The Chairman called the meeting to order and stated it was being held in compliance with the “Open Public Meeting Act” and had been duly noticed and published as required by law.

ROLL CALL

Present: Mr. Brocco, Mr. Cohen, Mr. Daddario, Mr. Weil, Mr. Schwenke, Mr. Senges, Mr. Vandergrift, and Mr. Fanelli

Absent: Mr. Cupersmith, Mr. Leoncio, and Mr. Willard

Also, present, Stuart Platt, Board Solicitor, Ben Matlack, CME, Board Engineer, Chris Dochney, CME, Planner, and Corrine Tarcelli, Zoning Board Secretary

**MINUTES FOR APPROVAL**

Mr. Weil motioned to approve the minutes from December 13, 2018; seconded by Mr. Cohen; none (0) against, Mr. Daddario and Mr. Schwenke abstained.

Mr. Cohen motioned to approve the minutes from January 24, 2019; seconded by Mr. Weil; none (0) against, Mr. Brocco abstained.

**RESOLUTIONS FOR APPROVAL**

Mr. Weil motioned to approve Resolution for Case #ZC2018-026, Charles Arman and Josephine Bianco presented before the Board on January 24, 2019; seconded by Mr. Cohen; none (0) against, Mr. Brocco, Mr. Senges, Mr. Schwenke, Mr. Fanelli, and Mr. Vandergrift abstained.

**OLD BUSINESS**

**The Chakrabarti Foundation**

111 Centennial Blvd.

Block 200, Lot 10.03

Case #ZC2018-018

Seeking Use Variance relief from Section 152.142 of the ULDO to allow an ‘Ashram’ with 20 efficiency age-restricted residential units with a large welcome/community center in an Economic Industrial Business (EIB) zone; seeking relief from Section 152.145(H)(2) to permit parking setbacks of 35 feet to right of way where 50 feet is required; and 25 feet to the property line where 50 feet is required; and from Section 150.16(A) a de minimis exception is requested from the Residential Site Improvement Standards if more than 0.8 parking spaces per unit as provided are required. Also seeking any and all other variances, waivers, and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mr. Platt summarized the case for the Chakrabarti Foundation. The Chakrabarti Foundation is seeking a use variance relief from Section 152.142 of the ULDO to allow an ‘Ashram’ with 20 efficiency age-restricted residential units with a large welcome/community center in an Economic Industrial Business (EIB) zone; seeking relief from Section 152.145(H)(2) to permit parking setbacks of 35 feet to right of way where 50 feet is required; and 25 feet to the property line where 50 feet is required; and from Section 150.16(A) a de minimis exception is requested from the Residential Site Improvement Standards if more than 0.8 parking spaces per unit as provided are required. Also seeking any and all other variances, waivers, and/or other relief as may be deemed necessary by the Board and/or its professionals. This meeting was continued from the previous meeting which took place December 13, 2018.

Mr. Platt further stated Centennial Mill’s Homeowner Association has hired counsel, Mr. Jeffrey Baron, Esq. Mr. Baron will be cross-examining the applicant’s witnesses. Mr. Baron will have his professional planner testify. Mr. Cofsky will cross-examine that planner then the public portion will begin.

Mr. Platt asked Mr. Cofsky, counsel for the Applicant, whether or not he had any further evidence to introduce. Mr. Cofsky stated he did not have any further evidence; it was concluded at the last meeting. Mr. Cofsky further stated he does not have any objections extending the Action Date if necessary.

Mr. Baron, licensed attorney in the State of New Jersey representing the Centennial Mills Homeowner’s Association called Mr. Fumo, the applicant’s architect. All of the witnesses were previously sworn and remain under oath. Mr. Baron questioned whether or not Mr. Fumo previously described the apartment units. Mr. Fumo stated there are eating facilities within the apartments and are representative of a standard kitchen for an apartment. There are also sleeping and bathroom facilities. Mr. Baron requested whether or not Mr. Fumo examined any existing ashrams as part of his design. Mr. Fumo did not examine floor plans of an existing ashram. He also stated there are not any affordable housing units in this facility. Mr. Baron had no further questions for Mr. Fumo.

