

**MINUTES OF THE ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
BOROUGH OF ORADELL
HELD IN THE TOWN HALL
MARCH 18, 2019**

Chairman Michelman called the Zoning Board of Adjustment meeting to order at 7:30 p.m. Notice of this meeting was published in the official newspapers, prominently posted in the Borough Hall, and filed with the clerk in accordance with the requirements of the Open Public Meetings Act.

ROLL CALL:

Present: Mr. Michelman, Mrs. McGrinder, Mr. McHale, Mrs. Cobb, Mr. Degheri, Mr. Santaniello

Absent: Mr. Beslow, Mr. Barrows,

Also Present: Mr. Regan, Esq.
Mr. Atkinson, Board Engineer
Mr. Lydon, Board Planner
Mr. Depken, Zoning Administrator

Correspondence

Oradell Planning Board Minutes January 8, 2019 and February 5, 2019. *

2-8-19 Letter to Oradell Zoning Board of Adjustment from Stonefield Engineering, 92 Park Ave., Rutherford, NJ re proposed Beth El Synagogue, Block 807, Lot 3, 660 Kinderkamack Rd., Oradell, NJ.

2-18-19 Email from Joseph Gothelf, Chief, Oradell Fire Dept., to Matthew Sekler and Stephen Depken re 660 Kinderkamack Rd., Proposed Synagogue, fire truck requirements.

2-19-19 Letter from David Atkinson, P.E., P.P., C.M.E., for the Borough Engineer to Stephen A. Depken, re Engineering Review, 660 Kinderkamack Rd., Block 807, Lot 3.

2-19-19 Received 2-19-19 copy of letter from The Ives Architectural Studio, 14-25 Plaza Rd., Fair Lawn, NJ to Holly Schepisi, Huntington Bailey, 373 Kinderkamack Rd., Westwood, NJ re Temple Beth El, 660 Kinderkamack Rd., Block 807, Lot 3, three new drawings.

2-19-19 Email from Holly T. Schepisi, Esq., re Lease between Kamack Realty and Kol Dorot (Temple Beth-El)

New Jersey Planning Officials 2019 Winter-Spring Programs – Mandatory Training Programs & Experienced Member Sessions

3-8-19 Memorandum from Steve Lydon, P.P., AICP, re Temple Beth of Northern Valley, Conditional Use Variance and Site Plan Applications.

Approval of Minutes – July 16, 2018 and January 23, 2019

Mr. Michelman stated that the board had just received these minutes but he had already reviewed them and made some corrections. He explained that the board is keeping current with the

minutes and shrinking the amount remaining from the prior year. He called for a motion from the board.

Mrs. Cobb made a motion to approve the minutes, and Mrs. McGrinder seconded the motion.

ROLL CALL:
All in Favor

Mr. Depken, Mr. Atkinson and Mr. Lydon were all sworn in by Mr. Regan.

Applications

CAL. #838-18	JOHN & JEAN TENAGLIA	NEW APPLICATION
Block 1404, Lot 6	37 Beechwood Road	

Mr. Regan stated that the notices are in order and the board has jurisdiction. The property owner, John Tenaglia and the architect for the project, Roger Schlicht were sworn in by Mr. Regan. Mr. Michelman accepted the architect's qualifications as an expert witness. Mr. Schlicht stated that the property is an interior lot. He detailed the existing conditions and the existing non-conformity for the board. He stated that there are two existing non-conforming conditions on the property. He explained that the existing attached garage is too close to the side yard property line and the overall combined side yard setback is deficient. He stated that there are three areas of proposed construction: on the first floor there is a proposed covered porch addition; on the back of the garage there is a proposed mud room addition along with a laundry room and on the second floor there is a proposed master bedroom suite addition. He explained that the family has eight members and presently there are four bedrooms on the second floor. He stated that they are proposing to expand over the garage and the new mudroom. He explained that this project would result in a five-bedroom house. He detailed the design of the hip roof and gables for the board members. He stated that the proposed covered porch would add dimension and depth to the dwelling. He explained that they are seeking a variance for the continuation of the existing non-conformity. He stated that they are not getting any closer to the side yard setback and they are not making the condition worse. He explained that the hardship is the pre-existing location of the existing dwelling and this application would be a C1 variance. He stated that all other aspects of zoning are in compliance. He explained that the neighbor to the west has a sufficient setback so there would be light, space and air between the two properties. He stated that there are mature evergreens along the property line which would be a buffer. Mr. Michelman asked the board professionals if they had any questions. He asked if any of the board members had any questions. He stated that he would like to note that the mention of the size of the family has no relevance to the MLUL. He explained that a hardship is based upon a hardship with the land and not the needs of the current occupant. He stated that a variance is with the property.

