

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

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

MEMBERS ABSENT: Henry Schepiga, V Chair

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

Board Attorney Mark Steinberg explained that it has been asked by an objecting resident that additional time for testimony be given for people that may have missed the first meeting and only 59 minutes of the allotted time was used. The applicant's attorney agreed to an additional 30 minutes for people that have not yet spoken. Mr. Steinberg said that the Board could choose to re-open the public hearing for this to occur.

A motion to re-open the public hearing was made by Warren Goode and seconded by James Worrell.

In Favor: Bonney, Grabelle, Malta, Menell, Van Wagner, Worrell, Goode
Opposed: None

The public hearing was now re-opened first to residents within 200' of the property that have not yet spoken and then to all Township of Ocean residents that have not yet spoken.

Jackie Larsen, 1517 Logan Road, said that the only time she has had issues with the school was when it was used as a dorm. She said that there is not one resident that has attended the meetings that supports this application.

John Waldron, 1207 Herbert Avenue, said that the proposed Yeshiva is wrong for Ocean Township. He said that the claim that the town is anti-Semitic is wrong due to the diversity in town.

Barbara Hudson, 13 Mahoras Drive, said that the applicant believes the denial means anti-Semitism, but it was really based on the zoning ordinance. She said that it is the natural right of local communities to protect their neighborhoods. Mrs. Hudson said that the Jewish community is a big part of Ocean Township and there has never been a history of anti-Semitism. She said that the applicant has caused emotional harm to the community with these false chargers and they will be forced to file their own legal complaints.

Irene Roake, 5 Oak Knoll Road, said that no one is against the religious learning school, but the problem is the dorm. The students will not be a part of the community and she expressed concern for 96 men being housed in a tiny building with no open windows or outdoor recreation. She said that the school should run by daytime hours, not an overnight dormitory.

Amy Weissman, 1116 Madison Avenue, said that the Board was handpicked to represent the community. She referenced applications for fences or businesses that were denied for zoning reasons on Franklin Avenue and Madison Avenue. She said that the people in the community live by the rules and questioned why someone from outside the community can come in and ask for changes.

Ed Pappas, 1124 Brower Blvd., said that he is concerned that by approving this application, it is opening the site up to other uses, such as a halfway house.

Martha Dunphy, 1109 Raymere Avenue, said that she is scared for her personal safety living so close to a building with 96 men that will not be supervised.

Peter Hoff, 1206 Bloomfield Avenue, asked what the difference is between this school and Monmouth University.

Brian Mullins, 107 Bimble Blvd., said that the Rabbi's testimony needs to be questioned for validity. He said students illegally board in Lakewood, and that the school is not accredited. Mr. Mullins said that the Rabbi said the school is a premier facility, but he did not have a plan for emergency management other than busing the students to Lakewood. Mr. Mullins said that the Rabbi will do whatever it takes to get the school open, even violate zoning laws. He referred to the sound study, which he feels was biased because the students knew there was a study being performed. He asked what the benefit will be to Ocean Township if the students will not be required to perform community service, Ocean Township students will not attend the school and they do not offer religious services to the public.

Tara Manning, Bendermere Avenue, said that the dynamic of the town will be changed by allowing a dorm. She won't allow her children to ride their bikes to Nick's Pizzeria or Danny's Luncheonette. She asked the Board to vote no.

No more residents got up to speak.

The Board's information packet, containing a memo from the Board Attorney, was marked B-10. Mr. Steinberg explained that the memo was to the Board members regarding the prevailing law in this situation.

A motion to close the public hearing was made by Warren Goode and seconded by James Worrell.

In Favor: Bonney, Grabelle, Malta, Menell, Van Wagner, Worrell, Goode
Opposed: None

The objecting attorney, John Poulos, Esquire began his allotted fifteen minutes for

summation. He presented a Power Point presentation. He went through the proposed application and the Township ordinances that prohibit boarding. He questioned how all the conditions that have been agreed to will be enforced. The conditions have to be reasonable and capable of enforcement, saying that these are not typical. He said that they do not object to the religious use, but object to the proposed intensity. Mr. Poulos discussed RLUIPA and substantial burdens on religious exercise. He said that the number of students does not have to be 96 but can be smaller while still facilitating a religious use. He said that his clients do not object to the religious use but object to the intensity. Mr. Poulos rested his case.