Mr. Baron called to cross-examine Dr. Chakrabarti. Mr. Baron inquired as to the duration of the foundation. Dr. Chakrabarti stated the foundation was started in 1992. Each individual would be allowed to live in a residential unit for five years and then new individuals would move into the unit. The life of the Ashram is eternity. Each individual will serve a five-year term. He or she may apply for another five year term and the board will decide if that member can stay. However, if they receive too many applications, they will want to rotate them. Mr. Baron stated Dr. Chakrabarti testified the closest Ashram would be Gandhi’s Ashram in India; is that correct. Dr. Chakrabarti stated that was correct however, he was not sure whether or not it was still in existence and if so, he is not aware of any changes it has undergone. He further stated the mission of the Ashram is to uplift the conditions of the general population and untouchables so they can bring harmony to all of the population. The purpose of the ashram is that people reside there and work from there. He is not aware of any Ashrams where people do not reside. There is an Ashram located in India where people reside longer than five years. Ashrams are not based on a particular religious organization. Hindu, Muslims, Christians, will all be allowed to live at the Ashram. There are Ashrams that are religiously affiliated and there are some that are not, but an Ashram in and of itself does not connote a religious background. Mr. Baron further stated that Dr. Chakrabarti testified the scholars would be 55 years or older. What would happen if they do not receive applications from at least 20 individuals that are 55 years of age or older. Dr. Chakrabarti stated he didn’t think that would be the case. He feels certain the number of applicants would be far more than 20. Twenty is limited to the number of resources Dr. Chakrabarti is able to contribute to the project. Dr. Chakrabarti has spoken to a lot of individuals in this country, all over the world, and there is a tremendous amount of interest. Should a scholar fail in their duties, they will not be allowed to stay. They would be replaced with another applicant. He believes there will be a lot of back-up applicants. If a resident is asked to leave, he/she would be replaced with another applicant for a new five-year term. The first year, the foundation will hire a professional management company to maintain the property and after that the Board will decide what to do moving forward. The scholars will provide the funds for the maintenance but the maintenance would be done by a maintenance manager, not the scholars. If the air conditioner needs to be repaired, or the roof leaks, there is a clog in the bathroom, it would be the resident’s responsibility to hire a contractor. Lawn maintenance and snow removal would be done by the maintenance company. If it is not done, they will hire a new maintenance company. Dr. Chakrabarti stated a decision has not yet been made as to whether or not there will be laundry facilities available to the residents. They may decide to place washing machines in the basement. Food can be prepared in the units. The scholars are single. However, an exception may be made for a married couple. The unit is designed for a single individual. The residents will have their own cars and will provide their own mode of transportation should they have a doctor’s appointment, etc. Each resident will be assigned one parking space. If at some point they were to hire a full-time maintenance person, he/she will be allowed to park at the Ashram. There will be no more than four conferences per year maximum, one day long and there will be catering provided during the conferences. Conferences will start at 10 a.m. until the evening. Food will be served for lunch and dinner. The lectures will be conducted in the Welcome Center. There is no lecture facility specifically within the Ashram. The fire code will dictate the number of attendees. He’s assuming at least 60 people will attend the conference including presenters and scholars. A fully executed parking agreement with the Indian Cultural Center was submitted to the Board.

Mr. Baron inquired as to what would happen to the building if Dr. Chakrabarti’s vision was not successful. Dr. Chakrabarti stated he doesn’t expect it be unsuccessful. If he thought it would fail, he would not be investing $7,000,000 to construct it. If Dr. Charkrabarti were to pass away, the building would be fully paid for. He does not envision failure. Dr. Chakrabarti doesn’t have a plan should the project fail. He feels as though he doesn’t need one because he does not expect it to fail.

Mr. Cofsky objected. Objection was overruled since Dr. Chakrabarti already answered the question.

Dr. Chakrabrti in response to Mr. Baron’s questions indicated the scholars will pay the maintenance fee to the trust. The foundation will form the trust. He’s estimating approximately $50.00 per month per unit. Utilities will be separate. He has not obtained any quotes as far as maintenance is concerned. Dr. Baron questioned whether or not a scholar would be able to vote on an issue that involved them directly or is that exclusive to the board? For example the amount of hours they work. Dr. Chakrabarti stated there are no specific working hours. The Board of Trustees will decide whether or not a scholar is performing. The scholars are not employees and they are not bound to working a certain number of hours. They are scholars and they are volunteers. They are independent scholars and volunteers and they are welcome to make suggestions on how they can work and what needs to be done. Mr. Baron inquired should the cost of the Ashram exceed the amount of the money the scholars pay, who will fund the shortfall? Dr. Chakrabarti stated the foundation will provide for the shortfall. If the Ashram wants to expand further their facilities, they can probably apply for grants through the Chakrabarti Foundation or any other granted organization. If they are not successful, the Chakrabarti Foundation will stand behind them. The Board will decide who the trustee of the trust will be. Dr. Chakrabarti and his wife will elect 7 members of the trust and after the first meeting they will decide how the Board of Trustees will work. The trust does not exist at this time. How the ashram will function is in Dr. Chakrabarti’s own writing and is consistent with what he has testified.

