

**LAKWOOD PLANNING BOARD  
MINUTES - REGULAR MEETING  
NOVEMBER 27, 2007**

**I. CERTIFICATION OF COMPLIANCE**

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

“The time, date and location of this meeting was published in the Ocean County Observer and 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 at least two of the following newspapers: The Asbury Park Press, The Ocean County Observer, or The Tri-Town News at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

**2. ROLL CALL**

Mr. Franklin, Mr. Neiman, Mr. Banas, Mr. Akerman, Mr. Fink, Mr. Gatton

**3. SWEARING IN OF PROFESSIONALS**

Mr. Peters and Mr. Truscott were sworn in.

Ms. Johnson stated there were several changes to the agenda. **Item # 1 SP 1869 – J&J Group LLC** – revised plans were received for a smaller building, so they are rescheduled for new technical meeting on January 15, 2008. They will re-notice.

**Item # 13 on the agenda – SP 1874 Saraella Holdings;** letter was received by the attorney Mr. Penzer asking it be tabled to the meeting of January 8th 2008 without further notice.

**Motion made by Mr. Franklin, seconded by Mr. Neiman, to table to January 8, 2008 without further notice.**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

**Item #15 SD 1610 – Moses Stern** and **Item #16 SD 1611 – David Flam** plans were not received until today so they will be rescheduled for the January 8, 2008 meeting without further notice

**Motion made by Mr. Franklin, seconded by Mr. Neiman, to table to January 8, 2008 without further notice.**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

**Item #4 – SP 1860 Congregation Avreichim** letter was received by the attorney Mr. Penzer asking it be tabled to the meeting of January 8th 2008 without further notice.

**Motion made by Mr. Franklin, seconded by Mr. Neiman, to table to January 8, 2008 without further notice.**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

#### **4. NEW BUSINESS**

**1. SP # 1869 (VARIANCE REQUESTED)**

**APPLICANT: J&J GROUP LLC**

Location: Cushman Street, west of Route 9  
Block 430 Lot 60

Preliminary & Final Site Plan for 6,960 sf 2 story office building

Re scheduled to Plan Review Meeting of January 15, 2008

**2. SD # 1422A (NO VARIANCE REQUESTED)**

**APPLICANT: S&C WANOUNO**

Location: Ocean Avenue & E. 2nd Street, between S. Park Ave & the railroad  
Block 248.01 Lot 63

Re-approval of previously approved Minor Subdivision for 2 lots

Mr. Peters stated the applicant is seeking a re-approval of a minor subdivision approval for the subdivision of one existing lot into two lots. An existing two story building is located on the proposed Lot 63.01 and will remain. No construction is proposed by the applicant. The property is situated along Ocean Avenue and East Second Street within the B-4 zone. The applicant is requesting a minimum aggregated side yard setback variance for Lot 63.01. 25 ft aggregated side yard setback is required where 19 ft setback is proposed. This is an existing condition. At the technical review meeting, the applicant agreed to install sidewalk along the Second Street frontage of the property when development is proposed on Lot 63.02. A note shall be added to the plan stating that sidewalk will be installed along the Second Street when development is proposed on Lot 63.02. Number 1 and 2 of the notes shown on the plan shall consequently be removed from the plan. The applicant shall revise the zoning schedule to show a wavier is required instead of a

variance for providing a separation distance from parking area to street line less than 20 ft as required by the UDO. Since revisions of the Minor Subdivision Plan are needed to conform to the Lakewood UDO, the Minor Subdivision Plan shall be submitted to the Ocean County Planning Board for re-approval. The proposed building will be served by public water and sewer. Lists of the neighboring property owners within 200 ft radius of the site shall be updated. The list does not match with what is shown on the Area Map. The map shows Lot 64 of Block 28.04 as a whole lot where on the list the lot 64 is divided into 5 lots. In addition, Lot 73 of Block 248.01 and Lot 8 of Block 536 are missing from the list. All existing features such as trails, shades, and walkways, shall be shown on the plan. The building on proposed Lot 63.01 encroaches more than three feet into Lot 61. The applicant shall provide testimony on this issue. We recommend the applicant contact the owner of Lot 61 to investigate a lot line readjustment. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated September 10, 2007. The applicant seeks re-approval of a minor subdivision plan to subdivide the subject parcel into two (2) new conforming lots, located within Block 248.01. The subject parcel is a 2.06-acre (89,813 square feet) lot that has double frontage on both Ocean Avenue (State Highway Route 88) and East Second Street. The applicant is proposing to subdivide the property so that the existing 13,636-square foot, two-story commercial building would maintain frontage on Ocean Avenue for proposed Lot 63.01. Proposed Lot 63.01 would be 34,486 square feet. The 55,327-square foot lot for proposed Lot 63.02 will have frontage only on East Second Street and is currently vacant. The property is located in the Wholesale Service (B-4) Zone District near the downtown and east of the New Jersey Main Stem Southern Branch rail line. The surrounding land uses are generally commercial. There are two schools that adjoin the property to the east. Prior Approval. The applicant received minor subdivision plan approval on April 20, 2004. Various commercial uses, as well as residential use, are permitted in the B-4 Zone District. Although no variances are requested, the existing structure (new Lot 63.01) encroaches on adjoining Lot 61. The encroachment ranges from 3.1 to 3.5 feet. This is an existing non-conformity. The applicant should be prepared to provide testimony on the existing building's encroachment on Lot 61 and how this will be addressed. The applicant should specify the use of the existing building. In the application, the applicant indicates that the use is "commercial." The applicant should specify a use that conforms to the B-4 Zone District permitted uses. Existing parking on Lot 63.01 is located zero (0) feet from the right-of-way line of Ocean Avenue (Route 88). A minimum of twenty (20) feet is required, per 18-807.c.6. This is an existing condition. As a condition of prior approval, the applicant was to locate the existing signage. The applicant has indicated that there is an existing 121 square foot (8.7' x14') sign for the commercial use. The sign is located on Lot 61 and is off-site. The applicant has not noted if there are any utility easements on the site. The applicant indicates that water and sewer is provided by New Jersey American Water Company. The applicant has noted that curbing is in place on both frontages of Ocean Avenue and East Second Street. Sidewalks front Ocean Avenue and are not proposed on East Second Street. The Township UDO requires that sidewalks be provided. In the prior approving resolution, a condition of approval was to provide sidewalks on East Second Street, provided that, if and when any development application is submitted, sidewalks would be provided. As required by the condition of approval, the applicant has provided notes specifying this condition. As conditioned by the approving resolution, the applicant has provided a note on the subdivision plan that

repair and replacement of existing curb and sidewalk will be done if required by the Township of Lakewood Engineer along Ocean Avenue. The remaining comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant. He stated the original application was done 25 years ago and the file could not be found when he wanted to get the permits. The issue of the encroaching building, they brought a letter from owner saying he had no complaints and that is how they were granted the original approval in 2004. Unfortunately the map was supposed to be filed by Harry, but Harry lost it and did not find it and it came up now. We tried to get an extension but the time expired so we had to come back, but all the conditions you approved, everything is exactly the same as in 2004, all the variances are existing conditions. The sidewalk issue may be different now, but if you require it now we will do it. Mr. Banas said he recalls there is sidewalk on E. 2nd Street and it is heavily walked, so he would like curbs and sidewalk on that. Mr. Peters said generally when there is new construction, an inspector from the engineering department instructs the applicant when to replace it if it does get broken up during construction. Mr. Penzer said they had no problem with that. Mr. Truscott said the plans are not clear if there are sidewalks there.

Mr. Neiman asked how long they needed the re approval but was told it was a new approval

Mr. Banas opened the microphone to the public

Seeing no one, this portion was closed to the public

**Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve with all the existing conditions and the letter regarding the sidewalks**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

**3. SD # 1598 (VARIANCE REQUESTED)**

**APPLICANT: MARK PROPERTIES LLC**

Location: Albert Avenue, north of Salem Street

Block 1159 Lot 66

Minor Subdivision to create 2 lots – 1 flag lot

Mr. Peters stated the applicant is seeking Minor Subdivision Approval to subdivide one residential lot into two residential lots; one will be a flag lot. The property is currently vacant. A two story dwelling is proposed on the flag lot, Lot 66.02. No construction is proposed on the front lot, Lot 66.01. The property is located along Albert Avenue within the R-20 zone. The applicant is requesting a lot width variance for proposed Lot 66.01. A lot width of 95 ft is proposed for Lot 66.01, where 100 ft are required. The proposed dwelling will be serviced by individual well and septic system. A note has been added to the plans stating that a minimum of three (3) off-street parking spaces shall be provided, if a dwelling is proposed for Lot 66.01.

