

REGULAR MEETING: 7:34 P.M. Public Meeting Room
Deal and Monmouth Roads
Oakhurst

MEMBERS PRESENT: Tracy Berkowitz, Alt. I
Warren Goode, Chair
Brian Lefferson, Alt. IV
Russell Malta
Leon Pflaster, Alt. II
Henry Schepiga, Vice Chair
Richard Van Wagner

MEMBERS ABSENT: Mario Delano, Alt. III
Jane Grabelle
Jennifer Lombardi
David Messer

OTHERS PRESENT Mark A. Steinberg, Zoning Board Attorney
Marianne Wilensky, Planning Administrator
William Fitzgerald, Board Engineer
James Higgins, Board Planner
Margo Simpson, Board Secretary
Recording Secretary

Chairman Warren 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, the Coaster, and the Atlanticville, posted in the Township Hall, and filed in the Office of the Township Clerk on May 24, 2010

MINUTES FOR APPROVAL A motion was made by Warren Goode and seconded by Jane Grabelle to approve the **minutes from the meeting of June 15, 2010.**

In Favor: Berkowitz, Lefferson, Malta, Pflaster, Schepiga, Goode
Opposed: None
Ineligible: Van Wagner
Absent: Delano, Grabelle, Lombardi, Messer

RESOLUTION MEMORIALIZATIONS

Walter J. Clifford MOVED: Schepiga SECOND: Berkowitz
Block 105, Lot 21 FAVOR: Berkowitz, Goode, Lefferson, Malta, Schepiga
1306 Maple Avenue OPPOSED: None
Wanamassa INELIGIBLE: Pflaster, Van Wagner
Bulk Variance Approval ABSENT: Delano, Grabelle, Lombardi, Messer

CARRIED CASE

Yeshiva of Ocean This is an application for a use variance to convert an
Block 34.03, Lots 5.01, 5.02 office building to use as a Yeshiva and for minor site
1001 Deal Road plan approval with variances.
Wayside
Zone R-3/PRD Attorney for the Applicant: Jennifer Krimko, Esquire

The meeting room recording system was in the process of being replaced. A substitute system was in place with a minimal number of recording microphones that had to continually be moved around the room. The applicant had previously been apprised of this situation and brought their own Court Reporter to the meeting.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1**. Board Planner James Higgins read his report dated March 10, 2010, into the record. He summarized a second report, dated June 20, 2010, which addressed many of the items from the previous report.

Board Engineer William Fitzgerald said that he had written three reports regarding this application. He touched on the most pertinent points from the reports:

- He pointed out the importance of a proper fire suppression system for the building that must be installed per the BOCA Code.
- The site was approved for 50 parking stalls at 10' X 20'. That is not what is on the site and there has never been an application to change them. There are 52 stalls and some are 9' wide. A variance is needed for this change.
- The students will not have cars and have able to walk to stores. There needs to be crosswalks for people traveling by foot or bicycle. There is no sidewalk access to the intersection of Deal Road.
- Visitor traffic needs to be addressed.
- Easements will be needed for sidewalks.
- The site lighting needs to be addressed.

Jennifer S. Krimko, Esquire, representing the applicant, noted that they have prepared an alternate plan showing green banked parking in case the Board wants it. Ms. Krimko presented Rabbi Meir Miller, President of Yeshiva of Ocean. Rabbi Meir explained that he purchased the property to operate a Yeshiva. The nature of the Yeshiva is for students past the 12th grade for religious oriented education. The boys stay for the school year term following the Jewish calendar, which changes yearly. This year Elul begins in August. There will be a 5.5 week session before the break for Sukkot. Three weeks later, a session lasting 5.5 weeks begins. The students sleep at the Yeshiva full time except for two weekends when they can go home.

Rabbi Miller said that a typical day, Sunday through Thursday is as follows:

7:15 AM – wakeup time.

7:45 AM – Morning prayers.

8:00 AM – A breakfast of bread, hard boiled eggs and coffee.

9:30 AM to 1:30 PM – Morning study session.

1:30 PM – Lunch and free time. Some students nap at this time.

3:00 PM – Afternoon prayers.

3:30 PM – Afternoon study session.

