

**CITY OF EGG HARBOR
MUNICIPAL LAND USE BOARD
August 17, 2021
Live Meeting
7:00 P.M.**

A live meeting of the Egg Harbor City Municipal Land Use Board was held on August 17, 2021. Those in attendance were Mayor Jiampetti, Council Representative Karl Timbers, Chairman Jack Peterson, Vice Chairman Todd Warker, Egg Harbor City Fire Department Representative John Garth, Regular Members; Dennis McKenna, Michael McKenna, Keith Mullineaux, Gladys Torres, Leo Manos Esquire, Land Use Board Engineer Ryan McGowan and Secretary Donna Heffley. (Not Present were The Mayors Representative, Marie Johns, Alternate #1 Andrew Dixon, and Alternate #2 Dashawn Hare).

Chairman Peterson opened the meeting with the flag salute.

Chairman Peterson called the meeting to order and made the following announcement.

This meeting was advertised pursuant to the NJ Open Public Meetings Act N.J.S.A. 1:4-6 Seq. Notices were sent to official publications for the Egg Harbor City Municipal Land Use Board; the Press of Atlantic City, the Egg Harbor News, the Atlantic Current and the Hammonton Gazette. A copy of the notice was posted on the bulletin board of the Egg Harbor City Municipal Building.

Chairman Peterson directed the Secretary to enter this public announcement into the minutes.

Roll Call: Mayor Jiampetti present, Mr. Timbers present, Chairman Peterson present, Vice Chairman Warker present, Mr. Garth present, Mr. Mullineaux present, Michael McKenna present, Dennis McKenna present, Mrs. Torres present, Mrs. Johns present in audience (did not participate), Mr. Dixon absent, Mr. Hare absent, Mr. McGowan present, Mr. Manos present and Secretary Donna Heffley present.

Approval of Minutes: June 15, 2021

Upon motion made by Vice Chairman Warker, seconded by Mr. Dennis McKenna and carried the June 15, 2021 Minutes were approved.

Approval of Resolutions: none

New Business: #2021-02 LUB

Randy Portnoy
201 New York Avenue
Egg Harbor City, NJ 08215
Block 2.07, Lot 29.01
Minor Site Plan
Variance Relief (Hardship)

William Swiderski, PE, Planner and Engineer with Swiderski Associates was present with the Applicant Randy Portnoy.

Mr. Swiderski gave his presentation describing an existing lot at 201 New York Avenue. The home was built in the 1950's and existed until 2007 when a fire decimated the structure and left the remaining foundation. The owner at the time went to Pinelands in 2019 and sought for an amended Certificate of Filing to reconstruct a structure on the existing foundation in the exact footprint prior to the fire. The application was denied by Pinelands noting that they would allow an amended certificate of filing only if destroyed by fire and it was rebuilt within 5 years from when it was destroyed. This would have made 2012 the deadline. Pinelands would allow the applicant to reconstruct the home if he followed the following criteria; the structure was not a historic resource, that reconstruction would take place within 25 years from when the structure was destroyed, that the demolished dwelling foundation would be used to reconstruct the dwelling in the same footprint and that it would be a single-family dwelling. Further a Professional would have to certify that the foundation was in fact existing, structurally sound and could support a single-family dwelling. Mr. Swiderski visited the site and completed his evaluation and certified that the foundation was existing and was structurally sound and could support a single-family dwelling. Mr. Swiderski prepared a letter to Pinelands concerning this evaluation which Pinelands accepted. Now that all of the criteria have been met for Pinelands, the applicant must meet the City Ordinance requirements. The applicant is seeking relief from the minimum. Lot area, lot width and side yard setback standards. The minimum lot width in the zone is 150, and the lot width is 80'. The applicant intends to comply with all other requirements in the zone.

Mr. McGowan reviewed his report dated August 10, 2021.

Public comments: none

Mr. Manos reviewed the motion for a minor site plan with several C-variances concerning the minimum lot area, lot width and frontage and side yard setbacks.

