

## 1. CERTIFICATION OF COMPLIANCE

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

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

## 2. ROLL CALL

Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Neiman, Mr. Cautillo

## 3. SWEARING IN OF PROFESSIONALS

Mr. Terence M. Vogt, P.E., P.P., C.M.E. was sworn in.

## 4. MEMORIALIZATION OF RESOLUTIONS

### 1. SD 2140 Yeshaya Ackerman

Ann Court Block 187, Lots 84 & 100.05  
Minor Subdivision to realign lot lines

A motion was made and seconded to approve the resolution.  
All were in favor.

### 2. SP 2170 Ketan Mehta

Route 70 Block 1160.01, Lot 256.02  
Preliminary and Final Major Site Plan for a hotel

A motion was made and seconded to approve the resolution.  
All were in favor.

### 3. SD 2125 Mark Properties, LLC

Providence Avenue Block 1051.09, Lot 4  
Preliminary and Final Major Subdivision to create 5 lots

A motion was made and seconded to approve the resolution.  
All were in favor.

### 4. SP 2176 Cedarbridge Equity, LLC

Boulevard of the Americas Block 961, Lot 2.01  
Preliminary and Final Major Site Plan and Minor Subdivision for an office building

A motion was made and seconded to approve the resolution.  
All were in favor.

- 5. SD 2135 Congregation Kol Aryeh of Lakewood, Inc.**  
Hope Chapel Road Block 26, Lots 8 & 8.01  
Preliminary and Final Major Subdivision to create 3 lots and a cul-de-sac

A motion was made and seconded to approve the resolution.  
All were in favor.

- 6. SP 2180 Congregation Somerset Walk**  
Canary Drive Block 830 & 830.04, Lots 1.06 & 30.01  
Preliminary and Final Major Site Plan for an addition to an existing synagogue

A motion was made and seconded to approve the resolution.  
All were in favor.

- 7. SD 2136 Aaron Finkelstein**  
Somerset Ave Block 189.31, Lot 153  
Minor Subdivision to create 2 lots

A motion was made and seconded to approve the resolution.  
All were in favor.

- 8. SD 2123 Thomas Rosenberg**  
Highgrove Crescent Block 223, Lots 4 & 83.03  
Minor Subdivision to create 3 lots

A motion was made and seconded to approve the resolution.  
All were in favor.

- 9. SP 2062 Yeshiva Ruach Hatorah**  
Ridge Avenue Block 189.03, Lot 35  
Extension of a Preliminary and Final Major Site Plan for a school campus

A motion was made and seconded to approve the resolution.  
All were in favor.

- 10. SD 2076 Joan Hertz**  
Miller Road Block 11.01, Lots 3.01 & 4.08  
Extension of a Minor Subdivision to realign lot lines

A motion was made and seconded to approve the resolution.  
All were in favor.

- 11. SD 2051 Lakewood Associates, LP**  
New Hampshire Avenue Block 1600, Lot 5  
Extension of a Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**12. SD 2078 Nathan Lowinger**

Park Terrace Block 208, Lot 152  
Extension of a Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**13. SD 1977 Shimshon Bandman**

Linden Avenue Block 189.01, Lot 189  
Extension of a Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**14. SD 2028 Michael & Rivka Wenger**

Princeton Avenue Block 147, Lot 1  
Extension of a Minor Subdivision to create two fee-simple duplex lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**15. SD 1963 Nachman Taub**

Read Place Block 855.02, Lot 26  
Extension of a Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**16. SD 1949 Aaron Finkelstein**

Congress Street & Bruce Street Block 250, Lots 2-5  
Extension of a Minor Subdivision to create six fee-simple duplex lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**17. SD 1983 Hendi Friedman**

Towers Street Block 855.03, Lot 25  
Extension of a Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.  
All were in favor.

**18. SD 2063 Eli Schwab**

Joe Parker Road Block 189.16, Lot 157  
Extension of a Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.  
All were in favor.

- 19. SP 2192 Lakewood Industrial Commission**  
Airport Road Block 1160, Lots 220, 242, & 246  
Courtesy site plan review

A motion was made and seconded to approve the resolution.  
All were in favor.

- 20. SD 2049 Paramount Developers**  
Ridge Avenue Block 223, Lots 89 & 90  
Vacation of approval

Mr. Jackson said an objector appealed the decision in court. The applicant, as a party in that case, did not file an answer. He spoke to the applicant and attorney and he was told they were not going to file an answer. The objector's attorney argued that since the applicant did not file an answer, then they win the case. Mr. Jackson told them that is not exactly true because it is still a board's approval but if the applicant doesn't care then he doesn't know why he is going to put the taxpayers resources into defending an approval when the applicant doesn't want to go to court and doesn't seem to have an interest in it. The court said to prepare a resolution where the board effectively says they are not going to defend this, it is up to the applicant.

Mr. Neiman said he remembers this application. A private cul-de-sac with 5 units was proposed and they had to bring all of the garbage cans up to Ridge Avenue. At the first meeting, there were a lot of objectors. At the second meeting, there were no objectors. Afterwards, they were told that the neighbors didn't even know about it so they went to court to fight the approval. He is fine with making this application null and void.

Mr. Jackson said the resolution basically says that the board is vacating the approval. A copy was sent to the applicant and they are not present now to object.

A motion was made and seconded to approve the resolution.  
All were in favor.

