

**LAKWOOD PLANNING BOARD
MINUTES
MAY 15, 2007**

I. CERTIFICATION OF COMPLIANCE

Chairman Banas called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt 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 Ocean County Observer 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, The Ocean County Observer, or The Tri-Town News at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act."

2. ROLL CALL

Mr. Franklin, Committeeman Miller, Mr. Neiman, Mr. Banas, Mr. Akerman, Mr. Fink,

3. SWEARING IN OF PROFESSIONALS

Mr. Peters and Mr. Truscott were sworn in.

Mr. Kielt stated there was one change in the agenda, **Item #4 – SD 1583- Krupnick & Schuster**, being carried to the public hearing of June 19, 2007. The revised plans were not returned in time to be reviewed for the meeting.

Motion was made by Mr. Franklin, seconded by Mr. Neiman, to advance to June 19, 2007.

ROLL CALL:

Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

4. OLD BUSINESS

1. SD # 1578 (NO VARIANCE REQUESTED)

APPLICANT: RACHEL ROSENFELD

Location: 257 East 4th Street, east of Sampson Avenue
Block 243 Lot 28

Reconsideration of Denial of Minor Subdivision to create 2 lots (1 flag lot)

Mr. Pape appeared on behalf of the applicant. He said during the presentation there were remarks made on the record by members of the board indicating that this was an application that the board had never seen for an application with a flag lot that included duplexes and he was able to, through Mr. Carpenter, identify a similar application that had been in front of the board this January and memorialized February 20, 2007. The application was also in the R 7.5 zone, also a flag lot, also a 12 ft. wide driveway, also the same type of stem. On those plans it was expressly identified two new duplexes and the memorializing resolution it expressly indicated authority to build 4 new residences. The application is very similar and he thinks it may have been inadvertently omitted by members of the board who indicated they had not seen this type of an application previously. He is requesting the board reconsider the application and it is his understanding that the reconsideration proceeding would require 2 steps; the first is that the applicant bring to your attention that there is some factor that the board may not have considered or some error that may have occurred in the decision; further, the applicant did not have the opportunity to fully describe the location of her property being adjacent to a school and park where a duplexes impact on the rear would be less. The area is on E. 4th Street and he believes this area is in need of revitalization and new construction. When an application brings to the board additional factors to be considered initially as a request for consideration, the board has the power in its discretion to allow a reconsideration. A reconsideration would require a renotice and republication of the same caliber of the original public hearing and they would have an obligation at the reconsideration to place before the board the testimony to support a revote. This evening he is asking, based on these factors, if the board would allow the applicant the opportunity to present again for reconsideration.

Mr. Banas said he appreciated what he has summed up except that he feels safe to say the board made an error not in your application but in a previous application. One of the requirements was that an application for a flag lot submits architectural designs of the new homes to be built and they did not do it on that application. The UDO is extremely clear that architectural plans need to be submitted at the first submission of a flag lot. When we saw your application, his vote was that he reviewed the application, and reviewed the language and have taken steps in the future to have architectural drawings for the application and the language talks about singular and singularity and the like and he feels comfortable that his decision is correct. He asked Mr. Jackson or any other member if they wished to speak. Mr. Kielt stated there were only 4 people who were at that meeting who are here; Mr. Herzl, Mr. Franklin, Mr. Neiman, Mr. Banas. Mr. Neiman said he thinks he is asking to be heard again not to vote on it again. Mr. Neiman said he did go down to this property and it is a very unique piece of property it backs to the school, the back of the school so it does not impact neighbors. It is also a large tract of land. The question is how to interpret the ordinance, does it say dwelling, any dwelling, one home or two homes and if we can clarify that, due to the uniqueness of the property, even though he voted no, he might want to hear how they may be given another opportunity to plead their case and see if the board would grant them approval. Mr. Miller questioned whether tonight is for bringing it back for another meeting. Mr. Pape said he just wanted an opportunity.

Mr. Jackson said there were a couple of issues; first of all, proper analysis is if there is a quorum if there is a motion for reconsideration, the members who voted last time could vote and carry by a majority of members. The second thing was what was raised as far

as a precedent. What Cox says is that the granting of a variance to one property owner does not create a precedence for the granting of a variance to other property owners however over time if there are multiple instances where similar circumstances you do grant a variance and you don't grant this one it would be like discrimination or arbitrary capricious. He doesn't believe this is the circumstance here where you'd have to worry about precedence of the other one this is distinguishable and Mr. Chairman your assessment is that the other one is a mistake, the architecturals were not submitted and it is not a long standing precedence, this is the only second case on a new ordinance. The other issue relates to when the board can do a re hearing, the instances in Cox say it should be for extraordinary situations, for misrepresentation, fraud, perjury, or mistake, those are the standards. So the question is did you make a mistake with the application. He is comfortable with the ordinance that it related to one dwelling which is defined in the ordinance as one lot in the singular and one unit for one family. Dwelling is defined as one unit. Ultimately it is the board's decision, if you think you made a mistake you grant a re hearing, if you don't think you made a mistake, then he doesn't think it is appropriate to grant a re hearing.

Motion for the request for a reconsideration made by Mr. Herzl, seconded by Mr. Neiman

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; no, Mr. Neiman; yes, Mr. Banas; no

Motion does not carry

5. NEW BUSINESS

Mr. Peters stated the applicant is seeking Preliminary and Final Major Subdivision Approval to create eight (8) new lots for seven (7) single family homes. One lot will contain an existing school, parking area and recreation area. Two existing buildings and a trailer are to be removed. The property is located between Kennedy Boulevard East and County Line Road East within the R-15 zone. The applicant has reduced the required area of the lots by 15% to 12,750 SF, and the required lot width has been reduced by 10% to 90 FT in accordance with section 18-908 of the UDO, Reduction of Residential Lot Requirement for Recreational Purposed. Variance is required for lot width; 73.01 ft are proposed for Lot 57.05 where 90 ft are required. 79.06 ft are proposed for Lot 57.07 where 90 ft are required. 75.87 ft are proposed for Lot 57.08 where 90 ft are required. At the technical review meeting the applicant agreed that each proposed driveway would be able to accommodate four (4) cars for each new lot, which means that the driveways should have a minimum dimension of 18'x36'. The applicant should revise the plans to show the adequate driveways' dimension. The recreation area is required to be a minimum of one acre as per section 18-908 of the UDO. The applicant has proposed a recreation area of

approximately 0.292 acres. The board should determine if the recreation as proposed will be adequate. A variance should be requested by the applicant for providing an undersized recreation area. Approvals will be required from the Ocean County Planning Board and Ocean County Soil Conservation District, evidence of approvals should be made a condition of final subdivision approval. The applicant will also need NJDEP Treatment Works Approval prior to issuance of any building permits. The applicant has proposed that a homeowner association will be the owner and responsible party of the proposed stormwater management system. An operations and maintenance manual has been submitted and is acceptable. The manual shall be incorporated or referenced in the H.O.A. agreement. The existing dwellings shall be removed prior to the signature of the final plat or a bond posted for the prompt removal of the dwellings after the subdivision is complete. There is an existing inlet grate located on proposed Lot 57.03, within the proposed stormwater easement. The inlet has no information on storm pipes leading from the inlet. The eventual discharge point of stormwater entering the existing inlet shall be identified. The applicant has proposed concrete curb and sidewalk and a six foot shade tree easement along Kennedy Boulevard East and Highland Court. The applicant has also proposed trees along County Line Road but no cub and sidewalk. As discussed at the technical meeting, we recommend the applicant to install winding sidewalk along County Line Road. The applicant has proposed a four (4) ft wide concrete path from the cul-de-sac to the recreation area. The recreation easement should be labeled on the plan as being dedicated to the Lakewood Township. The plan has been prepared in accordance with the New Jersey map Filing law.

