

**SPECIAL MEETING:** 7:00 P.M. Township of Ocean High School  
Gymnasium and Cafeteria  
550 West Park Avenue  
Oakhurst

MEMBERS John Fuller, Alt V  
PRESENT: Jane Grabelle  
Russell Malta  
Eric Menell  
John Napolitani, Alt II  
Peter Siano, Alt III  
James Worrell  
Warren Goode, Chair

MEMBERS Maureen Bonney, Alt I  
ABSENT: Henry Schepiga, V Chair  
Richard Van Wagner

OTHERS PRESENT Mark A. Steinberg, Esq., Zoning Board Attorney  
James Higgins, P.P. Board Planner  
William Fitzgerald, P.E. Board Engineer  
Marianne Wilensky, P.P., Planning Administrator  
Rachel Montemarano, Board Secretary  
Recording Secretary

Chairman Goode announced that the notice requirements for the Open Public Meetings Act have been satisfied, a copy of the notice was sent to the Asbury Park Press and the Coaster, posted in the Township Hall, and filed in the Office of the Township Clerk on March 18, 2016.

**CONTINUED CASE**

**Yeshiva Gedola Na'os  
Yaakov, Inc.**  
Block 216 Lot 19  
1515 Logan Road  
Wanamassa  
Zone R-4

This is an application for a "d" variance for an advanced Talmudic academy and for minor site plan approval.

This matter has been remanded back to the Board for continued hearings in accordance with the Order of Honorable Freda L. Wolfson, United States District Court for the District of NJ.

Attorney for the applicant: Donna M. Jennings, Esquire

The Board Attorney, Mark Steinberg, Esquire gave an explanation of how this case has been remanded back to the Board of Adjustment by Judge Wolfson. Judge Wolfson issued an order in which the objector's could finish their case within a 45 day period with limited time for testimony. The Order set the parameters for the meetings, in which the public gets two hours for comments, each person getting five minutes and beginning with those people who live within 200' of the property. Mr. Steinberg said that one adjacent property owner, Wanamassa Gardens, has their attorney to represent them tonight in objecting to the application. During a conference call this afternoon, the Judge made an exception to the Order and is allowing them 15 minutes to present their testimony. Mr. Steinberg said that there will be testimony tonight and the application will be carried to April 25, 2016. Once testimony is finished, each attorney will have fifteen minutes to conclude their case and then the Board will deliberate and vote. He said that this is a strict procedure, but the Board is under a Court Order and it must be followed.

The Board's information packet containing the reports of the Board's professionals and the Fire Marshal was marked B-9. Planning Administrator Marianne Wilensky read the Fire Marshal's report, which stated that he had no comment. Board Planner James Higgins, PP read his report. Board Engineer William Fitzgerald, PE summarized his report, noting that he has no engineering concerns with the application, but the plans need some work before they are signed off on and permits are issued.

Donna Jennings, Esquire appeared on behalf of the applicant.

John Poulos, Esquire appeared on behalf of the objectors. He presented Paul Ricci, PP who was sworn in as a planning expert. Mr. Ricci said that he visited the site, reviewed the ordinance and master plan documents, the Board Professional's reports, and the hearings, specifically the applicant's Planner's testimony. He submitted an exhibit that was marked O-1 consisting of three sheets. The first sheet was an aerial photograph with tax map and DEP overlays. Sheets 2 and 3 consist of photographs of the existing site and surrounding area. Mr. Ricci referred to this sheet, noting that the green areas show wetlands. Ms. Jennings objected to his testimony regarding DEP issues as he is not a qualified engineer and wetland issues do not impact minor site plans. Mr. Ricci said that he created this sheet using an online program and uses this information to show the presence of wetlands and environmental constraints. Mr. Steinberg advised the Board to accept this exhibit on a limited basis in order to show the location of the property, as Mr. Ricci is not an engineer or wetlands expert. He said that the Board Engineer has already discussed wetland issues that need to be addressed during the site plan application.