## **5. ORDINANCE FOR DISCUSSION**

- **Adoption of updated Zoning Map: zoning changes made from 2006 through present**

Mrs. Morris said this ordinance is basically a formality. It is not proposing any changes to the code aside from the fact that the Township Committee is adopting the newest version of the zone map. The zone map is not proposing any zone changes. The adoption of a zone map, as far as she understands, does not legally change any zones, however, the formal township zone map that was available to the public hadn't been updated since 2006. It has now been updated by Remington & Vernick Engineers to represent all of the zone changes that had been done over the years by the Township Committee since 2006. She said if there are errors on it, they are changed as an error only. Legally, that would not change any zone designations, the Township Committee would have to do that. This is just the physical depiction that is offered to the public for their reference.

A motion was made and seconded recommending adoption of the updated zoning map by the Township Committee.  
All were in favor.

## 6. CORRESPONDENCE

- **SP 2059AA** – request to utilize synagogue full time rather than weekends only as originally proposed

The applicant did not notice, therefore, this item will not be heard tonight.

- **SP 2080** – request to place generator and pad on previously approved site

Mr. Abe Auerbach said it is a 30 ft side yard setback. The generator is about 7 ft x 18 ft and they wanted to keep it 10 ft. It is not a structure but the Township engineer suggested this be heard under correspondence.

Mr. Jackson said if a generator is not defined as an accessory structure that needs a setback, that is the zoning officer's call. The Board does not really have authority but the Board can act on it.

Mr. Franklin pointed out that generators are very noisy. He is concerned about any futures neighbors.

Mr. Auerbach said the MUA has wells on that property so there won't be anyone building there.

Mr. Neiman asked if it would obstruct the road at all.

Mr. Auerbach said no. It is on the side of the building where there is no connecting driveway. If the board insists, he can bring it within 30 ft but when it is on, it will really interfere with operations of the building.

Mr. Vogt said he doesn't have an issue but the applicant should be aware that they will be subject to the New Jersey Noise Statute which basically indicates it can only be so many decibels. He suggested looking into soundproofing.

A motion was made and seconded to approve.  
All were in favor.

Mr. Herzl arrived at the meeting.

## 7. PUBLIC HEARING ITEMS

1. **SD 2138 10 James Street Associates, LLC**  
James Street Block 416, Lots 5-7  
Minor Subdivision to create 4 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated June 2, 2016 was entered as an exhibit.

Mr. Vogt said a variance is requested for side yard setback.

Mr. John Doyle, Esq. said a similar application was approved by this board across the street. The pair of zero lot line properties would easily have combined areas of over 12,000 sf in accordance with ordinance requirements. Public water and sewer will be extended. The only variance requested is a 9.5 ft side yard setback whereas 10 ft is required.

Mr. Frenkel was sworn in. He said he wants to provide a nice 28 ft wide unit for the consumer. He has no personal gain over half a foot.

Mr. Grunberger argued as to why the variance is needed.

Mr. Frenkel said as a general rule, he does not ask for variances but this is strictly for the benefit of the consumer. He can easily sell the house without the variance.

Mr. Grunberger said he drives by this street very often and a lot of times it is backed up from Route 9. He doesn't believe duplexes fit here. He asked if the basements will be rented out.

Mr. Frenkel said he sells the unit as one unit.

Mr. Neiman said most likely as the basements can be legally rented out.

Mr. Jackson said duplexes are allowed but the question is if there is a reason under the Municipal Land Use Law for it to be 6 inches wider than what the ordinance allows. Under C-1, the applicant must demonstrate a hardship or under C-2, have they shown that this would advance the purposes of the MLUL then you have to balance the various interests. He is guessing the applicant is seeking a variance under C-2 but the board can say no, they have shown no good reason why the variance is needed.

Mr. Doyle said it is accurate that the variance for the 6 inch granted across the street for several duplex units and it is correct that by granting it, the board found that the benefits outweigh the detriments. The benefit would be a larger house which makes for a better living unit.

Mr. Frenkel said they are not making the house larger, they are just slightly widening it.

Mr. Doyle asked if there is any detriment to having this slightly wider unit.

Mr. Frenkel said in his opinion, none at all.

Mr. Neiman opened to the public.

Mr. Abraham J. Leiser was sworn in. He said this applicant was already approved for 4 duplexes across the street which he never received notice for. He said James Street is a very busy road as it has become a major thoroughfare between Route 9 and Williams Street. Because of that, the block is very congested and it is very hard to get out of the driveways. He is concerned about having sufficient parking and understands the applicant is proposing 4 spaces per unit and he is also planning on making a circular driveway which he would like to thank him for. However, he feels that it is insufficient and taking into account the fact that the lots are extremely deep lots, they would like to request the houses be set back a little bit more and that 6 spaces per lot be provided. The street cannot handle any overflow and there is no question there is going to be a major parking issue on this block once this construction is done.

Mr. Neiman asked if parking is allowed on both sides of James Street.

Mr. Leiser said yes. There were only 4 single family homes between this lot and the lot across the street. Now because of this construction, 24 families will be living here. On their block they had a total of 18 houses, now due to this construction, 38 units are proposed. Additionally, he would like to request that no more than 1 basement be allowed. He asked that the AC units be moved from the side to the back of the houses instead of being right under his bedroom window. He also asked for a privacy fence along his side. Stormwater should also be addressed.