A note has been added to the plans stating that Lot 66.02 will be deeded to restrict access to the Grand Avenue. Curbs and sidewalks are proposed along the Albert Avenue frontage of the property. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 15, 2007. The applicant seeks minor subdivision approval with variances to create two (2) lots from Block 1159, Lot 66, a 1.017-acre property located at 748 Albert Avenue. Proposed Lot 66.02 is a flag lot, 24,256 square feet in total size; fee simple access is provided from Albert Avenue via a twelve (12) foot wide access driveway located inside a twenty (20) foot access strip that forms the "flagstaff." Proposed Lot 66.01 fronts Albert Avenue, and is 20,045 square feet in size. The property is currently unimproved and wooded. The tract is located in the southern portion of the Township, three (3) blocks west of New Hampshire Avenue. The applicant was before the Board on behalf of Application SD-1576, which was a similar proposal to subdivide Lot 65 (the next lot south of the property) into a flag lot configuration. Approval for SD-1576 was memorialized on May 15, 2007. This application was discussed at the September 4, 2007 Plan Review meeting and the applicant has submitted revised plans addressing the comments of the Board's professionals. Flag lots are permitted in all residential districts. Single-family is the only detached-type housing permitted as a residential use in the R-20 Zone. The applicant has requested the following variance for Lot 66.01: Minimum Lot width: 100 feet required, 95 feet proposed. The positive and negative criteria for the requested bulk variance should be addressed. Section 18-805. G.5 provides the following criteria for creating flag lots: "Flag lots shall be created only in conjunction with an overall development plan of the entire tract of which the flag lot is a part and the applicant shall demonstrate a need, consistent with good planning principles, for the creation of the flag lot and shall further demonstrate that normal subdivision techniques are not practical because of topography, lot or land configurations or other physical characteristics or constraints of the land related to the proposed development concept." The applicant should be prepared to discuss with the Board how this application complies with the above requirements. In addition, the applicant should be prepared to discuss adjacent land holdings in testimony concerning the potential subdivision alternatives for this site. The applicant should provide information concerning the dimensions of the proposed lots and the contemplated land use(s) in comparison with current lot sizes and uses in the surrounding area. We note that many of the lots in the surrounding area are also deep lots and the applicant should distinguish the need for a flag lot configuration for this parcel. We note that Lot 65 to the south is also owned by the applicant. A flag lot was approved for this parcel, but the map may not have been perfected. To minimize the number of driveways, a shared driveway with Lot 65 should be considered. The submitted architectural plans for the flag lot (Lot 66.02) indicate a four (4) bedroom home. Residential Site Improvement Standards (RSIS) Parking Requirements for Residential Land Uses (Table 4.4) requires 2.5 parking spaces for four (4) bedroom homes. The applicant has indicated on the plat that 4 parking spaces will be provided, which exceeds the requirement for a four (4) bedroom home. Parking for both lots must comply with NJ RSIS standards. The applicant has indicated on the submitted plans that three (3) off-street parking spaces will be provided for Lot 66.01 and four (4) off-street spaces for Lot 66.02. The proposed plan does not comply with the requirements of Section 805.G, in that an area for temporary storage of solid waste containers is not indicated on the plans. A landscape plan has been submitted. The landscape plan should be revised to provide a varied planting schedule for the access drive. An individual septic system and potable well is proposed to serve the proposed lots. Lots requiring septic systems shall be of

sufficient size to achieve required separation distances in accordance with New Jersey Department of Environmental Protection septic design regulations, and shall be designed in accordance with the requirements of the State enforced by the County Board of Health. Testimony should be provided as to the nearest available connections for municipal water and sanitary sewers. Flag lots have certain bulk requirements not applicable to other lots in the R-12 Zone. The applicant should amend the zoning bulk table as follows: Minimum Lot Area, exclusive of "flag staff," should be added to the zoning bulk table, as well as the total lot area. The remaining comments are technical in nature.

Mr. Shea, Esq. appeared on behalf of the applicant with Mr. Flannery as the engineer. Mr. Flannery stated the variance is for lot width for the flag pole portion which is in lieu of an easement for the flag stem and feel the benefits outweigh the detriments to the zone schedule. The positive criteria are the benefits of housing and he feels there are not negatives to this application. They will comply with all the minor comments in the reports. With regard to the comment by Mr. Truscott where it indicates a shared driveway with lot 65, that subdivision has been perfected and it is in different ownership and they feel that a shared driveway there is not a good idea. Mr. Banas asked about the application SD 1576 and Mr. Flannery stated it was the same applicant, minor subdivision for a flag lot, his office did the submission at the same time, so they were not trying to hide anything, they each have a driveway, they each know what is going on, etc. Mr. Neiman asked if they couldn't do a cul de sac and Mr. Flannery said they could do a cul de sac and they would need variances for lot areas and you would virtually have the same thing but in his opinion the Township is better off because they don't have to maintain the roads. They are not doing it next to an existing house where there is somebody there who is going to be adversely impacted from a privacy standpoint and he feels this is a location that a flag lot will be a nice thing. Mr. Neiman said since they had them both at the same time, in the future, consider having a cul de sac as opposed to 2 flag lots. Mr. Shea said it is clear the them the board does not like flag lots and Mr. Flannery stated these applications have been around for a long time and they realize that flag lots will not be around for much longer and they no longer work on them in their office.

Mr. Banas opened the microphone to the public

Amelia Squeo, 406 Monticello Lane was sworn in. She asked about the entrances to the street and wanted to know where the children would get the school bus and Mr. Flannery and Mr. Neiman said they would walk out their driveway to the street (Albert Ave) for the bus.

Bill Hobday, 30 Schoolhouse Lane was sworn in. He asked about the rear setback and was told by Mr. Shea it was 115 ft.

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

Mr. Shea said this was the only development alternative left for this property and they believe it meets all the provisions and asks for it to be approved.

**Motion was made by Mr. Neiman, seconded by Mr. Franklin, to approve**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

- 4. SP # 1860 (VARIANCE REQUESTED)**  
**APPLICANT: CONGREGATION AVREICHIM**  
Location: 10th Street @ northeast corner of Clifton Avenue  
Block 112 Lot 11.02  
Preliminary & Final Major Site Plan for house of worship

Tabled to January 8, 2008

- 5. SD # 1594 (VARIANCE REQUESTED)**  
**APPLICANT: DOV GLUCK**  
Location: Albion Street, west of Hearth Court  
Block 284.03 Lots 49 - 51 Block 284.04 Lot 48  
Preliminary & Final Major Subdivision – 4 lots

Mr. Peters stated the applicant is seeking Preliminary and Final Major Subdivision Approval to subdivide Lot 48 of Block 284.04 and Lots 49, 50, and 51 of Block 284.03 into four new Lots 48.01, 48.02, 48.03 and 48.04 of the Block 284.04. The existing lots are currently vacant. The proposed project consists of constructing four new dwellings and a Cul-de-sac. The Cul-de-sac will be an extension of Albion Street. The project is located in the R-12 zoning district. The applicant is requesting a minimum lot width variance for the proposed Lot 48.02; 77.9 ft is proposed where 90 ft is required. Outside agencies approvals are required from Ocean County Planning Board, Ocean County Soil Conservation District and TWA permit from NJDEP. Evidence of the approvals shall be provided prior to signature of the final plat. The applicant has indicated in their letter dated September 26, 2007, that the above noted approvals have been received, they will be forwarded to the appropriate offices for review. Three (3) off-street parking spaces are required for dwellings with an unknown number of bedrooms. The driveways and zoning schedule have been revised to provide three parking spaces per lot. A portion of existing Albion Street will have to be vacated for this project. Evidence that the street has been vacated shall be provided. The applicant has provided a note on the plans stating that the four proposed lots will deed restricted from having access to Ferndale Avenue. The applicant has shown proposed curb and sidewalk around the proposed cul-de-sac. The proposed subdivision will be disturbed 1.9 acres of total area. The remaining comments are technical in nature and also deal with the Map Filing Law.