Mr. Truscott read from a letter dated May 7, 2007. The applicant is seeking preliminary and final major subdivision and variance approvals to subdivide one existing lot into eight (8) lots. The existing parcel contains a one-story masonry building, which houses a school, and three other structures. The school and parking area will remain, and the balance of the structures will be razed or removed. A total of seven (7) building lots are proposed using the reduced lot area requirements of Section 18-908 of the UDO. The applicant also proposes to construct a cul-de-sac street and associated drainage and street improvements to serve the proposed development. The parcel is 3.8 acres in area and is located between Kennedy Boulevard and East County Line Road. The site is located in the R-15 Residential Zone. Single-family homes and schools are permitted uses in the zone district. The applicant has requested the following variances (based upon reduction of minimum lot area and width requirements for the R-15 Zone as per Section 18-908 of the UDO): Minimum Lot Width: 90 feet required.73.01 feet proposed (Lot 57.05) 79.06 feet (Lot 57.07) 75.87 feet (Lot 57.08) The applicant should address the positive and negative criteria for each of the requested variances. As noted above, the applicant proposes to subdivide the subject tract in accordance with Section 18-908 (Reduction of Residential Lot Requirements for Recreational Purposes) of the Lakewood UDO. The section allows a reduction in minimum lot area of up to 15% (equal to 12,750 square feet in the R-15 Zone) and width requirements of up to 10% (equal to 90 feet in the R-15 Zone). We note that the minimum amount required to be dedicated for recreational purposes (one [1] acre) is approximately 26 % of the total size of the approximately 3.8-acre tract. Reduction of minimum lot area and width requirements must be accompanied by the land being set aside for park, playground, or other recreational purposes, with that portion of land being dedicated and deeded to the Township for recreational purposes. A summary of the two (2) acceptable methods of conveyance are put forth in Section 18-808

(Provisions for Park and Recreation Areas) of the Lakewood UDO and are as follows: Dedication of title in fee simple to the Township, or Conveyance of title to a conservancy, corporation, homeowners association, funded community trust, condominium corporation, individual or other legal entity, provided that the continued (recreational) use of such land for the intended purpose in perpetuity. The applicant has requested a waiver from the permitted conveyance methods. In a letter dated February 8, 2007, the applicant indicated that the land be set aside via easement, and that a waiver be granted to provide access to the recreation area for the school. The site plans indicates that a waiver is to be requested to provide the recreation area to the existing school with an easement to the municipality. Applicant must clarify what it is proposing in its waiver request. The plans indicate that the majority of Lot 57.03 will be for the school uses, with 12,741 square feet of the lot covered by an easement to recreational purposes. A chart listing the cumulative total of the reduced lot sizes (12,415) square feet in comparison to the open space area is provided on the plans. In order to qualify for a reduction of minimum lot area and width requirements, the amount of land dedicated for recreation/open space is to be no less than one (1) acre with its least dimension not less than one hundred fifty (150) feet, unless this area is to be added to another recreational area at this time or sometime in the future. Lands set aside for open space shall contain active or passive recreational facilities to service the needs of the residential population in each development. Active and passive recreational facilities can include, but are not limited to, the following: ball fields, multipurpose fields, tennis courts, multipurpose court areas, children's play areas, passive picnic or sitting areas, swimming pools, bicycle paths and walking or jogging trails. The acreage of Lot 57.03 is more than one acre; however, as noted above, the applicant's plans indicate that only 12,741 (0.292 acres) will be dedicated (via easement) for recreation and open space. Sheet 5 of the applicant's plans shows a children's play area. The applicant is requesting a waiver from providing the required one (1) acre for recreation purposes. Section 18-808 of the UDO specifically states that the "The requirements of this section relating to the active or passive recreation facilities and the total percentage of open space required within a development may be modified and/or waived by the Board." Soil, drainage, slope and location of the proposed recreation area shall be deemed suitable by the Planning Board for recreational purposes, and the land to be dedicated shall have direct access to a public right-of-way. Section 908.B.8 requires that the reduction of lot area and width requirement may be permitted, provided the maximum gross residential density of 2.5 dwelling units per acre (for the R-15 Zone) are not exceeded. The applicant appears to be in compliance. Based on the survey referenced in the submitted plans, the tract is 3.854 acres in area and the proposed number of dwelling units is 7. Part of the tract is dedicated to the existing school. This area must be deducted to calculate density. Proposed Lot 57.03 is 1.279 acres in size; deducting the 12,741 square feet dedicated to open space leaves approximately 0.99 acres, which is dedicated to school uses. After deducting this total from the tract's 3.854 acres, approximately 2.87 acres are dedicated to residential and other incidental uses. The gross residential density is approximately 2.4 units per acre (7 units / 2.87 acres = 2.4), which agrees with the bulk chart on the applicant's plans. An itemized list of variances has been noted on the plans. Lot dimensions and required/proposed setbacks have been clearly delineated on the plans for Lots 57.05, 57.07 and 57.08, so as to cross reference to the itemized lists of variances. The applicant has submitted a revised Environmental Impact Statement (EIS) to reflect changes to the plat and site plans. Street trees are provided for along County Line Road (County Route 526. The applicant has not indicated site triangle dedications or sidewalks