Mr. Neiman understands as he passes by there a lot. He acknowledges that it is very crowded there. He is surprised parking is allowed on James Street before the light. At the end of the day, the way the ordinance is written and the way the zoning is, duplexes on 12,000 sf lots are permitted. A few of the things proposed by Mr. Leiser do make since, the 6 spaces per unit, a circular driveway, moving the AC units, a privacy fence. These are all valid concerns that the Planning Board can address and will take all of it into consideration if they do grant an approval.

Mr. Neiman closed to the public.

Mr. Doyle said a circular driveway was dictated by Ocean County because James Street is a County road. He believes there is already an existing fence.

Mr. Neiman asked if they could move the houses back a bit in order to add more parking.

Mr. Doyle said the applicant agrees with that.

Mr. Neiman said just a bit as there will be a tenant in the basement as well and there is no room on the street to park. Fitting in another 1 or 2 cars will make a big difference.

Mr. Doyle said they would move the units back 18 feet.

Mr. Leiser said the existing fence is falling down and it doesn't go around the whole property.

Mr. Doyle said that is Mr. Leiser's fence.

A motion was made and seconded to the approve the application. The motion includes the side yard setback variance, 6 parking spaces per unit, privacy fence and the AC units shall be moved to the rear.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Herzl, Mr. Neiman, Mr. Cautillo

No: Mr. Hibberson

**2. SP 2181 River 1161, LLC**

River Avenue

Block 1064, Lot 4

Preliminary and Final Major Site Plan for an addition to an existing grocery store

Applicant has requested to carry this item to a future meeting date. This application will not be heard.

A motion was made and seconded to carry this application to the August 15, 2016 meeting.

All were in favor.

**3. SP 2190AA Bais Medrash of Medina Road Inc**

Medina Road

Block 189.07, Lot 4

Change of Use/Site Plan Exemption to convert and existing house into a synagogue

A review letter prepared by Remington, Vernick & Vena Engineers dated July 14, 2016 was entered as an exhibit.

Mr. Vogt stated that no variances are requested, however, relief from the perimeter buffer is necessary.

Mr. Moishe Klein, Esq. said this is an application for a change of use for an existing residence to be converted into a house of worship. The sanctuary will be less than 800 sf. The intention at this point is that no changes will be made to the exterior of the home in order to keep it with the residential look so that it blends in.

Mr. Neiman asked if this will be a weekday shul or a Shabbos shul.

Mr. Klein said there is no synagogues in this area. This is really just intended to serve this small, immediate neighborhood. The shul is intended to be used only on the weekends.

Mr. Neiman said parking is not required as the sanctuary is less than 800 sf and the shul will only be used for Shabbos so no one will be driving.

Mr. Cautillo asked how many members are in this synagogue.

Mr. Klein said about 25.

Mr. Nicholas Graviano, P.P. was sworn in. He said this is somewhat of an island in the middle of various neighborhoods that do not provide the needs for this existing community. Parking is not required as the main sanctuary space is less than 800 sf. The applicant has proposed a row of arborvitae around the property to screen this proposed use from the neighbors. From day one, the applicant requested that they keep this building as residential looking as possible. The applicant wanted to keep the facade appearance to blend in and not create an eyesore within the community. The applicant will provide facade enhancements in order to spruce up the property. Regarding the ADA accessibility, the building is at grade. ADA access will be provided to the building quite easily. This property is not served by private well and septic, there is public water and sewer on site. The applicant does require existing condition variances as well as the buffer variances. All of the proposed variances fall under the C-1 category due to the size of the existing lot and the placement of the building. For a C-1 variance, the applicant must show that they will suffer a hardship if the variance is not granted. This is clearly related to the physical features of the property as well as the exceptional narrowness and shape of the property. These variances can be granted without any substantial detriment of the zone plan and zone ordinances.

Mr. Neiman opened to the public.

Mr. James Coefield, 1233 Medina Road, was sworn in. He said this affects everyone on this street. He said an additional 3 or 4 cars are parking along the street during Shabbos so it is not just people on the block using the synagogue. He also thinks there is a synagogue less than a mile away on County Line Road. His main concerns are congestion and noticing of all the property owners in this area.

Mr. Jackson said only property owners within 200 ft of this application will receive notice.

Ms. Joanne Wesby, 1209 Medina Road, was sworn in. She lives next door to this property. She said they do have issues with parking on this street.

Mr. Neiman said the applicant's professionals did provide testimony that the synagogue will only be used on Shabbos where you cannot drive. The shul on County Line Road is a weekday shul so there will be more cars and traffic.

Ms. Wesby asked if there will be any activities during the week.



Ms. Barbara Banks-Grove, 1220 Medina Road, was sworn in. She said she has lived in this development for 19 years and has been living in Lakewood for 35 years. She has issues finding parking in front of her home. She is concerned that this shul will not only be used for this community but for nearby residents in Paris Court or Woodlake Manor. She does not want to see the character of the development changed. She was told that mainly interior renovations will be done but she would like to know of any other changes proposed including parking.

Ms. Huggins-Dickey, 1244 Medina Road, was sworn in. She has lived in this neighborhood for 20 years. The neighborhood has changed over the last 2 years or so. People moving in do not keep up with the maintenance of their properties and she is worried it will lower the value of their home. She is okay with the synagogue but is concerned what it may turn into in the future.

