

## **1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE**

Chairman Yechiel Herzl 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. Flancbaum, Mr. Herzl, Mr. Follman, Ms. Zografas

### **3. SWEARING IN OF PROFESSIONALS**

Mr. David Magno, P.E., P.P., C.M.E. was sworn in.

#### **4. MEMORIALIZATION OF RESOLUTIONS**

- 1. SD 2200 Aaron Mansour**  
Audubon Avenue Block 1016, Lot 3  
Minor Subdivision to create four lots

A motion was made and seconded to approve the resolution.



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- 3. SP 2230 Summit Court Shul**  
Summit Court Block 423, Lot 38  
Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to approve the resolution.

- 4. SP 2237AA Congregation Ohr Mattisyahu**  
East County Line Road                      Block 174.04, Lot 59  
Change of Use/Site Plan Exemption to convert existing house into a synagogue

A motion was made and seconded to approve the resolution.

5. **SP 2235 Congregation Alexander Inc**  
East 7<sup>th</sup> Street Block 231, Lot 30  
Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to approve the resolution.

6. **SD 2144 Chaim Abadi**  
Shady Lane Drive Block 12.01, Lots 7 & 11  
Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

7. **SD 2182 BBC Capital Group, LLC**  
Central Avenue Block 79, Lot 10  
Withdrawal of Minor Subdivision to create 2 lots

A motion was made and seconded to approve the resolution.

8. **SD 2173 Shulem Illowitz**  
Joe Parker Road Block 189.04, Lots 188-190  
**Extension** of Minor Subdivision to create four lots

A motion was made and seconded to approve the resolution.

9. **SD 2063 Eli Schwab**  
Joe Parker Road Block 189.16, Lot 157  
**Extension** of Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

10. **SD 1963 Nachman Taub**  
Read Place Block 855.02, Lot 26  
**Extension** of Minor Subdivision to create two lots

A motion was made and seconded to approve the resolution.

11. **SD 2140 Yeshaya Ackerman**  
Ann Court Block 187, Lots 84 & 100.05  
**Extension** of Minor Subdivision to realign lot lines

A motion was made and seconded to approve the resolution.

12. **SD 2170 Thomas Rosenberg**  
Ridge Avenue Block 223, Lots 83.05, 88, & 89  
**Extension** of Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

- 13. SD 2153 Meir S Kaufman**  
South Street Block 855.06, Lots 26 & 32  
**Extension of Minor Subdivision to create three lots**

A motion was made and seconded to approve the resolution.

- 14. SD 2131 Heshy and Rivka Weiss**  
East County Line Road      Block 106, Lot 12  
**Extension of Minor Subdivision to create two lots**

A motion was made and seconded to approve the resolution.

## **5. PUBLIC HEARING**

- 1. SD 2252 Aharon Mansour**  
Chestnut Street Block 1095, Lots 14-16  
Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated June 5, 2017 was entered as an exhibit.

Mr. Franklin said a few months ago, the board made a motion not to hear applications which are incomplete. This application is riddled with items that aren't on the plans. There are technical committee meetings to ensure applications are complete but projects are still coming before the board incomplete. He doesn't want to vote on applications like this.

Mr. Magno said their review letters report the facts from the drawings. In this case, any changes made to the plans are not going to affect the zoning section of their letter. He understands the applicant's engineer does not want to expend the extra effort at this time if they know they are not getting approval. It is up to the board as to how they want to proceed.

Mr. Jackson said his notes from the technical meeting include redesigning parking for turnaround after comments are received from the County. Survey revisions would be made prior to the public hearing.

Mrs. Miriam Weinstein, Esq. said those items were completed.

Mr. Franklin noted item number 15, dimensions for the proposed buildings should be provided to ensure zoning compliance. This item will be addressed at resolution compliance.

Mr. Magno said the reason for that comment is they show specific numbers on the setbacks and he can't confirm them without a building. The board is voting on variances for area and lot width. The technical parts are not going to affect those zoning comments.

Mr. Franklin understands but there are parking issues which must be worked out.

Mr. Magno said Chestnut Street is a County road so the applicant is working with the County and at this point they can only speculate what the County is going to ask of them.

Mr. Jackson said ultimately their goal on the technical committee is to make sure the plans are at a satisfactory level of completeness.

Mr. Franklin said the board is not going to see the final product.

Mrs. Weinstein said this is a minor subdivision and whatever was requested of them at the technical hearing was done. These issues being raised now were not brought up at the technical hearing as the engineer did indicate these items can be addressed at time of resolution compliance. As far as the actual building sizes of the homes, that is not affecting what they are asking for tonight. They are simply asking for lot area and width variances. If in fact, when they proposed the building and setback variances are required, the applicant would have to come back to the board.

Mr. Jackson said if they get a plan which is asking for variances and they are not satisfied with the proofs, it is ultimately the board's decision.

Mr. Schmuckler said they submit per checklist requirements. Architectural plans are not required for minor subdivisions. The engineer's review comments are correct. These are carry through comments which eventually continue on to the plot plan stage and when the Township engineer is reviewing plot plans, they will pull this letter and see the comments and that would address a lot of items in the report. A lot of those items are not meant specifically for the board's review, they are meant for an overall review of the project. They meet the requirements of the checklist, if they do not, it would not be deemed complete.

Mr. Jackson said as a general rule, on a subdivision, it is not part of the application to look at the house plans and details but when the applicant is asking for variances, the board can ask for anything they want in order to be persuaded these variances should be granted. The board may want to see if the house compensates for the undersized lot.