Mr. Truscott read from a letter dated October 16, 2007. The applicant seeks preliminary and final major subdivision approval with associated variance to create four (4) lots for single-family residences. Approval is also sought to construct a cul-de-sac and associated improvements to provide frontage to the subject lots. Each of the proposed lots is well in excess of the minimum of 12,000 square feet required for the zone. Three lots, Block 284.04, Lot 48.01, 48.02, and 48.03 are impacted by wetlands or wetland buffers. One lot, Block 284.04, Lot 48.01 will require the Township vacating of a paper street extension of Albion Street. The tract is located in the western part of the Township, directly off Hearth Court and near Powderhorn Lane. The tract and surrounding properties are located in the R-12 (Residential) Zone. In general, the surrounding land uses are residential. Single-family detached housing is a permitted use in the R-12 Zone. The

applicant has requested and previously received subdivision approvals based on the following variances for both of the proposed lots: Minimum Lot width of Lot 48.02: 90 feet required, 78 feet proposed (surveyor to provide exact lot width) The positive and negative criteria for the requested variance should be addressed. Parking for all proposed lots must comply with NJ RSIS standards. The plans refer to a delineated wetland buffer, and the applicant has submitted a copy of the approval letter of interpretation for the wetlands from NJDEP, dated December 15, 2006, as NJDEP File No. 1514-06-0027.1 and the Wetlands Location Plans for the lots under consideration, dated August 3, 2006. A note has been added to Sheet 1 (Site Development Plan) indicating that removal of trees will be minimized at the Plot Plan phase. The provisions of Section 18-803 of the UDO, Subsection H, must be addressed. The subdivision plat should be revised to show the required setback lines. All four lots will have possible additional through-street access to paper streets, either Ferndale Avenue or Penbryn Street. Therefore, Section 18-805 F. applies that "any newly-created through-lots shall provide a landscaped buffer along the secondary frontage." A plan revision is necessary. Vacation of a portion of Albion Street by the Township Committee prior to signature of the map. The remaining comments are technical in nature.

Mr. Shea Esq. appeared on behalf of the applicant with Mr. Flannery as the engineer. Mr. Flannery stated the application was approved in the 90's but never filed. All the lots conform with the area. There is an aerial (exhibit A-2) showing the wetlands and the wetlands area beyond the property which is quite extensive, and it shows the only buildable area is the orange dot in the right of way. He feels there is no detriment to granting the variances. As for the comments in the planner's report, the buffer for the through lots, when you look at the wetlands surrounding it, they really are not through lots, because there is a wetland buffer there anyway. They will comply with the remaining comments in the planners report. With respect to Max's report, reducing the flows, they will meet with Max and provide as much recharge as his office feels is required. This is a very minor application but they will certainly respond to any input Max has and will add flow guards to the inlets to increase the total solid suspended reduction. The drainage going to the rear of Lot 48.01 but it is less after development than before development and all of their pervious is going to the roadway. They will comply with the remaining comments in the engineer's report. The one thing that they would request is TWA and they would like to get the maps filed before they get the TWA permit and make that a condition of the building permits instead on a condition of the map filing and they asked that it be put in the resolution. Mr. Banas said he received a letter from a neighbor who is present in the audience and will address the letter and his concern is with the development of the property, he will not have access to his property. He asked if there is any such lot that has no access to a property. Mr. Flannery said that is why he brought an aerial. Mr. Flannery said this application will not preclude anyone from getting access because Albion Street can't go any further than what they are showing because there are wetlands there and the state will not let anyone build in the wetlands. Anyone that has property there that was planning on coming in on Albion Street or any of the streets that are in that heavy wetland corridor are going to have problems with the state. The people can walk through the wetlands to their property that is in the wetlands but there is never going to be paved access to that area. Mr. Banas asked about monuments in the wetland area and Mr. Flannery said they would monument the wetland buffer as they have in the past and would make that a condition of approval subject to Max's review. Mr. Gatton

said they made a definite statement about the wetland area and Mr. Flannery said this is a C1 Metedeconk which is a sacred wetland with a 300 ft buffer and he is confident they will not let anyone fill in and Mr. Peters agreed that the DEP would not let Albion Street be constructed in wetlands. Mr. Truscott said this application could not move forward if the Township Committee does not allow them to vacate the street. Mr. Jackson said doesn't the paper street give the property owner that the paper street give access to the right to walk down public right of way where there is no street on public property. Mr. Flannery said there are numerous public street right of ways in that area, there is an entire grid pattern for them to follow. Mr. Jackson asked Mr. Shea to mark the exhibits A-1 is sheet 1 of 3 of the colored rendering that the members have in their packets and A-2 is the aerial map of the area.

Mr. Banas opened the microphone to the public

Bill Hobday, 30 Schoolhouse Lane was sworn in. He asked about the sanitary facilities and if they were services by city water and sewer and was told yes they were.

Mr. David Wilschanski, Forest Ave was sworn in. He read a letter he sent to Mr. Banas into the record. " I own block 315 lot 3, a conforming 100 by 200 foot property, fronting on Ferndale Avenue, a paper street located in the area of New England Village, Hearth Court and James Street directly behind the far end of the proposed, cul de sac across Ferndale Avenue. The land was purchased for single family development in '03 from a family who owned the land for many years. I also own land on the next adjacent block, block 314. Because of wetlands restrictions I can only access my land on Ferndale Avenue through: Albion Road, some of which is presently a dirt road and some of which is a paved street. My property is located starting from approximately one hundred feet north into Ferndale Avenue from the end of Albion. Closing off Albion Road renders my property without any alternative access since Ferndale Avenue north of my property are wetlands and Ferndale Avenue south of the property is closed off by New England Village properties. Blocking of access through Albion Road renders my property useless and consequently worthless. Although it has been submitted that there are wetlands behind the proposed project, to my knowledge no evidence has been presented to this Board regarding the extent of the wetlands behind the proposed construction and whether my land is wet. A buffer line delineated on the application documents of fifty feet width indicates that intermediate wetlands exist beyond the buffer line; however, the extent and delineation of the wetlands are unknown. Additionally, the plans submitted are as of 9/9/96 when the plan was first submitted to this Board and may have been overtaken by natural events. My lands do not appear to be wet, there is no obvious stream or water gathering on them, although admittedly, one doesn't know until application based on engineering studies, what the DEP would require. However, even if my property is deemed irretrievably wet and unbuildable, it could still be put to recreational use. Taking away public access to my property immediately renders the property without any value at all. I therefore object to closing Albion Road, a Township road delineated on the master plan and transferring the vacated public property at no charge to applicant to my detriment. I have offered applicant to purchase said lands and was advised by applicant that he had no use for them and would not consider adjusting the plans to incorporate them nor would he consider approaching DEP for approvals. I have no objection to the project as such but I wish to be protected by this Board such that I do not land up high and dry or high and wet without

access. My suggestion is that the project be reconstituted and should follow existing Township roads going down Albion turning right on Ferndale and then turning right on Penbryn Street. This way I believe that applicant could be enabled, pursuant to DEP approval, to have five houses without use of public property, closing off existing roads and extinguishing property rights. I believe that it is not within the purview of this Board to close off a road recognized by the Master Plan nor transfer public lands for private gain to the detriment of the existing property owners who are thereby denied access to their properties. Vacation of the 'only public access would appear to be tantamount to a taking of the property and should be treated as such and subject to the regular requirements and procedures for condemnation. Approval should be sought of the Township Committee and/or by Court action."

Mr. Jackson said for the record that the letter that Mr. Banas received is the same letter that Mr. Wilschanski read into the record verbatim and that the members have not seen it and the chairman would not allow it into the record but now it is on the table. Mr. Shea agreed and said they do not wish to be argumentative and the gentleman's concerns are real but the facts are the maps are not from 1996, if you look at the revision dates they are updated to March 13, 2007. and if you look at sheet 1 of 3 they have identification from the NJDEP of an LOI from December 15, 2006 on this property, Mr. Jackson said right now the man has a route to his property, how can the board just disregard that? Mr. Flannery said he has a route he can walk, and he still has a route he can walk, and it shows on the plans (he pointed to exhibit A-2) to the northwest corner of the subject project, there are other paper streets that he can travel on to get to his property. The suggestion that they construct Ferndale and Penbryn Street, they are in the wetlands and they have been designated by the DEP as wetlands so they cannot do that. Unfortunately the man bought property that is in freshwater wetlands and he can use it for recreational purposes but there are alternative access to his property. This board does not make the decision of vacating the right of way, the Township Committee does. This board makes the decision if this makes good planning sense and Mr. Flannery submits that this application does. Mr. Shea stated they are not here to harm this gentlemen and if they were totally cutting him off from access they would help him any way they could. Mr. Banas was looking at sheet 1 of 4 (exhibit A-1) and asked if an individual walk across the paper street on Penbryn but cannot drive and asked what the width of the LOI was and was told by Mr. Flannery they don't locate it because it is hundreds of feet away, you establish the line closest to your property. The difference between the wetlands and the uplands are shown.