Mr. Platt inquired as to who has the authority to set the rules and regulations of the Ashram. Dr. Chakrabarti stated the basic mission statement of the Ashram is going to be essentially a think tank to discuss world peace. Mr. Platt inquired as to whether or not there is any ability for the mission statement of the Ashram to change due to the fact that the Board is relying upon Dr. Chakrabarti’s testimony that it is an actual foundation and has been fully funded and the mission statement. Mr. Platt further inquired as to what is to prevent that mission statement from changing due to economic reasons or due to any other reason and if there is an ability to change then would Dr. Chakrabarti agree that the use variance if it were to be granted would end? Dr. Chakrabarti stated the mission statement is the first priority at this time; interreligious harmony and specifically world peace and religious harmony. If it changes from interreligious to intercultural at some point, that change can be done by the Board of Trustees, however, the mission will not change. Mr. Platt reiterated whatever conflict the Ashram thinks is necessary to address that can change but the overall idea is the mission statement and that will not change. Mr. Chakrabarti agreed. Mr. Platt stated if that were to ever change would Dr. Chakrabarti agree that he would not be able to continue on with the Ashram. Dr. Chakrabarti wholeheartedly agreed.

Dr. Chakrabarti in response to Mr. Baron’s question regarding the Board of Trustees, indicated that he and his wife would be trustees initially and they would appoint seven members. The seven people including Dr. and Mrs. Chakrabarti will draw from the applicants, business people, community organizers, etc. People who are willing to serve the society. This will not be religiously affiliated.

Mr. Baron read the definition of an Ashram from the Merriam Webster dictionary. The definition of an ashram is a secluded dwelling of a Hindu sage. Number 2, a religious retreat. Therefore, according to the Merriam Webster dictionary, an Ashram is religiously affiliated. Dr. Chakrabarti stated an Ashram also includes a place for thinking, to perform volunteer work for the greater good of the society living amongst like-minded people. The Ashram that was founded by Gandhi in 1915 was a center for all volunteer students, followers and associates of Gandhi for the uplifting of the poor women and to promote better education. The Ashram was organized on the basis of respect, equality, and simplicity. This Ashram will also promote on a smaller scale the universal values of all people, a uniting force. He further stated the term Ashram has also been described as a place where people live or visit for self-improvement or to enhance one’s spiritual life. This Ashram is somewhat different. It is the selfless act of improving the lives of others and society at large. The term in the 20th century broadened the term to religious retreat regardless of religious denomination, a bode to help physically or spiritually, spiritual guidance, a place for contemplation a place where people live for self-improvement and self-edification, a place for peace and tranquility, a place for learning to discover the truth about life and teach it to others, a place for doing unselfish work for social benefit.

Mr. Baron questioned from where did Dr. Chakrabarti obtain his definition? Dr. Chakrabarti stated it was from his own composition based upon his research. It is based on his experience and extensive reading. The dictionary he mentioned is a Sanskrit dictionary. Mr. Baron inquired as to whether or not Sanskrit is still a language and whether or not it is still used today. Dr. Chakrabarti responded that it is absolutely still a language and it is used all over the world.

Mr. Baron submitted as an objector exhibit O-1 the definition of an Ashram from the Merriam Webster dictionary.

Mr. Cofsky objected stating Dr. Chakrabarti has defined the Ashram in great detail as to his vision and is not based upon a definition in a dictionary.

Mr. Platt recommended the exhibit be allowed to be submitted as evidence and it is relevant to the use that has been suggested. Mr. Platt recommended the objection be overruled and the document be admitted. Mr. Senges agreed the Board has to make their own decision as to whether or not that piece of evidence has any true value relative to the vision of Dr. Chakrabarti and what he is trying to accomplish.

Mr. Baron stated in Dr. Chakrabarti’s testimony he indicated there would be no rules at the Ashram. Dr. Chakrabarti stated he believes he was not understood properly. Mr. Senges stated he was confused where Mr. Baron was going with this line of questioning. Mr. Baron stated he is trying to understand what an Ashram is. There’s a definition written by Dr. Chakrabarti, an interpretation of an Ashram. Mr. Baron stated he is simply trying to determine whether or not this is something that really can exist the way Dr. Chakrabarti proposes it will. Mr. Brocco inquired as to whether or not there is concern that this project would start out to be something and then potentially turn into something else. Mr. Baron answered “Absolutely.”

