

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

MEMBERS Jane Grabelle
PRESENT: Russell Malta
Eric Menell
John Napolitani, Alt II
Peter Siano, Alt III
Charles Theodora, Alt IV
Richard Van Wagner
James Worrell
Warren Goode, Chair

MEMBERS Maureen Bonney, Alt I
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 May 28, 2015.

RESOLUTION MEMORIALIZATIONS

Thomas Pinto

Block 134 Lot 1
30 Ballard Drive
Ocean
Bulk Variance Approval

MOVED: Goode SECOND: Grabelle
FAVOR: Grabelle, Malta, Siano, Worrell, Goode
OPPOSED: None
INELIGIBLE: Menell, Napolitani, Theodora, Van
Wagner
ABSENT: Bonney, Schepiga

Edward & Sharon Dayan

Block 14.01 Lot 8
251 Wilson Avenue
Ocean
Bulk Variance Approval

MOVED: Goode SECOND: Grabelle
FAVOR: Grabelle, Malta, Menell, Worrell, Goode
OPPOSED: None
INELIGIBLE: Napolitani, Siano, Theodora, Van
Wagner
ABSENT: Bonney, Schepiga

Rahul & Deepali Shah

Block 153.05 Lot 12
17 Shinnecock Hills Drive
Wayside
Bulk Variance Approval

MOVED: Goode SECOND: Grabelle
FAVOR: Grabelle, Malta, Menell, Worrell, Goode
OPPOSED: None
INELIGIBLE: Napolitani, Siano, Theodora, Van
Wagner
ABSENT: Bonney, Schepiga

Board Attorney Mark Steinberg had Board professional James Higgins, P.P., who was appointed as the Board of Adjustment Planner at the reorganization meeting, read an Oath of Allegiance and swore him in as a Board professional for the upcoming year. The Board Engineer and the Planning Administrator has been previously sworn in.

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 and for minor site plan approval for an advanced Talmudic academy.

Attorney for the applicant: Jennifer S. Krimko, Esquire

Mr. Steinberg explained to the audience that the Board is instructed not to open anything on social media or newspapers relating to the application. He also said that they are not aware of any pending applications that are similar to this one. Mr. Steinberg said that Ms. Krimko has requested that the application be bifurcated, as permitted by MLUL section 40:55D-76b. An attorney from the firm of Poulos LoPiccolo is representing five objectors who are objecting to the bifurcation. Ms. Krimko said that the applicant is not requesting, but electing, to bifurcate as an option under the MLUL.

The Board's information packet was marked B-6 and a letter from the Poulos LoPiccolo law firm was marked as B-7. Ms. Krimko addressed the letters from the Poulos LoPiccolo law firm, indicating that they have already addressed site issues that have a direct impact from the proposed use, including traffic, landscaping, lighting, parking and noise. She said that they have not addressed drainage and environmental issues because they have to go to the DEP for outside agency approvals. Any potential user for this site would have to address drainage, not just this proposed use.

Ms. Krimko said that it is up to the applicant to present its case and can ask for a vote to which the Board can grant or deny based on the information given. Any use variance would be granted upon the applicant going for site plan approval, giving the Board another opportunity to look at the site. She said that by objecting to the bifurcation, the Poulos firm is asking for only one opportunity.

John Poulos, of Poulos and LoPiccolo, identified himself as the attorney representing five objectors to the application. He said that he believes the Board has the power to decline the request for bifurcation and cited case law that suggested that the use and site plan are so intertwined that you have to hear the testimony together. Mr. Poulos also said that they wish to hear site plan testimony, including grading issues, as the impacts are interrelated with the use. Ms. Krimko addressed his interpretation of the case law, referring to the Scholastic case which she said does not imply that the Board has the right to deny a bifurcation. She also said that grading is implicit with drainage and would obviously be part of a drainage plan.

Mr. Steinberg said that this becomes a legal issue and explained to the Board that the applicant should not be forced to go to the extent of a full site plan, but still has the burden of proof. What has been submitted up to the bifurcation can be considered by the Board. He said that bifurcation was created for the purpose of limiting the expense of the applicant in complying with local, county and state requirements, including the DEP. Mr. Steinberg said that he agrees with Ms. Krimko that it allows the Board two opportunities to review the application and a use approval would be contingent upon site plan approval. He said that the applicant can proceed with a bifurcated application.

Ms. Krimko said that she has concerns with letters to the editor in 'The Coaster' by individuals not represented by Poulos. She submitted an article on page 49 of 'The Coaster' newspaper published on July 9, 2015 written by Mary Robin Whitney which was marked into evidence as A-21. She read the 5th paragraph which stated that Poulos LoPiccolo represented "our team" and requested donations. She said that objectors can only testify through their attorney, who only indicated five people that he was representing. She asked if there were other objectors that he was representing or advising. Mr. Poulos said that he has not seen that article and has only been retained by the five objectors. He said that he has not offered legal advice to any other

objectors but that he would like to represent them all for a more streamlined process and if they want to retain him, they should come down to his office. He said that he will send an update if more people are being represented by his firm.

Ms. Krimko said that they began planning testimony at the last hearing and would like to put that on hold to present the audio expert, Steven Szulecki. Ms. Krimko submitted the following items into evidence:

- A-22 Resume of Steven Szulecki
- A-23 Figure 1 – Aerial image of Yeshiva in Lakewood
- A-24 Figure 2 – Aerial image of 1515 Logan Road
- A-25 Figure 3 – Comparison of indoor and outdoor sound levels
- A-26 Sound insulation prediction sheet of the Yeshiva in Lakewood
- A-27 Sound insulation prediction sheet of 1515 Logan Road

Mr. Szulecki was sworn in to testify as an audio expert and said that he has performed an acoustical assessment of the proposed facility.

Mr. Steinberg said that the Fire Marshal has advised them that they have possibly exceeded capacity, but can continue if they keep the exits clear in the event of an emergency.

After the audience tried to fill empty seats and clear the doorways, Mr. Steinberg announced that he has been advised by the Fire Marshal that they have exceeded capacity and cannot maintain clearance in the doorways, meaning some people cannot hear. Due to that, they must adjourn the meeting. Mr. Steinberg announced that the next meeting date has been scheduled for September 30, 2015, but at a new venue yet to be determined.

Meeting adjourned at 7:45 P.M.

Rachel Montemarano
Board Secretary
Recording Secretary