

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. Rennert, Mr. Follman, Mrs. Zografos, Mr. Cautillo

3. SWEARING IN OF PROFESSIONALS

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

4. MEMORIALIZATION OF RESOLUTIONS

1. Resolution adopting Planning Board rules and regulations for 2017

Mrs. Morris said there is still one blank in the resolution concerning naming a second newspaper for notice. She is certainly open to any recommendations the board may have.

Mr. Jackson asked if there is a second paper the Township uses.

Mrs. Morris said the clerk's office uses the Tri-Town News but she had heard the Committee has been speaking about using a local Jewish paper but she is unsure as to which one.

Mr. Jackson said the Tri-Town News would be the safe choice since the Township already uses it. He does not think it is a good idea to use one that is geared toward a specific ethnic audience. The reason this resolution is being passed is that some of the Planning Board's rules and regulations are not set out in writing. The Zoning Board was the first to act and he thinks theirs were pretty well received so they did something similar. There is a rule stating than an application shall have a 50 minute time limit to make it fair to other applicants.

Mr. Herzl thinks comments by the public should be limited to 4 minutes.

Mr. Grunberger said the majority of the local residents does not read the Asbury Park Press or the Tri-Town News. He asked what they are gaining by putting notices into those papers.

Mr. Jackson said under state law you must publish notices of meetings in papers of general circulation in the municipality.

Mr. Grunberger said they already have been. He asked why there is a change.

Mr. Jackson said it is not a change. They just need to add an additional paper.

Mrs. Morris doesn't believe people are going to go to a paper to look up notices. They are going to go to the website to check the agendas but legally notices must be published in the paper.

The board was in agreement to use the Tri-Town News as the second paper to publish notices for meetings.

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

5. DISCUSSION: DESIGNATION OF AN AREA IN NEED OF REHABILITATION - EAST COUNTY LINE ROAD

Mr. Harold Hensel, Esq. said there has been a referral to the Planning Board pursuant to statute for its review and comment concerning a proposal to have a designation of an area on East County Line Road in need of rehabilitation. This matter came to the Township Committee initially by way of referral from the Lakewood Development Corporation. The Township Committee took that request and had a report prepared by Timothy Michel who is a professional planner. The Township Committee then adopted a resolution which is what is before the board tonight for review and comment. The statute basically indicates that an area can be deemed in need of rehabilitation if it meets certain criteria. The planner did in fact find that this area meets one of the criteria, that being that more than 50% of the residential housing stock is older than 50 years. This is not an area to be deemed in need of redevelopment but rather rehabilitation. According to ordinance, rehabilitation affords the opportunity of commercial and industrial property owners to seek a 5 year tax abatement if they do improvements to their property. The object of this statute that provides for this determination of an area being in need of rehabilitation is to afford those property owners an opportunity to receive a tax abatement. The tax abatement goes to the improvements they make on the parcel and basically says in the first year that they are not going to pay an additional tax on the improvements that were done. In the year after that, it is taxed at 20% and it goes on for 5 years. The purpose is to encourage the redevelopment of commercial properties. If there is a determination made and an ordinance adopted by the Township Committee that the area is in need of rehabilitation, an individual can make application for a tax abatement. That is all they can do, the Township has no authority to exercise eminent domain and condemn any of the properties as that is a whole different section and is not what's being proposed here. Simply what is being proposed is affording the opportunity of commercial properties owners to seek a 5 year tax abatement.

Mr. Jackson asked that he explain the board's function in this process.

Mr. Hensel said it is an advisory role that the Planning Board takes similar to what is done with zoning ordinances. The statute that specifically speaks to this indicates that prior to adoption of a resolution, the municipal Planning Board is to review the matter within 45 days of its receipt. The Planning Board submits its recommendations regarding the proposed resolution including any modifications which it may recommend to the governing body for its consideration. If the Planning Board does not submit their recommendations within 45 days, the governing body may adopt the resolution with or without modifications.

Mr. Herzl asked if this would allow for more commercial buildings.

Mr. Hensel said it doesn't affect what is allowed and what is not allowed. It really only goes to the opportunity for someone to seek a tax abatement. There is no change in zoning.

Mr. Herzl said it may encourage more commercial property.

Mr. Hensel doesn't believe it encourages or discourages anything. It really affords the opportunity of current property owners to seek a tax abatement.

Mr. Flancbaum wanted to confirm that by designating an area for rehabilitation, it doesn't allow higher density for any residential or commercial properties. This is for properties that are currently zoned for commercial use to seek a tax abatement if improvements are made to their property.

Mr. Hensel confirmed. This encourages property owners to fix up their property. He reiterated this is only for rehabilitation, not for redevelopment. Redevelopment requires adopting a redevelopment plan similar to the Cedarbridge Redevelopment area. It does not affect zoning.

Mr. Flancbaum said they are talking about County Line Road east of Madison Avenue all the way to Ridge Avenue.

Mr. Hensel said it looks like it goes a bit beyond Ridge Avenue to Red Oak Drive.

Mr. Herzl asked if this would increase traffic in the area.

Mr. Hensel doesn't think it's going to do that unless people are looking to go to a better looking business that has been rehabilitated. He doesn't think it has an effect on traffic in that area.

Mr. Flancbaum asked if they know how many additional square feet of commercial property is possible to be developed.

Mr. Hensel doesn't believe that was included in the report.

Mr. Follman asked if this applies to undeveloped property as well.

Mr. Hensel confirmed it is for new construction as well.

Mr. Follman said you can't afford another car over there. If they are going to encourage any more commercial it really can't handle it.

