

CAUCUS SESSION: 7:15 P.M. Municipal Building First Floor Conference Room
Deal and Monmouth Roads
Oakhurst

REGULAR MEETING: 7:35 P.M. Public Meeting Room
Deal and Monmouth Roads
Oakhurst

MEMBERS PRESENT: Tracy Berkowitz, Alt. I
Jane Grabelle
Warren Goode, Chair
Brian Lefferson, Alt. IV
Russell Malta, arrived 7:39
David Messer
Leon Pflaster, Alt. II
Henry Schepiga, Vice Chair

MEMBERS ABSENT: Mario Delano, Alt. III
Jennifer Lombardi
Richard Van Wagner

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 July 13, 2009.

SWEARING IN of Board Planner James Higgins for testimony for the upcoming year.

MINUTES FOR APPROVAL A motion was made by Jane Grabelle and seconded by Henry Schepiga to approve the **minutes from the meeting of July 8, 2010.**

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

RESOLUTION MEMORIALIZATIONS

Pitti Bimi MOVED: Schepiga SECOND: Grabelle
Block 22, Lot 81 FAVOR: Berkowitz, Grabelle, Goode, Lefferson, Messer,
264 Norwood Avenue Pflaster, Schepiga
Deal Park OPPOSED: None
Dismissal INELIGIBLE: None
ABSENT: Delano, Lombardi, Malta, Van Wagner

Phillip Voorhees MOVED: Schepiga SECOND: Grabelle
Block 35, Lot 90 FAVOR: Berkowitz, Grabelle, Goode, Messer,
34 Brandywine Road Pflaster, Schepiga,
Wayside OPPOSED: None
Bulk Variance Approval INELIGIBLE: None
ABSENT: Delano, Lefferson, Lombardi, Malta,
Van Wagner

David and Wendy Jemal
Block 44, Lots 7, 8.02
404 Maple Avenue
Deal Park
Bulk Variance Approval

MOVED: Schepiga SECOND: Grabelle
FAVOR: Berkowitz, Grabelle, Goode, Lefferson,
Messer, Pflaster, Schepiga,
OPPOSED: None
INELIGIBLE: None
ABSENT: Delano, Lombardi, Malta, Van Wagner

**Maraliese Beveridge
and Robert Carver**
Block 9, Lot 78
217 Alpern Avenue
Elberon Park
Bulk Variance Approval

MOVED: Schepiga SECOND: Grabelle
FAVOR: Berkowitz, Grabelle, Goode, Lefferson,
Messer, Pflaster, Schepiga,
OPPOSED: None
INELIGIBLE: None
ABSENT: Delano, Lombardi, Malta, Van Wagner

CARRIED to September 23, 2010

Christian and Megan Anderson
Block 109, Lot 17
2306 Sunset Avenue
Wanamassa

CARRIED to October 14, 2010

Yeshiva of Ocean
Block 34.03, Lots 5.01, 5.02
1001 Deal Road
Wayside

CARRIED CASE

Beth Medrash of Asbury Park
Block 216, Lot 19
1515 Logan Road
Wanamassa
Zone R-4

This is an application for a 'd' variance to allow the boarding of students between the ages of 18 and 21.

Attorney for the applicant: John Giunco, Esquire

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Board Engineer William Fitzgerald explained that the subject site had received an approval in 1997 for a smaller use. The applicant is not proposing any construction on the site. The architectural plans show that the site is adequate for the use.

Mr. Fitzgerald recommended that the pavement on the north side of the building should be removed because it is next to a residential use. This would minimize the impact to the residential zone. He felt that safety dictates that the entrance should be moved to the south end of the property with one-way circulation in the front of the building and the egress on the north side of the property. He recommended that the site lighting should be on motion detectors because of the impact on the residential area. The trash area should be moved to the south side of the property.

Mr. Fitzgerald referred to the Fire Marshal's report which indicated that he would like to see no parking in front of the property between the two driveways. This request would have to be made by the applicant to the Township Council.