Mr. Michelman opened the meeting to the public, not seeing a show of hands, closed to the public.

Mr. Michelman asked the board members for comments on the application. Mr. Degheri stated that the proposed project is an aesthetic improvement and an improvement to the dwelling. Mr. McHale agreed and stated that the project is an improvement. He explained that the project is only a continuation of a pre-existing non-conformance and he has no objection. Mrs. McGrinder stated that she has no objection to the project. Mrs. Cobb stated that she likes the design elements and it is consistent with some of the homes in the area. She explained that she does not foresee any issues with the project. Mr. Santaniello stated that he feels this project is a nice upgrade and the application is only a continuation of the pre-existing non-conformity. Mr. Michelman stated that he agrees with the board member's comments and on a side note he would mention again that he believes an extension of a pre-existing non-conformity should not require the board's approval.

Mr. McHale made a motion to approve, and Mrs. McGrinder seconded the motion.

ROLL CALL:

Ayes: Santaniello, Degheri, McHale, McGrinder, Cobb, Michelman

CAL. #837-18 TEMPLE BETH EL OF NORTHERN VALLEY CONTINUED

Block 807, Lot 3

660 Kinderkamack Rd.

Mrs. Cobb stated that she would recuse herself from this application. Mr. Michelman explained that as a result of some board member absences and a recusal, they are down to five members on the board for this hearing. He stated that since the temple's variance would require five affirmative votes, when they get to that point in the hearing, he would give the applicant the opportunity of holding off on the board's vote until the following meeting if they so choose. The attorney for the application, Ms. Schepisi stated that they would like to get to a voting point this evening and would provide all the testimony the board would need to hear. She explained that the applicant is seeking a use variance along with several bulk variances for a synagogue, preschool and a religious studies program. She stated that since the last meeting they had submitted: revised site plans marked as A9; traffic impact study supplemental report marked as A10; revised stormwater management statement marked as A11; proposed playground drawings marked as A12; parking lease agreement with 700 Kinderkamack Road marked as A13; architectural drawing showing downlights, rooftop units and signage marked as A14; architectural drawing lower level plan coordinated site information marked as A15 and architectural drawing seating plan / exit capacity marked as A16. Mr. Regan explained that the revised board engineering review letter should be marked as B1 and the revised board planning review letter marked as B2. Ms. Schepisi stated that their revised architect's drawings cover any outstanding items listed in the board engineer's revised review letter. She explained that their planning testimony tonight would provide for further proofs.

The project engineer, Mr. Seckler remains under oath from the previous meeting and presented into evidence a colorized site plan marked as A17. He stated that they revised the site plan to include a sidewalk along the frontage of the property and a rear crosswalk with ADA ramps. He explained that the county is reviewing this application. He stated that they modified the circulation of the parking lot to a one-way circulation pattern. He explained that they found the existing stormwater drain pipe at the rear of the site. He stated that the pipe is not well-