Mr. Flancbaum said it would be good for the board to know what the total build out is.

Mr. Hensel asked if he is talking about what is vacant and could be developed.

Mr. Flancbaum said not just vacant but what is currently commercial and if those properties are improved upon, how many additional square feet could be developed.

Mr. Herzl asked if they could get a traffic analysis done in that area.

Mr. Tom Henshaw, Township Manager, said the properties are already zoned commercial so they don't need a rehabilitation to come in and develop the property. It really doesn't affect what they are trying to do here. It may cause faster development in the area but it is not going to change the fact that they are already zoned commercial.

Mr. Follman said this would be the opportune time for all of these commercial properties to be developed and this area can't handle it.

Mr. Henshaw said they are trying to help commercial property owners as well as trying to clean the town up.

Mr. Follman suggested to only designate this for properties that are already developed.

Mr. Henshaw said they can't do that.

Mr. Hensel said they may be able to provide information as to the additional build out possible in this area.

Mr. Herzl said if it is one or two properties then that is one thing, if the whole area is going to be rehabilitated then there will be a lot more traffic.

Mr. Jackson asked what the objective of the ordinance is.

Mr. Henshaw said it is really an attempt by the Township to clean that area up. The County is doing work there so they wanted to coincide with that to help encourage people to fix up their commercial properties.

Mr. Follman asked if residential properties are included as well.

Mr. Henshaw said no, only commercial properties.

Mr. Follman said a residential property could be developed as commercial as it is in a commercial zone.

Mr. Jackson said they would have to come before the board for site plan approval.

Mr. Rennert said the board would like to see a traffic impact analysis.

Mr. Hensel said it may be negligible as there may not be many properties that could be added.

Mr. Follman asked who requested this.

Mr. Hensel said it came from the Lakewood Development Corporation.

Mr. Follman asked if there is anyone in particular.

Mr. Hensel said the LDC adopted a resolution asking the Township Committee to take a look at this area. It was probably done to be in conjunction with the work Ocean County will be doing.

Mr. Follman hinted that it is a strange place for the Township to pick as a rehabilitation area in Lakewood.

Mrs. Morris commented they are approaching the 45 day time period so if the board doesn't respond, the Committee can act without the board's recommendations.

Mr. Follman asked if an extension can be made.

Mr. Jackson said the board may make comments which the governing body may or may not take into consideration. If there is no input then the governing body can act. If there are concerns then this is the chance to do it.

Mr. Herzl said it makes no difference as to how the board votes, the Township Committee can adopt it regardless.

Mr. Hensel said the board can certainly make recommendations that the Township Committee will consider. If the board's recommendations are that a traffic study should be done and a study as to the estimated build out then the Township Committee may in fact consider that. This process is in place for a reason.

Mr. Jackson said the Township is not encouraging any redevelopment. He asked how the Township is ensuring that these tax abatements are actually going towards redevelopment.

Mr. Hensel said the abatements come in after the improvements are completed. As the taxes are assessed against the improvement that's done, they would make an application to the Township.

Mr. Henshaw said it would come in as an ordinance as to what improvements were made and then there would be a second reading for discussion which the governing body would vote on and it would become an abatement program for that commercial development.

Mr. Jackson asked if this is after the improvements are made.

Mr. Henshaw confirmed.

Mr. Jackson said then they have to hope that they are going to satisfy the governing body.

Mr. Cautillo asked if the tax abatements are only on the improvements.

Mr. Henshaw confirmed.

Mrs. Zografos counted between 55 and 60 vacant properties in the report. Obviously they don't know the size of the lots and what could be built but she believes it is significantly ambiguous to be able to imagine what the impact might be.

Mr. Hensel is unsure as to how many vacant lots there are. The vacant lots go to whether it is in a commercial or residential zone so it may be a vacant lot but it is zoned residential. There are different zones as you go down East County Line Road.

Mr. Flancbaum said the board may see the results of the build out study and may say it is not that significant or they may say it is too much.

Mr. Hensel suspects it is not that significant.

Mr. Herzl said the board needs to take additional traffic into consideration.

Mr. Herzl opened to the public.

Ms. Silvija Hagenfeld, 1503 Berkowitz Avenue, believes this is for nothing but greed.

Ms. Noreen Gill, 192 Coventry Drive, can contest as to how bad County Line Road and Kennedy Boulevard is. She detailed the many businesses and residential properties within a four block radius. She expressed her concerns as to the density of this area and the traffic involved. She warned if any additional commercial development is done in this area then it will be trouble.

Ms. Joan Miller, 948 Somerset Avenue, asked if any of the board members live in the area. She moved to the area 13 years ago and expressed how beautiful it was then. She said it could take 10 minutes to get out of her driveway. She feels the Township is trying to push her out of her home.

Mr. Harold Herskowitz, 1496 Cedar Row, asked how many people drive down County Line Road and think to themselves this area is horrible and in need of rehabilitation. The downtown area where so many people, including himself, put all of their life savings into buying buildings, redeveloping the buildings with their own money yet never received tax abatements. Many of these businesses in the downtown area have been redeveloped and have improved the Township and brought business into the town. None of them asked for a tax abatement yet the Township is going to give out tax abatements because they know somebody within the Township. He does not believe the Township should waste tax payer money on a traffic study as you can see how bad the traffic is.

Ms. Cathy Stillwell, 950 Brook Road, said she was never notified when the zone changed to commercial back in 2013. Since notices were sent out for this, she assumes notices should have been sent when a zone is changed.

Mrs. Morris believes most of the area is zoned residential, however, there was an ordinance passed that permitted commercial uses on County Line Road if they met certain qualifications. The zone itself did not change, the permitted uses within the zone were modified and she believes the legal notice requirements are different for that.