Mr. Baron inquired as to who on a day-to-day basis is there to watch over what goes on and to see if it is consistent with the mission of the Ashram. Dr. Chakrabarti stated it would be the function of the Board of Trustees and they will be there every month. They can visit anytime they want and for as long as they want. He along with his wife will most likely be there every day but not all day. He further stated it is his mission to make it a success. Mr. Baron inquired if the scholars are not doing things consistent with the mission, then Dr. Chakrabarti is relying on the board being there once a month and him and his wife being there at some point every day. Dr. Charkrabarti stated the residents are scholars, volunteers, individuals making sacrifices. They are not freeloaders. “We trust them.” Mr. Baron asked how the Ashram will benefit the community and further stated it didn’t seem as though Dr. Chakrabarti initially had any thoughts as to how the Ashram would benefit the community. Dr. Chakrabarti stated the last time he was before the board that’s when he started forming his thought process about community benefit. He stated he always had in his mind how it would benefit the community but it was not articulated well enough.

Dr. Chakrabarti in response to Mr. Baron’s questions stated deliveries to the site will not be restricted. They can have food and order goods and materials to be delivered. They can go to exercise at a gym if they’d like. They can walk in the neighborhood like he does at his home. They cannot walk through Centennial Mills if it is a private area. The residents will be free to do what they wish as long as they are obeying the law. They will have to obey the law and Dr. Chakrabarti is not their guardian and it is not up to him to see whether or not they are breaking the law. They are responsible. He stated this issue did come up in the past and that is why he decided to put a fence between the Centennial Mills property and this property so that the coming and going will not happen. We also eliminated the entrance to Matlack Drive. There is only one entrance onto Centennial Drive. There will be a fence all around the property and particularly between Centennial Mills and this property and there is a six foot high solid fence. There will also be a three to four foot ornamental iron fence on the sides of the property.

Mr. Baron ask whether or not Dr. Chakrabarti proposes that the Ashram will be a charitable organization and therefore will be tax exempt? Mr. Cofsky objected the tax status is not relevant and cannot have any bearing on the case or the decision. Mr. Platt sustained the objection. Mr. Baron inquired as to whether or not there is a benefit to Voorhees? Dr. Chakrabarti stated there is a benefit. Should something happen to him and his wife, the Trust will manage the Ashram. The Trust will appoint the Trustees. Dr. and Mrs. Chakrabarti will elect a Trust and the Trust will elect the Trustees. The Trust remains. A fund will be created, however, it has not yet been established.

Mr. Cofsky requested Dr. Chakrabarti clarify the meaning of the word Ashram. Dr. Chakrabarti stated there will not be any restrictions on the ethnicity of the scholars who can live there. There are no restrictions on ethnicity, religion, origin, and/or creed. The scholars can be from anywhere around the world. They can be Christians, Jews, etc. People of diversity from different religions will be welcomed. This is a non-religious Ashram. Mr. Platt stated the Board would like to move forward. The Board is not going to get into religious issues, ethnicities. That is not what the Board does and it is not what is done in this town. People can walk where they want to walk unless it’s private property. Quite frankly, anyone can walk along Centennial and Mr. Platt himself can walk inside Centennial Mills. If someone thinks he shouldn’t be there, they can call the police. Mr. Platt further stated he believes this Board understands this is a non-religious Ashram and the residents will be citizens of the community and they have the same rights, burdens and obligations as any other citizen.

Dr. Chakrabarti discussed in greater detail the benefits of the Ashram to the community. He stated there will be community outreach programs wherein the residents will engage the community by giving lectures by schooled scholars. The Chakrabarti Foundation donates funds to Princeton University and will probably have lecturers from Princeton. They will invite local religious bodies. He stated there is a saying that charity begins at home. They will engage local churches, temples, mosques and synagogues and share their ideas with our scholars and visa-versa. The community will benefit from the work of the Ashram and there is local social, and cultural exchange of ideas making community members come and use the library and be exposed to the work that is going on within the Ashram. Research will be available on the internet so that community members can be educated. Members and their visitors will be procuring the goods and services of the local community, hotels, restaurants, medical services. Contractors, plumbers, maintenance personnel and the like will be compensated for their services. The Ashram will bring pride and prestige to the community. The scholars will also be able to design other outreach programs as they feel are warranted. Dr. Chakrabarti further stated he did not have a specific plan with regard to local schools. The scholars will be teachers and so on so they will probably enjoy going to the schools and providing lectures.

Mr. Platt stated Mr. Baron’s line of questioning is really to deal with issues of credibility and issues of the viability of the Ashram. The Board will have to weigh these types of considerations when hearing testimony.

Mr. Baron stated as one of the community outreach programs, the scholars will invite lecturers from Princeton. He asked whether or not Dr. Chakrabarti has contacted anyone at Princeton to date. Dr. Chakrabarti stated he did not although he is confidence a lot of people will accept his invitation. Dr. Chakrabarti also stated there will be a window of time during the day when the public can come into the library and community center. The scholar’s findings, reports, etc. will be published on line and in magazines. Monthly reports will also be issued. Dr. Chakrabarti in response to Mr. Baron’s question stated he does not underestimate the intelligence of the Voorhees residents and they will absolutely be able to understand and utilize the material that is published.