6:30 PM – Supper break. Some students play basketball after eating.

7:30 to 9:30 PM – Evening study session.

9:30 PM – Evening Prayers.

10:00 PM – Night study session.

11:00 PM – Free time. Some students continue to study, others go to bed.

12:00 AM – Bedtime.

Rabbi Miller continued to explain that on Fridays the schedule changes. After lunch, the students prepare for Shabbes. They are permitted to call home on Fridays.

After the Shabbes prayer they have a 45 minute study time and then evening prayers. The night mealtime consists of singing and discussions. In the summer they go to bed early and in the winter they have a study session.

On Saturday there is an 8:15 AM prayer and a meal with singing. In the afternoon the students are off until about an hour before sundown prayers. In the summer there is a sundown Shabbes meal following prayers. In the winter, after prayers there is a 45 minute break and then evening learning sessions to 11 PM.

Rabbi Miller said that the goal of the students is to become Rabbis or to follow their education in Israel.

One of the Board Members asked the Rabbi how many people will be involved in the Yeshiva. Rabbi Miller said that in addition to himself, there is his wife and a Rabbi who comes from Lakewood daily, Sunday through Thursday. The shopping and food are taken care of by his wife. All the students take care of themselves. There are some deliveries in small trucks. The students are not allowed to drive. They are brought to the school by a van. When the students have free time between study sessions, they like to play basketball.

Currently, they are using the West Long Branch Synagogue on Monmouth Road and Cubera Court. They live on Whalepond Road in Eatontown in three houses. There are 30 students in that class.

Chairman Warren Goode asked where the students come from. Rabbi Miller said that they come from all across the country and from other countries. They do not get any degree; they are there to study the Talmud.

Board Member Richard Van Wagner pointed out that there are issues that need to be addressed such as if the school is accredited. If it is licensed, is under the Department of Education, and do they have to abide by the Department of Consumer Affairs regulations for dormitories.

Planning Administrator Marianne Wilensky asked the Rabbi if he is licensed now. He said that he is not. She asked him if he had ever looked into it. He said he had not. She asked if the facility the Yeshiva is in now has a license. Rabbi Miller said he did not know.

Ms. Krimko said that she will get the answers to all those questions.

Mr. Van Wagner pointed out that there are DCA regulations that deal with hotels and motels. Information on what the regulations for the subject building are must be submitted. It needs to meet fire codes.

Vice Chairman Henry Schepiga noted that there will be 60 students and the Rabbi and his wife with their ten children. He questioned whether there is other staff for cooking, cleaning, or teaching.

Rabbi Miller said that the students spend their time in study sessions with a partner. About three times a week there are 40-minute lectures. The Rabbi said that he studies with the students.

Mr. Fitzgerald said that he does not understand how it can be a school without a set curriculum.

Rabbi Miller said that there is a common problem with the terminology. A Yeshiva is unique. It is like a closed High School for Jews.

Vice Chair Schepiga said that it must be defined as a school, a rooming house, an apartment building, or something other. As a Board, if it is voted on a positive way, there needs to be a definition for an approval.

Ms. Krimko said that it will be a learning center where people worship and board.

Mr. Higgins noted that there will be 60 young men in this facility with no controls on them. He asked if they sign a contract. If this applicant is granted an approval and it does not work out, another group could move in to the building with students who are uncontrolled. There needs to be specific conditions that are legal.

Ms. Krimko said that the applicant is asking for a use variance for a religious instructional school where students board. There was a similar case decided in the courts which spoke of what goes on inside a Collel. It is not categorized as confined by the ordinance. It is a House of Worship hybrid that has elements of a House of Worship. The Yeshiva has a Rabbi and a Chapel.

Board Attorney Mark Steinberg, Esquire, noted that the word Rabbi is defined as teacher or Spiritual Leader. The use of the building needs to be distinguished for the Board.

Rabbi Miller said that he is a Rabbi in New York State and pointed out that Rabbi's do not have to be ordained.

Mr. Steinberg pointed out that once the use is defined and approved and in the future is not successful; the use on the site will have to be 'lived with'. He questioned what happens if the use is not a success.

Rabbi Miller noted that in the case that Ms. Krimko reference, Judge Pescoe defined that a Yeshiva is a place to serve God.