Motion was made by Mayor Jiampetti, seconded Mr. Mullineaux

Roll Call: Mayor Jiampetti yes, Mr. Timbers yes, Mr. Garth yes, Mrs. Torres yes, Mr. Mullineaux yes, Mr. Dennis McKenna yes, Mr. Peterson yes, Mr. Michael McKenna yes, Mr. Warker yes

Mr. Manos discussed the next application that will be heard which is an Interpretation and the Board will be acting as a Zoning Board noting the Mayor and Councilman Timbers would have to step down.

New Business: #2021-03 LUB

Yeshiva Shagas Aryeh
500-518 & 526 Chicago Avenue
Egg Harbor City, NJ 08215
Block 440, Lots 1-5 & Block 440, Lots 6-16
Map or Ordinance Interpretation or Special Question

Steven Nehmad, Esquire with Nehmad Davis & Goldstein was present representing the applicant Yeshiva Shagas Aryeh.

Mr. Nehmad gave a brief history of the St. Nicholas School built in 1940 which is the subject property. The school has been closed for 10 to 15 years but remains in good condition. The applicant's intent is to

utilize this school for Jewish religious faith. The applicant would like to have within the existing building dormitories to house students that will be educated there. The intent will be to renovate the interior of the building, landscape the outside grounds, power wash the exterior of the building, and the basketball area will be restored and restriped. It will be utilized as a school.

The applicant is here for an interpretation and Mr. Nehmad noted that schools are a permitted use in this zone. Mr. Nehmad pointed out that our Ordinance does not give a clear definition of schools. If the ordinance uses the term school it should include all schools. Mr. Nehmad recognizes that St. Nicks did not have dormitories, and the applicant intends to have them within the existing building.

Two witnesses were present Tiffany Morrissey and Rabbi Avorhm Verschleiser were sworn in by Leo Manos.

Rabbi Avorhm Verschleiser is the Assistant Dean in Lakewood, NJ. This is a nonprofit charitable Corporation whose mission is educating today's youth. Many of these students study to become Rabbis, which is a very intense program. Rabbi Avorhm Verschleiser noted they are interested in this location because it is in a secluded location, a nice town and students will be more focused on their studies. There will be about 60 to 80 male students who will live in the dormitories within the St. Nicks School. Students will go home for different holidays throughout the year. Approximately 6 to 8 staff members will work at this location, two staff members will live on site. Students will not have vehicles and are very rarely visited by parents. There will be no expansion to the building.

Questions and Comments from the Board:

Mrs. Torres asked if there will be male and female students in this school and if they will be purchasing the building or leasing. Rabbi Avorhm Verschleiser responded that the school will be for all male students of Orthodox Jewish Faith and the applicant will purchase the building.

Mrs. Torres inquired if students will be able to leave the school during free time. Rabbi Avorhm Verschleiser noted students will be able to go out shopping but their schooling is very intense which does not give them much free time.

Mr. Warker wanted to know how long programs can last for students. Rabbi Avorhm Verschleiser noted the students will follow a 2 to 3-year intense program and will then go to Israel.

Mr. Peterson and Mr. Dennis McKenna asked how many staff members will be on site and if there are other facilities in other locations operating this way. There will be five full-time staff members and 2 staff members living on site and they do have other schools operating this way in different locations.

Mr. Warker inquired if a full-time cook will be on site. A full-time cook will be on staff providing Kosher foods.

Mr. Nehmad called Tiffany Morrissey as a witness.

Ms. Morrissey, Licensed Professional Planner in the State of New Jersey was very familiar with the property and has experience with Interpretation applications over the years. Ms. Morrissey believes this is a permitted use and gave facts to support her findings. Ms. Morrissey noted our City Ordinance does not give a specific definition for schools and discussed her process in finding the definition of schools and how it relates to this particular situation. In her professional opinion this proposed use is a

permitted use under the ordinance as it is written. Ms. Morrissey noted there will be no negative impacts on the area, in fact there will be less of an impact than years ago with bussing and the number of grades that were being taught in this school.

Mr. McGowan reviewed his report which was in the form of a letter dated August 10, 2021. Mr. McGowan noted in his letter that the applicant has asserted that their proposal is for a school and that housing for the proposed school is an accessory use which would be permitted in the zone. A key element to the applicant's assertion is that a day school and a boarding school should be viewed and treated identically. Mr. McGowan notes there are differences between day schools and residential or boarding schools that are apparent even in the provided definitions. Mr. McGowan noted the differences in the definitions that were provided by the applicant.

