are wooded. The owner of existing Lot 81 in Block 189.03 is Pine Belt Chevrolet. This property is immediately east of the applicant's site and is located on the north side Route 88. The existing area is 4.758 acres, which would be decreased to 3.776 acres after the conveyance. A wooded portion of this lot is proposed to be conveyed to the applicant. The improved portion of the property containing the automobile dealership building will remain. The proposed conveyance would square off the two (2) lots proposed. The proposed lots are situated within the B-4, Wholesale Service Zone. No new construction or variances are proposed as part of this application. The surrounding land uses are predominantly business. *We have the following comments and recommendations per testimony provided at the 10/20/09 Planning Board workshop hearing, and comments from our initial review letter dated October 14, 2009:* Zoning- The parcels are located in the B-4 Wholesale Service Zone District. Automobile Dealerships are a permitted use in the zone. It is our understanding that the automobile dealership will continue on proposed Lot 81.01. Testimony must be given with respect to the present and future uses. The plan indicates "automobile dealership" as the proposed use, but no new construction is proposed for new Lot 91.01. *Fact.* No variances are requested and it appears none are required. *Fact.* Review Comments- The Zoning Schedule on the plan has incorrect required information and must be fixed. Minimum lot area, front setback, and rear setback values must be corrected. However, it appears no variances are required. *Fact.* The appropriate front and rear setback lines on the plan shall be corrected. *This item remains outstanding, and should be addressed during compliance if/when this application is approved by the Board.* The Zoning Schedule lists precise values for the setbacks on proposed Lot 91.01. However, no construction is proposed. Testimony should be

provided regarding the future plans for proposed Lot 91.01. *Testimony is required at the hearing.* No roadway dedications are proposed on the Minor Subdivision Plan. The right-of-way width of Route 88 varies with a number of jogs along the frontage. Testimony should be provided regarding the right-of-way. Approval from the NJDOT appears to be required. New Hampshire Avenue is a County Road and the right-of-way width appears to be consistent. County approval of the minor subdivision is required. *Testimony is required at the hearing.* The removal of all existing improvements on proposed Lot 91.01 should be confirmed, particularly the metal shed and paved driveway which encroach onto proposed Lot 81.01. *Testimony is required at the hearing.* Concrete curb exists along the Route 88 frontage, but there is no curb along the New Hampshire Avenue frontage. No sidewalk exists along either frontage. No new curb or sidewalk is proposed with this application. It should be noted that sidewalk cannot be constructed totally within the right-of-way along Route 88. *Fact.* No construction is proposed and no construction details have been provided. *Fact.* The plan states that the proposed block and lot numbers were approved by the Lakewood Tax Assessor on June 5, 2009. A signature block shall be provided for the Tax Assessor to sign. *This item remains outstanding, and should be addressed during compliance if/when this application is approved by the Board.* Testimony should be provided on the availability of water and sewer to proposed Lot 91.01. There is an existing utility easement on the east side of proposed Lot 81.01 which presumably services Pine Belt Chevrolet. The project is within the Lakewood Township Municipal Utilities Authority franchise area. *Testimony is required at the hearing.* A proposed six foot (6') wide shade tree and utility easement should be depicted on the plan along all property frontages (unless waived by the Board). *Testimony is required at the hearing.* No shade trees or landscaping is proposed. Landscaping shall be provided to the satisfaction of the Board. *Fact.* Compliance with the Map Filing Law is required. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; *Fact.* Ocean County Soil Conservation District (if necessary); *Fact.* New Jersey Department of Transportation *Fact.*; and all other required outside agency approvals.

Mr. Shea Esq. appeared on behalf of the applicant with Mr. Tom Murphy, surveyor with D.W. Smith Assoc. Mr. Shea said this is a minor subdivision and said the comments in the report anticipate a future submission for a site plan on the new lot that will be created and at that time they will address all those issues but they are not relevant now. Mr. Shea said there was some confusion about the zoning criteria and said they have established the more conservative one and Mr. Vogt agreed. Mr. Shea said at some point in the future Lakewood will clear that up.

Mr. Neiman asked if these lots were currently wooded and Mr. Murphy said the lot on the west is wooded and lot on the east is currently a maintenance facility for Pine Belt Chevrolet. Mr. Neiman said there will be no clearing until they come back with a site plan and Mr. Shea said yes and it will probably be for an automotive use.

Mr. Neiman opened the microphone to the public

Larry Simons, 7 Schoolhouse Court, Lakewood was sworn in. He asked what size of the 2 lots combined is and Mr. Shea said roughly 3.9 acres and they are increasing it to 4.87 acres and 5 acres is over 200,000 sf.

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

Motion was made by Mr. Banas, seconded by Mr. Herzl, to approve

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

8. SD 1433C (No variance Requested)  
Applicant: Tashbar of Lakewood Tuscany I  
Location: East County Line Road, west of Brook Road  
Block 208 Lot 19  
Amended Preliminary & Final Subdivision and Site Plan

Mr. Kielt said there is a proposed amendment to a couple of the conditions that were previously approved on the resolution. There was no report prepared by the engineer. It is 2 conditions of the previously approved resolution that they want to eliminate those conditions

Mr. Abe Penzer Esq. appeared on behalf of the applicant. He said this application was before the board and at the time Mr. Banas questioned basements and parking so they provided 4 parking spaces for the house and the illegal basements. Since that time, the Township Committee passed an ordinance legalizing basements and they have a disadvantage. This application is a backwards C2 variance because Tashbar is a school that was located in the Princeton Avenue school which has been sold so now they have to build a building and to finance it they are trying to sell the land and use the funds to build a school. Unfortunately, the market dropped and because the Township Committee made basements legal no one wanted to touch this job because one of the conditions were that basements would not be legal. They are here to ask for a release of 2 conditions: the release of the basement restriction; and they also want to make it comparable to the other Tuscany, which is located next door with luxury houses, so they are using multiple builders and it will not be in the manner that the original Tuscany project was proposed. It was originally a Spanish hacienda style and they can't afford to make that happen. They met with Mr. & Mrs. Stillwell, who are neighbors, and came up with an agreement which is not pertinent to the board except that they have agreed as far as aesthetics would be that in each contract for each individual home: this property abuts to wetlands and the Stillwells were concerned that somebody should be responsible to clean it and that land is restricted and it can't be fenced or used and that will in each agreement for the buyer. Mr. Penzer said there may be a technical question because Mr. Stillwell sits on the Shade Tree Commission and one of the conditions was to do landscape so he may be conflicted. Mr. Penzer stated for the record that if he is conflicted they waive the conflict, his wife signed the agreement. Mr. Penzer said he also met with some neighbors this evening and has allayed their fears and they left. Mr. Penzer said this application is inherently beneficial because the moneys will be used for a school and a school is an inherently beneficial use.

Mr. Neiman said the changes were that the architectural will be changed from what was originally submitted and Mr. Penzer said correct. Mr. Jackson asked why would the architectural from a land use perspective matter to the board and Mr. Penzer said because they were a condition of approval and Mr. Flannery said there was a particular builder that was going to design the entire tract and this was the type he was going to build. The board is interested that it is going to be appropriate and these are all going to be custom homes, the roads will be developed and each person will put a custom home on the lot so the architectural will be per the homeowner. All the variances and engineering details stay the same, the plan show basements but there was the restriction but now the Township Committee made them legal so they are asking for that same consideration.

Mr. Neiman said from the beginning of this application there was a lot of involvement from the Stillwell family and said it would be beneficial now if they would like to give testimony towards this application that they are ok with this. Mr. Penzer asked that it be a part of this case instead of the public portion because they signed an agreement.