Mr. Schmuckler said a lot of these comments would be applicable to conforming subdivisions as well. In this case, the applicant is creating 3 lots from 2. If the board doesn't like this plan, then they would leave this as 3 lots.

Mrs. Weinstein said the lots are undersized but as long as they don't ask for any bulk variance relief, they could build without going to the board of adjustment.

Mrs. Morris understands Mr. Franklin's concerns, especially on major subdivisions which seem to be rushed but given that this is a minor subdivision, essentially they are only creating lots. Does the applicant need to perfect road improvements, parking, etc. Most of that is done at time of plot plan given this is a minor subdivision. The board engineer takes a very hard look at all of that and generally has good comments, however, even in past minor subdivisions when the engineer has comments concerning parking, roads, they require it at time of plot plan. It is not done in association with the filing of the minor subdivision.

Mr. Herzl said any future applications should be as complete as possible.

Mrs. Morris said unfortunately the letters are not issued until the week prior to the meeting. She goes through the checklist and deems the applications complete but there are other items which the board engineer catches and she cannot.

Mr. Magno believes their letters are pretty specific in the sense that they comment on what they are or are not comfortable seeing later.

Mr. Herzl said they will proceed with the application.

Mrs. Weinstein said each of the lots are 60 x 120 or 7,200 sf per lot. The applicant is requesting to consolidate three lots into two in order to make the lots larger and to lessen the existing non-conformity. A minimum lot area variance of 10,800 sf is requested whereas 20,000 sf is required. That may sound like a major variance to the board, but they must consider the whole picture and realize they are actually taking three very undersized lots and consolidating them into two much less undersized lots. If the board were to deny this application, the applicant would be left with three 7,200 sf lots which they could build on without getting relief from the board of adjustment.

Mr. Glenn Lines, P.E., P.P. was sworn in. He said none of the lots on this block are conforming. The lots range in size from 4,800 to 13,000 sf. If you look at the development to the left, they are all 12,000 sf lots in the R-20 zone. Across the street on Chestnut, is the B-5 zone so the existing house would eventually be taken down and replaced with businesses.

Mr. Herzl questioned the existing property.

Mr. Lines said the lots are wooded. No side yard setbacks or lot coverage variances are being requested.

Mr. Jackson said the applicant believes it is better to have two larger lots with larger houses as it is more in keeping with the zoning.

Mr. Lines agrees. It is a better use than putting three narrow houses on these lots.

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

Mr. Lines said not currently. They are anticipating it will be available soon.

Mr. Herzl said sidewalks would be provided as well as four spaces per home.

Mrs. Weinstein confirmed.

Mr. Lines said the plans show four parking spaces with a turnaround so the cars don't have to back out on a County road.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn in. He said the applicant is claiming he wants to build less but that is not true. He also mentioned the applicant should have obtained County approval before coming before the board.

Mr. Aaron Hirsch was sworn in. He agreed the applicant should obtain County approval first. The County does not decide land use. Once the board approves, they have no way to reverse that ruling.

Mr. Magno said the County can't overturn the board's decision but that doesn't mean they won't approve the same plan the board approves. The County has a subdivision/site plan ordinance of their own which they have to follow and they look at traffic, roadway improvements, drainage which would affect County facilities. If the design engineer cannot satisfy those requirements, then they are going nowhere.

Mr. Hirsch said the County is in the process of re-evaluating this whole area. Chestnut happens to be one of the worst accident prone roads. They should not be allowing lower zoning and the County is not accounting for that. They can't keep adding more and more density if they do not have the infrastructure to support it.

Mr. Rabinowitz was sworn in. He doesn't understand how the public would not benefit going from three lots to two lots.

Mr. Herzl closed to the public.

Mrs. Weinstein wanted to point out that the applicant did apply for County approval simultaneously with the filing of this application. The applicant is definitely making things better, not worse. She thinks this one should be a no brainer.

A motion was made and seconded to approve the application.

Affirmative: Mr. Grunberger, Mr. Flancbaum, Mr. Herzl, Mr. Follman

No: Mr. Franklin, Mr. Hibberson, Ms. Zografos

## **2. SD 2253 Karen Mandel**

Netherwood Drive

Block 436, Lot 1

## Preliminary and Final Major Subdivision to create 5 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated June 7, 2017 was entered as an exhibit.

Mr. Grunberger stepped down.

Mr. Magno said submission waivers include a traffic study, proof of submission to the Ocean County Planning Board and an environmental impact statement.

Mrs. Miriam Weinstein, Esq. said an application has been submitted to the County.

Mr. Magno said a traffic study waiver is most likely being requested as it is only five lots.

Mrs. Weinstein said they had come before the board sometime last year to develop this entire Netherwood area with what the developer believed was a superior application. The neighbors came out and objected to the application and the board denied the application based upon the fact that there were variances required for lot width. This is yet another fully conforming application which they are coming before this board with as a result of the board's denial of the application for the greater picture. This one is an as of right application as no variances are being requested so the board cannot deny this application. The board asked for all of the roads in the area to be paved and the infrastructure to be put in so as to open all arteries to help alleviate the Route 9/Cross Street through traffic. This applicant is doing just that, they are paving all of the roads, extending water and sewer and they are coming in with fully compliant applications. They know the neighbors do not like this. First they objected the application to the bigger scheme, now they are complaining the applicant is coming in with smaller applications that are in fact fully compliant.