Discussion continued between Mr. Nehmad, Professionals and Board Members concerning the ordinance definition of schools.

Mr. Peterson noted there were never dormitories in St. Nicks school which makes this application for a different use. Neighbors have not had a chance to hear this application and how it may impact the neighborhood. Mr. Peterson believes the public should be notified of this application before the board takes any action. Mr. Peterson has a right to have their concerns heard and their questions answered.

Mr. Nehmad notes that the ordinance does not distinguish between schools and he believes this is a school and is permitted.

Mr. Warker inquired if they were closing another school in another location.

Rabbi Avorhm Verschleiser stated they are not closing any schools, they would like to provide another school for students.

Mr. Warker wanted to make sure that the 60 to 80 students that would occupy this school would not have their own cars.

Rabbi Avorhm Verschleiser noted the students will not have cars only about 6 cars will be on site belonging to staff members.

Mr. Nehmad suggested this can be set as a condition of Approval.

Mr. McGowan discussed the Applicant's definition of a school found in the Merriam Webster Dictionary and how they believe this definition meets the City ordinance. Mr. McGowan noted this definition does not meet the City's Ordinance of what is permitted because the applicant is proposing to change from a day school to a school with dormitories.

Mr. Garth expressed his concerns and noted this has always been a day school not one with dormitories. He does not believe this use should fall under the definition of a school, a boarding school is different.

Mr. Nehmad noted the City ordinance does not limit what type of schools should be allowed.

Mrs. Torres expressed her concerns on this application and agrees with the applicant that this proposed use is a school and this would be great for the neighborhood.

Public Comments:

Robert Ross residing in Egg Harbor City was present and was sworn in by Mr. Manos

Mr. Ross expressed his concerns and would like to see something like this come to his neighborhood however he believes this school is different than what has been there for many years. He believes the Applicant should apply for a variance in this situation. This proposed use must be handled properly to insure it will not turn into something else in the future.

Mr. Peterson noted the Applicant should return to this board for a variance, which would require a 200 ft. list and proper advertising so neighboring properties will have the option to attend the meeting to express their concerns on this matter. This would also insure that the Board can set certain conditions that must be met by the applicant and those in the future.

Mayor Jiampetti was sworn in by Mr. Manos. Mayor Jiampetti agrees with Mr. Ross and noted the future is where the City has to be concerned. If this school fails then the City will be left with a school with dormitories. A Variance application with set conditions will provide protection for the City in the future. The Public should be made aware of this proposed use before this Board makes any decision.

Mr. Manos suggested the City can protect itself by tightening up the City Ordinance concerning this matter.

Mr. Peterson noted if the applicant comes back the board would be able to put conditions on this application and the public would be notified of this proposed use.

Mr. McKenna expressed his concerns and agrees that a boarding school is different than a school.

Mr. Warker expressed his concerns and would like the applicant to come back before the board for a variance so the Public can be made aware of this and conditions can be put on the applicant.

Mr. Peterson noted if the Applicant would like to return to the Land Use board for a variance the board will be in favor of holding a special meeting to accommodate them.

Mr. Nehmad would like to Table this application and speak to his client to see if they would like to return to this Board for a variance.

A motion was made to Table this application.

Motion was made by Mr. Mullineaux, seconded by Mr. McKenna and carried. tabled.

Old Business: none

Public Comments: none

Other Comments: Mayor updated the board on the WAWA project delay. Verizon and Atlantic City electric have been working on poles that were on the site and one more remains that Atlantic City electric is addressing.

Mr. McGowan read an email from Wawa and their plan on moving forward on some of the site work. Mayor Jiampetti also discussed the pads that will be available. WAWA is still waiting on Atlantic City Electric and will be returning to the Land Use Board in September for a subdivision application.

Mr. Garth noticed that the American Flag is missing from the pole in front of Library and asked if it could be replaced.

Mayor Jiampetti and Mr. McGowan gave an update on the bike path.

Comments from the Board: none

Adjournment: Upon motion made by Mr. Timbers, seconded by Mr. Mullineaux and carried the meeting was adjourned.

Respectfully Submitted,
Donna Heffley
Land Use Board Secretary