



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

REGULAR MEETING MINUTES
April 20, 2017

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, April 20, 2017 at 7:00 p.m. at the Freehold Township Municipal Building, One Municipal Plaza, Freehold, New Jersey. Mr. Gatto read the Notice of the Open Public Meetings Law: "In accordance with the Open Public Meetings Law, (c.231.P.L. 1975), this meeting was announced by posting the notice on the bulletin board reserved for that purpose; by mailing such notice on January 10, 2017 to the official newspapers of the Township and by filing such notice with the Township Clerk."

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

Absent: Mayor Preston

Also Present: Frank Accisano, Esq.; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; Dr. Bruce Eisenstein, Township RF Consultant; Timothy P. White, Township Engineer and Danielle B. Sims, Administrative Officer.

There was the Pledge of Allegiance.

MINUTES:

The April 6, 2017 minutes were carried to the May 4, 2017 agenda.

RESOLUTIONS:

"C" Variance Application # 003-17
Angelo Spargifiore
Block 85.04, Lot 14 – 52 Mulberry Lane

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

"C" Variance Application # 005-17
Fabio & Rose Apolito
Block 37.07, Lot 3 – 375 Stirrup Drive

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



**Preliminary Major Site Plan # 890-17
PIRHL Acquisitions, LLC
Wemrock Senior Living
Block 69.01, Lot 23 – 168 Route 33**

Mr. Gatto requested a change in the resolution and Mr. Accisano explained that the word “agreement” is more appropriate and recommended that the resolution stands as drafted, the Board agreed. Mr. Kash made a motion, seconded by Mr. Kurtz to approve the resolution. The motion passed with the following roll call vote: Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Asadi and Ms. Kurtz.

NEW APPLICATIONS (not heard in order of the set agenda):

**Amended Preliminary and Final Site Plan w/ Waiver of Site Plan Details # 758-3-17
Sears and Roebuck MS Portfolio, LLC (Owner)
Block 69.01, Lot 18.07 – 370 Route 9 – Unit 1100**

Proposal for a Sears sign on the eastern elevation of the Freehold Raceway Mall.

Salvatore Alfieri, Esq. appeared on behalf of the applicant. 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. Alfieri had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. Mr. Gatto noted that Exhibit P-3 by Mr. Phillips report was issued in error and would be stricken from the record. The following witnesses were sworn: Clifton Quay, Stantec, Martin Wolski, Sears; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

Mr. Alfieri explained that Sears previously operated both floors of the building and negotiated with a new tenant for the upper level. Sears had obtained a permit from the Township to install a sign on the eastern elevation. After such, Primark obtained Planning Board approvals. The sign is essential to the survival of Sears.

Mr. Wolski, Senior project manager for Real Estate Department of Sears, described that they have operated in the mall for over 20 years. Freehold Sears must adapt to the needs of customers. Most retailers are shrinking their footprint, as Sears has done. They have opted to bring in another retailer and downsize by leasing the upper level of the building. They would like to continue to operate in the Freehold Raceway Mall. When driving to the mall, no Sears sign is visible and people no longer recognize that Sears exists in the mall. The Freehold Raceway Mall and Primark do not have an issue with the Sears sign being put back. The sign details that were submitted are the same sign that was previously approved by permit and was taken down and is in storage.

Mr. Gatto asked if Mr. Wolski if he was aware that when they originally had the permit, that there was a door giving access to Sears. Mr. Wolski stated that the door is only an emergency egress door and was never to be used for access. Since this all began, Sears no longer leases to Primark. The entire building is now owned by the mall and they currently lease the upper level to Primark, not Sears. Mr. Gatto asked if he feels it is confusing to the consumer that the sign on that level would say “Sears”, yet there is no access. Mr. Wolski stated people are drawn to this area by the sign.

Mr. Gatto stated he believes that there doesn't appear to be any difference between other stores wanting to have their names on the building (like Apple Store). If the building is not owned by Sears, then this



is misleading. The store is no longer the full anchor store. Mr. Wolski is concerned with customers not knowing Sears still exists at the mall.