Mr. Brian Flannery, P.E., P.P. was sworn in. The submission waivers requested are for the traffic study. This is a five lot conforming subdivision on streets that are already major streets from prior subdivisions. A traffic study isn't going to give the board any information. There was a larger application submitted on this where the applicant had tried to put together some various property owners and come in and do a more solid type of application but in order to do that they needed some variances. That application received a lot of public scrutiny. This will be five beautiful lots with five custom homes.

Mr. Herzl asked what triggers the necessity of a traffic study.

Mr. Magno said it depends on what it is and where the project is located. The five single family lots will generate 50 trips throughout the entire day at a maximum which would not have a large impact on existing roads.

Mr. Flannery said the application was submitted to the County Planning Board but they will have no comment as it is not on a County road. The environmental impact statement is normally needed when there are environmental features including wetlands or streams but none of that is impacting this property. This was part of an application submitted previously where the board determined an EIS was not required for that very same reason.

Mr. Magno has been on site and agrees an EIS is not required.

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

Mr. Magno said in the review letter, they suggested a better configuration of the lots as they are very irregular. If they follow their proposed configuration, you actually leave the opportunity to get a sixth conforming lot in the future if the two vacant parcels on the northeast part of the project are acquired and re-subdivided.

Mr. Flannery said they have reviewed it with the board engineer and the applicant feels the configuration submitted come up with five conforming lots with no relief needed. They feel this layout is best for future development for the building areas. The applicant disagrees with the engineer's proposed configuration in this case. The review letter indicates that partial design waivers are required from constructing curb and sidewalk for entire block 436. Their opinion is they do not need a design waiver but the applicant intends to build a curb all the way around the block, even in front of the parcels they do not own. They don't want to build sidewalk in front of those parcels because when the owners of those parcels go to develop, they'll build their own sidewalk.

Mr. Jackson asked if there are any common owners of those other lots.

Mr. Flannery said no. The other comment is from the Shade Tree Commission. The applicant will certainly provide whatever plantings are required by ordinance and would defer to the board engineer. Trash will be picked up by Public Works. The applicant would pay the stormwater management fee required as the drainage will be in the road and maintained by Public Works.

Mr. Herzl asked where Netherwood runs to.

Mr. Flannery said Netherwood goes between Finchley and Cross. Right now it only extends to Bellecourt but there are a few applications to the south and when this area gets developed it would go all the way to Cross.

Mr. Franklin asked what they can do to get Times Square aligned. Lot 3.02 encroaches into the roadway. There is only a 27.96 ft of pavement on that end and the roads are all 32 ft wide.

Mr. Flannery said he is looking at the existing conditions map. The proposed street does show 32 ft of pavement all the way down the street. Curbing and sidewalk will be provided along the project frontage.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn in. He said this application was previously denied but now they are back with a conforming application. He questioned why there are no architecturals as they are required by ordinance.

Mrs. Morris said there was testimony given that these homes would be custom built.

Mr. Klein argued the ordinance was passed for a reason.

Mrs. Morris said the traffic study requirement did not exist until the new ordinance requirements were changed so if the review letter indicates a waiver is required for the traffic study then a waiver is also required for the architectural plans.

Mrs. Weinstein believes they have requested a waiver.

Mrs. Morris said Lines Engineering has been good about using the updated checklist so she imagines it was used for this application which would indicate a waiver is requested for architectural plans.

Mr. Magno said the applicant indicated from the beginning they would do custom homes so they didn't even consider bringing it up in their letter.

Mr. Herzl doesn't understand how architecturals would be required if the future owners are going to build custom homes.

Mrs. Morris said historically architectural plans were not required. The committee recently updated the checklist requirements to require architectural plans for major subdivisions at the direction of this board. This is the board's first opportunity to determine whether or not a waiver should be granted.

Mr. Herzl questioned if the applicant has to come back before the board if the architectural plans change.

Mrs. Morris said it doesn't matter as long as they show the home within the building envelope.

Mr. Flannery would like to formerly request a waiver from providing architectural plans as it five 12,000 sf conforming lots and the developer had indicated they would be custom homes.

Mr. Flancbaum doesn't understand the point of the ordinance. The applicant can provide architecturals now but they are going to change anyway.

Mr. Franklin said the review letter indicates the drainage plan is incomplete.

Mr. Magno said this project abuts a lot of other subdivisions. The applicant is in the process of working with NJAW on their water and sewer lines and there is a lot they don't know as far as how they are going to route those. That would affect how they do their final grading and drainage. They really can't finish either at this point.

Mr. Herzl asked why the board should listen to this application if there is going to be changes in the grading.

Mr. Magno said the applicant is asking for no variances. The applicant is going to have to finalize all the road design as far as profiles and drainage once they figure out what is going to happen with the water and sewer. How deep those sewer lines are is going to affect the design. He questioned why the applicant is providing a 32 ft width when Times Square is only 28 ft wide. If they are doing that, does that mean they are widening both sides.

Mr. Franklin said it is 32 ft wide on the proposed drawing. Up on the other end there is a piece of curb that is already in and the curb in front of their property is straight. When they get to the other end it is only 27.9 ft so that piece of curb needs to be moved back so it is 32 ft all the way across.

Mr. Magno asked if the applicant is giving the 16 ft half width on their side. The other side is not being touched.

Mr. Franklin said they are in order to take the piece of curb out.

Mr. Flannery said the applicant would provide a 32 ft wide proper roadway.

Mr. Magno understands.