in this area. The applicant requires a design waiver for pertinent buffer requirements for Lot 57.03, as it contains a school. The plans indicate access restrictions for the following Lots: Lot 57.03 (school lot): restricted to prohibit access to Highland Court. Lots 57.01 and 57.08 (corner lots at Kennedy Boulevard East); both lots are restricted to prohibit vehicular access to Kennedy Boulevard East. The plans indicate that existing structures on the tract will be removed. The structures must be removed or a bond posted for such removal prior to the signature of the plat by the Planning Board. The requirements of Section 18-821 of the UDO (Building Uniformity in Residential Developments) must be addressed at the construction phase of the development. A minimum of four (4) basic house designs is required for developments of between 7 to 15 homes. Site improvements must be in compliance with the NJRSIS. This includes off-street parking for each of the new single-family dwellings. The balance of the comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant with Mr. Flannery as the engineer. Mr. Banas pointed out the difference in the letters prepared by the professionals than in the past. They now point out what was said in the technical meeting and what is expected in this meeting, except where there are exceptions, which are duly noted. He hoped Mr. Flannery did not have any objections to their comments, and Mr. Flannery said they did a thorough job. Mr. Flannery said this site is almost 4 acres. The current site is the original Bais Tova School which will remain and to build homes around it, in accordance with the smart growth in the master plan. He quoted the growth rate of private schools from the master plan and the need for schools. Mr. Penzer added a statistic that there are 50 children born each week to the orthodox community. Rabbi Sanders was sworn in and he wanted to thank Mr. Penzer and Mr. Flannery for all their hard work and it would not have happened. He also invited all the members and professionals to visit the new school. Mr. Flannery said this application was prepared with the reduced lot size for recreation purposes based on the provision in the ordinance. The lot sizes they are proposing is the same as in Brook Hill, 12,750 so. so they will not stand out in the area. Mr. Banas asked why this not a variance rather than a waiver and Mr. Flannery said if you go through the professional's reports, there are some gray areas, but the bottom line is that the ordinance does allow lot areas of 12,750 sf and they are providing that, but are requesting variances for lot width but that is because of the cul de sac and the unique nature of the property, but it is his opinion that the lot areas comply. Max's letter indicates possibly they need a variance for not having an open space recreation of one acre, he interprets the portion that states unless that area will be added to another recreational area at this time or some time in the future and the lot they are leaving with the school on it is more than an acre and he thinks the intent of the provision is that we don't have these tiny little pieces postage stamps left in various places all around, the school would use the recreation during the day and it is available to the community when the school is not in session, which would make it over an acre. Mr. Penzer stated where they only have to do 5% they are doing 26% out of a 3.8 acre tract. 3 of the lots are requesting the side yard variances but the footprints of the homes fit and is aesthetically pleasing. Mr. Jackson asked why this would this not be a subdivision and a site plan and Mr. Flannery said because the school is an existing condition, they are taking the surrounding land for the subdivision for the homes and recreation. The easement area they are proposing is the where the lot area is short and that would make up the 15,000 sf required and the remainder is for the school purposes. They have done tests and do meet the soil and slope tests and have provided a walkway from the cul de sac so the community can use it and also for the school to use.

They agree to do a meandering sidewalk along the front but request a waiver of curb in front of County Line Road because of drainage problems. Mr. Banas said it was a safety problem. Mr. Flannery said it was a county road and they had standards on that and they feel the same way on that, that if you are 8 feet from the pavement you have sufficient room. Curbing you normally do for drainage and safety purposes, but the safety purposes they are accommodating by the separation of the road and trees. He believes they would make the drainage worse by putting in curb. Mr. Miller said this board is solid on curb and sidewalks but he does know that the Ocean County Freeholders are doing work on County Line Road, they have started in Jackson going west to east until Squankum. If you could find out by the next meeting their time table, but Mr. Flannery said he did speak with them and the feed back locally is they don't want them doing work there. The problem with putting curb in is wherever you put the curb in they would have to rip it out. Mr. Franklin said he would never put a sidewalk in without a curb because it would be more dangerous. Mr. Banas said the trees are not looking that great, Mr. Franklin said they are terrible, and don't look well. He thinks the best thing to do is eliminate the tree and build a curb and sidewalk the way it should be built. It would eliminate the meandering but you still can have the meandering but have the safety, can't there be some minor curb cuts to allow that water to flow? Mr. Flannery said on a township road they would be allowed but not on a county road, they would not allow them to. Mr. Flannery said the county would make them put in drainage all the way to Somerset and disturb the homes and roadway all that way. He suggested putting up bollards and take the trees down. Mr. Banas said he would be inclined to put the curb and sidewalk in and if the county has issue with that when they review this plan they will have an opportunity to discuss that. They marked A-1 into evidence which is a rendering of the site development plan. Mr. Penzer asked the board if they put the curb in and the county changes it, and Mr. Flannery said they will, they will go back and forth with them for years. It is really the drainage issue that is driving this and the applicant is willing to post a bond for the curbs, etc. Mr. Franklin said they did have about a foot of fall going east and it is enough that it wouldn't puddle and Mr. Flannery said they would require them to go 500 ft. up the road and 500 ft. down the road and design that whole piece of road there and when that doesn't have sufficient slope then you go another 500 ft. in each direction and they have been through this problem with them especially on this roadway, it needs a drainage system. The design waivers requested are for the school which is an existing condition. They agree to the remainder of the comments on Mr. Slachetka's report. In Max's report, they will show 4 parking spaces for each lot. They will agree to comply with the remainder of Max's comments except for the County Line Road comment which they are hung up on.

Mr. Neiman spoke about at the tech meeting and a fence being installed along County Line Road East and the recreation area and Mr. Flannery agreed it needs to be fenced. He also questioned 2 easements by the recreational area one against the school and one between lot 57.05 and 57.04 and Mr. Flannery said that would be a drainage easement. He questioned north of the school building lot 57.03 and asked what that open area is being used for and was told nothing, so he suggested it being used for overflow parking (PTA meetings, etc) Mr. Flannery asked if he needed it paved and Mr. Neiman said no and he said he could note it for overflow parking and it could be green banked. Mr. Miller said it would mean no curb cut and could be used if necessary. The resolution could have it stipulated that it would be green banked. Mr. Neiman asked how you are preventing cars from going through the parking lot from Highland Court to County Line Road or vice versa

and Mr. Flannery said they could put bollards there so they could physically not go. Mr. Franklin also suggested taking the play yard and put it where it says lot 57.03 and put parking down that whole front lot and you would have more area and there would still be a lane for buses. Mr. Flannery said that lot is already there and you would have to rip it out, but Mr. Franklin said you could probably take out 5 parking spaces and have a pretty good sized lot and you would have a large lot for parking. Mr. Neiman thought it was a great idea, it keeps the kids off of County Line Road and you open up a lot of area there and makes it more accessible for the neighbors to get to the playground. Mr. Penzer said they had no problem with it and it was an excellent idea and will amend the plans. They marked the plans backed to the handicapped spot. Mr. Neiman asked if the turn around at the cul de sac was large enough for the garbage trucks and Mr. Franklin said it was minimum but it was ok. The last issue to discuss was the curb issue.

Mr. Banas opened the microphone to the public.