maintained and it appears to be undersized so they will be increasing the size of the underground pipe at the rear of the property. He explained that currently the pipe outflows onto the railroad property and they will reroute this onto their own property. He stated that they are expecting the run off to be less than what is existing. He explained that they are agreeable to the Borough requesting a 2 to 3 month after study for the site. He detailed the modification adjustments that could be made to the exterior LED lighting. He stated that they misidentified a side yard variance which was picked up by the board planner and they included this now with their variances. He explained that they would be agreeable to replace the existing curbing that is in disrepair instead of a constructing around it. He stated that if the trees in the rear of the property are damaged, they are agreeable to replacing them if needed. He explained that they received an email from the Oradell Fire Department in regards to their access and circulation of the site. He stated that the painted island in the south area could be converted to landscaping because they do not expect the Fire Department to circulate this area. He explained that they would work with the board planner in regards to the landscaping plantings. He stated that for identification purposes, they added signage above the rear doors indicating the temple entrance and the nursery school entrance. He explained that they received a memo from the Chief of the Oradell Police Department and marked as B3. He stated that the Police Chief expressed concerns for the left turn out onto Kinderkamack Road. He explained that they have no issues with any type of turn restrictions that are placed on the property. He stated that the County is currently reviewing their application and would make a determination on this. Mr. Michelman explained that upon an approval this would be a condition. Mr. Regan stated that the County would ultimately make a determination on this matter. Mr. Seckler explained that the email from the Police Chief also requested information for security measures for the building. Ms. Schepisi stated that they would be providing additional testimony regarding steps taken pursuant to security. Mr. Seckler explained that they had received an email from the Chief of the Oradell Fire Department and marked this as B4. He stated that the email confirmed that it takes the department 95 feet to make a 180° turn. He explained that they confirmed that the Fire Department could enter the site to the rear of the property and back up in the parking area in order to leave the site. He stated that they are not expecting the fire truck to circulate the parking area. He detailed the pedestrian crosswalk and sidewalks within the rear parking area. He stated that they could add some bollards near the flush curbing near the nursery school area entrance. He explained that currently they are proposing a flush sidewalk that crosses the driveway which goes to the synagogue portion of the building but a secondary option they would offer would be to change the concrete raised area to flush and install bollards around it to protect pedestrians in order to create another crosswalk for the entrance to the nursery school. He stated that currently they proposed a raised sidewalk to a flushed area towards the synagogue entrance but a second option is to make it flush everywhere to both entrances. He explained that they could go with either option and it would be the board's professional's discretion. He stated that they have not submitted their soil moving application yet but they are under 100 yd.³ of soil so they would not require board approval. Mr. Atkinson explained that they just wanted to confirm they were under the 100 yd.³ so they would not have to come back before the board to seek another approval. Mr. Seckler stated that the only soil they are moving is for the footings for the overhang area. He explained that they are trying to provide as much parking as they can on the site. He stated that the larger drive aisles are more advantageous to pedestrian safety. Mr. Michelman asked if the board professionals had any questions. Mr. Atkinson asked what would the distance difference be if they added in the second crosswalk. Mr. Seckler stated that it is less than 20 feet from the synagogue entrance to

the nursery school entrance. He detailed the ADA accessibility of the crosswalk area and what would change if they added the second crosswalk. Mr. Lydon stated that he had suggested the one-way circulation flow being in the other direction and detailed his reasoning on this suggested flow of circulation in the parking lot. Mr. Seckler and Mr. Lydon discussed the options of the flow of circulation through the parking lot. Mr. Lydon discussed his concerns for the 90° parking stalls on a one-way aisle. Mr. Seckler stated that they are trying to maximize the amount of spaces on their site and when you use angled parking spaces you lose some spots within a parking lot. He explained that with angled parking you typically lose spaces in a row in order to gain another row of parking spaces but for this site it is not feasible for that. He stated that if they narrow the aisle and angle the spaces, they would lose a handful of parking spaces in the lot. He explained that they are adding directional arrows and signage to help the flow of the circulation in the parking lot. Mr. Lydon asked how many parking stalls are being proposed. Mr. Seckler stated that there are 57 parking stalls. Ms. Schepisi explained that the applicant is seeking a variance for 52 spots because some of the parking spaces might need to be removed for security purposes. Mr. Lydon asked about sidewalk installation to the upper entrance of the building. Mr. Seckler stated that they could provide a sidewalk to this entrance but could not guarantee that it would be ADA compliant due to the grading of that area. Mr. Michelman asked if any of the board members had any questions. Mr. Degheri expresses his concerns with the travel flow and circulation of the parking lot. He stated that he agreed more with the board planner's comments on the flow of the parking lot. He explained that he could forgo the angle parking as long as people are aware on the flow of the parking lot. He stated that he would like to hear the project engineer's opinion on if the second crosswalk is needed. Mr. Seckler stated that typically pedestrians take the closest path. He discussed his thoughts on the bollards and the crosswalks. Mr. Degheri asked if the project's engineer would suggest the second crosswalk knowing that pedestrians are going to use the shortest distance. Mr. Seckler stated that he would create the second crosswalk going towards the nursery school area with the bollards protecting the pedestrians. Ms. Schepisi offered a third option which she has seen at other day cares, were that parking area would be closed off during the times of the nursery school hours by having a no entry sign posted during particular times. Mr. Degheri stated that he would defer this decision to the board planner. Mr. McHale asked questions regarding vehicular traffic on Kinderkamack Road. He stated that if someone is going south on Kinderkamack Road and wanted to make a left-hand turn into the site where there is a double yellow line, would this be an illegal turn. Mr. Seckler explained that you can turn into private driveways across a double yellow line and this would be a legal turn. He stated that there is nothing that prohibits this movement. Mr. Santaniello asked if going southbound, is Kinderkamack Road two lanes. Mr. Seckler stated that this section of Kinderkamack Road is a single lane. Mr. Michelman asked if they could go over the movement that a fire truck would make on the site. Mr. Seckler detailed on the site plan how a fire truck would turn around on the site to exit the area. Mr. Michelman noted that how they demonstrated this movement is the natural flow of the site which reflects how the board planner had indicated it. Mr. Depken asked if a traffic study had been done around the hour of 2:30 PM. Mr. Seckler stated that they did more of a study during the morning hours because generally most nursery school classes begin together in the morning and their site does not specifically generate a lot of traffic during that 2:30 PM time period. He explained that he did discuss this with the nursery school to see how their dismissals worked.

