



Township of Freehold
OFFICE OF THE PLANNING BOARD
One Municipal Plaza, Freehold, NJ 07728

REGULAR MEETING MINUTES
October 6, 2016

The Regular Meeting of the Planning Board was called to order by Mr. Gatto on Thursday, October 6, 2016 at 7:00 p.m. at the Freehold Township Municipal Building, One Municipal Plaza, Freehold, New Jersey. He read the Notice of the Open Public Meetings Law.

Present: Mr. Ammiano, Mr. Cook, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn, Mr. Asadi and Ms. Kurtz (late).

Absent: Mr. Bazzurro.

Also Present: Francis Accisano, Esq., Board Attorney; Paul Phillips, Township Planning Consultant; Timothy P. White, Township Engineer; Danielle B. Sims, Administrative Officer.

There was the Pledge of Allegiance.

RESOLUTIONS:

“C” Variance App. # 009-16
Grewal, Vaneet and Daljinder Kaur
Block 30, Lot 8.03 – 366 East Freehold Road

Mr. Kash made a motion, seconded by Mr. Shortmeyer to approve the resolution. The motion passed with the following roll call vote: Aye: Mr. Cook, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk and Mr. Asadi.

“C” Variance Application # 011-16
Pashkevitch, Oleg & Elena
Block 102, Lot 54 – 419 Ely Harmony Road

Mr. Kash made a motion, seconded by Mr. Shortmeyer to approve the resolution. The motion passed with the following roll call vote: Aye: Mr. Cook, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk and Mr. Asadi.

Amended Minor Site Plan and Variance # 698-1-16
Pediatric Health Care
Pediatric Health, PA
Block 70, Lot 28.01 – 470 Stillwells Corner Road

Mr. Kash made a motion, seconded by Mr. Cook to approve the resolution. The motion passed with the following roll call vote: Aye: Mr. Cook, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk and Mr. Asadi.

**NEW APPLICATIONS:****Minor Subdivision and Variance # 766-1-16
3541 Route 9 Realities, LLC and Sun National Bank
Block 72, Lots 90 and 90.02**

Proposal to Subdivide (change boundary/lot line) between two properties-See previous SD # 766-94.

Peter Licata, Esq. appeared on behalf of the applicant. Mr. Accisano stated he reviewed the proof of notice submitted by the applicant which was correct in form, published and served in a timely fashion, therefore, the board has jurisdiction to conduct a public hearing. Mr. Licata had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record.

Ms. Kurtz arrived and joined the dais.

The following witnesses were sworn: John Lutz, PLS; Robert Gallagher, Ray Catena Motors, Christine Nazzarro-Cofone, Planner; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultants; Timothy P. White, Township Engineer. Additional Exhibits were marked.

Mr. Coburn disqualified himself from this application.

Mr. Lutz described his qualifications as a licensed surveyor, but noted that he had never testified before a Board before. He was accepted by the Board as a professional surveyor. He described the application as removing the "panhandle", or "tail" from what currently exists. The area is a strip that is approximately 158' deep and 37' wide and there is a 25' wide sanitary sewer easement along the northern property line, although no utilities appear to be present since the utilities come from Route 9. It was recommended by Mr. White that the easement should be vacated in future development. Mr. Lutz indicated that they would be able to comply with the comments in Mr. White's review letter. There were no questions of Mr. Lutz.

Christine Nazzarro-Cofone had previously been qualified by the previous Zoning Board and was accepted as a professional planner. She stated that in preparation of the hearing, she met with the project team and performed a site visit. Ms. Cofone described the requested waivers and variance relief requests. Lot coverage variance would be exacerbated on lot 90 (the bank lot) because they would be decreasing the size of the lot and not an intensification or additional development. She explained that the proposed lot line change, removing the tail and merging it with lot 90.02, would be a better planning alternative and be a more regular lot pattern. Ms. Cofone, explained that this is not a detriment to the zone plan or the public good and would offer a better planning alternative. She noted that there is an existing trash enclosure on lot 90 (bank) which is in a variance situation. The applicant would be able to move the lot line back further, but it would create a narrow gore behind the dumpster and would not be a better situation. Mr. Phillips noted an error on the zoning chart stating a 0' setback to the sideyard but appeared to be about 2'. Ms. Cofone said that it appeared to be in error and would be revised. Mr. White noted that the landscape buffer requirement is 25', although the plan stated 5'. There was no objection to this change although Mr. Licata asked that the Board not require any installation at this time as no development was being proposed as part of this application.

Mr. Gatto asked if there were any questions from the public. A motion to close the public hearing was made by Mr. Shortmeyer, seconded by Mr. Cook, all in favor, aye. Mr. Ammiano moved that a positive resolution be prepared, understanding the condition of the landscaping to be approved by the Township Engineer, seconded by Mr. Kash, all in favor, aye.