Mr. Ricci said that the Court has determined this use to be an inherently beneficial use. The applicant is tying the religious study with the need to board, to which Mr. Ricci said that it is not clear to him how the boarding aspect is inherently beneficial. In addition, he said that the bulk standards are not met, the school is for-profit and he understands that there will soon be a closing on another property in the area for additional students associated with this use. Mr. Ricci feels that the lack of off-street parking is a problem for future uses of the site.

Mr. Ricci referred to the Master Plan, saying that this application is inconsistent with the goals set forth. The R-4 zone allows up to 50 boarding students on 2 acres or more. He said that this application almost doubles the number of people permitted. Mr. Ricci referred to the Municipal Land Use Law, saying that just because a use is inherently beneficial, doesn't mean that you can disregard local planning.

Mr. Ricci referred to the New Jersey Department of Education's website in which it states that there are already a number of Jewish institutions for higher learning in the nearby area, therefore the addition of this school is not beneficial.

Mr. Ricci said that the population density in the R-4 zone is approximately 11 persons per acre and up to 50 persons are allowed to Board. This building will have 97 people with up to 4 people per room. He said that this is too tight of living accommodations and the increase in population will be heavily felt by the neighboring properties. He said that this is a substantial departure from what is permitted and the applicant has not provided information about environmental constraints. He said that the Board has the right to understand the potential negative impacts and it is unknown whether additional parking could be provided due to the environmental constraints at the rear of the property. He believes that it is unreasonable to think that additional parking will not be needed.

Mr. Ricci listed the items that the applicant has agreed to as a condition of approval and asked if the conditions being imposed upon the individuals on site are reasonable and can be enforced, especially with regard to parking. He said that he believes that this use will be detrimental and that there will be an issue of intensity.

Ms. Jennings asked if he believes that the town must prohibit all students older than 18 years of age, even just one, to prevent any negative impacts. Mr. Ricci said that if one student is above the age of 18, you lose the ability to control them.

Mr. Jennings also clarified that this is not a for-profit institution, but a non-profit organization. She also noted that Judge Wolfson deemed this use inherently beneficial and she still maintains jurisdiction.

Chairman Goode asked Mr. Ricci if he is aware of the Judge's directions to the

Board, as what he testified to would have been considered before the case went to Court, but now the Municipal Land Use Law is not applicable. Mr. Ricci said that you

must treat this facility as a boarding school, not a religious facility and questioned how boarding impacts their study. He said that this is not about a religious use, but about the intensity of the use and the age of the individuals within close proximity to a residential neighborhood, comparing it to a college dormitory. Mr. Ricci said that he disagrees with the Judge's order that the Board can have no control or oversight over a religious use. Mr. Higgins said that enforcement of conditions is always an issue in any application. Mr. Ricci agreed that there are measures that can be taken to better control the conditions and enforcement of the conditions.

Mr. Fitzgerald asked about the separation of the boarding use and the religious use. Mr. Ricci questioned how being able to board impacts their freedom of religion. He discussed the issue of intensity again, noting that institutional uses have more stringent setback requirements, but the lesser standard for a boarding use was applied instead. He said that the increase in the population will be a substantial increase in intensity as they are proposing to double what is permitted.

With no more questions for Mr. Ricci, the attorney representing Wanamassa Gardens LLC, Christopher Hanlon, Esquire was allowed 15 minutes for his testimony. Mr. Hanlon presented the Regional Vice President, Christopher Knight, who manages the apartments. Mr. Knight said that there are families who live in the 66 apartments. He said that he has no concerns regarding the religious use, rather his concern is regarding the intensity of the use causing noise, parking and lighting issues. He said that he is unable to tell if it will be a problem without a site plan, though he already has parking issues and flooding issues on site. Mr. Hanlon said that the Judge has not ordered 96 students and suggested allowing only 50 students to lower the intensity. He referred to the applicant's Planner's testimony in which he said that all the possible issues would be corrected by a condition of approval. Mr. Hanlon questioned how those conditions could possibly be enforced.