Mr. Yaakov Landsman, 1288 Medina Road, was sworn in. He said he had moved to this block 5 years ago. Half of the homes were owned by investors and were being rented out.

Mr. Neiman said there was a situation in the Hearthstone area where the board granted a change of use and testimony was given that the synagogue would only be used during the weekend. Now they are looking to come back under correspondence to change that to allow weekday prayers as well. If the board grants this as just a weekend shul and the synagogue wants to change that then they would have to come back before this board. He sees there is a pretty large driveway on this property. He asked if they could configure it to fit 6 cars or so.

The neighbors expressed their opposition to that idea.

Mr. Neiman said that is fine.

Mr. Sam Levovitz, 1229 Medina Road, was sworn in. He recently purchased a home on this block. He said the neighbors seem to be very nice. He said the property values have been going up. He doesn't believe outside communities will be utilizing this synagogue as there are plenty in surrounding neighborhoods.

Mr. Avi Soroka, 1201 Medina Road, was sworn in. He said this is a small community and the chances of becoming a weekly synagogue is very slim as they would need to pull together a minion. They will strictly be using it over the weekend where everyone is within a 3 minute walk. All of these houses are single family with no basements that are rentable. This would not bring in an influx of cars or residents.

Mr. Naftali Bursztyn, 1212 Medina Road, was sworn in. He lives directly across the street. He has moved to this neighborhood about a year ago and all the neighbors have been very kind. He said there has not been an issue with parking in front of his home or the proposed synagogue.

Mr. Neiman closed to the public.

Mr. Graviano said proper notice was provided to the property owners. With reference to the parking issue, there is no parking issue. The Township code Section 905 does not require parking for this use because it is so minimal in nature. If there was a parking problem, the Township would require it. There will be no other uses in the building, this will be strictly a shul. This is a very constrained site where a larger shul can be built. This lot is 11,000 sf and this existing building is going to have a very limited occupancy rate. The applicant is devoted to making this a pretty environment, the applicant wants to be a good neighbor and provide additional landscaping. There were discussions regarding the limited use of the shul to the weekends. He would like to note that there are occasions such as weekday holidays and other special events which do require weekday use of the shul. He would like to ensure the applicant is not limited from those.

Mr. Herzl said there is no driving on those weekday holidays either.

Mr. Graviano said that is correct. This site is particularly fitted for this proposed use because there are really no other available areas outside of the Medina Road community for a use of this type.

Mr. Herzl stressed that this is a dark area and anyone walking to the shul should use reflectors.

A motion was made and seconded to approve the application. The shul will only be utilized during the weekend and occasionally during the week for holidays.

All were in favor.

**4. SD 1810A Jonathan Rubin**

Ocean Avenue

Block 244, Lots 11-15

Amended Preliminary and Final Major Subdivision to create ten lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 11, 2016 was entered as an exhibit.

Mr. Glenn Lines, P.E., P.P. said the board heard and approved this back in August of 2011. At the time, they had some crazy lot lines in the rear so that every lot had 10,000 sf for a duplex. They have discussed with the board the idea of straightening out the lot lines and the board was amendable to that. The problem is, the resolution does not indicate that by doing that they would have variances for the two end duplexes. They are here tonight to verify what the board approved.

Mr. Neiman said nothing else is changed, they are only here to grant those variances due to the lot line realignments.

Mr. Lines said that is correct.

Mr. Vogt said they recommend approval.

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

A motion was made and seconded to approve the application.

All were in favor.

**5. SD 2070A Adil Homes, LLC**

East County Line Road

Block 190, Lots 72 & 73

Amended Preliminary and Final Major Subdivision to create thirty-eight lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 11, 2016 was entered as an exhibit.

Mr. Adam Pfeffer, Esq. said this has previously been approved by the board. After going back and doing the final designs it seems that some of the buyers wanted different model homes on the same lots so this is really just a cleanup of some small variances that are needed. No new additional lots are being created.

Mr. Brian Flannery, P.E., P.P. was sworn in. At the time of approval, they did not know exactly what type of houses were proposed. Now they have a list of exactly what is needed in order to fit the houses that people want to live in. New variances are being requested for minimum lot area, lot width, front yard, side yard, rear yard and combined side yard setbacks. All variances are listed on the engineer's review letter. A design waiver is

requested for sidewalk along a neighboring property the applicant does not own. There is sidewalk on the other side of the street which complies with RSIS. The applicant agrees to restrict on-street parking along one side of the proposed roadways.

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

A motion was made and seconded to approve the application.

Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Herzl, Mr. Cautillo

Abstain: Mr. Neiman

**6. SD 2134 Linda Wajsbort**

Hudson Street

Block 108, Lots 3 & 15

Minor Subdivision to create 3 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 11, 2016 was entered as an exhibit.

Mr. Vogt stated variances include minimum lot area, aggregate side yard setback and maximum building coverage.

