

- 5. SD 2103 Naftali Falk**
Albert Avenue Block 1159, Lots 58 & 59
Preliminary and Final Major Subdivision to create four lots

Mrs. Morris indicated that there were additional details of the project that needed to be clarified in the resolution and as such recommended tabling it until the May 3, 2016, meeting.

5. ORDINANCE FOR DISCUSSION

- Section 18-902, R-10A Maximum Building Coverage

Mrs. Morris introduced the ordinance and stated that the other residential zones had an increase in building coverage of 5% back in 2014. As the R-10A zone was a newly created zone, it was overlooked and not included in that ordinance. She believes it was an error and that the subject ordinance would just be correcting that oversight.

Mr. Neiman stated that he was familiar with the situation and that Mrs. Morris's description seemed accurate. He stated that he knew Mr. Flannery was familiar with the proposed ordinance and asked him to give a brief description as well.

Mr. Flannery stated that Ally's summary was correct. This ordinance would bring the permitted building coverage percentage for the R-10A zone to that of the RM and R-7.5 zones. It is intended to permit for the additional coverage calculated when the front porch or side basement entrances are covered.

The Board was unanimously in favor of the proposed ordinance and directed Mrs. Morris to send a letter to the Committee indicating the same.

6. PUBLIC HEARING

- 1. SP 2166 New Jersey Natural Gas Company**
Vassar Avenue Block 1601, Lot 1
Preliminary and Final Major Site Plan for a warehouse addition

A review letter prepared by Remington, Vernick & Vena Engineers dated February 25, 2016, was entered as an exhibit.

Mr. Vogt summarized the variances as follows: There is an existing front setback variance that has been affirmed by the Lakewood Industrial Commission. An existing free-standing sign may require relief, and the applicant should provide testimony regarding the same. Otherwise the application is fully conforming.

Ms. Nancy Skidmore, Esquire, appeared on behalf of the applicant. She stated that the front yard setback variance was noticed and approved by the Industrial Commission. They also noticed for the sign variances, which is an existing sign, as referenced in Mr. Vogt's letter, including setback sign area, and sign height. Mr. Neiman questioned the number of on-site parking spaces and whether or not a variance was required. Ms. Skidmore stated that there is sufficient on-site parking per ordinance requirements and that they do not require a variance. Ms. Skidmore presented Mr. Russell Cipolla, the project engineer. Mr. Cipolla sworn in and confirmed that the existing parking is 199 spaces, reduced to 197 and then to 189, which is still over the 154 required spaces. He indicated that the addition is for strictly warehouse space and therefore no additional

parking spaces are warranted by it. They are losing a few spaces due to the proposed site changes, however still have enough on site to comply with ordinance requirements.

Mr. Neiman opened to the public for comment. Seeing none, he closed it to the public.

A motion was made by Mr. Flancbaum and seconded by Mr. Hibberson to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum

Abstain:

2. SD 2120 Mordechai Eichorn

Oak Street

Block 855.06, Lots 24, 24.01, & 27

Minor Subdivision to create six lots

A review letter prepared by Remington, Vernick & Vena Engineers dated April 7, 2016, was entered as an exhibit.

Mr. Vogt summarized the variances as follows: Lot area variances are required for 15,000 square foot lots where 20,000 square feet is required. Lot width variances are also required, as well as some possible waivers. Lastly, there are some design details for the roadway that need to be worked out during compliance if the Board acts favorably.

Mr. Adam Pfeffer appeared on behalf of the applicant. He presented the testimony of Brian Flannery, P.E. and P.P., and Mr. Graham Macfarlane, P.E., who were both sworn in. Mr. Flannery indicated that project is located just west of New Hampshire Avenue on Oak Street, near the R-10A and Oak Street school areas as well as near the townhouses currently under construction. He said this is the R-20 area that is kind of isolated between Pine and Salem Streets. He presented an exhibit showing all of the R-7.5 lots in the area. Oak Street is like an extension of the Oak Street Core, the street is different than other residential streets. Mr. Neiman stated that the area is in need of redevelopment, Mr. Flannery agreed. Mr. Flannery pointed out that the Albert area neighbors would certainly show up if they were against the application and they are not here. The history of the Board has requested a minimum of 75' wide lots which is what they based this design on. Mr. Flannery said he could state all of the Master Plan and Smart Growth Plan references that are in support of the lot area variance if the Board was interested, as well as the Municipal Land Use Law.

Mr. Neiman opened to the public for comment. Seeing none, he closed it to the public.

Mr. Flannery said that with regards to some comments about the improvements in Terry's review letter they agree to work with him during compliance to figure that all out.

A motion was made by Mr. Flancbaum and seconded by Mr. Hibberson to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Flancbaum

Abstain:

heard and has a complete application and they would like to move forward with their presentation. Clearly the layout is for a private roadway and not flag lots. Mr. Liston can speak when the floor is opened to the public.

Mr. Neiman asked if the private roadway area was included in the 11,000 square foot lot areas. Mr. Pfeffer said he'd like to swear in his professional and present his case. Mr. Liston disagreed and said everybody's time is being wasted if the Board doesn't have jurisdiction.

Mr. Neiman asked Mr. Vogt for his opinion on the layout and jurisdiction. Mr. Vogt deferred to Mr. Jackson. Mr. Jackson stated that he disagrees with Mr. Liston, and that he sees nothing in the Municipal Land Use Law (40:55D70) about Zoning Board powers that would give the Zoning Board jurisdiction over lot configuration nor a definition of a lot configuration as a "use" on the property per se, these are dimensional variances also known as C variances. Regardless of what the UDO says the Municipal Land Use Law clearly trumps that, and that he feels this application, whether flag lots or not, is before the correct Board.