Mr. Flannery said concerning the incomplete drainage plan, New Lines did provide additional drainage information but since this is a more complicated situation due to various developments in the vicinity. All of these projects need to be coordinated so that all the pieces fit. This is five conforming lots. They are providing the 32 ft wide road around the entire block. Public sewer and water will be provided and a drainage system which the applicant would pay their per unit fee to Public Works to maintain.

Mr. Herzl asked if the board can grant the waiver for architectural plans.

Mr. Jackson said the ordinance he is looking at is not the official version and it is not signed. He does not know if it was adopted or not adopted. This is a conforming subdivision so he doesn't really know if they would help the board in their evaluation. In his view, if it is an undersized lot, then the board has more leverage to ask for architecturals. He does not see any harm in the board granting a waiver for a conforming subdivision.

Mrs. Morris said the checklist ordinance was adopted on March 2, 2017.

Mr. Jackson said this application was submitted after the ordinance was adopted so it would apply.

Mr. Franklin questioned how they would get rid of the water on this property.

Mr. Flannery said it is being recharged in a drainage system on-site.

Mr. Franklin said there is nothing on the plans indicating that.

Mr. Magno said it is being recharged in the roadways. All of this needs to be coordinated with the other adjoining projects during resolution compliance and the applicant cannot do that until they settle on a design with NJAW. The board could carry this but it would be approved later. The layout is not going to change.

Mr. Flannery said there are field changes on applications. This shows what is being built. It is showing the amount of pipes, catch basins and that public water and sewer is being provided. There are a lot of times where a plan gets submitted and they go to build and field changes are required. It is his testimony the plans submitted show details that if no one else was developing nearby, there wouldn't be any comments in the review letter. Since others are developing, the applicant is agreeing to it and would make minor tweaks.

Mr. Flancbaum said the layout of the lots are not going to change. There are plenty of utilities that you typically don't think about because they are underground and it is a whole coordination/design process between the utility companies. He personally has no problem with this.

Mr. Flannery said that is correct.

Mrs. Weinstein said this application is simply for a subdivision to create new lots.

Mr. Klein said the Township passed an ordinance which requires these types of applications to provide architecturals. It should not matter whether they are custom homes or not. This ordinance stemmed from illegal attic/basement apartments. The applicant is also asking for a waiver from providing sidewalks on the other side.

Mr. Jackson thinks the only authority the board would have to dictate what the house could look like would be if variances are requested. Without variances, they could build any house that will satisfy the building department. This ordinance puts applicants on notice that in appropriate cases, the board is going to require architecturals.

Mr. Herzl questioned why sidewalks are not proposed on the other side of the street.

Mr. Flannery said the ordinance does not require them to put in sidewalks on the other side. The applicant is actually exceeding the ordinance as they are providing a 32 ft wide road. Curbing and sidewalk will provide along the property frontages which is what is required by ordinance.

Mr. Magno said there are three lots not including in this project. Two of them are corner lots and because they have no control over gaining right-of-way on those corner lots, they determined it is not practical to put sidewalk on those two corner lots. They did recommend they provide sidewalk across the skinny outparcel, lot 3.

Mr. Flannery said the applicant would provide sidewalk along existing lot 3.

Mr. Magno said the applicant is curbing the entire block.

Mr. Yitzchak Goldsmith was sworn in. He asked that the board not approve any variances on the remaining lots in the area when those applications come in.

Mr. Flannery said the applicant would agree that any future applications on that lot would be conforming or they will ask the board for variances and justify them.

Mr. Moshe Zeines, 112 Elmhurst Blvd, was sworn in. He commended the applicant for making this a conforming application.

Mr. Aaron Hirsch was sworn in. He questioned why a waiver is requested from providing architectural plans.

Mr. Jackson said if there were variances requested then the board may require the house to be a certain size and configuration to compensate for the deficiencies of the lot. Here the lots fully conform so he doesn't see what architecturals would accomplish.

Mr. Hirsch asked if the County requires architecturals.

Mr. Jackson said no.

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

**3. SD 2109 292 Sampson Ave, LLC**

Sampson Ave

Block 246, Lot 24

Minor Subdivision to create two lots

A review letter prepared by Remington, Vernick & Vena Engineers dated December 1, 2016 was entered as an exhibit.

Mr. Magno said a variance is required for minimum lot area and rear yard setback for the deck on lot 24.01. A design waiver is required from the improvement of Sampson Avenue. Sampson is an unimproved right-of-way leading to freshwater wetlands which hinders any further development. Due to the wetlands, access to proposed lot 24.02 will be provided via a driveway within an access easement on new lot 24.01.

Mr. Adam Pfeffer, Esq. said this property does have some existing environmental sensitive areas. If it weren't for the wetlands, this would be a fully conforming application.

Mr. Joe Kociuba, P.E., P.P. was sworn in. This is a very unique piece of property as it is a corner lot with two frontages as well as having wetlands along the entire southern portion of the property. They have been working with an environmental consultant and have determined a more proper layout would be to propose the driveway area on the southern portion of the property which the NJDEP permitting rules would permit them to do. A variance is requested for minimum lot area as lot 24.02 would be 7,000 sf whereas 7,500 sf is required. The reason for the variance is due to the fact it is a unique corner lot property. They cannot utilize the right-of-way and they do not have the benefit of the southern portion of Sampson Avenue. Their attempt was to purely balance the buildable envelopes on the two properties by creating a larger lot on the corner and a smaller lot towards the rear. The access through the property would be via an easement. They would push the driveway as far away from the wetlands as possible. Utilities will also access the property through that easement. If this property hadn't been encumbered by environmental concerns, they would be able to submit for an administrative minor subdivision.