Mr. Van Wagner felt that this is a very focused House of Worship where there will be 72 people in 10,000 square feet.

Ms. Krimko explained that the Rabbi's testimony is to lay the foundation for the expert's testimony that will follow.

Mr. Higgins asked if there is a contract that the students sign and rules that they have to abide by.

Rabbi Miller said that there is no signed contract. The rules are spoken. There are no consequences if the rules are not followed other than being asked to leave. Cars and cell phones are not permitted.

Planning Administrator Marianne Wilensky noted that the Rabbi said the Yeshiva has been in existence for ten years. She felt that the Board should be informed of the history.

Rabbi Miller explained that they started out with a group of ten and has grown to thirty dedicated students. The program has also grown more intense.

Board Member Brian Lefferson asked if there is a curfew. Rabbi Miller said that the students must go to bed at a certain time and get up at a certain time. It is uncommon that they leave the grounds. There is a dry cleaning service that picks up and delivers and a few other small trucks deliver things.

From the audience: Damian Sylvia, 1 Randi Lane, asked if there are fire drills and who cooks for all the students.

Rabbi Miller said that they have not had fire drills in the past. His wife does all the cooking for the students.

Mr. Sylvia asked where the Rabbi and the students current live. Rabbi Miller said that he lives at 198 Whalepond Road in Eatontown. The students live in three houses with up to twelve men per house.

Mr. Sylvia questioned how all those students could be living in houses for a use that is not licensed.

Ms. Krimko felt that these questions were irrelevant. Mr. Steinberg asked that the questions deal with the application before the Board.

Mr. Sylvia asked who will do all the cleaning and how the Yeshiva is funded.

Rabbi Miller said that there will be a professional service to do the cleaning. The Yeshiva is funded with tuition and donations. The tuition is outsourced.

Mr. Steinberg felt that there should be some sort of manual regarding how the site will work.

Mr. Sylvia felt that the school is being managed too loosely.

From the audience, Carolyn Cleary Franco, 916 Deal Road, said that she lives diagonally across Deal Road and is the closest residence to the subject property. She questioned why the students do not get a degree and how old the maximum age will be.

Rabbi Miller said that there is no rule as to the maximum age, but the boys stay three to three and a half years and are not permitted to date.

Ms. Franco felt that there was no comfort in knowing that there will be 60 men and a family of with ten children living there with little supervision.

Rabbi Miller said that they are considered one of the most supervised Yeshivas. Rabbi Miller said that he spends his day with the boys in the same room. During the breaks the boys either get down to business or rest. The neighbors in West Long Branch love the students.

Ms. Franco asked who stays with the boys when the Rabbi and his wife go out. Rabbi Miller said that they seldom go out. The boys are mature and dedicated and there have been no problems.

Ms. Franco noted that the Deal Road intersection is very busy with a lot of traffic. She asked if there will be visitors to the Yeshiva. She also wanted to make sure that the property will be maintained because during the winter some trees were blown down and not taken care of for a long time.

Rabbi Miller said that there are seldom visitors. There was a problem with the property maintenance company, but they have been replaced with a new company and he will make sure that the maintenance will be taken care of because he will be living there.

Mr. Higgins pointed out that the Yeshiva will be run by the Rabbi and his wife. He questioned if there is a contingency in case the Rabbi gets sick and cannot take care of the Yeshiva. Rabbi Miller said that there is no contingency, but one can be made if the Board likes. The students are able to manage themselves for anything short term.

Mr. Steinberg asked if the 60 men participate in any cleaning. Rabbi Miller said that the boys do a minimal cleanup after eating. The main cleaning will be done by a professional service.

Ms. Krimko said that the testimony is to be able to show what the parameters are so that conditions can be carefully crafted.

Board Member Van Wagner asked how the Board of Trustees reviews the Rabbi for a Yeshiva. Rabbi Miller said that there is no review.

Ms. Krimko placed the following into evidence:

- Evidence A-1** - The use variance site plan dated August 12, 2009, revised through June 4, 2010.
- Evidence A-2** - Architectural plans dated July 29, 2009, revised through April 20, 2010.
- Evidence A-3** - An areal photograph of the subject site by Bing Maps.
- Evidence A-4** - Colored rendering of sheet 3 of evidence A-1.
- Evidence A-5** - **ID only** - A green banked parking plan revised on June 23, 2010.