Minor Site Plan with Waiver of Site Plan Detail #879-15 - REHEARING

Primark US Corp. (Applicant)

MS Portfolio LLC (Owner)

Block 69.01, Lot 18.07 – Freehold Raceway Mall

Review the approvals memorialized on February 4, 2016 (PB hearing date: January 21, 2016) for the Minor Site Plan with Waiver of Site Plan Details for façade improvements, construction of a new emergency access door on the upper level, with a 24 sf pad and proposed new exterior signage for the Primark store in the 2nd floor of the existing Sears store.

William J. Mehr, Esq. appeared on behalf of Primark. Mr. Accisano said although this was a rehearing, notice was still provided, of which he reviewed the proof of notice submitted by the applicant which was correct in form, published and served in a timely fashion so the board has jurisdiction to conduct a public hearing.

Mr. Mehr stated that they had been working to resolve the problem. He described that the Township had issued violations to Macerich, Sears and Primark for the signs not being removed. He entered the violation notices into evidence and explained that they offer 30 days to abate the violation. Mr. Mehr requested that the Board give them an extension of the 30 days to correct and carry the hearing until the November 3, 2016 Planning Board hearing. Mr. Gatto expressed his concern as they had been given many opportunities to correct the situation and offered that the Board would carry the hearing to the October 20th, 2016 meeting.

Peter Licata, Esq. entered his appearance on behalf of Macerich (Freehold Raceway Mall).

Mr. Gatto stated that if the Board were to carry the rehearing to October 20th, that they did not contest the findings for the rehearing and acknowledge that they are in violation of the Planning Board's rules and regulations, specifically Section: 3-2-1 misrepresentation, fraud, mistake. Mr. Mehr acknowledged that there may have been mistakes in the testimony. Chairman Gatto also conditioned the request to carry that Primark must also understand that the Board may make findings on October 20th, 2017 and may be memorialized on the record. The findings may result in loss of some or all of the variance relief previously granted. Mr. Mehr acknowledged that this is a rehearing and that action may be taken. The Chairman stated that the three parties (Primark, Sears and Macerich) have not been able to work this out to date. If this is not done by that date, all three parties may be affected.

Mr. Licata acknowledged that should the violation not be abated, violations would likely proceed.

Mr. Ammiano made a motion to carry the rehearing to October 20th, 2016, not to November 3rd as requested by Mr. Mehr, and seconded by Mr. Shortmeyer, followed by the following roll call vote: Aye: Mr. Ammiano, Mr. Cook, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn, Mr. Asadi and Ms. Kurtz.

Minor Site Plan w/ Waiver of Site Plan Details and Variance# 888-16

Bloom Energy – Energy Servers

Freemall Associates, LLC

Block 69.01, Lot 18.01 – 3710 Route 9

Bloom Energy (fuel cells) proposed as an accessory use to the Freehold Raceway Mall (variance for non-permitted accessory use). Fuel cells are fueled by natural gas which converts the natural gas and water into electricity.



William J. Mehr, Esq. appeared on behalf of the applicant, Macerich. Mr. Accisano said he reviewed the proof of notice submitted by the applicant which was correct in form, published and served in a timely fashion so the board has jurisdiction to conduct a public hearing. Mr. Mehr had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Richard Roseberry, Maser Consulting; Greg Oross, Consulting Planner for Bloom Energy; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultants; Timothy P. White, Township Engineer. Additional Exhibits were marked

Mr. Ammiano noted that though the review letter for the Environmental Commission stated that there were no comments from the Commission, he stated that there were concerns. However, these concerns were worked out at the meeting with the applicant, specifically regarding relocating the bollards.

Richard Roseberry described his qualifications as a licensed Professional Engineer, stated he had previously testified before this Board, and was accepted by the Board. Mr. Roseberry described the application as proposed energy servers for the mall. There would be 24 energy servers on a concrete pad with a chain link fence with slats and bollards that will be painted to match the façade of Nordstroms. Landscaping would be installed to screen the area. Two variances are being sought: Accessory equipment will be in the front yard as there really is no rear yards with a loop road. Mr. Roseberry noted that the proposed location was ideal since there is direct gas/utility connection from the loop road and the line loss becomes greater the further from the building that you get. The other variance Mr. Roseberry described is the height of the proposed fencing being taller than what is allowed. The need for this is to shield the proposed energy servers and the fence would have painted slats to match the Nordstroms façade. Mr. Roseberry explained that this area is particularly suited for this use and any other location on the site would make this application infeasible due to the electrical loss. He furthered that there would not be any negative impact with the zone plan, and the concerns the professionals noted regarding aesthetics have been addressed by the proposed screening.

Mr. Greg Oross described his qualifications and was accepted by the Board. He then described a fuel cell as being a stack of treated tiles placed in a cylinder cabinet. Water and natural gas (with sulfur taken out of it) transfer through the tiles, electrical chemical reaction makes electricity. The water evaporates through the process and no waste water is produced and is not combustible. The purpose is to off-set the electric use. There is 24 hour remote monitoring there is auto shut-down (remotely or from within the building). Some Macerich employees will be trained on this. Mr. Oross continued to explain the way the cells operate and if one cell goes down, all cells go down and shut off. Monthly maintenance will be performed. Sidewalk access is being provided at 12' wide. A pod is 6 energy cell units, and four (4) pods were being proposed which weigh about 8,000 pounds each.