Mr. Banas asked Mr. Wilschanski if he indicated he wanted the paper street to remain and he said yes he would one day like to develop it and apply to the DEP and see what they say about it. It is not the end of the world, this is only intermediate wetlands, only a 50 ft. buffer. He is entitled to have access to this property. He bought it for development and he wants to develop it and thinks it is a nice piece of property. He is entitled to rely on a public road and not to have it given away for free to this applicant. Mr. Shea said it is not being given away, it is being developed, it cannot go to its' logical terminus point because it is wetlands. Mr. Banas asked for an opinion from Mr. Peters and Mr. Truscott and Mr. Peters stated he felt it was more of a legal issue as far as the access from an engineering standpoint there are paper streets the neighbor could access these wetlands through, the question about the level of wetlands, once the LOI is established saying this is wetlands and these are the buffers, it is very difficult to change the DEP's mind, as a prior applicant

knows who had to come back to the board because they were fighting with them for years over a hill they claimed was wetlands. He would be very surprised if the neighbor was to get a determination from the state that this is not wetlands after Mr. Flannery's office has received the LOI but the question of blocking off access to the property is more of a legal question than an engineering question. Mr. Truscott added if they were aware of this prior to the meeting they could overlay the mapping on the tax maps to see how this plays out but it appears that the property is in wetlands. There was a problem with the recording system so there was a delay for 3 minutes. When the meeting resumed Mr. Truscott continued and stated that there is another configuration that was semi-workable in possibly getting 4 lots but the downside is that one of the lots would be very constrained by wetlands and would only have dead end, not a cul de sac, but he is not suggesting the board go that way only saying there are alternatives.

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

Mr. Shea said this is the second time this application is in front of the board and he hopes they approve it again as it was originally done in 1996. This meets all the requirements of the DEP and they have an LOI and this gentleman agrees his property is wet and there is no merit in holding up their application. He has another opportunity at the governing level to present his case with his professionals. The alternative design is certainly not desirable to the applicant than the one that has been presented to the board.

Mr. Gatton had a question about the yes or no vote. He asked for clarification and Mr. Jackson stated they would have to go the Township Committee to get the street vacation and the application would be subject to that condition. Mr. Banas said what this board decides is if this is a workable plan.

**Motion was made by Gatton, seconded by Mr. Franklin, to approve the application**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

**6. SD # 1601 (VARIANCE REQUESTED)**  
**APPLICANT: NATHAN SCHLESSINGER**  
Location: Towers Street, east of Albert Avenue  
Block 855.03 Lot 30  
Minor Subdivision to create 3 lots

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 855.03, Lot 30 into three new lots. An existing single family dwelling is currently located on the proposed Lot 30.01, and a new dwelling is proposed on each of the proposed new Lots, 30.02 and 30.03. The property is situated on Towers Street, within the R-20 Zoning District. The applicant is requesting minimum lot width variances for each of the proposed Lots 30.01, 30.02, and 30.03; 96.5 ft are proposed where 100 ft are required. Ocean County Planning Board and Ocean County Soil Conservation District approval will be required. Evidence of approvals shall be made a condition of final subdivision approval. No driveway is proposed for the existing dwelling on new Lot 30.01. The applicant shall

revise the plan to address the required off-street parking. Proposed driveways are able to accommodate a minimum of four (4) off-street parking spaces have been provided on lots 30.02 and 30.03, no off street parking has been shown on Lot 30.01 The proposed residences will be serviced by individual septic systems. The applicant shall provide testimony on the nearest public water and sewer connection. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 12, 2007. The applicant seeks minor subdivision approval and associated variances to subdivide existing Lot 30 into three building lots. The parcel contains one single-family dwelling which will remain. The total area of the parcel is 1.5 acres. The property is located in an R-20 Zone on Towers Street between New Hampshire Avenue and Albert Avenue. Zoning for the tract and surrounding properties is R-20 (Residential). The surrounding land uses are residential in nature. This plan was reviewed at the September 4, 2007 Plan Review meeting, and the applicant has submitted a revised plat to address the Planning Board's comments. Single-family detached housing is a permitted use in the R-20 Zone. The applicant has requested the following variances: Minimum Lot Width: 100 feet required; 96.5 feet proposed for new Lots 30.01, 30.02 and 30.03. The positive and negative criteria for the required lot width variances should be addressed. The applicant should discuss the dimensions of the proposed lots in comparison with current lot sizes and uses in the surrounding area. A tax map exhibit of the surrounding area should be provided for the public hearing. The subdivision plat should be revised to show the correct building coverage, front, side, and rear yard setbacks. Parking for all proposed lots must comply with NJ RSIS standards. The zoning chart indicates that four parking spaces are proposed for each lot. Sidewalk and shade trees are proposed for all lots. The plat shows existing and proposed septic fields. Testimony should be provided addressing the sufficiency of the lot sizes for septic and potable wells. The applicant's engineer testified at the September 4th Plan Review meeting that the nearest water and sewer is approximately 1,500 feet from the subject parcel. The remaining comments are technical in nature.

Mrs. Weinstein Esq. appeared on behalf of the applicant with Mr. Carpenter as the engineer. Mr. Carpenter stated the storage shed and garage is to be demolished and the sf home is to remain. They are proposing to divide it into 3 equal building lots which will require variances for lot width. They agree to comply with the remaining comments in the letters from the professionals.

Mr. Banas opened the microphone to the public

Seeing no one, this portion was closed to the public

**Motion was made by Mr. Neiman, seconded by Mr. Fink, to approve the application with the stipulations from the professionals.**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Fink; yes, Mr. Gatton; yes

**7. SD # 1602 (VARIANCE REQUESTED)**  
**APPLICANT: FAIRMONT INVESTMENTS LLC**  
Location: Central Avenue, east of Irene Court  
Block 11 Lot 116.01  
Minor Subdivision to create 2 lots - 1 flag lot

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 11, Lot 116.01 into two lots. An existing 2 family dwelling is currently located on proposed Lot 116.02, and a single family dwelling is proposed on the new flag Lot 116.03. A portion of the existing dwelling on Lot 116.02 will be removed. The property is situated on New Central Avenue, within the R-15 Zoning District. The applicant is requesting the following variances for proposed Lot 116.02: Minimum lot width: 100 ft are required where 82.69 ft are proposed. Aggregate side yard setback: 25 ft are required where 21.36 are proposed. Ocean County Planning Board and Ocean County Soil Conservation District approvals will be required. Evidence of the approvals shall be made a condition of final subdivision approval. Sufficient space has been provided on each lot for four (4) off street parking spaces. The proposed residence will be serviced with public water and sewer line. The applicant indicates on the plan that the existing multi-family dwelling will be converted to a single family dwelling. The applicant should provide architectural plans for the conversion of the dwelling. The existing pool and portion of the existing dwelling which are labeled to be removed shall be removed prior to signature of the final plat, or a bond posted for the prompt removal of the pool. The proposed subdivision is adjacent to an existing commercial lot. The Board should determine if additional landscaping and/or fencing along the eastern side of the subdivision will be required. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 15, 2007. The applicant seeks minor subdivision approval and associated variances to subdivide existing Lot 116.01 into two lots. New Lot 116.02 will have frontage on New Central Avenue and new Lot 116.04 will be a flag lot with fee simple access from New Central Avenue. Existing Lot 116.01 contains a residential structure which will be converted to a single-family structure and remain. The surrounding uses are generally residential, with the exception of a school to the east on adjoining Lot 117. This application was discussed at the September 4, 2007 Plan Review meeting. The applicant has submitted revised plans addressing the comments of the Planning Board. Lot 116.01 is located in the R-15 Residential Zone. Detached, single-family residences are a permitted use in the zone. The application seeks two variances: Lot width of new Lot 116.02 will be 82.69 feet and the required lot width is 100 feet. The combined side yard setback of new Lot 116.02 will be 21.36 feet and the required minimum combined side yard setback is 25 feet. The positive and negative criteria should be addressed by the applicant. Section 805.G.5 provides the following criteria for creating flag lots: "Flag lots shall be created only in conjunction with an overall development plan of the entire tract of which the flag lot is a part and the applicant shall demonstrate a need, consistent with good planning principles, for the creation of the flag lot and shall further demonstrate that normal subdivision techniques are not practical because of topography, lot or land configurations or other physical characteristics or constraints of the land related to the proposed development concept." The applicant should be prepared to discuss with the Board how this application complies with the above requirements. The applicant has submitted an exhibit which identifies the location

of the residences on Lots 1.23 and 1.24 relative to the applicable property line of new Lot 116.03. The applicant should be prepared to identify the distance between the proposed residence (Lot 116.03) and the existing dwellings on the adjoining lots. At the September 4th Plan Review meeting, the Planning Board requested information concerning the finished floor elevation of the new residence on Lot 116.03. No information is provided on the plat. Based on the slope of Lot 116.03 toward Lots 1.24 and 1.25, the applicant should be prepared to address potential drainage issues. We defer to the Board Engineer's determination on this concern. The remaining comments are technical in nature.

