

**TOWNSHIP OF BASS RIVER
LAND USE BOARD**

RESOLUTION 2024-10

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

WHEREAS, Maple River, LLC (“Applicant”) requests Use Variance Approval, pursuant to *N.J.S.A. 40:55D-70(d)(1)*, and Preliminary and Final Major Site Plan Approval to permit the renovation of a former public elementary school to a private religious boarding school with dormitory facilities, accompanied by use restrictions of no more than thirty-five (35) full-time students, seven (7) day-time students, two (2) rabbi’s and one (1) maintenance person and no driving privileges for students on Applicant’s real property, which is more particularly described as Block 56, Lots 36 and 37 on the Tax Map of the Township of Bass River; and

WHEREAS, Applicant submitted the following exhibits in support of the Application:

- A-1 Application Form, dated June 30, 2023;
- A-2 Site Plan, 110 North Maple Avenue, Block 56, Lots 36 & 37, prepared by Glenn D. Lines, P.E. and P.P. of Newlines Land Consultants, LLC, dated 3/7/24, consisting of one sheet;
- A-3 Application Rider, prepared by Applicant, undated and consisting of two (2) pages;
- A-4 New Jersey Pinelands Certificate of Filing; dated January 5, 2024, consisting of four (4) pages;
- A-5 Legal Notice, dated March 12, 2024;
- A-6 Schematic Floor Plan, Depicting Renovation Area, marked as Exhibit “A-1” at the public hearing.
- A-7 Report of the Bass River Land Use Board Engineer, Owen Little & Associates, dated March 13, 2024, consisting of seven (7) pages; and

WHEREAS, Applicant provided public and personal notice in accordance with the requirements of N.J.S.A. 40:55D-12 and the Township Zoning Ordinance; and

WHEREAS, after hearing and considering the testimony of Applicant's principal, Eli Blech, its professional engineer, Yehuda Back, P.E., its architect, Shimon Greenbaum, its professional planner, Andrew Janiw, P.P. and the arguments of Applicant's Attorney, Donna M. Jennings, Esq. of the Wilentz Law Firm and the January 2, 2024 report and testimony of the Land Use Board Engineer, Frank Little, P.E. and P.P. and the testimony and comments from the public at the public hearing conducted on March 20, 2024, the Land Use Board finds as follows:

1. Applicant requests Use Variance Approval, pursuant to *N.J.S.A.* 40:55D-70(d)(1), and Preliminary and Final Major Site Plan Approval to permit the renovation of a former public elementary school to a private religious boarding school with thirty-eight (38) bed dormitory with shower, bathroom and lounge areas, accompanied by use restrictions of thirty-five (35) full-time students, seven (7) day-time students, two (2) rabbi's and one (1) maintenance person and no driving privileges on its 4.07-acre parcel, located at 11 North Maple Avenue. The subject property is located between French's Land and North Maple Avenue and adjacent to the New Gretna Volunteer Fire House in the VR (Village Residential) Zoning District. The subject property is currently developed with a 2-story public elementary school building with access drives, off-street parking, circulation aisles and a variety of other amenities. The VR Zoning District permits single-family dwellings and municipal uses. Educational uses are a permitted use in the Rural Development, Forest and Village Commercial Zones, thus use variance approval is required.
2. Applicant represented at the outset of the public hearing that the proposed Yeshiva is a private educational facility devoted to religious instruction for students, post high school, and its operation would be akin to a seminary or monastery. Male students, ages 18-21, would receive religious scholarly training for 3-4 years before relocating to Israel. Hours of operation for the Yeshiva would be from 7:30 AM to 10 PM from Sunday to Friday. No students would be permitted to have an automobile on the school premises. The seven (7) day-time students would be driven by a small van daily to/from the Yeshiva. Deliveries would be made to the school by box trucks for off-site catering and laundry service. Security cameras operated at the former elementary school would be utilized to provide security for the Yeshiva.
3. Applicant's Engineer, Yehuda Back, P.E., testified that the former public elementary school has been vacant for two (2) years and had a peak occupancy of 183 students with 30 teaching/staff members on or about 1981. Applicant would utilize the same driveway access on North Maple Avenue. The parking lot would be restriped to provide thirty (30) conforming parking stalls, including two (2) ADA spaces. No loading area is proposed as the deliveries to/from the site would be minimal. Applicant would provide private trash disposal service. Lighting and landscaping would remain the same. Mr. Yehuda Back testified that the existing septic system would meet Burlington County Health Department standards and there will be no increase in nitrate dilution from the change of use from a public elementary school to a private boarding school to trigger application of the current