Mr. Michelman opened the meeting to the public for questions.

Sam Tripsas 327 Maple Avenue was sworn in by Mr. Regan and asked questions regarding the parking. He asked if the upper parking area is existing or if it going to be built new. Mr. Seckler stated that they are proposing six parking spaces in the upper section of the property and these spaces are to be utilized for the upper entrance of the building. Mr. Tripsas asked what the existing use is now for that area. Mr. Seckler stated that the area where they proposed the parking is currently landscaped. Mr. Tripsas asked if they would be removing this landscaping. Mr. Seckler stated that currently the driveway entrance area is a wider pavement area and is wider than two lanes so they would be using some of the extra pavement area to create the six parking spaces. Mr. Tripsas stated that this area is in the front of the building between Kinderkamack Road and the building itself. He asked if it is necessary to have those parking spaces in the front. Mr. Seckler stated that one of the conditions they do not meet is for the parking. He explained that the applicant is trying to meet this requirement as best as they can. He stated that he believes the upper level parking has use to them. Mr. Tripsas explained that his concern was how the upper area was going to look. Mr. Depken asked if those parking spaces would be reserved for anyone. Mr. Seckler stated that he has not heard if they are going to be reserved in anyway. He explained that they could add some land landscaping to screen this area. Mr. Regan stated that if those spaces are going to be reserved then they need to be marked by some type of signage or a notation on the pavement. Mr. Lydon asked about the visibility when exiting the underground parking area on if someone could see vehicles to the left, coming into the site. Mr. Seckler stated that if a person comes up close to the stop sign then yes there is visibility to see oncoming vehicles but if they are not close to the stop sign then the structure above them would block visibility. He explained that they could add an all way stop to this area in order to stop all means of traffic for a better chance of visibility. Mr. Lydon suggested that an all way stop would be a good means of addressing this. Mrs. Schepisi stated that they would do the all way stop in this area of the site to ensure the safety. Mr. Lydon explained that he would be fine with this because even if it is a rolling stop then they are going so slow that vehicles could stop at an emergency quickly. Mrs. Schepisi stated that during the few days the temple would have a heavy flow of traffic, there would be a police officer on site directing traffic in order to address any type of real congestion. Mr. Degheri asked if the all stop could be eliminated if they change the flow of the direction on the site to the right-hand side. Mr. Seckler stated that this would still be needed so an individual could see the flow of vehicles entering the site.

Mr. Michelman closed the meeting to the public.

Mr. Michelman stated that in regards to the discussions for security means, whatever visible safety procedures that are being implemented can be discussed but he would not want the applicant to release any information on safety procedures that are not visible to the public. He explained that in regards to those matters, the board should only receive assurance that the applicant consulted with safety professionals and the Bergen County Prosecutors Office. He stated that he would want to hear assurances that they approved the temple's safety procedures. He explained that if the temple requested any changes to what they approved then the board should hear that the changes were then approved by those entities. He stated that he does not want the board to receive an open discussion on their safety procedures which are not to be shown. Mrs. Schepisi stated that any further recommendations received from their security

professionals would be coordinated with the Chief of Police and the Board Engineer in order to keep them advised of the matter. Mr. Michelman explained that the board would take a short recess. Mr. Michelman reconvened the meeting at 8:48 PM. Mrs. Schepisi stated that during the break, the project engineer and the board planner discussed and have agreed to work with the board planner to change the flow of circulation to the way it was suggested. She explained that they are also looking to add the additional crosswalk with the three bollards for the preschool entrance. Mr. Michelman stated that these changes would require a new site plan submitted. He explained that their project engineer would have to do the revisions quickly in order to get the new revised site plan to the board's professionals for their review based upon an approval of the application.