Mrs. Miriam Weinstein, Esq. said this application is for a subdivision of 2 existing lots to create 3 new lots upon which 1 single family home will be constructed on a lot containing 9,337.5 sf in the R-10 zone whereas 10,000 sf is required. A duplex will be constructed on a fully conforming lot with greater than 12,000 sf. The applicant intends to ultimately demolish all structures located on the property but initially would keep the occupied house on existing lot 3 until they are ready to construct the new home. This application has a lot of history to it. The applicant initially filed an application at the Zoning Board a few years ago for 2 duplex structures on combined lot sizes of roughly 10,700 sf whereas 12,000 sf is required. In the interim, there were other applicants who came in front of the Zoning Board on the same street where a duplex was approved on a lot size of roughly 10,700 sf. After that application was approved, the neighbors began expressing their displeasure so the applicant retracted that application and attempted to work with the neighbors and filed another application which is what is before this board tonight. Apparently a neighbor is still not satisfied and has hired Mr. Liston to represent him. Their testimony will show that there had been other duplexes approved on the block on less than 12,000 sf by the Zoning Board and that many of the single family lots on the block are smaller than the 9,300 sf they are requesting. She was the attorney for one such application before this board directly across the street creating 2 7,500 sf lots. Their testimony will show that this requested departure from the requirements of the zoning ordinance can be accomplished while satisfying the positive and negative criteria necessary for the board to grant the appropriate relief.

Mr. Glenn Lines, P.E., P.P. was sworn in. Three lots are proposed with a duplex that will have slightly more than 12,000 sf area and a single family home which has 9,337.5 sf. Each property will have 4 parking spaces, shade trees, sidewalks. The colored rendering shown identify 18 lots in the area that are undersized, most of them less than 9,000 sf. There are only 9 conforming lots in the area. To approve a 9,300 sf lot is keeping with the zoning. If you go further outside you get down to lots that are 6,000 sf so to be slightly undersized will not cause any damage to the zone plan or zoning ordinance. There are 2 lots directly across the street which were approved by this board that are 7,500 sf for 2 single family homes. It is not out of character for the neighborhood on an undersized lot and they are really only undersized by 7% of what is required.

Mr. Neiman asked that he provide testimony concerning the other variances.

Mr. Lines said the variances for side yard setback is on the single family home. The home is already designed so they are asking for 10 ft on each side. On some of these smaller lots, the houses have side yard setbacks of 10 ft and some down to 5 ft. A lot coverage variance is being requested for the duplex lot but it has been lessened than what was previously proposed at the Zoning Board but it is still in keeping with all of the other undersized lots in the neighborhood.

Mr. Neiman asked if there is public water and sewer.

Mr. Lines said there is no sewer on Hudson Street. He has another application on lot 9 and they have designed the sewer to come down Hudson to Lexington Avenue. As a result, this whole street will have public sewer.

Mr. Grunberger asked if duplexes are allowed in the R-10 zone.

Mr. Lines said duplexes are a permitted use in the R-10 zone as long as they're on a 12,000 sf lot or larger.

Mr. Grunberger asked where the nearest duplex is.

Mrs. Weinstein said there is one on this street.

Mr. Lines said a duplex was recently approved on a 10,000 sf lot at the Zoning Board.

Mr. Grunberger asked if all of the other houses are single family.

Mrs. Weinstein said on this block, yes. But to put this block in perspective, this is one of the few blocks in that area that mostly still consists of older houses because there is no public sewer. The lots directly across the street are both under construction. They are 7,500 sf single family lots. There is also a new house under construction further down the block on a 6,000 sf lot.

Mr. Lines said because there is no public sewer on Hudson, this block had sort of been left behind. The houses that front on Hudson have been existing for a while. The houses across the street are being constructed with the anticipation that there will be public sewer.

Mr. Grunberger asked why they can't keep with the look of the neighborhood and build single family homes.

Mr. Lines said the lot sizes would be too small. As soon as the sewer comes in, more applications will be submitted to the Zoning Board. This area is recommended in the Master Plan to be an R-7.5 zone.

Mr. Hibberson doesn't understand the logic of having smaller lots in an area with larger single family lots.

Mr. Lines said they are in general conformance with the zone and he has testified that it's not going to be detrimental to the zone plan or zoning ordinance.

Mr. Ed Liston, Esq., on behalf of Avrom Rothenberg. He asked what the current lot sizes are.

Mr. Lines said 10,125 sf and 11,250 sf.

Mr. Liston said if they subdivided these lots they could essentially create two conforming single family lots.

Mr. Lines said yes.

Mr. Liston asked where the hardship is to create another undersized lot in order to build a duplex which would degrade the neighborhood.

Mr. Lines does not agree that a duplex degrades the neighborhood. They are making a small adjustment to the lot sizes and the proposed single family lot is in keeping with the rest of the lots in the neighborhood.

Mr. Liston asked if he is saying that if there are smaller lots in the neighborhood, why not take lots that are full sized that can be used for single family residences and cut them up.

Mr. Lines said part of zoning and development is to get the best use of the properties.

Mr. Liston said it is not if it violates zoning and they have the opportunity to subdivide these lots into fully conforming single family lots and develop them as the Master Plan and the zoning has set forth.

Mr. Lines said that is not correct as the Master Plan recommends this and has recommended it for a long time to be an R-7.5 zone.

Mr. Liston said it hasn't happened yet.

Mr. Lines said this board has granted variances with that testimony numerous times.

Mr. Liston asked if he agrees that there is no hardship in creating two single family lots which are fully conforming.

Mr. Lines said the lots could be subdivided into two conforming lots.

Mr. Liston asked if there is a hardship created by not subdividing it other than the hardship of not being able to over utilize the property and make more money.