Mr. Lines appeared and was sworn in. Mr. Lines stated that the property is on New Central Avenue and has been set up for 4 lots with about 11,250 square feet which is slightly under the 12,000 square foot requirement. There is a shared access easement with an RSIS qualifying roadway on the east side. He says the definition by RSIS is actually a "rural lane" but as the Township doesn't want it they've kept it as a private roadway. As far as a D variance, he agrees with John that a D variance is not required. They do require a variance for not fronting on a public street.

Mr. Neiman stated that in the past when the Board had allowed private streets they did not include the roadway area in the lot square footage. You can't have it both ways. Mr. Lines disagreed and said he has presented several applications similar to this. Mr. Neiman said you have two issues here, the lot areas and the flag lot issue.

Mr. Pfeffer stated this is not a flag lot because they have created a private road and in a typical flag lot you have one house facing the back of another whereas all of these will front on the private roadway. Mr. Lines said it won't look like flag lots, it will be a 32' wide roadway with sidewalk on one side.

Mr. Neiman asked again how this is different from typical flag lots. Mr. Lines said the typical flag lot has one house in the back with a long narrow driveway, with both sides of the driveway landscaped to create a 20' alleyway to the house in the rear. Driving by this subdivision, however, no one will know who owns the road and it will look just like any other road in town.

Mr. Jackson asked about density and what happens to the density if the roadway is created as a separate lot. Mr. Lines said they would lose about 2,000 square feet on the two center lots and a few hundred on the rear lot so they would be closer to 10,000 square foot lots. Mr. Neiman said they would be about 9,500 square feet versus an R-12.

MR. Jackson asked what's on either side of this property or how else it could be used. What would happen if you had to develop this property and the Board did not approve this configuration?

Mr. Lines said one of the reasons the Township decided to go with flag lots is because no one likes the way Princess Court, across the street, looks. The Township doesn't want those little cul-de-sacs, they at one point preferred flag lots. Mr. Jackson asked is this a good way to use this property? What purposes of the Municipal Land Use Law are being advanced by this configuration? Mr. Lines said they have 4 houses shown on this lot whereas right now you only have one. It is a very deep lot. Otherwise they would be here with a minor

subdivision for two 75' wide lots with smaller houses. Mr. Jackson said so you think this configuration provides more houses, Mr. Lines said yes.

Mr. Franklin said he doesn't see a drainage plan. There's an entire road and no drainage plan. Mr. Lines said they are proposing recharge. Mr. Franklin said well you have to show it. It's not on here.

Mr. Pfeffer said in response to Mr. Jackson's question, the property could also be used as a school and would probably be developed that way.

Mr. Franklin said he still has concerns about the drainage. Mr. Lines said they would address it during compliance. Mr. Franklin said it should be shown on the plans now. Terry said there are a number of technical comments in the letter which are usually worked out during compliance. Mr. Lines said they had no issue with Terry's letter or comments. Terry stated he believes the concept is feasible but it has to be finalized during compliance.

Mr. Lines said Mr. Grunberger had a question as to what is next door. Mr. Lines said it is another lot like this about 600 feet deep.

Mr. Liston asked if the applicant had attempted to acquire that property from the neighbor. Mr. Jackson said he has no obligation to do that because this is not an isolated lot. Mr. Liston disagreed.

Mr. Liston questioned Mr. Lines regarding the number of variances that would be required for 2 lots fronting on New Central versus the 4 lots as configured now. Mr. Lines stated that two variances would be required for the 2 lots, width and side setbacks, and two are required as proposed now, frontage on a public street and lot area. Mr. Liston said we have 2 variances versus 2 variances, all of them being C variances except for the not fronting on a public street variance, which is one that only the Board of Adjustment can grant except when in conjunction with a subdivision. Mr. Lines said that is correct. Mr. Lines said if we modified this subdivision we could get a cul-de-sac with three lots. Mr. Neiman and Mr. Flancbaum both stated maybe that would look nicer and would be a better use of the property.

Mr. Liston said this is overdevelopment of the property and the application isn't even complete. You really want to know how the drainage is going to work before you act on it. Mr. Lines confirmed a waiver was requested from providing drainage design at the tech meeting.

Mr. Liston introduced his Planner, Andrew Thomas, who appeared and was sworn in. He stated that he visited the site and prepared exhibits of the surrounding area. Mr. Thomas discussed his exhibits and the visual flag lot appearance to the lots. He referenced 18-805G1 of the ordinance which states that flag lots shall not be permitted in any residential zoning district. Even when flag lots were permitted, the flag staff was excluded from the lot area calculation. This applicant is not doing that. The lots are about 11,250 square feet, already undersized, and if you take out the easement portion they become 8,450 square feet or about 70% of what is required. Mr. Liston asked Mr. Thomas about the planning rationale for public street access. Mr. Thomas cited package vehicle deliveries, equipment for snow plowing, garbage pick-up, etc. In this case the garbage cans are all going to have to be brought all the way down to New Central Avenue. Mr. Liston asked Mr. Thomas if this proposed is consistent with the neighborhood. Mr. Thomas said the neighborhood is all on public cul-de-sacs, so no. Mr. Liston asked if this would be a positive or negative impact on the neighborhood. Mr. Thomas said it would be detrimental. The setbacks, lot sizes, and method of development are not consistent.

Mr. Neiman opened to the public for comment. Zvi Rottenberg, 1424 Towers Street, appeared and was sworn in. He said the lots in the area require 12,000 and he's asking for 11,250, it's a minor subdivision. It's not going

