

Township Committee saw this as they get a report each year of all the variances and bumped up the coverages as the variances were routinely granted.

Mr. Herzl said coverage variances should not be permitted above 35%.

Mr. Neiman agrees.

Mr. Flannery said he doesn't know of any applications that go over that because this is the size that makes sense.

Mr. Rennert asked where the R-10A zone is located.

Mr. Flannery said there is an area near Prospect Street and an area in the Oak Street core.

A motion was made and seconded to recommend that the Township Committee adopt the ordinance as written.

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

No: Mr. Rennert

- **Oak Street Core Residential Development:** minor subdivision approval procedure

Mr. Brian Flannery, P.E., P.P. said there is a lot layout based on old filed maps and the intent was to do similar to an administrative zero lot which is when an applicant comes in with an application that is variance free and following the road layout and the improvement designs, per the Oak Street plans prepared by the Township, that rather than have over 120 applications come to this board, they would be conforming by right applications.

Mr. Neiman asked who is responsible for sidewalks, drainage, street improvements.

Mr. Flannery said the ordinance specifically says that all of those improvements need to be provided in accordance with the Oak Street core development plans which the Township had hired FWH to do and submit to CAFRA. This would encourage applicants to not ask for variances because they can come in administratively to the engineering department and not have to go before the Planning Board.

Mr. Neiman said the Planning Board typically asks for a community center when there is a certain number of homes built in an area.

Mr. Flannery said that question was asked before and there was testimony that a lot of schools and other facilities are available in the vicinity. Some of the right-of-ways have been reserved for linear parks, there is open space and stormwater management facilities as well. Any of the owners of that property have to pay a fee to the Township. The first part of the fee is for the expenses that the Township expended to get the CAFRA and the cost of the land that is being designated to stormwater and open space. In addition, there is a developer group that is actually putting the improvements in instead of doing it piece by piece and as each lot gets built, they would reimburse the developer group for the cost of all of the improvements.

Mr. Vogt said they designed this so that you have an overall concept that had to meet CAFRA standards. As the board is aware, those standards are much more stringent. Less vegetation is cleared and they are more conservative in terms of stormwater.

Mr. Neiman asked if his office reviewed and approved these plans.

Mr. Vogt said they have already reviewed the overall subdivision map. The Township requested that they do a third party review of the design. As Brian indicated earlier, conforming zero lot line applications are approved administratively.

Mr. Flancbaum said any shuls or other non-residential applications would have to come before this board.

Mr. Flannery said that is correct.

Mr. Rennert said it seems like the whole area has been cleared of trees.

Mrs. Morris said a bond was posted with the Township for clearing by the developer. The developer does have permits for the clearing in accordance with the CAFRA plans.

Mr. Vogt said if he remembers correctly, there were seasonal restrictions.

Mr. Flannery said yes, there is a potential long eared bat that the developer group had to pay a consultant to go in the woods a certain number of nights to set up nets. None were caught and the EPA were the ones that were concerned about that and they sit on top of the DEP. The EPA advised them that no clearing is permitted between the end of March to the middle of October in case some long eared bats are present.

Mr. Rennert asked if anyone is allowed to go and clear all the trees on their lot without coming to the board.

Mrs. Morris said you would need either board approval and the appropriate bonds posted or you would need tree removal permits from the Zoning officer. In this case, the developer posted a bond for clearing.

Mr. Flannery said you have to comply with the tree ordinance. In this case, the developer complies with that ordinance by virtue of what is required by CAFRA. CAFRA required 10% tree preservation and many other things that supersede the Lakewood ordinance. If the permit is not obtained, you would have to show either the engineering office or zoning department that you are saving a certain number of trees.

Mr. Rennert said since they have obtained a CAFRA permit, the developer is not required to get local municipal approval.

Mr. Flannery said they do still need the local municipal approval which they received. Part of that is showing that the CAFRA permit is in place as well as a bond and inspection fees.

Mr. Vogt said you can't take the stumps out until soil approval is obtained.

Mr. Flannery said that is correct.

Mr. Klein said there is no open space in this whole development. The Township Committee is basically taking away all of the paper streets in between the development which means people will have to go out to Route 9. The good part of the layout is that each street is connected to one another. What is happening now is they are eliminating the paper streets, no open space and no shuls. This development is 361 units that are being approved without public notice.

Mr. Neiman asked if CAFRA approved the plans including all of the streets.

Mr. Vogt said the original streets were original Township paper streets. For the most part, the lots are uniform rectangular lots.

Mr. Flannery said the blocks are all 200 ft deep with a lot line down the middle.

Mr. Neiman said then they would be 10,000 sf lots. He said duplexes aren't allowed.

