MANCHESTER TOWNSHIP ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
Thursday, February 19, 2026

Manchester Township
1 Colonial Drive
Manchester, NJ

MINUTES OF MEETING

1. The special meeting of the Manchester Township Zoning Board of Adjustment was called to order at 6:34 p.m. by Chairman Bruce Hay.

2. This meeting had been duly advertised, filed and posted in accordance with the Open Public Meetings Act.

3. A Pledge of Allegiance and Salute to the Flag.

4. Roll Call: Members Present: B. Hay, W. Cook, G. Georgiano, D. Tedeschi, G. Apgar, J. Petito, J. Markowski, N. Charlton
   Members Absent:

Also Present: Nick Dickerson, Township Planner, Jason Worth, Board Engineer, and Debra Rumpf, Board Attorney

APPLICATION

Case 24-48	Congregation Mikvah of PLP 1209 Ninth Avenue Manchester, NJ	1209 Ninth Avenue Block 1.186 Lot 39 Zone R10

Ms. Rumpf asked Ms. Jennings to confirm the operating conditions discussed during the prior four meetings. Ms. Jennings agreed that operations would be limited to two to four hours daily beginning at sundown; attendance would be by appointment only, without walk-ins, with three to eight adult women per night and no more than three patrons using the suites and bath at one time. Two staff members would be present. No children or visitors would be on site, and no other social events would be permitted. Ms. Rumpf noted that testimony concerning use of a bridal suite contemplated one additional person, usually the bride's mother; Ms. Jennings agreed. Ms. Jennings also agreed to residential-style downward-directed lighting, with a lighting plan submitted to the Board Engineer, and no signage. Ms. Rumpf described an ADA-accessible lane rather than designated parking, six parking spaces, and sufficient parking arranged one behind another; Ms. Jennings agreed. She further agreed to installation of a dry well, white vinyl fencing around the entire property, reflective materials made available to patrons, and deliveries limited to 9:00 a.m. through 8:00 p.m. Additional agreed conditions included basement use for storage only, restricting use of the mikvah to Pine Lake Park residents, planting and maintaining a buffer,

and installing a Knox box. During discussion of the buffer, Ms. Rumpf initially referred to approximately 14 arborvitaes. Ms. Jennings also accepted reducing the sidewalk width from six feet to five feet, provided it remained ADA-compliant, as a potential means of reducing lot coverage.

Mr. Dickerson questioned the reference to 14 arborvitaes because his notes from Mr. Portnoy's plans indicated 41 arborvitaes. Ms. Rumpf asked whether the numbers had been transposed. Ms. Jennings stated that the applicant would agree to the number contained in the report, while Mr. Dickerson referred to what was illustrated on the plans. Mr. Worth noted buffering around the trash enclosure. Ms. Georgiano recalled a commitment to plant two additional trees beyond the one already on the property. Ms. Jennings agreed. When asked whether those two trees would be in front, Ms. Jennings indicated that she believed they would be street trees, which Mr. Worth confirmed.

Mr. Dickerson asked that the applicant's general agreement to comply with the conditions in the Board Engineer's and Board Planner's letters be confirmed. Ms. Jennings confirmed that agreement. Chairman Hay then invited counsel to present her closing summation.

Ms. Jennings, counsel from Wilentz, Goldman & Spitzer stated that four hearings and testimony from five factual and expert witnesses demonstrated, in the applicant's view, a need for a mikvah in the Pine Lake Park community. She characterized the mikvah as an inherently beneficial religious use and argued that the positive criteria for a use variance were satisfied as a matter of law. Citing the Sica balancing standards addressed by the applicant's planner, Ms. Jennings argued that the proposed approval conditions would mitigate what she characterized as minimal impacts. She contended that the positive criteria outweighed any substantial detriment to the public good, emphasizing limited daily operating hours and her position that the use would not cause substantial noise, lighting, odor or pollution impacts or otherwise detract from nearby residences. Ms. Jennings also stated that the property satisfied the Medici site-suitability test because of its central location within Pine Lake Park and its ability to serve a substantial portion of that community. She referred to a previously approved private mikvah at an existing single-family residence that did not require substantial exterior changes. Ms. Jennings argued that the proposal advanced purposes A, G and M of the Municipal Land Use Law, including general welfare, appropriate space for a variety of uses, and coordination of public and private land-development activities. She further argued that the negative criteria were satisfied, referring to other religious uses permitted in the R-10 zone and asserting consistency with the Township Master Plan and its 2017 reexamination report. She cited Price v. Hemeji in connection with the requested use variances.