Mr. Lines said it is not over utilizing the property.

Mr. Liston reiterated that there is no hardship shown and what he is asking the board to do is to further degrade a transitional neighborhood so his client can make more money. He asked if he agrees that developing a duplex rather than single family homes is more profitable for his client.

Mr. Lines said yes.

Mr. Shlomo Wajsbort, 409 Yeshiva Plaza, 17B, was sworn in. He said there is a hardship if this application is not approved. He said his mother will buy his sister's lot and put up two duplexes if this is not approved. He doesn't believe this will destroy the character of the neighborhood.

Mr. Liston asked if his sister's property is part of this application.

Mr. Wajsbort said no.

Mr. Liston objects to his testimony as it is not only irrelevant but also a threat.

Mr. Neiman closed to the public.

Mr. Liston said everyone on this board is aware of what is happening in the nicer single family areas, it's called creeping duplexes. It is a degrading of the neighborhood and the attempt is being made to push out people like his client who spent the money and enjoy their single family home. If the zoning changes then the zoning changes. If this is approved, it will be challenged in court. The applicant can build this as conforming single families with no variances needed other than moving a lot line slightly.

Mrs. Weinstein said the applicant doesn't even have to come back before this board to get a duplex. Duplexes are permitted in this zone as it stands on 12,000 sf. There are duplexes on this block and there are going to be more in the future as soon as the sewer is brought in. The duplex lot proposed in this application is fully conforming and the applicant certainly has the right to put a duplex on a 12,000 sf lot in the R-10 zone. She urges the board to vote in favor of this application as it really is in keeping with the character of the neighborhood. The single family lot proposed, which is the only lot undersized, is larger than many if not most of the lots in the area.

Mr. Neiman asked if the side yard setback and lot coverage variances can be eliminated.

Mr. Weinstein said they could do that.

Ms. Linda Wajsbort, 1431 East 9th Street, was sworn in. When Mr. Liston talks about creeping degradation, she believes that is an insult to the board because the board itself and the people who make up the laws of the city, they're the ones who permitted this. The Township allows a duplex on a 12,000 sf lot in the R-10 zone so if it is conforming, why it is called degradation. The hardship is housing. Her son is squashed in a small two bedroom apartment with 5 children as he is unable to afford a place to live. They are not developers but a family who has owned this property for 15 years hoping one day they would be able to help their children.

Mr. Avrom Rothenberg, 1500 Lexington Avenue, was sworn in. He said all of the undersized lots are single family homes on this block. They do not have any basements or they do not rent out basements. He asked why they have to put up a duplex. He is concerned about the basement being rented to two families and the lack of parking.

Mr. Neiman understands but duplexes are a permitted use. The board would ensure that the basement is restricted to only one family as it should be. Four per spaces per unit are provided.

Mr. Rothenberg said it is not enough as they put in two basements per unit.

Mr. Liston reiterated that the applicant can subdivide this property into two conforming single family lots. They do not qualify for a C variance under any circumstances on the MLUL. He does not believe they have met their burden of proof and he hopes the board agrees.

Mr. Neiman asked if he agrees that if they can put a duplex on that 12,000 sf lot.

Mr. Liston said no as a 12,000 sf lot doesn't exist without taking property away and making the other lot smaller and when you look at the entire parcel and you draw the line slightly differently, they can conform with the zone.

A motion was made by Mr. Hibberson, seconded by Mr. Cautillo to deny the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Cautillo

No: Mr. Neiman

Abstain: Mr. Neiman

- 7. SD 2142 Congregation Kol Aryeh**  
Hope Chapel Road Block 24.04, Lot 5  
Minor subdivision to create two lots

Mr. Sam Brown, Esq. said the applicant would like to address the concerns of a few of the neighbors and asked that this matter be carried to the next meeting.

A motion was made and seconded to carry the application to the August 2, 2016 meeting.  
All were in favor.

- 8. SD 2119 1495 East Spruce, LLC**  
East Spruce Street Block 855.01, Lots 26 & 29  
Preliminary and Final Major Subdivision to create five lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 14, 2016 was entered as an exhibit.

Mr. Adam Pfeffer, Esq. said the applicant has submitted revised plans and are now proposing 5 lots as opposed to 7 lots as originally requested.

Mr. Glenn Lines, P.E., P.P. was sworn in. In the original submission, they were creating 7 lots with a private access road but the board was not in favor of the application so the board recommended they go back to the drawing table. The revised application proposes 5 lots on a fully conforming cul-de-sac.

Mr. Neiman said it will be a public road.

Mr. Lines said yes, a fully conforming road. The lots on the north side of East Spruce Street are unique in the fact that they are more than 700 ft deep so in order utilize the property, they have provided a new street with the 5 houses fronting on that. To the east is a school with 6 townhouses permitted for the back of the property and behind that is the Township EMS building on a very shallow lot.

Mr. Neiman asked if this is in the R-15 or R-20 zone.

Mr. Lines said R-20. They had a plan that had 20,000 sf but that had the private road which the board did not like so they have taken that lot area out and reduced the number of lots. They are down one zone from the R-20 but they are still large lots neighboring a property that is developed with a school and townhouses. In his opinion, a density variance is not needed as there is no actual density requirement in the ordinance as they just need lot area variances.

Mr. Franklin asked if the drainage will be the homeowner's responsibility.

