

TOWNSHIP OF BRICK

OCEAN COUNTY, NEW JERSEY
401 CHAMBERS BRIDGE ROAD, BRICK, N.J. 08723

John G. Ducey, Mayor

Township Council:

Lisa Crate - President
Arthur Halloran - Vice President
Heather deJong
Vince Minichino
Paul Mummolo
Marianna Pontoriero
Andrea Zapcic



Division of Land Use Planning

Tara B. Paxton, MPA, PP, AICP
Township Planner
732-262-4783
Fax: 732-262-2941
tpaxton@twp.brick.nj.us
www.twp.brick.nj.us

November 29, 2021

Brick Township Board of Adjustment
401 Chambers Bridge Road
Brick, New Jersey 08723

RE: BA- 3296 – PSP/FSP- C-D- 11/16/21
Congregation Kehilos Yisroel
Block 1095, Lot 1
200 Van Zile Road

Dear Board Members:

The Applicant, Congregation Kehilos Yisroel, is requesting a Preliminary & Final Site Plan with a Conditional Use (d-3) and Bulk (c) variances to change the use of the subject property to permit a school providing religious instruction in addition to the previously approved use for a House of Worship, granted in 1977 as Temple Beth Or at the subject site.

The proposed and existing uses are both permitted in the R-7.5 Zone as Conditional Uses under both §245-296 Places of Assembly and §245-298.2 Public and Private Schools Not Conducted As Businesses. The applicant has indicated it does not meet all the conditions of the Conditional Use requirement under §245-298.2 in the Townships Land Use Code, necessitating a Conditional Use Variance (d-3) before the Zoning Board of Adjustment.

I. HISTORY

This site has had numerous site plan applications over decades of existence in the Township since its original approval by the Planning Board in 1977 as a House of Worship and rectory. The most recent application was approved as an amended site plan in 2006 to renovate the parking lot. The site contains three buildings; the main structure is approximately 16,855 square feet with two additional structures including the formerly approved rectory and synagogue building. In March of 2021, the current applicants received a zoning permit for the continuation of the site as a Place of Assembly and were informed through the zoning permit that any change of use would require a site plan approval. Subsequently, it was discovered that a school use was occupying the property and a violation notice was issued and the Township filed a complaint in the court to cease the activity until a site plan was approved. This application has been filed in conformance with the court order to do so.

It should be noted that the Township's Conditional Use ordinance, Houses of Worship §245-296 was amended in 2011, and renamed Places of Assembly.



www.facebook.com/BrickTwpNJGovernment



@TownshipofBrick

*File
Appl.
New Lines
Parker
Weiner
CMT*

II. COMPLETENESS:

The Township's administrative submission requirements are found under §250-9 Procedures for Filing Applications; complete applications; checklists. The application filed with the Township has been found to be incomplete as per N.J.S.A. 40:55D-10.3 and the Township of Brick Checklist Requirements §245-9 C. (4) -Schedule D. A detailed listing of the deficiencies for each of these submission requirements for completeness is provided herein:

A. The Board Secretary found the application to be deficient as detailed below:

- Plans should be labeled "Preliminary & Final Major Site Plan with "C " & "D" variances
- Fees as per §250-29 Fees. – were incorrectly filed -submitted checks# 2134 in the amount of \$750.00 & # 2133 in the amount of \$2,000.00 which can be applied to the "C" variance fees, but additional fees are due and listed below:
 - Preliminary Major Site Plan Application/Rider fee: \$1,500.00 & Escrow Fee: \$2,500.00
 - Final Major Site Plan Application/Rider Fee: \$750.00 & Escrow fee \$1,500.00
 - "D" variance Application/Rider fee: \$500.00 & Escrow fee: \$ 1,500.00
- 2 Sets of Drainage calculations need to be provided
- Proof of Application to Brick Township Municipal Utilities Authority
- Proof of Application to Ocean County Planning Board
- Submission of check in the amount of \$200.00 for required Bureau of Fire Safety Review.

B. The following Checklist Items as per §245-9 C. (4) -Schedule D are required and have not been provided:

- #11 – Signature blocks for Planning Board/Board of Adjustment officials (located above title block on each sheet)
- #23 – Distances to nearest street intersection.
- #25 – Location, size and inverts of all storm drainage systems, utility lines, flow direction, etc. within 200 feet of site.
- #26- Existing and proposed contours, finished grades, spot elevations tied to N.G. V.D.
- #27 – Location of all wooded areas, water courses, etc.
- #34 – Utility plan and location of utilities (other than lighting).