The Board took a break at 8:45 PM and resumed at 9:00 PM.

Chairman Goode opened the hearing to testimony of those people who live within 200' of the property. Each person is allowed five minutes.

Roy Larsen, 1517 Logan Road, said that he moved to Ocean 30 years ago. He bought his house which was next to an elementary school, but this is completely opposite of that as this has the potential for noise at night. He said that this will have a significantly negative effect on his quality of life. He said that he is concerned about future occupants and for the value of his own property. He asked how this can be a good idea when there are so many residents objecting. He asked the Board if they would want to live next door to a dorm of adult men, and asked them to vote 'no' on the application. Mr. Larsen then read a statement from his son, Christian, who was in the audience. He says that he has been awoken at night by people staying overnight and in the early morning by delivery trucks. He said that this location is not suited for this type of use and that there has never been anti-Semitism in this town.

With no other property owners within 200' there to speak, Chairman Goode opened the hearing to testimony from residents of Ocean Township. Each person is allowed five minutes.

Don Clare, 111 Logan Road, said that he feels that he has been cheated out of the full picture because Mr. Ricci could not discuss the wetland issue. Mr. Clare said that he disagrees that a planner should not be able to discuss DEP and wetland issues as they commonly study existing land use conditions. He said that the site has significant wetlands and flood issues and he feels that the impact to the site was not fully discussed. Mr. Clare also felt that the sound engineer did not provide a convincing argument that noise would not be an issue. He said that he saw on YouTube that celebrating is a big part of the Jewish religion and learning, which is contrary to the

testimony.

Paul Mayerowitz, 117 Cedar Village Blvd., said that a number of variances have been granted to Jewish institutions over the years in Ocean Township, so it is hard to render the Board biased, as has been suggested. Mr. Mayerowitz said that this school is not licensed as a higher education institution in New Jersey and there are already many existing Yeshivas that are AARTS accredited. The need for a school like this is already met. Mr. Mayerowitz said that the imposition of boarding is not an imposition on religion. He also said that the practice of 'meisira', which he described as the Jewish practice of not reporting fellow Jewish people, should be repudiated. Ms. Jennings asked Mr. Mayerowitz if he has published statements on Facebook concerning Hasidic Jews moving into Jackson. Mr. Mayerowitz said yes, but that he did not recall what he had said.

David Lipton, 15 Conaskonk Drive, compared the application to that of a religious radio station being proposed on the property.

Diane Nagy, 11 Mallard Lane, requested that the Board deny the application because it will lead to other dorms being built here. She asked how this is a benefit to Ocean Township and felt that it is insulting that the residents are being labeled discriminatory.

Debbie Mansfield, 1106 Bendermere Avenue, said that she grew up in Ocean Township and has raised her family here and feels that it is ridiculous that this application has turned into a bias incident. She said that the school has always been a religious school, but she is opposed to this application because of the 96 men. Her grandchildren play in the park across the street and she feels that you cannot control or police 96 men. She said that this use does not belong in a family residential neighborhood.

Harold Cassidy, 1 Surrey Lane, said that no one can be opposed to religious study and that more is needed in the world. Mr. Cassidy said that the only question is whether this use is in the right place. He said that the Judge should come and see the school and hear from the community. He advised the Board to not be intimidated by the Judge and do what is right.

Audrey Case, 1304 Edgemere Avenue, said that there was recently an unauthorized dorm with students of this Yeshiva living in it and asked what will stop that from happening in Ocean?

Bruce Horn, 1903 Logan Road, said that if the building can accommodate more students over the 96 in this application, how are they going to get there? Mr. Steinberg said that the application is only for 96 students.

Edward Horn, 1901 Logan Road, showed photographs taken in June of 2015 of students smoking at the current school facility in Lakewood. He asked if they were expelled, being as they have testified that smoking is prohibited?