Mr. Herzl asked if the only variance requested is for minimum lot area.

Mr. Kociuba said the review engineer also pointed out that a variance is required for minimum rear setback for the deck on proposed lot 24.01. That is a corner lot so they have two frontages, a side and a rear. It is his opinion they do not need a variance for showing one of those as a side but out of abundance of caution, they are requesting that variance. As indicated in the report, the curb is in fair condition but they would replace the sidewalk as it is in poor condition. Sidewalk and curb would be provided along the improved portion of the road, they are not required to provide curb and sidewalk along the unimproved road.

Mr. Herzl said curb and sidewalk would be provided along both sides of Sampson Avenue.

Mr. Kociuba confirmed.

Mr. Jackson said an encroachment of the wetlands buffer is required to construct the access driveway.

Mr. Kociuba understands. Their environmental consultant has reviewed that and is very confident they can obtain approval for that encroachment. Proof of the approvals would be provided.

Mr. Pfeffer agrees that this application be conditioned on obtaining that permit. The process to get these permits takes a great deal of time and they are here before the board to see if it is worth it to start that approval process. Their environmental expert has already indicated it is not going to be an issue.

Mr. Jackson said the plan shows a wetlands buffer going right through the building envelope.

Mr. Kociuba said they would be proposing a wetlands spill application which would eliminate any buffer requirements.

Mr. Herzl asked if a letter of interpretation was obtained from NJDEP.

Mr. Kociuba said the wetlands were delineated but they do not have an LOI. The LOI and the general permits would be submitted at the same time.

Mr. Jackson asked him to explain a wetlands buffer.

Mr. Kociuba said a wetlands buffer is a separation from an actual wetlands line. They are not affecting the physical wetlands, they are affecting the area that creates a buffer between that.

Mr. Jackson said that goes into Sampson Avenue which wouldn't be developed.

Mr. Kociuba confirmed. The physical wetlands go on to the Sampson Avenue right-of-way.

Mr. Jackson asked what type of wetlands are on this property.

Mr. Kociuba said they anticipate it to be an intermediate resource valued wetlands. It is a low lying wet area for most of the year.

Mr. Jackson argued that buffers are designed to prevent encroachment into that area so the wildlife and water quality has some breathing room.

Mr. Kociuba agreed, that is why the NJDEP has identified general permits which permit them to affect those buffers. The state rules are trying to balance the potential development of property with the environmental benefits. It is their requirement to submit to the department, make those applications, demonstrate to them what they're proposing strikes that proper balance between the environmental conditions and the potential to develop a piece of property. It is their opinion they can certainly demonstrate that and gain any approvals necessary.

Mr. Herzl questioned whether anything can be done on a wetlands buffer.

Mr. Magno said they have to obtain the permits for what they are proposing. The applicant is not going to go the NJDEP if the Planning Board does not approve this application.

Mr. Jackson said the board does have the ability to scrutinize this application because they are asking for variances. The applicant certainly has to obtain outside agency approvals but the board needs to determine whether they want to facilitate building into a wetlands buffer.

Mr. Pfeffer said they have no objection to anything in the engineer's report. They understand they need to go to NJDEP and obtain permits but that could take 12 to 18 months. They already hired an environmental consultant to determine whether it was worth it to submit to this board.

Mr. Franklin questioned whether the jut out is too tight to turn the cars around. Usually you need 24 ft but only 20 ft is provided.

Mr. Kociuba feels there is sufficient room to make that turn. They could make it 24 ft but that would encumber the wetlands further.

Mr. Franklin doesn't think it would work.

Mr. Magno understands the point of trying to balance it but it is going to be tight. They could consider making the houses a bit smaller.

Mrs. Zografos questioned whether this is similar to a flag lot.

Mr. Kociuba said they have two frontages so it is not a flag lot.

Mrs. Morris said at first glance she thought it resembled a flag lot as well.

Mr. Jackson said there is a statutory provision in the MLUL which states all building lots must front on an improved street.

Mr. Kociuba said that statute does permit the improvements to be through an easement. That statute refers to safety in his opinion.

Mr. Herzl opened to the public.

Mr. Shlomo Klein was sworn in. He said Mrs. Zografos brought up a good point. He believes this should really be at the Zoning Board, not the Planning Board. He thinks this is a flag lot. The access easement should not be calculated towards the square footage of the lot. He objects to this application.

Mr. Jackson said the statute, in his view, requires an improved public street or a variance is required.

Mr. Kociuba said that statute further goes on stating when it is only on a state road.

Mr. Jackson said if it is not a state road it has to be duly certified as improved by the governing body.

Mr. Herzl said they can't approve variances on flag lots.

Mrs. Morris said it does not need a variance for flag lot, it would need a variance for fronting on an unimproved street.

Mr. Pfeffer disagrees this is a flag lot. Sampson Avenue is a street which will not be built upon due to the wetlands. They are asking for an access easement in order to provide access to the back of the property.

Mr. Kociuba said they are encumbered by environmental conditions which creates this situation. They do have frontage on a public right-of-way, whether it is improved or not, so by definition this is not a flag lot. This board approves applications on private streets on a regular basis which are also not by definition a public street.

Mr. Magno agrees this is not a flag lot as it has frontage on a public road even though the street is unimproved. Whereas a flag lot has minimal frontage for a driveway to access the back lot and that is the only frontage it has.