John Giunco, Esquire, representing the applicant, said that proper notice had been made to the adjoining property owners. The applicant is seeking to allow the students of the Medrash to complete a three-year study program. The comments of the Board's professionals are acceptable. The site is currently approved as a conditional use. A copy of the curriculum has been submitted and as part of that curriculum, vehicles are not permitted onsite. If the Board sees to grant approval they can modify the previous conditions. The applicant agrees to be subject to whatever conditions are in place.

Mr. Giunco presented Andrew Janiu, Planner for the applicant. He placed the following into evidence:

- Evidence A-1** - A mounted survey and preliminary and final site plan dated May 18, 1999.
- Evidence A-2** - A two-sided photoboard with six photographs showing the site.
- Evidence A-3** - A two-sided photoboard with eight photographs showing the interior of the facility.

Mr. Janiu said that he had reviewed the ordinance, the previous approvals, and visited the site. The property is in an R-2 zone situated on Logan Road directly across from Park Boulevard. The zone permits parochial schools, religious uses, schools, and parish houses, which are defined as the residences of the cleric. The applicant proposes to modify the existing boarding school for a Yeshiva with older students. A Yeshiva provides a higher education to students aged 18 into their early 20's for religious education and rabbinical study. The program continues with studies provided in Israel after this schooling is finished. The building will have a commercial kitchen and a dining hall that are maintained for the boarding of students.

Mr. Janiu explained a series of photographs that had been marked as **evidence A-2**, which included: 1. An aerial photograph of the school and the surrounding area; 2. The front view of the building; 3. A view of the south property line along the stream; 4. A photograph of the north property line showing the driveway access; 5. A paved play area; and 6. The north parking area.

Evidence A-2 was a mounted board showing the interior of the building that consisted of: 1. A study room; 2. Indoor basketball court that has lights on a timer; 3. The commercial kitchen that is utilized by an off-site caterer who prepares the meals; 4. The dining hall; 5. A storage area for students showing storage cubes; 6. The laundry room; 7. A dorm room; and, 8. The sprinkler system.

Mr. Janiu felt that this site is particularly suited to the proposed use. He noted that the Board Planner felt that there is a need for a d.1. variance. He said that he felt it is a d.3. variance because of the age of the students and the curriculum.

Mr. Janiu said that they have to file the d.1. variance under Medici or the d.3. variance under Coventry Square, which says the use is permitted but might have some problematic issues that we can deal with such as the vehicle issue.

Mr. Higgins wanted to provide some clarification. Parochial schools are through grade 12. This school goes beyond grade 12. Technically, it is a private school. A boarding school is a school that boards students overnight. He felt that because of the boarding of students past grade 12, this is a d.1. variance. However, he did agree that it is a gray area.

Mr. Janiu said that in respect to Medici under d.1., in this instance he takes the stand that the site is particularly suited for this use. The site can accommodate the students and there is sufficient purpose for the use on the site. Regarding the parking, there will be no vehicles on the site. The applicant meets the suitability requirement with this school of religious study. The Yeshiva is an inherently beneficial use and is of value to the community.

Mr. Janiu noted that under the d.3. relief, the use is permitted in the zone but with conditions. Under d.3. they would have to show how they would mitigate any harm. There will be no use of cars plus other restrictions of the students. The applicant can satisfy the positive criteria.

In satisfying the negative criteria, the Master Plan recognizes that this area is built out. The site has been a school for many years. When it was K-through-12 there were busses transporting the students. Now there are no busses. Use of the building for higher learning is not a detriment. This facility has been here for many years. It is not detrimental to the zone plan. It operates as a boarding school. The negative criteria is

satisfied as well. There is a contractual basis for attendance at the Yeshiva. It is not flexible. Students must be dropped off and picked up.

Mr. Giunco asked Mr. Janiu to explain a twelve-month report of police activity at the school. Mr. Janiu explained that the police report listed several visits for first aid calls, one call for a broken sprinkler head, several noise complaints, one call about basketball play at night and one report of fireworks. The fireworks report was when the school was closed for break and there were no students at the school. There was also a complaint about loud talking, which was dealt with.

