

## I. CERTIFICATION OF COMPLIANCE

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

## 2. ROLL CALL

Mr. Herzl, Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal

## 3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

## 4. MEMORIALIZATION OF RESOLUTIONS

1. **SD 1856** (Variance Requested)  
Applicant: Saul Gray  
Location: Regent Drive & Central Avenue  
Block 284 Lots 165 & 168  
Minor Subdivision to create three lots

A motion was made by Mr. Schmuckler, seconded by Mr. Follman to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal  
Abstained: Mr. Herzl

2. **SD 1861** (Variance Requested)  
Applicant: Jeffrey Fernbach  
Location: Stirling Avenue & Linden Avenue  
Block 189.30 Lot 151  
Minor Subdivision to create two lots

A motion was made by Mr. Schmuckler, seconded by Mr. Follman to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal  
Abstained: Mr. Herzl

- 3. SD 1868** (Variance Requested)  
Applicant: Mordechai Bistrizky  
Location: White Street  
Block 251.02 Lot 87  
Minor Subdivision to create two lots

A motion was made by Mr. Schmuckler, seconded by Mr. Follman to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal  
Abstained: Mr. Herzl

- 4. SD 1869** (No Variance Requested)  
Applicant: Yaakov Klugman  
Location: Albert Avenue  
Block 1159.01 Lot 15  
Minor Subdivision to create two lots

A motion was made by Mr. Schmuckler, seconded by Mr. Follman to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal  
Abstained: Mr. Herzl

- 5. SD 1858** (No Variance Requested)  
Applicant: 23 Miller Road, LLC  
Location: Miller Road  
Block 11.03 Lots 1 & 92  
Preliminary & Final Major Subdivision to create four lots

A motion was made by Mr. Schmuckler, seconded by Mr. Follman to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal  
Abstained: Mr. Herzl

- 6. SP 1994AA** (No Variance Requested)  
Applicant: Rabbi Chaim Eidelman  
Location: West Cross Street  
Block 494 Lot 2.01  
Change of Use/Site Plan Exemption to convert existing house to school. Barn to be converted for future classrooms

A motion was made by Mr. Schmuckler, seconded by Mr. Percal to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Percal  
Abstained: Mr. Herzl, Mr. Follman

- 7. SP 1997AA** (No Variance Requested)

Applicant: Larson Family Partnership  
Location: Route 88  
Block 569 Lot 113

Site Plan Exemption request to add entry vestibule to the existing Larson Ford sales building

A motion was made by Mr. Schmuckler, seconded by Mr. Percal to approve.  
Affirmative: Mr. Neiman, Mr. Schmuckler, Mr. Percal  
Abstained: Mr. Herzl, Mr. Follman

## 5. PUBLIC HEARING

1. **SD 1867** (Variance Requested)  
Applicant: Olive Court, LLC  
Location: Olive Court  
Block 251 Lots 1.16 & 16  
Minor Subdivision to create five lots

### **Project Description**

The applicant seeks minor subdivision approval to subdivide two (2) existing lots known as Lots 1.16 and 16 in Block 251 into five (5) lots, designated as proposed Lots 16.01 through 16.05 on the subdivision plan. Existing Lot 16 fronts Lakewood-New Egypt Road and contains a single family dwelling, a contractors building and yard, with a topsoil screening operation. Existing Lot 1.16 fronts Olive Court and is a vacant single family residential building lot created by a major subdivision known as Cory Acres. Public water and sewer is not available. The site is situated in the western portion of the Township between the south side of Lakewood-New Egypt Road and the north side of Olive Court. Lakewood-New Egypt Road is a County Highway with no existing curb and sidewalk in front of the site. Olive Court is a newly constructed road within Cory Acres, which does not have top course pavement constructed. The proposed subdivision would reduce the size of the existing commercial property currently known as Lot 16. The commercial land would become proposed Lot 16.01 and still contain the single family dwelling, contractors building and yard, but without the topsoil screening operation. As a result, the existing commercial activities referenced above would decrease (i.e., become less intense) if this subdivision is approved as proposed. It is our understanding that this proposal is in accordance with requests of local adjoining residents. Four (4) new residential building lots, proposed Lots 16.02 through 16.05, would be created along the frontage of Olive Court and contain areas of at least eighteen thousand square feet (18,000 SF). The lots are situated within the R-40 Single Family Residential Zone. Variances are being requested to create this subdivision. We have the following comments and recommendations per testimony provided at the 10/16/12 Planning Board Plan Review Meeting and comments from our initial review letter dated October 11, 2012: I. Zoning 1. The parcels are located in the R-40 Single-Family Residential Zone District. Single Family Detached Housing is a permitted use in the zone. 2. Per review of the Subdivision Map and the zone requirements, the following variances are required: • Minimum Lot Area – Proposed Lots 16.02 through 16.05, 18,000.56 SF, 18,021.22

SF, 18,000.54 SF, and 18,015.34 SF proposed respectively, forty thousand square feet (40,000 SF) required – proposed condition. • Minimum Lot Width – Proposed Lots 16.02 through 16.05, 80.72 feet, 85.21 feet, 93.43 feet, and 114.73 feet proposed respectively, one hundred fifty feet (150') required – proposed condition. • Minimum Front Yard – Proposed Lot 16.01, 49.39 feet proposed, fifty feet (50') required – existing condition. It should be noted an anticipated right-of-way dedication to Ocean County will further decrease the dimension of the nonconforming front yard setback for proposed Lot 16.01. The Board shall take action on the required variances. 3. The existing trailer shown on proposed Lot 16.01 would be an accessory structure that requires a side yard variance. The plan should be revised to address accessory structures. The plan has been revised to address accessory structures. A Minimum Side Yard variance for an Accessory Structure is required on proposed Lot 16.01. A 0.8 foot accessory side yard setback is proposed, whereas a ten foot (10') setback is required. This is a continuation of an existing condition on old Lot 16. The Board shall take action on the required variance. 4. As the plan currently depicts, waivers are required from the construction curb and sidewalk along Lakewood – New Egypt Road. It should be noted that curb and sidewalk has been constructed on the Cory Acres subdivision which adjoins the east side of this project. However, there is no curb and sidewalk located on the two (2) lots to the west of this site, which extend to Jackson Township. The Board shall take action on the waivers required from the construction of curb and sidewalk. 5. The applicant must address the positive and negative criteria in support of the requested variances. At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. II. Review Comments 1. A Survey of Property without tree locations has been submitted. The Survey is incomplete and the following shall be added: a. A Legend. b. Lot areas for Lots 1.16 and 16. c. A bearing and distance for the southeast boundary of Lot 1.16. d. Distances for the rear line of Lot 16, and from the northwest corner of Lot 1.16 to its intersection with Lot 16. e. The existing shade tree and utility easement on Lot 1.16 in accordance with the filed map for Cory Acres. f. The existing depressed curb locations on Olive Court. g. Missing existing site improvements on Lot 16. h. The existing County Monument along the Lakewood – New Egypt Road frontage. This monument implies that either a dedication or road widening easement has taken place and is not shown on the Survey and Minor Subdivision. i. Identification of a marker which may be an existing corner from the adjacent Cory Acres subdivision. j. Existing pavement apron for the stone driveway. k. Existing concrete curb along Lakewood – New Egypt Road on the east side of the asphalt driveway. l. The end of the existing sidewalk from the adjacent Cory Acres subdivision. Connection to this sidewalk may be required by the Board. A completed survey should be made a condition of any approvals. 2. The Survey date must be revised on the Surveyor's Certification. The Certification has not been signed since the monuments have not been set. The survey date must be revised to 9/20/12 on the Surveyor's Certification. This correction can be provided with resolution compliance submission should approval be granted. 3. Monuments to be set shall be added to outbound corners not currently marked. Monuments to be set must still be added at the northwest corner of proposed Lot 16.02 and the side lot line angle point of proposed Lot 16.05. The Legend must be expanded to include the other existing corner markers shown on the plan. These corrections can be provided with resolution compliance submission should approval be granted. 4. General Note #6 states that vertical elevation is based on NGVD 1929. A bench mark should be provided. The elevation of the bench mark provided must be added. This information can be provided with resolution compliance submission should approval be granted. 5. The proposed six foot (6') wide Shade Tree and Utility Easement to Lakewood Township shown directly behind the existing right-of-