Cathy Stillwell, 950 Brook Road, Lakewood was sworn in. She said they met with Mr. Penzer this afternoon because he was not available before today so it has been a scurry of trying to get their thoughts together, put them on paper and to be fair and reasonable with one another in order to make sure the project is done in a quality way for her neighborhood. She said they did have some concerns and voiced them this afternoon and outlined them in an agreement but she understands from Mr. Penzer that is cannot be a condition of the approval tonight-that it has to be a separate contractual agreement that is presented to each buyer. Mr. Neiman wants to make sure she is ok with this project and taking away those components of the resolution because that was a big part of why they were in the resolution. She lives in that neighborhood and has all her life and he wants to make sure she and her husband and the neighborhood are ok with that. Mrs. Stillwell said the main concern they had was, aside from the landscaping and protecting the Metedeconk River that flows behind there and is the drinking water source for Brick Town they were also concerned with the parking and the congestion, it is only one side of the street parking and when this was approved, the basements were not to be used for a separate apartment, but now she does not know legally what this applicant can be held to. Her concern is parking and as part of her conversation this afternoon one of the things they did agree to, which is supposed to be required by every owner, is that they have to present a plot plan to the building department to be reviewed by the Township Engineer to confirm that the parking will meet the RSIS standards based on an apartment with a residence above. Mr. Neiman wanted to take that a step further and stated there should be at least 4 off street parking spaces per unit because they can say there is no RSIS rules for basements and there aren't so technically all you need is 2.5 parking spaces and he thinks they would ask as a board to have 4 off street parking spaces. Mr. Penzer said he has no problem with that and Mr. Flannery said that is already a condition of the previous approval so it is 4 or more. Mr. Banas asked if the RSIS have requirements for parking for homes that are greater than 5 bedrooms and Mr. Penzer said no. Mr. Flannery said the standard practice and guidance from the DCA is interpolate upwards based on the incremental change prior to that so he is sure that the Township Engineer is capable of reviewing this. Mr. Vogt said it is typically reviewed on the plot plan level where you will see the architectural for each house, so for 5 bedrooms or more you will have to increase the parking. Mr. Kielt said when Mr. Day reviews the plot plans, and this week they had a 10 bedroom house, he basically interpolates up so for a 10 bedroom house he required 5 parking spaces. Mrs. Stillwell asked if that was accepted across the board and Mr. Kielt said yes. Mrs. Stillwell said she appreciated the board's concern.

Mr. Kielt asked Mr. Penzer if it made sense to handle the two applications together and Mr. Penzer said yes so Mr. Neiman said this would apply for both application #SD 1433C and #SD 1435C.

Mr. Banas said he would think that the agreement that was approved and signed by both parties be part of the resolution and Mr. Penzer said he had a legal problem with that. Mr. Penzer said he only advertised for the release of 2 conditions and if he does that he is going beyond what he advertised and he does not want to have a legal question that he did not advertise sufficiently for other items that were not part of it. What they agreed to do is put it in the contract. He doesn't have a problem showing it to the board, he has a problem from a legal standpoint. Mr. Banas said he has troubles with that whole concept, again it is a matter of doing the thing the right way. Mr. Neiman said that is why he asked for the testimony of Mrs. Stillwell; to make sure



she is comfortable and Mr. Banas said he agrees with the comfort rate but if you have something that can be questioned at a later time, use it to make the path easier down the road. Mr. Neiman said besides the legal questioning of notice, is there any other reason Mr. Penzer doesn't want in the resolution and Mr. Penzer said the notice is a sufficient thing, they only agreed to remove 2 conditions and there are certain provisions here that are beyond that and he does not want to come back here again and he does not want to open up the door. Mr. Jackson asked if he had presented the agreement to the board and Mr. Penzer said no. Mr. Jackson asked Mrs. Stillwell if it is something she wants in the resolution and she said she was confused as to why this couldn't be part of the resolution. Mr. Penzer is telling her it is because of these conditions of approval but all of the things they have asked for in this agreement and that they have agreed to are things that are currently already law or ordinance in the township of Lakewood and they are shining a light on so it doesn't fall through the cracks. She said that is why she was confused, because it was not a certain condition for this particular project, it just enumerates that they want to see a plot plan, a building permit indicating where the clear areas will be and fencing will go up and to protect the clear areas, those kinds of things, so it seems like it is in conformance with ordinances and laws already in place that they are just highlighting to make sure that this happens. She said Mr. Penzer felt that it was more of a condition and because of that he wasn't properly noticed but her question is that these are already things that are on the books and they are just making sure it is part of this agreement, so whether it is contractually or attached to a resolution, she is great if you attach it to a resolution.

Mr. Schmuckler said they need to look at this as the applicant is coming to remove 2 parts of the previous application. Since we don't have the contract in front of them, he doesn't think it should be in there at all; how can they refer to a contract that they have not seen. We need to look at this if it makes sense to remove a Spanish façade in this economy and he says yes; does it make sense to make basement and 4 parking spots then fine. Mr. Neiman said because of the nature of the first application and it wasn't only the basements, it was worked out then and that was why it was in the resolution to begin with. Mr. Jackson said on the one hand the applicant has come in and said they have made an arrangement with the neighbors and they are satisfied to the extent that the architectural, etc. tied in have satisfied the neighbors-they were the reasons why this architectural restriction was there and they are satisfied so it should be removed. Does that make a difference how the board looks at this? He doesn't know that it does or does not, but if it doesn't there is no reason to put it in the resolution and if it does, put it in. Maybe Mrs. Stillwell wants it to protect her, but she is not being adamant, then mark it and make it part of the record. There are 2 different compartments.

Mr. Banas said he thinks it makes a lot of difference. Mr. Percal said the agreement was that everything should be done according to code and current laws so he doesn't understand the purpose of inscribing such an agreement because obviously if something is not done to code, it is not going to fly. Mr. Neiman said because of the nature of this application, and it doesn't have to be in the resolution, he just wants to make sure that it can end up being in the contract and they are going to abide. Mrs. Stillwell said she is comfortable that Rabbi Hertz will live up to his word to her but the only thing that she is looking for is that if Rabbi Hertz isn't here tomorrow and Cathy Stillwell isn't here tomorrow, that everybody is clear about what this project is about and how it is to be developed with the wetlands etc. She would like to see it noted somewhere that there is such an agreement going into the contract and if you can put that into the resolution and Mr. Neiman said maybe they can word it that way in the resolution saying there is an agreement written up by Mrs. Stillwell and Mr. Penzer which will be in the buyers contract.

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Mr. Jackson said he is uncomfortable referencing an agreement that he doesn't know what it is. Mr. Akerman asked if there is any way they can bring it up that it will alleviate Mr. Penzer's concern and asked if there is any way they can put it into the minutes, transcript etc. and that would alleviate Mr. Penzer's concern.

Mr. Neiman opened the microphone to the public

Steve Reinman, 752 Lakeview Drive, Lakewood was sworn in. He said he is a parent of the school and wanted to say the need for the school to build an adequate building is significant. We need it and this is the only way it will happen so he appeals to the board to approve it.

Bob Caruso, was sworn in. He asked about the basements and wanted to know if these homes are now going to be 2 family and does 2 turn into 4 and he asks this because his neighbors to the east are Tuscany I and he has gone in there and said he doesn't think a fire truck can get in there or out and if this new one is as tight as the old one you should be concerned with that because he drives a truck with a plow and for him to get out he needed to do a 3 point turn. Mr. Neiman said that is a typical cul de sac (30 ft) and Mr. Caruso said if they are going to double the people. Mr. Caruso said now every single family can be 2 and Mr. Neiman said he is not going to answer that and Mr. Caruso said if he took his house he can make it into 2 family.

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

Mr. Penzer said this will be a beautiful job and something to be proud of and they all know the school situation

Motion was made by Mr. Percal, seconded by Mr. Akerman, to approve both applications and remove the 2 conditions.