Ms. Stillwell avoids East County Line Road at all costs. She stressed more commercial buildings will bring more traffic. She asked if this rehabilitation includes industrial uses as well. She questioned whether this is the next step towards redevelopment which would allow properties along County Line Road to be condemned by the Township if they deem it a necessary use.

Mr. Henshaw said if the Township wanted to do redevelopment, they would have done that first. They do not have to do rehabilitation first.

Mr. Hensel said it is not a stepping stone, you don't do one and then the other. The Township Committee can seek to do a redevelopment right away.

Ms. Stillwell questioned that is because the criteria for redevelopment is higher to meet than it is for rehabilitation.

Mr. Hensel does not believe that is the case. He doesn't think that becomes a criteria to go from rehabilitation to redevelopment.

Mr. Ronald Wronko, Esq. representing property owners of 1108 East County Line Road. He said when dealing with a designation of rehabilitation, the legislature provides that such a designation be used only if the conditions that exist are not likely to be corrected by private effort. Throughout the proposed designated area, private effort has been transforming East County Line Road. There is a new massive commercial being built at East County Line Road and Brook Road on a lot that is listed in the preliminary investigation report as vacant. There is a new residential that is being erected across from the Calvary Academy, a new residential development has been approved by this board in block 195 through 197 that are listed in the preliminary investigation as being vacant. Two lots of block 207 have been sold to a developer with the intent to subdivide the property for development. There is a new commercial building being constructed right after Joe Parker Road, a new one right after Ridge Avenue. There are also new residential developments on either side of County Line Road and Ridge Ave. From Somerset up to Squankum, 5 to 6 new commercial properties have gone up. Designating East County Line Road from Somerset to Joe Parker Avenue runs against the statutory intent because private effort has transformed and is continuing to transform this stretch of East County Line Road. The preliminary investigations report as to the designated areas is fatally flawed. First the report claims under utilization in addition to what he just laid out, the report includes large

areas of land that are dedicated to places of worship and to EPA protected wetlands. With the new developments that are going up, east County Line Road from Somerset to Joe Parker is going to reach a point of being nearly fully utilized if it hasn't already. Second, the report fails to consistently apply its criteria. The definition of the lined areas are properties that would have frontage on Ocean County Route 526 and be located within 1,000 ft of a centerline of an intersecting major roadway. In some areas, the study includes homes that do not have frontage on East County Line Road but that are on surrounding streets. This results in many older homes not on County Line being included. On other areas, the study strictly applies its criteria to include only homes with frontage on East County Line Road so that many newer homes can be excluded from the study. The study fails to apply the 1,000 ft radius consistently throughout its study. The board should not approve a measure based on a report that does not consistently apply its criteria. The inconsistent application of criteria gives rise to a disparate treatment claim. Additionally, the criteria used deliberately excludes new construction to meet the 50% standard. Moreover, the limitation of homes having to be within 1,000 sf within an intersection is also designed to exclude large numbers of new construction along East County Line Road but not within 1,000 ft. This random criteria is designed to defeat the statutory purpose which is only to designate those areas where private actions will not turn the area around and where the residential housing stock is older than 50 years old. It may also be designed to single out original residents to force them out of their homes in a redevelopment plan that is to come at a later date. With all of the new development and business between Somerset and Ridge, it has yet to be seen what the impact will be on traffic volume. Already East County Line Road is choked with traffic during large portions of the work day and grows more dangerous by the day. The board should focus on Lakewood's neglected downtown business districts and other areas if it wants more commercial development.

Mr. Moshe Deutsch, 124 Rosebank Street, said sometimes in the morning and the afternoon it could take upwards of 10 minutes to get through either of the lights. There are three ways people are using to get out including going down the one way East End Street the wrong way. He believes this is a bad idea.

Mr. Brian Flannery said the ordinance referred to previously is an ordinance which allows conditional uses to permit neighborhood commercial in the area. He stressed that this is not redevelopment and the one thing to know concerning the commercial uses in the other area, if they are in the Urban Enterprise Zone then they are eligible for the tax abatement.

Ms. Beth Fisher, 123 East County Line Road, said they cannot expand building on East County Line Road unless they plan to expand the road. She said every day there are detours on East County Line Road from Joe Parker Road to Route 9.

Mr. Yaakov Weisman, 9 New York Avenue, said he uses the East County Line intersection all the time. He said the congestion is beyond words to describe. The only rehabilitation needed that makes sense is to knock down 50% of the commercial and residential buildings.

Mr. Israel Ostrow, 1153 Marcella Court, thinks there is an important distinction which needs to be made between commercially zoned property and existing commercial property. The objective of this resolution is to rehabilitate existing commercial structures. He lives on a cul-de-sac in this zone between Ridge and Red Oak. There are no existing commercial structures there, it is all private homes that this is providing an incentive to convert to a commercial property. He thinks based on the needs of the neighborhood, there should be a disincentive to convert private homes to commercial property.

Mr. Follman asked if this applies to applications that have already received approval from the board.

Mr. Henshaw said as long as they have not yet received a TCO or CO then they would qualify.

Mr. Joel Lebowitz, 210 East County Line Road, said the Township should be focusing more on traffic than rehabilitating these commercial properties. The Township should be opening Kennedy Boulevard from Wawa to Brook Road.

Mr. Franklin said years ago when he was on the Township Committee, opening Kennedy Boulevard in order to ease traffic on East County Line Road was one of their major projects. The County was going to build the road but things happen, they didn't have the money and the Township didn't have the money. Then the builders came and the Township sold property off to the builders and the road never proceeded after that.