Mr. Higgins noted that the Master Plan does not address this use. Therefore, a little more testimony is needed regarding the use and the zoning.

Mr. Janiu said that the zone plan does not have any issue regarding the nature of education. There are no issues relating to religion or higher learning. The concerns and limitations for this applicant are geared because of the question of students having cars. The Yeshiva has strict guidelines and codes and limits the use of cars.

Mr. Higgins noted that cars are not permitted at the Yeshiva, but that does not mean the students cannot have cars offsite. He asked how that can be prevented from happening.

Mr. Janiu said that the Rabbi's testimony will address the parking issues. Mr. Janiu agreed that a condition of approval could be that if there is a change in operator, then they would have to come back to the Board.

Mr. Giunco felt that the wording 'off-site' in regards to parking is too broad. If someone owns a car and leaves it at their home in another town, it is 'off-site'. It is intended that the students be brought to the school by family members.

Vice Chairman Henry Schepiga noted that the municipality cannot 'police' every variance that is granted. He voiced concern with what might happen fifteen years in the future if this applicant moves out.

Mr. Janiu noted that the previous approval permitted students up to the age of 17 and had no issues with cars for them.

At this point, Chairman Warren Goode noted that the applicant has exceeded the time limit allowed for testimony. However, since the agenda is short, he gave the applicant the option of taking a break and returning after the other cases are finished for more testimony. The applicant agreed.

RETURN TO TESTIMONY

Chairman Goode asked if the school is currently in session and the age of the students.

Mr. Janiu said that the school is currently open and that the age of the students has changed from the previous approval. The students range in age from 18 to 21. The number of students is currently 34. The applicant is asking for a maximum of 50 boarding students plus the faculty.

Board Member David Messer asked if the facility might not be limited to fifty students during the day. Mr. Janiu said that there are only boarding students, no other students come to the school. There are seven Rabbi's who teach, but only five Rabbis are on the premises at any time. There is a janitor and a cook from an off-site location.

Vice Chair Schepiga asked how many dorm rooms are available. Mr. Janiu said that there are currently ten occupied dorm rooms and nine unoccupied. They vary in size to house two to four students. There are common showers.

Mr. Messer noted that there are nineteen rooms. He asked what the maximum capacity of students can be. Mr. Janiu said that the requirement is 70 square feet for the first student and 50 square feet for every student thereafter. The rooms can accommodate three or four students and the facility can comfortably accommodate fifty students.

Board Attorney Mark Steinberg pointed out that the public notice did not state that the number of students would increase. A re-notice is required. Mr. Giunco agreed to re-notice.

Board Member Messer asked about the capacity of the lunch room. Mr. Janiu said it has been used for over 100 students in the past and there is no problem with capacity.

From the audience: Roy Larson, 1517 Logan Road, explained that he lives next door to the school on the north side. He asked what changes Mr. Fitzgerald recommended to the north side of the subject property. Mr. Fitzgerald said that he recommends that the driveway and pavement on the north side be removed. He also would like to see the parking lot in the back of the building removed and the dumpster moved to the south side of the property.

Mr. Giunco presented Rabbi Eliyohu Goldblatt, who explained that the school is designed to prepare the students for intense study preparing them to go to Israel to become Rabbis. In general, the main curriculum is to complete four of the tractates of the Talmud. In order to proceed to higher education in Israel, they need to develop all the tractates and learn to study. The students need to develop skills in order to be able to give lectures and develop their own ethics to be able to impose on their students in the future.

Rabbi Goldblatt continued to explain that during the day there are seven Rabbis who supervise the boys. Overnight Rabbi Mintz and/or Rabbi Dweck supervise. There are no lectures on the weekends and the schedule is lighter with a more relaxed atmosphere. The Rabbi's bring their entire families on the weekends.

There is a gym that borders the neighbor's property to the north. There were issues about noise at night. An agreement was reached with the neighbor and there are now timers on the lights that go off at 11:30 P.M. One time when the students wanted to play later because of a special event, the neighbor was approached and agreed that it would be okay to play later for a special event.