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

9. SD 1435C (No variance Requested)  
Applicant: Tashbar of Lakewood Tuscany II  
Location: East County Line Road, between Brook Road and Ridge Avenue  
Block 190 Lot 73  
Amended Preliminary & Final Subdivision and Site Plan

Heard and approved with SD 1433C

There was a 5 minute recess

10. SD # 1430D (No Variance Requested)  
Applicant: Pine River Village/Somerset Walk  
Location: Pine Street  
Blocks 830.01-830.07 Lots all  
Amended Preliminary & Final Subdivision and Site Plan

Mr. Vogt prepared a letter dated November 12, 2009, and is entered in its entirety. The applicant proposes to amend the Board approval granted for the existing Pine River Village age-restricted project, situated south of Pine Street, to allow for non age-restricted housing in the eastern portion of the project. The existing project approval, last amended in March, 2007 (Resolution SD #1430C) allowed for the construction of 153 age-restricted single family homes and 22 townhomes, based on site plans entitled "Pine River Village", prepared by Van Note-Harvey Associates, P.C., dated May 28, 2004 and revised through August 25, 2006. Proposed amenities associated with the original approval included two (recreation buildings) located south of Swan Lane. The amended plan as proposed would allow for non age-restricted development within the eastern portion of the project, now proposed as "Somerset Walk". Age-restricted development is still proposed in the westerly portion of the site, in general conformance with the former "Pine River Village" approval. "Pine River Village" will consist of eighty-two (82) single family lots and six (6) townhomes, two clubhouse/synagogue buildings, and with a new tot lot. Per review of the amended site plan submission and the originally-approved plans, the majority of the original road and lot layouts appear to remain as previously approved. However, proposed project revisions include but are not limited to the following: The eastern portion of the original intersection "tee" of Swan Lane and Goldcrest Drive is being eliminated. The corresponding section of Goldcrest Drive will be vacated as illustrated on the amended (L2A Land Design) plans. As a result, the two (2) new developments will have no common vehicular connection. The Pine Street/Swan Lake intersection access will serve Pine River Village (only), and not Somerset Walk. Somerset Walk will be accessible from Pine Street via the proposed Raven Lane and Eagle Lane intersections. A new clubhouse and parking is proposed within the Somerset Walk portion of the project, in lieu of two (2) single-family dwellings originally approved south of the intersection of Raven Lane and Goldcrest Drive. The recreation building originally proposed immediately south of Swan Lane, as depicted on the Van-Note Harvey Associates design plans is referenced as an "Existing Synagogue" on the amended (L2A Land Design) plans, and incorporated within the Pine River Village project. What appears to be a new playground and Tot Lot is depicted as proposed immediately south of the above-referenced Synagogue building. Although the amended plans show the location of this playground within the Pine River Village property, the "Playground Equipment" plan sheet (C-09) in the amended (L2A Land Design) plans appears to reference this new playground as being "shared" between the developments. The property immediately southeast of the Pine Street/Swan Lane intersection is proposed as a "Large Park" as illustrated on the amended (L2A Land Design) plans, and will be surrounded by a post and rail fence. Crossing sidewalk as originally proposed within the original (Van-Note Harvey Associates) design was eliminated. Similarly, two "pocket parks" are identified on small sections of land bordered by proposed Alleys 7, 8 and 13. A new playground and Tot Lot are proposed in the southeast corner of the property, along Eagle Lane. *Additional (minor) revisions were made to the previously-submitted amended plan application, including but not limited to revision and treatment (i.e., fencing and landscaping) of the proposed division between the two new developments, provision of a school bus circulation plan, revisions to proposed parking schedules, and miscellaneous plan revisions in accordance with our previous review and discussion at the October plan review meeting. Additionally, one of the playgrounds originally depicted as "shared" appears to be proposed to serve the Pine River Village development (only). We have the following comments and recommendations per testimony provided at the 10/20/09 Planning Board workshop hearing, and comments from our initial review letter dated October 15, 2009: Zoning - The site is located in the M-2 Industrial Zone. As amended by Township resolution, residential development in accordance with an integrated overall development plan is a permitted use in the zone district. Fact. As amended by Township resolution, minimum residential area and yard requirements in the M-2 include but are not limited to the following: Minimum Lot Area, corner lots – 5,000 square feet (sf). Minimum Lot Area, interior lots – 3,600 square feet (sf). Minimum*

Lot Frontage, corner lots – 50 feet. Minimum Lot Frontage, interior lots – 36 feet. Minimum Lot depth – 95 feet. Minimum front yard setback – 5 feet. Minimum Lot width (townhome lots) – 24 feet. *Fact.* As stipulated in Board Resolution SD#1430A, approved August, 2004, the following area and yard variances were requested by the Applicant and granted for the existing Pine River Village project: Minimum lot area, corner single-family lots – 4,900 square feet (sf). Minimum lot area, interior single-family lots – 3,400 square feet (sf). Minimum Lot Frontage, corner lots – 50 feet. Minimum Lot Frontage, interior lots – 36 feet. Minimum Lot depth – 95 feet. Minimum front yard setback – 5 feet. Front and side interior roadway setbacks (townhomes) – 1 foot. Minimum Lot width (townhome lots) – 24 feet. *Fact.* *Per review of the amended plan and above referenced information, the amended plan lot layouts and configurations are virtually identical to the previous approval, and in accordance with recent zoning and redevelopment plan amendments. Further, under Public Law 2009, Act 82, approved July, 2009, developers can petition to amend age-restricted development approvals to “converted”, on non-restricted approvals. Testimony should be provided by the applicant and/or its professionals regarding impacts, if any, of the potential increase in intensity for the proposed Somerset Walk development vs. the former age-restricted approval (i.e., larger families and children inhabiting the approved properties). Additionally, it should be noted that Township Ordinance 2008-39, Regulating Basement Apartments, prohibits basement apartments in age-restricted communities. If/when the Board approves the amended site plan request, we recommend similar restrictions on basement apartments for the Somerset Walk development.* Sheet C-02, “Overall Site Plan” of the L2A amended plan submission includes detailed area and yard requirement summaries for both the existing Pine River Village approval and the proposed (amended) Pine River Village/Somerset Walk project(s). As noted on these summaries, all requested area and yard requirements for the amended project appear to be in compliance with the recently-adopted M-2 residential standards or in conformance with variances previously-granted for application SD-#1430A. *Fact.* Testimony should be provided by the Applicant’s professionals whether any variances or design waivers (e.g., parking for the new Club House) are necessary as part of the amended approval application. If any, testimony justifying required relief will be necessary at the forthcoming Public Hearing. *Testimony is required at the public hearing identifying any necessary variances or waivers. Regarding parking for the new Club House within the Somerset Walk development. Sheet C-02 correctly notes that a parking variance was granted for the originally-proposed clubhouse in the Pine River Village section, approving fifty-four (54) spaces vs. 80 spaces required by UDO Section 18-1001 H(3) (for Adult Communities). However, the new Club House was not part of the previous approval, nor is it proposed for an Adult Community. Parking should be provided to the satisfaction of the Board.* Review Comments- General- Summary testimony should be provided by the applicant and/or his consultants summarizing the request for amended approval, proposed design and site layout revisions to the existing Board approval, and what elements of the original layout and design will remain unchanged. *Testimony is required at the public hearing.* Summary testimony should be provided by the applicant and/or his consultants relative to changes to the project’s impacts due to a partial shift from age-restricted to non age-restricted residents, including but not limited to school children, bus pickups, and the adequacy of proposed on-site recreational amenities for each portion (Pine River Village, Somerset Walk) of the proposed development. *As illustrated on the new School Bus circulation plan (Sheet C-08), a bus route and one (1) bus stop are proposed within the amended plan. Additionally, per New Jersey’s 2009 age-restricted development conversion act, applicants seeking amended approval for a converted development shall include documentation that all of the following site improvement and infrastructure requirements have been met: (1) The site meets the Residential Site Improvement Standards parking requirement for the residential land uses in a converted development; (2) The recreation improvements and other amenities to be constructed on the site have been revised, as needed, to meet the needs of a converted development; (3) The water supply system is adequate, as*