Mr. Shea Esq. appeared on behalf of the applicant with Mr. Carpenter as the engineer. Mr. Carpenter stated the landscaping adjacent the property line of Lot 117, he said it is not a commercial lot but a synagogue/school and does not qualify as a commercial entity. They do have a double row of evergreen plantings along the property line between the 2 properties and he feels there is substantial buffering and there is also a 20 ft. wide distance between the property line and the other property line then you have an additional 11.28 ft. from the property line to the structure. They are putting in a variety of Leland Cypress and Arborvitae evergreens. Mr. Banas stated his concern is not on that side, but where are the homes on 1.24, directly north. Mr. Carpenter showed them a drawing that shows the existing dwelling that shows a NJAWCO pumping station to the right. Mr. Banas said with these screenings it appears they are putting up large trees and small trees, he says a large tree is fine, when it grows leaves and branches are above, but nothing below. Mr. Carpenter said the planting schedule (sheet 1 of 1) shows a plant list and some of the trees are 6-8 ft tall and some of the trees are 12 ft. Mr. Banas said white pine grows really broad and also catches debris and garbage and Mr. Shea said they applicant has no objection to substitution species to cover the lower canopy and Mr. Banas said that is what he is asking for. With regard to the planner report, if they subdivided this lot in the conventional method they would have 2 very long narrow lots 50 ft. wide over 300 ft. deep and based on the 25 combined setbacks they would end up with a 25 ft. wide house on a long lot and he feels that is not a good planning practice and the flag lot provides a more uniform building lot for both houses and they also want to keep the existing home. The existing house is currently a multi family home but they are stipulating it be converted and modified to a single family home consistent with the zoning district. They agree with the remaining comments in the planner's report. As far as the drainage, they have spoken to Mr. Peters and they are proposing a recharge system that will totally capture the roof runoff from the proposed dwellings so it will substantially lower the amount runoff preexisting versus post and feels it will not have any adverse effect on the adjacent lots 1.24 and 1.25.

Mr. Neiman wanted Mr. Carpenter to talk about the grading on that back lot. Mr. Carpenter said they would have to submit a plot grading to the engineering department and they are very stringent on how they are allowed to grade that lot and they have to go through another approval process for any dwelling on that lot. The goal is to minimize the effect on the adjacent properties. Mr. Franklin said you have a 30 ft. drop from the high point to the low point of this lot. Just the water in a hard rain will never go into the ground, it will go over the ground and the guy on the end will drown. Mr. Carpenter said if you look at the area now, it is all cleared, so if you take the roof run off they are reducing the run off from the site. Mr. Franklin said he would have to defer to the board engineer. There was discussion about the run off during a heavy rain and frozen ground and Mr. Carpenter said

that during the Plot Plan approval process they would have to address it and possibly terrace it. Mr. Peters said they did talk about recharging the roof water and he would have to check the calculations before he signs off on it.

Mr. Neiman said that when they do approve flag lots and they do have a variance, it is usually a 10 ft. variance from 90 ft. to 100 ft. They are asking for 18 ft here almost double what we grant, also there are 4 backyards affected here by this new lot and usually we don't grant flag lots when there are 4 lots looking into this one back yard. Mr. Carpenter questioned the 4 lots and Mr. Neiman said lots 1.23, 1.24 and the school. Mr. Shea said they would be happy to supplement the vegetation. They said the homes in the rear are also a considerable distance.

Mr. Banas opened the microphone to the public

Abraham Dickman, was sworn in. He owns house lot 1.23 which is one of the house affected and showed the pictures that he took. There are at least 5 houses that would be affected because it is on a hill. Because when you build a house on a hill the house is very large, the basement that is above ground, with the addition of a 30 ft. hill therefore the view that this house will have is not just one or two houses but 3,4 or 5 houses. Mr. Jackson asked him about his pictures and if he took them and if they were manipulated in any way. They were marked into evidence as Dickman 1 and Dickman 2. They were intended to show the hill and a house built next to the property to accurately show what the new house will also do the surrounding neighbors, more than just 2 neighbors. Mr. Banas asked with the buffer that the applicant is proposing, would that not protect the problem and give privacy and Mr. Dickman said he would rather not rake the leaves and you can still see houses through the trees. He said this originally went to the zoning board, the first time it was for more houses but he said the house was moved over more and was in a better location. He personally has had problems with the drainage on his own house because it is on clay and the water does not drain properly.

Bill Hobday, 30 Schoolhouse Lane was sworn in. He said when residents of Lakewood buy a home they have a reasonable expectation that if somebody comes in and asks the board for variances the board will take the neighbors into consideration the affect it will have on them. A house that will be on a level that will look down on all the other properties, seeing into the second story windows, he thinks that can't stand. They should have a reasonable expectation that the board will not allow a variance to be granted for a house to be built that is that much higher than the surrounding terrain and take into account that that neighborhood is pretty much built out and not put a flag lot that is going to devalue everyone else's property in the neighborhood and therefore asks this body to not even consider this.

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

Mr. Shea discussed the screening proposed and no one stated it was inadequate for Mr. Dickman's property nor the school's and if the applicant wanted to build the same home that Mr. Dickman presented to the board, center hall colonial, the rear yard setback is 20 feet and he could do that without permissions. He is not doing that, he is moving it forward, this is a 23,000 sf lot, and the front lot is 17,000 so these are oversized lots in the

R15 zone. This is exactly what Section 805g.5 was meant to address. Issues of drainage and screenage are appropriate for discussion and the boards' professional has given his opinion on the drainage. They can put evergreen for Mr. Dickman so he does not have to rake but to suggest that someone shouldn't put a house on a higher elevation of their lot simply because someone else is situated lower really conflicts with the development of every neighborhood he is familiar with. They can supplement with screening but there is no law that is an objection because you can see another house. Mr. Banas said his problem is the contours, he is worried about that water. Mr. Peters stated they have had some problems with other subdivisions where the front house is to remain as far as getting the sidewalk and curb installed, once he signs off on the plan the landowner who has created the subdivision is free to sell the rear lot the Township has no leverage to force the front lot owner to put in the sidewalk that has been requested by the board so he has requested the board make it a condition of the approval that a bond be posted prior to the signing of the final map to ensure the sidewalk and curbing will be installed. Mr. Banas thought it was in there and Mr. Peters said it was proposed but when it is 2 lot Minor Subdivision, the bond does not have to be posted until after it is signed and we have a hard time getting the sidewalk built.

**Motion was made by Mr. Banas, who stepped down from the chair to make the motion, to approve as submitted with all the items they discussed, but no one seconded. Mr. Banas returned to the chair.**

**Motion was made by Mr. Franklin, seconded by Mr. Fink, to Deny the application due the grading.**

**Mr. Shea withdrew the application before the vote without prejudice for resubmission.**

Mr. Banas suggested applications #17 & #18 be tabled because of the late hour.

**Item #18 – SD 1612 Congregation Zichron Schneur Inc. was tabled until December 11, 2007**

**Motion was made by Mr. Franklin, seconded by Mr. Neiman to table to December 11, 2007**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Fink; yes, Mr. Gatton; yes

**Item #17 – SD 1405A Gudz Road LLC**

**Motion was made by Mr. Franklin, seconded by Mr. Neiman to table to December 18, 2007**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Fink; yes, Mr. Gatton; yes

There was discussion because the 11th of December was Hanukkah so there may not be a quorum. Most members could not be at the meeting of the 11th. It was decided to check on room availability for the 18th

**Motion was made by Mr. Franklin seconded by Mr. Neiman to cancel the meeting of December 11, 2007 and re- schedule the meeting for December 18, 2007, if Ms. Johnson can secure a room. If a room is not available, they will re-notice.**

**ROLL CALL:** Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman;  
Mr. Fink; yes, Mr. Gatton; abstain

**Item #18 – SD 1612 Congregation Zichron Schneur Inc.** was tabled until December 18, 2007

Mrs. Weinstein questioned whether they needed to re notice and Mr. Jackson suggested they do because some people may have left.