Chairman Goode asked about family visits and if this Yeshiva has been at a previous location. Rabbi Goldblatt said that once in a while a parent will stop by, but it is not common. The school did not exist until it began at this location four years ago. It is for education of older boys to prepare them for the universities in Israel.

Chairman Goode asked the Rabbi what he does in Lakewood. Rabbi Goldblatt explained that he studies in preparation for his teachings at the Beth Medrash. He said that he is affiliated with a school in Lakewood called Beth Medrash Govoha.

Chairman Goode said that he would like to see the name changed to the Beth Medrash of Ocean rather than the Beth Medrash of Asbury Park. The Rabbi smiled and nodded his head.

Vice Chair Schepiga asked if the students are allowed to smoke or drink. Rabbi Goldblatt said that there are defined smoking areas. The students are dismissed if they do not adhere to the rules. Rule #10 forbids drinking.

Vice Chair Schepiga asked if the students go home for holidays and if they are allowed out on Shabbas. Rabbi Goldblatt said that the students go home for a month for the High Holidays and also go home for Passover. Most of the students are from the tri-state area, but they have come from across the country and Canada.

Vice Chair Schepiga asked if the students are permitted to leave the property on Shabbas. Rabbi Goldblatt said that they are allowed to walk to the stores on Shabbas.

Board Member Lefferson asked if the students use the park across the street. The Rabbi said that they can go to the park.

Ms. Wilensky asked if, based on the reports and the testimony, the applicant will be submitting a site plan of some type.

Mr. Giunco said that in looking at the comments from Mr. Fitzgerald, his client feels that they are reasonable, but they would like to meeting with him to discuss some of the items. The pavement can be removed and the dumpster will be moved.

Mr. Fitzgerald said that he is willing to meet with the applicant. He can approve anything that the Board wants. He felt that the meeting should be on-site. Ms. Wilensky said that she will set up a technical meeting and will contact the neighbor to let him know what the changes will be.

Ms. Wilensky noted that the September Board of Adjustment meeting is during a holiday. Chairman Goode carried the application to the meeting of November 9, 2010.

NEW CASES

Mian Jameel

Block 36, Lot 8
751 Bowne Road
Wayside
Zone R-2

This is an application to keep a driveway with a variance for a driveway width of 31' where 20' is the requirement.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky said that when she visited the site on August 24, 2010, there were two vehicles in the driveway.

Board Engineer William Fitzgerald felt that there is no planning reason to grant this variance for driveway width. The applicant can put in a circular driveway that will conform to the requirements. He recommended that the applicant withdraw the application.

Chairman Warren Goode asked the applicant if he runs a business from his home. Miam Jameel said that he has a Taxi Company in Asbury Park and he is licensed there. He brings his cab home with him. He had spoken with the Zoning Officer Jerome Donlon regarding that matter.

Ms. Wilensky asked if there are other people living at his home who also work with him. Mr. Jameel said that he has two taxis. He drives one in Asbury Park in the summer and one in Belmar in the winter. His father and brother also drive cabs and come visit him. They do not live there.

Chairman Goode asked why there is a need for a 31' wide driveway. Mr. Jameel said that the road in front of his house is a 40 mile per hour zone and he uses his driveway to make a U-turn to exit the driveway heading out to the street.

Vice Chair Schepiga felt that there was plenty of room to have a turn-around on the property rather than the 31' wide driveway.

Mr. Jameel said that he did not know the requirements when he put in the driveway. He trusted the contractor and also paid a fine of \$3000.00 for putting it in.

Chairman Goode told the applicant that if he cannot come up with some good planning reasons to keep the driveway, then the Board will have to deny the application. There are other options for a conforming driveway.

Mr. Jameel said it would be a financial burden to him to remove the driveway.

Mr. Fitzgerald noted that the front yard setback to the house is 60'. There is room for a turn-around or a circular driveway.

From the audience, Edith Vernosky, 755 Bowne Road, said that she lives next door to the subject property. Sometimes there are eight or nine cars parked in the driveway three abreast. This is a one-family area and she does not understand how so many cars can be allowed. Mr. Jameel has cut down trees and now she has a clear view of the driveway.