*determined pursuant to N.J.A.C.5:21-5.1, to meet the needs of a converted development; (4) The capacity of the sanitary sewer system is adequate to meet the projected flow requirements of a converted development pursuant to N.J.A.C.7:14A-23.3; (5) if additional water supply or sewer capacity is needed and the developer is unable to obtain additional supply or capacity, the number of dwelling units in the development has been reduced accordingly; (6) if additional parking is needed, and the developer is unable to provide the required parking, the number of dwelling units in the development has been reduced accordingly; and (7) if additional parking is provided and increases the amount of impervious cover by more than one percent, the storm water system calculations and improvements have been revised accordingly. Testimony and/or information must be provided by the applicant and professionals, to the satisfaction of the Planning Board, that the amended site plan application satisfactorily addresses all of the above referenced criteria. Summary testimony should be provided by the applicant and/or his consultants regarding the proposed unit designs for each portion (Pine River Village, Somerset Walk) of the proposed development. Renderings should be provided for the Board's review at the forthcoming public hearing. Per the "conversion act", the size, height, floor area ratio, number of bedrooms and total square footage of buildings established as part of a preliminary or final approval for an age-restricted development shall not be increased, but may be decreased for a converted development, except that the number of bedrooms for the affordable units only may be increased within the footprint to meet the bedroom distribution requirements as established in the Uniform Housing Affordability Controls. Testimony (and supplemental renderings) are required at the public hearing. Although the proposed lot configurations appear virtually identical between the original approved plans and the amended design plans, there appear to be minor differences in the building pads as depicted on the respective designs. Testimony should be provided regarding proposed footprint revisions, and impacts (if any) on lot coverage vs. the existing approval. Said information should also be provided on forthcoming amended site plan revisions. Testimony is required at the public hearing. An amended traffic study or summary report should be provided to assess increased trip generations (if any) resulting from the proposed shift to non age-restricted residents in the Somerset Walk project. Professional testimony is recommended at the forthcoming Public Hearing. As indicated previously, a traffic analysis study was submitted for review. Per our review, the study is generally well-prepared. As indicated in the traffic report, Pine Street intersection build-out impacts from the amended development would result in peak hour Levels of Service C (AM rush) and LOS D (PM rush), which are within acceptable levels. Per our review of the report, it is our understanding that traffic generation estimates for the Somerset Walk development were based on "85 non age-restricted dwellings" as referenced in the report. Testimony should be provided by the applicant's traffic professional whether these figures are based on one family per dwelling, or multiple families (i.e. if basements are proposed to be developed and occupied). Testimony from the applicant's traffic professional should be provided at the forthcoming public hearing. Finally, it should be noted that Lakewood Township proposes to install a traffic signal at the Pine Street and Swan Lane/Avenue of the States intersection. We recommend that as a condition of amended site plan approval, if/when forthcoming, that the applicant work with the Township as necessary to provide necessary access for the installation of the proposed signal and equipment. The applicant and/or professionals should provide testimony whether the existing Homeowners Association will be responsible for each section of the amended project, or whether separate HOA's are proposed. If new or amended HOA's are proposed, said documents will have to be submitted for compliance review if/when the amended project is approved by the Board. Per testimony provided at the 10/20/09 plan review meeting, new HOA documents will be provided as a condition of approval, if/when forthcoming. Plan Review- As noted previously, the eastern portion of the original intersection "tee" of Swan Lane and Goldcrest Drive is being eliminated. Testimony is requested from the applicant's professionals regarding impacts (if any) to the overall site circulation resulting from this revision. The*

Township's police, DPW and fire departments should review and approve the revised circulation design as a condition of Board approval if/when forthcoming. *Fact. Additionally, the adequacy of the non age-restricted layout to accommodate trash collection and storage was questioned at the 10/20/09 site plan workshop hearing, and must be addressed to the Board's satisfaction at the forthcoming public hearing.* The re-design associated with the above referenced intersection revision is depicted on Sheets C-06 and C-07 of the amended plans, including but not limited to revised road geometry, stormwater collection, grading, utility and landscape revisions. Landscaping shall be provided to the satisfaction of the Board. The proposed design revisions appear feasible, but will be reviewed in further detail during compliance review if/when Board approval is forthcoming. *Fact.* Per review of the existing approved and amended design plans, it appears that the remainder of the proposed infrastructure (roads, utilities, landscaping, lighting) are proposed to remain in accordance with the existing approved (Van Note Harvey) design. Confirming testimony is required from the applicant's professionals. Revised design documents will be required during compliance review if/when the amended project is approved by the Board. *Fact.* The site design associated with the newly-proposed Clubhouse and parking within the Somerset Walk project is depicted on Sheets C-04 and C-05 of the amended plans, including but not limited to revised paving, stormwater collection, and utility and landscape revisions. Landscaping shall be provided to the satisfaction of the Board. The proposed design revisions appear feasible, but will be reviewed in further detail during compliance review if/when Board approval is forthcoming. *Fact.* The proposed "Typical" single-family and townhome plot plans are depicted on Sheet C-08 of the amended site design. Testimony is required from the applicant's professionals regarding differences (if any) between these plans and the original design, and impacts (if any) on the approved grading and drainage designs for the Somerset Walk portion of the project. *Testimony should be provided at the forthcoming hearing.* Proposed playground equipment is on Sheet C-09 for two (2) proposed playgrounds identified on the Somerset Walk Site Plan (Sheet C-03). One playground is proposed in the southeast corner of the Somerset Walk property, and one "shared" playground is proposed in the southeasterly corner of the amended Pine River Village property. Testimony should be required as to how the "shared" playground will be operated between the two communities Detailed design documents for both playgrounds will be required during compliance review if/when the amended project is approved by the Board. *Confirming testimony should be provided at the public hearing. As indicated previously, the proposed playground in the southeast corner of the amended Pine River Village development property is no longer referenced as "shared" on amended Sheet 10.* Grading- Limited (new) grading information is provided on the amended plans other than grading information for amendments to the approved design (i.e., Clubhouse plans C04-C05 and Street Vacation plans C06-C07). Amended grading plans as presented appear feasible, and will be reviewed in detail during compliance review if/when the amended application is approved by the Board. *Fact.* It appears that the remainder of proposed grading for roads, infrastructure, etc. will remain as designed and approved for the original project. Confirming testimony is required from the applicant's professionals. *Fact.* Testimony should be provided from the applicant's professionals regarding effects of amended lot layouts depicted on Sheet C-08 (Plot Plans), if any, on the existing approved grading design for the "Somerset Walk" portion of the project. An overall grading plan(s) reflecting the new lot layout should be provided for review if/when the amended application is approved by the Board. *Fact.* Stormwater Management- Per review of the existing (approved) and amended stormwater designs as depicted on the project plans, proposed stormwater management will not change significantly upon approval and construction of the amended plans (other than minor utility and grading revisions. As approved, the majority of post-development stormwater will be collected and discharged into a large off-site basin located on the north side of Pine Street, within the Cedarbridge Corporate Campus. Another "onsite" basin is proposed along the easterly property line of Somerset Walk, near Eagle Lane. Confirming testimony is required from the applicant's professionals. *Fact.*