Ms. Jennings then asserted that the Township ordinance violated three provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA). First, she argued that preventing development of the proposed mikvah would substantially burden religious exercise and that the government would need to establish a compelling interest and the least restrictive

means. Second, she argued that the ordinance effectively excluded public mikvahs throughout the Township because a D(1) use variance would be required wherever one was proposed. Third, she raised the statute's equal-terms provision concerning religious and nonreligious assemblies or institutions. , Ms. Jennings addressed the Religious Land Use and Institutionalized Persons Act (RLUIPA), contending that the Township's zoning ordinance did not permit public mikvahs in the R-10 district or elsewhere in the Township, while permitting public parks, playgrounds, and governmental buildings in that district. She characterized the proposed mikvah as comparable to those permitted assembly or institutional uses in terms of its effect on zoning interests. She maintained that the proposed public mikvah would not have a greater impact than the permitted uses and requested that the Board grant the relief sought.

Chairman Bruce Hay thanked counsel and explained that the Board would conduct a caucus among its members, audible to those present, without discussion from the audience.

Motion to caucus made by Mr. Cook and seconded by Mr. Tedeschi. Roll Call- All in Favor.

Ms. Rumpf advised the Board that its discussion should include findings explaining its decision. She explained that the applicant sought a use variance under two approaches: recognition of the proposed mikvah as an inherently beneficial use and, alternatively, relief based on special reasons under the Municipal Land Use Law. She described the Sica balancing analysis for an inherently beneficial use, including identifying the proposed benefit, determining potential detrimental impacts such as noise, aesthetics, lighting, traffic, parking, and drainage, considering whether reasonable conditions could reduce those impacts, and weighing the benefits against the detriments. She stated that the Board must address substantial detriment to the public good and substantial impairment of the zoning plan and ordinance. Ms. Rumpf further explained the applicant's alternative special-reasons argument, referencing purposes G and M of the Municipal Land Use Law, including appropriate land use, provision of space for varied uses, and coordination of public and private land development activities. She distinguished the Medici analysis from the inherently beneficial use analysis and urged the Board to examine the character of adjacent properties, whether the use would affect the neighborhood, the significance of any impacts, and whether proposed operating conditions could mitigate them. She noted that the zoning ordinance and master plan were silent on mikvahs and advised that the Board weigh the asserted benefits and detriments rather than assume that silence itself constituted a prohibition.

Chairman Hay asked why the ordinance provision relating to religious-use organizations, including the four-acre requirement, did not apply. Ms. Rumpf responded that the scale and nature of the proposed use differed from a larger house of worship and that the Board could consider the provision, but should also recognize that the ordinance did not specifically contemplate this use. Chairman Hay question about a 25-foot buffer, Ms. Rumpf stated that the applicant proposed some buffering appropriate to the lot size and cautioned against automatically applying requirements drafted for a different use.

Ms. Apgar expressed concerns about the site's proximity to an intersection and the relationship between the proposed use and the Township's requirements for houses of worship. Ms. Apgar also questioned whether approval of this use could have implications for other small religious or institutional facilities in Pine Lake Park, emphasizing that the concern was zoning and the character of the neighborhood rather than a particular religion. Chairman Hay asked Township Planner Nick Dickerson to clarify the ordinance.

Mr. Dickerson explained that the Township Code treats houses of worship differently across zoning districts. In some districts they are conditional uses subject to requirements such as a four-acre parcel and proximity to a county road. In the R-15, R-14, R-10 and R-10A single-family residential districts, however, the Code lists churches and places of worship among principal permitted uses, together with single-family dwellings, public parks and playgrounds, and certain governmental buildings. He stated that those principal permitted uses are not subject to the conditional-use requirements discussed. Chairman Hay invited further questions. Ms. Apgar began to question why the applicant had selected this location, referring to a mikvah she had visited in Lakewood.

Ms. Rumpf advised that the caucus was for Board discussion and not for questioning the applicant. Chairman Hay confirmed that members could discuss matters among themselves, and Ms. Apgar clarified that she was posing the question to herself.