Ms. Krimko presented David Boesch, Project Manager and Landscape Architect for the applicant. Mr. Boesch explained that the subject property is the Copper Gables office building property. There is a two-story, 10,000 square foot office building with 52 parking spaces. Most of them are 10' wide, but some are 9' wide. The driveway to the building is on Poplar Place.

The surrounding uses include the Fire Station and Hillel School to the west, an open drainage facility to the south, a residence to the south east, a 10-acre conservation area to the east that is part of the Villas, and a Synagogue under construction to the north.

There will not be a lot of changes to the site with this application. There will be limited vehicular activity. The parking is adequate for the needs. The only significant modification will be the dumpster enclosure area that will be moved from the north east portion of the building. It currently opens into two barrier-free parking stalls. It will be relocated to north of the building.

A sidewalk will be added to the site. At the corner of Deal Road and Poplar Road there is a stand of trees and a sharp embankment. The sidewalk can be placed behind the trees and cut through the site.

The applicant will provide street trees on Poplar Road and Deal Road and supplement trees that have died. The dumpster area will also be buffered.

The current lighting is deficient and can be raised to 250 watts for the site, but the site has a residential component and Mr. Boesch said that he was not sure if the commercial standards are required. The applicant would like to leave the wattage at 150, but will meet the requirements if necessary.

Mr. Boesch continued to explain that there is a proposed basketball hoop in the south west corner of the parking area for the students to have some activity. It is proposed in a secluded area that will be least visible for outdoor activity.

Mr. Boesch said that he anticipated the comments from the Board regarding future use of the site if the Yeshiva were to leave. Therefore, he prepared a concept plan for parking for 60 students and potentially five staff members. A green banked parking area can be added to the east of the existing parking area, 25' from Poplar Road. It should not be needed for this applicant.

Vice Chairman Henry Schepiga asked if the previously mentioned trees are significant. Mr. Boesch said that in putting in the sidewalk, they will not change the grade. The proposed sidewalk will meander behind the slope. There will be no retaining wall.

Mr. Boesch noted that the Board Engineer was concerned that there will be no sidewalk access to cross Deal Road. This issue will have to be looked at.

Mr. Schepiga pointed out that there might be a safety concern with the sidewalk on a slope and children on skateboards. Mr. Boesch said the slope will be minimized to 5%.

Mr. Fitzgerald said that he was not sure it would be feasible to put banked parking where it is proposed. The engineer needs to take a good look at the soils there. If they do greenbank, he felt that the dumpsters should be moved by the basketball court.

Ms. Krimko said that the applicant has agreed to prepare rules and regulations for the students. The students are required to live on the site and are not permitted to have vehicles.

Ms. Krimko presented Lawrence Schreiber, Architect for the applicant. Mr. Schreiber said that his expertise is in planning Yeshivas, campuses, and Synagogues. This project will be phased because there is an existing tenant on the first floor who has a lease and will be allowed to remain until the lease is finished.

Mr. Schreiber referred to page A-4 of **evidence A-2** showing the floor plan for the Yeshiva. On the east side of the building will be a Sanctuary/study hall/classroom for lectures. There will be a separate room for women to pray. This will be for the Rabbi's wife and female children.

Next to the entrance to the parking lot are the stairs. There are bathrooms, a dining area, and a kitchen with a pantry. The kitchen must to meet the requirements of the Board of Health.

Vice Chair Schepiga noted that a fire suppression system is required in the kitchen. Mr. Schreiber said that a hood-system is required per the State law. All the State requirements will be followed. There will be a full fire suppression system for the entire building.

Continuing to explain the first floor layout, Mr. Schreiber said that there will be a study, a porch in the middle of the building by the main entry, a coat area and the first floor living quarters for the Rabbi and his family.

The second floor has an emergency exit, ten dormitory rooms, and a shower/bathroom area. The size of the dorm rooms according to the International Building Code gives a maximum capacity per square footage for fire safety. The code states for a dorm room a minimum gross size of 50 square feet per student is the requirement. Hotel and apartment codes allow no bedroom less than 70 square feet for one person and each additional person. The students will be in the rooms only for sleeping, but the rooms must meet code requirements.