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

Mr. Penzer asked Mr. Flannery if there was any way to push the sidewalk back maybe 10 ft. and Mr. Flannery said if the board is concerned with safety, they could do a 8 in high retaining wall which would be the same as a curb in stopping vehicles, and the county doesn't look at it as a curb. Mr. Banas said if you are doing that, what would be the difference? Mr. Flannery said the difference is they do not have to provide for the drainage along the county road because the water can flow off in the dirt area and go where it goes now. They would do it right at the property line about 10 ft off the edge of the pavement, and that is something that when the county comes through there they won't have to break it. Mr. Franklin asked if they could put some porous pipe there as temporary to pick up the drainage and Mr. Flannery said they would not permit it. Mr. Banas asked if by putting the 8 in. wall would it cause drainage problems on the adjoining property and Mr. Flannery said no they would put provide porous pipe on their side underneath it and it would work. Max said there would be some sort of stormwater problem with the expanded parking lot in the front and they would need an infiltration system for that if you had a catch basin there that ties into the same system that is the solution that would work. Mr. Franklin said they should try for the curb first and Mr. Flannery said they would set up a meeting with the county and Max and they if they would go for it ok because it would probably cost them more money to put in the 8 in retaining wall and the curb so they will do that first.

Mr. Banas opened the microphone to the public again.

Bill Hobday, 30 Schoolhouse Lane, was sworn in. He said with the 8 in. block he is not sure if that is inside of the sidewalk or between the sidewalk and the street and Mr. Banas said between the sidewalk and the street approximately 10 ft. from the edge of the road, on the client's property. Mr. Flannery showed him on the map.

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

Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve this subdivision with the school and the 7 lots with the stipulation that they agree to the professionals reports, Highland Court being a private street, moving the recreational area to the back of the school, taking away some of the parking spots up to the

handicapped spot (6 spots) moving the parking to the front, putting in the fence, trying to get county approval for curb and sidewalk and if not approved go with the 8 in retaining and empowering Mr. Peters to make the determination. The easement would be part of the school with the public having access.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

2. SP # 1865 (NO VARIANCE REQUESTED)

APPLICANT: BNOS RIVKA

Location: Oak Street, west of Albert Avenue
Block 795 Lot 1.01

Preliminary & Final Site Plan to construct an elementary and high school

Mr. Peters stated the applicant is seeking Preliminary & Final Site Plan Approval for Block 795, Lot 1.01, which is currently vacant. The applicant proposes constructing an Elementary School and a High School with a recreation area, parking, and stormwater management measures. The site is located between unimproved Bellinger Street and unimproved Oak Street, where Oak Street intersects unimproved Rockaway Avenue, in the R-40/20 Cluster Zoning District. No Variances will be required for this project. Ocean County Soil Conservation District, Ocean County Planning Board, and NJDEP TWA approvals will be required. Proof of approvals shall be made a condition of final approval. The applicant proposes installing sidewalk and curb along the Oak Street property frontage, extending along the neighboring Lot 6 frontage. The Board should determine if the applicant will be required to install curb and sidewalk along Bellinger Street as well. The applicant proposes improving Oak Street along the property frontage and the neighboring Lot 6 frontage. The roadway improvements will abut those being constructed as part of the Bais Tova School. The site will be serviced by public water and sewer. The applicant has provided six (6') foot wide shade tree and utility easements along the Oak Street and Bellinger Street frontages. The applicant has provided 70 parking spaces where 66 are required. Parking calculations show the future addition will require an additional 4 spaces for a total of 70. The applicant has provided a 10' buffer to neighboring properties. The applicant shall provide landscaping within the 10' buffer. We recommend that the applicant provide testimony as to the timetable for the road improvements. This item should be discussed with the board. The applicant has provided lighting for the walkway around the Elementary School, but not for the walkway leading to the High School or the service driveway between the two schools. The applicant shall address these issues. The applicant should provide sight triangles at both driveway entrances. The limit of the riprap apron for Headwall #1 is located on the neighboring property line. The applicant shall obtain written permission from the owner of Lot 1.02. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated May 14, 2007. The applicant seeks preliminary and final major site plan approval to build a two (2) story private elementary and high school; the applicant has presented revised plans since its initial submission. Access to the site will be provided via Oak Street. Previous improvements to Oak Street were proposed as

part of the improvements related to the Bais Tova School, Application # SP-1814, which was approved by the Planning Board in 2005. The related site improvements include parking, drainage, landscaping, and lighting. The tract is located in the southern part of the Township in the R40/20 Cluster Zone and, other than the Bais Tova School to the west, much of the land surrounding the tract is undeveloped. Contiguous zoning is R-40/20. Public and private schools are a permitted use in the R-40/20 Cluster Zone. The applicant did not request variances. A 20-foot buffer is required for a school when it is adjacent to residentially zoned lots. The plans should be revised to increase the current 10-foot buffer to 20 feet for those portions of the site that abut a residentially-zoned lot, or a waiver requested. A breakdown of locations where applicant's current plans require a waiver: Along the eastern border with Block 795 Lot 6 (owner of record: Rivaling, Alfred, et al): 10 feet proposed. Lot 6 is currently vacant. Along the western border with Block 795 Lot 1.02 (owner of record: Tiers Bais Yak, Inc.): no buffer proposed. The applicant has amended the Landscape Plans since initial submission. We recommend adding more landscaping in the buffer areas, especially in those areas zoned residential and not part of any current or future non-residential development. Subsequent to our initial review, we were provided correspondence from the Lakewood Environmental Commission recommending extending Oak Street to Albert Street to maximize safety in the area. The applicant should clarify the off-site improvements contemplated, specifically all improvements in the Oak Street right-of-way and the drainage basin shared with Block 792, Lot 1 (Bais Tova). Applicant should verify if cross-lot or other easements will be required for its improvements. A bus drop-off area is shown on the site plans. The site plan indicates that the required off-street parking, based on the classrooms and other rooms, is 66 spaces, and 71 parking spaces are provided. The applicant has revised its site plan to add a recreation area. Applicant should supply specifications of the recreation area equipment and design, and address if its proposal will adequately support the recreational needs of the students of the proposed and contemplated schools. The applicant should confirm the height of the proposed school as shown on the submitted architectural plans is in compliance with the Ordinance requirements. Shade tree and utility easements, as well as sidewalks, are indicated on the site plans. Sight triangles are not provided. We have discussed with the applicant's engineer the map references to the adjacent parcel (Bais Tova). Block and lot identifications should reflect recent lot consolidations by deed consistent with the Lakewood Township Tax Assessor records. The remaining comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant. Graham MacFarlane is the engineer for the applicant. Mr. MacFarlane stated the application is conforming with the exception of a waiver of the buffer requirements which adjoins Lot 6. They are seeking this waiver to allow them to maintain adequate pedestrian and vehicular access, bus loading and unloading and maintain safety for the school children entering and existing the building. They are seeking a waiver of about 300 linear ft., and he pointed to exhibit A-1 which is a site plan with the revision date of March 23, 2007. They are proposing recreation equipment occupying approximately 2,500 sf which they believe will be suitable for the proposed school. There is also an open play area behind the main portion of the elementary school which will be an open field to be utilized for recreation space. The height of the proposed school will be slightly less than 30 ft. to the mid point of the roof line so it is in conformance to the ordinance. They agree to comply to the remaining comments in the planners comments. With the comment from Mr. Peters with regard to