Mr. Cook discussed the applicant's explanation of Friday-night use and walking distance and described research he had conducted concerning Jewish religious rules and circumstances in which immersion might be delayed. He questioned whether the proposed location was necessary on that basis. He also expressed concern about the number of bulk variances, vehicle movements into and out of the property, late hours, noise from car doors, and comparisons between the proposed mikvah and churches. Referring to online information about fees charged by other mikvahs, he questioned whether the comparison to a place of worship was entirely apt. Mr. Cook questioned the timing of the prior approval for a private mikvah and the subsequent application for a public facility. He reviewed testimony concerning approximately 500 families and an assumed average of six visits, calculating approximately 226 visitors over a 28-day cycle and questioning the difference between that figure and the larger population discussed. He also referred to traffic testimony concerning approximately 16 daily trips, expressing concern that the trips would be concentrated within a shorter period rather than distributed across an entire day. Mr. Cook stated that the record had not established the unavailability of alternative parcels. He questioned whether the dimensions of the subject property were suited to the intensity of an institutional use and whether the proposed use was compatible with a small residential lot and the zoning plan. He emphasized the Board's obligation to assess substantial detriment to the public good and substantial impairment of the zoning ordinance and plan. Mr. Cook also addressed parking and circulation, including tandem parking, evidence showing three vehicles on the property, and the potential for interference with emergency access. He described the building arrangement, entrance, awning and lighting as having characteristics of a commercial facility,

while expressly stating that he was not calling it a commercial facility. He expressed concern about lighting spillover, narrow Pine Lake Park streets, pedestrians, and conditions during winter weather.Mr. Cook characterized the introduction of a standalone institutional religious facility into a residential neighborhood as a significant change in intensity. He discussed the Medici standard and the Religious Land Use and Institutionalized Persons Act, maintaining that the question was whether the particular site and proposal satisfied applicable standards rather than whether religious uses were categorically excluded. He argued that the applicant had not shown that denial of this particular location would substantially burden religious exercise or that no reasonable alternative location existed. Mr. Cook referred to several federal court decisions involving religious land use, special permits, building size, and alleged substantial burdens. He distinguished inconvenience from a substantial hindrance to religious practice and discussed equal-treatment and discrimination claims, stating that he respected the Jewish community and its religious traditions. Mr. Cook questioned whether the applicant had presented expert evidence that the site was uniquely necessary because of walking distance or that other locations with similar walking distances were unavailable. He reiterated safety concerns and his view that an inherently beneficial use should benefit the community as a whole, rather than only a selected group. Referring to the applicant's 28-day-cycle testimony, he questioned how frequently the walking-distance issue would arise. Ms. Rumpf clarified that the Board's findings should address both the positive criteria, whether inherently beneficial or particularly suited, and the negative criteria. She also referred to testimony that women unable to make a donation could still use the mikvah. Mr. Cook confirmed his position that the detriments he had identified substantially outweighed any positive criteria he had found.

Mr. Tedeschi asked Mr. Worth where the pool backwash would discharge. Mr. Worth explained that the showers drained to the septic system and believed the backwash would as well, but emphasized that septic approval would be required from the Ocean County Health Department based on the actual proposed use. Mr. Tedeschi expressed concern about possible septic overflow and the stormwater report's discussion of untreated water near property lines and potentially flowing toward the street. Mr. Worth noted that a dry well was proposed near the front-right corner of the yard, and distinguished stormwater drainage from water discharged to the septic system. Mr. Tedeschi questioned whether chemicals from the bath could harm septic bacteria; Mr. Worth stated that the Health Department could deny approval if warranted. Mr. Tedeschi then questioned the proposed tandem parking layout, which he understood had been reduced from 10-by-20-foot spaces to 9-by-18-foot spaces, and asked whether vehicles could spill into the street. Mr. Worth explained that parking-space dimensions vary by ordinance and setting, that smaller dimensions may be used to reduce the extent of requested variances, and that the applicant proposed porous pavers to reduce stormwater effects. He confirmed that a lot-coverage variance would still be needed. Mr. Worth stated that the driveway was represented as long enough for two cars, and that applicant testimony anticipated two employees and no more than three other visitors at a time. Mr. Tedeschi asked what would happen if additional vehicles arrived and expressed concern about parking on the street. Mr. Tedeschi discussed the narrow

streets in Pine Lake Park, particularly in winter when snow and parked cars could restrict passage and raised concerns about emergency vehicle access. He also questioned whether attendance at a bridal-suite use might exceed the limits described in the application. Mr. Worth clarified that prior testimony limited that use to the bride and the mother of the bride. Mr. Tedeschi asked how operating restrictions would be enforced, especially for a facility open at night. Mr. Worth said he had previously raised enforcement questions and had not obtained an answer from the Township; he noted that the applicant had stated it would comply with conditions. Mr. Tedeschi returned to the high-water-table report and asked whether soil-boring results had been received. Mr. Worth stated that the applicant had previously indicated it would perform testing to demonstrate that the proposed dry well and septic system would be above the high-water table, but the Board had not received those results. Mr. Tedeschi stated that he was uncomfortable making a decision without that information, citing his experience with flooding and contaminated water in Pine Lake Park, and reiterated that the water-table report should be submitted before approval.

