

**BASS RIVER TOWNSHIP
PLANNING BOARD**

MINUTES - MARCH 20, 2024 – 7:00 P.M.

CALL TO ORDER AND FLAG SALUTE

The meeting was called to order by Chair Ruffo at 7:00 p.m., followed by the flag salute.

OPEN PUBLIC MEETING ACT - “SUNSHINE LAW”

Chair Ruffo read the Open Public Meetings Act Statement into the record.

**GUIDELINES FOR PUBLIC COMMENT FOR AN
EFFECTIVE AND EFFICIENT MEETING - RESOLUTION 2024-7**

- Public comment guidelines have been established for development hearings, including time limits, and addressing remarks to the chair.
- Emphasizes the importance of proper decorum during public hearings, including respectful language and no personal attacks or derogatory speech.
- The board has the right to stop a meeting and ask a disruptive member of the public to leave if they fail to follow guidelines for conduct.
- There is a three-minute time limit for the opportunity to make a public comment.
- There is a sign in sheet to keep track of those who want to speak, to provide their name before speaking to avoid confusion and chaos and for who is speaking and to ensure their comments are recorded accurately.
- The podium is to be used to keep things organized and ensure everyone's comment is heard.

ROLL CALL

BOARD	PRESENT	ABSENT
1. Deborah Buzby-Cope		X
2. Nicholas Capriglione		X
3. Cindy Ann Ruffo	X	
4. Abigail C. Spagnola		X
5. Robert Neuweiler	X	
6. Richard Steele	X	
7. Mary Delois	X	
8. Winfield G. Allen. Jr.	X	
9. Bonnie J. Adams	X	
10. Carrie Crowley	X	

Since the development application involves a “D Variance,” the Commissioners on the Joint Land Use Board were not statutory eligible to participate in the application. Accordingly, they did not appear at the public hearing on the Maple River, LLC development application.

ALSO IN ATTENDANCE

Planning Board Attorney Christopher J. Norman, Esquire - The Platt Law Group
Planning Board Engineer Frank Little, C.M.E., Owen, Little & Associates, Inc.
Planning Board Secretary Natalie Lewis

RESOLUTIONS FOR MEMORIZATION

None.

MINUTES FOR APPROVAL

Approved Minutes for: March 6, 2024 - 6:00 p.m. Special Meeting

Moved by: Delois Second by: Steele
Ayes: Ruffo, Steele, Delois, Crowley
Abstained: Neuweiler, Allen, Adams
Absent: Spagnola
Motion: Unanimously carried.

BUSINESS

Maple River LLC PB Application: 2023-4
11 N. Maple Ave - Block 56, Lot 36 and 37 Renovation

VARIANCE FOR RELIGIOUS SCHOOL EXPANSION

Frank J. Little, Jr., P.E., P.P., C.M.E. of Owen, Little & Associates, Inc., Township Planning Board Planner and Engineer was sworn in.

Donna M. Jennings, Esquire of Wilentz, Goldman & Spitzer, P.A. who represents and appearing with the Applicant, presented testimony in support of the Application, and was also sworn in.

Eli Blech, of Maple River, LLC, the Applicant was sworn in and presented testimony in support of the Application.

- Yeshiva is a traditional Jewish educational institution focused on the study of Rabbinic literature primarily the Talmud and Halacha, while Torah and Jewish philosophy are studied for male students, aged 18 to 21.
- Hours: Monday through Friday, approximately 7:30 a.m. to 10:00 p.m.
- Total 42 persons. 35 full time students living in dorms with seven daytime students; three staff members.
- Security and Supervision: Cameras and a Robust Operating System inherited from the school.
- No students would drive to the school. No parking on site for students.
- Deliveries: Daily food deliveries to the site will be from an off-site catering company and other deliveries will be from other professional delivery companies.
- The Yeshiva will be open all year around for the students who attend; with holidays. There is no intent to be used as a holiday camp.

Yehuda Back, P.E., of Newlines Land Consultants LLC, was sworn in and presented testimony in support of the Application.