way along Olive Court shall be corrected to ten feet (10') as shown on the filed map for Cory Acres. The proposed survey data and easement areas shall be corrected for Lots 16.02 through 16.05. The proposed Shade Tree and Utility Easement along Olive Court has been corrected. The proposed Shade Tree and Utility Easement for proposed Lot 16.01 may be corrected for resolution compliance submission should approval be granted. 6. The General Notes indicate that four (4) off-street parking spaces will be required for each unit and that four (4) off-street parking spaces will be provided for each unit. Per communications with the applicant's professionals, four (4) spaces per unit will be provided. 7. The Minor Subdivision Plan shows new lot numbers were assigned by the tax assessor's office. If approved, the map shall be signed by the tax assessor. 8. Soil boring logs and seasonal high water table information will be required if basements are proposed on new Lots 16.02 through 16.05. The General Notes indicate that seasonal high water table information will be provided at time of plot plan submittal. 9. The Improvement Plan proposes nineteen (19) "October Glory Maple" street trees for new Lots 16.01 through 16.05. Landscaping should be provided to the satisfaction of the Board, and should conform to recommendations (if any) from the Township Shade Tree Commission as practicable. Our site investigation on 9/26/12 indicates that there are some existing trees on Lot 16 and most of existing Lot 1.16 is still wooded. This development, if approved must comply with the Township Tree Ordinance. The plans have been revised to show seven (7) "October Glory Maple" street trees for proposed Lot 16.01. The proposed Tree List shall be revised accordingly. The Board should provide landscaping recommendations, if any. The street trees for proposed Lots 16.02 through 16.05 will be in accordance with the Cory Acres Major Subdivision Plans. 10. Per communications with the applicant's professionals, storm water management for the proposed lots will be addressed at time of plot plan review. Statement of fact. 11. Per communications with the applicant's professionals, proposed lot grading for the proposed lots will be addressed at time of plot plan review. The General Notes indicate that proposed grading information will be provided at time of plot plan submittal. 12. Proposed Lots 16.02 through 16.05 will be serviced by private wells and septic systems. Ocean County Board of Health approvals will be required. The General Notes have been revised to indicate the new lots are to be serviced by public water and sewer. Testimony shall be provided explaining this revision. 13. Compliance with the Map Filing Law is required. Statement of fact. 14. The location of proposed improvements shall be dimensioned within the right-of-way of Olive Court to match the Cory Acres construction plans. This information shall be provided with resolution compliance submission should approval be granted. The proposed concrete sidewalk may not be constructed by others depending on the timing for construction of the dwellings. 15. The construction details shall be revised to be in accordance with the Cory Acres construction plans. This information shall also be provided with resolution compliance submission should approval be granted. Once again, depending on the timing for construction of the proposed dwellings, all improvements may not have been completed by others. 16. Final construction details will be reviewed during compliance should subdivision approval be granted. The scope of the final construction details to be reviewed with any compliance submission would be dependent upon the conditions of approval imposed by the Board. III. Regulatory Agency Approvals Outside agency approvals for this project may include, but are not limited to the following: a. Township Tree Ordinance (as applicable); b. Ocean County Planning Board; c. Ocean County Soil Conservation District; d. Ocean County Board of Health; and e. All other required outside agency approvals.

Mr. Neiman stated that they asked the applicant to go and try to acquire more land so that they wouldn't be seeking such a large variance. He asked about this being a non-permitted use and that it may have to go to the Zoning Board.

Mr. Jackson said the question is whether subdividing the lot intensifies that non-conforming use. That could be tricky; if you are reducing the scope of that business, arguably, that is not an intensification of a non-conforming use. But there is case law that says when you subdivide property where non-conforming use exists; by definition you are compounding that problem. That will be a judgment call that the Board has to make.

Mr. Vogt stated that variances are required for minimum lot area, lot width and minimum front yard setback.

Mr. Brian Flannery, P.E., P.P. was sworn in.

Mr. Penzer stated that it is his legal opinion that they are not intensifying a non-conforming use. If anything, they are diminishing it. The non-conforming use that is there and grandfathered there is a family owned business in an area which has become residential. If they would be extending that business then they would be expanding the non-conforming use. The residential use is a permitted use, it's the size of the lots will need a variance. This will be a benefit to the community. Mr. Penzer tried to negotiate with the business owner and tried to offer him whatever amount of money they could but the owner said he could not do it or he would go out of business because the lot will be smaller. Mr. Penzer entered the letter from the owner into evidence as exhibit A-5.

Mr. Schmuckler explained that he understands both sides but the Board is torn.

Mr. Flannery stated that what makes this unique there is an approved cult-de-sac next to an existing use.

Mr. Neiman is worried about future applicants coming in asking for these type of variances.

Mr. Flannery stated that the merits are clear. It is a nuisance that the neighborhood is going to have to live with if something isn't done and this is the only thing the applicant can do.

Mr. Neiman stated the applicant can subdivide this into three lots.

Mr. Penzer stated that would not make sense financially.

Mr. Flannery stated that if this application were to be in the R-20 zones, the setbacks would be conforming. The major one is the lot width. In the R-40 zone, the lot width requires 150' and we have an average of 94'. But the master plan does say for the R-40, it should only be 100' which is also required for the R-20 zone.

Mr. Neiman opened to the public.

Mr. Wilbur Whitman, 75 White Road, was sworn in. He stated that he has lived there for 16 years and the land has changed from 2 acres in the master plan to 1 acre which is

understandable. The problem he sees with this is that if this is approved, you are opening the door to other applicants requesting this type of approval. He believes if this is approved, then maybe the zoning should be changed for that area so others could benefit as well.

Seeing no one further, Mr. Neiman closed to the public.

Mr. Penzer stated he would like to read the purpose of the municipal land use act, first item of what the Board's job is. "To encourage municipal action to guide the appropriate use of development of all lands in the State which would promote public health, safety, morals and general welfare." The issue is whether or not they would be creating something that would be a benefit for the area. Mr. Penzer read from the MLUL "to promote desirable visual environment."

Mr. Schmuckler would like to see a fence be put up around the business and also to express in the resolution that this is a special situation.

A motion was made by Mr. Schmuckler, seconded by Mr. Herzl to approve the application.

Affirmative: Mr. Herzl, Mr. Schmuckler, Mr. Percal

No: Mr. Neiman, Mr. Follman

- 2. SD 1872** (Variance Requested)  
Applicant: Tal Spruce, LLC  
Location: Spruce Street  
Block 782 Lots 5 & 6  
Major Subdivision to create eight lots

### **Project Description**

The applicant is seeking a Preliminary and Final Major Subdivision approval. The applicant proposes to remove four (4) single family dwellings and construct four (4) duplex buildings on eight (8) zero lot line properties to be known as Lots 6.01 – 6.08. A Homeowners Association would need to be formed for the access, storm water management, and other common elements. According to the plans, at least four (4) off-street parking spaces are proposed. Except for the circular driveway proposed along Spruce Street, which would serve the building on proposed Lot 6.01, the parking spaces would be accessible from a common twenty-four foot (24') wide access aisle. The tract totals 1.12 acres in area and consists of two (2) existing residential properties, Lots 5 and 6 in Block 782. Associated site improvements are proposed for the major subdivision. These improvements include proposed sewer, water, drainage; paved access driveway with curb, sidewalk, landscaping, and lighting. The subject property is located in the central portion of the Township on the south side of Spruce Street, west of Chelsea Court. Spruce Street is an improved municipal road with a fifty foot (50') right-of-way. The site is currently occupied by four (4) existing dwellings. All existing improvements will be removed to make way for the proposed residential subdivision. Except for the northern frontage of the property, the land generally slopes from north to south. Proposed storm water management facilities and utilities will be associated with this project. Proposed sanitary sewer will connect to an existing system in Spruce Street. Proposed potable water for the subdivision will be extended from an existing main on the north side of Spruce Street. A minimum of four (4) off-street parking spaces are proposed for each unit. The number of bedrooms for the units is not specified on the subdivision plans. The project is also proposing curb and sidewalk with the