The attorney for the applicant, Donna M. Jennings, Esquire began her allotted fifteen minutes for summation. She said that it is undeniable that this use is prohibited in all zones in Ocean Township except for the R-4 zone for students up to grade 12 and it is unreasonable to limit the number of students to 50. She said that the applicant is now requesting a D1 use variance and minor site plan approval and the applicant is entitled to request relief. The positive criteria has been satisfied because it is an inherently beneficial use as an institution of religious learning, an institution of religious practice and an institution of higher learning. The state of New Jersey acknowledges Talmudic study and they will obtain proper licensure. She said that the boarding and isolation is essential for this type of study. With regard to the negative criteria, the applicant has agreed to conditions such as no smoking and no cars. Ms. Jennings said that the applicant will apply for preliminary and final site plan approval within six months and will comply with all ordinances, conditions of approval and the last reports of the Board's professionals. She said that the objector's have not presented experts to refute the testimony of the sound and traffic experts.

Ms. Jennings said that any negative impact must be substantial, but the benefits far outweigh any detriments. The site is suited for this use and the building can accommodate more than 96 students. The age and number of students is what is changing and the concerns have been mitigated by conditions that have been offered. She said that this use will be less intrusive than a permitted recreation center or synagogue as they tend to operate on weekends and in the evenings. Ms. Jennings said that the building that houses students facilitates religious exercise and the boarding is essential. She closed saying the Township ordinance is in violation of RLUIPA by prohibiting this use and poses a substantial burden on the applicant. Ms. Jennings rested her case asking the Board to approve the application.

Mr. Steinberg said that the Board will now deliberate. He explained that they must consider whether the use is inherently beneficial, which he said it is legally. They must also consider the Sica balancing test and weigh if the conditions are sufficient to outweigh the negatives.

Chairman Goode read a statement thanking the Board and it's professionals and the residents of the town. He said that the use is inherently beneficial, but the intensity must be weighed. He quoted the Board Planner's report dated May 13, 2015 which questioned if the site was suitable for this use and what the impact would be in the surrounding area. The ordinance prohibits students over the age of 18 and there is a concern that there is no legal requirement for adult supervision over that age. He said that he understands the need for isolation and this use would be more appropriate in other parts of town where there are other conditional uses. In addition, the conditions place an unfair burden on the neighborhood. He concluded, saying that this has never been a religious issue, but a planning and zoning issue, and it is his intention to offer a motion for denial.

Ms. Bonney said that the site is already zoned for boarding, but the standards for the adult students are draconian and unrealistic. She said that the conditions are unrealistic and unenforceable.

Chairman Goode made a motion to deny the application. The motion was seconded by James Worrell.

Mr. Steinberg asked each board member to give an explanation for their vote as they are called during the roll call.

Ms. Bonney voted to deny the application, saying that she does not know that a dormitory is inherently beneficial. She feels uncomfortable that there will be people under such restrictions. She said that the conditions are unrealistic and unenforceable. She said that she wishes that the applicant would find another site in town with more acreage.

Ms. Grabelle voted to deny the application, saying that the use is an intrusion on the single family neighborhood.

Mr. Malta voted to deny the application, saying that the intensity is too much for this site and the number of students is a concern. In addition, he does not know if enforcement of the conditions is possible. He also referred to Lakewood in which there has been uncontradicted testimony of violations by students of this school.

Mr. Menell voted to deny the application because of the extreme intensity. He said that the site is not suited for that many students and the conditions are impossible to enforce. He said that there is a concern for the residential areas around including the public park across the street.

Mr. Van Wagner voted to deny the application, saying that you need to weigh the reasonableness and enforceability of the conditions. He said that he believes they are unenforceable, therefore unreasonable, and the detriments outweigh the positives.

Mr. Worrell voted to deny the application because in his opinion, the boarding use is not beneficial, and he agrees with everything Chairman Goode read in his statement.

Chairman Goode voted to deny the application for the reasons given in his statement.

The application was denied as follows.

In Favor: Bonney, Grabelle, Malta, Menell, Van Wagner, Worrell, Goode
Opposed: None
Ineligible: Fuller, Napolitani, Siano
Absent: Schepiga

Meeting adjourned at 8:30 P.M.

Rachel Montemarano
Board Secretary
Recording Secretary