The following items were indicated as Not Applicable:

- #29 – Proposed/Existing Easements.
- #31 – Proposed streets including profiles, grading and cross sections and dimensions.
- #38 – Soil boring logs.
- #39 – Sight triangle easements.

The following Waivers were requested as part of the submission:

- #35 – Proposed lighting.
- #36 – Proposed landscaping.
- #37 – Proposed storm water drainage system and calculations prepared by a Professional.
- #40 – Trash storage areas. (However, trash storage areas were located on the plan)

Additionally, under §250-27, Meetings, F. - No application for development shall be certified as complete nor shall any hearing be conducted when the property which is the subject matter of the

application is in violation of any ordinance or land regulation pertaining thereto. In such circumstance the Planning Board or Board of Adjustment may require that the violation be remediated in whole or in part before the application can be certified as complete or a hearing scheduled. In reaching said decision, the Boards may consider the hardships involved, the nature of the violation, its duration and cause, together with such other matters as fall within the power and responsibilities granted to the Board by statute.

C. The site currently has three outstanding Violations issued to the owner on 11/23/2021;

1. #CVIO-21-01723 – §331-5 – Notice to remove dead trees, brush, weeds, garbage and trash,
2. #CVIO-21-01724, §302.7 – Accessory structures shall be maintained and in good repair, and
3. #CVIO-21-01725. §302.1 – Sanitation.

Normally, until these application submission and checklist deficiencies are remedied, the application does not progress to review or distribution to professionals and other reviewing agencies and is not scheduled for a hearing.

This application is ***not deemed complete*** however, has been scheduled for a hearing in compliance with the Judge's order to be heard on December 20, 2021 and this report is to be provided to the Applicant no later than December 1, 2021.

III. CURRENT PROPOSAL

The current proposal submitted to the Zoning Board of Adjustment is for the addition of the school use at the site to the existing Place of Assembly as two principal uses. All previous approvals were granted for the use of the site as a synagogue and Place of Worship under ordinance criteria as a conditional use in 1977 and amended a number of times over the years. The most recent approvals were granted by the Planning Board in 2006 for parking lot improvements.

Use of the site as a school has now been proposed as an additional use to the synagogue. The total occupancy of the main structure is shown on the Architectural Plans as 674 for the combined school-educational classroom occupancy (100 occupancy) plus office/kitchen/assembly spaces (574 occupancy).

More information is required to determine the full scope of the application in addition to the variances that are required.

IV. CONDITIONAL USE & PRELIMINARY & FINAL SITE PLAN REVIEW

I have reviewed the above referenced application for a Conditional Use Variance and Preliminary & Final Site Plan Approval and offer the following information and comments for your consideration:

A. Description:

- Title - Congregation Kehilos Yisroel
- Applicant - Congregation Kehilos Yisroel
- Owner - Congregation Kehilos Yisroel
- Plan Date - August 31, 2021
- Existing Use - Place of Assembly - Synagogue
- Proposed Use - School & Synagogue (Place of Assembly)
- Zone - R-7.5
- Adjacent Uses - Commercial & Residential
- Tract Size - 4.11 acres
- Location - 200 Van Zile Road

B. Variances/Waivers Requested/Required as per §245-298.2:

1. The applicant has applied for a variance for §245-298.2 Public and Private Schools Not Conducted As Businesses. This necessitates a Conditional Use Variance as defined under NJMLUL, Chapter 291, 40:55D-70 d. (3) pertaining solely to a conditional use.
2. I have provided the enumerated requirements below for §245-298.2 Public schools and private schools not conducted as a business. The proposed uses shall be permitted as a conditional use in the R-20, R-15, R-10, R-7.5 and R-5 Zones, provided that the lot, use and structure shall adhere to the following:
 - A. The required minimum lot area shall be two acres in accordance with §245-24. *Compliant.*
 - B. The required minimum lot width shall be 200 feet. *Compliant.*
 - C. The required minimum lot frontage shall be 200 feet. *Compliant.*
 - D. No principal building shall be located closer than 40 feet to any public street or right-of-way and no closer than 40 feet to any rear or side property line. **Determination of compliance with this standard is dependent on more information to be provided by the applicant. Currently, a front yard setback of 39.61' and 37.48 is proposed and is a pre-existing condition of the small building along Van Zile Road. Please indicate the use of the two labeled "accessory structures." Are these structures accessory to the school or place of assembly or are they utilized as additional principal uses?**
 - E. No accessory building or structure shall be permitted in any front yard in the underlying zone, nor shall any accessory building or structure be located closer than 20 feet to any rear or side property line. **The proposed trash enclosure is approximately 22' from the Rt. 70 Right of Way, which requires an additional a front yard setback variance.**
 - F. The maximum permitted building coverage shall be 30% - *Compliant.*
 - G. The maximum impervious lot coverage shall be 70% - *Compliant.*