proposed access driveway. The subject site is located within the R-10 Residential Zone District. Therefore, zero lot line duplex housing is a permitted use in the zone district using twelve thousand square foot (12,000 SF) minimum lot areas for duplex structures. The site is situated within a mixed use area. We have the following comments and recommendations per testimony provided at the 11/13/12 Planning Board Plan Review Meeting and comments from our initial review letter dated November 8, 2012: I. Waivers A. The following waivers have been requested from the Land Development Checklist: 1. B2 - Topography within 200 feet thereof. 2. B4 - Contours of the area within 200 feet of the site boundaries. 3. B10 - Man-made features within 200 feet thereof. 4. C13 - Environmental Impact Statement. 5. C14 - Tree Protection Management Plan. Topographic features, contours, and man-made features are shown on the site and the adjoining road. We support the granting of the requested B-Site Features waivers, the Environmental Impact Statement waiver, and the Tree Protection Management Plan waiver for completeness purposes. Survey work is sufficient for final design and the site has been previously developed. A completed Tree Protection Management Plan should be required as a condition of approval. Per communications with the applicant's professionals, the applicant agrees with these conditions. The Board shall take action on the submission waivers. II. Zoning 1. The site is situated within the R-10, Single-Family Residential Zone District. As stated previously, "Two-Family Housing, with a minimum lot area of twelve thousand square feet (12,000 SF) for two-family structures" is listed as a permitted use. Zero lot line subdivisions for duplexes are permitted in the Zone. Statements of fact. 2. Variances are required for minimum lot frontage on proposed Lots 6.03 – 6.08. Proposed Lot 6.03 has 3.47 feet of road frontage and Lots 6.04 – 6.08 have no road frontages, whereas 37.5 feet is required for zero lot line properties. The revised plans increase the road frontage of proposed Lot 6.03 to seven feet (7'). Proposed Lots 6.04 – 6.08 have no road frontages. The Board shall take action on the variances required for minimum lot frontage and/or width. 3. A front yard setback variance is required for proposed Lot 6.01. The proposed duplex unit is setback 26.34 feet from Spruce Street, where thirty feet (30') is required. The Board shall take action on the front yard setback variance required. 4. Variances are required for maximum building coverage. Including the proposed decks, all combinations of zero lot line properties exceed the twenty-five percent (25%) allowable coverage. Excluding the proposed decks, the combination of Lots 6.03 and 6.04, Lots 6.05 and 6.06, Lots 6.07 and 6.08 slightly exceed the twenty-five percent (25%) allowable coverage. Statements of fact. 5. The applicant must address the positive and negative criteria in support of the requested variances. At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. III. Review Comments A. General 1. The General Notes state that vertical elevation is based on NGVD 1929. A bench mark must be provided. The bench mark can be provided with resolution compliance submission should approval be granted. 2. Except for proposed Lot 6.01, each unit has four (4) off-street parking spaces located perpendicular to the access driveway. Proposed Lot 6.01 has two (2) off-street parking spaces perpendicular to Spruce Street and two (2) spaces perpendicular to the access driveway. Spruce Street is heavily traveled. Therefore, for safety purposes we recommend the two (2) proposed Spruce Street spaces be relocated perpendicular to the access driveway. Per communications with the applicant's professionals, this issue will be reviewed in further detail with our office prior to the public hearing. The revised plans propose off-street parking spaces configured perpendicular to the access driveway in front of the units, parallel to the access driveway on the opposite side of the aisle from the units, and a circular driveway along Spruce Street. These changes are consistent with a meeting held between our office and DPW representatives. 3. The plans propose a total of forty-two (42) off-



street parking spaces, where thirty-two (32) spaces are required. However, the ten (10) parallel off-street parking spaces proposed on the west side of the access driveway are only six feet (6') wide. These proposed parallel type spaces must be at least eight feet (8') wide to be viable. Per communications with the applicant's professionals, this issue will be reviewed in further detail with our office prior to the public hearing. The revised plans reduce the total number of off-street parking spaces. However, at least four (4) spaces per unit will be supplied. The parallel off-street parking spaces on the west side of the access driveway have been widened to eight feet (8'). The General Notes can be corrected for resolution compliance submission, should approval be granted. 4. No handicapped parking has been proposed. Testimony should be provided on whether any of the units will be handicapped accessible. Statements of fact. 5. The plans note that each structure shall have an area designed for trash and recycling containers on the side or rear. Therefore, we anticipate individual collection is to be provided by the Township of Lakewood. However, no turnaround has been designed for the access driveway. Per communications with the applicant's professionals, this issue will be reviewed in further detail with our office prior to the public hearing. Proposed 3' X 16' concrete pads for refuse and recycling can placement during collection day have been designed along Spruce Street on the revised plans. This is satisfactory. 6. The applicant's professionals indicate the proposed lot numbers have been approved by the Tax Assessor. The Final Plat shall be signed by the Lakewood Tax Assessor. The Lakewood Tax Assessor signature is required prior to map filing, should approval be granted. 7. The requirements in 18-821 (Building Uniformity in Residential Developments) must be addressed. Testimony should be provided. 8. Per Subsection 18-911 F (2 (a-g)) of the zero lot line ordinance, a written agreement signed by the owner of the property is required, including provisions to address items associated with the use, maintenance, and repair of common areas and facilities associated with the overall property. Said agreement must be filed as part of this application to obtain the zero lot line subdivision approval from Lakewood Township. This agreement should be a condition of approval. B. Plan Review 1. The existing curb and sidewalk along Spruce Street is in poor condition and should be replaced. We recommend the existing curb and sidewalk along Spruce Street be replaced as a condition of approval. 2. The proposed on-site sidewalk should connect to the sidewalk along Spruce Street. The revised plans connect the sidewalk. The design should provide ADA compliance with resolution compliance submission, should approval be granted. 3. Curb ramps with detectable warning surface shall be proposed on both sides of the access driveway. The proposed curb ramps with detectable warning surface should be designed ADA compliant for resolution compliance submission, should approval be granted. 4. No proposed Sight Triangle Easements have been shown at the intersection of the access driveway with Spruce Street. The plans must show the easements, or testimony should be provided as to why they are not required. A Sight Triangle Easement has been proposed at the intersection of the access driveway with Spruce Street. 5. The General Notes shall address the ownership of the various components of the proposed storm water management system. General Note #16 on Sheet 2 of 6 shall be completed. The revised plans indicate that the proposed storm drainage system shall be owned and maintained by the Homeowners Association. 6. Dimensions should be provided for all the proposed building boxes. Based on scaling of the proposed building boxes and decks, the units will exceed the maximum lot coverage of twenty-five percent (25%). The revised plans indicate that building envelopes are for informational purposes only. Actual building footprints with dimensions to be provided at time of plot plan submittal. 7. Corrections are required to the Schedule of Bulk Requirements, which can be provided with resolution compliance submission, should approval be granted. C. Grading 1. Grading is provided on Sheet 3 of 6. Runoff is being directed around and behind the units with swales. This runoff

should be collected by a proposed inlet prior to leaving the site. An inlet and appropriate storm drainage should be added. A proposed inlet can be added in the southeast corner of the site with appropriate storm drainage for resolution compliance submission, should approval be granted. 2. Proposed finished floor and basement floor elevations have been provided. Proposed building corner elevations must be added. Proposed building corner elevations have been added. The applicant's engineer should consider increasing the proposed slope from the front of the buildings to the access driveway. 3. Proposed spot grades and contours must be completed. A high point to keep runoff from exiting the site should be provided near the rear of the side lot line between proposed Lots 6.02 and 6.03. A proposed one hundred one (101) contour is missing near the entrance of the access driveway. These additions can be provided with resolution compliance submission, should approval be granted. 4. The proposed gutter for Spruce Street shall be designed to a constant slope. The design will be finalized during resolution compliance submission, should approval be granted. 5. A detailed review of the grading can be completed during compliance submission; if/when this subdivision is approved. A preliminary review has been conducted and the following revisions can be provided with resolution compliance submission, should approval be granted: a. The proposed top of curb elevation on the east curb return of the access driveway is incorrect. b. Based on the proposed bottom of curb elevations at the curb returns of the access driveway, the intersection with Spruce Street is too steep. c. Top and bottom of wall elevations should be added to the proposed retaining wall. d. Based on the contours, the proposed top of grate elevation equal to 103.50 is too low. e. A profile which includes utilities should be provided for the proposed access driveway. D. Storm Water Management 1. A roof drainage collection system has been designed to convey storm water runoff from the individual units into proposed recharge trenches. The proposed recharge system design shall be completed. Proposed inverts and slopes must be added to the roof drain conveyance piping. The proposed invert on the Cleanout Detail should be corrected. Per communications with the applicant's engineer, the roof drainage collection system with recharge trenches will be finalized for resolution compliance submission, should approval be granted. 2. The project will be designed to comply with applicable requirements of the NJ Stormwater Rule. Per communications with the applicant's professionals, the design will be reviewed in further detail with our office prior to the public hearing. An underground recharge system design will be finalized beneath the proposed access driveway for resolution compliance submission, should approval be granted. 3. Soils information must be provided within the proposed project to confirm the seasonal high water table. Permeability testing is required for use in the recharge calculations. The applicant's engineer indicates that the soils information and permeability testing will be provided for resolution compliance submission, should approval be granted. 4. The Storm Water Management Report and Design will be reviewed in detail after revisions to the project are made. The final Storm Water Management Report and Design will be provided with resolution compliance submission, should approval be granted. 5. A storm water maintenance manual will be required in accordance with State and Township standards. The storm water management system will be owned and maintained by the Homeowners Association. Therefore, a storm water maintenance manual will be provided with resolution compliance submission, should approval be granted. E. Landscaping 1. The overall landscape design is subject to review and approval by the Board and should conform to recommendations from the Shade Tree Commission as practicable. The Board should provide landscaping recommendations, if any. 2. The Landscape Note should be revised since most of the buildings do not face an improved street. The Landscape Note may be revised for resolution compliance submission, should approval be granted. 3. Corrections are required to the General Planting Notes and General Seeding Notes. The corrections can be