New Jersey Pinelands Commission standards (i.e. nitrate dilution increase beyond the existing 7.5 parts per million). Mr. Yehuda Back testified that Applicant can meet all the requirements of the Land Use Board Engineer's review memo, except as relates to curbing and sidewalk for which improvements are not necessary. Mr. Yehuda Back testified that the second-story of the school building would be utilized for storage purposes only. Applicant further agreed to modify and resubmit its Applicant Rider (Exhibit A-3) to eliminate reference to any potential for the Yeshiva expanding to 149 students and 25 staff members in the future. Applicant conceded on the record several times that its use variance application and legal notice only requests for use approval for a school having 35 full-time students, 7 day-time students and 3 staff members.

4. Applicant's Architect, Mr. Greenbaum, testified that for the two-floor section of the building, the upper floor would be used for storage purposes only and the ground floor would be utilized for administrative offices. Students would also use the existing gym and cafeteria. Approximately 4,700 square feet of classroom space would be converted to eleven (11) dorm rooms with 3-5 beds. There will be one shower installed for every eight (8) students. There is also one mechanical room, highlighted in yellow color on the schematic floor plan.
5. Applicant's Planner, Mr. Janiw, testified that both private schools and religious education facilities, such as proposed by the Yeshiva, have been recognized by the New Jersey courts as an "inherently beneficial" use, thereby satisfying the "positive criteria" for the granting of use variance relief. Mr. Janiw testified that the Village Residential Zone permits municipal facilities and that the proposed Yeshiva advances similar moral purposes of a municipal facility. Mr. Janiw further testified that the purposes of zoning would be advanced by this use, including N.J.S.A. 40:55D-2(a) public health, safety, and morals; 2(g) reuse of school for an educational facility; and -2(m) a more efficient use of land private and public purposes. Mr. Janiw further testified that the former use of the building as a public elementary school with classrooms, gym and cafeteria makes it particularly suitable for the proposed Yeshiva. The parking lot of 30-spaces is more than ample for the staff and occasional deliveries for catering and laundry and for private trash removal. The existing gym can provide recreation for the students.
6. Mr. Janiw testified that under the *Sica* balancing test for inherently beneficial uses, the proposed Yeshiva restricted to 42 students with no driving privileges will have minimal impacts as compared to its prior educational use for a public elementary school for 180 students.
7. Mr. Janiw further testified that no bulk variance should be required for the minimum side-yard setback (18.64 feet existing and proposed; 20 feet required) because this is an existing condition from the location of the school building. No new building expansion is proposed.

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

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Bass River that the within application for Use Variance Approval, pursuant to *N.J.S.A. 40:55D-70(d)(1)* and Preliminary and Final Major Site Plan Approval to permit the renovation of a former public elementary school to a private religious boarding school, accompanied by use restrictions of thirty-five (35) full-time students, seven (7) day-time students, two (2) rabbi's and one (1) maintenance person and no driving privileges on its 4.07-acre parcel, located at 11 North Maple Avenue, is hereby granted subject to the following conditions:

1. No students shall be permitted to have an automobile or driving privileges on the school premises.
2. Applicant shall modify and resubmit the Application Rider (Exhibit A-3) to its development application to eliminate any reference to future expansion plans for the Yeshiva.

3. Applicant shall submit to inspections of the Septic System on an annual basis, as opposed to every three (3) years, as required by Section 17.20.190 of the Bass River Township Code.
4. Applicant shall comply with the recommendations set forth in the Land Use Board Engineer's report of March 13, 2024, except as modified herein.
5. Applicant shall obtain any required outside agency approvals, including Burlington County Board of Health Approval for Septic and a No-Call Up Letter from the New Jersey Pinelands Commission.
6. Applicant shall provide private trash service.
7. Applicant shall pay all taxes, fees and required escrow deposits which may be due and owing.

Certified to be a true and correct copy of a Resolution memorialized by the Planning Board at its meeting of April 17, 2024.

Adopted: April 17, 2024

Natalie Lewis

Planning / Zoning Board
Secretary – Natalie Lewis

Cindy Ruffo

Planning / Zoning Board
Chair – Cindy Ruffo