the improvement of Bellinger Street, the applicant does not seek to improve Bellinger Street and are not asking for access to Bellinger Street. He pointed to the grading plan, marked A-2, sheet 3 of 8, which clearly shows the access to the site is from Oak Street and they are proposing to maintain buffers from the property that abuts Bellinger Street and it is their opinion that the improvement of Bellinger Street would not have any benefit to this application or to the township at this time. They do not believe that moving the trees and vegetation on Bellinger Street would provide any benefit. Curb and sidewalk already exist along Oak Street so that is no longer a requirement of their application. Mr. Penzer asked that the NJDEP TWA approval not be made a condition of final approval but at the time of building permit. Mr. Banas said only if they put curb and sidewalks on Bellinger Street. He said because of safety issues the board always asks for curbs and sidewalks. Mr. Penzer said the Bais Tova on Oak Street does not have curbs and sidewalks on the rear of the property, they left it in its pristine state. Mr. MacFarlane said they could post a bond for a future curb and sidewalk, but Mr. MacFarlane asked if Bais Tova had to post a bond for their portion and Mr. Banas could not remember. Mr. MacFarlane said the bond would only be for their portion which would be about (100 ft. + 125 ft.) 225 ft. total. The applicant agreed to that. They agreed to the remainder of the engineers comments.

Mr. Peters stated he had no problem deferring the approval of the TWA to the building permit but since there is a pump station involved, he would like a conceptual approval or a preliminary from NJAWCO and Mr. MacFarlane said that would be a private pump station, not NJAWCO.

Mr. Neiman asked if they planned on putting a sign at the school and was told no. Then the client reconsidered and decided to put one in and Mr. MacFarlane stated it would be outside the site triangle located near the entrance on Oak Street. Mr. Neiman also noted the recycled storage but not the regular garbage and Mr. MacFarlane showed him where it was located on the plans.

Mr. Jackson had a question about the bonding for the sidewalks and asked for the mechanics on how to do that. What events occur when the obligation to build the sidewalk triggers it and who decides that and how do you decide it etc. Mr. Banas said if the street is developed, then you would need the sidewalk and curbing. Mr. Jackson said wouldn't whoever built the street build the sidewalk? Mr. Jackson said it seems that it would be hard to work with. Mr. Miller said he would like to testify that he was involved with this land and a lot of streets were vacated and the only reason Bellinger Street could not be vacated was because one or two parcels were not yet redeemed and the township could not vacate streets that would land lock properties but in all honesty Bellinger would be vacated sooner or later.

Mr. Banas opened the microphone to the public.

Mr. Hobday was sworn in. He said the one thing this board has been consistent on it has been the need for curbs and sidewalks and especially in an area such as this, where you will have a lot of children (it's a school) to waive that requirement would not be beneficial. We don't know what will occur in 3-5 years but we do know that the congestion will build as the schools are populated and things come to that area and he reminds the board of their policy of curbs and sidewalks.

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

Mr. Penzer said they are trying to save the schools as much cost as possible and Bellinger will probably never be developed. If it is safety, he would never argue, but it is remote beyond belief and he respectively asks the board to reconsider the requirement.

Mr. Kielt wanted to clarify with Mr. MacFarlane with respect to Oak Street, curb and pavement are in and sidewalk are in, and all they are asking for a waive for is in the back of the school, not on Oak Street. Mr. Banas said never say never, but he did ask the attorney if there was another way to work it that should this street get developed, is there something that they could do within their resolution to guarantee that funds would be available for that purpose. Mr. Jackson said he supposed they could put it in the resolution that in the event that Bellinger Street is required as part of the site plan approval, they would be required to build the sidewalks without bonding, and the board agreed. Mr. Banas said his concern was when it was developed.

Motion was made by Mr. Neiman, seconded by Mr. Miller, to approve this site plan application, with that stipulation the attorney just voice in referenced to the development of Bellinger Street, with the sign on plan.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Committeeman Miller; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

Committeeman Miller left for another meeting.

3. SD # 1580 (NO VARIANCE REQUESTED)

APPLICANT: JONATHAN RUBIN & MOSHE FEINROTH

Location: New Central Avenue, between Irene Court & Hillside Boulevard
Block 11.29 Lots 3, 4 & 75

Preliminary & Final Major Subdivision for 8 lots

Mr. Peters stated the applicant is seeking Preliminary & Final Major Subdivision Approval for Block 11.29 Lots 3, 4, & 75 to subdivide the three (3) existing lots into eight (8) new lots for single family use, one of which will be a flag lot. Lot 4 currently contains a single family dwelling that will remain as the residence on Lot 4.01. Existing Lots 3 & 75 both contain single family dwellings that will be removed. The applicant proposes constructing seven (7) new dwellings and a cul-de-sac, Esther Court, for accessing six (6) of the proposed lots. The site is located on New Central Avenue near Hillside Avenue, in the R-15 Zoning District. The applicant is requesting variance for lot width; 93.53 ft are proposed for Lot 3.02 where 100 ft are required. 51.33 ft are proposed for Lot 3.03 where 100 ft are required. Ocean County Planning Board, Ocean County Soil Conservation District approvals, as well as NJDEP approval for water main extension and TWA will be required. Evidence of approvals shall be made a condition of final subdivision approval. The applicant has provided a six foot wide shade tree and utility easement along all property frontages. The applicant has provided a 5' road widening dedicated to Ocean County