provided with resolution compliance submission, should approval be granted. 4. A six foot (6') wide shade tree and utility easement is proposed along Spruce Street. Proposed sight triangle easements and utilities should be added to the plan to prevent planting conflicts. A proposed sight triangle easement has been added. The shade tree and utility easement shall be revised since it will only apply to proposed Lot 6.01. Proposed utilities can be provided with resolution compliance submission, should approval be granted. 5. Landscaping shall be reviewed in detail after compliance submission should subdivision approval be granted. Statement of fact. F. Lighting 1. A point to point diagram must be provided to verify the adequacy of the proposed lighting. Providing a point to point diagram may be a condition of approval. 2. A Note states that all site lighting shall be installed by JCP&L and shall be maintained by JCP&L after installation. Testimony should be provided regarding site lighting ownership since the access driveway would be privately owned. Per communications with the applicant's professionals, this issue will be reviewed in further detail with our office prior to the public hearing. Testimony on proposed site lighting ownership should be provided. 3. Lighting shall be reviewed in detail after compliance submission should subdivision approval be granted. Statement of fact. G. Utilities 1. The proposed sanitary sewer will connect to an existing system in Spruce Street. Only a preliminary layout has been designed with a proposed slope less than required for servicing the basements. We note corrections are required to the proposed rim and invert elevations of the terminal manhole. 2. Potable water is proposed to be extended from an existing main on the north side of Spruce Street. We note the proposed design is incomplete. 3. Fire protection and access for emergency vehicles should be addressed. Approval from the Fire Commissioners is required. H. Signage 1. No signage information is provided within the current design submission. A full signage package for any signage requiring relief by the Board must be provided for review and approval as part of the application. Confirming testimony should be provided that there will be no project identification signs. I. Environmental 1. Tree Management As a condition of approval, if/when granted, a completed Tree Protection Management Plan in accordance with the current ordinance shall be submitted. The applicant must comply with the requirements for tree protection and removal as applicable for this site. Communications with the applicant's professionals indicate that a completed Tree Protection Management Plan may be a condition of approval. J. Construction Details 1. Final review of construction details will take place after compliance submission, if/when this project is approved by the Board. Statement of fact. K. Final Plat (Major Subdivision) 1. The coordinates are based on an assumed datum, but are missing from the plan. 2. Proposed unit dimensions and decks should be added to the plan. 3. The proposed Minimum Lot Widths must be corrected. Most proposed lots have no road frontage. 4. The proposed Maximum Building Coverage for all lots must be revised to include the decks. 5. The proposed Shade Tree and Utility Easement Data shall be provided on an individual lot basis. 6. Proposed Sight Triangle Easements should be added and dedicated to the Township of Lakewood. 7. All proposed easement data must be completed. A Homeowners Association is being proposed. 8. The date on the Surveyor's Certification requires correction. 9. Lots and Block numbers in the Title Box shall be corrected. 10. Compliance with the Map Filing Law is required. 11. The Final Plat will be reviewed in detail after design revisions are undertaken for the project. The Final Plat will be reviewed in detail with resolution compliance submission, should approval be granted. IV. Regulatory Agency Approvals Outside agency approvals for this project may include, but are not limited to the following: a. Developers Agreement at the discretion of the Township; b. Township Tree Ordinance; c. Lakewood Fire Commissioners; d. Ocean County Planning Board; e. Ocean County Soil Conservation District; and f. All other required outside agency approvals. New Jersey American Water Company will be responsible for constructing potable water and sanitary sewer facilities.

Mr. Vogt went through the various variances requested.

Ms. Michelle Donato, Esq. stated she represents several residents who live adjacent to this application. She wants to make certain that there are no conflicts of interest. She stated there is a possibility that Mr. Herzl has a business interest in a property that is within 200 ft.

Mr. Herzl is disqualified as he has an interest in property within 200 ft.

As Mr. Herzl is disqualified, there is now not a quorum to hear this application and Mr. Penzer asked that it be carried to a further hearing.

Ms. Donato stated that there are issues with the notice and she would like to take care of them now.

Mr. Neiman stated that they will go to the next application as Mr. Ackerman is on his way in.

Mr. Ackerman arrived at the meeting.

Concerning the notice, Mr. Flannery stated that they don't include public right-of-ways in the lot area. In the definition, they refer to a private-right-of way. In his opinion, he is thinking of something a little different than they have here which is an access easement to the property. The Board has acted on these types of applications in the past and have included those areas in the lot area. They would certainly be willing to come back with a new notice to include that variance but it is his opinion that an access easement is not considered a private right-of-way.

Mr. Vogt stated that this is basically a form of driveway and off-street parking.

Ms. Donato read several definitions into record as well as a case law that pertains to this application. Her main point is that subdivisions need to be on a public street.

Mr. Flannery stated that in her interpretation they would have to take shade tree, site triangle, drainage etc. easements out of the lot area. The MLUL clearly gives the Board permission to grant approval for a house that is not on a public street. All past applications that were approved on private streets would be illegal and that wouldn't make sense. If there are issues with the notice, they would be willing to re-notice and move forward.

Ms. Donato states that duplexes must face a public street.

Mr. Neiman doesn't think that the notice is an issue. The interpretation of the ordinance is.

Mr. Vogt does not see this as a right-of-way. If a right-of-way is public, it is an area in which a road is going to be installed and dedicated to the Township. Larger applications in the past will have roadways that will be dedicated to the Town but maybe Public Works is not comfortable with drainage, trash pick up etc. At that point in time, that may be right-of-way but that's not going to be dedicated to the Township. He is not sure what he would call this. The intent is this going to be access and off-street parking for these proposed lots. The Board would have to vote affirmatively on several variances including lack of lot frontage.

Mr. Jackson states that a right-of-way is usually for a third person. This is for that little development. It's private in that sort of sense.

Ms. Donato again stated that per the ordinance lot area excludes right-of-way whether it is public or private. Case law states that it is supposed to go to the Zoning Board.

The applicant would like to re-notice the application. They would like to discuss with the objector's attorney and deal with whatever was missing from the notice.

Ms. Donato states that the applicant has the burden of making sure it is right when they come to the Board. Some other issues may be discovered in the process of cross examination. She stated there is a mistake with the side yard backs, buffers, parking, lot size.

The application will be carried to the February 5, 2013. The applicant will re-notice.