He did make the announcement again so feels maybe they don't have to be re-noticed

**Item #17 – SD 1405A Gudz Road LLC was tabled to December 18, 2007**

No further notice is required.

**8. SD # 1604 (VARIANCE REQUESTED)**

**APPLICANT: YISRAEL SCHECTER**

Location: Monterey Court & South Monterey Circle  
Block 286 Lots 4 & 8

Minor Subdivision to create 3 lots

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 286, Lots 4 & 8 into three new lots. A two story dwelling is proposed on each of the new Lots 8.01 and 8.02. The existing 1 ½ story dwelling is to be removed from the new Lot 8.01. The existing 2 story dwelling located on new Lot 4.01 will remain. Lots 8.01 and 8.02 have frontages along Monterey Circle while Lot 4.01 is located along the South Monterey Court. The subdivision is situated in the R-12 zone. The applicant is requesting the following variance: Minimum lot area; Lots 8.01 and 8.02 propose 11,513 sf where 12,000 sf are required. Minimum lot width; Lot 4.01 proposes 85.12 ft where 90 ft are required. This is an existing condition. Outside agency approvals from Ocean County Planning Board and Ocean County Soil Conservation District are required. Evidence of the approvals shall be made a condition of final subdivision approval. The applicant shall provide testimony on final locations of the proposed septic fields and wells and what measurements are proposed to comply with NJAC standards for not providing required separation distances. Each of the proposed dwellings on Lots 8.01 and 8.02 are proposed with driveways that will accommodate four (4) cars. The applicant has proposed an 8' shade tree and sidewalk easement along the frontage of proposed Lot 8.02 and a 3' sidewalk easement along frontage of proposed Lot 8.01. The applicant shall provide testimony on why no shade trees have been proposed on Lot 8.01. In addition, the Planning Board should determine if a 6' shade tree and utility easement will be required along the South Monterey Court frontage of the property. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 25, 2007. The applicant seeks minor subdivision approval and associated variances to subdivide existing Lots 4 and 8 into three (3) non-conforming new lots. The parcel contains two single-family dwellings, one of which will remain. One new building lot is proposed. The total area of the property is 34,929 square feet (0.8 acres). The property is located in an R-12 Zone in the northern part of the Township. Zoning for the tract and surrounding properties is R-12 (Residential). The surrounding land uses are residential in nature. The applicant has submitted a revised plat addressing the comments of the Planning Board and its professionals at the September 4th Plan Review meeting. Single-family detached housing is a permitted use in the R-12 Zone. The applicant has requested the following variances: Minimum Lot Area: 12,000 square feet required: 11,513 square feet proposed (Lot 8.01); 11,351 square feet proposed (Lot 8.02); Minimum Lot Width: ninety (90) feet required; 85.12 feet proposed for Lot 4.01. This is an existing condition. The positive and negative criteria for the required lot area variances should be addressed. The applicant should discuss the dimensions of the proposed lots in comparison with current lot sizes and uses in the surrounding area. A tax map exhibit should be provided for the public hearing. Parking for all proposed lots must comply with NJ RSIS standards. Four (4) spaces are proposed for new Lot 8.02 and three (3) spaces for new Lot 8.01. Spaces are proposed in a stacked arrangement. The plat shows existing and proposed septic fields. In addition, testimony should be provided as to the sufficiency of the lot sizes and soil types for septic systems. Sidewalk is now shown along the frontage of both lots. The balance of the comments are technical in nature.

Mr. Doyle Esq. appeared on behalf of the applicant with Mr. Surmonte as the engineer. Mr. Doyle stated the Lakewood Environmental Commission has no objection to the plan as proposed. Mr. Surmonte said the property sits between Monterey Court and Monterey Circle and consists of Lots 4 & 8 which in total is 34,900 sf. They propose to create 3 lots, lot 4 to be conforming in area, lot 8 being subdivided to create 2 lots which would be 96% and 95% of what is required. With the exception of lots 11 & 18 lot 8 represents the largest lot within the Monterey Circle subdivision. Along Central Avenue most of the lots are between 9,000 and 11,000 sf and along Regent Drive the lots are between 8,000 and 11,000 sf. They feel this subdivision fits in the neighborhood and the lot width is existing because of the arc of the lots in the neighborhood. This provides an additional housing opportunity which is consistent with the Master Plan. They agree to comply with the comments in the engineers report. In creating these two lots they could not meet the 100 ft. horizontal separation between septic fields and wells in lot 8.01 where there is only 73 ft. is proposed for lot 4.01 and lot 8.02 where there is only an 85 ft. separation between the disposal field and the well. Knowing this early on they have already contacted the County Board of Health and given them the separations that are proposed and they have already given them an approval with a couple of encasement options for both of these wells indicated to rectify the deficiency situation with the separation. They will provide sufficient parking spaces per the RSIS and provided an 8 ft. shade tree and sidewalk easement along the frontage of proposed Lot 8.02 and a sidewalk easement along the frontage of proposed Lot 8.01. They did not propose shade trees on proposed Lot 8.01 because the septic field has to go in the front yard of that lot and they felt there would not be adequate separation between the limits of that disposal field and the shade trees. Mr. Banas asked what they were doing in lieu of that and Mr. Surmonte said they have not proposed anything. Mr. Surmonte said they could probably put a shade tree at the property line

separating the two proposed driveways. They will comply with the remainder of the items in the engineer's report. With respect to the planners report, the only issue is that they show sidewalks on both lots and they do show them on Monterey Circle and on the existing Lot 4 it is one of 3 pie shaped lots on South Monterey Court and there is a Block 285 Lot 1 owned by the Township which has sidewalk and the 3 houses do not have it. Mr. Banas said it was a good idea.

Mr. Gatton said the approval from the County Board of Health, was it written or verbal and Mr. Surmonte said just the well was approved, he did not submit the septic yet.

Mr. Banas opened the microphone to the public

Denise Novickij, 31 Monterey Circle was sworn in. She wanted the board to accept a petition and just found out they do not accept a petition but Mr. Banas suggested she hand it to Mr. Jackson to enter into the file. She testified the signatures were gotten in her presence. Monterey Circle is not a straight road and is a tight arc and the proposed subdivision is at the tightest part of the road. The neighbors and herself are very worried when anyone is backing out, there is no way for anyone to see this, it is a blind driveway. The other concern is the septic and water since they all have wells and they all have septic what is now a 2.5 bedroom home will be replaced by 1- 3bedroom and 1-4bedroom home some there will be 14 adults so the fact that the septic will not be 100 ft. from the wells is a concern. Traffic is another problem because this is a narrow street and they already have a problem in the western most entrance to Monterey Circle off Central because many autos park illegally there too close to the stop sign and the wrong way. Another concern is the trees, right now there is an approximate 50 year old maple tree that would have to be felled and the idea of what would be replacing it and the beauty of the street would be changed. School buses would have a more hazardous time with more cars parked. She feels this subdivision is not safe nor sound planning or developmental plan. Mr. Banas asked if she ever contacted the police department with regard to the parking problem and she said yes they have and had no resolution to it. She is Lot 6 and the school buses stop at Lots 16 & 17.

Mr. Hobday, 30 Schoolhouse Lane was sworn in. He said we are taking a conforming lot and making them non conforming, asking for variances and the more we raise the density in an area like this, especially one serviced with wells and septic the more diligent we have to be to ensure that this increased density is not going to overpower the existing system for the neighbors. There is a home on that lot that services a family, and when we want to put two homes on that same lot or subdivide that and possibly triple the residents that live there, you're exasperating the water system, the sewage system as well as the traffic in the neighborhood. Residents in Lakewood have reasons to believe that their built out neighborhoods are pretty much secure from in that what is there is there but when an applicant comes and asks for variances from the statutes you have to take into considerations that particular neighborhood, how it is configured today, the density they are in and how granting a variance to triple the population of this lot could affect all of those other homes and homeowners. He thinks it is unreasonable to expect that we would consider even tripling the population that lot because it would have an adverse effect on the neighbors in that neighborhood.

Yosef Oppen, 2 Rose Place or 76 Monterey Circle was sworn in. He saw the plans and loves them. The home on that lot is one of the older homes and new homes would aesthetically fit very well in and enhance the neighborhood.

Mark Engel, 59 Chicanos Drive was sworn in. He owns a property in the circle on 1052 Central Avenue and he knows the neighborhood and says it is an older neighborhood and upgrading the neighborhood is a good thing. The lots they are creating are similar to lots in the area.

Denise Novickij just wanted to state she has lived in Monterey Circle longer than the 2 people who just spoke and doesn't believe they need upgrading, her house is old but it is not ugly and most of the houses are in very good shape and are well kept and she takes issue with the statement that upgrading would be a benefit. We are hard working people who keep our lots in good shape and the appraiser said we are in an upgraded neighborhood.

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

Mr. Doyle asked Mr. Surmonte if this was the tightest part of the circle and Mr. Surmonte said the arc was uniform and consistent with the rest of the street. There are numerous lots in the area that were under 12,000 sf. which were depicted in blue on the map on display.

**Motion was made by Mr. Neiman, seconded by Mr. Herzl, to approve this application with the stipulations given by the professionals.**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**9. SD # 1489A (VARIANCE REQUESTED)**

**APPLICANT: CEDARBRIDGE DEVELOPMENT LLC**

Location: Pine Street- Boulevard of the Americas (Cedar Bridge Corp. Campus)  
Block 961.01 Lots 2.01, 2.02 & 2.03

Amended Preliminary & Final Major Subdivision – 4 lots

Mr. Peters stated the applicant is seeking amended Final Major Subdivision Approval to subdivide three existing lots into four new lots. No new construction has been proposed under this application. The site is part of the Cedarbridge Corporate Campus, located at the intersection of Pine Street and New Hampshire Avenue within the DA-1 Zone. It appears no bulk variances are required. Outside agency approval from Ocean County Planning Board is required. Evidence of the approval shall be made a condition of final approval. A 6' shade tree and utility easement is usually required to be dedicated to the township along the frontage of a proposed property. The board should determine if a shade tree and utility easement will be required. The applicant has removed the name for the proposed roadway. It is currently being referred to as Road 'A'. The applicant shall provide a named road to be approved by the Lakewood Zoning Secretary. A proposed

60' wide ROW for the proposed Road 'A' is shown on the plan to be dedicated to the township. The applicant shall provide testimony regarding when proposed Road 'A' will be built. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 12, 2007. The applicant is seeking amended final major subdivision approval to create four (4) new lots and a public right-of-way. The proposed subdivision is a reconfiguration of a lot layout previously approved by the Planning Board. The subject property is within the Cedar Bridge Corporate Campus and abuts New Hampshire Avenue. The tract is 17.5 acres in area. This application was discussed at the September 4, 2007 Plan Review meeting. The applicant has submitted a revised plat and correspondence to address the Planning Board's comment at the prior meeting. The site is located in the DA-1 Zone. No variances are requested. The purpose of the proposed subdivision is to provide separate lots for each of the office buildings and create a public roadway. The prior plat contained a private street. Stormwater and sanitary sewer easements were indicated on the prior subdivision plat (July, 2005); none are identified on the current plan. At the time of final site plan application, easements for stormwater management and sanitary sewer must be provided and filed with the County. The proposed lots will be subject to cross easements for stormwater management. The easement documents should be reviewed by the Board professionals. The applicant provided testimony at the Plan Review meeting that the proposed subdivision is consistent with the approved General Development Plan of the Corporate Campus. The remaining comments are technical in nature.

Mr. Shea Esq. appeared on behalf of the applicant. This is an amended final application simply by changing road "A" from a private road to a public right of way and by making it a public right of way we are creating a new independent lot to support one of the 3 buildings that were approved in a subsequent site plan application. Sheet 1 of the subdivision map is identified as Exhibit A-1 and A-2 is the approved Site Plan which is CE-6 prepared by Van Note Harvey Assoc. The meandering sidewalks that were discussed at the plan review meeting are still there the only thing changing is the roadway connecting Boulevard of the Americas to Pine Street is now public 3 independent lots with 3 independent buildings as opposed to where there were cross easements with 2 buildings sharing one lot.

Mr. Gatton asked if Road "A" has been approved by the Township Committee and Mr. Shea said yes.

Mr. Banas opened the microphone to the public

Seeing no one, this portion was closed to the public

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

**ROLL CALL:** Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

**10.SD # 1605 (VARIANCE REQUESTED)**

**APPLICANT: HARVEY HIRSCH**

Location: southeast corner of Cedar Row & W. County Line Road  
Block 25 Lot 58

Minor Subdivision to create 2 lots

Mr. Peters stated the Applicant is seeking Minor Subdivision Approval to subdivide Block 25, Lot 58 into two lots. An existing 2 story dwelling is currently located on the proposed Lot 58.01, and a new dwelling is proposed on the new Lot 58.02. The property is situated on County Line Road West, within the R-12 Zoning District. The applicant is requesting the following variances: Minimum lot area variances are requested for new Lots 58.01 and 58.02; 10,425 sf and 10,655 sf are proposed for the lots 58.01 and 58.02 respectively where 12,000 sf are required. A front yard setback variance is requested for new lot 58.01; 28.8 ft are proposed where 30 ft are required, this is an existing condition. The applicant shall revise the zoning schedule to show proposed and required setbacks for accessory structures within the property boundary. Ocean County Planning Board and Ocean County Soil Conservation District approvals will be required. Evidence of the approvals shall be made a condition of final subdivision approval. Adequate parking has been provided to accommodate a minimum of three (3) cars. The proposed residence will be serviced with public water and sewer. Curb and sidewalk exist along County Line Road West and Cedar Row at the frontage of the property. A 6' shade tree and utility easement dedicated to the Lakewood Township is existing along the frontages of the property. A note shall be added to the plans stating any damaged or deteriorated curb or sidewalk shall be replaced as directed by the Township Engineer. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated October 25, 2007. The applicant seeks minor subdivision approval and associated variances to subdivide existing Lot 58 into two (2) non-conforming new lots. The parcel contains one single-family dwelling which will remain. The total area of the property is 21,080 (0.48 acres) in area. The property is located in an R-12 Residential Zone in the northern part of the Township. Zoning for the tract and surrounding properties is R-12 (Residential). The surrounding land uses are generally residential. The applicant has submitted a revised plat addressing the comments of the Planning Board and its professionals at the September 4,, 2007 Plan Review meeting. Single-family detached housing is a permitted use in the R-12 Zone. The applicant has requested the following variances: Minimum Lot Area: 12,000 square feet required: 10,425 square feet proposed (Lot 58.01); 10,665 square feet proposed (Lot 58.02); Minimum front yard setback: 30 feet required; 28.8 feet proposed (Lot 58.01). This is an existing condition. The positive and negative criteria for the required lot area variances should be addressed. The applicant should discuss the dimensions of the proposed lots in comparison with current lot sizes and uses in the surrounding area. A tax map exhibit of the surrounding area should be provided for the public hearing. Parking for all proposed lots must comply with NJ RSIS standards. Three (3) spaces are proposed for each lot. Shade trees should be provided for new Lot 58.02. The balance of the comments are technical in nature.

Mr. Doyle Esq. appeared on behalf of the applicant with Mr. Flannery and Mr. Surmonte as the engineers. Mr. Flannery stated they can comply with the comments in the professional's letters and showed the reasons for the granting the variances and feels they are providing an opportunity for housing. They are taking a lot that is oversized and in an area where the various other lots in the area are similar with this subdivision. This subdivision will be consistent with what you see there now. Mr. Banas asked how many lots are undersized in that area and Mr. Flannery said there were dozens of them and most of the corner lots. Mr. Banas asked how many bedrooms are in the proposed homes and Mr. Surmonte said no plans were submitted for the homes but Mr. Banas suggested they at least put 4 parking spaces. Mr. Flannery agreed.