Mr. Cook inquired about the noise level. Mr. Oross responded that it would be similar to a hairdryer at six (6') feet.

Mr. Coburn asked if they could break down or shut down. Mr. Oross responded that they typically last about 20 years, but any failure would shut the entire system down. He also stated that it is a parallel system and the mall would still need JCP&L to operate at all times.

There were no further questions from the Board. Mr. Gatto asked if there were any questions from the public. A motion to close the public hearing was made by Mr. Shortmeyer, seconded by Mr. Cook, all in favor, aye. Mr. Ammiano moved that a positive resolution be prepared, understanding the condition of the landscaping to be approved by the Township Engineer, seconded by Mr. Cook, all in favor, aye.



Variance Interpretation #013-16
Final Major SD and “D” Variance # 891-1-16
Legend Hollow at Freehold, LLC
Yellowbrook Property Co. (Applicant & Owner)
Block 86.01, Lot 20 – Gully Road

Final Approval for a 10 lot subdivision (9 residential lots and 1 detention basin lot). See previous approval for SD # 891-14 and bifurcated use variance #008-14.

Mr. Ammiano and Mr. Cook were disqualified from hearing this “D” variance and left the dias.

Vincent Desimone, Esq. appeared on behalf of the applicant. Mr. Accisano stated that the Board took jurisdiction at the previous hearing and the application was carried to this meeting. Mr. Desimone had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Roger Mumford, Roger Mumford Homes; Brian Decina, French & Parello Associates; Christine Nazzarro-Cofone, Planner; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultants; Timothy P. White, Township Engineer. Additional Exhibits were marked.

Mr. White addressed the lighting comment and confirmed with Brian Decina that they would be JCP&L compliant, seven 12’ poles and the most decorative option is being provided (town and country style fixtures).

Mr. Accisano verified that the applicant would still need a variance for Flor Area Ratio (FAR) even if the interpretation was found in the applicant’s favor. Mr. Phillips confirmed this finding and stated that despite whether you would call them a basement or a cellar, or consider it as living space, there would still be an FAR issue. Brian Decina agreed that a variance would be required for FAR.

Christine Nazzarro-Cofone was qualified earlier in the night and still accepted by the Board as a professional planner. She agreed that even without the basement walk-outs, all of the proposed houses would require a FAR variance. Ms. Cofone explained that the size of the proposed house is consistent with those existing on Oakley Road. The houses proposed are about 100’ apart, and the Oakley Road subdivision, they are less than that. The proposed FAR range from .128 through .17, where the ordinance allows .12 and the Oakley Road homes range .157 through .198. She also explained that the boxes provided on the preliminary plans that were approved are similar to the ones proposed. Based on that there would be adequate spacing, there would be no overcrowding, it would be consistent with the character of the area and no detriment with light, air and open space, therefore, Ms. Cofone explained that this application would have no adverse impacts. The other adjacent properties are Applewood and multi-family units. The existing demolition and reconstruction of the farmhouse was approved with the preliminary approval and no change is proposed. Mr. Phillips took no exception to Ms. Cofone’s testimony.

The request for the interpretation was withdrawn by the applicant with the variance request for the larger of the two calculations of FAR. This was acknowledged by the Board, and confirmed by the testimony provided by the applicant’s planner, Ms. Cofone.

Mr. Gatto asked if there were any questions from the public. A motion to close the public hearing was made by Mr. Shortmeyer, seconded by Mr. Kash, all in favor, aye. Mr. Shortmeyer moved that a positive resolution be prepared, seconded by Mr. Kash, all in favor, aye.



Soil Removal/Fill Application # SR-04-16

Legend Hollow at Freehold, LLC

Yellowbrook Property Co. (Applicant & Owner)

Block 86.01, Lot 20 – Gully Road

Soil fill permit application to import approximately 24,000 c.y. of fill to the site as part of the subdivision development.

Mr. Vincent Desimone continued to represent the applicant. Chairman Gatto read the review letter into record. Mr. Brian Decina said they had no objection complying with the comments in the review letter.

Chairman Gatto asked if there were any questions from the public. A motion to close the public hearing was made by Mr. Shortmeyer, seconded by Mr. Kash, all in favor, aye. Mr. Shortmeyer moved that a positive resolution be prepared, seconded by Mr. Kash, all in favor, aye.

DISCUSSION:

Mr. Gatto asked about upcoming applications. Ms. Sims described the upcoming agendas.

CLOSED SESSION:

Mr. Accisano asked that the Board authorize a resolution allowing the Board to go into closed session hearing in order to discuss litigation regarding NYSMSA-Verizon Wireless application.

A motion to go into closed session was made by Mr. Shortmeyer and seconded by Mr. Kash. All in favor, Aye.

ADJOURNMENT:

The Board came back into regular session. There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 8:25 pm.

Respectfully Submitted,

Robert H. Shortmeyer, Secretary