

CITY OF EGG HARBOR
MUNICIPAL LAND USE BOARD
December 21, 2021
Live Meeting
7:00 P.M.

A Live meeting of the Egg Harbor City Municipal Land Use Board was held on December 21, 2021. Those in attendance were Chairman Jack Peterson, Vice Chairman Todd Warker, Egg Harbor City Fire Department Representative John Garth, Regular Members; Michael McKenna, Dennis McKenna, Keith Mullineaux, Gladys Torres, Alternate #1 Andrew Dixon, Alternate #2 Dashawn Hare, Leo Manos Esquire, Land Use Board Engineer Ryan McGowan and Secretary Donna Heffley. (Not Present were Mayor Jiampetti, Council Representative Karl Timbers, and the Mayors Representative Marie Johns).

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 absent, Mr. Timbers absent, Chairman Peterson present, Mr. Warker present, Mr. Garth present, Mr. Mullineaux present, Michael McKenna present, Dennis McKenna present, Mrs. Torres present, Mrs. Johns absent, Mr. Dixon present, Mr. Hare present, Mr. McGowan present, Mr. Manos present and Secretary Donna Heffley present.

Approval of Minutes: November 16, 2021

Upon motion made by Mr. Warker seconded by Mrs. Torres and carried the November 16, 2021 Minutes were approved.

Approval of Resolutions: none

New Business: Reconsideration of Application #2021-04 LUB

Yeshiva Shagas Aryeh
500-518 and 526 Chicago Avenue
Egg Harbor City, NJ 08215
Block 440, Lots 1 through 5 and 6 through 16.

The Chairman asked Mrs. Torres and Mr. Dennis McKenna to step down because they were not present when the original application was heard and voted on.

Mr. Manos gave a brief summary of this application and the process thus far. The application was tabled in August when the applicant came before the Board for a Map or Ordinance Interpretation or Special Question. The applicant is proposing dormitories in this school which was not the same type of school that existed at this location for many years. The applicant was asked to notice all residents within 200 feet of the school and return to the board for an interpretation and a use variance. The application was tabled. The applicant returned to the board in October for an Ordinance Interpretation or Variance relief. Two votes were taken that night one was on the Interpretation that a school with dormitories is a school and is a permitted use in the zone. This motion did not pass and required a use variance. The second vote was to grant a D1 use Variance to allow this proposed use. This motion did not carry and the application was not approved. A letter was received from the Attorney representing the applicant requesting the Board reconsider the denial of both the interpretation and the use variance. An executive session was held on November 16, 2021 for the purpose of discussing the Yeshiva Application for a proposed school with dormitories. Discussion took place between Professionals and Board members that provided clarity on this matter. Following this discussion, the board agreed that they should reconsider the variance portion of the Yeshiva application. The applicant was asked to return to the board after re-noticing all residents within 200 feet of the school. Testimony from the past meeting will be incorporated.

Jenna Cook, Esquire was present and asked for the procedure that allows for this reconsideration to take place. Mr. Manos addressed Ms. Cook's concerns

Michael Lario, Esquire was present representing the Applicant. Mr. Lario discussed the inherently beneficial use under the Municipal Land Use Law. Mr. Lario explained that the board must analyze this case using the Sica process a four-part test to determine whether these detrimental effects can be reduced by imposing reasonable conditions on the use. Mr. Lario discussed RLUIPA and the Federal Fair Housing Act.

Mrs. Cook and Mr. Manos discussed the reconsideration of this application

All Public that wished to speak were sworn in by Leo Manos, Esquire.

Mr. Ross was present who resides at 601 St. Louis Avenue and expressed his concerns on this matter. Mr. Ross does not have a problem with a school being in this location but is against a school with dormitories. He believes a school with dormitories is a high-density school in the middle of a residential area.

Joe Kuehner who resides at 459 Chicago Avenue who served on the Planning Board, served on City Council and also served as Mayor of Egg Harbor City. Mr. Kuehner expressed his concerns and believes the Land Use Board is being bullied and if the Board does not approve this application that the City will be sued. Mr. Kuehner believes this meeting should not be taking place the decision was already made. Let the applicant appeal the application if they are not satisfied with the decision.

Mr. Albert Jiampetti who resides at 903 Claudius Street. Mr. Jiampetti is not in favor of this proposed school with dormitories. He agrees with Mr. Ross.

Mr. Georg Frick grew up at 443 Chicago Avenue and graduated from St. Nicks. Mr. Frick is not against a school just a school with dormitories and believes this will have a huge impact on this residential area. This application was already voted down and the decision should not be reconsidered.

Mr. Peterson expressed his concerns on this matter and discussed possible litigation. The resolution was not memorized giving the Board the option to reconsider their decision.