Mr. Banas opened the microphone to the public

Seeing no one, this portion was closed to the public

**Motion was made by Mr. Miller, seconded by Mr. Neiman, to approve**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; no

**11. SD # 1603 (VARIANCE REQUESTED)**

**APPLICANT: JOSEPH ROSENBAUM**

Location: River Avenue, between James Street & Edgemont Court  
Block 415 Lots 10, 11, 12

Preliminary & Final Major Subdivision for 7 duplex buildings

**Motion was made by Mr. Herzl, seconded by Mr. Neiman, to table to December 18, 2007**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**12. SD # 1606 (VARIANCE REQUESTED)**

**APPLICANT: A. ROTTENBERG/KEDMA INC.**

Location: 366 Ridge Avenue, west of Manetta Avenue  
Block 236 Lot 49

Minor Subdivision to create 2 lots

**Motion was made by Mr. Herzl, seconded by Mr. Neiman, to table to December 18, 2007**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**13.SP # 1874 (NO VARIANCE REQUESTED)**  
**APPLICANT: SARAELLA HOLDINGS LLC**  
Location: Cedarbridge Avenue @ corner of Airport Road  
Block 1160.12 Lot 261  
Preliminary & Final Site Plan for office, terminal and warehouse building

Tabled to January 8, 2008

**14.SD # 1609 (VARIANCE REQUESTED)**  
**APPLICANT: ALIZA JACOBOWITZ & BARBARA ZELINGER**  
Location: 11th Street, west of Princeton Avenue  
Block 150.06 Lots 17 & 18  
Minor Subdivision to adjust lot line

**Motion was made by Mr. Akerman, seconded by Mr. Herzl, to table to December 18, 2007**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**15.SD # 1610 (VARIANCE REQUESTED)**  
**APPLICANT: MOSES STERN**  
Location: Bruce Street @ corner of Pearl Street  
Block 248.02 Lots 31-34  
Minor Subdivision for 4 lots

Tabled to January 8, 2008

**16.SD # 1611 (NO VARIANCE REQUESTED)**  
**APPLICANT: DAVID FLAM**  
Location: southeast corner of Pearl Street & Bruce Street  
Block 246 Lots 47-50  
Minor Subdivision for 3 lots

Tabled to January 8, 2008

**17.SD # 1405A (NO VARIANCE REQUESTED)**  
**APPLICANT: GUDZ ROAD LLC**  
Location: Gudz Road, south of Miller Road  
Block 11.01 Lots 1 & 13  
Preliminary & Final Major Subdivision for 8 lots

Tabled to December 18, 2007

**18. SD # 1612 (NO VARIANCE REQUESTED)**  
**APPLICANT: CONGREGATION ZICHRON SCHNEUR INC.**  
Location: Oak Knoll Road between Case Road & Arbutus Road  
Block 24.01 Lots 19 & 62  
Minor Subdivision to create 2 lots

Tabled to December 18, 2007

## **19. ADOPTION OF 2007 PLANNING BOARD SCHEDULE**

**Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve the schedule**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

## **5. MEMORIALIZATION OF RESOLUTIONS**

**1. SD # 1590 (VARIANCE REQUESTED)**  
**APPLICANT: MOSHE & CHAYA FEINROTH**  
Location: Attaya Road, west of Miller Road  
Block 11.02 Lot 4  
Minor Subdivision to create 2 lots

**Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

**2. SD # 1595 (VARIANCE REQUESTED)**  
**APPLICANT: 53 WEST CROSS STREET JACKSON LLC**  
Location: West Cross Street, west of White Road  
Block 251 Lots 12, 13 & 13.01  
Preliminary & Final Major Subdivision – 6 lots

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**3. SD # 1597 (NO VARIANCE REQUESTED)**  
**APPLICANT: ELISA ROBBINS**  
Location: Oak Knoll Road, between Arbutus & Magnolia Drives  
Block 19 Lots 1 & 3  
Minor Subdivision to create 2 lots

**Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**4. SP # 1871 (NO VARIANCE REQUESTED)**  
**APPLICANT: W & M REALTY LLC**  
Location: 410 Monmouth Avenue @ northwest corner of 4th Street  
Block 128 Lot 7  
Preliminary and Final Site Plan to construct a 5 story building with retail/office use

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**5. SP # 1630A (NO VARIANCE REQUESTED)**  
**APPLICANT: PARKWAY 70 ASSOCIATES**  
Location: Route 70 @ northeast corner of Airport Road  
Block 1160.01 Lot 253  
Amended Preliminary and Final Major Site Plan to construct 2 commercial buildings

**Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**6. SD # 1531A (VARIANCE REQUESTED)**  
**APPLICANT: ASTRID JANE DECICCO**  
Location: Cross Street, west of Massachusetts Avenue  
Block 468 Lots 7, 8, 9  
Minor Subdivision to create two conforming lots

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

**7. SD # 1366C (NO VARIANCE REQUESTED)**  
**APPLICANT: RALPH CLAYTON & SONS – JULE ESTATES**  
Location: Gudz Road and Lakewood New Egypt Road  
Block 11.05 Lots 13-17,19, 19.01, 84 & 85  
Preliminary & Final Major Subdivision – 36 lots

Tabled

**8. SD # 1567A (VARIANCE REQUESTED)**  
**APPLICANT: KELLI DALRYMPLE**  
Location: Whitesville Road and Lafayette Boulevard  
Block 252 Lot 4.02  
Extension or previously approved Minor Subdivision to create two lots

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

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; abstain

## **6. CORRESPONDENCE**

-None at this time

## **7. PUBLIC PORTION**

- None at this time

Mr. Jackson suggested the board direct the board secretary to put the bid requests on the town's website and to direct the planning board attorney to facilitate that. It needs to be advertised and the deadline should be December 28, 2007

**Motion was made by Mr. Neiman, seconded by Mr. Franklin to make the bid deadline posted on the township's website and the deadline be December 28, 2007. This is for the Planning Board Engineer, Planning Board Planner and Planning Board Attorney.**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

## **8. APPROVAL OF MINUTES**

- Minutes from October 23, 2007 Planning Board Meeting
- Minutes from October 30, 2007 Special Planning Board Meeting
- Minutes from November 13, 2007 Plan Review Meeting

**Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

Mr. Banas wanted to speak about the Somerset Property at Fairways. Mr. Jackson said if they were going to cure that so there wouldn't be any issues, they would have to have it on again at a workshop. There was an issue that was raised regarding whether there was a quorum present for that. The best thing to do might be to do it over. Mr. Banas asked when were they coming back and Ms. Johnson said they are scheduled to come back to the public hearing on January 8, 2008 and the next Plan Review Meeting is January 15th, 2008. The board was confused and Mr. Neiman asked if it was when he left. Mr. Banas explained the circumstances that 5 board members were present and he did not realize that Mr. Gatton is a resident of Fairways and this expansion was in Fairways. He did not recuse himself (he interjected it was on the advice of legal counsel) and as a result he sat on the board and when he voted he abstained. Did we have a quorum or didn't we? Mr. Jackson said that is a different story, it depends on the reason for the abstention is, he made no comments. Mr. Jackson said the abstention is counted towards the majority unless the abstention is a disqualifying abstention. Mr. Gatton said he abstained because he had legal counsel who told him to abstain and Mr. Jackson said he agreed. Mr. Jackson is trying to figure out if that makes it a disqualifying abstention or not. He feels it is a close call and said maybe they should just come back. Mr. Neiman said for a technical meeting you do not need a quorum if you are just putting them to the next meeting. Mr. Banas said past practice has been to always have a quorum or else they would not have waited in excess of 45 minutes for members to appear to make a quorum. The homeowners association is the interested party more than the resident in this case so it is not as definitive. Mr. Jackson said since this is a gray area and an isolated incident, he doesn't think the applicant will have a problem coming back to a workshop, it will be a 2-3 week delay. Mr. Jackson said he would write the letter and take the blame. It is not Mr. Gatton's fault. Mr. Banas said they would not appear on the meeting of the 8th of January but on the 15th of January. Ms. Johnson said there is a potential problem with the remainder of the applications that were heard without a quorum and the only items heard with a quorum were items #1 and #2. They were all moved to the meeting of the 8th of January. Mr. Jackson said he would have an answer by the 18th after he spoke with Mr. Secare.

Mr. Jackson said this was his legal analysis was on this. There is a statute that says that a planning board may delegate to a subcommittee of the board decisions that are not actioned by the board and in many municipalities that is what is done. In Monmouth County they had Judge Lawson had 3 workshops, 2 were advertised and one was not, and since one was not it was a sunshine law violation and it didn't fall under the exception. Our situation was advertised, satisfies the sunshine law, the board did not take formal action, it is a dedicated subcommittee of the planning board; in fact the decision at the plan review process is not binding on the board or public or applicant. In his view it is not necessary to have a quorum present. Mr. Banas said that poses another problem; not too long ago a full board was denying the advancement of applications to a public hearing and they were chastised in terms of that move whereby everyone has an opportunity to fail. If the plans are in decent shape, you move them along.

## **9. APPROVAL OF BILLS**

**Motion was made by Mr. Neiman, seconded by Mr. Franklin to approve**

**ROLL CALL:** Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes, Mr. Gatton; yes

## **10. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Chris Johnson  
Planning Board Recording Secretary