Board Attorney Mark Steinberg explained to Ms. Vernosky that the Board has no control over how many cars are parked in anyone's driveway. They are only concerned with the variance for the driveway.

Ms. Wilensky said that the driveway is 60' long. Any driveway of that length can have six cars parked in it.

Mr. Fitzgerald explained that the Board deals with the Zoning Ordinance. If she thinks the house is being used for anything other than a single-family residence, it has to be investigated to see if anything is wrong. The Board of Adjustment does not have the authority to do anything about the number of cars in the driveway.

From the audience: Al Kerecman, 748 Bowne Road, said that he lives across the street from Mr. Jameel. He said that he has never had a problem backing out of his driveway on to Bowne Road. He felt that as a taxi driver, the applicant should not have a problem backing out of his driveway. Mr. Kerecman had pictures he had taken on August 25, and 26, 2010, marked as **evidences O-1 and O-2**. The pictures were taken from his property looking at the applicant's property and showed four cars in the driveway on August 25th and three cars in the driveway on August 26th. He felt that the pictures show that a business is being run from the house.

Chairman Goode told Mr. Kerecman that he would have to take his concerns to the court because the Board does not have jurisdiction over that matter.

A motion to close the public hearing was made by Warren Goode and seconded by Henry Schepiga.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode
Opposed: None

A motion of denial was made by Warren Goode and seconded by Henry Schepiga.

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

To be memorialized on September 23, 2010.

Theodora J. Maio This is an application to erect a 6' fence with a variance for
Block 38.03, Lot 1 front yard setback.
2 Sharon Drive
Wayside
Zone R-3

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record. Both Planning Administrator Marianne Wilensky and Board Engineer William Fitzgerald felt that the fence should be moved back to a 15' setback.

Theodora Maio explained that she wants to put up a 6' fence for security. She agreed to move the fence back to a 15' setback. She will put plantings on the street side of the fence.

Mr. Fitzgerald said that if the applicant is looking for safety and security, he recommended plantings that are prickly, such as Hollies or Firethorn. She should plant twelve hardy evergreens, 24" to 30" in height and incorporate them in the plantings that are on the property now.

Ms. Maio said that the existing trees are on the property line and she will plant behind them.

Ms. Wilensky noted that the plantings are regulated by the planting season. She suggested that they be planted no later than May 15, 2011. Ms. Maio said that she will erect the fence and put in the plantings as soon as possible.

A motion to close the public hearing was made by Tracey Berkowitz and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode
Opposed: None

A motion of approval was made by Jane Grabelle and seconded by Henry Schepiga.

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

To be memorialized on September 23, 2010.

Jolanta and Chris Zraly
Block 35.08, Lot 12
2 Hartshorne Road
Wayside
Zone R-2

This is an application to erect a 6' fence with a variance for a front yard setback.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record.

Planning Administrator Marianne Wilensky explained that there is an existing hedge row that is damaged along the roadway. She felt that a new planting plan should be submitted.

Board Engineer William Fitzgerald said that the hedge row is Arborvitae and looks like it is in the right of way. It has been damaged beyond repair and also impacts the sight triangle. He recommended a 15' setback for the fence with plantings on the outside.

Chris Zraly said that he planned on removing the damaged hedge. He does not want to expose his rear yard to Deal Road. It needs to be safe for the children. He agreed to place the fence at 15' with plantings on the outside.

Mr. Fitzgerald explained that the Board does not like to see a solid row of plantings and one every four or five feet is fine. They can be varied.

Ms. Wilensky noted that the applicant has a very attractive front yard and was confident that the plantings along the fence will be attractive.

A motion to close the public hearing was made by Tracey Berkowitz and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Pflaster, Schepiga, Goode
Opposed: None

A motion of approval was made by Jane Grabelle and seconded by Henry Schepiga.

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

To be memorialized on September 23, 2010.

Meeting adjourned 10:00 P.M.

Margo Simpson
Board Secretary
Recording Secretary