- 3. SP 1996** (Variance Requested)  
Applicant: Talmud Torah Bais Avrohom  
Location: New Hampshire Ave and Route 70  
Block 1160.03 Lot 47.01  
Major Site Plan for an addition to existing school

### **Project Description**

The applicant is seeking Preliminary and Final Site Plan approval for the construction of an addition to an existing private school. The site plans indicate a proposed addition to the southeast corner of the existing school building. The site has an existing one-story masonry building and a trailer. Substantial areas of bituminous concrete paving surround the existing building. The pavement provides areas for existing parking and play areas, mostly multiple basketball courts. Some of this paving extends off-site onto the adjacent property to the north. This off-site pavement is clearly being used by the school site for recreation and parking areas. The survey states that there are forty-nine (49) existing parking spaces, one (1) of which is handicap accessible. The plans also show three (3) asphalt driveway access points to the property from New Hampshire Avenue, a County Road. The southern most access driveway is clearly a one-way in since it is narrow and angled for the incoming north bound traffic. The other two (2) driveway access points are wide enough to permit two-way traffic. The site is located in the southern portion of the Township on the east side of New Hampshire Avenue, north of the intersection with Route 70. Route 70 is a State Highway bordering the south side of the tract. A circular turning ramp is in close proximity to the property, but the westbound travel lanes are not. No access exists or is proposed along the Route 70 frontage. The tract consists of about 3.185 acres in area. Most of the property is developed and few trees exist on the site. The tract is irregular in shape. New Hampshire Avenue has a variable width right-of-way and a seven foot (7') wide road widening easement dedicated to the County is shown across a portion of the frontage. No sidewalk exists, or is proposed across the project frontages. However, it should be noted that sidewalk is not appropriate for the area since the land intersects two (2) major highways. Curb does exist along the project frontage. There are a number of existing monitoring wells on the site since it is located within a Groundwater Contamination Area. The project is serviced by the Lakewood Township Municipal Utilities Authority for both sanitary

sewer and potable water. As mentioned previously, the project encroaches onto the existing property to the north. Except for the encroaching improvements, the neighboring land to the north is undeveloped. The site to the east consists of self storage buildings. The surrounding lands to the south and west are major highways. We offer the following comments and recommendations for the Board's consideration: I. Waivers A. Our review of the project indicates this is a Major Site Plan application and not a Minor Site Plan application as submitted, because the proposed building addition exceeds fifteen hundred square feet (1,500 SF). Therefore, a Land Development Checklist shall be submitted for Major Site Plan with any submission waiver requests listed. II. Zoning 1. The parcel is located in the M-1 Industrial District. According to Section 18-903M.1.m. of the UDO, quasi-public and private educational facilities are permitted uses in the zone. 2. A front yard setback of fifty feet (50') for the building addition is proposed along the Route 70 frontage. A proposed front yard setback of fifty feet (50') is permitted subject to approval by the Lakewood Industrial Commission. Otherwise, the allowable front yard setback is one hundred feet (100'). 3. The existing property is a corner lot. Since the project has frontage and access on New Hampshire Avenue, we interpret the rear yard should be opposite the New Hampshire Avenue frontage. Therefore, we interpret that a rear yard setback variance is required rather than the side yard setback variance requested. A twenty foot (20') setback is proposed from neighboring Lot 44.02, whereas a thirty foot (30') setback is required. 4. There is an above ground pool and elevated wood deck in the northeast corner of the site. Variances may be required for accessory structures. 5. Under Section 18-906A., of the UDO, schools require a ten foot (10') buffer from nonresidential uses or districts. Pavement expansion is proposed to the property line of the neighboring self storage site. 6. Per review of the Site Plan, the following design waivers are required for proposed project: • Providing sidewalk along the New Hampshire Avenue and Route 70 frontages of the site. However, it should be noted that no sidewalk exists along New Hampshire Avenue or Route 70 in the vicinity of the site. Furthermore, the area is not conducive to pedestrian traffic since the roads are major highways. Therefore, we recommend the Board grant this design waiver. • Providing shade trees, and shade tree and utility easements along the project frontages. However, it should be noted that the travel lanes of Route 70 westbound are far away from the front property line. Also, a thirty foot (30') wide sanitary sewer easement exists along the New Hampshire Avenue frontage. • Providing on-site curb. There is some existing curb on-site, but the bulk of the pavement is without existing curb. 7. The applicant must address the positive and negative criteria in support of any variances that may be required. At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. III. Review Comments A. Site Plan/Circulation/Parking 1. An ALTA/ACSM Land Title Survey has been provided for Lot 47.01. However, the site improvements encroach onto neighboring Lot 47.02. Partial topography has been provided for Lot 47.02 which shows these existing improvements. Testimony must be provided regarding this encroachment and whether a Minor Subdivision will be pursued to rectify the situation. 2. Testimony should be given regarding proposed circulation with the site layout (parking, loading area, access, etc.). Three (3) driveway access points exist on the New Hampshire Avenue frontage of the site. A narrow asphalt driveway which is not dimensioned exists near the southwest corner of the site. This existing unmarked asphalt driveway is only wide enough to provide one-way circulation which we assume to be one-way in based on its configuration. The other two (2) driveway access points which are not dimensioned seem wide enough to permit two-way circulation. 3. Pavement expansion is proposed in the southeast corner of the site to permit school bus access around the proposed addition. The circulation route has not been

completed and will travel through a fenced recreation area with multiple basketball courts. The existing gates for the fenced area should be shown and the circulation route completed. 4. The survey and site plans indicate that forty-nine (49) off-street parking spaces are being provided, only one (1) of which is handicapped. However, at least two (2) handicapped spaces are required for the site, one (1) of which must be van accessible. This is a requirement that cannot be waived. The plans do not address off-street parking spaces as required per UDO standards 18-906C. 5. Testimony should be provided on bussing and student parking on-site. Testimony should also be provided as to the maximum number of staff professionals at the site during school operations. 6. Testimony should be given that adequate turning movements will be provided for any proposed bus drop off area, emergency vehicles, refuse collection, and deliveries. A vehicle circulation plan should be provided as confirmation. 7. Testimony is necessary from the applicant's professionals regarding how any drop off area will be used, including but not limited to times, sizes, and types of vehicles anticipated (i.e., buses, vans, cars, others). 8. The General Notes reference the survey from Clearpoint Services. The General Notes also state that vertical elevation is based on assumed datum. A bench mark shall be provided. Horizontal datum shall also be addressed. 9. The General Notes state that solid waste and recycling is to be collected by the Township. No proposed refuse enclosure is depicted on the site and must be provided. Our site investigation on 10/24/12 noted several exposed dumpsters located in the northwest corner of the site. Since Township pickup is proposed, approval from the DPW Director is necessary. Any waste receptacle area shall be screened and designed in accordance with Section 18-809E., of the UDO. 10. Regulatory signage should be added to the site plan, such as handicapped, do not enter, and one-way signs. 11. Sight Triangle Easements should be proposed for any vehicular egress points to New Hampshire Avenue. 12. Unless waivers are granted, proposed shade trees, as well as shade tree and utility easements should be provided. 13. Testimony should be provided addressing proposed handicap accessibility of the existing on-site facilities. The site must be upgraded to meet current ADA standards. 14. Existing and proposed dimensioning must be added throughout the site. Existing parking space sizes and parking area aisle widths are inadequate in many instances. 15. Proposed setback lines shall be added to the site plan and the zoning schedule amended accordingly. 16. The on-site pavement is in poor condition. Testimony should be provided on reconstruction plans. 17. The existing fencing is in poor condition. Testimony should be provided on fence replacement. Existing fence will be removed for construction of the proposed addition. 18. There is an existing playground on the site. A certification is required from a CPSI (Certified Playground Safety Inspector) that the equipment is installed properly over an impact-absorbing surface. A certification is also required that playground equipment was manufactured and installed in accordance with ASTM Standard F1487-Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use, ASTM F1292-99, Standard Specification for Impact Attenuation Under and Around Playground Equipment, CPSC Guidelines (Consumer Product Safety Commission) and manufacturer's recommendations. All equipment should bear an IPEMA Certification logo. 19. A Legend must be added to the site plan. 20. The lot number for the adjacent self storage site shall be corrected to Lot 44.02. B. Architectural 1. No architectural plans have been provided for the proposed addition and are required. The site plans indicate the building height will be less than thirty-five feet (35'). The zone permits a building height of sixty-five feet (65'). C. Grading 1. No grading plan has been provided and is required. 2. Per review of the existing elevations and per review of site conditions during our 10/24/12 site inspection, on-site grades generally slope to the southeast. D. Storm Water Management 1. Our review of the plans indicates that there will be a minor increase in impervious area for the proposed pavement expansion. It