Chris Moriarty, 1107 Bendermere Avenue, read from a UCLA law review on RILUPA. He said that the Board has the choice to adjust the application to what they see fit.

Susan Fuhring, 63 Park Blvd, said that the students of the current school that reside in the area are not respectful of the community. She said that they leave trash in the park across the street and she often sees large buses parked there. She does not think that this will be good for the community.

Roxann Andrus, 604 Dinsmore Place, asked is everything we read on Facebook true? Is it proof enough that certain people are making certain statements?

Maureen Graves, 1318 Walnut Avenue, said that she grew up here and sees an influx of 96 students causing a problem. She is concerned with enforcement.

Lisa Burgos, 926 Bendermere Avenue, said that she came to Wanamassa to raise her two children and is concerned that there will be no background checks on the students as it is so close to the schools and park.

Ben Mueller, 200 Highwood Road, said that he is a licensed engineer and is particularly concerned with the amount of promises that have been made with this application. He said that if a new building was proposed it may be more reasonable. He also expressed concerns regarding the noise testimony.

Neel Khichi, 5 Griffin Place, talked about the fire that took place in a house in Lakewood of students of this Yeshiva. He said that he read that 25-30 men over the age of 18 were living in the house. He asked if the administration of the school was aware of this? He asked how we can expect them to respect the zoning in Ocean if they do not respect it in Lakewood?

Jeffrey Harshman, 5 The Arbor Way, said that he grew up in Ocean on Roseld Avenue and played at the Park Blvd. park, often with students of the school across the street. He is concerned with safety, especially on the streets where parishioners tend to walk in the streets and do not abide by traffic laws. He said he wishes the Board would consider the wants of the people and do what is right.

Sylvia Sylvia-Cioffi, 200 Lincoln Drive, said that the school says they desire to be a good neighbor, yet they won't be interacting with the neighborhood. She said it seems disingenuous that they sued the Town after the application was denied. She asked the Board to deny the application.

Robert Siliato, 1304 Franklin Avenue, read instructions on how to create a fake Facebook account. He said that it could be done to anyone using their photograph and there is nothing you can do.

Rich McNally, 36 Patterson Avenue, said that there has been no testimony that this is an inherently beneficial use other than a statement that it is. He said that the Town has been loud and clear that they don't like the application, but the impression is that the Board's hands are tied. He asked the Board to please take into account the detriments to the community. He said that the Judge's Order is an infringement on his First Amendment rights and that the objectors will file their own lawsuit if this is approved, which he said will also be lengthy and expensive.

At 10:00 PM there were no more residents wanting to make statements.

John Napolitani asked why the Board cannot take a vote tonight. He noted that the Order does not say that they cannot vote tonight. Mr. Steinberg said that it was assumed that the objector's had three witnesses to present and more time would be needed. Ms. Jennings said that she is fine with the Board voting tonight and that she will waive her summation and rest on the record. Mr. Poulos agreed. Mr. Steinberg said that the Board advised the public at the beginning of this hearing that there would be another meeting on April 25, 2016 and some residents may have left early. Mr. Steinberg advised the Board not to vote tonight and to continue on April 25<sup>th</sup>.

A motion to vote on the application tonight was made by John Napolitani and seconded by Eric Menell. The motion was denied by the following vote.

In Favor: Menell, Napolitani, Siano  
Opposed: Grabelle, Malta, Worrell, Goode  
Ineligible: Fuller  
Absent: Bonney, Schepiga, Van Wagner

Ms. Jennings and Mr. Poulos agreed that they no longer waive their summations and will proceed on April 25<sup>th</sup>.

A motion to close the public hearing was made by Warren Goode and seconded by Jane Grabelle.

In Favor: Grabelle, Malta, Menell, Napolitani, Siano, Worrell, Goode  
Opposed: None

This application is carried to April 25, 2016 for the attorney's summations, deliberation by the Board and the vote.

Meeting adjourned at 10:10 P.M.

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Rachel Montemarano  
Board Secretary  
Recording Secretary