Mr. Lebowitz said there is still sufficient room for a road.

Mr. Avrohom Fishman, 1150 Marcella Court, said houses all around them are currently being rented out and being held by investors waiting for the opportune time to convert to commercial. This would be an incentive for them to do that. The Township Committee should be aware they are ruining the neighborhood.

Mr. Martin Berger, 1159 Marcella Court, reiterated what Mr. Fishman said. He said the traffic now is horrendous and this will only make it worse.

Ms. Gerri Balwinz, 208 Governors Road, said one of the qualifications is the housing has to be over 50 years old but this is not going to help housing, it is only helping commercial. She said it is not right using the housing stock to help commercial tax abatements. Some of the area is in the office transitional zone and she was unaware that allows commercial. She asked if that was part of the ordinance passed in 2013. She said Lakewood is in the Suburban Planning Area but the report states it is in the Metropolitan Planning Area.

Mr. Herzl closed to the public.

Mr. Hensel reiterated that this isn't a redevelopment, it's a rehabilitation and it is only providing for tax abatements for commercial properties in the area pursuant to ordinance. The statute does permit this to go forward in the fashion that it's proceeding and it is not a stepping stone to something such as redevelopment. He doesn't believe redevelopment is intended for this area at all, this is just to rehab some of the older commercial buildings and that is why the LDC brought it to the Township Committee.

Mr. Herzl asked if a traffic study or an estimated build out could be provided to the board.

Mr. Hensel said it can be a recommendation from the board by way of resolution that the board may adopt concerning its position.

Mr. Jackson recommends to have each board member express their comments and to have a motion to either recommend or not recommend that it be adopted.

Mr. Franklin said it is interesting what they are trying to do but he doesn't think it is necessary. Once East County Line Road is widened and the signalization is put in, it will be more of a pleasure to drive. There is still going to be heavy traffic there though.

Mr. Hibberson is not satisfied that there is any justification for this proposed rehabilitation.

Mr. Flancbaum agrees. Mr. Wronko brought up some points about the study which he is very concerned about. He spoke about properties listed as vacant which are not actually vacant or are currently being developed. It sounds like the study is certainly flawed.

Mr. Rennert said they are here to represent the public and they have only heard people object to this.

Mr. Follman said it seems like someone has their hand in the cookie jar and it seems like a scam to him.

Ms. Zografos doesn't feel she has enough information to make an organic decision in support of this. She feels it would be a judgment call so she is not comfortable at this point.

Mr. Cautillo said he sees no upside for Lakewood but an only an upside for a select group of people. He is against this and doesn't believe it is necessary.

A motion was made by Mr. Follman, seconded by Mr. Cautillo to recommend that this resolution not be adopted by the Township Committee.

All were in favor.

6. OAK STREET CORE RESIDENTIAL DEVELOPMENT SUBDIVISIONS

Mr. Jackson said this is a procedure where the Board is going to serve as its own committee and have decided to do this in public so that the light would be shed on it. This is a circumstance where it appears the lots are conforming and the review process is just to confirm that. It is very similar if you have a lot, you go to the Township and submit a permit and you get the permit on the spot to build a house. These are those same circumstances but the board's purpose is to serve as an additional function to make sure they're fully conforming. It is not a public hearing but they are doing it at a public hearing so that it can be viewed and scrutinized by the public. One of the issues that came up was that there are intersecting cross streets not proposed to be paved. He thinks the developer thought they were going to be vacated and he has since spoke with the Township Manager and Attorney and they both indicated at present there is no intention to vacate those streets. It will remain a paper street so it is affectively a public right-of-way but it won't be paved. There was a question to require people to provide sidewalks along a paper street which makes absolutely no sense. They looked at the CAFRA plan which shows no curbs or sidewalks and the ordinance says that they shall be developed in accordance with the CAFRA plan. In speaking with the Township Manager, the applicants are still required to provide curbs and sidewalks and instead of ending at their property line, the requirement would be they would have to build the curb and sidewalk out to the middle of the vacant lot so when the other side builds the sidewalks would go across the entire frontage. So they are not waiving the curb and sidewalk, they just have to put curb and sidewalk along their property where it adjoins an actual roadway.

Mr. Brian Flannery, P.E., P.P. said there are two paper streets that are the subject of all of this, Parkview and Nassau. The CAFRA plan done at the direction of the Township indicated they would improve Wadsworth, Bradhurst, Havens, Broadway, Turin, Argyle so there are internal streets to get around. There was a decision that was made by the Township and an application that was submitted to CAFRA. CAFRA tries to limit the amount of impervious coverage. CAFRA didn't like the 32 ft wide roads but they met with CAFRA and explained this is Lakewood and they need 32 ft wide roads and they agreed to it. When somebody wants to develop these lots, they are going to have to put in the sidewalk, street trees and do anything else that everybody in town that gets a building permit has to do before CO's are issued. That particular application doesn't abut a paper street. Here would be a situation where Wadsworth and Parkview are improved streets but Pinehurst is not. So on Pinehurst there will be woods, grass, a park or whatever the Township Committee wants so that anybody that wants to can walk through and get to the next street.

Mr. Follman asked about the side of the house.

Mr. Franklin said it would be trees. There won't be any curb or sidewalk.

Mr. Herzl asked why that street is not being vacated.

Mr. Flannery said the intent was there would be an easement for the utilities and they would be used for some kind of passive recreation. The Township doesn't know exactly what they want to do at this point so they're not vacating it. Anybody that builds on that property are given a setback to that property as if it were a street so they are leaving extra land. The benefit for the homeowner is some extra space but there will be people utilizing that area to walk. The fence can only be 4 ft high as it is a front yard.