The temple's representative, Stephen Verp who was previously sworn in stated that since the last meeting they have communicated with the Oradell Fire Department and Police Department in order to schedule a board meeting with them and a walk-through of the property. He explained that this may occur in the early portion of April. He stated that he also discussed this with the Emergency Management Liaison with the Borough. He explained that this is to come up with a plan that integrates the Borough's Police force. He stated that they have consulted with the Bergen County Prosecutor's Office, Jewish Federation and the Anti-Defamation League. He explained that if the application is approved, they would retain security experts which have been recommended by the Federation. He stated that based upon their discussions the security experts would make recommendations and look at what hardening can be done to the facility. He explained that the security experts he has spoken to were recommended by the Jewish Federation and are former operatives of the Israeli Diplomatic Security, Department of Israeli Police and the Israel Defense Force Elite Special Unit. He stated that these are highly qualified individuals to consult on hardening the site. He explained that the recommendations they have considered from the board was the creation of a security plan as a design technology and procedure process with all the employees. He stated that they would take all the recommendations they received and consolidate them into a plan and implement those amongst the employees which are appropriate under the circumstances. He explained that they would certainly share this with whatever authorities are appropriate under the circumstances. He stated that they want to appoint a security manager and a security committee and adapt as necessary as technology changes. He explained that procedures would be done including evacuation and emergency lockdown drills. He stated that they have done this in the past and have coordinated with the local authorities. He explained that this is excellent preparation for everybody. He stated that for the physical security and the hardening of the building, they would continue to work with their experts to come up with construction documents. He explained that they would have electronic surveillance with remote access to whatever electronic security is implemented. He stated that the five parking stalls under the sanctuary are solely handicap spaces. He explained that if the outside consultants deemed that those parking spaces should not exist, then they would gladly remove them. He stated that this is why they had adjusted their parking variance in order to accommodate this. Mr. Michelman explained that if the handicap parking needs to be moved then would they be adding the five handicap spaces into the outside parking. He stated that handicap stalls take up more room than a regular space and asked if they would be losing more spaces than just the five. Mrs. Schepisi stated that they already have handicap parking spaces in the regular parking area. She explained that the five handicap stalls under the building area are only designated handicap if they are able to keep those spaces there. Mr. Michelman confirmed

that they already have the required number of handicap spaces but if they are going to have the parking under the sanctuary area then those spots are going to be designated as handicap. Mr. Michelman asked the board professionals if they had any questions. Mr. Regan stated that in the beginning of the reconvene, it was mentioned that the flow of circulation would be changed and this change would need to be recorded on the record. Mr. Michelman asked if any of the board members had any questions. Mr. McHale asked questions regarding the safety of the overflow parking at the location of 700 Kinderkamack Road. He stated that he knows they have a shuttle plan for this offsite parking but asked if they could also have a leasing agreement with the other adjacent property as well. He asked if there was any possibility that they could enter into an agreement with the adjacent property 680 Kinderkamack Road. Mrs. Schepisi stated that based upon discussions, the owner of that property as of now did not want to enter into an agreement as a result of not being certain themselves of the future plans of their building. Mr. Verp explained that if circumstances change then they would see if they could make an agreement with this property. Mr. McHale asked if during the week would there be a shuttle to the nursery school. Mrs. Schepisi stated no. Mr. McHale explained his concerns for the nursery school with the drop off time. Mrs. Schepisi discussed the traffic study report in regards to the drop off morning hours for the nursery school. Mr. Santaniello stated that they had discussed remote access to the electronic security system and explained that they should not overlook network and cyber security in this matter. Mr. Degheri asked if there was structural construction they would utilize for the underground area. Mrs. Schepisi stated yes if their security experts recommend this. She explained that based upon the feedback they have received, the likelihood of an explosion type scenario in the settings they are in is less likely. She stated that there have been several discussions on ensuring the integrity of all facilities such as this. Mr. Degheri explained that the concern is part of the worship space sits out over underground parking. Mr. Michelman stated that the board should not pursue this matter any further because the applicant has given assurances that they would be consulting with the appropriate safety experts and they are going to follow their recommendations. Mr. Degheri asked where a delivery would come such as for food or any type of supplies. Mrs. Schepisi stated that if there is a concern about the possibility of deliveries being done underneath the building then they could prohibit this. She explained that deliveries could be permitted inside the parking lot area. Mr. Degheri asked how they could control the five handicap spaces being utilized only by handicap. Mrs. Schepisi stated that with respect to security and safety in any instance, they would do whatever they could based upon what their security experts tell them. She explained that they would work with their security experts on whatever proposals would work for them. She stated that nobody in this room wants to jeopardize the safety of a congregant and they are prepared to do whatever they need too in order to ensure the safety of the people in the facility. She explained that they are doing what they could in order to address as many of the concerns. Mr. Regan stated that as for the site plan, if the security experts recommend the five handicap spaces to be eliminated then this matter should be included upon an approval so the applicant would not need to come back before the board. He explained that the board would approve the installation of those five handicap spaces but then would need a report from the security experts reflecting the elimination of those spaces so that the applicant does not need to come back for a formal meeting before the board. Mr. Atkinson asked when deliveries would be made to the site and if they would be made when events are going on. Mr. Verp stated that generally deliveries would not be utilized when the sanctuary is being used or in service.