appears less than a quarter acre of impervious surface will be added to the project site since the proposed building addition would be located within an area that is currently paved. Furthermore, it appears site disturbance will be less than an acre. Therefore, we are assuming the applicant will be requesting a waiver from Storm Water Management design with calculations. E. Landscaping and Lighting 1. Unless a waiver is requested and granted, a dedicated landscaping plan shall be provided. 2. Testimony should be provided as to whether compensatory landscaping will be proposed (or is necessary). A Tree Protection Management Plan must be provided to comply with new Tree Ordinance Chapter XIX. 3. Landscaping should be provided to the satisfaction of the Board. 4. Unless a waiver is requested and granted, a dedicated lighting plan shall be provided. 5. Any proposed Lighting Plan should include a point to point diagram to indicate that the site will be adequately illuminated by the design. 6. Lighting should be provided to the satisfaction of the Board. F. Utilities 1. The site will be served by public water and sewer. The project is within the franchise area of the Lakewood Township Municipal Utilities Authority. 2. Approvals will be required from the Lakewood Township Municipal Utilities Authority. G. Signage 1. No signage information is provided. A full signage package for free-standing and building-mounted signs identified on the site plans (requiring relief by the Board) must be provided for review and approval as part of the site plan application. 2. All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with Township ordinance. H. Environmental 1. To assess the site for environmental concerns, our office performed a limited natural resources search of the property and surroundings using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. Data layers were reviewed to evaluate potential environmental issues associated with development of this property. The site is located within a Groundwater Contamination Area. Accordingly, the survey indicates a number of monitoring wells on the site. 2. A Tree Protection Management Plan must be provided to comply with new Tree Ordinance Chapter XIX. I. Construction Details 1. All proposed construction details must comply with applicable Township and/or applicable standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific, and use a minimum of Class B concrete. A detailed review of construction details will occur during compliance review; if/when this application is approved. IV. Regulatory Agency Approvals Outside agency approvals for this project may include, but are not limited to the following: a. Developers Agreement at the discretion of the Township; b. Township Tree Ordinance (as applicable); c. Lakewood Industrial Commission; d. Lakewood Fire Commissioners; e. Lakewood Township Municipal Utilities Authority (water and sewer); f. Ocean County Planning Board; g. Ocean County Soil Conservation District; and h. All other required outside agency approvals.

Mr. Vogt stated that there are variances requested for front yard setback, rear yard setback and possibly for the accessory structures.

Mr. Glenn Lines, P.E., P.P. was sworn in. He stated that they are proposing an addition of an existing school building on the corner of New Hampshire and Route 70. The basic of the purpose of the addition is to provide better flow within the school. There are interior renovations going on now. Mostly bathrooms, remove classrooms to provide better hallway access. The addition is basically five classrooms to make up the classrooms they are losing. They do require a 50 ft front yard setback to the Route 70 right-of-way. If the Board acts favorably, they do have to get approval from the Lakewood Industrial Commission for the 50 ft which should be a



condition of approval. To be able to fit the proposed classrooms on the end of the existing building, they ended up with a 20 ft setback where 30 ft is required. The neighboring lot is a self storage area with low intensity use. There was a concern about the parking at the last meeting. Mr. Lines did provide copies of the easement documents which has a three tiered parking situation on both lots where each property owner is allowed to use a certain portion of others property for parking.

Mr. Vogt looked at the easement documents and it appears there will be have some modifications to the internal easements. We would recommend that as a condition of approval.

Mr. Lines would work that out with the other property owner and may have to make some more modifications which could be done at compliance. There is an existing above ground swimming pool that actually crosses over the property line. They would like to leave it and are requesting whatever variances are required for that.

Mr. Jackson stated that would be something that would have to be worked out between the property owners. The Board does not need to weigh in on it.

Mr. Lines stated that they are not changing any of the traffic patterns on the property. Currently the busses come in off of New Hampshire and come back out of the lot. They did expand the pavement a little bit on the east side of the building just in case there was an emergency or maintenance vehicle to get through there.

Mr. Vogt stated that the applicant is requesting a waiver for sidewalks along New Hampshire and Route 70 as well as shade tree, easements, and on-site curbing on portions of the site.

Mr. Lines stated that they are all existing conditions. If they did add sidewalks, they would be the only ones on New Hampshire and they would have no where to extend to. Mr. Lines can address all the comments in the engineer's letter.

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

A motion was made by Mr. Follman, seconded by Mr. Percal to approve the application.

Affirmative: Mr. Herzl, Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Rennert, Mr. Percal

4.     **SD 1866**           (Variance Requested)  
       Applicant:     UKR Consulting, LLC  
       Location:     Shady Lane Drive  
                              Block 12                       Lots 212 & 243  
       Minor Subdivision/Lot Line Re-Alignment for two lots  
       ***The applicant has requested that this project be carried to the January 8, 2013 meeting. This application will not be heard.***
  
5.     **SD 1871**           (Variance Requested)  
       Applicant:     Sheindy Schindler

Location: Forest Avenue and Second Street  
Block 72 Lot 9  
Minor Subdivision to create four lots

**Project Description**

The applicant proposes to subdivide the existing twenty-two thousand five hundred square foot (22,500 SF) tract into four (4) zero lot line properties with two (2) duplex buildings. Existing Lot 9 in Block 72 would be subdivided into proposed Lots 9.01 - 9.04 as designated on the subdivision plan. Proposed Lots 9.01 and 9.02 would contain a duplex building facing Second Street. Proposed Lots 9.03 and 9.04 would contain a duplex building facing Forest Avenue. Existing Lot 9 contains a dwelling and a detached garage. The revised plan indicates that all existing improvements will be removed. Public water and sewer is available. The site is situated in the northern portion of the Township at the northeast corner of Second Streets intersection with Forest Avenue. The surrounding area is predominantly developed. Second Street is an improved municipal road with a sixty foot (60') right-of-way. Forest Avenue is an improved municipal road with an eighty foot (80') right-of-way. Curb and sidewalk exist along the property frontage and is generally in poor condition. Potable water, sanitary sewer, gas, and electric all exist within the Second Street and Forest Avenue right-of-ways. The existing property which would be subdivided falls within the ROP Residential Office Park Zone. We have the following comments and recommendations per testimony provided at the 11/13/12 Planning Board Plan Review Meeting and comments from our initial review letter dated November 8, 2012: I. Zoning 1. The property is located within the ROP Residential Office Park Zone District. Per Section 18-903I.1.e., multi-family housing in accordance with the design regulations of the R-M District as specified in Section 902H.4.b. is permitted. Per Section 18-902H.1.b., Two Family and Duplex Housing are a permitted use in the zone. Statements of fact. 2. Variances are required for Minimum Rear Yard Setbacks on proposed Lots 9.03 and 9.04. The proposed decks would be located only five feet (5') from the rear property line, whereas fifteen feet (15') is required. The Board shall take action on the required rear yard setback variances. 3. Variances are requested for Maximum Building Coverage. A thirty percent (30%) building coverage is allowed, whereas the proposed building coverage exceeds thirty percent (30%). The Board shall take action on the requested maximum building coverage variances. 4. The applicant must address the positive and negative criteria in support of the required variances. At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. II. Review Comments 1. The correct Ordinance Sections shall be referenced in the Schedule of Bulk Requirements. In general, corrections are required to the Schedule of Bulk Requirements. The following corrections should be made to the Schedule of Bulk Requirements: a. Section 903 needs a lower case "e". b. The required zero lot line duplex minimum lot width is twenty-five feet (25'). c. The provided rear setbacks for proposed Lots 9.01 and 9.02 are 46.7 feet. 2. The NJ R.S.I.S. requires 2.5 off-street parking spaces for unspecified number of bedroom dwellings. The zoning schedule indicates that three (3) off-street parking spaces will be required for the proposed future dwellings. The zoning schedule indicates that three (3) off-street parking spaces will be provided for the proposed future dwellings on Lots 9.01 – 9.03. The zoning schedule also indicates that five (5) off-street parking spaces will be provided for the proposed future dwelling on Lot 9.04. Testimony at the Plan Review Meeting indicated parking variances would be sought for proposed Lots 9.01 through 9.03 and justification would be provided. 3. Testimony should be provided whether basements will be proposed for the future dwellings on proposed Lots 9.01 – 9.04. If basements are proposed, a