Mr. Jackson said the Township Manager was concerned that Wadsworth would have curb and sidewalk all the way along.

Mr. Flannery said all of the roads include curb and sidewalk. The pavement, drainage, curbs are all being put in by the joint venture contractor. Individual property owners would be responsible for sidewalk and street trees.

Mr. Herzl asked if the Township will ever pave that road.

Mr. Jackson said if they do then they would put in curb and sidewalk.

Mr. Flannery said the Township would have to go back to CAFRA for approval. There is no logical reason to pave that street. There is plenty of room to circulate.

Mr. Franklin asked who would be responsible for the maintenance of the right-of-way.

Mr. Flannery said theoretically it would be the same as the maintenance of the right-of-way in front of your home including the sidewalk and the grass strip between your house and curb.

Mr. Franklin said the homeowners on either side would be responsible for their half.

Mr. Flannery confirmed.

Mr. Grunberger asked if they have a right to block it off.

Mr. Jackson said no, it is a public right-of-way. Anyone has the right to walk there.

Mrs. Morris thinks he is referring to putting curb across the middle of it.

Mr. Flannery said it is a Township right-of-way and the Township developed this plan showing curb along there.

Mr. Jackson said only the Township has a right to block off that street.

Mr. Follman asked which streets are being improved.

Mr. Flannery said in the north/south direction they have Vine, Argyle and Parkview. Pinehurst and Nassau do not go through.

Mr. Rennert asked which streets go from Route 9 to Vine Street.

Mr. Flannery said Broadway.

- 1. SD 2189AO Oak Vine Development, LLC**
Turin Avenue Block 1043, Lot 8
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated January 17, 2017 was entered as an exhibit.

Mr. Vogt said the applicant agreed that all of the development will be per the approved Oak Street plan. No variances are being requested.

Mr. Brian Flannery P.E., P.P. confirmed.

Mr. Rennert said looking at the review letter, the required lot width is 75 ft but they are only providing 50 ft.

Mr. Vogt said the bulk tables shown on the zero lot subdivision plans are not correct. They are showing you the lot width as if the property was just the R-10 zone and not subdivided for purpose of a duplex. When you go to the zero lot ordinance, the width becomes in half. It is not shown properly on the plans and that is indicated in their review letter.

Mr. Flannery said the bulk schedules will be revised to show 75 ft is required for a duplex but with the zero lot line provision, each lot can be 37.5 ft.

Mr. Klein asked to comment on this application.

Mr. Jackson does not think it is appropriate as this is not a public hearing matter.

Mrs. Morris said this is not a noticed public hearing.

Mr. Herzl said he is welcome to speak during the public portion.

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

- 2. SD 2190AO Oak Street Holdings, LLC**
Wadsworth Avenue Block 1029, Lot 2
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated January 17, 2017 was entered as an exhibit.

Mr. Vogt said the applicant agreed that all of the development will be per the approved Oak Street plan. No variances are being requested.

Mr. Brian Flannery P.E., P.P. confirmed.

Mr. Rennert said looking at the review letter, the required lot width is 75 ft but they are only providing 50 ft.

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

4. SD 2193AO Oak Vine Development, LLC
Wadsworth Avenue Block 1028, Lot 5
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated January 25, 2017 was entered as an exhibit.

Mr. Vogt said the applicant agreed that all of the development will be per the approved Oak Street plan. No variances are being requested.

Mr. Brian Flannery P.E., P.P. confirmed.

Mr. Rennert said looking at the review letter, the required lot width is 75 ft but they are only providing 50 ft.

Mr. Vogt said the bulk tables that are on the zero lot subdivision plans are not correct. They are showing you the lot width as if the property was just the R-10 zone and not subdivided for purpose of a duplex. When you go to the zero lot ordinance, the width becomes in half. It is not shown properly on the plans and that is indicated in their review letter.

Mr. Flannery said the bulk schedules will be revised to show that 75 ft is required for a duplex but the zero lot line provision, each lot can be 37.5 ft.

Mr. Klein asked to comment on this application.

Mr. Jackson does not think it is appropriate as this is not a public hearing matter.

Mrs. Morris said this is not a noticed public hearing.

Mr. Herzl said he is welcome to speak during the public portion.

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

5. SD 2194AO Oak Street Equities, LLC
Bradhurst Avenue Block 1029, Lot 3
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated January 25, 2017 was entered as an exhibit.

Mr. Vogt said the applicant agreed that all of the development will be per the approved Oak Street plan. No variances are being requested.

Mr. Brian Flannery P.E., P.P. confirmed.

Mr. Rennert said looking at the review letter, the required lot width is 75 ft but they are only providing 50 ft.

Mr. Vogt said the bulk tables that are on the zero lot subdivision plans are not correct. They are showing you the lot width as if the property was just the R-10 zone and not subdivided for purpose of a duplex. When you go to the zero lot ordinance, the width becomes in half. It is not shown properly on the plans and that is indicated in their review letter.

Mr. Flannery said the bulk schedules will be revised to show that 75 ft is required for a duplex but the zero lot line provision, each lot can be 37.5 ft.

Mr. Klein asked to comment on this application.

Mr. Jackson does not think it is appropriate as this is not a public hearing matter.

Mrs. Morris said this is not a noticed public hearing.

Mr. Herzl said he is welcome to speak during the public portion.

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

6. SD 2195AO London Properties III, LLC
Havens Avenue Block 1033, Lot 3
Administrative Minor Subdivision

A review letter prepared by Remington, Vernick & Vena Engineers dated January 25, 2017 was entered as an exhibit.