Mr. Baron had no further questions for Dr. Chakrabarti and called Mr. Miller, Planner on behalf of the Applicant. Mr. Baron asked Mr. Miller what he utilized to provide a definition of the term inherently beneficial. Mr. Miller stated as normal practice he reads the definition from the statute. Mr. Baron read the definition from the statute in the Municipal Land Use Law, NJSA 40:55(d)-5 as Mr. Miller followed along.

Mr. Baron stated he had one additional question to ask Dr. Chakrabarti. Mr. Baron inquired as to whether or not background checks will be performed on the scholars and employees of the Ashram. Dr. Chakrabarti stated there will be background checks performed consisting of education, their upbringing, thinking, and their willingness to do voluntary work.

Mr. Baron went onto question Mr. Miller. He asked Mr. Miller whether or not he had the Cox book with him and if so what is the definition of an inherently beneficial use? Mr. Miller stated inherently beneficial use means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. He further stated this application in part satisfied positive criteria for a use variance because it is inherently beneficial. Mr. Baron questioned how is it inherently beneficial to this specific community? Mr. Miller stated there has been testimony regarding the benefits for the township and community at large. Benefits articulated at the prior hearing are the ones that he based his opinion on and had to do with interaction with different community groups potentially offering to make presentations to schools. The overriding objective of this institution is to work on multiple disciplinary approach and conflict resolution related to intercultural conflict, religious conflict. Those are obvious things that will be of interest to students in high school and different community groups. Groups affiliated with churches. Mr. Miller further stated he has dealt with a lot of inherently beneficial use cases and in many cases, they involve religious groups, educational facilities. Those types of uses usually have communities that extend beyond the boundaries of the specific township and in some cases they might not even be present in the community at the time the application is made. Mr. Miller stated he believes the case law is pretty clear by implication, the benefit of inherently beneficial does not have to accrue to a specific municipality. If you look at the case law for a use that is not inherently beneficial, there is very extensive case law on wireless uses. The courts have clearly said that the benefit of that use extends beyond municipal boundaries and the benefit is to be evaluated in terms of its overall benefit to the community at large.

Mr. Baron asked if Mr. Miller was familiar with the NJ Supreme Court case Kohl vs. Fairlawn, 1967. Mr. Miller stated he is familiar with the case and that it’s an older land use case. Mr. Baron read a quote from that case. “There must be a finding that the general welfare is served because the use is peculiarly fitted to the particular location for which the variance is sought.” Mr. Baron inquired as to how this world peace goal is particularly fitted to this location? Mr. Miller inquired as to whether or not the Kohl case was about dairies? That case does not deal with inherently beneficial uses, it dealt with criteria for D variances and the prior land use statute. Medici criteria was put into place prior to the Kohl case. When Mr. Miller evaluated this for positive criteria he also applied the Medici standard and to the extent that case dealt with suitability he also testified that in his opinion this use also satisfies those criteria as well as inherently beneficial. Mr. Baron stated the municipal land use law was adopted in 1976. Mr. Baron asked whether or not the preservation of the character of the neighborhood and the conservation of the values are proper zoning purposes? Mr. Miller stated “Yes.” Mr. Baron asked if there was a change to the character of Centennial Mills as a result of this use, would Mr. Miller agree that can be considered by the Board as to whether or not they can satisfy the inherently beneficial standard. Mr. Miller stated “Yes, if there was a change.”

In response to Mr. Baron’s question, Mr. Miller stated as testified at the prior hearing he is not aware of a case that a use of this type is inherently beneficial. This is a very unique use and he is not aware of a comparable use. Mr. Miller stated other than discussing the application with Dr. Chakrabarti he did not perform any other research regarding an Ashram. Mr. Baron asked if this was a ‘field of dreams’ idea, if you build it, they will come. “What if no one comes?” “What if this is the greatest idea in the history of mankind and no one embraces it?” “What would happen to the Ashram?” “Do you have any idea for a re-adaptive or subsequent use for this building if it isn’t successful?” Mr. Miller stated based on the physical character of the design, the building could be characterized as an apartment. The underlying zone allows under certain circumstances apartments and this building would readily be adaptive to apartments consistent to the zoning and arguably a permitted use. Mr. Baron asked whether or not Mr. Miller heard Mr. Platt say the overlay that was created for this site is no longer in existence. Mr. Miller did not recall hearing that. Mr. Baron asked Mr. Miller if he knew residential uses are specifically prohibited by zoning in this district. Mr. Miller stated they are specifically prohibited but not part of the CRC or CCRC within the overlay district. Mr. Miller stated in looking at the Zoning Map now, he sees the overlay still exists. Mr. Baron stated the overlay was to expire after a fixed period of time. Mr. Baron asked whether or not Mr. Miller thought this property could be used as a drug rehab facility if it were to be repurposed. Mr. Miller stated it would have to get approval and the question is too speculative to respond. Mr. Baron stated his vision is that it could be used as a drug rehabilitation facility. Could Mr. Miller definitely say no it could not? Mr. Miller responded “no.”