- Described the site as a two-story elementary school building with related improvements, including parking and outdoor recreation areas.
- The existing non-conforming conditions and required variances and explains that the proposal includes the expansion of preexisting non-conforming school use.
- Proposing to renovate approximately 4700 square feet for dormitory use.
- The Ordinance with respect to minimum side yard setback; 18.64 feet is proposed for Lot 36; and 20 feet is required.
- There are two driveways on the site. No access on French's Lane.
- The requirement is 27/28 spaces. 24 were proposed, however, after restriping there will be 30 parking spaces.
- Deliveries: A loading area will not be needed. It is not high-level loading and unloading.
- Solid Waste: The applicant is responsible for the solid waste.
- Landscaping: Existing lighting to remain; the landscaping to remain there is a landscaping buffer on the north side of the site.
- Utilities: The utilities are sufficient.
- Well and Septic: Maple River, LLC obtained a letter from the Burlington County Health Department certifying that the septic can manage the proposed use. Also, Maple River LLC obtained a letter from the Pinelands Commission that it is necessary that the criteria are met regarding water quality. Maple River LLC believes they can meet those criteria.
- Maple River, LLC can comply with and will comply with all recommendations from Frank Little, Planning Board Engineer's letter dated March 13, 2024, regarding the entrance curbing and aprons. All other concerns raised in that letter have been and will be addressed.
- It was noted that the application was in error and listed "public water." Mr. Back stated that it is corrected now.
- The property is empty. It is not abandoned.

Mr. Little – Planning Board Engineer:

- The Pinelands Commission comments on the Certificate of Filing concerning the septic dilution standards, and, mentioned not using the second floor of the existing building with the exception for storage only.
- It was confirmed by Maple River LLC that they would provide the final septic dilution calculations and will be in use on the second floor for storage use only to ensure that they will follow that condition.
- It is confirmed that sufficient handicapped parking and ample parking spaces will be provided.

Shimon Greenbaum RA, NCARB, AIA, Managing Principal at Rise Architecture, NJ was sworn in and presented testimony in support of the Application.

- There is an existing security structure which will remain administrative.
- There is a large assembly space for which there is no change in use.
- There will be classroom areas.
- There is a gym/cafeteria which would remain a gym/cafeteria.
- The area that is changing is an area that is a separate structure that has been added to the building that had classrooms which will be modified.
- The conversion of the 400 square foot into 11 dorm rooms/varying between three to five bedrooms along with adequate showering facilities and bathroom facilities that are code compliant as well as the required means of egress.
- There is minimal existing fire suppression with the building/using a tank system.

Mr. Norman – Planning Board Attorney:

- Issues such as showers and the interior of the building are Construction Code requirements. The Planning Board does not have authority over those types of issues. Planning Board oversees the land use.
- If there were an increase by one student, Maple River LLC would appear before the Planning Board to seek permission with an amended use variance.
- This application is seeking approval for a total of 42 persons. 35 full time students living in dorms with seven daytime students; three staff members.

Andrew W. Janiw, PP, AICP of Beacon Planning and Consulting Services, LLC, was sworn in and presented testimony in support of the Application.

- Confirmed he reviewed the development of this application and all supporting materials; reviewed all versions of Planning Board Engineer's report; reviewed the Township Ordinances; reviewed the Master Plan.
- The property is located along N. Maple Avenue, which is in the New Gretna Village, which is the residential district. This district permits single family dwellings; general agricultural uses and municipal uses.
- In the past, the building was operated as an elementary school; approximately 183 students and 30 staff members occupied it.
- This application is to convert a portion of the building for dormitory use in conjunction with a private religious school use.
- The attendees of the school will be young men of 18 years old to early 20s.
- The students will be involved in an immersive religious program which does require on site residency.
- Elementary school is no longer permitted for district or municipal uses.
- The application seeks the expansion of a preexisting non-conforming school.
- There are no proposed changes to the building, no proposed changes to the exterior of the building and no configuration of the building.
- The only modifications that are proposed are some lines striping to the parking lot to provide parking spaces which are required for this use. All other changes will happen internally within the building.

Mr. Norman – Planning Board Attorney:

- Definition: D2 Variance - permit expansions of lawfully created pre-existing non-conforming uses pursuant to N.J.S.A. 40:55D-70d(2).
- The building originally was a public school. The change of use is to a private boarding school.

Andrew W. Janiw further explained:

- There is no distinction between its function as a school. There is no distinction under Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
- It is not a change in use. It will continue to be an educational facility with a 35-bed dormitory; which is an inherently beneficial use.
- The recognition of dormitories as an accessory to an inherently beneficial use as being widely accepted within the realm of school use.
- The major structure will remain the same.
- The second floor will be used for the sole purpose of storage.
- The dormitory will have 11 rooms with three to five beds each.
- There will be sufficient bathing and toilet facilities along with a lounge.
- Food deliveries will be delivered fresh daily.
- There will be storage of non-perishable goods for breakfast and snacks.
- This is a religious institution and is intended to create goodwill amongst the community.
- The use of the institution meets the criteria of an inherently beneficial use, as it provides a common benefit to the community and promotes overall welfare.
- Seminary is an educational facility with on-site residency.
- Such facilities are uncommon to have outside influences.
- Visitation by family members is discouraged as the students are immersed in their studies, the intent here is to isolate and to concentrate.
- The Yeshiva is a post high school education, which is like a university.
- The engineer has been in contact with Pinelands Commission as well as the health department to determine what testing and operations are necessary for the facility size of the system is appropriate for the population that is proposed.
- There will be inspections and ongoing testing to ensure it meets all the regulatory criteria.

Mr. Norman – Planning Board Attorney and Mr. Little – Planning Board Engineer:

- Ordinance 19 20.190 requires inspections currently every three years.
- The direct testimony of the applicant is there will be inspections every year, which was outlined in Mr. Little's review letter.
- It was determined that the application was complete.

PUBLIC COMMENT

Motion to open public comment.

Moved by: Neuweiler Second by: Adams

Motion: Unanimously carried.

Susan D. Was sworn in by Mr. Norman.

- Expresses concerns about the environmental impact of the school's septic system and questions financial sustainability.
- Concerned that the population of the school could grow unbeknownst to everybody.
 - Mr. Norman explained zoning enforcement. If there is a breach and there is a violation, the matter can be taken to Municipal Court.
 - Mr. Norman explained that the Burlington County Health Department and the Pinelands Commission have authority over the septic system approvals.
 - Mr. Norman clarified that the Planning Board can only consider land use and not code violations.

Mel R. Was sworn in by Mr. Norman.

- Expresses concerns about potential growth of school, environmental impact, and lack of community benefits.
 - Mr. Norman explained that is inherently beneficial for the town, regardless of any religious affiliation.
 - Mr. Norman clarified that the Planning Board can only consider land use.

William V. Was sworn in by Mr. Norman.

- Disputed inherently beneficial.
- It was stated that most of the student's time would be spent developing their studies.
 - Mr. Norman explained that is inherently beneficial for the town, regardless of any religious affiliation.

Carl S. Was sworn in by Mr. Norman.

- Thanked the Planning Board Members for volunteering.
- Needed clarification of the school being nonprofit.
 - Mr. Norman clarified that the Planning Board can only consider land use.

Joshua C. Was sworn in by Mr. Norman.

- Concerns regarding the well.
 - Mr. Norman explained that the Burlington County Health Department and the Pinelands Commission have authority over the septic system approvals.
- Expresses concerns about the safety of 35 young men living in dormitories on school property, citing potential for ill choices and wandering on the streets.
 - It was clarified that the students are not joining a fraternity, but rather are being sent to the school and will be subject to a code of conduct.

David D. Was sworn in by Mr. Norman.

- Expressed concerns regarding the septic.

Joann F. Was sworn in by Mr. Norman.

- Questioned the purchase price of the property.
 - Mr. Norman clarified that the Planning Board can only consider land use.

Stacy T. Was sworn in by Mr. Norman.

- Asked how often the students rotate during their studies.
- Asked about graduation ceremony and if family would attend because she has issues with parking.
- Asked if they are conforming to the septic.
- Is not in favor of the application; there is no lighting, etc...
 - Mr. Blech responded that the rotation is every three years and then the students spend time in Israel.
 - Chair Ruffo made it clear that the Planning Board makes decisions based on the law; and if the applicant meets the criteria, the members vote accordingly.
 - Mr. Norman clarified that it would only be for 30 students, and it would be no different than a public-school having graduations.
 - Mr. Norman explained the applicant is not proposing improvements.
 - Mr. Norman/Mr. Little explained that the Burlington County Health Department and the Pinelands Commission have authority over the septic system approvals.

Bobby M. Was sworn in by Mr. Norman.

- Question directed to Mr. Blech - asked if Mr. Blech said the applicant would help the convenience store stay open?
 - Mr. Blech responded yes, with a recommendation to carry kosher food.

Tom T. Was sworn in by Mr. Norman.

- Asked if there would be any added expense for the town. Concerned about added expenses.
 - Mr. Norman clarified that the Planning Board can only consider land use.

Pamela M. Was sworn in by Mr. Norman.

- Asked for clarification of trash control and solid waste. That the applicant would not be using the waste transfer station.
 - Chair Ruffo clarified that the applicant would be utilizing a private outside vendor for waste removal.

James A. Was sworn in by Mr. Norman.

- Stated that he believes this is a business because the applicant is charging tuition.
- Concerns regarding the number of persons and parking spaces.
- Concerns regarding the septic.
 - Mr. Norman clarified that the applicant is a private school and private schools charge tuition.
 - Chair Ruffo clarified: Total 42 persons. 35 full time students living in dorms with seven daytime students; three staff members.
 - Mr. Little clarified that the application is for one or two ADA parking spaces/re-striping, including the 30 parking spaces.
 - Mr. Norman clarified that the Planning Board can only consider land use.
 - Mr. Norman/Mr. Little explained that the Burlington County Health Department and the Pinelands Commission have authority over the septic system approvals.

Sandra V. Was sworn in by Mr. Norman.

- Asked the lot size. Building size.
 - Chair Ruffo - 4.5 acres.
 - Mr. Blech - 23,000 square feet.

Scott S. Was sworn in by Mr. Norman.

- Asked about the benefit and the septic.
 - Mr. Norman/Mr. Little explained that the Burlington County Health Department and the Pinelands Commission have authority over the septic system approvals.

Philip Naylor Was sworn in by Mr. Norman.

- Asked if township allowed multi-family homes and how was this application different.
 - Chair Ruffo explained this application is for a dorm versus a multi-family home.

PUBLIC COMMENT

Motion to close public comment.

Moved by: Adams Second by: Allen

Motion: Unanimously carried.

- It was explained that the Burlington County Health Department and the Pinelands Commission have authority over the septic system approvals.
 - The Bass River Township Planning Board Members ensure those approvals have been obtained.
 - A-1 Application Form, dated June 30, 2023;
 - A-2 Site Plan, 110 North Maple Avenue, Block 56, Lots 36 & 37, prepared by Glenn D. Lines, P.E. and P.P. of Newlines Land Consultants, LLC, dated 3/7/24, consisting of one sheet;
 - A-3 Application Rider, prepared by Applicant, undated and consisting of two (2) pages;
 - A-4 New Jersey Pinelands Certificate of Filing; dated January 5, 2024, consisting of four (4) pages;
 - A-5 Legal Notice, dated March 12, 2024;
 - A-6 Schematic Floor Plan, Depicting Renovation Area, marked as Exhibit “A-1” at the public hearing.
 - A-7 Report of the Bass River Land Use Board Engineer, Owen Little & Associates, dated March 13, 2024, consisting of seven (7) pages; and
1. Applicant requests Use Variance Approval, pursuant to *N.J.S.A. 40:55D-70(d)(1)*, and Preliminary and Final Major Site Plan Approval to permit the renovation of a former public elementary school to a private religious boarding school with thirty-eight (38) bed dormitory with shower, bathroom and lounge areas, accompanied by use restrictions of thirty-five (35) full-time students, seven (7) day-time students, two (2) rabbi’s and one (1) maintenance person and no driving privileges on its 4.07-acre parcel, located at 11 North Maple Avenue. The subject property is located between French’s Land and North Maple Avenue and adjacent to the New Gretna Volunteer Fire House in the VR (Village Residential) Zoning District. The subject property is currently developed with a 2-story public elementary school building with access drives, off-street parking, circulation aisles and a variety of other amenities. The VR Zoning District permits single-family dwellings and municipal uses. Educational uses are a permitted use in the Rural Development, Forest and Village Commercial Zones, thus use variance approval is required.
 2. Applicant represented at the outset of the public hearing that the proposed Yeshiva is a private educational facility devoted to religious instruction for students, post high school, and its operation would be akin to a seminary or monastery. Male students, ages 18-21, would receive religious scholarly training for 3-4 years before relocating to Israel. Hours of operation for the Yeshiva would be from 7:30 AM to 10 PM from Sunday to Friday. No students would be permitted to have an automobile on the school premises. The seven (7) day-time students would be driven by a small van daily to/from the Yeshiva. Deliveries would be made to the school by box trucks for off-site catering and laundry service. Security cameras operated at the former elementary school would be utilized to provide security for the Yeshiva.
 3. Applicant’s Engineer, Yehuda Back, P.E., testified that the former public elementary school has been vacant for two (2) years and had a peak occupancy of 183 students with

4. 30 teaching/staff members on or about 1981. Applicant would utilize the same driveway access on North Maple Avenue. The parking lot would be restriped to provide thirty (30) conforming parking stalls, including two (2) ADA spaces. No loading area is proposed as the deliveries to/from the site would be minimal. Applicant would provide private trash disposal service. Lighting and landscaping would remain the same. Mr. Back testified that the existing septic system would meet Burlington County Health Department standards and there will be no increase in nitrate dilution from the change of use from a public elementary school to a private boarding school to trigger application of the current New Jersey Pinelands Commission standards (i.e., nitrate dilution increases beyond the existing 7.5 parts per million). Mr. Back testified that Applicant can meet all the requirements of the Land Use Board Engineer's review memo, except as relates to curbing and sidewalk for which improvements are not necessary. Mr. Back testified that the second-story of the school building would be utilized for storage purposes only. Applicant further agreed to modify and resubmit its Applicant Rider (Exhibit A-3) to eliminate reference to any potential for the Yeshiva expanding to 149 students and 25 staff members in the future. Applicant conceded on the record several times that its use variance application and legal notice only requests for use approval for a school having 35 full-time students, 7 day-time students and 3 staff members.
5. Applicant's Architect, Mr. Greenbaum, testified that for the two-floor section of the building, the upper floor would be used for storage purposes only and the ground floor would be utilized for administrative offices. Students would also use the existing gym and cafeteria. Approximately 4,700 square feet of classroom space would be converted to eleven (11) dorm rooms with 3-5 beds. There will be one shower installed for every eight (8) students. There is also one mechanical room, highlighted in yellow color on the schematic floor plan.
6. Applicant's Planner, Mr. Janiw, testified that both private schools and religious education facilities, such as proposed by the Yeshiva, have been recognized by the New Jersey courts as an "inherently beneficial" use, thereby satisfying the "positive criteria" for the granting of use variance relief. Mr. Janiw testified that the Village Residential Zone permits municipal facilities and that the proposed Yeshiva advances similar moral purposes of a municipal facility. Mr. Janiw further testified that the purposes of zoning would be advanced by this use, including N.J.S.A. 40:55D-2(a) public health, safety, and morals; 2(g) reuse of school for an educational facility; and -2(m) a more efficient use of land private and public purposes. Mr. Janiw further testified that the former use of the building as a public elementary school with classrooms, gym and cafeteria makes it particularly suitable for the proposed Yeshiva. The parking lot of 30-spaces is more than ample for the staff and occasional deliveries for catering and laundry and for private trash removal. The existing gym can provide recreation for the students.
7. Mr. Janiw testified that under the *Sica* balancing test for inherently beneficial uses, the proposed Yeshiva restricted to 42 students with no driving privileges will have minimal impacts as compared to its prior educational use for a public elementary school for 180 students.

8. Mr. Janiw further testified that no bulk variance should be required for the minimum side-yard setback (18.64 feet existing and proposed; 20 feet required) because this is an existing condition from the location of the school building. No new building expansion is proposed.
9. The Land Use Board Engineer/Planner posed no objection to the granting of the requested use variance relief and emphasized in his professional testimony that Applicant must still procure outside agency approval from the Burlington County Board of Health for use of the existing septic system, and Pinelands Commission approval, through a no-call up letter, for purposes of meeting existing nitrate dilution restrictions for the school building. To alleviate the public's concern with the functionality of the existing septic system, Applicant agreed to submit to inspections of the Septic System on an annual basis, as opposed to every three (3) years as required by Section 17.20.190 of the Bass River Township Code.
10. Several Township residents appeared and raised concerns with the proposed use of the school and the functionality of the septic system and the potential for a further expansion of the Yeshiva through subsequent development applications. The Land Use Board finds and concludes that it may only analyze the application before it (for 42 students and 3 staff), and that it does not have legal authority to consider potential future applications for expansions of this proposed use. In the event Applicant pursues a future expansion of the Yeshiva, it must procure amended use variance approval and site plan approval and any outside agency approvals required.
11. The Land Use Board finds that the within application for Use Variance Approval, pursuant to *N.J.S.A. 40:55D-70(d)(1)*, and Preliminary and Final Major Site Plan Approval should be granted for the reasons set forth above. The Land Use Board recognizes that the proposed Yeshiva is an "inherently beneficial" use as a matter of the decisional law due to its religious/educational purposes. The Land Use Board further finds and concludes that the proposed scale of the Yeshiva with the proposed limitation to the boarding of 35 full-time students, 7 day-time students and 3 staff, is less intense than its former use as a public elementary school for 180 students and therefore the impacts on the immediate Maple Avenue neighborhood and Village Residential Zone are insubstantial. The Land Use Board further notes that Applicant must obtain all outside agency approvals for the operation of the school, including the Burlington County Board of Health and the New Jersey Pinelands Commission.

Preliminary and Final Major Site Plan Approval to permit the renovation of a former public elementary school to a private religious boarding school, accompanied by use restrictions of thirty-five (35) full-time students, seven (7) day-time students, two (2) rabbi's and one (1) maintenance person and no driving privileges on its 4.07-acre parcel, located at 11 North Maple Avenue, is hereby granted subject to the following conditions:

1. No students shall be permitted to have an automobile or driving privileges on the school premises.
2. Applicant shall modify and resubmit the Application Rider (Exhibit A-3) to its development application to eliminate any reference to future expansion plans for the Yeshiva.
3. Applicant shall submit to inspections of the Septic System on an annual basis, as opposed to every three (3) years, as required by Section 17.20.190 of the Bass River Township Code.
4. Applicant shall comply with the recommendations set forth in the Land Use Board Engineer's report of March 13, 2024, except as modified herein.
5. Applicant shall obtain any required outside agency approvals, including Burlington County Board of Health Approval for Septic and a No-Call up Letter from the New Jersey Pinelands Commission.
6. Applicant shall provide private trash service.
7. Applicant shall pay all taxes, fees and required escrow deposits which may be due and owing.

MOTION TO GRANT APPROVAL

MAPLE RIVER, LLC - 11 NORTH MAPLE AVENUE - (BLOCK 56, LOTS 36 AND 37)
 USE VARIANCE APPROVAL AND PRELIMINARY AND FINAL MAJOR SITE PLAN
 APPROVAL TO PERMIT RENOVATION OF FORMER PUBLIC ELEMENTARY SCHOOL
 TO PRIVATE RELIGIOUS BOARDING SCHOOL WITH DORMITORIES AND USE
 RESTRICTION OF 35 FULL-TIME STUDENTS, 7 DAY-TIME STUDENTS AND 3 STAFF

Moved by: Neuweiler Second by: Allen
 Ayes: Ruffo, Neuweiler, Delois, Allen, Steele, Crowley
 Abstained: Adams
 Absent: Spagnola
 Motion: Unanimously carried.

TOWNSHIP COMMISSIONERS REPORT

No Commissioner's Report.

ADJOURNMENT Meeting adjourned at 9:11 p.m.
 Motion for adjournment. Unanimous
 Motion: Unanimously carried.

Next scheduled meeting is: April 17, 2024, at 7:00 p.m.

Respectfully submitted,

Natalie Lewis

Natalie Lewis