along the New Central Avenue property frontage. The applicant has provided sight triangle easements on both sides of the intersection of Esther Court and New Central Avenue. The applicant has provided curb and sidewalk along all property frontages. The site is to be serviced by public water and sewer. The applicant shall submit the proposed name of the cul-de-sac, "Esther Court," to the zoning secretary approval. The detention basin is to be owned and maintained by a Homeowners Association. The applicant will be required to submit homeowner association documents and a stormwater maintenance plan for the Board engineer and solicitor for review. Two existing dwelling are to be removed. The structures shall be removed prior to the signature of the final plat or a bond posted to ensure their removal. The applicant has proposed a detention basin to store stormwater runoff instead of using an underground recharge system. Since the detention basin is only 10 ft to the proposed dwelling in Lot 3.02 and 15 ft to the proposed dwelling in Lot 3.03, it can become a potential hazard to the future residents of the two lots. Fence shall be provided around the proposed basin for safety purposes, if the board accepts the proposed detention basin as shown. The applicant should discuss with the board other possible locations for the basin, such as a back yard or under the street with adequate cleanout access to satisfy public works. The board may wish to have the applicant create a separate lot for the detention basin. This will allow for the basin lot to be owned by the H.O.A but will result in variances for side yard setback, lot width, and lot area. Runoff from all paved surfaces to be pretreated prior to discharge to under ground infiltration system. Driveway runoff from Lot 4.02 will be directed to infiltration pipes and not the above ground basin. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated May 1, 2007. The applicant seeks preliminary and final major subdivision approval to create eight (8) tax lots from Block 11.29 Lots 3, 4 and 75, located on the south side of North Central Avenue. Six (6) of the lots will have frontage along the proposed Esther Court cul de sac; the majority of land for these lots are created from Lots 3 and 75. Most of the land for the two (2) other lots is created from portions of existing Lot 4, which currently has frontage along North Central Avenue. Access to Esther Court and Lots 4.01 and 4.02 is from North Central Avenue. Proposed Lot 4.01 will retain an existing two (2) story frame dwelling. An in-ground pool and other improvements are to the rear of the dwelling. The existing semi-circular driveway will be replaced with a single-point access driveway. A flag lot will be created to the rear of Lot 4.01. The flag "staff" of Lot 4.02 will form the eastern border of Lot 4.01. The tract is located in the northwestern part of the Township, approximately 1/10 mile east of the border with Jackson Township. A townhouse development is to the south of the tract, with single-family homes predominating everywhere else. The applicant has submitted plans revised through April 16, 2007, which address the comments of the Planning Board and its' professional at the Plan Review meeting on March 6, 2007. The tract is located in the R-15 Residential Zone. Single-family residences are permitted in the zone. The applicant has requested the following variances: Minimum Lot Width: 100 feet required: 93.5 feet proposed (Lot 3.02); and 84.66 feet proposed (Lot 3.03). The positive and negative criteria for all required variances should be discussed. There are no lot numbers on the revised Final Subdivision Plat submitted by applicant. Submit an updated Final Plat prior to the public hearing. The graphic scale on the Preliminary and Major Subdivision Plan indicates 1 inch = twenty (20) feet; this is incorrect. The Plan should be corrected to indicate the scale of the drawings, which is 1 inch = thirty (30) feet. The applicant has indicated on the plans that the existing in-ground pool on Lot 4.01 is 14 feet from the rear property line (minimum required = 10 feet.).

Section 18-805.G.5 provides the following criteria for creating flag lots: "Flag lots shall be created only in conjunction with an overall development plan of the entire tract of which the flag lot is a part and the applicant shall demonstrate a need, consistent with good planning principles, for the creation of the flag lot and shall further demonstrate that normal subdivision techniques are not practical because of topography, lot or land configurations or other physical characteristics or constraints of the land related to the proposed development concept." The applicant should be prepared to discuss with the Board how this application complies with the above requirements. For Flag Lot 4.02, the applicant has provided an area for temporary storage of solid waste containers in compliance with Section 805.G (please dimension). In addition to landscaping along the access drive's eastern border with Lot 1, the applicant is proposing landscaping for its western border with Lot 4.01 (which contains an existing two-story dwelling that will remain) that will be located on Lot 4.01 itself. We question the use of White Pine on the eastern four-foot wide strip of the pole portion of Lot 4.02. We note a drainage easement is proposed along the length of the access drive. The applicant is requesting a waiver from the requirement of flag lot applications to include architectural plans for the proposed dwelling to be constructed on the flag lot. The Planning Board requires information concerning the proposed number of bedrooms to fully evaluate the application. The side setback lines on new Lot 4 (flag lot) is 20 feet, as indicated on the revised plans. The applicant must add to the plans the required 10 foot buffer along the front lot line of the flag lot. Subsequent to the initial review of this application, this office received a copy of correspondence from the Lakewood Fire Commissioners requesting the hydrant on the proposed cul-de-sac be relocated to New Central Avenue. The plat and subdivision plans indicate all existing structures on existing Lots 3 and 75 are to be removed. The improvements must be removed or a bond posted for such removal prior to the signature of the plat by the Planning Board. Parking for all proposed lots must comply with NJ RSIS standards. Confirm that sufficient area is provided for three (3) vehicles for all proposed lots (except 4.01). Verify the existing and required parking for the existing dwelling on Lot 4.01. Parking standards and existing/proposed parking should be added to the plat and subdivision plan. The applicant has submitted revised landscaping plans subsequent to its initial submission. The applicant should discuss if existing vegetation and/or proposed additional landscaping treatment is sufficient for the rear lot lines of all proposed lots and the non - "flag staff" lot lines of Flag Lot 4.02. We recommend plantings along the southeast property line and supplemental plantings in the rear. Confirm that the landscape plan is in compliance with Section 18-814.F, which specifies that plantings in site triangles shall not be more than three (3) feet above the street centerline. We note that the orientation of all the plans is south; the key map and vicinity maps are oriented north. The balance of the comments are technical in nature.

Mr. Sal Alfieri Esq. appeared on behalf of the applicant. Mr. Burdick is the engineer for the applicant. Exhibit A-1 is a colored rendering of the site plan, sheet 1, revision date 4/16/07. Mr. Burdick said the applicant is taking 3 lots and proposing 8. Previous applications were made on the property. In 2006 a subdivision was applied for for lot 3 and 75 which required variances for all lots on lot area and it was denied. An additional application was approved by the board for lot 4 which created a flag lot very similar to what they have here now. After the denial of the six lot subdivision the owners got together and decided to see if perhaps by combining the lots they could come in with a more conforming plan which is what you see here. The existing dwelling on lot 4 will

remain and a cul de sac will be constructed. Exhibit A-2 was entered which is the geometry of the tract. Based on the geometry of the tract he testified that it complied with the municipal land use ordinance in that it provides adequate area and appropriate locations for this type of residential use and he believes the variances can be granted without detriment to the zoning ordinance or the master plan. The flag lot is 3 times larger than the zone, in addition the board has previously approved the flag lot in that position, therefore the application does not actually create the flag lot because that minor subdivision was perfected it just shifts the lot line. He showed on the exhibit where the lot line was being shifted. The back lot of the flag lot configuration has not been modified or revised in any way from the original approval. They will change the white pines to arborvitae. They are requesting a waiver from architectural plans for the plan lots in order to provide prospective purchasers the flexibility to create an attractive home suitable to their needs but note the RSIS standards will be met. The applicant is now to move the existing home on lot 3 to this flat log on lot 4.02. Mr. Banas asked how many bedrooms would be in each of these homes and was told 4-5 and they have provided 36 ft. from the right of way to the home to provide 4 parking spaces for each home. They have moved the plantings that can not be trimmed out of the site triangle. They agree to comply with the remaining comments on the planners reports. With reference to Mr. Peters report, they have created a water quality basin to be maintained by the homeowners association. Mr. Peters had an error on the lot width of 50 ft. it should read 86 ft. and Mr. Peters agreed. He didn't believe the basin needed its own lot and it would take away from the other lots in the area, and it would provide no better maintenance or access to the infrastructure. Mr. Burdick requested a waiver from water quality in the area from the driveway and the stormwater goes into the ground, but Mr. Peters wondered if they could have a middle ground where they could move the inlet off to the side of the driveway and swale the water in there so at least the water would be passing through some sort of swale on its way to the inlet and Mr. Burdick agreed. They agreed to comply with the remainder of Max's comments. Mr. Banas asked if Lot 1 was developed and Mr. Burdick said there is a single family home in on it. Mr. Banas also asked what is located north of the flag lot and was told it was the Westgate town home project. On the west side there will be white pines being provided and Mr. Banas suggested substituting arborvitae there as well. Mr. Neiman asked the professionals if they were comfortable with the draining and Mr. Peters said they agreed to fencing and there is no place to go because of the sloping. Mr. Sachet concern is the aesthetics and they agreed to additional landscaping.

Mr. Banas opened the microphone to the public.

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

Motion was made by Mr. Neiman, seconded by Mr. Herzl, to approve this application with all the stipulations brought forth by the professionals.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

4. SD # 1583 (NO VARIANCE REQUESTED)

APPLICANT: KRUPNICK & SCHUSTER

Location: North Lake Drive and 14th Street, between Curtis Lane & Cedar Row
Block 24 Lots 12, 21, 24 & 30

Minor Subdivision to create 3 lots

Carried to June 19, 2007

5. SP # 1866 (NO VARIANCE REQUESTED)

APPLICANT: BATIK MANAGEMENT

Location: Fifth Street, east of Clifton Avenue
Block 117 Lots 11 & 12

Preliminary & Final Site Plan for 5 story building with retail/office and restaurant hall

Mr. Peters stated the applicant is seeking Preliminary & Final Site Plan Approval for Block 117, Lots 11 & 12. Lot 11 currently contains a two story dwelling and a barn and Lot 12 currently contains a two story dwelling and a shed. The applicant proposes removing all of the existing structures and constructing 3 story building with approval for two additional stories for a total of 5 stories of retail and office and parking lot. The building will contain retail shops on the first floor, a restaurant in the basement, and offices on the second, third, fourth, and fifth floors. The site is located on Fifth Street, in the B-2 Zoning District. No Variances will be required for this project. Ocean County Soil Conservation District approval will be required. Proof of approval shall be made a condition of final approval. Sidewalk and curb exists along the property frontage. Although no parking is required in the B-2 Zoning District, the applicant has provided nine (9) off street parking spaces. The site will be serviced by public water and sewer. The applicant should consolidate the two existing lots into one lot. The lot consolidation shall be completed prior to signature of the site plans. The applicant shall clarify the "Rock Face Block to Match Exist. Structure" note included in the Trash Enclosure detail. The Layout Plan states that the trash enclosure is a board on board fence, the proposed structure will have brick facing. The applicant should discuss with the Planning Board how a front loading trash truck will be able to access the dumpster at its current location. The applicant has provided 9 parking spots for the 5 story building. The 9 spaces are likely to be filled by office employees leaving no parking for the retail uses. The applicant may wish to impose some parking restrictions for the lot. The applicant should discuss the parking design with the board. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated May 1, 2007. The applicant is seeking Preliminary and Final major site plan approval to construct a three (3) story commercial mixed-use building, expandable to five (5) stories. The roof deck of the structure at its maximum five story height would be sixty (60) feet above ground level. The applicant has submitted plans indicating retail uses for the first floor, and offices for floors two through five. The site plan has been revised to indicate that a catering hall will be located in the basement area. The tract is approximately 15,000 square feet in area, located between Clifton and Lexington Avenues in the northern part of the Township. Two (2) commercial and one (1) residential building (with accessory garage) are currently located on the site. Contiguous land uses

on Block 117 are predominately residential. Senior-citizen housing is located across Clifton Avenue to the west, and the Clifton Avenue Grade School is one block north. Township offices and assorted commercial uses are located on the south side of Fifth Street. The tract is located in a B-2 (Central Business) Zone, with its eastern edge bordering the R-M (Multi-Family Residential) Zone. The applicant has submitted plans revised through March 7, 2007 addressing the comments of the Planning Board and its professionals at the March 6, 2007 Plan Review meeting. Retail trade and offices are permitted uses in the B-2 Zone. The applicant has not requested any variances. The applicant should provide a walkway located along the border with Lot 10 to the east of the site from the sidewalk to the east side of the building. The applicant should demonstrate that pedestrians will have unimpeded access to the main entrance(s) to the proposed building without having to cross over proposed parking stalls and/or the parking lot. Revised architectural plans have not been submitted since the Plan Review meeting. The initial architectural plans do not label the basement as a catering hall. We recommend it be confirmed that the use of this basement area will be a catering hall. The applicant has proposed nine (9) off-street parking spaces. Off-street parking is not required for non-residential uses in the B-2 Zone in accordance with Section 870.B.9 of the Lakewood Unified Development Ordinance. The off-street parking area should be screened along the frontage with vegetation or a short wall. Since the tract is surrounded by residential uses, we recommend that all roof-mounted HVAC equipment (if applicable) be appropriately screened. The Environmental Impact Statement (EIS) submitted for Planning Board Review notes the proposed building will contain 22,000 square feet of office and retail space. The applicant should verify this total and note square footage for each floor (currently proposed and the future additions) on the site plans, and also correct Paragraph 1 of the EIS, which references a "proposed synagogue". This issue was addressed at the Plan Review meeting. The EIS indicates that the existing structures on the tract will be removed. The structures must be removed or a bond posted for such removal prior to the signature of the plat by the Planning Board. We recommend that Lots 11 and 12 be consolidated by deed. Applicant should more clearly identify existing trees and proposed landscaping. We note that a tree is indicated in the dumpster area - if this tree is to be removed it (and others to be removed) should be clearly labeled as such on the plans. We recommend the applicant provide more landscaping (foundation plantings) along the side and rear yards, both of which border residences. The balance of the comments are technical in nature.

Mr. Penzer Esq. appeared on behalf of the applicant. Mr. Gasiorowski is the attorney for objectors of this application. Mr. Carpenter is the engineer for the applicant. Mr. Gasiorowski had one question for the board and that was if there was any subsequent announcements made that there would a meeting tonight and Mr. Kielt said he would have to check the records. Mr. Gasiorowski said it was highly unusual that there would be a 3 month span between meetings and Mr. Banas said it was duly noted. Mr. Jackson said due to the constraints of this board that is the reality they have to deal with and it is common. Mr. Penzer said he is ready to proceed and he has been speaking to the objectors and has asked them to go to rabbinical court and they refused and they were aware of the date. Mr. Jackson asked Mr. Gasiorowski who he was representing and he stated it was the Fifth Street Homeowners Association and he will provide them with a list, they are a un-incorporated entity. They argued a jurisdictional notice and Mr. Penzer requested to see the names of the people in the Association. Mr. Gasiorowski did not have the names.