Mr. Baron stated he respected Dr. Chakrabarti’s confidence that the Ashram will be a success. If it is not a success for whatever reason. Would there still be a benefit to the community? The question is would the building be a benefit to the community? Mr. Miller stated “Yes.” Whatever it was repurposed for that would be the benefit it would have. If it were to be repurposed as apartments it would have the benefit of 20 additional dwelling units. If it was repurposed for commercial use than the benefits would be the benefits of a commercial use. You could convert the building potentially into a shopping center of some sort, there could be hair salons, card shops, different commercial uses that are permitted there. There could be medical offices. There could be a law firm.

Mr. Baron stated according to the code for this zone, offices, medical, finance, accounting, real estate, counseling, a public entity. Mr. Miller stated the building can be converted. Up and down Haddonfield Berlin Road there are any number of homes that have been converted to offices. They would have to seek a Use Variance and convince the board that a residential use would be appropriate in this location. Under 152.142 administrative offices are a permitted use. Bulk laundry is also permitted as a use. Mr. Miller did not see the space being utilized as public storage, community recreation, vehicle repair, bulk laundry processing. He also stated there might be an adaption where research, development and testing could take place and the community space could be adapted for auctions.

Mr. Senges indicated buildings are retrofitted all the time. The property has been on the market for 15 years as he understood it. Mr. Senges stated all of Mr. Baron’s questions for the record are based on the hypothetical that this use would fail.

Mr. Baron stated the basic premise is not that this use would fail but more-so they cannot meet the criteria for the use variance. He further stated he is trying to figure out if the character of the community is significantly affected? In most use variances, there is a hard, you can wrap your arms around the use. You know what it is going to be. You can understand it, you can see how it would be successful, you can see how it would operate and Mr. Baron is not sure that exists here.

Mr. Senges stated the Board approved an application for a school six years ago that failed for whatever reason. Mr. Barton responded that the likelihood of failure for a special school in today’s terms is much more remote than a facility that is going to try to create world peace. Mr. Baron stated he wouldn’t be worried about a special school failing. However, he’s uncertain about this application.

Mr. Platt stated his house of worship is a Synagogue and everyone agrees a Synagogue is an inherently beneficial use as defined by Statue. Synagogues can fail. They fail all the time all over because the congregation gets older and they leave. Would it be fair for a Board to say a Synagogue might fail 50 years from now, the congregation gets older and people leave? You would need to determine whether or not that Synagogue could be adaptable to another use.

Mr. Baron stated one can understand how a Synagogue will function and how it benefits the community. That is not the case with this application. This is not in any case law or any statute described as an inherently beneficial use and he does not have the slightest idea how an Ashram functions. Mr. Baron further stated if you cannot define and understand what it is, you don’t have the ability to approve it.

Mr. Baron continued to question Mr. Miller. Mr. Miller in response to Mr. Baron’s questions indicated this site is particularly suited because the use is appropriate to the location and based on the fact that Centennial Mills is a residential community, an established use and is also occupied by a population similar to the population that would be living within this use, 55 and over. He also stated as previously testified, this use is self-contained, so the impacts of it are relatively minor on the surrounding area and as a consequence is very much compatible with the neighboring community and more compatible then some of the other uses which could potentially be permitted on this site. He also opined that the site was particularly suited for the Ashram because the size will accommodate the use. There is enough space to provide appropriate buffering. It’s an ideal fit with the age-restricted community with a limited level of activity. It is primarily a residential use. Its character and intensity is basically a low impact residential use with an additional element of the scholarly activity within the structure itself. Therefore its impacts are comparable to residential use and probably less. Additionally, it has a character which he thinks is very complimentary to the zoning district.