Mrs. Morris said they are permitted in the R-10A.

Mr. Neiman asked if the Township vacated all of these streets.

Mr. Flannery said the Township did not vacate all of the streets. The Township vacated a couple of the streets that were determined to be excess streets. It is a grid pattern that was established in the 1920's. There is not a need for everybody to go out to Route 9 as there are some streets that connect in between them. These properties are paying to preserve 10% of the area in trees as open space on the other side of Oak Street.

Mr. Klein asked how the board is approving something they never reviewed.

Mr. Jackson said the board's role is to determine whether the recommended ordinance is consistent or inconsistent with the Master Plan. The board makes that recommendation to the governing body and they can take that under advisement, acknowledge it or not acknowledge it. If this board does not act, the governing body can still act too.

Mr. Neiman said he would like to look at the plans to see the layout.

Mr. Flannery said the first time this came before the board in April, there was a request before that and he dropped off sets of those plans to the board and the board's office has a copy of those plans. The plans are available and they were made available. He didn't see a need to bring the plans tonight because they did this previously in April.

Mr. Follman recommends that the Township never vacate a street. He doesn't see any benefits in that.

Mr. Rennert asked why this area is different than any other area in town where the board should give a blanket approval and not see an application.

Mr. Flannery said when an application comes in that is a by-right application, there is no notice required and there is really nothing the Planning Board can do but approve it. It is the same as the administrative zero lot line subdivisions. If there is nothing that can be done anyway, it is really a waste of everybody's time and the ones that make money on this are the professionals.

A motion was made and seconded to recommend that the Township Committee adopt the ordinance as written. All were in favor.

6. CORRESPONDENCE

- **SD 1644** - de minimis variance relief request due to as-built conditions

Mr. Adam Pfeffer, Esq. said the northerly corner of the dwelling recently constructed is .6 ft over the setback line. It was a mistake and are here for variance relief.

Mr. Brian Flannery, P.E., P.P. said it is a uniquely shaped lot. The back corner that is to the County detention basin is .6 ft over the setback line.

Mr. Franklin said when the foundation goes in, a survey should be reviewed before construction can be completed. They ran into this issue back in the 70's so they passed an ordinance so this wouldn't happen again. He asked if this procedure is being followed.

Mr. Vogt said he does believe the engineering department receives surveys and occasionally there are mistakes.

Mr. Franklin said if there is a mistake, that is when you tear it down and move it.

Mrs. Morris said the foundation location plans are submitted by the applicant's professionals after the foundation is installed and surveyed. The plans are forwarded to the engineering department as no one in the building department was checking them. She reviews the surveys and if they get one that deviates, they issue a letter asking for a revised plot plan.

Mr. Flannery said if that had happened in this case, they would have been here four months ago saying the foundation is off by .6 ft and please grant this variance.

Mr. Franklin said they shouldn't get sloppy.

Mr. Vogt said luckily this doesn't happen very often.

Mrs. Morris said construction moves so quickly that a lot of times they don't get a foundation location plan until a CO is being requested.

Mr. Franklin said they are not supposed to proceed with construction until that plan is reviewed and approved.

Mrs. Morris said there is no procedure in place.

Mr. Franklin said there should be. He suggested that a letter be sent to the building department.

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

A motion was made and seconded to approve.

Mr. Grunberger, Mr. Herzl, Mr. Flancbaum, Mr. Follman, Mr. Rennert, Mr. Cautillo

No: Mr. Franklin

Abstain: Mr. Hibberson, Mr. Neiman

- **SD 1728A** - request to place air conditioning units on side of dwellings and to make changes to approved landscaping

Mr. Brian Flannery, P.E.,P.P. said the plans were originally done by FWH for zero lot line single family homes. The applicant came back to the board to get some more distances between the buildings and pushed them together to duplexes. When this was approved, there was a condition to put the AC units in the back because there wasn't sufficient room between the buildings. That condition, because of this layout, is no longer applicable. Additionally, this application had a landscaping plan that showed landscaping along Ocean Avenue and the rear of Bergen Avenue and then the fence inside that. The homeowner's all said they would rather have backyards with a 6 ft high vinyl privacy fence along the property line. So the applicant is requesting two things, one is to have the AC units on the side of the buildings as there is now 10 ft between the buildings as well as the elimination of the landscaping buffer which will be replaced by a 6 ft vinyl fence so that the homeowners have a more useable rear yard.

Mr. Flancbaum asked if landscaping and a fence could be provided.

Mr. Flannery said then there wouldn't be much left of the yard. They can certainly do a landscaping plan that the board engineer could review so they could strategically place some landscaping.

Mr. Flancbaum said this is along Route 88. He is surprised no fence was required as part of the approval.