On the second floor, the Rabbi's living quarters have a master bedroom and three bedrooms for the children.

Vice Chair Schepiga noted that there are only two washers and dryers. One is for the family and one is for the students. He noted that this number will not work for sixty students. He also asked if the bathrooms meet the ADA requirements.

Mr. Schreiber said that the plan is for a heavy duty washer and dryer. There is more space if more are needed. The bathroom on the first floor will be handicapped accessible. Per the ADA requirements, if you do not spend a certain dollar amount on renovations, an elevator is not required to the second floor. The building will meet the code. If there were to be a handicapped student, a room could be provided for him on the first floor.

Mr. Schreiber noted that the municipality will not issue a building permit until the ADA requirements are satisfied.

Mr. Fitzgerald referred to **evidence A-4** and asked about the Bais Medrash area and pointed out that the dining room does not appear to be large enough for all the students. It appears to be 800 square feet, which equals less than 14 square feet per person.

Mr. Schreiber said that the students study and pray in the Bais Medrash. The standard for the cafeteria area is 15 square feet per person with movable tables and chairs. If they are at full capacity, they could move to a classroom.

Ms. Wilensky pointed out that every resolution states that the structure must be completed in strict conformance with the plans submitted.

Board Member Van Wagner asked if there is a requirement for general study areas and common areas.

Mr. Schreiber said that they have to follow State codes for dormitories and corridors. The requirement is met for size and safety. There will be yearly Fire Marshal inspections.

A dormitory is an adjunct use for a school. When a building permit is applied for, the codes for dormitory R-3 use have to be met. Because the use is for 18 year olds and older, it goes under 'B' use for Business. It is a mixed use of school, dormitory, and residence for the Head Master. It is considered a school for post-education. The entire building must be sprinklered.

Ms. Krimko asked about the different classifications for types of schools. Mr. Schreiber said that elementary schools are an 'E' use group. The subject use is considered a post-high school use classified as Business for a 'B' use group.

Board Member Russell Malta noted that the testimony indicated that they need to meet the requirement of 50 square feet per person for a dormitory use. That would equal 300 square feet per dorm room. None of the rooms meet that number.

Mr. Schreiber agreed that they meet the 50 square foot requirement per person. The square footage includes the corridors, closets, and bathrooms. The dormitory calculation is different from the eating area calculation.

Mr. Fitzgerald noted that the floor plan shows three beds in each room, so they must be bunk beds. The plans also show three wardrobes per room.

Mr. Schreiber said that the wardrobes are double high. They are only for very few articles of clothing. There is a coat closet downstairs.

Board Member Malta requested more precise numbers for the next hearing.

From the audience: Sylvia Sylvia, 1 Randi Lane, asked about the tenant in the building who will remain and how much space they utilize.

Ms. Krimko said that the Rabbi has agreed to let the tenant finish out their lease that runs until 2013.

Mr. Steinberg asked if there will be less than 60 students while the tenant's lease is in effect and how that affects the parking requirement. Mr. Fitzgerald asked where the students will eat while the tenant is still there. Mr. Schepiga asked how long after the Chiropractor leaves will Phase II be completed.

Ms. Krimko said that the number of students will be lower until the tenant leaves and there is a lunch room that the students will be able to use until that time.

Mr. Schreiber did not have answers to the questions.

Ms. Sylvia said that she had concerns about the density of the rooms. Having sixty students in the dining room is very tight. She asked if candles will be used in ceremonies.

Ms. Krimko said that candles are lighted on Shabbat. Safety standards will be met.

Ms. Sylvia comments on the small size of the female prayer room. She asked how much time the females will spend in the room during the High Holy Days.

Mr. Schreiber said that per the fire code, they need three square feet per person for standing and seven square feet per person with chairs.

From the audience: Brian Granit, 908 Deal Road, wanted to make sure the ADA requirements will be met.

Chairman Goode carried this application to the meeting of July 8, 2010.

Meeting adjourned 10:50 P.M.

Margo Simpson
Board Secretary
Recording Secretary