Mr. Baron referred to a section in the Cox book. Page 696. Section Site Suitability Test under the Use Variance Chapter. Site suitability is not concerned with ordinance zoning criteria, but instead focused on why the location of the site within the municipality or region is particularly suited to the use despite the zoning and/or two, what unique characteristics of the site itself make it particularly appropriate for the proposed use rather than a permitted use. Mr. Baron asked Mr. Miller to state as to why this specific site is uniquely and particularly suited for this use? Mr. Miller stated it has to do with the location on a parcel surrounded by a CRC community and because of those conditions it’s an arguable site for another primarily residential use with an age-restricted population which would have impacts and a character comparable to the CRC community. Additionally, it replaces a lot of other potential uses which arguably would be less compatible with the CRC community because those uses are primarily non-residential uses which has significantly greater intensity impact than the use that’s proposed. The reason this site is particularly suited among other reasons is that you have a very unique parcel. A seven-acre parcel surrounded by the CRC community and it’s almost as if it should have been part of the CRC community and for whatever reason wasn’t included. Probably because the CRC also permits a certain amount of non-residential uses. Most likely the developer anticipated being able to locate a non-residential probably a shopping center which would provide services to the residential element of the development and that wasn’t able to go forward. Given that parcel wasn’t developed, wasn’t devoted to a complimentary non-residential use, than this residential use is very similar to the surrounding use and a use that is just short of being a permitted use, it is an ideal use for this location. If you read the code and you check out the scholarly pursuits of the residents, the use will be a permitted use within the district accept for the fact that it doesn’t meet the tract size requirement but that could be overcome partly by just incorporating it into the CRC.

Mr. Baron referred to Section 152.144 stating no residential dwelling units are permitted in the EIB zone district except in connection with the CRC or CCRC overlay development. This site is in the EIB zone. If in fact CRC and CCRC are no longer overlays, this section reads no residential dwelling units are permitted. Mr. Baron questioned whether or not the applicant applied for a use variance for residential use units. It is self-evident that there is a residential element. Mr. Baron questioned how many non-permitted uses does this application propose? Mr. Miller stated there is one use proposed, the ashram. Mr. Baron inquired whether or not a ‘think-tank’ is a permitted use. Mr. Miller stated that is an interesting questions. If you were to look at the permitted uses of research, it would be a permitted use with the exception of the residential units. The code states research is also permitted as are administrative offices. Mr. Miller further stated he could envision for example a building where there are offices and people conducting research within those office. That would be consistent with the code. Mr. Miller stated he thinks a think tank would fit into the definition of research, development and testing laboratories. He doesn’t think it necessary implies test tubes. He feels as though there could be a laboratory where philosophy is discussed.

Mr. Platt read for the record the application. Application for a use variance to allow an ashram for 20 efficiency age-restricted residential units with a large welcome community center in the EIB zone. Certainly the application includes residential.

Mr. Baron requested Mr. Miller read Section 152:142 Permitted Uses, Section J. Mr. Miller read the following uses are specifically prohibited in the EIB zone, including residential except for part of a comprehensive retirement community overlay zone within the EIB community.

Mr. Baron stated the township has made a decision when it states that a use is prohibited; simply that those uses do not belong in that zone on that site. He further stated in looking at the zoning map it shows the overlay district extending onto this property. In the overlay residential uses are permitted. He questioned Mr. Miller as to whether or not he had an understanding that the overlay had expired. Mr. Miller stated it was his understanding that the overlay is still in place since it is still on the map.

Mr. Baron asked Mr. Miller regarding the SECA test, the four steps that are required to identify the public interest. What is the public interest in permitting residential in a zone where it is prohibited? Mr. Miller stated there are a combination of functions within this use and when we discuss the inherently beneficial aspect of the use, we are talking about the think tank aspect and that’s where it is qualified as inherently beneficial. Mr. Baron stated this use is comprised of two uses. Mr. Miller stated it is common place for an inherently beneficial use to combine elements of various uses. For example a rectory at a catholic church will have a residence but it will also have a convent as a residential use and is inherently beneficial because it is a religious use. There is a Buddhist temple where there is a residential component as well as a worship element. Many inherently beneficial uses combine a variety of uses and elements into one overall use. Just as a shopping center can combine various commercial uses into one entity. Then the use is looked at in its entirety. For example a shopping center or an office or a catholic church where you could have an educational use in the form of parochial school, residential use in the form of a convent or rectory. The rectory would involve activities similar to this use for example a bible study or a group of priests getting together to discuss ways to deal with a community issue.

Mr. Baron requested Mr. Miller provide an example that’s not religious. Mr. Miller stated a college. It is akin to a school. At Princeton University there are elements of the university where there is direct classroom participation by the students. The testimony of Dr. Chakrabarti indicated that there will be from time to time presentations made where educational activity will occur where there will be a lecture where someone will make a presentation from an academic perspective, that’s education.