Mr. Vogt said the applicant agreed that all of the development will be per the approved Oak Street plan. No variances are being requested.

Mr. Brian Flannery P.E., P.P. confirmed.

Mr. Rennert said looking at the review letter, the required lot width is 75 ft but they are only providing 50 ft.

Mr. Vogt said the bulk tables that are on the zero lot subdivision plans are not correct. They are showing you the lot width as if the property was just the R-10 zone and not subdivided for purpose of a duplex. When you go to the zero lot ordinance, the width becomes in half. It is not shown properly on the plans and that is indicated in their review letter.

Mr. Flannery said the bulk schedules will be revised to show that 75 ft is required for a duplex but the zero lot line provision, each lot can be 37.5 ft.

Mr. Klein asked to comment on this application.

Mr. Jackson does not think it is appropriate as this is not a public hearing matter.

Mrs. Morris said this is not a noticed public hearing.

Mr. Herzl said he is welcome to speak during the public portion.

A motion was made and seconded to approve the application.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Follman, Mrs. Zografos, Mr. Cautillo

Abstain: Mr. Rennert

7. PLAN REVIEW ITEMS

1. SD 2173 Shulem Illowitz

Joe Parker Road

Block 189.04, Lots 188-190

Minor Subdivision to create four lots

A review letter prepared by Remington, Vernick & Vena Engineers dated February 1, 2017 was entered as an exhibit.

Mr. Vogt said there was testimony concerning the subdivision at the last hearing. There was a request by the board to get more information relative to the portion of the property that would be subdivided and added on to the school property in terms of approximately what the school's intent is in terms of future development of this property. In front of the board is a concept plan prepared by the applicant's professionals.

Mrs. Morris is unsure if this is the same concept plan reviewed by the board engineer.

Mr. Abe Penzer, Esq. said cross access easements were added on lots 190.01, 190.02 and 190.03. In addition, the board requested to see what area was specifically being used for recreation and/or parking.

Mr. Herzl asked if lot 188.01 would be part of the school's property.

Mr. Penzer confirmed. It would be limited to recreation and/or parking.

Mr. Herzl wanted to confirm that the only variances being requested is for minimum lot width.

Mr. Penzer said that is correct.

Mr. Vogt said he believes the variances are the same as the previous hearing.

Mr. Glenn Lines, P.E., P.P. said that is correct. The variances for the three residential lots are the same. They basically have 20,000 sf per lot including the open space.

Mrs. Morris said the plans indicate recreation and parking only. She doesn't think of parking as open, recreational space.

Mr. Follman asked if the parking would be used full time or on special occasions.

Mr. Penzer said only as needed.

Mr. Herzl asked if they could keep the parking towards the back of the property.

Mrs. Zografos asked if they could limit it to temporary parking. She understands how the school functions now and it is not necessary but they have to think down the line. She thinks it should somehow be restricted to a temporary type of parking situation for a special event but not turn it into a parking lot.

Mr. Follman said it is not going to be paved so it's not legal parking anyway.

Mr. Penzer said it will only be used for overflow.

Mrs. Morris said then realistically the board would have to grant a waiver for parking on an unpaved surface.

Mr. Penzer said they are asking for parking at times when there is an overflow such as on parent/teachers night. It would not be used on a regular basis.

Mrs. Morris thinks it needs to be clarified on the plans. Does parking mean pavement or not.

Mr. Follman said parking means pavement.

Mr. Penzer said they are coming back with a site plan.

Mrs. Morris said the board asked for a deed restriction.

Mr. Penzer said they are not doing a deed restriction, they are providing access easements.

Mrs. Morris argued it is an access easement for the property owners to use but the school could come in and pave that entire area for parking if they wanted to.

Mr. Penzer said that would be an issue they would deal with at time of site plan.

Mrs. Morris said the subdivision would have already been granted and unless there are restrictions put in place there, the applicant could come back and do whatever they want during site plan.

Mr. Herzl would like to restrict the rear of the property for parking and right behind these residential properties should be left open for recreation.

Mr. Jackson said it can't be paved or made impervious. That would be all part of the deed restriction.

Mr. Penzer said it is a cross access easement. They try to stay away from deed restriction for financing purposes as it makes things difficult.

Mr. Jackson said an easement is still a restrictive covenant and it would have to be marked properly on the plan. It is the intent of the board that it remain green.

Mr. Penzer said the map will be filed with the County and that access easement will run with the land.

Mr. Jackson said a restrictive covenant has to be part of the deed and it has to be to the benefit of the three residential lots. Otherwise it is not enforceable.

Mrs. Morris believes if it is shown on the map which will be filed.

Mr. Jackson said it is not effective unless it is a recorded instrument in the County registrar of deeds.

Mrs. Morris said the maps are filed with the County.

Mr. Jackson said it must go where the deeds are recorded as well.

Mrs. Morris said they don't do that with shade tree and utility easements.

Mr. Jackson said they should.

Mr. Penzer said they have never done it in that manner before.

Mr. Jackson has a different view as he has litigated these in the past. He has done research in case law and it has to be a recorded instrument from a grantor to a grantee and it has to be in favor of someone.

Mr. Penzer argued they have never done it that way.

Mr. Jackson said he will review it further but that is his opinion. He recommends that a restrictive covenant has to be recorded.

Mr. Franklin suggested making that open space area a separate lot.

Mr. Jackson said they can do that but the deed restriction would have to lay out exactly what the deed restriction is. Otherwise it is not enforceable because when these people buy their property and do the title search, they don't know they have the rights to that.