Mr. Alfieri stated he doesn't believe that whether the building is leased or owned that it makes any difference.

Mr. Ammiano stated that there is a sign on the building; it is just not a primary sign. He said it is also more pleasing not seeing the Primark sign and the Sears sign on the same façade. Additionally, there is a sign on Trotters Way that describes Sign to the left. He doesn't think that a sign on the building would change people in the area knowing where Sears is located.

Mr. Quay described his qualifications as a licensed Planner and is also a licensed Engineer and was accepted as a professional planner by the Board. He described the eastern façade having the ability to have a much larger sized sign than what is proposed due to the size of the façade. Sears is still considered an anchor store. There is a stair tower for emergency access to Sears. This sign helps to identify the major anchor. He explained that after reviewing the ordinance, he didn't believe that a variance would be required to have this requested sign. He described A-10 as the various views of the building, explaining that the sign would help to identify that Sears is there. He stated that the sign is in compliance, with the exception of the Zoning Officer's determination that they are not on the floor of the building, that they do not physically have a public entrance into that floor of the building, but noted he did not see anything in the ordinance that stated they must occupy that floor of the building. He read a portion of the sign ordinance for the RMZ zone.

Mr. Gatto asked if Mr. Quay had ever read the resolution of approval for Primark. He stated he had not. Mr. Gatto stated that the owners of the mall, Macerich, it was represented that the Sears sign was going to be removed and questioned if he took any objection to the comments in offering his interpretation or his testimony of special reasons. He stated he doesn't because it is still valid that a major business on that side of the mall and needs identification. Mr. Phillips questioned if this would still be considered an anchor store. Mr. Gatto followed, stating that there are no entrance/exits on that level. Mr. Quay stated that the Zoning Officer never stated that Sears was no longer an anchor store, but only that they didn't have presence on that level of the store. Mr. Gatto stated that there are other stores that have been in the mall for 20+ years, and asked if it would be fair to the small retailers that do not have a sign. Mr. Quay stated that this is still an anchor sign. Mr. Ammiano asked if when Mr. Quay entered the mall area through Rt. 9, if he saw the sign he previously referenced on Trotters Way. He stated he had recognized the sign.

Mr. Gatto reiterated that it is misleading, especially for those who don't live here and already know where Sears is located.

Mr. White read a portion of the RMZ zone ordinance (signs permitted at the mall). 190-181 A(3)

A motion to close public hearing moved by Mr. Shortmeyer, seconded by Mr. Kash, all in favor aye. Mr. Ammiano made a motion to authorize Mr. Accisano to prepare resolution of denial and was seconded by Mr. Shortmeyer. There was a roll call all in favor, to authorize Mr. Accisano to prepare a resolution of denial: Mr. Ammiano, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn, Mr. Asadi and Ms. Kurtz. None opposed.

Mr. Ammiano left the dais as he is not eligible to hear the following applications.



**Preliminary and Final Major Site Plan # 784-1-16 with Bulk and “D” Var. #018-16
New York SMSA – dba Verizon Wireless
Block 8, Lot 5 – 169 Robertsville Road**

Proposal to construct a 128’ monopole (including an 8’ lightning rod), with twelve (12) antennas, four (4) equipment cabinets, one (1) power/telco cabinet, and a 30KW diesel generator on a 20’ x 9’4” slab with a canopy. (See previous SP#784-07/Var.# 022-07)

Mr. Accisano announced that the proofs of service were correctly served and the Board has jurisdiction for the application. The Board will be taking jurisdiction tonight. Mr. Gatto stated that there are too many items on the agenda with a matter to be heard on remand by the Court. The agenda had already been set and now there is not enough time to hear both Verizon applications. The applicant agreed that this case can be carried to June 15, 2017 at 7:00 pm without further notice, with the understanding that they would be first or the only matter on the agenda.