Mr. Platt stated in the conventional sense this is not a school. We also know that inherently beneficial uses are specifically listed in the statute but there is also a broad base definition. It doesn’t have to be a school to be inherently beneficial. Mr. Baron is cross examining Mr. Miller on his evaluation as to whether or not this meets the definition of inherently beneficial because it’s not technically a school in the conventional sense.

Mr. Platt read the definition which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare such a use includes but is not limited to a hospital, school, etc.

Mr. Baron stated an Ashram is not included in the definition of inherently beneficial correct. Mr. Miller agreed. Mr. Baron asked if Mr. Miller is aware of any case that approved a use variance for a use of this type; a think tank combined with a residential structure? Mr. Miller stated this is unique use and he is not aware of any case that approved a use variance for a use of this type.

Mr. Baron inquired as to whether or not Mr. Miller testified that there would no substantial detriment to the public good. Yes said Mr. Miller. It means that there would be no substantial impact on the neighborhood, surrounding land uses. Is it also his testimony that there would be no substantial detriment to the character and in his opinion the Ashram is consistent with a senior retirement community because the scholars will be 55 years or older. The overall character, the intensity of the use, the nature of the occupants, the activities that take place and the land use context which was alluded to earlier is consistent with a senior retirement community. Mr. Baron asked where are the recreational facilities on the proposed site? Mr. Miller stated there are none. Mr. Baron stated that is not consistent with Centennial Mills. Where is the common gathering or meeting facility for the folks within the site? Mr. Miller stated within the community center/lecture hall. There is a common area that can be used for various social functions. Mr. Baron asked if Mr. Miller was aware of any lectures that are given at Centennial Mills. Mr. Miller stated they have facilities that can accommodate a lecture. Mr. Baron asked whether or not Mr. Miller was aware of any research or laboratory testing? Mr. Miller stated he was not. Are you aware of individuals who are bused or brought to Centennial Mills for events? Mr. Miller stated he believes the events are for individuals within Centennial Mills. Mr. Baron stated therefore the two uses are not consistent. Mr. Miller stated in those situations that is correct.

Mr. Baron asked Mr. Miller why he thought an Ashram or ‘think tank’ would be prohibited. Mr. Miller stated he feels as though one reason is that it is a very unique use that was not anticipated at the time the township prepared its various Master Plans and reexamination reports. It would be hard for any planner or board member to envision this specific use. It is a very unique use to the area. Mr. Baron stated the master plan was amended in 2012. He asked whether or not ‘think tanks’ were known in 2012. Mr. Miller stated a think tank could be permitted under other categories within the ordinance. However, they were not discussed as part of the planning process. He doesn’t believe the subject of a ‘think tank’ was ever directly considered.

Mr. Baron had no further questions for Mr. Miller.

Mr. Cofsky stated he was not going to discuss whether or not this project would fail. The one thing that was not raised about if this project were to fail that there was always the presumption that this building had to remain. Mr. Cofsky stated if this project were to fail, the property could be leveled. Mr. Miller agreed. In its place there could very well be a vehicle repair station, bulk laundry facility, fifty-five foot building, community recreation, skateboard park, bowling alley and a laboratory.

Mr. Brocco questioned whether or not the overlay did in fact expire? Mr. Baron stated yes it had expired. It was created for a fixed period of a time and it retired and it is no longer available for this property.

Mr. Miller asked Mr. Platt whether or not he stated the general development plan expired? Mr. Platt stated that’s correct. Mr. Platt stated he would address the issue at the end of the application. The applicant did apply for a use variance for an Ashram which will consist of a welcome community center and 20 age-restricted residences to be used for the scholarly pursuits and studies of methods and actions to promote interreligious and intercultural harmony and world peace; a use not provided for in the zoning ordinance and specifically not included in the EIB zone.

Mr. Baron stated there are two principal uses on one site in one building and there may be a prohibition about two uses in one building, two principal uses on one lot. When reading the notice it said use, not uses. It seems to suggest that the Ashram would be an accessory use. Mr. Platt stated both uses are noted in both the application and in the public notice.

Mr. Platt requested Mr. Cofsky extend the action date until the end of March. Mr. Cofsky stated he would issue a letter requesting same.

Mr. Platt stated the Board will motion to continue the application to March 14, 2019,

7 p.m. No further notice will be required. The Action Date will be extended until the end of March.

Mr. Senges made a motion to continue the meeting to March 14th; 2019 seconded by Mr. Weil.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Leoncio, Mr. Brocco, Mr. Fanelli, Mr. Vandergrift

Nays: None

Seeing no further business Mr. Senges made a motion to adjourn, seconded by Mr. Weil.

Meeting was adjourned.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Corrine Tarcelli

Zoning Board Secretary