Mr. Michelman opened the meeting to the public for questions, not seeing a show of hands, closed to the public.

Mr. Regan asked if they could go over for the record the flow of circulation for the parking lot which they had just agreed upon. Mr. Seckler stated that they would be reversing the circulation pattern on the site for the flow of traffic. He explained that the middle aisle would now be southbound; the south aisle would now be eastbound; the east aisle would now be northbound and the north aisle would now be westbound. Mr. Michelman stated that now the site would flow counterclockwise. Mr. Seckler explained that they would be adding the additional crosswalk and bollards near the nursery school entrance. Mrs. Schepisi stated that Mr. Seckler had prepared the planning evaluation report and marked this as A18. Mr. Seckler explained that from a planning perspective, the boards planner's review letter had given a good overview of all the variance the applicant is seeking. Mr. Regan asked if the applicant agreed to the variances listed in the board planner's review letter. Mr. Seckler stated yes. He explained that they are seeking a D3 variance before the board for conditional use. He stated that the use itself would otherwise be permitted except the Borough's Code outlined specific conditions which need to be met. He explained that the project meets all the conditions except for parking. He stated that they are proposing 57 parking space on site but there may be a possibility that a few of the stalls would be removed due to security reasons. He explained that under the Borough Code, they would be required to have 236 parking spaces based upon square footage. He stated that due to the function of the use, not all the square footage would be utilized all at the same time. He explained that he gave testimony on the other house of worship parking standards which would yield less numbers than the Borough's Ordinance. He stated that the offsite parking agreement would satisfy the parking issue for peak days within the temple. He explained that the six parking spaces in the upper level of the property are considered parking spaces within the front yard which would seek an additional variance. He stated that if additional screening in that area was needed, they would be able to provide this. He detailed all the other conditions the project had met. He stated that some clarification is needed for the height restriction since there are two different height measurements listed in different parts of the conditional use code. Mr. Regan explained that 35 feet should govern since this is the standard. Mr. Michelman stated that a few years ago the board had mentioned in their Annual Report to the Governing Body that there was a conflict in the code for the height restriction. He explained that this board would consider 35 feet in height as the standard. Mr. Seckler stated that with case law on conditional uses, it needs to be determined that this site and the deviation of the zone would be without substantial detriment to the public good. He explained that when looking at public good with parking standards, you have to look on if there is a likelihood that the parking is going to be provided in an unsafe manner. He stated that the applicant has provided secure parking in a neighboring facility which would support this site. He explained that the MLUL recognizes Religious Institutions as providing an inherently beneficial use and they are also protected under The Religious Land Use Institutionalized Persons Act of 2000. He stated that when dealing with a religious institution, any type of zoning or land-use criteria should not provide a substantial burden on the religious institution. He explained that they are dealing with a parking variance that they believe the applicant has mitigated. He stated that the board could implement conditions in order to have a lease provided for future parking agreements. Mr. Regan explained that it should be in the conditions that if the lease were ever to expire then the applicant would have to locate another site for a mandatory approval to address this matter. Mr. Michelman