Mr. Lines said there is an access easement along the property line between lot 26.02 and 26.03 and that picks up the low area to the north.

Mr. Franklin asked if it will be grass.  
Mr. Lines said yes.

Mr. Franklin said the Township doesn't want to drive over grass to get back there.

Mr. Lines said there is an inlet at the street and at the back.

Mr. Franklin asked who is servicing the inlet at the back.

Mr. Lines said the Township.

Mr. Franklin said no.

Mr. Vogt said Public Works is probably going to reiterate this two months from now when they seek their approval.

Mr. Franklin said they can't get to it without destroying the property so it is going to have to be the homeowner's responsibility.

Mr. Lines understands.

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

A motion was made and seconded to approve the application.  
All were in favor.

**9. SD 2117 Yechezkel Pam**

New Central Avenue Block 11.02, Lots 9, 10, & 27  
Preliminary and Final Major Subdivision to create 5 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 14, 2016 was entered as an exhibit.

Mr. Vogt said a cul-de-sac road is proposed but that is being incorporated into the individual lots. Based on the current design, lot area variances are not required only because a dedicated right-of-way for the road is not provided. If they were separated out then the lots would be smaller. Lot width and front yard setback variances are also requested.

Mr. Brian Flannery, P.E., P.P. was sworn in. The application is for a 60,500 sf tract that is a combination of 3 lots. He has two renderings including the plan submitted to the board and a tax map of the area. New Central is a County road and is very busy as it serves as a major collector road, therefore, dwellings fronting on that road are less than desirable. Based on that and because of the depth of the block between Attaya Road and New Central Avenue as well as to the north of New Central Avenue, cul-de-sacs have been developed. To the north and east is Elderberry Court, across the street is Princess Court, Primrose is a little further down and in the other direction is Esther Court. It is similar in nature along Gudz Road which has the same kind of traffic but not as intense is Jule Court. Jule Court came in with 10,000 sf lots with a dedicated road. If you look at their subdivision, even if they dedicated they would be above 12,000 sf lots. The average lot size is 13,500 sf in an R-12 zone. If they were to dedicate the road they would still be above the requirement. The private road is similar to what the board insisted on last year on an application on the opposite side of New Central Avenue where there was small a road put in to get access off of New Central Avenue. This would be a private road which the homeowner's association will maintain but it would provide access to the 1 existing home and the 5 new homes. Minimum lot width and front yard setback variances are requested as part of this application. The board engineer's review letter recommends changing the proposed configuration and would comply with that if the board acts favorably. The lot lines aren't radial but a lot of the times they do that in order to make the most useable lots. There is a comment on parking and driveways. What is shown on these plans is conceptual and the applicant is not asking for any relief from parking. House layouts and parking can be incorporated on this where there would be the 4 parking spaces per unit as required by ordinance. With respect to the minor variance relief requested, certainly



the ordinance indicates to encourage development and redevelopment based on smart grown planning principles. It is his testimony rather than having 3 houses on oversized lots fronting on New Central Avenue, the proposed subdivision provides housing opportunities that are off that road which will be safer for the residents and it focuses the traffic from the development at one point rather than separate points along the way. It is his testimony that this complies with the density. Variances are being requested and the applicant in this case does have a hardship in that he had some financial problems, the house is in disrepair and in need of redevelopment. His personal hardships aren't the kind that the board grants variances for but what they are asking for is a C-2 variance which doesn't require a hardship. The C-2 says you have to show that the benefits outweigh the detriments and it is laid out in the MLUL. They must show that this is a specific piece of property and it relates to the specifics of this application. If you look at the tax map you can see the prior solution to these deep lots that was included in the Master Plan was the flag lots and the two lots next door have flag lots which would be much worse than what is being proposed here. This property is caught in between those flag lots and the corner and it is very limited to develop. The variances can be granted without substantial detriment to the public good. It is his testimony that by having the traffic all come out of one point it actually helps the area. People backing out onto New Central Avenue is dangerous and this would eliminate that. The variance will not impair the intent and purpose of the zone plan and zoning ordinance. The density complies with the zoning ordinance. The variances for lot width and front yard setback are very minor and certainly would not impair the intent and purpose of the Master Plan. Finally, they have to show that the benefits outweigh the detriments. The benefits include redevelopment of the lot, providing housing opportunities and it is his testimony that no detriments will incur as a result of this application. This application will not set a precedent and it would not create a situation where there is traffic impacts or a lack of parking. If they ask for parking variances, that would be an issue but not are requested.

Mr. Franklin said the 40 ft radius is awful tight.

Mr. Vogt said it is RSIS compliant.

Mr. Grunberger asked the difference between a public and private road.

Mr. Flannery said in order for the Township to maintain the road, you must comply with RSIS standards then the Township would plow the road, pick up the garbage and maintain the road when it needs repair. A private road has a homeowner's association and would be responsible for plowing and maintenance. The Township will probably pick up the garbage but they would meet with Public Works for their approval.

Mr. Neiman said if there were more homes proposed then it probably wouldn't work but this is only 5 homes. He agrees that they don't want houses on New Central Avenue as the cars do go down really fast and to back out is very dangerous.

Mr. Neiman opened to the public.

Ms. Esther Simkhovich, 1884 New Central Avenue, was sworn in. She is in favor of this application as it would provide her children a place for them to ride their bikes and be with other families.