- H. The height of the structure to be constructed must be in accordance with §245-299. – Compliant, however, the height of the structure was not provided, but is less than or equal to 35 feet.
- I. All private or public schools that have been constructed or occupied to such a use subsequent to the effective date of this section shall not have their primary frontage or access on any lower order street, as defined by the New Jersey Residential Site Improvement Standards. **The Applicant should provide a traffic report to demonstrate compliance in accordance with §245-394 (29) for Site Plan Applications.**
- J. Buffer Requirement: (1) Perimeter buffer. A landscape buffer shall be required around the entire length of side and rear property lines. A minimum of 30 feet to all residential uses must be provided. **The applicant requested a waiver for this requirement, therefore conformance with this conditional use standard cannot be determined at this time. It appears that the buffer requirement is conforming along Mathis Street, but all other frontages are not compliant.**
- K. Landscaping requirements: (1) All landscaping shall be in conformance with §245-404 through 408. **The applicant requested a waiver for this requirement, therefore conformance with this conditional use standard cannot be determined at this time. It appears the site is deficient with §245-408.**
- L. **Parking requirements for the use shall comply with Article XXXV, §245-311, for parking, loading, vehicular access and locational requirements, and shall include parking for the proposed use and all accessory uses associated with the principal use of the site. Public and private school parking requirements are as follows:**
 (1) One- and one-half spaces per each classroom.
 (2) One space per each senior class student, if applicable.
This condition is not compliant. Both uses for §245-310 for Place of Assembly and §245-298.2. Public and Private Schools Not Operated as a Business are required to be considered for the parking calculation. Occupancy of the principal and accessory buildings is need to be provided through testimony to determine the required number of parking spaces for both the Place of Assembly and the School Use. According to the architectural plans, a total of 4 classrooms are proposed, requiring $1.5 \times 4 = 6$ spaces. Additionally, the architectural plans show an occupancy of 674. The parking ordinance for Place of Assembly requires 1 space per four occupants. This would require 169 spaces (for which the site is designed and provides). However, this creates a deficiency in 58 spaces, at a minimum, and requires a parking variance. The deficiency may be more intense when we receive information on the senior students attending and the accessory uses.
- M. The public or private school shall meet the locational requirements of N.J.S.A. 33:1-76, as may be amended. *Compliant.*
- (3) Additionally, c (1) and c (2) variances include the following:
- Signage – the existing sign is within the Township and County Right of Way located approximately 13' from the edge of pavement, where location is permitted 5' from the property line. A variance is required for this condition as per §245-314(2) b.
 - A traffic report is required under §245-394 (29) for Site Plan Applications and has not been provided.

- c. The following variances were granted as part of previous approvals for a Place of Worship, however, were not granted as part of a school and should be noted as part of this application as existing conditions:
 - i. 245-311- B.-Parking facilities may be located in any yard space but shall not be closer than 20 feet to any street right-of-way line or any easement dedicated for roadway purposes, except as further restricted in the provisions below.
 - ii. Parking stall size – §245-31 J.- Parking spaces shall be 10 feet by 18 feet, with an access area space of 25 feet between each row of parking stalls. In the case of one-way circulation, or non-perpendicular parking, the aisle width may be reduced to 18 feet.
 - iii. §245-311 M. -Any parking stall adjacent to a right-of-way must provide berming with a minimum height of three feet.
 - iv. §245-175- A. (4) -The minimum width of any access drive shall be 25' where the drive aisles on this site vary from 16.89' to 28.8'.
- d. Stormwater Management Basin is located in Front Yard Setback of Rt. 70 Right of Way and is not permitted in front yards. In addition, it appears the stormwater basin encroaches on the Route 70 Right-of-Way.
- e. Additional variances may be required and discovered upon further review.