stated that additionally, they would not be able to conduct services which would require this additional parking until they have satisfied this requirement. Mr. Seckler explained that this would be an acceptable condition. He stated that in looking at other religious organizations within the Borough, they seem to pre-date this conditional use requirement. He explained that the other variances before the board are due to a pre-existing non-conformity. He detailed the variances for the board. He stated that when judging specific variance, it is also about looking at what the application brings to the community as a whole. He stated that this application being an inherently beneficial use would provide prayer facilities, a house of worship and a congregation to come together. He explained that these are all positives which outweigh any slight negative criteria. He stated that they are decreasing slightly the impervious coverage and installing a new drainage system with the underground piping. He detailed the signage being proposed on the site for the board. He stated that there would be a sign in the front of the building to delineate the facility and there would be signage in the rear of the property to designate the entrances for the two uses. He explained that this application is promoting an inherently beneficial use and the conditional use standards have been outlined in case law. Mrs. Schepisi stated that there are 57 parking spaces on the site but they gave testimony which a few of the parking spaces may possibly be removed so they are requesting a variance for 52 parking spaces in order to take into account some safety considerations if needed. Mr. Lydon explained that this application has three parts: house of worship; child care center and religious education. He stated that he would agree that the house of worship and the religious education are protected by the federal regulation and are inherently beneficial. He explained that the MLUL was amended several years ago to include child care centers as being identified as an inherently beneficial use. He stated that when the MLUL was amended it designated child care centers in non-residential zones as being a permitted use throughout the State. He explained that despite Oradell's Ordinance, this application would not need a conditional use for the child care center because it is within the B2 zone and is a permitted use under the MLUL. He stated that the house of worship and the religious education are within the same building. He detailed the requirements for a voting approval for this particular application with the variance being sought. Mr. Regan discussed with Mr. Lydon the existing conditions on the site in regards to the variances for the pre-existing nonconformity. Mr. Lydon stated that with this application being an inherently beneficial use, the positive criteria has already been met. He explained that what is important for the board is to see are what changes to the site have been proposed and are they reasonable or within the framework of the Ordinance. He stated that he believes the applicant has provided good testimony to the parking variance. He explained that the testimony on the shuttle service was important because it protects the public safety and welfare. He stated that if this application were approved then this would be one of the conditions he would suggest. He explained that there is no landscaping plan and suggested this would be an appropriate plan for the board to receive. He stated that the applicant indicated the impervious coverage is decreasing and asked if they had counted the playground area as impervious or pervious. He explained that this should probably be considered as impervious. He stated that a variance would be required anyway but they should give the board an accurate count. Mr. Seckler explained that they are removing a shed and saving some of this area and also this would be offset by the installation of a new landscape island. Mr. Lydon stated that because the application is an inherently beneficial use, the applicant's burden is greatly reduced. Mr. Regan explained that he agrees with the testimony of the both planners however in the MLUL definition of inherently beneficial use, religious organizations or not listed but there is case law which provides that houses of worship constitute

a beneficial use. He detailed several court cases in regards to this matter for the board. He stated that if the applicant had not provided the additional offsite parking then this could constitute a consideration for rejection but in actuality the applicant did provide a leasing agreement for offsite parking at 700 Kinderkamack Road. He explained that he believed an acceptable condition to place on the applicant is if the leasing agreement would be lost in the future, the applicant would be required to obtain a substitute facility and while working on this they would be prohibited from holding religious services with large number of attendees who would have required that additional parking. Mr. Depken stated that he agreed with providing a landscaping plan and believed the signage would work. He explained that he does consider the sign on the front yard being a ground sign which the maximum height is 6 feet and believes a variance would be required. Mr. Atkinson stated that he believes the applicant has done a good job at addressing all the comments from the board's professionals. He explained that the applicant is improving the Stormwater management on the site by increasing the drainage pipe. He stated that they are adding additional crosswalks and would be working with the board's professionals for the flow circulation of the site. Mr. Michelman asked if any of the board members had any questions. He stated that at the last meeting, the applicant had discussed three display cases or signs and asked if the applicant had decided on what these three cases would be used for. He explained that he is trying to establish if they are signs and if they would have to adhere to the Borough's sign ordinance. Mr. Lydon stated that the revised architectural plan calls for elevation light boxes which have displays on them. He asked how these displays would function. Mr. Regan stated that the Borough's definition of signs in the ordinance is very general and that it even uses the word display. Mr. Michelman explained that in this case it should be stated that whatever is put inside there would have to adhere to the Borough's sign ordinance. Mr. Lydon stated that additionally the signage in the rear of the building to designate the entrances are so small that they would constitute more of wayfinding versus being a sign. Mr. Depken asked where the displays are located. Mr. Seckler stated that they are on the side of the building going towards the rear of the site. Mr. Depken explained that if they are displaying an item in them then he would not determine this as a sign. Mr. Regan stated that the board could interpret this ordinance anyway they deem. Mr. Michelman explained that he originally had asked what was going to be inside the displays. Mrs. Schepisi stated that it was originally contemplated that the applicant would use these to put up notices of what was going on at the temple. The architect for the project, Mr. Ives explained that when someone goes through the secular world theoretically to the conversation to the religious world, you would go through a transformation of some kind. He stated that some examples in the display boxes would be a menorah or an artwork piece from the children. He explained that in further discussions with the applicant, they indicated this would only be used for religious artifacts or art pieces. Mr. Michelman stated that the board could agree then that those are not a sign as long as there are no notices put inside the display boxes.