Mr. Jackson agrees but the intent of the flag lot ordinance has to be considered. Since there are wetlands, it is very unlikely a street will ever go there. The board still has to grant a variance.

Mr. Pfeffer said they would like to request that variance out of abundance of caution.

Mr. Herzl is uncomfortable with this application.

Mr. Franklin agrees as they are also disturbing the wetlands.

Mr. Herzl said he would feel more comfortable if the applicant went to the DEP first.

Mr. Flancbaum said this doesn't fit.

Mr. Follman stepped down.

Mr. Elchonon Schepanski, 352 Bergen Avenue, was sworn in. He believes this is a flag lot and said the road could be extended in the future even though there are wetlands on the property.

Mr. Jackson said that confirms it is not a flag lot as it is on a public street.

Mr. Schepanksi also has traffic and safety concerns.

Mr. Moshe Hochman, 358 Bergen Avenue, was sworn in. He objects to the application.

Mr. Herzl closed to the public.

Mr. Pfeffer said they could build a fully conforming duplex on this lot.

Mr. Herzl said perhaps they should do that. The board is not comfortable with this application

Mr. Kociuba said this is a single family zone and they are proposing single family homes. There are at least 6 single family homes in the area.

A motion was made by Mr. Hibberson, seconded by Mr. Franklin to deny the application. All were in favor.

**4. SD 2208 Prospect St. Holdings, LLC**

Blanche Street Block 445, Lots 9 & 19

## Preliminary and Final Major Subdivision to create 7 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated June 8, 2017 was entered as an exhibit.

Mr. Magno said variances include minimum lot area and minimum front yard setback. The new plans have eliminated the need for a design waiver from constructing sidewalk along the entire Columbus Avenue frontage.

Mr. Pfeffer said they were recently before this board for an application for four duplexes and one extra lot which would be used for a synagogue. There was a lot of opposition and questions from the board. They have since revised the plans and are back with three duplexes and a synagogue. They have also signed an agreement with the neighbors to include a park.

Mr. Brian Flannery, P.E., P.P. said the applicant is agreeing as a condition of approval to comply with the terms of that agreement which relates to a 20,000 sf park be in close proximity.

Mr. Hibberson asked if it would be adjoining this property.

Mr. Flannery said no.

Mr. Herzl doesn't feel comfortable. There are so many agreements in this area.

Mr. Flancbaum doesn't even know what they are agreeing on.

Mr. Pfeffer did not want to read the terms of the agreement yet as they want to hear from their professional first.

Mr. Flannery said the two lots in question to be utilized as a park are in block 454 which is across the street or 471 which is three blocks away. The neighbors this relates to are on adjoining blocks. This application is for three duplexes, the duplex on the corner and adjoining the neighbors are over 10,000 sf. The duplex in the middle, they need a variance for lot area which is 8,751 sf whereas 10,000 sf is required. In 2014, the Township passed an ordinance which states if townhouses and duplexes are conditionally permitted, then an 8,500 sf lot is allowed. By right they could build nine townhouses and they are asking for six duplex units. The other variance required is for a minimum front yard setback variance on corner lot 9.06 of 22.50 ft whereas 25 ft is required.

Mr. Herzl asked if a parking variance is being requested for the synagogue.

Mr. Flannery said they are short three parking spaces which is based on two of them being in sight triangles. Their testimony would be they do an ASHTO which is a smaller sight triangle and would provide adequate access and sight visibility to that it would meet current standards and they would not need to lose those spaces. Then they would only be one space short of ordinance requirements. They are developing the road all around the site so there would be availability for parking along there as well. If that is not enough for the board, they could open the parking lot out to Blanche Street and add another parking space there. This site flows better this way and it is better for the adjoining neighbors. So they would be either one space short on a layout he believes works better where they would have street parking or they could amend the design so they come out on Blanche which allows them to close the driveway and add an additional space.

Mr. Herzl asked how many spaces were provided for the synagogue on the previous application.

Mr. Flannery said originally there were 4 spaces provided and then they came up with a revised design showing 18. Now they are providing 27.

Mr. Pfeffer said they cannot act on the synagogue site until the subdivision is approved. However, he thinks testimony could be combined if the board is amendable to that.

Mr. Flannery said there is an agreement that there would be no certificate of occupancies issued until the shul and park have been taken care of.

Mr. Jackson they could make it a deed restriction that the leftover lot be used for a synagogue.

Mr. Pfeffer said it would be part of the approval.

Mr. Jackson said a lot of the promises are for off-site improvements. He questioned how they would enforce that. Quickly reading the agreement, they would be creating two parking lots on either side of the shul as well as a park which would be on property the applicant would need to acquire from the Township or a lot the applicant owns.

Mr. Flannery said there would be a condition of the resolution which says they would agree to everything in the agreement. The agreement states no CO's for the duplexes until the park and synagogue are completed.

Mr. Jackson said it is a private agreement that isn't really enforceable. He doesn't understand why it should matter to the board anyway unless it has something to do with the merits of the application. Just because it makes the neighbors happy doesn't mean it makes the rest of Lakewood happy.

Mr. Pfeffer said there were a lot more people in attendance last meeting who objected to the application. They have since worked with them and have made an agreement but they are still here putting the facts on the record. In addition, they are here trying to make a better application and it happens to be the neighbors are now in favor of this application and would like to see this happen. They are agreeing to include the agreement as a condition of the resolution. They have made the neighbors happy and are now here to make the board happy as well.