There was a motion made by Mr. Shortmeyer, seconded by Ms. Kurtz, to carry this matter to the June 15, 2017 meeting without further notice. Roll call all in favor; Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn and Mr. Asadi.

Ms. Dunn confirmed the application as Block 8, Lot 5, Site Plan Application # 784-1-16 and offered an extension of time to July 20, 2017 to accommodate the adjournment. There was an unidentified resident that objected to the length of time offered, stating it is not enough time to prepare their case. Mr. Accisano explained that the adjournment time is sufficient and if they are not able to make the June 15, 2017 hearing, they can have representation by an Attorney or they can provide proof of why they are not able to attend and we would provide it to Ms. Dunn to see if she would consent to a further adjournment and extension of time to act. He confirmed that this matter has been carried without further notice to June 15, 2017 at 7:00 pm.

Dr. Eisenstein was not required for testimony for the remand application for NYSMSA and was excused from the meeting.

Mr. Gatto explained that the next application will go through about 9:00 pm to allow for a court ordered remand application with a deadline. If the next application takes longer than that, it will be carried/continued to a later date.

Mr. Kash recused himself from the following application and left the dais.

**Appeal of Zoning Officer’s Decision and “D” Use Var. # 004-17 (Ref.# 295-2-17)
Broadway Associates, LLC (Abraham Opatut)
Colonial Foods, Inc.
Block 28.13, Lot 7.03**

Applicant is appealing the Zoning Officer’s Notice of Violation dated 1/4/17. They are alternately seeking a bifurcated “D” Use Variance for trucking and warehousing.

Salvatore Alfieri, Esq. appeared on behalf of the applicant. 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. Alfieri had no objection to the exhibits that were marked and additional exhibits were marked. Mr. Gatto read the review letters into record. The following witnesses were sworn: Abraham Opatut, Applicant/Owner; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer.



Mr. Gatto explained that they will be processing this a little different than normal and after the applicant speaks, the Board would like to hear some of the concerns of the residents in hope that the applicant may be able to address the resident's concerns. He reminded everyone though that they are restricted with the time since the court ordered the next application back to the Board, but would not prevent people the residents that came out for the hearing from testimony, but may just not get to them during this meeting.

Mr. Alfieri asked Mr. Opatut to explain the history of the site. Mr. Opatut stated that his family acquired the site in the 1950's. There were three brothers, who had grown up on a farm and knew farming. At the time, it was a potato farm, approximately 67 acres. They started by farming chickens (approx. 100,000 chickens), the egg business. He described additional exhibits including family where his parents were sorting eggs in what is now his office and historic photos. He explained that at the peak, approximately 45-50 trucks were used and in the 90's, they grew to approximately 100 fleet trucks. Mr. Opatut explained that in the early 60's, they maintained and repaired trucks both inside and outside the building and that operations took place 24 hours a day/7 days a week. They shipped to various retail outlets. The original name of the egg business was Colonial Poultry Farms (Colonial Foods).

Referring to historic aerial photos that were marked, Mr. Opatut noted some changes that occurred on the site. Referencing the subdivision map for SD# 528-78, he stated that the main structure is the same except back portion which looks like a tail is no longer there and two other structures on upper portion are gone. In 1980, the garage area with the 8-10 bays (originally part of the chicken coup), a garage was constructed and still exists. Over the years, the family acquired additional property (the "Four Corners"). In 2003, they subdivided to create lots for 165 homes. He read a portion of the subdivision resolution stating they would not be required to buffer. The structures that currently exist are the same.

Mr. Alfieri referred to an eviction notice that was issued for the current tenant, Tire Doctor. Tire Doctor is in the process of being evicted. If tenant does not remove tires, Mr. Alfieri stated that Mr. Opatut agreed to have the tires removed.

Mr. Alfieri asked Mr. Opatut about the clean-up plan referenced in Mr. White's review letter. Mr. Opatut explained that they were looking at doing "flex-warehousing" on the site. This "flex warehousing" never occurred.

Mr. