

**Hillsborough Township
Board of Adjustment Minutes
September 19, 2012 Meeting**

Chairman Krals called the Board of Adjustment meeting of September 19, 2012 to order at 7:30 p.m. All stood for the Pledge of Allegiance. The meeting took place in the courtroom of the Municipal Complex.

Chairman Krals announced that the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ROLL CALL

Michael Volpe – Present
John Stamler – Present
Helen Haines, Vice Chairman – Present
Leon Krals, Chairman – Present
Walter Dietz – Absent

Frank Valcheck – Present
John Sheridan – Resigned
Frank Herbert (Alt. #1) – Present
Shawn Lipani (Alt. #2) – Present
Curtis Suraci (Alt. #3) – Present
Seat (Alt. #4) – Vacant

Also in attendance were Mark Anderson, Esq., Board Attorney (Woolson Sutphen Anderson, P.C.); David Hoder, P.E., Board Engineer, (Maser Consulting, P.A.); David Kois, Zoning Officer / Assistant Planner/Board of Adjustment Administrative Officer; and Lucille Grozinski, CCR.

Chairman Krals announced the resignation of Board member, John Sheridan and expressed his thanks to John for his years of service on the Board.

Chairman Krals also announced his resignation from the Board effective December 31, 2012, since he will be moving outside of Hillsborough, thereby making him ineligible to serve on the Board of Adjustment.

ACCEPTANCE OF MINUTES

None

ACCEPTANCE OF RESOLUTIONS

None

BOARD OF ADJUSTMENT BUSINESS

Chabad Jewish Center of Greater Hillsborough, Inc. – Request to Amend Application

Steven Sacks-Wilner, Esq. representing the applicant said that since there are no changes to the site, a site plan had not been previously provided. However, as a courtesy to the Board, a site plan has been prepared. We are replacing a fence that was already there, placing stripes on an existing pavement and putting a sign in the front, all of which do not require site plan approval. When asked by your professional, we agreed to amend the application and ask for preliminary and final site plan approval.

Chairman Krals asked if the application has been amended and filed.

Mr. Sacks-Wilner said it is my understanding that the applicant recently spoke with staff and indicated it should be presented to the Board tonight. It would be up to the Board as to whether or not it would accept the amended plan at this time.

Mr. Sacks-Wilner distributed the plan and said whatever is handwritten is new. The amended application form now reflects preliminary and final site plan; sign waiver; and 'c' bulk variances as suggested by counsel. My approach was that they were subsumed under the 'd' (3) variance since we are seeking one in the same deviations from existing conditions.

Mark Anderson, Esq., Board Attorney said I understand they are existing deviations however they are deviations you would like to carry forward to a different use.

Chairman Krals asked the Board if it would like to go into executive session to discuss the matter.

A motion and second was made to go into executive session at 7:33 p.m.

EXECUTIVE SESSION

RE: *Chabad Jewish Center of Greater Hillsborough, Inc.* - File #BA-12-07. The Board will convene to discuss attorney-client privilege matters.

The Board came out of executive session at 8:14 p.m. Chairman Krals asked Mr. Sacks-Wilner, do you have anything else to add before the Board makes a decision on the amended application presented tonight.

Mr. Sacks-Wilner said I do not believe the amendment is technically necessary but will leave that to the Board's discretion. There are members of the public here so we can bifurcate the use variance and hear that this evening. We can hear the balance of the issues on another night to give the public the opportunity to speak.

Mr. Anderson said I think that if the Board were not to accept the amendment that would be the result anyway. I do not believe that a rejection of the amendment means that the Board does not have both the right and obligation to proceed with the 'd' variance. They have clearly noticed for it and the meeting is scheduled so unless the applicant chose not to proceed, the 'd' variance should be heard.

Chairman Krals called for a motion to accept or deny the amended application.

A motion to reject the amended application for site plan was made by Vice Chairman Haines, seconded by Mr. Herbert.

Vice Chairman Haines added since the use variance has been noticed and the professionals have not had time to review the site plan, I believe the other issues should be addressed at another date.

Chairman Krals said normally we would not accept a change to an application at this late date since our professionals would not have time to review the changes. I would not be in favor of proceeding with an amended one.

Roll Call: Mr. Valcheck – yes; Mr. Herbert – yes; Mr. Volpe – yes; Mr. Stamler – yes; Mr. Lipani – yes; Vice Chairman Haines – yes; Chairman Krals – yes. Motion carries. The request to amend is denied.

PUBLIC HEARING - APPLICATIONS

Chairman Krals announced the protocol to the courtroom for the hearing of the scheduled application.

Chabad Jewish Center of Greater Hillsborough, Inc. – File #BA-12-07 – Block 162, Lot 20.01 (26 New Amwell Road – Rear Lot), and Block 162, Lot 20.02 (22 New Amwell Road – Front Lot).

Mr. Sacks-Wilner introduced the application by saying this is an application to permit a conditional use that is otherwise permitted in the zone, but which does not meet certain bulk requirements solely due to existing conditions. The front lot is already residential and would remain such. The only request there is to provide parking to the house of worship in the back.

When we were last here we heard from neighbors who were concerned about screening. In response, we plan to provide a 6 ft. solid fence all around the property. Although not necessary under the law, we also responded to their concerns about drainage by providing a drainage ditch filled with rock that would permit recharge of the drainage from the property.

Mr. Sacks-Wilner briefly reviewed the findings of two Supreme Court cases which ruled that religious institutions enjoy a highly favored and protected status. He said we believe we have come up with a very modest proposal which provides a need for charitable and educational uses which is not completely fulfilled in this area.

I will review the professionals' reports provided, beginning with the September 17, 2012 Maser Report. We will provide testimony on Item #2 - the bank building has not served as a house of worship for quite some time; Item #4 – we are seeking a waiver because there are no changes since the site survey we have used; Item #5 – we agree to indicate on the site plan the deed book and page number; we will provide testimony on Items #6, 7 and 8 which have to do with the architectural plans; Item #9 – we would like to address this evening so that if the Board determines it is necessary, we can come back with a traffic report by the next meeting; Item #10 – there is a north arrow on the plan.

As for the Site Considerations noted, on Item #1 - we will be seeking waivers for 'a' through 'f'; Item #2 – we agree to repair the pavement to the approval of the Township Engineer; Item #4 – we agree that parking spaces will be adequately delineated with striping and signed where no parking is permitted; Item #5 – we will be offering testimony that we will only be using the bank parking lot when the bank is closed; Item #6 – we agree to detail the days and times when the bank parking will be used; Item #7 – we agree to put up "No Parking" signs on the driveway; #8 – we agree to fix the gate so that it functions properly; Item #9 – we agree that the parking spaces shall be offset from the building to provide a 6 ft. wide path; Item #10 – we agree to comply with the ADA; Item #11 – we agree to comply with providing an ADA ramp; Item #12 – we agree to enclose the refuse and recyclable area; Item #13 – we agree to provide a lighting plan; Item #14 – we agree to install a 12" trench for water runoff. We are aware of the need for outside agency approvals.

As for the September 14, 2012 Planning Memo, most is informational. We will provide testimony with regard to the First Constitution Bank parking; we have sought a waiver from the 10' x 20' parking spaces, proposing 9' x 18', a waiver for parking in excess of 10 stalls, and a waiver for a sign for traffic-safety purposes; we will provide testimony for the

hours of operation; we agree parking in the driveway should be prohibited and that signage should be posted; the other items are either informational or have already been addressed.

Mr. Sacks-Wilner said we have quite a few members here tonight in support of our application, two in particular from neighboring businesses that are here tonight to testify regarding the charitable purposes of the organization.

Matthew Schoor was sworn in and gave the following testimony:

Mr. Schoor stated I have been a resident of Hillsborough for 30 years, a business owner for 10. I have been a member of the Chabad for almost 10 years and have seen its growth during that time.

Chairman Krals asked Mr. Schoor if he is testifying as a resident, businessman, member of the congregation or all three.

Mr. Schoor said all three. He proceeded to compliment Rabbi Krinsky and the Chabad for their good works.

No questions from the public for the witness.

Dr. Melissa Selke was sworn in and gave the following testimony:

Dr. Selke stated I am a physician practicing in Hillsborough for 6 years, a resident for 9 years and a member of the Chabad since it opened in Hillsborough. Dr. Selke also spoke the praises of Rabbi Krinsky for good works he has done.

No questions from the public for the witness.

Joseph J. Fleming, P.E. of Warren, NJ was sworn in, qualified by the Board and gave the following testimony:

Mr. Fleming stated I have not appeared before the Board of Adjustment but have appeared before the Planning Board for the Hillsborough Promenade.

Mr. Fleming reviewed **Exhibit 1 – Aerial View** and stated we are taking the attributes of the existing site, making some improvements to the fence and to the drainage. We will be putting lighting up along the new fence so that there will be no lighting impact to the neighbors. We are simply putting light on the ground for the purpose of pedestrian passage from Amwell Road to the back of the site. There is no increase in impervious coverage proposed. We are under the maximum allowed for this zone. The setbacks and height of the building are not being impacted.

We are asking for a waiver on the parking, asking for 9' x 18' parking stalls. We are trying to make use of the attributes of the existing site. The required 10' x 20' parking stalls are appropriate in areas where you have high turnovers. Here making use of smaller stalls does not present negative impact to the users and keeping the impervious coverage to what exists today is a positive.

We are proposing 14 parking spaces between the 2 lots. The driveway use is generally one way; people are arriving at a specific time and departing at a specific time. We do not have competing movements in and out of the site. Again, rather than expand the driveway/impervious coverage to meet the ordinance, we feel it is practical to work with the existing roadway. We feel the existing driveway can serve all 14 spaces with the intent of the variety of services that will be offered. The driveway will be signed appropriately to deter anyone from parking of the grass. The driveway is a concern to emergency services. At its narrowest point the driveway is 10' wide which is adequate to get emergency apparatus to the back of the property. As long as there is no illegal parking, that safe ingress and egress will be maintained.

Mr. Stamler asked how the emergency vehicles will exit the site if the parking spaces are filled. Is there a turnaround?

Mr. Fleming said if today an emergency vehicle needed to get back there it would not be able to turn around but would have to jockey several times to be able to exit. If the cars were parked and there was a major fire event I assume the fire apparatus would arrive and then they would get the cars out. Once the fire was extinguished and the conditions safe for the firefighters to leave, the cars would be gone by that point.

Chairman Krals asked, is that your professional opinion as a professional engineer?

Mr. Fleming said I am just surmising; I am not a fire safety expert.

Chairman Krals said you gave your opinion as a professional engineer that there is adequate ingress and egress for the parishioners and emergency vehicles.

Mr. Fleming said my professional opinion is that the existing driveway is adequate for the intended use.

Mr. Fleming continued with review of the number of parking spaces determined. The parking required for 26 new

Amwell Road (House of Worship) requires 11 spaces, 3 are provided, one of which is handicap accessible; 22 New Amwell Road requires 2 spaces, 11 are provided. All toll we are proposing 14 parking spaces, 1 of which is handicap accessible.

Chairman Krals said although these are owned by the same owner, each is a separate property. You are counting parking spaces that are on a separate piece of property.

Mr. Fleming said that is correct.

Chairman Krals asked how were the number of parking spaces and number of seats determined.

Mr. Fleming said the total number of parking spaces required by your ordinance is 13 spaces based on the ratio of 1 parking space for every 3 seats. The applicant is proposing 33 seats.

Chairman Krals asked does that mean a maximum of 33 seats at any given time, including offices and classrooms?

Mr. Fleming said that is my understanding.

Chairman Krals said so that means no more than 33 adults would be on the premises at any given time. Does that include the building in the front as well?

Mr. Fleming said this is specifically for the building in the back.

Chairman Krals said you are counting the parking in the front building so I am assuming you need to add that occupancy as well.

Mr. Fleming said the building in the rear requires 11 spaces; the front building requires 2 for a total of 13 spaces.

Vice Chairman Haines asked with the House of Worship having a capacity of 33 and religious schooling for 45 children, how does a total of 80 people factor into the parking?

Mr. Sacks-Wilner said Rabbi Krinsky will be offering testimony later on that the two uses do not occur at the same time.

Vice Chairman Haines reiterated, so there will be a maximum of 33 at any given time?

Mr. Sacks-Wilner said yes; 33 adults.

Mr. Fleming said the Rabbi will provide testimony later on as to how the building will be used. It is my understanding that for the purposes of adults coming to services, the maximum would be 33 seats. The children are not cared for and taught at the same time as the services. The children get dropped off and picked up.

Mr. Sacks-Wilner noted the First Constitution Bank parking will be used while the bank is closed.

Mr. Fleming added parking will be used when available for the bank. Otherwise the children will simply be dropped off at the curb in front of the house and walk back to the House of Worship. The driveway will be adequately lit.

Chairman Krals asked are you aware there is a bicycle path on the north side of New Amwell Road with no parking allowed?

Mr. Sacks-Wilner said the bicycle path does not extend to the bank. We will be providing testimony later on as to the parking arrangements made with the bank.

Mr. Sacks-Wilner noted the Maser Report calls for a traffic report which we have not yet provided. He asked Mr. Fleming his opinion on the necessity of the report.

Mr. Fleming said once the Rabbi testifies as to the uses and concurrent uses, it will become apparent that all of the functions are off-peak and would not contribute to the traffic on New Amwell Road or the adjacent streets. Therefore, I believe there is little need for a parking study that focuses on peak hour trips in the neighborhood.

Chairman Krals said as I stated in my opening remarks, the granting of a variance goes with the land, not with the owner. Right now this is owned by a Jewish Synagogue but next week it could be owned by a different entity/religious faith. Can you explain how the particular situation for this particular use plays into the traffic situation?

Mr. Fleming said this application comes with specific times and purposes of use. If this Board were to look favorably on this application, I would expect the intended times of use would be part and parcel of the approval. If another alternate House of Worship were to use this, they would have to comply with the approval. If they wanted to have services that

coincided with peak hour traffic then I would agree with your engineer that a traffic study would need to be done due to the shifting of the time of the use of this intended facility. We agree with everything else in the Maser report.

Mr. Sacks-Wilner asked for a straw-poll as to whether the Board wants us to come back with a traffic report.

Mr. Anderson said the request may be premature since there is more testimony. A straw-poll would be done at the discretion of the Board.

Questions from the public:

Susan Gulliford – Hunt Club Road

Ms. Gulliford asked would merging the two lots together make the application easier?

Chairman Krals said that is not a question for this particular witness.

Ms. Gulliford said in allowing the smaller parking stalls and narrower driveway, if someone else were to take this property over and make them larger, would they have to come back to get it changed?

Mr. Fleming said that is correct.

Ms. Gulliford asked what age are the children that will be dropped off?

Mr. Fleming said the Rabbi will have to testify to that.

Mr. Herbert asked how long is the driveway?

Mr. Fleming scaled it and said from the driveway threshold to the very back of the properties is approximately 420 ft.

Mr. Herbert said I am concerned with the single lane driveway. If a vehicle was going in and another going out, one of them would have to back up.

Mr. Fleming responded, the lion share of the stalls are within 160 ft. There is at least 24 ft. of refuge behind those stalls. The entire 400 ft. is not a narrow 10 ft. The driveway unculates from 10 ft. to 24 ft.

Mr. Herbert noted his concern with vehicles having to potentially back up to let another pass.

Mr. Fleming reiterated for the intended purpose, this is a tolerable variance.

Vice Chairman Haines asked if there was mention of lining the driveway with Belgian Block.

Mr. Fleming said there was a request from your engineer to provide concrete bumper blocks to provide a reasonable safe distance from the parked cars and the 1 1/2 story building in the back. We have agreed to do that.

Phillip Brazer – East Mountain Road

Mr. Brazer asked is there clear visibility from the back building all the way to New Amwell Road. If I were at the rear parking area, could I see someone trying to enter from New Amwell Road?

Mr. Fleming said the drive is very flat so there are no vertical curves that would interrupt the sight line. The only consideration is tree growth. The answer to the question from north to south is yes.

Chairman Krals said if a vehicle was driving into the site from New Amwell Road while a vehicle was coming down to exit, I know what would happen; the vehicle entering would try to back up onto New Amwell Road.

Mr. Brazer asked a question related to the training given to fire truck drivers. Chairman Krals disallowed the question since it was not part of the engineer's testimony.

Mr. Sacks-Wilner asked Mr. Fleming, is your testimony that under normal circumstances, the driveway would be one-way in at one time when the programs begin and one-way out at one time when the programs end?

Mr. Fleming said that is correct. There is forgiveness in the roadway because there are areas where we have sufficient room for 2 passenger cars to pass each other safely. **Exhibit A-2 – Drawing C-2 of the Plan** shows that once the

driveway gets to the area of the 11 stalls there is roughly 24 ft. of back-up space and relief for passing cars with slow velocity.

Mr. Stamler asked, where any other designs were considered, perhaps one that increases the impervious surface and provides curbing or an 'exit only' lane so there would not be this issue?

Mr. Fleming said we looked at what would happen if we provided a fully compliant plan with increased impervious coverage and the required stormwater management which would change the entire completion of the site. It was the applicant's decision not to create a real commercial looking site but rather use the existing attributes of the site to keep it as close in character to the look and feel of the neighborhood.

Mr. Stamler said that decision is also cost saving.

Mr. Fleming said cost is certainly an impact but as the Chairman said at the onset, cost is not a consideration when it comes to use variances.

Chairman Krals asked about the 12 ft. gate shown on plan page C-3.

Mr. Fleming reviewed the location of the gate. There are to be 3 spaces in front of the gate, 8 spaces behind the gate. The request of your engineer is to reconfigure that gate so that we do not hinder the use of those stalls. We will come up with a different alignment that will still allow us to close off the property that meets the approval of the Board Engineer. The gate was requested of the applicant for the purposes of security for children playing. My preference is to have the gate behind the 8 stalls.

Chairman Krals said my point is that the maximum width of the roadway for vehicles to enter/exit is 11 ft.

Mr. Fleming said the intent is to have each leaf be 12 ft. wide.

Chairman Krals said the gate is shown as "6 ft." and "6 ft." on the plan.

Mr. Fleming reviewed the plan and said that detail is for the proposed dumpster. The intent for the driveway is to have two 12 ft. leaves for the opening.

Board Engineer, Dave Hoder, P.E. said it shows you can get 24 ft. of gate there but both the details and site plan would have to be modified. A 12 ft. leaf is completely different from a 6 ft. leaf. Depending on how it opened it would delete at least 2 parking spaces, if not more.

Mr. Sacks-Wilner asked Mr. Fleming, can a gate be reconfigured there that still serves the function but does not eat up any parking spaces?

Mr. Fleming said yes. I would simply push the gate to the back where we would have no interference with the parking stalls. If necessary I could provide a slider gate.

Mr. Stamler asked, is the gate being installed for security or for the safety of the children?

Mr. Fleming said it is my understanding it is for both. It is providing safety and security for the whole site. It is my testimony that we can push the gate back to the north end of the stalls and not interfere with its integrity and provide a completely secure gate.

Mr. Stamler said my concerns are for the safety of the occupants. I am concerned as to whether emergency vehicles can be able to access this site.

Mr. Fleming said the plan can be reconfigured by the time we come back for site plan approval.

Mr. Hoder said we asked for a traffic report for this application for various reasons. We have an intersection with a relatively busy road. There will be times when there are few cars coming in and times when there will be many cars coming in and leaving at the same time. The location of that access is not in the right place; it should be 30 ft. off the side yard. The fact that it is only a couple of feet off provides problems for the adjacent Lot 19. Parking analysis should be the sum of all the uses on the site, the classrooms, the office space, storage area and assembly hall should all be summed together to give the Board an idea of what the parking could be if the building is used to its full capacity. That does not mean the applicant has to necessarily provide that but it is a good benchmark for the Board to understand. We have touched on the difficulty of emergency vehicles to be able to maneuver on the site as it is today.

Mr. Fleming said our application is geared towards a very specific applicant, use and times of use. I agree that if we were trying to create an office or commercial building that did not have a specific tenant it would be very difficult to do

what I am proposing to do. Since this is a specific applicant willing to have very specific conditions of approval, it avails it to looking at what is existing.

Chairman Krals said please keep in mind that variance relief goes with the property in perpetuity, regardless of the owner. This Board has to consider it can be owned by some other organization some time in the future.

Mr. Sacks-Wilner said we would agree to conditions of approval that would limit the use to the uses we are suggesting so that there are not concurrent uses on the property.

Chairman Krals asked, how would that be enforced?

Mr. Sacks-Wilner said if the use got that intense, calls would be coming into the Zoning Officer. The structure is sized that if the congregation grew to any extent we would have to sell the property and move.

Mr. Volpe said, to the Chairman's point, if they grew to the point where they would have to move, we would still be dealing with the property as we approved it.

Chairman Krals said it is our concern that conditions would be difficult to enforce.

Mr. Anderson suggested to Mr. Sacks-Wilner that since it appears this application will be carried, the applicant might want to put together a list of acceptable conditions that would address the concerns of the Board.

Mr. Sacks-Wilner agreed to do so.

Ms. Haines said I would like to see a more detailed report from the Fire Official.

Mr. Sacks-Wilner said we can request it but do not have jurisdiction over them.

Questions from the public

Clarification of the reference to 'growth' was made by a previous speaker.

Rabbi Shmaya Krinsky was sworn in and gave the following testimony in response to questions asked by Mr. Sacks-Wilner:

Chabad is an outreach organization; it is not an in-reach organization where we are looking to build our own facility. We do most, probably 80 % of our programs outside of our property. For example, we visit the assisted living facilities; we do programs in Somerset, Montgomery, Shop-Rite, hotels, etc. Whenever we feel we have more than 10 people coming we outsource the program and rent other facilities or go to other places. When we have our program here at the Municipal Building every year for Chanukah, we do not have another program in our Chabad. Chabad is growing but we currently have 10 people who come on a Saturday, not 33. We are growing in the programs we do at other locations. We are not building a building to bring thousands of people inside; we are building a place where we can have a hub where we will be able to do our programs in other locations. If we are going to have more than 33 people we will be renting another place and going elsewhere with that program. We are looking for someplace to have our base, to have an office and to have our Hebrew school. All of the other programs are outsourced. There is no membership in our congregation. We are based on donations but no one is forced to pay anything or be involved. It is all based on a voluntary basis which is very different from any other types of religious institutions in the area. Most of the members of Chabad are members of other congregations. We are not a membership organization. Those who participate with Chabad look to enhance and bring a little more meaning in their life. Our weekly classes are in people's homes in other locations. We are just looking for someplace to have our headquarters.

Mr. Sacks-Wilner asked how many families Chabad serves.

Rabbi Krinsky said being there are no 'members', there is no particular number but we are in touch with many people. We had over a couple hundred people for the high holidays. Many of them can still be members in other congregations without it being a conflict. Not everyone drives to Saturday services, some walk. One woman in particular walks 2 miles to get to services.

The programs we offer are as such: Saturday morning services begin around 10:00 a.m. and are done by 1:00 p.m. Sunday school is from 9:00 a.m. to 12:00 p.m., cleaned up by 1:00 p.m.; Tuesday class is 7:30 p.m. to 9:30 p.m., our average is about 10 people; about 10 times a year we have monthly women's groups 7:30 p.m. to 9:00 which is off-peak hours, the bank and swim club are closed at that time; we have Thursday evening classes at a private home. My wife and I have office hours Monday through Friday. I do not believe we need additional parking for that since we are walking from the front house to the back house but a couple spaces in the front should suffice.

There are only 2 Orthodox Synagogues in the County, one in Basing Ridge and ours in Hillsborough.

Vice Chairman Haines asked, will weddings be performed at this location?

Rabbi Krinsky said I have done weddings and bar mitzvahs in other locations. The front house is a residence which means we can have a home office there as a residential use.

Chairman Krals asked Rabbi Krinsky if he would be amenable to prohibit weddings and bar mitzvahs on the property should the application be approved.

Rabbi Krinsky said I would not agree to that if it were a small function for which parking was available. I would only be agreeable if it were for a larger function. We currently host our larger functions in hotels.

More discussion about the safety of the driveway ensued. Rabbi Krinsky said I leased the bank for our Hebrew school for 3 years. At that time there were only 6 cars attributed to our services. Since we are no longer in that building the parking lot is totally empty. There are 59 parking spots there. During the time the bank is closed our parents will be able to park in the bank lot then walk their children down the sidewalk, down the driveway to the back property for Hebrew school. We do not have Hebrew school when there is snow or ice. The sidewalks are maintained by the respective property owners; the bank, the swim club and us.

Chairman Krals said there is not a requirement for a property owner to clear the sidewalk in front of their house.

Mr. Kois agreed and said I will have to look into whether the same is true for commercial properties.

Rabbi Krinsky said we are no longer having services in the bank building. Whatever services have more than what we can have in the house are being held in other locations.

Chairman Krals asked are you using the back building for any purposes right now?

Rabbi Krinsky said no. Rabbi Krinsky reviewed the architectural plan stating the area of the basement in question on the architectural drawings is an existing crawl space, not another room. We have one room in the basement we plan to use as a teen room. The first floor has an assembly room, four classrooms, a foyer, and kitchenette.

Mr. Sacks-Wilner entered the 6-page narrative explaining the variances and waivers requested as **Exhibit A-3** and asked Rabbi Krinsky if the information is true, to the best of your knowledge.

Rabbi Krinsky said yes and agreed to review the discrepancy on the size of classroom #3 since the narrative and plan state different square footage. He continued that there are offices on the upstairs floor to be used by my wife and myself. As I mentioned before, 80% of Chabad's programs are done off premises. We do life cycle events such as a death or a birth at someone's home.

Mr. Kois said I have reviewed the ordinance and can confirm that property owners, neither residential nor commercial, are not required by law to have the snow removed from the sidewalk outside their property.

Mr. Sacks-Wilner said I will research it further since I believe the State requires commercial establishments to do so.

Open to the floor

A member of the audience asked Rabbi Krinsky if there was ever a time when he was not able to walk from his house to the classroom when school or services were held at the bank.

Rabbi Krinsky said never, not even once.

Rabbi Krinsky was asked if the kitchen in the back building have a kitchen suitable to be able to cater a smaller event. Is it typical to have food after an event?

Rabbi Krinsky said the kitchen is not suitable. It is typical to have food and drink after a small bar mitzvah or wedding.

The gentleman asked how long the Chabad has owned the back property.

Rabbi Krinsky answered about 1 year. The house was built in 1958. Prior to our purchase it was used as a 3-unit home which is a non-conforming use. We are trying to make it conform to something that will benefit the community.

Shirley Santonastaso

Ms. Santonastaso asked was the back building used as a Hebrew school in 2011-2012?

Rabbi Krinsky no. The first half of the year we were renting the Auten Road School. We were using the back house during the second half of the year until our attorney advised us not to use the building any more as we are going for the application.

Ms. Santonastaso asked Rabbi Krinsky if he is using the front house for Bible studies on Saturdays. Rabbi Krinsky said absolutely. I use the front house for Bible study and services on Saturday mornings and will continue to do so.

Mr. Kois said my understanding is that that use is not part of this application. The house in the front has been referred to as a rectory/parsonage however, it is a residence.

Rabbi Krinsky said we have a Constitutional right to have freedom of religion. You can pray in your house by yourself or with a friend.

Mr. Anderson said there are certainly freedom of religion issues involved in the extended use but not something I would be able to address for this application.

Janine Erickson – President of the Roycefield Swim Club Board

Ms. Erickson said the Swim Club is not operational from September to May. Since we are not required to clear the snow from the sidewalk in the winter, how will you get the kids safely from the bank parking lot to the back property behind your house?

Rabbi Krinsky said if the Swim Club does not clear the sidewalk, we would take on the responsibility to do so ourselves. The bank clears their property within hours.

Chairman Krals noted the application will need to be continued to November 7th. At that time you may present testimony up until 10:00 p.m., including that from the public.

Mr. Sacks-Wilner agreed to an extension.

Mr. Anderson clarified that the application for the 'd' Use variances should be carried without further notice. Further notice will be required for other parts of this but not for the 'd' variances already started.

Chairman Krals announced this application will be carried to November 7th without further notice at this time.

A motion and second was made to cancel the October 3rd meeting.
All in favor – Aye; Opposed – none.

ADJOURNMENT

The meeting adjourned at 10:13 p.m.

Submitted by:
Debora Padgett
Board of Adjustment Clerk