V. Conditional Use Variance & Planning Testimony

1. The Applicant has applied to the Zoning Board of Adjustment for a Conditional Use Variance under the Township's Ordinance §245-298.2 - Public and Private Schools Not Conducted As Businesses in addition to the Place of Assembly Conditional Use requirements. This site is to be evaluated by the Board as a d (3) variance, where the positive and negative criteria need to be weighed in determining if the proposed project and the accommodations associated with the use outweigh the deviation from the zoning ordinance and if these conditions causes damage to the surrounding neighborhood or substantial detriment to the public good.
2. The Applicant should provide testimony presenting evidence for the Board to evaluate the application to consider granting "d (3)" conditional use variances pursuant to N.J.S.A. 40:55D-70d (3) "in particular cases and for special reasons." This is the so-called "positive criteria" of a "d (3)" variance. The Applicant must demonstrate compliance with "*Coventry Square*" showing whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial detriment to the public good. The Applicant should provide information to the board for them to determine whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial impairment of the intent and purpose of the master plan and zoning ordinance, i.e., whether the proposal was "reconcilable with the zone." The testimony should prove that the benefits of the deviation would substantially outweigh any detriment through addressing the following:
 - a. Does the site remain appropriate for the conditional use despite the failure to conform with the ordinance?
 - b. identify the negatives of the application (if any),
 - c. how can the negative aspect be ameliorated by imposing reasonable conditions, and
 - d. can the application be granted without substantial detriment to the public good?

3. The Board should consider any other identified variances, as c (1) "hardship variances" or c (2) "flexible variances". Planning testimony for these deviations from the zoning ordinance must be provided detailing why these "Bulk Variances" should be granted. The Applicant should take special note to provide testimony relative to the fact that the proposed use is permitted in this zone; however, the layout of the existing building within the setback does not meet the conditions of the conditional use as a school.
4. The Applicant should present acceptable testimony to the Board that the strict application of the Township's Zoning Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer or subject property and/or as the application relates to a specific piece of property, that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning requirements.
5. The Applicant should discuss the proposed uses and address how they are consistent and supportive of the existing site. The suitability of the proposed use is supported by the fact that the Governing Body allows them as a Conditional Use. However, testimony in regard to this proposal will be useful for the Board members in their deliberation.

VI. Site Plan

- A. The Applicant shall provide testimony as to the proposed school use and how it will be operated in conjunction with the Place of Assembly (synagogue use). Please provide testimony regarding:
 - a. the hours of operation of each use,
 - b. use of the site for the school and place of worship simultaneously,
 - c. occupancy of each use,
 - d. number of employees, number of students and ages of students.
- B. The Applicant should provide testimony relative to site circulation for employees, members of the synagogue and operation of the school. Also discuss deliveries planned for the loading area
 - a. Will busses be utilized for transportation of students to and from the school?
 - b. What are the hours of drop off and pick up?
 - c. How many busses will be accessing the site?
 - d. How many busses have room to queue on the site without impacting the driveway?
 - e. What size are the busses that will be accessing the site?
 - f. Will busses be stored on the property?
 - g. Please discuss the adequacy of the current configuration of the parking lot for bus drop off and pick up.
- C. It should be noted that the current ingress and egress as well as the parking and circulation were designed for the specific synagogue use. We have concerns regarding the access of the current site with busses for the school use. There is evidence of damage to curbs at the access points at the site and this is reinforced by the Traffic Circulation Plan (sheet 5 of 5) showing the turning template for the truck/bus driving over the curb. Please provide testimony regarding the existing condition and changes that can be made to the infrastructure to accommodate the site.
- D. This office also has concerns regarding circulation of vehicles and busses at the same time and the conflicts with timing of drop off and pick up of students causing congestion, parking problems on Hendrickson Avenue and traffic during these times. Two large schools in the Brick Township School System are located on Hendrickson Avenue and there is potential for vehicular conflicts at the intersection of Hendrickson Avenue and Van Zile Road during

the drop off and pick up times. A traffic report is needed to evaluate the existing conditions in the area and how these uses will impact these conditions.

- E. We recommend a traffic report be provided by the Applicant prior to the hearing to address traffic concerns in accordance with §245-394 (29) for Site Plan Applications.
- F. Please indicate compliance with ADA Handicapped Parking, ramps and access.
- G. Please discuss compliance with landscaping as required in §245-404 – 408.
- H. Testimony should be provided regarding the use of the outdoor lawn areas and parking lot for recreational activities by the students. It should be noted that observation of activity near the right of way of Van Zile Road was observed. We recommend the identification of recreational areas on the site plan and the installation of a fence to contain stray balls or recreational amenities from accidentally causing harm to students or travelling vehicles on the county roadway.
- I. It is recommended that the Board consider the suitability of lawn areas as recreational facilities when considering the variances for the lack of buffer to adjacent residential uses, zones and setbacks from the roadways.

I will be present at the hearing date to answer questions and provide additional information.

Very truly yours,



Tara B. Paxton, MPA, PP, AICP
Division of Land Use & Planning