Mr. Flannery said the synagogue is a 5,000 sf two-story shul with 27 parking spaces. The variances requested include a minimum lot width variance of 73.5 ft whereas 75 ft is required, a minimum front yard setback variance of 5.8 ft whereas 25 ft from Columbus which is a road they are building and would only be accommodating the shul as well as a minimum side yard setback of 5 ft whereas 12 ft is required. Any of the existing or future neighbors would not be encumbered by the setback relief as it relates to this piece of property only.

Mr. Jackson said one of the stipulations of the agreement the board has not heard yet is there would be parking spaces along the proposed road. He asked what happens when people develop the other side of that street.

Mr. Flannery said it is a lot which is currently owned by the Township. They have no control over what is on the other side of the street. The applicant will build the street 32 ft wide to accommodate the vehicles.

Mr. Herzl questioned why they are building the synagogue in the center with parking on either side.

Mr. Flannery said there is a development to the north and rather than having a building looking over them, parking on both sides separates the existing neighbors from the building.

Mr. Herzl said with the two small parking lots it looks like it is hard to turn around and park.

Mr. Flannery said they could slide it to the north but then it would infringe on the existing townhouses or to the south and it is in the front setback. Rather than having the building jammed in on the corner, two smaller lots are proposed.

Mr. Herzl asked if they can get additional parking if they shifted over the synagogue.

Mr. Flannery said they would get more parking if they slid the building over the setback on either side. He doesn't think it warrants that as it would only be a few extra spaces and it would create an additional variance.

Mr. Herzl thinks one big parking lot is safer than two small ones.

Mr. Flannery said there are benefits and detriments to both ways. It is his opinion this makes the most sense. Perimeter buffer relief is necessary for the synagogue as the parking lots are proposed 5 ft from the property lines. They would build a fence which would meet the intent of the ordinance and would provide privacy. They agree to comply with the rest of the comments in the review letter.

Mr. Pfeffer read the agreement onto record.

Mr. Herzl asked how large the synagogue is.

Mr. Flannery said it has a 5,000 sf footprint.

Mr. Jackson asked if there is a basement with a Simcha hall.

Mr. Pfeffer said it would be used for Shabbos and holidays only.

Mr. Herzl asked if they can stipulate to no outside Simcha's during the week.

Mr. Pfeffer said yes.

Mr. Jackson said you can't just acquire Township property, it has to be auctioned.

Mr. Flannery said the agreement states the applicant owns a 20,000 sf lot for the park but he is trying to create a larger one on Township owned property.

Mr. Flancbaum asked who this agreement is between.

Mr. Pfeffer said it between Yaakov Klugman and future homeowners in adjacent blocks.

Mr. Flannery said it is the six blocks to the south and west.

Mr. Jackson doesn't understand how an individual can take it upon themselves to take a property and make it into a park. It's not that simple. He questioned who would manage it and who would be responsible if someone gets hurt.

Mr. Herzl said there are too many loose ends. The board should see plans for the proposed park.

Mr. Jackson said the engineer usually looks at what type of playground equipment is proposed and where it would be located.

Mr. Pfeffer said they have no problem carrying this application so they can come back and clarify some of these questions for the board.

Mr. Herzl asked when they would be able to acquire the Township property.

Mr. Pfeffer believes that is irrelevant as the applicant already has property for the park. As part of the agreement, the applicant cannot request a CO for either the synagogue or any of the duplexes on this property until that park is done and in place.

Mr. Jackson said what happens if COs are issued and the park is not completed.

Mr. Pfeffer said it is part of the resolution just like any other agreement.

The board is in general agreement this application is not ready to be acted upon.

Mr. Jackson said the applicant should go to the governing body to get their approval in signing on to this park and taking it over as a public park.

Mr. Pfeffer said it could be owned by the homeowner's association.

Mr. Herzl said the applicant should come in with a full plan on the property the applicant already owns.

Mr. Jackson doesn't believe an off-site park should matter to this board. He understands it matters to the objectors but it should not affect the land use planning decisions that this should board should make. This has happened before where promises are made and then it is the Planning Board's fault if those promises aren't fulfilled.

Mr. Pfeffer understands.

Mr. Jackson asked if architectural plans were provided for the synagogue and duplexes.

Mr. Flannery believes they were submitted for the synagogue.

Mr. Flancbaum said sometimes these things become very complex and he sympathizes with the public as they have to keep coming out. The board has to understand exactly what the conditions of these agreements are and who they are between in order to make a decision.

Mr. Baruch Blaustein, 28 Empire Lane, was sworn in. He lives in Prospect Park which is to the north of this application. He said a lot of the testimony is not accurate and they keep hearing different things. The number of parking spaces is an estimate the way it is proposed. He doesn't understand how they came up with that number when the sanctuary is 3,248 sf. Based off his calculations, it should be closer to 50. The applicant said there is only one sanctuary and on the second floor there is a secondary room even though on the numerous other applications they are clearly building two synagogues on two separate floors. The other synagogue is 3,600 sf which would require a total of over 100 spaces.

A motion was made and seconded to carry the application to the July 12, 2017 meeting.  
All were in favor.

## **5. SP 2231 Prospect St Holdings, LLC**

**Blanche Street** Block 445, Lots 9 & 19  
Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to carry the application to the July 12, 2017 meeting.  
All were in favor.

## **6. 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

Mr. Glenn Lines, P.E., P.P. was sworn in. He said they are currently in the process of obtaining County approval. They don't anticipate it will be done before June 30, 2017 so they are requesting a one year extension.