Mr. Michelman opened the hearing to the public for any questions, not seeing a show of hands, closed to the public.

Mr. Michelman and Mr. Regan discussed the revised plans being submitted. Mr. Michelman stated that if the applicant were to be approved then the Borough would need the revised site plan and landscaping plan by the end of this week. Mr. Regan explained for them to send a copy of the revised plans to all the board's professionals so they have a summary of all the changes.

Mrs. Schepisi stated that her closing arguments would be brief. She explained that both planners and the board attorney gave testimony to the case law regarding the house of worship. She stated that they had discussed the offsite parking and the security measures to mitigate the conditions of the proposed use. She explained that revisions would be submitted to the site plan along with the landscaping design. She stated that this project would be the only place of worship for the members of the Jewish faith within the Borough. She explained that the relief being sought was primarily due to pre-existing non-conformities. She stated that they would not create any detriment to the surrounding neighbors. She explained that the proposed use is consistent with the Borough's Master Plan. She stated that the parking lease more than accommodates the less than a dozen days, during the year that the temple would have a high-volume congregation. She explained that the site would not cause any detriment to the area. She confirmed the condition placed upon the application on if they were to lose their parking agreement. She stated that the addition on the building would be in the rear of the property so there would not be any impact visually on the surrounding neighbors. She cited several federal lawsuits in the State of New Jersey that are in regards to religious organizations. She stated that the D variance can be granted without any substantial detriment to the community. Mr. Michelman asked for the board members to make comments on the application. Mr. Santaniello stated that the applicant had done a very good job taking an office building and converting it into an inherently beneficial use without any variances beyond what is existing. He stated that he was pleasantly surprised that he did not hear of any issues with traffic for Kinderkamack Road and the application was well done. Mrs. McGrinder stated that she understands the residents do not really notice this building. She explained that she wished the extra parking would be closer but hopefully in the future they would be able to get that. Mr. McHale stated that his concern was with the parking and traffic. He explained that he thinks it is a tight space with the drop off in the mornings. He states that he hopes they could have gotten a parking agreement with the building next-door but he understands the circumstances and is glad that an attempt was made. He explained that overall it is a good plan. Mr. Degheri stated that he has driven past this building thousands of times and thought the building was attractive. He explained that the building seems like it was underutilized. He stated that his concerns are for safety. He explained that this is a very worthy and admirable use for the property. Mr. Michelman stated that the board has discussed the conditions on the application if it were to be approved. He stated that based on State and Federal Law, the application is approvable unless the board found something that was so substantially negative. He explained that the one substantial negative item for this application was that of the parking but this has been overcome. He stated that subject to the conditions the board discussed, this application would require an approval of five affirmative votes. He asked the applicant's attorney if she would like the board to proceed with a vote. Mrs. Schepisi stated yes.

Mr. Michelman made a motion to approve with conditions placed along with site plan and landscaping plan approval, and Mrs. McGrinder seconded the motion.

ROLL CALL:

Ayes: Santaniello, Degheri, McHale, McGrinder, Michelman

Resolutions

None

Old Business

None

New Business

Mr. Michelman stated that the board has one member who has not taken the certification class yet. He explained that this member must take the class within 18 months of being sworn in so he has until July 2019 to complete the course. Mr. Degheri asked about the financial disclosures. Mr. Michelman stated that that the Borough is waiting for the State to contact them and then the Borough would email out the information to all the members of the board. Mr. Depken explained that if any of the board members would like to take the training course to let him know and he would sign them up.

Mr. Michelman opened the meeting to the public for any matters, not seeing a show of hands, closed the meeting to the public.

The meeting was adjourned at 10:11 p.m.

Secretary