minimum of four (4) off-street parking spaces would be required to comply with the Township Parking Ordinance. Testimony at the Plan Review Meeting indicated parking variances would be sought for only providing three (3) off-street parking spaces for proposed Lots 9.01 through 9.03 and justification would be provided. 4. If basements are proposed, seasonal high water table information will be required. The applicant's professionals indicate that seasonal high water table information shall be provided at time of plot plan submissions. 5. The Minor Subdivision Plan shows new lot numbers were assigned by the tax assessor's office. If approved, the map shall be signed by the tax assessor. The tax assessor's signature would be required prior to any map filing. 6. Unless waived by the Board, street trees are required along the property frontage of proposed Lots 9.01 – 9.04. Landscaping should be provided to the satisfaction of the Board, and should conform to recommendations (if any) from the Township Shade Tree Commission as practicable. Our site investigation prior to the hurricane indicates there are some large existing trees which have been located on the Survey. This development, if approved must comply with the Township Tree Ordinance at time of Plot Plan review for proposed Lots 9.01 – 9.04. The applicant's professionals indicate that landscaping and compliance with the Tree Ordinance shall be provided at time of plot plan submissions. The Board should provide landscaping recommendations, if any. 7. The existing curb and sidewalk along Second Street and Forest Avenue is in poor condition and should be replaced. General Note #10 on the Minor Subdivision Plan should be revised to note the replacement of curb and sidewalk along the property frontage of new Lots 9.01 – 9.04. A proposed curb ramp with detectable warning surface is required at the intersection. The General Note indicates curb and sidewalk shall be replaced as directed by the Township Engineer, which in reality will be all of it. A curb ramp with detectable warning surface has been proposed at the intersection. The curb ramp shall be Type 4. An Improvement Plan with construction details is needed for the curb and sidewalk replacement. This item can be addressed during compliance, if/when approval is granted. 8. Testimony is required on the disposition of storm water from the development of proposed Lots 9.01 – 9.04. The entire property does not slope toward the streets. There is an existing low point in the vicinity of the existing garage. The applicant's professionals indicate that storm water management shall be addressed at time or plot plan submission. 9. Testimony should be provided on proposed site grading. No proposed grading is indicated on the plan. Proposed grading must be included on the future plot plan submittals. The applicant's professionals agree that proposed grading must be included on the future plot plan submittals. 10. The Secretary's Certification requires revision. The corrections can be provided with resolution compliance submission should approval be granted. 11. Due to no construction proposed at this time, the Board may wish to require the cost of improvements to be bonded or placed in escrow to avoid replacing them in the future. The applicant's professionals indicate that this matter shall be discussed during the public hearing. 12. Compliance with the Map Filing Law is required. Statement of fact. 13. Final review of construction details will be conducted during compliance if approval is given. Final construction details will be dependent upon the conditions of approval imposed by the Board. III. Regulatory Agency Approvals Outside agency approvals for this project may include, but are not limited to the following: a. Township Tree Ordinance (as applicable); b. Ocean County Planning Board; c. Ocean County Soil Conservation District; and d. All other required outside agency approvals. New Jersey American Water Company will be responsible for water and sewer service.

Mr. Percal stepped down.

Mr. Vogt stated that variances are being requested for minimum rear yard setback, maximum building coverage.

Mr. Penzer explained the history of the ROP Zone. He stated that all of Mrs. Schindler's children will be living in these houses.

Mr. Flannery, P.E., P.P. was sworn in. He stated that the application is proposing 4 duplexes. The rear yard areas are all lumped together because it is going to be a family that can use it. There are five parking spaces on one of the lots and three on the others. The other area would be for the overflow parking. It does comply with RSIS and it is a little less than what the Board asks for but he believes this is a unique situation to justify the parking. The buildings themselves comply but with the decks there are variances for building coverage. They can comply with all of the items in the engineer's report. The sidewalks will be replaced as needed.

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

A motion was made by Mr. Follman, seconded by Mr. Herzl to approve the application.  
Affirmative: Mr. Herzl, Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal

- 6. SP 1954A** (No Variance Requested)  
Applicant: Harley Davidson of Ocean County  
Location: Route 70  
Block 1086 Lot 16  
Amended Preliminary & Final Site Plan for proposed addition to existing motorcycle dealership building with associated site improvements

Mr. Liston stated that Mr. Gasiorowski filed a lawsuit which is directed against the Planning Board and the applicant seeking to deprive the Board of jurisdiction to hear this matter. In his view, the lawsuit is frivolous and premature. It is designed to harass his client and to cause him additional costs. Once a lawsuit is filed until it is resolved or there is a remand order from the court you probably can't move forward with this. He asked that this be carried to the February 19, 2013 meeting to give him sufficient time to either have the lawsuit dismissed or alternatively have the court say no, the hearing has to go on.

Mr. Jackson believes that would be the conservative route and it would be wise for Mr. Liston to go to the court.

A motion was made by Mr. Percal, seconded by Mr. Schmuckler to carry this application to the February 19, 2013 meeting. No further notice required.  
Affirmative: Mr. Herzl, Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal

- 7. SD 1876** (Variance Requested)  
Applicant: CliftonRock, LLC  
Location: John Street  
Block 769 Lot 16

Minor Subdivision to create three lots

**Project Description**

The applicant seeks minor subdivision approval to subdivide an existing lot totaling 15,104 square feet (0.347 acres) in area known as Lot 16 in Block 769 into three (3) new residential lots. The subdivision proposes to provide a duplex building on two (2) zero lot line properties, and a single family house on one (1) lot. The proposed lots are designated as Lots 16.01 through 16.03 on the subdivision plan. Proposed Lots 16.01 and 16.02 will contain the duplex building on zero lot line properties. Proposed Lot 16.03 will contain the single family residence on a single lot. Public water and sewer is available. The site is situated in the central portion of the Township on the southeast corner of Arlington Avenue and John Street. The existing right-of-way width of Arlington Avenue varies, but is 52.81 feet in front of the site. The existing right-of-way for John Street is sixty-six feet (66'). Arlington Avenue is a paved road in fair condition, curbing in poor condition exists along the property frontage, but sidewalk does not. However, new sidewalk is proposed. John Street is a narrow paved road offset within the north side of the existing right-of-way. No curbing and sidewalk exists along the property frontage of John Street, but is proposed. Except for the adjoining properties to the south and east, the surrounding area is predominantly residential. Variances will be required to create this subdivision. The lots are situated within the R-7.5 Single Family Residential Zone. We have the following comments and recommendations per testimony provided at the 12/4/12 Planning Board Plan Review Meeting and comments from our initial review letter dated November 29, 2012: 1. Zoning 1. The parcel is located in the R-7.5 Single-Family Residential Zone District. Single family detached housing is a permitted use in the zone. Two-family housing and duplexes with a minimum lot size of ten thousand square feet (10,000 SF) and a minimum lot width of sixty feet (60') are a permitted use in the zone. Zero lot line subdivisions for duplexes are permitted in the zone. Statements of fact. 2. The existing Arlington Avenue right of way as noted on the subdivision plan is 52.81 feet, in excess of the 50-foot Township ROW requirement for local roads. As proposed, the subdivision will result in incorporating the residual 2.81 feet of the existing Arlington Avenue right-of-way and adding it to the proposed site. This would reduce the proposed right-of-way width of Arlington Avenue in front of the site to fifty feet (50'). Statements of fact. 3. Planning Board approval, if/when granted, will require Township approval of the above-referenced partial street vacation. Per communications with the applicant's professionals, the applicant agrees to meet this condition. Statements of fact. 4. Per review of the Subdivision Map and the zone requirements, the following variances are required for the proposed duplex on Lots 16.01 and 16.02: • Minimum Front Yard Setback – 20 feet proposed, 25 feet required – proposed condition. • Maximum Building Coverage – 30% allowed, proposed footprint slightly exceeds 30% – proposed condition. Based on review of the revised Subdivision Map and the zone requirements, the following variances have been requested for the proposed duplex on Lots 16.01 and 16.02: • Minimum Front Yard Setback – 20.05 feet proposed, 25 feet required – proposed condition. • Minimum Rear Yard Setback – 13.41 feet proposed, 15 feet required – proposed condition. (It should be noted that only the proposed decks require the setback variance, the proposed building setback would be 23.41 feet.) • Maximum Building Coverage – 33 % proposed, 30 % allowed – proposed condition. (It should be noted that inclusion of the proposed decks require the coverage variance, otherwise the proposed building coverage would be 30 %.) The Board shall take action on the requested variances. 5. Per review of the Subdivision Map and the zone requirements, the following variances are required for the proposed single family house on Lot 16.03: • Minimum Lot Area – 5,667 square feet proposed, 7,500 square feet allowed – proposed condition. • Minimum Front Yard Setback – 20 feet