A motion was made and seconded to approve a one year extension.  
All were in favor.

## **7. SP 2062 Yeshiva Ruach Hatorah, Inc.**

## Ridge Avenue

Block 189.03, Lot 35

## Extension of a Preliminary and Final Major Site Plan for a school campus with a dormitory and residences

Mrs. Morris said site plans traditionally are valid until there is a zone change. The campus ordinance requirements changed after this approval to only apply to accredited institutions. Her understanding is that this approval would be invalid if they were to go forward for approval today. The application would have to go to the Zoning Board.

Mr. Glenn Lines, P.E., P.P. said they are still working on obtaining County approval.

A motion was made and seconded to approve a one year extension.  
All were in favor.

## **8. SD 2188 Aaron Sperber**

## Locust Street

Block 1083, Lot 7

Minor Subdivision to create three lots

A motion was made and seconded to carry the application to the July 12, 2017 meeting.  
All were in favor.

**9. SD 2274 Pine Blvd, LLC**

Pine Street      Blocks 423; 423.07; 423.08; 423.10; 423.11; 424; 425

## Concept Plan Review for a Major Subdivision to create 74 lots

A motion was made and seconded to carry the application to the July 12, 2017 meeting.  
All were in favor.

**10. SP 2170 Ketan Mehta**

## Route 70

Block 1160.01, Lot 256.01

## Preliminary and Final Major Site Plan for a hotel

Mrs. Morris received a request from the applicant's attorney to table this matter until July given that Mr. Gasiorowski has filed a motion against the ordinance change which now permits hotels.

Mr. Herzl suggested they table this until a ruling has been reached.

Mr. Jackson said litigation is pending regarding the zoning. The applicant does not want to re-notice.

Mrs. Morris knows the board doesn't like to carry the same application multiple times.

Mr. Herzl asked how many times this matter has been carried.

Mrs. Morris said it has not been carried yet. The application was approved, it went to court and the approval was overturned so it has sat until the use was added as a permitted use so now they are back with the exact same application to get the board to re-approve.

Mr. Herzl feels more comfortable if the applicant re-notices.

Mr. Jackson said they can adjourn it without a date and he would speak with the applicant's attorney.

Mrs. Morris said Mr. Dasti is the conflict attorney for this application and he is not available in July anyway.

Mr. Jackson did not realize that. He cannot weight in on this application.

The board was in general agreement to carry this matter until further notice.

- 11. SP 2227 Yerek, LLC**  
Airport Road Block 1160.01, Lots 242.01 & 242.02  
Preliminary and Final Major Site Plan for warehouse storage units

Mrs. Morris said revised plans were not submitted in time. The applicant is looking to carry to the next public hearing.

Mr. Adam Pfeffer, Esq. said they have been working with the neighbors. The revised plans have been submitted but not in time for this meeting, he asked to be scheduled on the next meeting.

The application was carried to the July 25, 2017 meeting. New notices will be sent.

- 12. SP 2228 Brooks Developers, LLC c/o Noach Schon**  
East County Line Road                      Block 208.01, Lots 33, 75.01, & 75.02  
Minor Subdivision to create two lots

Mrs. Morris said the applicant has requested to carry this matter until further notice.

- 13. SP 2238AA Shea Rosenfeld**  
Hope Chapel Road                            Block 2, Lot 114  
Change of Use/Site Plan Exemption to make temporary house of worship trailer into permanent  
house of worship

Mrs. Morris believes the applicant has met with the neighbors and are ready to go forward, however, she had already noted on the agenda that they had requested to carry and she was not going to revise it at the last minute.

A motion was made and seconded to carry this application to the July 25, 2017 meeting.  
All were in favor.

## **6. CORRESPONDENCE**

- **SP 2225 Yosef Notis, Block 284.06, Lot 23** – request for rear yard setback variance to accommodate rear stairway for emergency access

Mrs. Morris believes the building department required the applicant to add a rear stairway to the building for emergency access and as a result they need a setback variance.

Mr. Brian Flannery, P.E., P.P. was sworn in. The applicant is requesting a rear setback variance for the emergency exit. Stairs are allowed in the setback but they have to build platforms in order for it to be safe. A platform is sort of like a deck so the safe thing to do is ask for variance relief for a rear yard setback but again, it is just for a platform for stairs coming down from the second story out the back as a rear exit for the building for safety reasons.

Mr. Herzl asked what exactly is being requested.

Mr. Flannery said there are two places where the platforms are closer than they are allowed to be, 9.25 ft from the one closest to the door and where it turns and comes out to the front, it is 4.91 ft.

Mr. Follman mentioned there was an objecting neighbor at the public hearing.

Mr. Flannery said a notice was sent out to the neighbors. All the items the neighbors requested previously are still being adhered to.

Mrs. Morris announced this item will be carried to the July 25, 2017 meeting.

- **SP 2058 Simon Soloff, Block 208, Lots 7 & 162 – request to modify landscaping**

Mrs. Morris said this is a modification of the originally approved landscaping.

Mr. Joe Kociuba, P.E., P.P. was sworn in. He said there is existing landscaping and they feel it doesn't make much sense to remove large existing spruces for smaller proposed spruces. It is purely at the very rear of the parking lot. They had proposed 9 Leyland Cypress trees and there are 6 very large existing spruces which do buffer the site from the adjacent site.

Mr. Herzl asked if the buffer will be more or less the same.

Mr. Kociuba confirmed.

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

**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