Mr. Haskell Nebenzahl, 1831 Attaya Road, was sworn in. He lives right behind this property and he understands the concern of having houses fronting along New Central Avenue. He requested that a buffer of arborvitae or similar be planted along the back property line.

Mr. Flannery said the applicant would agree to that.

A motion was made and seconded to approve the application.  
All were in favor.

## **8. PLAN REVIEW ITEMS**

- 1. SD 2147 DYA Investment & Development Group, LLC**  
Miller Road Block 11.03, Lots 2 & 90.03  
Preliminary and Final Major Subdivision to create 7 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 14, 2016 was entered as an exhibit.

Mr. Vogt said a submission waiver is sought from providing an environmental impact statement. Testimony shall be provided justifying the waiver. Variance requested include minimum lot size and lot width. A partial waiver from providing curbing and sidewalk along a portion of the site is also requested. He asked if there are any environmental constraints on the property.

Mr. Bill Stevens, P.E., said the property is generally cleared and developed and there are no environmental sensitive lands that are part of this project.

Mr. Vogt asked if the applicant would agree to comply with the tree protection ordinance.

Mr. Stevens confirmed.

Mr. Vogt said based on testimony, he recommends that the EIS be waived.

A motion was made and seconded to approve the waiver as recommended by the Board Engineer and Planner.  
All were in favor.

Mr. Abe Penzer, Esq. said they agree to all of the comments in the board engineer's review letter. He asked that this be carried to the next public meeting date.

Mr. Neiman asked if sidewalks will be provided along Miller Road.

Mr. Penzer confirmed.

Mr. Franklin said he would like to see the road at least 32 ft wide as the lot on the other side is going to be subdivided sometime in the future. This way you can park on both sides of the street and be able to get buses, garbage trucks, etc in and out.

Mr. Neiman said as there are objectors in the audience, he would allow someone from the audience voice their concerns and hopefully they can be resolved by the next meeting.

Ms. Soraya Leal, 197 Lakewood-New Egypt Road, said a portion of her land was taken per her survey.  
Mr. Vogt said there may or may not be a conflict with an old survey. The applicant and neighbor should meet and review the information to see if there are any issues.

Mr. Daniel Roth said he lives across the street. He is concerned about safety as Miller Road is already very congested. He does not want to see the character of the neighborhood change.

Mr. Neiman asked that the applicant work on eliminating the variances as there are many objectors in the audience.

A motion was made and seconded to advance the application to the August 16, 2016 meeting. All were in favor.

**2. SP 2191 Yeshiva Even Yisroel**

Neiman Road Block 251.03, Lot 29  
Preliminary and Final Major Site Plan for a school trailer

A review letter prepared by Remington, Vernick & Vena Engineers dated July 14, 2016 was entered as an exhibit.

Mr. Adam Pfeffer, Esq. said this is a school application and requested that this be heard as a public item tonight.

Mr. Neiman asked if it was noticed for such.

Mr. Pfeffer said yes.

Mr. Neiman asked if anyone came to the office concerning this application.

Mrs. Morris said she did have many people come in but does not recall if anyone asked if this would be heard as a public hearing item.

Mr. Neiman is not comfortable hearing this in full tonight as there have been people inquiring about this application.

Mr. Pfeffer understands and requested to be heard at the next meeting.

Mr. Neiman said that is fine.

Mr. Pfeffer said they have reviewed the board engineer's review letter and he does not believe they have any issues with those comments.

Mr. Neiman said the school has grown and they need a trailer to accommodate the students.

Mrs. Morris said this is a vacant site that the applicant is proposing to put a trailer on to use. She asked if the trailer would be permanent.

Mr. Pfeffer said no, this is a temporary solution until the school is ready to come in for a full site plan. Currently they have about 71 students.

Mr. Neiman said this trailer will be the school.

Mr. Pfeffer said that is correct. It is more than a trailer, it is a modular structure.

Mr. Neiman asked what type of school.

Mr. Pfeffer said a boy's elementary school.

Mr. Neiman said there was a school on Oak Street that started off with modulars as well and now they are knocking it down and putting a building there.

Mr. Pfeffer said this is a temporary solution.

Mr. Neiman asked that they come with a bus circulation plan.

Mr. Lines said one has been submitted.

Mr. Hibberson asked if there can be a time limit.

Mrs. Morris believes the board can impose a time limit but the question arises as to who will remember to go out and pull their CO.

Mr. Neiman said they would discuss it at the public hearing.

Mr. Herzl asked how many classrooms.

Mr. Pfeffer said approximately 8 to 12.

Mr. Vogt said submission waivers are requested for plans and profiles of proposed utilities which he recommend deferring to compliance, if approved. A waiver from providing an environmental impact statement. Testimony must be provided addressing freshwater wetlands/open waters since there is a pond on the rear of the site. They do not need a full blown EIS but the applicant's professional should be ready to address it at the public hearing.

Mr. Pfeffer said it is pretty far back on the property but they will address it.

Mr. Vogt said if approved, the applicant would comply with the tree protection ordinance as well.

Mr. Pfeffer agrees.

A motion was made and seconded to approve the waiver as recommended by the Board Engineer and Planner. All were in favor.

A motion was made and seconded to advance the application to the August 2, 2016 meeting. All were in favor.

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

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Sarah L. Forsyth, Planning Board Recording Secretary