Ms. Apgar questioned the practicality and legality of tandem or stacked parking where one vehicle blocks another and stated that valet parking was not proposed. She raised concerns about neighborhood electrical demand and possible brownouts from the baths and mikvah, as well as flooding and the high-water table. She also questioned the potential for bridal-suite use to attract additional women, including family members, and for activities or refreshments to extend beyond the proposed hours. Chairman Hay and Ms. Rumpf clarified that the applicant had agreed to a three-patron limit and that, for the bridal suite, the bride could be accompanied by her mother only. Ms. Rumpf also noted the applicant's agreement that refreshments would be considered a party and would not be permitted. Ms. Apgar asked how the operating conditions would be enforced. Ms. Rumpf stated that the Township's code official could investigate a suspected violation, including by an unannounced inspection, and issue a violation if appropriate. Ms. Apgar remained concerned about possible earlier or extended hours for bridal use and the associated number of vehicles and neighborhood activity.

Ms. Georgiano stated that the property was in the R-10 district and expressed her interpretation that a single-family detached dwelling was the relevant permitted use. She referred to ordinance language concerning uses not specifically permitted and concluded that the proposal was a nonresidential use out of character with the residential zone. Ms. Rumpf reminded the Board that, whether it found the positive criteria unmet or found that the negative criteria substantially outweighed the positive criteria, it needed to articulate those findings.

Mr. Markowski questioned whether a use described repeatedly as private and serving relatively few people provided an inherently beneficial use to the general public. Mr. Markowski expressed concern that the property would no longer be an occupied residence, but a building visited periodically, removing a housing unit from the block and potentially affecting neighborhood character and nearby property owners. Ms. Rumpf asked Mr. Markowski whether he found positive criteria based on particular suitability or inherent benefit. Mr. Markowski responded that

he considered the location suitable for a resident of the block but not for a facility bringing visitors through the community.

Mr. Petito stated that he had evaluated the application under the inherently beneficial use standard and the required balancing analysis. He said the applicant sought relief similar to that applicable to a place of worship because the use involved religious exercise, while the ordinance's standards for institutional religious uses included a minimum four-acre parcel and higher-classification roads. He emphasized that the subject property was on a local residential street in the R-10 zone and did not meet those standards. He further identified the proposed parking layout, ADA designation, lighting, buffering, and other site improvements and activities as institutional in character and inconsistent with the low-density residential setting. He concluded that the proposal would substantially change neighborhood character and impair the zoning ordinance and master plan, and that the detriment to the public good substantially outweighed the benefits. Mr. Cook added that the requested setbacks violated light, air, and open space for neighboring properties, and that the proposed reductions would substantially alter the character of the neighborhood.

Chairman Hay asked Ms. Rumpf to address the applicant's claim that the ordinance failed in several areas. Ms. Rumpf explained that the argument concerned RLUIPA and the absence of specific provision for this religious use in the ordinance; she cautioned that the applicant's characterization of the ordinance as illegal was not necessarily established. Chairman Hay asked why other municipalities were facing similar litigation and emphasized that the Board's concern was maintaining residential zoning rather than discriminating against any religion. Ms. Rumpf distinguished questions about the ordinance's treatment of religious uses from the Board's responsibility to determine whether this particular proposal could be accommodated in a predominantly residential area. Chairman Hay questioned whether the anticipated use by approximately 160 to 210 people annually, as he understood the testimony, would provide a benefit to the broader community, particularly given the number of people who might use the facility on Fridays. Ms. Rumpf cautioned that the Board should not measure an inherently beneficial use by whether a majority of residents would use it. She explained that the protections for religious exercise, including RLUIPA, extend to minority populations and that a use may be beneficial even if it serves a relatively small group.

Chairman Hay asked whether the positive criteria could be outweighed by the negative impacts discussed during the caucus. Ms. Rumpf reiterated that the Board must first determine whether the positive criteria were satisfied, either through an inherently beneficial use or particular suitability, and then apply the appropriate balancing analysis. She stated that the number of people served alone did not determine whether the proposed use was inherently beneficial or particularly suited to the property.

Ms. Apgar discussed the religious significance of mikvahs, including her understanding of their use by women, and expressed respect for the applicant's religious practice. She questioned the

location, however, observing that some mikvah users might drive to a facility and then walk home before the Sabbath, which could create parking problems. She also expressed concern that the previously approved private mikvah had been constructed before the present request for a public facility, stating that changes to the use should be presented to the Board first for consideration.

Motion for recess made by Mr. Cook and seconded by Mr. Tedeschi. Roll Call: All in Favor.