proposed, 25 feet required – proposed condition. • Maximum Building Coverage - 30% allowed, proposed footprint exceeds 30% – proposed condition. The revised Subdivision Map increases the proposed front yard setback to 21.93 feet. Also, the proposed footprint has been decreased. Only the inclusion of the proposed deck triggers the coverage variance (33 %). The Board shall take action on the required variances. 6. The applicant must address the positive and negative criteria in support of the required variances. At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area. II. Review Comments 1. A Boundary and Topographic Survey of the property has been provided. The survey notes that field work was performed on 11/16/12. However, the survey is dated 11/12/12. A correction is necessary. Another Survey has been submitted indicating the field work was performed on 11/16/12, the same day the survey was dated. However, the Surveyor's Certification on the Minor Subdivision shows a date of 11/12/12 for completion of the survey, the same date as completion of the Minor Subdivision. The dates must be corrected with resolution compliance submission, should approval be granted. 2. The survey shows an abandoned masonry well encroachment from adjoining Lot 18. This encroachment must be addressed since the well location spans two (2) properties. Ocean County Board of Health must be involved with the removal. The applicant's professionals indicate that the abandoned masonry well encroachment from adjoining Lot 18 will be addressed at plot plan design. 3. The Schedule of Bulk Requirements shall be revised to include zero lot line requirements. Minor corrections to the Schedule of Bulk Requirements and General Note #11 can be provided with resolution compliance submission should approval be granted. 4. Unless the proposed building footprints are revised, variances will be required for maximum lot coverage. The proposed building footprints have been revised. Variances are requested to permit the decks to exceed the maximum lot coverage. 5. Off-street parking has not been addressed. The proposed front yards are only twenty feet (20') and existing utility poles will impede the location of off-street parking spaces. Parking should be provided to the satisfaction of the Board and comply with ordinance 2010-62. The revised plans note that four (4) off-street parking spaces are to be provided for each dwelling unit. 6. If basements are proposed for the future dwellings on Lots 16.01 through 16.03, seasonal high water table information will be required. The applicant's professionals indicate that estimated seasonal high water table information will be provided at plot plan design. 7. Proposed six foot (6') wide shade tree and utility easements are shown on the subdivision plan. Survey data with easement areas to the hundredth of a foot for the proposed individual lots should be completed. A detail for the proposed six foot (6') wide shade tree and utility easements has been added to the plan. The detail should be revised as all areas are listed under proposed Lot 16.01. Also, the 83.60 foot distance should be shown for proposed Lot 16.01. These corrections can be provided with resolution compliance submission should approval be granted. 8. No sight triangle easement has been provided at the intersection of Arlington Avenue and John Street. The applicant's professionals indicate that a sight triangle easement is not required due to the oversized John Street right-of-way. 9. The concrete curb which is in poor condition along Arlington Avenue should be replaced. Concrete sidewalk proposed along Arlington Avenue and John Street should be widened to five feet (5') unless pedestrian passing lanes are added. A proposed pavement taper from the end of the curb and sidewalk should be provided along John Street. A proposed curb ramp is shown at the intersection of Arlington Avenue and John Street. Per communications with the applicant's professionals, these items will be addressed during compliance if approval is granted. Statements of fact. 10. Should proposed utility connections on Arlington Avenue disturb more than twenty percent (20%) of the road length in front of the site, an overlay would be required.

Existing utilities should be shown. Existing utilities may be added for resolution compliance submission should approval be granted. 11. Proposed lot numbers must be approved by the tax assessor's office. Proposed lot numbers have been approved by the tax assessor's office and the map shall be signed prior to filing, should approval be granted. 12. No shade trees are proposed within the shade tree and utility easements for the project and are required unless a waiver is granted. Landscaping should be provided to the satisfaction of the Board, and should conform to recommendations (if any) from the Township Shade Tree Commission as practicable. This development, if approved must comply with the Township Tree Ordinance at time of Plot Plan Review for the proposed lots. The applicant's professionals indicate that landscaping and compliance with the Township Tree Ordinance will be provided as necessary at time of plot plan submissions. The Board should provide landscaping recommendations, if any. 13. Storm water management from development of proposed Lots 16.01 through 16.03 must be addressed. The applicant's professionals indicate that dry wells to accommodate storm water management will be provided at plot plan design. 14. Compliance with the Map Filing Law is required. Statement of fact. 15. An Improvement Plan must be provided to include grading and construction details as required. This Improvement Plan may be provided during compliance if approval is given. The Improvement Plan must account for the widening of John Street in front of the site. III. Regulatory Agency Approvals Outside agency approvals for this project may include, but are not limited to the following: a. Township Tree Ordinance; b. Ocean County Planning Board; c. Ocean County Soil Conservation District; d. Ocean County Board of Health; and e. All other required outside agency approvals.

Mr. Flannery, P.E., P.P. was sworn in. He entered the minor subdivision map as exhibit A-1 and the "Percal Map" as A-2. He showed all the non-conforming lots in the area. He can satisfy all the comments in the engineer's letter.

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

A motion was made by Mr. Follman, seconded by Mr. Percal to approve the application.

Affirmative: Mr. Herzl, Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal

- 8. SP 1992** (No Variance Requested)  
Applicant: Mikor Hatorah c/o Jeffrey Schron  
Location: Massachusetts Avenue  
Block 524.28 Lot 73.01  
Preliminary & Final Site Plan to construct a gymnasium for an existing school

## 6. CORRESPONDENCE

- 1. SD 1357 – Major Subdivision Block 1066, Lot 3** – Applicant requests revision of the November 2002 Resolution of Approval to remove a 50 foot wide conservation easement.

### Description

The applicant received approval for a four (4) lot subdivision. Mr. Doyle notes that approval is still valid by reason of the Permit Extension Act. The map for this subdivision has not yet been filed. The applicant requests the elimination of a fifty foot (50') wide conservation easement. The fifty foot (50') wide conservation easement is along the property frontage adjacent Balsam Avenue. Balsam Avenue is an unimproved right-of-way. A Zone Boundary Line runs along the center of Balsam Avenue separating this residential subdivision from the HD-7, Highway Development Zone. The conservation easement would act as a buffer between the residential and commercial zones. Mr. Doyle surmises the easement would deprive the subsequent property owners of the ability to use their land to its extent including likely recreational opportunities towards the rear of the properties. The following conditions from Resolution SD# 1357 would have to be removed should the Board grant the request for elimination of the conservation easement: Condition 19, the applicant shall prepare and submit the proposed conservation easement for review and approval by the Planning Board Attorney. Upon approval, said conservation easement shall be recorded with the Ocean County Clerk. Condition 20, the applicant shall provide a disclosure in each of the contracts of sale regarding the proposed fifty foot (50') wide conservation easement. Said disclosure provision shall be subject to the review and approval of the Planning Board Attorney.

Lou Felicetta, Esq. stated that they provided a copy of the subdivision, resolution and a letter explaining why we felt we needed this relief. There is no good reason for this easement. The easement is in the rear of the property that abuts an unimproved right-of-way. They are asking for the revision of the resolution so the property owner can utilize all the appropriate portions of the lot. There is still a 30 ft rear yard setback so there will still be some sort of buffer there.

Mr. Neiman opened to the public.

John Latyshev, Evergreen Avenue, stated that the property was bought from auction from the Ocean County Sheriff's department and it was classified by the County as unusable. His understanding is that it had been remediated. He would like to be clear if there is a problem with the site.

Mr. Latyshev stated that they know of no environmental concerns whatsoever. This is already a previously approved subdivision. They are just asking for the easement to be removed.

Mrs. Morris stated that they she had reviewed the minutes from the original planning board approval and the only reason they could see to request the easement was for buffer reasons.

Mr. Felicetta again stated that there will still be a 30 ft buffer and the property owners would like to be able to use their properties to the full extent.

Mr. Vogt stated that even if there was environmental issues, that doesn't mean the property can't be developed. A condition of approval would be to get outside agency approvals.

Mr. Felicetta stated that at the time of the original application, there were environmental reports submitted.

Mr. Latyshev feels that by expanding the size of the lots that this may trigger a future challenge to the permitted use of this land.



Mr. Neiman stated that the Board is very protective of the R-12 zone. If anything, adding this 50 ft easement will benefit to develop this property.

A motion was made by Mr. Herzl, seconded by Mr. Follman to grant the amendment.  
Affirmative: Mr. Herzl, Mr. Neiman, Mr. Schmuckler, Mr. Follman, Mr. Percal

**7. PUBLIC PORTION**

**8. APPROVAL OF MINUTES**

**9. APPROVAL OF BILLS**

**10. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Sarah L. Forsyth  
Planning Board Recording Secretary