Testimony is required from the applicant's professionals regarding increases (or decreases) in impervious coverage that will result from the amended unit designs, the new clubhouse and parking lot, and other design amendments proposed, and impacts (if any) on the existing stormwater design. A summary drainage design report documenting impacts of the amended design should be provided for review. *An amended stormwater report was provided for review, indicating that proposed impervious coverage will be reduced with the amended design. The design capacity of the proposed collection system was reassessed as summarized in the report and determined to be adequate. This is satisfactory.* Per review of the approved (November 9, 2004) stormwater report, the approved stormwater design was prepared in accordance with the NJ Stormwater Rule (NJAC 7:8), which is compliant with existing Township standards. *Fact.* Testimony is necessary from the applicant's professionals regarding stormwater facility maintenance for the proposed projects, including maintenance of the on-site basin, maintenance of collection systems within amended Pine River Village and Somerset Walk developments, and shared maintenance responsibilities (if any) for the off-site basin in the Cedarbridge Corporate campus. *Testimony is required at the public hearing to address this issue.* Unless the Township is responsible for on-site stormwater facility maintenance, stormwater maintenance plans appear necessary for the proposed developments. Testimony is required from the applicant's professionals regarding this issue. *Testimony is necessary at the forthcoming hearing.* Landscaping and Lighting - Per review of the existing and amended design plans, it is our understanding that the only amendments to the approved landscape and lighting designs would be those associated with the proposed road vacation and the new clubhouse and parking within Somerset Walk, as depicted on the amended design plans (Sheets C04-C07). Confirming testimony is required from the applicant's professionals. *Fact. As indicated on the revised Street Vacation plan (Sheet C-07), proposed landscaping has been revised in accordance with the new development division line. In addition, buffer landscape along the division line has been revised to provide Colorado Blue Spruce trees.* Landscaping shall be provided to the satisfaction of the Board. *Fact.* Final review of landscape and lighting design amendments will be performed during compliance review if/when the amended application is approved by the Board. *Fact. As discussed at the October 20, 2009 hearing and as indicated on the revised plans, an 8'-high vinyl privacy fence is now proposed along the new development division line. A design waiver is necessary.* Utilities- Per review of the existing and amended design plans, it is our understanding that the only amendments to the approved utility designs would be those associated with the proposed road vacation and the new clubhouse and parking within Somerset Walk, as depicted on the amended design plans (Sheets C04-C07). Confirming testimony is required from the applicant's professionals. *Fact.* Final review of utilities design amendments will be performed during compliance review if/when the amended application is approved by the Board (and subject to review by the Fire official if hydrants are being removed or relocated). *Fact.* Signage- No signage details are provided with the amended plans. We assume that proposed signage will be generally consistent with the approved design plans. Confirming testimony should be provided by the applicant's professionals, as well as whether variance relief is necessary for any proposed signage. A complete sign package should be provided for compliance review if/when the amended project is approved by the Board. *Fact.* No project identification signs are proposed. Testimony is required from the applicant's professionals whether any new signage is proposed. *Fact.* Construction Details- Proposed construction details are included on Sheets C-10 through C-12. A detailed review of construction details per current Township standards will be performed during compliance review if/when the amended project is approved by the Board. *Fact.* Final Plat- Amended subdivision plats have provided for both sections of the amended project, including lot line and geometric revisions to accommodate the road vacation and new clubhouse facility proposed on the amended plans. A detailed review of these plats will be performed during compliance review if/when the amended application is reviewed by the Board. *Fact.* Compliance with the

Map Filing Law is required. *Fact.* Final Design Plans (Somerset Walk) If/when this amended application is approved by the Planning Board, we recommend that a comprehensive set of amended design plans (also incorporating all remaining previously approved-design elements of the former Van Note-Harvey design) be prepared and submitted as part of Compliance review for the Somerset Walk project. A comprehensive design plan set for each proposed phase of the amended project will be necessary for processing construction permits and construction observation purposes. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation District; Lakewood Township MUA (water and sewer); and all other required outside agency approvals. Testimony should be provided by the applicant's professionals regarding what outside agency approvals are outstanding and/or require amended approvals (if any). *Fact.*

Mr. John Phillips Esq. appeared on behalf of the applicant. He said the board is aware of this application; it was made due to the economics. Mr. Jackson said the record should reflect there was an opportunity and certain board members availed themselves to go and do a site inspection. Mr. Phillips said the board had previously approved this entire development of 175 dwelling units as an age restricted community. Due to changes in the economics the developer and the current owners in one portion of the project that has already been built agreed that they would apply to the governing body to lift the age restriction from approximately 1/2 of the development and tonight they will go through and show how that will be affected. The homeowners are on board with this and support this; their attorney is here to make sure whatever is done protects their interest as well. Mr. Phillips said what they are doing is taking the age restriction off of half of the community-they are not doing significant changes to the road layout or the building footprint they are breaking the community and putting a solid break in between them; they are constructing another community building for the use of the residents on the non age restricted side and at the appropriate time they will amend the master deed on the age restricted side to eliminate this property and adopt an almost identical master deed for this half of the project without the age restriction. They are really not changing anything; when this board approved the original project they listen to the developer with regard to the design concept of the new urbanism and it is a community that lends itself to either age restricted or not because of the way it is laid out. Mr. Graviano will testify with regard to the density and the density on this site are lower densities than they currently have in the R10 zone. Although the homes are closer together but there is a lot of open space around the project (12 1/2 %), they have more than 4 parking units off street per unit and they have an engineer and traffic engineer to testify with regard to that. Mr. Phillips said the only issue and deviation they have is that the residents in the age restricted section have requested that the fence between the 2 communities be 8 ft. high which would require a design waive and the other minor change is the plans do not show the fence that currently comes behind the parking lot going all the way to the other side of the parking lot and that is the intention-to go all the way around the parking lot.

Mr. Michael Dipple, engineer; Mr. Raphael Zucker, the owner of Somerset Development; Mr. Scott Kennel with McDonough & Rea Assoc., traffic expert; Mr. Nicholas Graviano, project planner were sworn in.

Mr. Phillips said they are not seeking conversion under the conversion act because they have already closed units and that act doesn't apply to them.

Mr. Dipple said his firm. L2A Land Design developed the plans for Somerset Walk which is the eastern side of Pine River Village development which will be sectioned off. He wants to focus on the changes they are making to the already approved development and entered exhibit A1



which is the colored version of Site Plan for Somerset Walk (sheet CO3), and he showed them the overall of the development with the green areas, trees and the residential dwelling. The 2 changes is the elimination of the roadway between Swan Lane and Goldcrest Drive so there is not interconnection between the 2 developments. The second change they made was to eliminate 2 residential lots and replace it with a 4,000 sf clubhouse for the development with 17 parking spaces to the rear and access to that will be off of Goldcrest Drive. They have other incidental changes such as the addition of a playground in the rear of the townhouse buildings, the addition of a playground in the southeast corner of the development and there is a detention basin where there was some unused property and they have increased the parking at each one of the residential dwellings and other than that they are looking at a very consistent development. Mr. Dipple entered a colored version of Street Vacation Plan (CO7) marked exhibit A2 which depicts a blow up of the area where the road is proposed to be eliminated. It also depicts a fence that has already been discussed dividing the 2 developments with a row of evergreens lining on the Pine River Village side. It also shows the existing playground and synagogue on the Pine River Village site. Mr. Dipple entered a colored version of Clubhouse Plan 1 (CO4) as exhibit A3 and it is a blow up of the clubhouse with one way angled parking spaces and they have landscaping throughout and the members have grading and lighting plans in their package. They also have a drainage which connects to an existing drainage pipe along the south end of the property and a small drainage connection to Goldcrest Drive.