Mr. Penzer respectfully disagrees but if the board prefers a deed then they would provide that.

Mr. Herzl asked if there is enough room on the side of the school.

Mr. Lines said the school was approved with the parking that is there. They are not proposing a new building at this time. If in the future, the school wants to construct a new building or addition then they would be back with a site plan.

Mr. Herzl opened to the public.

Ms. Gerri Balwinz, 208 Governer's Road, was sworn in. She hopes the board will seriously consider their attorney's advice and experience and that in the past he has had to litigate in other towns. Just because something has been done in Lakewood a certain way doesn't mean it's always been the right way.

Ms. Noreen Gill, 192 Coventry Drive, was sworn in. She said there won't be enough room for parking when the applicant comes back for a full site plan.

Mr. Mechele Rotblat, 1514 Long Beach Avenue, was sworn in. He is concerned about the extra cars this application would bring.

Mr. Bill Hobday, 30 Schoolhouse Lane, was sworn in. He said the applicant promised at the last meeting to clearly specify where everything is going to be including recreation and parking. He also believes a deed should be required.

Mr. Herzl closed to the public.

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

- 2. SP 2222AA Saul Gray**
Pawnee Road Block 2, Lot 52
Change of Use/Site Plan Exemption to convert existing house to a school

A review letter prepared by Remington, Vernick & Vena Engineers dated January 23, 2017 was entered as an exhibit.

Mr. Brian Flannery, P.E., P.P. said the board engineer's report indicated this plan is not ready so they would like to get more information together in order to comply with his report and come back.

A motion was made and seconded to carry the application to March 21, 2017 meeting.
All were in favor.

- 3. SP 2223 TMV 70 LLC**
Route 70 Block 1160.01, Lot 253
Concept Plan for a medical office building

A review letter prepared by Remington, Vernick & Vena Engineers dated February 1, 2017 was entered as an exhibit.

Mr. Kirk Russom, Esq. said the property currently contains a 41,859 sf three story building consisting of medical office and a vacant one story 2,400 sf bank building. The property also contains an undeveloped pad site which is the subject of this application. In 2007, site plan approval was obtained to allow for a 7,200 sf retail building to be constructed on the undeveloped pad site. The applicant intends to make an amended site plan application to change the retail building to a 14,400 sf medical office building. They are here before the board to discuss a required parking variance. Under the development ordinance, medical offices require 1 space per every 150 sf of gross floor area and businesses and banks require 1 space per every 300 sf gross floor area. Therefore, the bank would require 8 parking spaces and the proposed medical building would require 375 parking spaces. The property currently contains 236 parking spaces with restriping, the total number of spaces would be increased to 253. Since the property will only have 253 total spaces, a parking variance will be required for 130 spaces. A traffic and parking analysis indicates that there will be adequate parking at the site. He notes the analysis indicates there would be 254 total parking spaces but he was notified by his engineer today there would only be 253 spaces.

Mr. John Rea, P.E. said they went out and did parking counts as described in the report. They did two full days of parking counts on weekdays when the medical office space and existing building would be at a maximum. The counts were done on Thursday, October 27th and Tuesday, November 1st. They found the maximum parking accumulation occurred at 11:15 am on Thursday with a total of 158 cars parked with the parking for the existing three story medical office building. They also went in and examined if there were any vacancies in the building and they did find one small vacancy of 1,200 sf which was factored into their analysis. When they calculated the parking ratio that is currently being experienced by that medical office building, it comes out to 3.77 parked vehicles per 1,000 sf. They then went to the new plan being proposed and its 253 spaces where 14,400 sf is being added and did several calculations. First, they calculated how much parking would be generated by the additional 14,400 sf building if it generated its peak parking at the same rate as the bigger 4,100 sf building. If that were the case, which

he believes is a pretty logical and reasonable way to approach it, they come up with a peak parking demand following the expansion of the 14,400 sf new building of 222 parked vehicles being what they anticipate would be the maximum demand. They are providing a total of 253 spaces so that test has passed. Second, he took a look at the 14,400 sf of new office space being proposed, the peak they are currently experiencing at 158 spaces, and essentially they are providing 95 spaces for that new building. That ratio of the 95 available spaces for the new building would meet the Township zoning requirement of 1 space per every 150 sf. He also went into the national standards institute of traffic engineers and looked at the parking generation manual in order to project how much parking would be generated by these types of buildings. If you look at the ITE numbers, the 85th percentile peak parking ratio for medical office building is 4.27 spaces per 1,000 sf. If you run those numbers, they would need 248 spaces where they are providing 253 spaces. He has no doubt they would have adequate parking within that 253 space parking lot.

Mr. Herzl said a new tenant could come in with a higher parking demand then you won't have enough parking. This is a big variance being asked as it is over 100 parking spaces.

Mr. Flancbaum said the board rarely grants parking variances because they feel strongly that the parking requirements are not stringent enough. As much as they would like to see commercial development along Route 70, to be short a few parking spaces is one thing but to be short over 100 spaces is another.

Mr. Rennert asked how long the previous site plan approval is good for.

Mrs. Morris believes a site plan approval is generally good for five years to protect against zoning changes.

Mr. Jackson said that is correct and you could also apply for extensions. A site plan approval is good unless the zoning changes.

Mr. Herzl asked if any variances are required for the previous site plan approval.

Mr. Rea does not know what the requirements are but that is already approved.

Mr. Vogt asked if the existing use is predominately medical office at this time.

Mr. Rea confirmed.