Mr. Flannery believes there was a chain link fence on the inside of the landscaping. Now they want to put a 6 ft vinyl fence on the property line to maximize the usable yards. As indicated, some landscaping would make sense.

Mr. Vogt asked if the units are occupied.

Mr. Flannery said they are built and they do have contracts.

Mr. Vogt asked if he has anything on behalf of the future owners that indicates this is what they want.

Mr. Flannery said he didn't bring anything.

Mr. Vogt said the ordinance does allow to have fence and other things of that nature to compensate but obviously it is up to the board.

Mr. Flancbaum thinks there should be some landscaping along Route 88.

Mr. Jackson asked if the landscaping was part of the buffer requirement.

Mr. Flannery said it wasn't done as an ordinance requirement. It was done in 2003 and either the applicant or the board thought it made sense at that time.

Mr. Jackson asked what the issue is with putting the fence inside the landscaping.

Mr. Neiman said the owners want a bigger back yard.

Mr. Jackson asked how big the backyard is currently.

Mr. Vogt said variances requested include interior driveway setback as well as interior parking, minimum lot depth, rear yard setback and possibly the 5% recreational open space requirement.

Mr. Brian Flannery, P.E., P.P. has reviewed the letter and would address the comments and provide testimony at the public hearing.

Mr. Franklin asked how wide the street is.

Mr. Flannery said the private street is 24 ft wide. It would only service those 2 units and is typical for a townhouse development. The public street in front of it is a full width 50 ft right-of-way with a 32 ft wide street.

Mr. Vogt asked about trash pickup.

Mr. Flannery said they would meet with public works. If public works can't pick up the trash, they would have to get a private hauler. DPW picks up trash for the other townhouses in the area.

Mr. Vogt asked if they are consistent with the 24 ft wide aisle width.

Mr. Flannery confirmed.

Mr. Rennert asked if the rear yard setback variance is consistent with the other homes in the area.

Mr. Flannery said yes, it is for the decks. Testimony will be provided as to why the decks should be there. If the board does not grant that setback, they would have to put patios in.

Mr. Rennert said the board shouldn't approve a rear yard setback just because it is for a deck. He believes the Township Committee should change that.

Mr. Flannery said they want to do that as part of the Master Plan process.

Mr. Jackson said the board can't rely on the idea that the governing body may or may not eventually change this. The applicant would have to prove there is a hardship and the fact that it hasn't been changed means it is the way the ordinance says it's supposed to be.

Mr. Hibberson asked if variances can be reduced or eliminated if less homes were proposed.

Mr. Flannery said they are asking for 11 which is less than the density required. The variances discussed are for decks and they could eliminate that completely by putting in patios.

Mr. Hibberson is not only speaking about the rear yard setback variance.

Mr. Flannery said they could certainly reduce the houses to a point where there are no variances but he would like to present the proofs at the public hearing as to why he believes the applicant would be entitled to the relief requested.

Mr. Herzl asked why the plans only show one variance and the board engineer's review letters shows nine.

Mr. Flannery said he assumes that the engineer who reviewed the plans had a different opinion than the board engineer and certainly would defer to that.

Mr. Joe Kociuba, P.E., P.P. Said they would give testimony that they would provide the road widening easement indicated by the board engineer.

Mr. Vogt said a variance is requested for minimum residential lot setback from Route 9 and a minimum front yard setback.

Mr. Neiman asked why a setback variance is being requested from Route 9.

Mr. Kociuba said this particular project is adjacent to some other residential duplexes to the east as well as on Route 9 in this section. That particular requirement applies to obviously the entire length of the highway. They would present testimony at the hearing.

Mr. Neiman said this board is very strict with granting this type of variance.

Mr. Pfeffer said they would take a look at it before the public hearing.

Mr. Neiman asked what the other setback is to Route 9 from 200 ft to 0 ft.

Mr. Kociuba said 200 ft covers the entire property so the variance is for the first three properties. That is why there are multiple shown.

Mr. Neiman doesn't think you can build here and it should be moved to the next meeting.

Mr. Kociuba would like the opportunity to present their proofs to justify the variance given the size of the property and the existing conditions of other properties in the area.

Mr. Rennert said this is due to an ordinance which was passed by the committee last year as they only want commercial along Route 9 so they said no residential within 200 ft.

Mr. Jackson said if that were the case then they wouldn't be at this board. It is permitted.

Mrs. Morris asked if the residential has a higher setback than commercial.

Mr. Kociuba said that is correct. There is a separate ordinance requiring a further setback for residential from the state line.

Mr. Rennert said that is what he was referring to.