Mr. Dipple said some of the planning board members visited the site and what was discussed was the difference between in the age restricted Pine River Village and proposed architecture in the Somerset Walk side and the biggest difference is the master bedroom is located on the first floor in the age restricted which changes the ground floor footprint. In the Somerset Walk development, all the bedrooms are on the second floor and the first floor is family and common living space, so there were changes in the general footprint of the various types of units that are proposed. He had exhibits and showed the Vancroft which appears along the southside of the development and said there are 24 of them and he showed them what the new footprint would be and said there will be parking for 6 vehicles-4 cars in the driveway and 2 car garage. He said the Pembroke which is a detached single family home which is mainly on the drive aisles in the middle of the development which will have a total of 3 parking spaces in the rear. The Cortland has changes to it; 4 parking spaces in the rear and the Remington townhouses which are scattered in various locations (he pointed on the exhibit) and said they all have 4 parking spaces on the lots. He showed a rendering showing the differences between the Pine River Village Architecture and the Somerset Walk architecture which he marked exhibit A4 and marked a rendering labeled Plot Plan comparison exhibit A5 and said the brown color is the proposed architecture for the Somerset Walk and the orange color is the formerly proposed footprint for the Pine River Village architecture. He said there is a 295 sf decrease in impervious surface by making these changes, there is a 169 sf decrease in impervious surface with the Pembroke, and these 2 actually add to the impervious surface because of the parking spaces in the rear-the Cortland adds 267 sf and the Remington adds 296 sf. He said they highlighted the changes in the architecture, changes in the clubhouse, changes in the roadway, some other incidental changes that were made throughout, removing sidewalks that are no longer necessary and tightening things up a little bit and they came to an 1,146 sf difference (decrease) and he marked the exhibit A6-Somerset Walk Change in Impervious Coverage Summary. Mr. Dipple labeled exhibit A7 and said it is called Open Space Plan (OS 01) and it depicts the open space provided under Somerset Walk and he said comments were raised about areas for the children to play and said they show the amount of green space that is provided and he pointed to the different areas of green space and pocket parks throughout. Mr. Banas asked what sheet it was and Mr. Dipple said it is not a sheet in their set but a colored version. Mr. Dipple said they sectioned off a couple of lots so it provides a common area. In the technical meeting they

discussed changes to the common area walkways and how they were going to reconfigure the sidewalks –exhibit A7. Mr. Dipple said there was some discussion about school buses and said none of the roadways are changing other than the disconnection of the 2 developments but they drew a school bus plan to show how a school bus could circulate through the development and all the turning radii is fine for buses, emergency vehicles, fire trucks, etc. and he marked that exhibit A8. They are proposing a bus site and he pointed to the exhibit at a pocket park off Goldcrest Drive. As far as the trash collection, the difference between Pine River Village is the DPW backs out of some of the lots to pick up the trash and the perception is that is not save in the new development so they are proposing areas at the end of the alleyways in the 7 ft. space between the sidewalk and curb and they plan on installing pavers for the trash cans on trash day. They also planned a potential route for the DPW and Mr. Neiman said they would need to have space for at least 40 garbage pails at each location and Mr. Dipple said they have room for 4 cans per lot (exhibit A9). Mr. Neiman asked Mr. Franklin his thoughts on the trash collection and he said so far he is listening. The regular homes will have trash pick up at their driveways. Mr. Dipple said the majority of the homes have 5 bedrooms and they are proposing basements to be counted with 2 bedrooms for a total of 7 bedrooms per unit. He showed them exhibit A10 which is a mounted version of the site plan, sheet CO2, He said Somerset is not planning on finishing these basements but there is the possibility so they are considering 2 bedrooms. 37 of the total spaces required are on street parking and Mr. Dipple said for a 5 bedroom home they are providing 4 ½ spaces, for a 4 bedroom home where they have the intermediate townhouses, they are providing 4 spaces and those spaces are located on the lot and 37 spaces are located along Goldcrest Drive and that would be a municipal roadway. Mr. Dipple said there would be 414 - 37 spaces off street parking spaces for this plan (377) for 85 units. Parking on the street will be on the north side of Goldcrest Drive and the south side is interrupted by driveways from the 24 homes and the clubhouse and Mr. Franklin asked where they will park on garbage collection days and Mr. Dipple said they are planning to restrict the parking with signage and he thinks that can still work. Mr. Franklin said they were municipal streets and said on the CO4 drawing they have drainage in the rear of the houses and he asked who maintains the drainage and Mr. Dipple said he does not know the details of the homeowners association but Mr. Phillips said there will be one and they will be responsible for maintaining the drainage. Mr. Franklin said there are not enough drawings to know what they are doing.....are they taking the drainage out from the rear lots out into the streets? Mr. Vogt said they have 2 basins which are proposed and part of the site drains into the easterly basin and the majority goes to an off site basin in Cedar Bridge and Mr. Franklin asked if the pipes were tied together (street pipes and yard pipes) and Mr. Dipple if you look to the left on the plan (CO4) he depicted 4-5 lots there and the reason is because when they added the clubhouse they made those lots slightly narrower in order to accommodated the clubhouse so they adjusted the grading and it is consistent with the way it was approved; the front of the home drains out toward the road and is picked up by the gutter and collected in the drainage system along the road. In the rear yards, the Pine River Village called for a large trunk line at the back of the site to carry flow in a westerly direction and eventually across the street and over to the large basin at Cedar Bridge. There is also another detention basin in the far east side that is fully constructed and it takes a piece of the flow, so they are not proposing any change to the piping system. Mr. Franklin said the homeowners association will have to pick up the drainage on their lots.

Mr. Schmuckler asked how much space does the DPW need between each container and Mr. Franklin said he would have to pick them up with a rear loader by hand, he could not pick them up with an automatic truck.

Mr. Banas asked how are they going to retain the dirt/grass from the alleyway from spilling over the road (because there will be no curb) and Mr. Dipple said there is 6 ft. from the edge of the alley to the property line and he believes it would be the responsibility of the homeowner to

maintain that (plant, mow, etc.) Mr. Banas said the kids are playing in that area and are going to tear up that grass area and during the next rainfall the earth will flow into the driveway in the alleyway and Mr. Dipple said in his professional opinion he does not think they are going to see a lot of erosion in the back.

Mr. Neiman announce that he has to leave if it they cannot finish in 5 minutes he will ask Mr. Banas to take over the chair. Mr. Banas took over as chair.

Mr. Franklin said Mr. Banas has a good point when he was talking about the curbs. Mr. Zucker said the association maintains that and Mr. Franklin continued and said they don't have the curb for that 12 ft. section the people are going to be parking there, they are going to be short on parking and they are just going to drive right up on the grass. Mr. Zucker said they have it now at Pine River Village and said the only place without curbs is the alleys and there is no where to park because the alleys are all curb cuts. Mr. Franklin explained how they are going to drive up on the grass between the curb cuts and Mr. Zucker said if they do it will have to be maintained but to put curbs there changes the drainage patterns beyond what they have. Mr. Banas said he did tour the development and he did notice that some of the alley, the grass needs to be redone and he suggests it is wearing out now in an age restricted area so what is going to happen when kids are playing on it. Mr. Zucker said the homes that it is wearing out is because those homes have not been completed-wherever the homes are completed, the grass is fine and Mr. Banas said he saw what he saw.

Mr. Schmuckler said they are doubling the density from what Pine River Village, they do not have any basements with tenants living there, along with kids playing there, so whatever they have now is going to be worse.