Motin to return from recess made by Mr. Cook and seconded by Mr. Tedeschi. Roll Call- All in Favor.

Ms. Rumpf reminds the Board that a religious use could be permissible within the zoning framework and that the central issue was whether the applicant satisfied the positive criteria and, if so, whether the detriments outweighed the benefits under the applicable Sica or Medici analysis. She emphasized that any motion or decision should clearly state the Board's findings.

Ms. Apgar referred to a prior proposal involving a church in Toms River that, according to her account, had been rejected because of its location in a residential area despite available parking. She then raised a separate concern about ventilation equipment, humidity control and possible continuous fan noise from the proposed mikvah. Ms. Rumpf responded that the applicant would have to comply with applicable regulations concerning water facilities and cleanliness. Mr. Tedeschi questioned how the Board could approve a proposal without having received the reports needed to evaluate those conditions; Ms. Rumpf stated that certain regulatory approvals and testing would be conditions that the applicant must satisfy before proceeding.

Mr. Tedeschi asked whether the proposed facility would require substantial commercial HVAC equipment and whether its operation could create noise. Mr. Worth stated that HVAC details were not shown on the site plans before the Board, but that the applicant had testified that noise from the building would comply with the Township's noise ordinance. He explained that complaints could be investigated and violations issued if warranted. Ms. Apgar noted that the Township's noise requirements applied at the property line, and expressed concern that ventilation fans associated with the mikvah might create a noise issue. Chairman Hay asked where information about high moisture levels would come from; Ms. Rumpf stated that necessary approvals would be conditions of proceeding.

Mr. Tedeschi again expressed discomfort with making a decision without soil-boring and other supporting information, explaining that he wanted the information before considering approval. Ms. Rumpf explained that the applicant would be required to obtain outstanding soil-boring information, county septic approval and other necessary authorizations before using the facility. She also outlined the possibility of an appeal or lawsuit following the Board's decision and explained that any approval would be followed by preparation and publication of a resolution. Chairman Hay asked about the possibility of litigation following either approval or denial, and

Ms. Rumpf cautioned that the Board should make findings based on the positive and negative criteria and vote according to its judgment rather than speculate about litigation.

Chairman Hay asked whether similar applications had led to litigation elsewhere. Ms. Rumpf indicated that Manchester had other matters in litigation, one in Little Egg Harbor involving a disputed Board resolution. Ms. Apgar returned briefly to the history of the prior private-mikvah proposal, noting that she had asked whether the facility could revert to a private use or residence if the public application were denied.

Ms. Rumpf suggested that, if there were no further discussion, the Board conclude its caucus and proceed to a vote.

Motion to close caucus made by Mr. Cook and seconded by Mr. Tedeschi. Roll Call- All in favor.

Mr. Cook stated that the applicant had not met its burden of proof under N.J.S.A. 40:55D-70(d) and (c), that the proposed use is not particularly suited to the subject property, and that the enhanced Medici reconciliation standard had not been met. He further stated that the cumulative deviations would result in substantial detriment to the public good and substantial impairment of the applicable planning principles and that the proposal did not satisfy the Sica balancing test. Mr. Cook makes a motion to deny the application and Mr. Tedeschi seconded the motion.

Mr. Tedeschi stated that the balancing analysis involved too many negative environmental concerns and that he could not make a conscientious decision in favor of the application without the appropriate reports. He specifically cited the potential water problem and the need for supporting data.

Ms. Rumpf clarified that a vote of 'yes' would be a vote to deny the application, and a vote of 'no' would be a vote against denial.

Ms. Georgiano voted yes to deny, stating that the property was in a strictly residential zone and expressing her view that uses not permitted under the ordinance were prohibited. Ms. Apgar voted yes to deny, citing concerns about water runoff, the property's limited size for septic facilities, and the prospect of back-to-back parking. Mr. Petito voted yes, stating that the application would substantially impair the intent and purpose of the zoning ordinance and master plan and that other properties would be better suited to the proposed use. Mr. Markowski voted yes, primarily because the proposal did not meet the main purpose of maintaining a residential zone. Chairman Hay voted yes to deny, stating that the benefit to the community had not been adequately explained beyond a relatively small number of users. He also cited the safety concerns discussed at earlier hearings, including nighttime pedestrian crossings of Commonwealth Boulevard, and the absence of drainage information and certifications that had been expected.

Ms. Rumpf- the application is denied.

Adjournment: Motion to adjourn at 8:13 pm made by Mr. Cook and seconded by Mr. Markowski. Roll Call: All in Favor.

Respectfully submitted,

Erin Mathioudakis
Zoning Board Secretary