Mr. Kociuba said it is not that they are proposing residential directly up to the highway. They do have a 44 ft setback on that lot.

Mr. Neiman said 44 ft where 75 ft is required. They don't want residential 44 ft from Route 9.

A motion was made and seconded to advance the application to the September 20, 2016 meeting.
Mr. Grunberger, Mr. Franklin, Mr. Herzl, Mr. Flancbaum, Mr. Follman, Mr. Rennert
No: Mr. Hibberson, Mr. Neiman, Mr. Cautillo

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

A review letter prepared by Remington, Vernick & Vena Engineers dated July 21, 2016 was entered as an exhibit.

Mr. Vogt said variances requested include minimum lot area and lot width. Design waivers are required from providing curb and sidewalk. It should be noted that projects to the northwest have been constructed with curb and sidewalk.

Mr. Neiman said the board won't be granting a waiver from providing curb and sidewalk.

Mr. Brian Flannery, P.E., P.P. understands.

A motion was made and seconded to advance this application to the September 20, 2016 meeting. All were in favor.

- 6. SD 2154 Bais Rivka Rochel**
4th Street Block 127, Lot 4
Preliminary and Final Major Subdivision to create 5 lots

A review letter prepared by Remington, Vernick & Vena Engineers dated July 28, 2016 was entered as an exhibit.

Mr. Vogt stated that submission waivers are requested for an environmental impact statement, tree protection management plan and drainage design calculations. The EIS waiver is supported due to the developed nature of the site. Tree protection and drainage designs can be waived for purpose of completeness but if approved, the applicant would have to comply.

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

Mr. Adam Pfeffer, Esq. said they have reviewed the engineers review letter and have no objections. Testimony will be provided at the public hearing.

Mr. Neiman asked if this is for duplexes.

Mr. Glenn Lines, P.E., P.P. Said it is a duplex and a triplex. The duplex is on a 10,000 sf lot and the triplex is on a 12,500 sf lot.

Mr. Neiman asked if duplexes are permitted in the B-2 zone.

Mr. Vogt said yes.

Mr. Neiman asked if there is a minimum lot area for a duplex in this zone.

Mr. Vogt said he thinks for 2 family housing, it must be a 10,000 sf lot.

Mr. Neiman asked if this can be heard at this board.

Mr. Vogt said they would recommend approval of the waiver with the understanding that the applicant would have to comply with tree protection.

Mr. Lines said they are proposing to remove the existing house on the lot and put up a temporary trailer facility for a school while an actual site plan is prepared.

Mr. Neiman asked how long they are requesting this temporary trailer.

Mr. Pfeffer said he wanted to point out that it is not a typical trailer, it is a prefab fitted unit.

Mr. Neiman asked if there is a maximum occupancy in these trailers.

Mr. Moshe Shmaie was sworn in. The school has been open for three years and have located this piece of property but need to be in for this coming school year. They would like a temporary school here until they can develop a larger student base.

Mr. Neiman asked how many students are expected this coming year.

Mr. Shmaie said 95 students with 12 classrooms.

Mr. Abe Auerbach was sworn in. He said it is a prefab school building and actually was an existing public school so it is not a typical trailer.

Mr. Neiman asked about busing and circulation.

Mr. Pfeffer said they already have four or five vans.

Mr. Lines said there are two driveways. The vans will be able to come in, park in front of the school and exit back out to Neiman Road.

Mr. Neiman asked how many parking spaces are being provided.

Mr. Lines said 20 parking spaces. A minimum lot width variance is not being requested as they actually have about 190 ft where 150 ft is required. A minimum side yard setback variance is requested to lot 27 which is the end of the building and there is no access. A combined setback of 26.51 ft is provided where 40 ft is required.

Mr. Neiman said the applicant doesn't want a time limit for this temporary school.

Mr. Pfeffer said they prefer not to. The plan is that they would come back with a full site plan.

Mr. Vogt said a design waiver is also necessary from buffer requirements.

Mr. Lines said they are proposing landscaping in the front of the building, a single row of evergreens in the 10 ft side yard to lot 27 and along the sidewalk to the access door on the south side of the building. They have lined the sidewalk on that side with shrubs, as well as evergreens between the sidewalk and the southerly property line.

Mr. Grunberger asked why they can't shift the trailer the other direction so they don't need any side yard variances.

Mr. Auerbach said based on the topography, it slopes down to the back and they want to have room for the kids to play.

Mr. Lines said it does slope rather quickly towards the pond so to turn it the other way, the front would be ground level and the back would be 10 ft out of the ground and it is really not compatible with the type of construction the building is. It will really fit better across the site and it conforms to the contours.

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

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

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

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Sarah L. Forsyth, Planning Board Recording Secretary