Mr. Graviano spoke next and said he reviewed this application to address the concerns about the adequacy of this community for people with children and families. He said this is one of the better environments for families if not the best due to its locational advantages, its nearness to the larger active recreation complexes (John Patrick sports complex and the Shenandoah field complex). Mr. Graviano said this community has 85 dwellings on 17.4 acres and approximately 95,820 sf of open space, not including the 4,000 sf clubhouse which rests on a 13,000 sf lot. He showed some of the architecture from the existing Pine River Village neighborhood and said the architecture of Somerset Walk will mirror that. There are 10 open space areas including 2 playground areas as well as larger park areas for children to play and he reviewed all the major applications approved by this board since 2005 (30 units or more) and this community provides more open space than all the applications with the exception of the one on Route 70 which has a considerable amount of wetlands. Mr. Graviano said 2.2 acres of this site is open space not including the clubhouse which is 12.6% where only 5% is required by ordinance. He compared density with other zoning areas in town and said this district compares 4.88 dwellings per acre and is approximately the same density as what is permitted in the R10 district at 4.4 dwellings per acre and while the lot sizes are smaller than the single family lots in town, the presence of the open space coupled with the alleys create a smaller lot size but is comparable to an R10. He said he also observed what can be built today and said the typical townhouse development is 8 townhouses per acre with basement apartments, but you don't have the pedestrian friendly environment, you don't have a safe situation for kids to play with all the curb cuts and driveways and the lack of diversity in architecture and it does not create the sense of community. He had an exhibit of pictures from the existing Pine River Development and the bottom are the existing dwellings of Pine River Village and said the lack of curb cuts create a very safe sidewalk area for kids to play. He said the pocket parks are a great place for the kids

to play and people to congregate. He said there are probably about 15 elements in this development that relate to the Master Plan and he named them.

Mr. Schmuckler said when he was working on the plans for this from changing to from age restricted to family development, how many children does Mr. Graviano anticipate living in this development and Mr. Graviano said when this community was designed they took in Lakewood's demographics and provide extra recreational facilities with 2 tot lots, ample parking, etc. but Mr. Schmuckler asked for a number and Mr. Zucker said he has not heard this question asked and the question was never answered. Mr. Jackson said he understands Mr. Zucker's frustration but agrees that it is not part of the criteria but at the same time he thinks it is fair for Mr. Schmuckler to ask what the number you relied on.

Mr. Banas asked when they talk about open space and said he was under the impression that the ordinance dealt with playground space being available at the rate of 5% rather than open space because the concept of open space was taking the edges of the property and putting that into the open space and he thinks the ordinance was talking about playgrounds. Mr. Graviano said he is not correct; the ordinance specifies all community facilities, playgrounds, park areas, and open space can be used for that calculation. The park areas and playground areas of this development exceed the 5% alone withstanding any other areas.

Mr. Akerman said at the last meeting, the number 600 children was thrown around and he wanted to make a quick clarification; just because a family might have 10 children, it doesn't mean that there are going to be 10 children on the street, there is an infant, 2 children away in school, 4 children playing in another house- there is an average of 2-3 children playing on the street maximum so they are all not going to be using the common areas at one time.

Mr. Schmuckler said the calculation of 4.88 per acre for the density, does that include the drainage basin in the calculation and Mr. Graviano said that includes the total acreage of the tract ÷ the number of units proposed and Mr. Schmuckler asked if it included the drainage basin across the street in Cedar Bridge and Mr. Graviano said no.

Mr. Kennel spoke next about the traffic. He said he conducted an evaluation and the findings are in a report dated October 29, 2009 and with the changeover to non age restricted units, this development would generate approximately 80 additional trips during the morning and 90 additional trips during the afternoon. His firm has gathered a number of data points or research at existing facilities in Lakewood and they used trip rates that are 40-50% greater than the national average which takes into consideration the higher density of the dwellings in Lakewood. They analyzed the site roadways driveways proposed (Raven Lane and Eagle Lane) and found they operate at good levels of service; Eagle at level C in the afternoon and Raven at level C in the morning and D in the afternoon, all within acceptable parameters.

Mr. Vogt said in their report under trip generation they have 85 dwelling identified and asked if that was 85 single family without an apartment or does their crunch factor that he cited take account and Mr. Kennel said it takes that into account.

Mr. Schmuckler said when he looks through the entire movement, do you look at safety as well or just traffic flow and Mr. Kennel said they looked to ensure that the internal circulation is a safe and efficient manner and whether it complies with the RSIS and they found a positive finding with that. They also look at the site access points on the Pine Road from a site distance standpoint as well as the capacity and it is also a positive finding was determined. Mr. Schmuckler asked if they looked at accessibility to each house or specifically the roads itself

and Mr. Kannell said he does conduct a review of the specific dwellings but his main focus is the critical internal intersections and that the parking and geometric horizontal design complies with the standards set by the State.

Mr. Vogt referred to pages 7-8 of his letter, he said they have a Township project ongoing which involves signalization (eventually) on Pine Street at Swan Lane and Avenue of the States as well as sidewalks which is going to extend along the northerly side of Pine Street between New Hampshire Avenue and Marc Drive so that will benefit the development and Mr. Kennel said they will work with them on the signalization.

Mr. Percal said there is an situation that is not their doing but said he believes if everyone who leaves this development makes a right turn and heads towards New Hampshire, there will not be any traffic complications; however, if they would happen to make a left turn and head towards the corner of Pine and MLK where there is currently a catastrophic situation, this will be an aggregate and he is surprised that this was not taken into account. He said it is not their fault, but to say the additional cars will not influence negatively would be irresponsible. Anyone making a left onto Pine headed in that direction in peak hours is going to face a very bad situation. Mr. Kennel agreed and said they did not analyze that location but can assure him that the accessibility (ingress and egress) from the site has been designed to provide adequate capacity to process the vehicles. Mr. Kennel stated that the additional traffic that they will be adding to the west would equate to 5% of the total volume.

Mr. Phillips said the only other witness is Mr. Zucker and he will summarize. Mr. Zucker said this site was designed many years ago and they are retro fitting it to the design that works well with the age restricted lifted. The design they did years ago works well now because they followed principles of town planning that have been around for hundreds of years and the reason it works is because it always worked. The senior community they designed was an anomaly to senior communities, it was designed and planned it based on age old planning principles that pre date Lakewood and what makes great places are great streets, great homes, great setbacks, great little nooks and crannies, sidewalks and alleyways, etc. This works and Pine River Village and Somerset Walk works better by any real measurement. The United States has gone away from planning for people and plan for cars; he said they plan for people. He is asking the board to approve it because it is a great place and the people that live there will thank the board.

Mr. Phillips said the people of the senior community have asked if they can change the street name in Somerset Walk so there is no confusion between Goldcrest on their side and he asked permission to do that. Mr. Banas said he does not think that is a problem. Mr. Phillips said they will have to ask the governing body for vacation ordinance to vacate portion of the existing road which is being taken out. Mr. Kielt said street names are approved by Fran Siegel.

Mr. Phillips said the master deed to the senior portion has to be amended to take this property out of the equation. Mr. Schmuckler asked if the developer has a vote in amended the master deed and Mr. Phillips said no because he does not own the lot as a single family owner- it is only the residents and the master deed requires 67% and they informed the residents they would not even attempt this without 90-95% and they have that.

Mr. Gary Forsher from the office of Stark & Stark is the attorney representing the age restricted community and said he has no statement to make but they are satisfied with the presentation.

Mr. Schmuckler asked the engineer about the ownership of the streets, streets meeting RSIS, width of the streets, etc. and Mr. Dipple said Eagle Lane is 18 ft. in width from curb to curb and it is 2 way with no parking and Mr. Franklin said that does not meet the criteria for street that Public Works can maintain-along with the alleyways they wouldn't maintain them, they would maintain Eagle Lane where it comes in and Goldcrest but the rest would be private. Mr. Dipple said this was already approved with the prior project and Mr. Franklin said it shouldn't have been approved and it was approved because it was a senior project and it is no longer a senior project. Mr. Banas asked if the width of the street is 18 ft. – the size of 2 parking spaces and Mr. Dipple said yes and Mr. Banas asked if they were expecting 2 way? He said that is impossible. Mr. Banas asked to discuss the width of Goldcrest and was told it is 28 ft. in width with parking on one side.