Mr. Gasiorowski named Jonathan Rubin as a member. Mr. Penzer asked Mr. Carpenter if the zoning appeal #3629 had a ruling on this matter and Mr. Carpenter said he was aware of it and the appeal was added as exhibit as A-1 which is the ruling that the zoning board made that was B-2. Mr. Carpenter said the applicant agreed to all of Max's report except for the trash because the dumpsters would be on wheels wheeled out to the front. As far as Mr. Slachetka's report, they agree to all the recommendations with the exception to the catering hall which they have the correction showing it to be a restaurant not a catering hall. Mr. Truscott stated the architectural plans showed it as a catering hall and it was a typographical error. Mr. Neiman had a question, and he said he understood it was a B-2 zone, but as planners they had to be optimistic, and 9 parking spaces for 22,000 sf. even though you don't need any, how could we as planners do this. Mr. Penzer said they have approved many other without any parking at all. Mr. Neiman said this abuts a residential area. Mr. Gasiorowski objected to Mr. Penzer giving testimony. He said if he wanted to refer to other approvals, to other applications, than he should have the right to bring all the records of those records and cross examine Mr. Penzer. Mr. Penzer said he resented, that, at 3:00, on the afternoon of the hearing, that they had 8 weeks to get a lawyer, for me to have grandstanding, etc. Mr. Banas hit the gavel and asked the board to table this application for a cooling off period. Mr. Jackson also did not want to get derailed on this or get it reversed. The members seemed to agree.

Motion was made by Mr. Fink, seconded by Mr. Akerman, to table this application to June 19, 2007. Mr. Penzer objected. He feels he is being railroaded.

ROLL CALL:

Mr. Herzl; yes, Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

6. SP # 1820B (VARIANCE REQUESTED)

APPLICANT: 1161 ROUTE 9 LLC

Location: Route 9, between Chestnut Street and Yale Drive
Block 1064 Lot 4

Amended Preliminary & Final Site Plan for addition to existing building

Motion was made by Mr. Franklin, seconded by Mr. Herzl, to carry to June 19, 2007.

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

7. SD # 1542 (VARIANCE REQUESTED)

APPLICANT: RYE OAKS LLC

Location: Ocean Avenue (Route 88) east of railroad
Block 536 Lots 1, 2 & 4

Preliminary & Final Major Subdivision for 40 townhouses and 1 retail center

Mr. Pape Esq. appeared on behalf of the applicant. He spoke to the professionals with regards to their latest letters and will meet with them again and will resubmit new plans 2 weeks prior to the June 19th meeting. Plans would be back by June 5th.

Motion was made by Mr. Herzl, seconded by Mr. Franklin, to carry to June 19, 2007

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

6. MEMORIALIZATION OF RESOLUTIONS

1. Adoption of re-examination of the Master Plan and Unified Development Ordinance

Motion was made by Mr. Herzl, seconded by Mr. Franklin, to approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

2. SD # 1571 (VARIANCE REQUESTED)

APPLICANT: WALTER LUCAS

Location: Newport Avenue @ corner of Bellevue Avenue
Block 499 Lot 19

Minor Subdivision to create four lots

Motion was made by Mr. Herzl, seconded by Mr. Franklin, approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; abstain

3. SP # 1851 (VARIANCE REQUESTED)

APPLICANT: CONDOR JACKSON LLC

Location: West Kennedy Boulevard @ east corner of Forest Avenue
Block 57 Lot 1

Preliminary & Final Major Site Plan for 2 story office building

Motion was made by Mr. Herzl, seconded by Mr. Franklin, approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; abstain

- 4. SP # 1859 (VARIANCE REQUESTED)**
APPLICANT: BATIM MANAGEMENT/MICHAEL BURZTYN
Location: Sixth Street
Block 130 Lots 11, 12
Preliminary & Final Site Plan for multi family dwelling with 4 dwellings

Motion was made by Mr. Herzl, seconded by Mr. Franklin, approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; abstain

- 5. SD# 1576 (NO VARIANCE REQUESTED)**
APPLICANT: MARK PROPERTIES
Location: Albert Avenue, between Salem Street and Oak Street
Block 1159 Lot 65
Minor Subdivision to create 2 lots (1 flag lot)

Motion was made by Mr. Herzl, seconded by Mr. Franklin, approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; abstain

- 6. SD # 1578 (NO VARIANCE REQUESTED)**
APPLICANT: RACHEL ROSENFELD
Location: 257 East 4th Street, east of Sampson Avenue
Block 243 Lot 28
Denial of Minor Subdivision to create 2 lots (1 flag lot)

Motion was made by Mr. Herzl, seconded by Mr. Franklin, approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; abstain

- 7. SD # 1579 (VARIANCE REQUESTED)**
APPLICANT: DANIEL GROSS
Location: 516 East 5th Street, east of Manetta Avenue
Block 243 Lot 4
Minor Subdivision to create 2 lots

Motion was made by Mr. Franklin, seconded by Herzl, to approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; abstain, Mr. Fink; abstain

8. SP # 1861 (VARIANCE REQUESTED)

APPLICANT: MALKIEL SVEI

Location: Chestnut Street, behind BP gas station
Block 1070 Lot 3

Preliminary & Final Major Site Plan to construct an office building

Motion was made by Mr. Herzl, seconded by Mr. Franklin, approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; abstain, Mr. Fink; abstain

7. CORRESPONDENCE

None at this time.

8. PUBLIC PORTION

Mr. Winkelman said the Chairman was rude when he said he was out of order earlier and wanted a letter of apology, and Mr. Banas said he apologized at this time. Mr. Winkelman said he wanted to Board to also be aware he has filed a 1.2 million dollar lawsuit for perjury, financial, physical, mental and psychological distress undue to Hermann Winkelman and you have failed to respond to his complaint that was filed to Superior Court in the County of Ocean to the Judge of Olsen, you decided to have Mr. Jackson represent you but not on perjury charges so for the 4th time tomorrow Hermann Winkelman will file judgment by default in Superior Court for 1.2 million dollar and you will have 35 days to respond to the case and it is almost a year and you have not even chosen the right legal representative. Let the judge make the judgment and let justice prevail in the name of god. This is unconstitutional and Mr. Banas reminded me that I only have 5 minutes to state my case. I like to see a statute registered in Ocean County Law Library which only allows me to speak 5 minutes. The last federal judge who treated me with disrespect his name was Steven Strip, he said we have 5 minutes to represent is bankruptcy court, he was fired by President Bush 1 ½ year ago. It is unconstitutional and I am still practicing because he is indigent and can not afford a lawyer. You have no right to make any decisions until you defend your innocence on the perjury charges which he filed June 9 and subsequently any decisions you make is null and void. He had nothing further to say.

9. APPROVAL OF BILLS

Motion was made by Mr. Herzl, seconded by Mr. Akerman, to approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

10.APPROVAL OF MINUTES

Motion was made by , seconded by , to approve

ROLL CALL:

Mr. Franklin; yes, Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Fink; yes

11.ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted

Chris Johnson

Planning Board Recording Secretary