Mr. Rea said a 7,200 sf retail building requires 24 parking spaces. For a 7,200 sf medical building it requires 48 spaces. He asked if the board's comments remain the same if they were to change to medical.

Mr. Flancbaum said he feels the same.

Mrs. Morris questioned how much of a parking variance was granted for that retail building.

Mr. Rea said it was conforming. Changing to medical would require an additional 24 spaces, however, they will be adding 17 spaces. Therefore they would only be requesting a 6 or 7 parking space variance.

Mrs. Zografos frequents that site regularly and the parking is not great, it's not horrendous but she is coming into this knowing that it's not great. When she goes, there could be only 1 space available so she is concerned about giving any variances for parking.

4. SP 2219 Congregation Mishkan Hatorah Inc
East County Line Road Block 174, Lots 20.02 & 20.03
Preliminary and Final Major Site Plan for a school with a dorm

Mr. Jackson said Mr. Gasiorowski filed a complaint in court as the board took a vote as to whether dormitories were an accessory use to a synagogue. The board determined that it was an accessory use. The zoning officer sent an email indicating her believe that it has been a historic accessory use for a synagogue and is permitted. Traditionally when someone appeals in court, that deprives the agency of jurisdiction and now the jurisdiction is in the court. That is not an absolute rule but in this particular circumstance he thinks it would be better to allow the applicant's attorney to go to court. The applicant is being represented by Mr. Doyle and told him if he could provide case law or precedent that would support the notion the board could retain jurisdiction then the board would consider that. He asked the matter be carried to the February 21st meeting.

A motion was made and seconded to carry the application to the February 21, 2017 meeting.
All were in favor.

8. PUBLIC PORTION

Mr. Shlomo Klein said the Township Attorney was speaking about waiving of curb and sidewalks but he forgot there is a UDO law passed in 2015 that every time an applicant comes in, they have to develop the roads. For this applicant not to develop it, they would have to ask for a waiver. He believes the Planning Board was misled in believing that no waivers were going to be requested. It is the only road that goes north to south across the Oak Street Corridor development. If the ordinance wasn't passed, the board would have been able to impose the requirements to improve the road. He also believes it is wrong that the public is not allowed to speak concerning the Oak Street Corridor applications.

Ms. Gerri Balwinz questioned the afternoon tech meetings.

Mr. Jackson said the board used to have just a strict plan review and public hearing meeting and then they started being combined. What happened was people were coming to the meeting thinking it was a public hearing because that is what the notice says and they get frustrated sitting for the plan review not being able to say a word and then have to come back again. A lot of other towns have a plan review process that is between the engineers, attorneys and clients where they look over the plans to make certain everything is ready for the board. It is not necessary to do that before the board and it is not necessary to notice. In order to try to serve the public better, lower the amount of frustration and give the board more quality time to handle applications, they have the plan review process during the day and when they come back it will be just a public hearing and they will have a more complete plan.

Ms. Balwinz asked if the public can attend these meetings.

Mr. Jackson confirmed the public can attend but they cannot participate.

Mr. Aaron Hirsch feels the Planning Board should be planning for the future of the town. He is greatly concerned about the traffic studies that have been done in the past and would like the Township to provide their own traffic studies for each application.

Mr. Jackson said you have to realize what a traffic study does. The DOT relies on licensed engineers and the duty to their profession and the counts are done mechanically. He has never heard of an instance where a traffic engineer misrepresents towns. The study can be reviewed by our board engineer but we take them at their word because

they are licensed and are reviewed by the state. So if they are misrepresenting their counts then they would be jeopardizing their license.

Mr. Hirsch said they can manipulate the findings.

Mr. Vogt said they do have a traffic professional looking at the traffic study that was done for the Cedarbridge Shopping Center now. If they have disagreements with the methodology or the findings, they are going to raise them and hopefully work it out between professionals.

Mrs. Morris believes in the past that part of the problem is traffic studies have not been required by checklist requirements. The town is looking to change that.

Mr. Rennert asked how they could make it a checklist item.

Mrs. Morris said there was a list of items she emailed to the Township Manager, Attorney and Zoning Board Administrator including requiring traffic studies and architectural for major subdivisions and site plans.

Mr. Jackson said you have to realize what traffic studies do too. If you have an intersection going out to Route 9 then the State is also going to look at that and it would be very difficult to manipulate those traffic counts.

Mr. Vogt said worse case scenarios would be a traffic level E or F. He asked if that is grounds to deny an application.

Mr. Jackson said no, it is an offsite condition. You can't tell someone because they are the last ones to develop their property that they can't develop it because there's a lot of traffic in the area. That is up to the governing body to widen the roadways as things grow and evolve.

Mrs. Morris said that is her concern in adding it as an ordinance requirement because realistically the traffic studies should be used to help facilitate better design and not necessarily to say there is really bad traffic, there is still going to be really bad traffic and deny the application.

Mr. Rennert suggested the traffic counts should be done from 8 am to 10 am and 3 pm to 4:30 pm. The intersection of Vine and Pine should be looked at specifically.

Ms. Noreen Gill commented on the many traffic lights on County Line Road. She also commented on the side streets on Clifton Avenue. She said there is no room for emergency vehicles to get down those streets as cars are parked on both sides.

Mr. Bill Hobday made a comment concerning the Planning Board's responsibility and limits of power.

Mr. Jackson said the board recently turned down a five story office building in the downtown area. There is responsibility to do as the law requires and when they don't, there are consequences.

Mr. Hobday urged the board to have more consultation with the Township Committee.

9. APPROVAL OF MINUTES

10. APPROVAL OF BILLS

11. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,
Sarah L. Forsyth
Planning Board Recording Secretary