Mr. Phillips said they will remove that issue and make that street one way (Eagle) and will also agree that if the town does not wish to accept it the homeowners association will maintain it from the end of Goldcrest. Mr. Franklin said they will not maintain any of the alleyways and Mr. Phillips said he understood. Mr. Schmuckler said he is a practical person and this all goes back to the fact that they are going to have a lot of kids living there in a very dense development and Mr. Dipple said the tight roads assist them because the idea is calm the traffic and Mr. Schmuckler said this is Lakewood and traffic doesn't get calm no matter what you do.

Mr. Banas asked where the pupils are going to board the buses and Mr. Dipple said pointed to where the bus stops were located and Mr. Banas asked how the buses were going to get into that location and Mr. Dipple brought up another exhibit (A8) and said they show a left turn in and a right turn out but the turning radii is more than adequate to go either way but they anticipate that students will load on the right side the bus could circulate down Swan Lane easterly along Goldcrest and continue out. Mr. Banas asked what the width of a bus is, or 2 buses, and Mr. Dipple said it is 8 ft. each.

Mr. Percal said there are 85 residences and he asked what the average of children in each one of those residences by Lakewood standards and Mr. Dipple said he did not know the answer. Mr. Percal offered a conservative number of 4 and multiply that by 85 (340) and asked if they area all gathering in one pick up place and Mr. Dipple said he did not know what the ages are, what schools area involved, etc. Mr. Zucker said they put one spot just to show it but if the Board of Ed wanted more spots they can stop in 20 spots. He said he lives across from a school bus stop and not all the kids go to school at the same time and not all go to school by bus but buses start at 6-7 am and they run until 9 am so it is not like you have 600 kids at the same time. If the BOE goes through this and wants another bus stop they can stop anyplace.

Mr. Kennel said he wanted to clarify a statement made by Mr. Dipple and said Goldcrest's width of 28 ft. complies with the RSIS for 2 way traffic flow and a parking lane and also the 18 ft. Eagle Lane for one way more than complies with RSIS because they also have a provision that states you can a street 30 ft. wide and parking on both sides and the 2 way travel area is only 16 ft. wide so the 18 ft. more than meets the RSIS.

Mr. Banas opened the microphone to the public

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

Mr. Schmuckler said he did drive through the development on his own and noticed a car stopped by the alleys and it left about 6 ft. for him to maneuver around them to get further down and asked what happens when that happens, because he believes it will happen all the time,

and Mr. Dipple said he thinks there will be a delay. He said you can't plan for everything and there will be incidences where a car pulls in and leaves a car out in the alley where they are not supposed to, they tried to provide a lot of parking for these residences but there will be times when that will happen. Mr. Schmuckler asked if they were going to put address in the alleyways in addition to the front and Mr. Dipple said they talked about this and they thought about putting a small directional sign at the end of the alleys or put the house #'s at the corner of the house. Mr. Schmuckler said going back to the tot lots, the area on the right is not for playing and Mr. Dipple said that is a detention basin, the tot lots are located (he pointed to the exhibit) in two locations and Mr. Schmuckler asked about fences around the detention basins and Mr. Dipple said they have some grading issues that they have not worked out yet but said it would be fenced in and there is a retaining wall in that location (he pointed to the exhibit) and here (he pointed again) it would be more open and they are not proposing fencing around that area. He said there area some common area parking spaces and he pointed to them and Mr. Schmuckler suggested putting a fence around that and asked how close they are near Pine St. and Mr. Dipple said there is a dense row of forsythia there to guard that but he believes the tot lot is 25 ft. from the actual curb line but through a very dense hedge. Mr. Zucker said they always fence their tot lots and Mr. Dipple said they agree to it.

Mr. Banas said there was one issue that they did not discuss and it is the idea of the fence with the razor wire on top of it. He asked what the Pine River residents want and Mr. Gary Forsher Esq. said they wanted a very distinct separation between the 2 developments and requested there be an 8 ft. wall so they did not have to deal with children except when they are invited over, so if they are playing with balls, they don't want them to bounce over the fence, it will give them that separation. He also said that right near the separation are the 2 community buildings, so they have their facilities directly adjacent to that so to obtain some privacy they would like to maintain as much of their quality of life as possible. Mr. Banas asked what kind of fence is he proposing and Mr. Dipple said they are proposing (sheet C12) it is a solid privacy fence, it will have some relief to mimic boards or vertical planks but it is white vinyl and 8 ft. high. He said there is also blue spruce proposed to be planted along that and Mr. Banas asked if it will be on both sides and was told only on the senior side. Mr. Banas said he does not like a fence there, he doesn't like any fence. Mr. Banas asked if it has to be 8 ft. and Mr. Forsher said they have spoken extensively with the residents and said 8 ft. is not an unusual fence and he has put up and gotten approval in a myriad of municipalities for 8 ft. fences for different types of uses. It is not going to be that different from a 6 ft. fence the difference is your taller people are not going to be able to look over it. Mr. Zucker asked for Mr. Banas' indulgence and said the residents have requested this and he will make it a good looking fence and a fence that will last and it is something he told the residents he will fight for. Mr. Banas said on one side it will give the effect that is very good but on the other side it will be a solid wall. Mr. Zucker said what they will do is work to put some landscaping along that side as well to break it up.

Mr. Schmuckler asked if they would be willing to get rid of the 37 spots on Goldcrest because he believes if you keep the cars off the road that way kids to not walk between cars and get hit. Mr. Zucker said the answer is no because they need those spaces, they don't need them most of the time but the reason they are there is because some of the time when they are needed and if they remove them people will park them anyway and then it becomes an enforcement issue.

Mr. Jackson said the planning board does not have the authority to tell whether you can park there or not, that is a governing body issue and Mr. Zucker said they do not agree to it anyway and Mr. Schmuckler asked if there was parking in the alleyway and Mr. Zucker said the 18 ft. wide is no parking on either side.

Mr. Banas asked if it was a gated community and Mr. Zucker said no it is not.

Motion was made by Mr. Akerman, seconded by Mr. Herzl, to approve the application with alleyways being private streets, the drainage maintained by the homeowners association, 8 ft. fence with landscaping and gated tot lots, changing the street name, and subject to the approval of the amendment of the declaration by the residents of Pine River Village.

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

**11. Discussion/Recommendation- 2010 Planning Board Schedule**

Mr. Akerman said in previous years the week before the holiday of Hanakah the meeting was cancelled and Mr. Kielt said this was checked by a rabbi and Mr. Akerman said not next year but this year, and Mr. Kielt said this year's was also checked by a rabbi. Mr. Akerman said the rabbi he is showing it to assumes the member have no problem coming on Hanakah but the last 2 years they cancelled the meeting and said he can double check it and get back to him and Mr. Schmuckler said 2010 is good.

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes

**6. CORRESPONDENCE**

-None at this time

**7. PUBLIC PORTION**

-None at this time

**8. APPROVAL OF MINUTES**

- Minutes from October 27, 2009 Plan Review Meeting

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes



**9. APPROVAL OF BILLS**

Motion was made by Mr. Percal, seconded by Mrs. Koutsouris, to approve

**ROLL CALL: Mr. Herzl; yes, Mr. Franklin; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes, Mr. Schmuckler; yes, Mr. Percal; yes**

**10. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

submitted  
Johnson  
Board Recording Secretary

Respectfully

Chris  
Planning