Mr. Ross expressed his concerns about the Board changing their decision and that the City may face a lawsuit either way.

Beverly Crane from Mays Landing was present with her sister who resides at 529 Chicago Avenue. Mrs. Crane expressed her concerns on this matter and wanted to know if the Applicant will be a good neighbor and follow the rules.

Mr. Lario noted this reconsideration allows the Board to reexamine this application and prevent an appeal.

Rabbi Zev Spira was sworn in by Mr. Manos and explained the proposed use as a school with dormitories and tried to address the resident's concerns.

Mr. Ross stressed his concerns again with a school with dormitories in a residential area that will be in the middle of their neighborhood.

Ms. Cook expressed her concerns on testimony given and that a decision was already made.

Val Frick resides on Hamburg avenue, Ms. Frick asked the Board to please fight this proposed school with dormitories and stick up for the residents who are not in favor of this proposed use.

Stephanie Kuehner expressed her concerns on this matter and wants the Board to stand by their original decision.

Chairman Peterson expressed his concerns on this matter and stressed the importance of the Board being able to put conditions on this application. The applicant is willing to invest 2 million dollars into this project to improve the school and is agreeing to the conditions of the board and the Board Professionals.

Mr. Ross noted this is high density housing and the area is not zoned for this type of school.

Mr. McGowan discussed inherently beneficial uses.

Mr. McGowan discussed the Board must evaluate the negative consequences of this proposed use versus other uses that are permitted in this zone. Other uses permitted in this zone are places of worship, schools, nursing homes or convalescent centers. There is a use in this zone that would allow overnight stays in the form of nursing homes or convalescent centers. There is a use in this

zone that allows a place of worship, there is a use in this zone that would allow a school, there is a use in this zone that will allow a nursing home or convalescent center. The board has to weigh the detriments, Mr. McGowan discussed the 4-part test in more detail.

Mrs. Kuehner expressed her concerns and the detriment she feels will be brought to her neighborhood if this application passes.

Residents want Board Members to stay with their original decision and do not want the board to reconsider.

Mr. Hare expressed his concerns on this matter. Mr. Hare noted the Board has the right to reconsider their vote on this application.

Mr. Peterson noted no one persuaded the Boards decision to reconsider. The board took it upon themselves that they would look at this again to make sure they are confident with their decision.

Mr. Kuehner expressed his concerns on the board reconsidering their decision and that the Board should take into consideration how the residents feel about this proposed use.

Mr. Warker expressed his concerns on the application and discussed the conditions that would be placed on this applicant and that it would be a low impact on the neighborhood. Mr. Warker discussed other conditions that would be placed on the applicant and why he voted yes, the first time. Mr. Warker noted he does not live in this neighborhood and feels once a decision is made by the board it is over.

Rabbi Zeb Spira assured the Board that they would be good neighbors.

Mr. Lario addressed the Board and reviewed some of the conditions that would be placed on the applicant.

Mr. Kuehner suggested building a school from the ground up in another location.

Ms. Cook suggested to just have a school with no dormitories.

Rabbi Zeb Spira explained having a school with dormitories insures students will always be supervised.

Mr. Ross spoke about developing this area with single family homes to bring in tax revenue to the City.

Mr. Mullineaux expressed his concerns and noted the neighborhood does not want this proposed school and that is what he based his decision on.

Motion to close the Public portion was made by Mr. Garth, seconded by Mr. Warker and carried.

Board Comments: none

Mr. Manos asked for a motion for reconsideration of a D Use Variance to allow the proposed Yeshiva with the following conditions; no students driving, not to exceed 90 students, 6 staff members at one time at the building, and utilizing the existing building.

Motion was made by Mr. Hare, seconded by Mr. Dixon

Roll Call: Mr. Peterson yes, Mr. Warker no (Mr. Warker voted yes, the first time but changed his vote to no because of the neighbor's concerns), Mr. Michael McKenna no, Mr. Dixon yes, Mr. Hare yes, Mr. Garth no, Mr. Mullineaux no (Voted no the first time and will vote no again).

The application was not approved there were three (3) yes votes and four (4) no votes.

Old Business: The Professionals were asked to leave the room. Board members discussed professionals for next year for the Land Use Board.

After discussion and deliberation, the Board agreed to recommend to the Governing body the same Professionals as 2021. Legal Counsel Leo Manos, Esquire as Land Use Board Solicitor, Land Use Board Planner/Engineer, Remington and Vernick.

Public comments: none

Questions and comments from the Board: none

Adjournment: Upon Motion made by Mr. Warker, seconded by Mr. McKenna and carried the meeting was adjourned

Mr. Kuehner thanked the Board

Respectfully Submitted,
Donna Heffley
Land Use Board Secretary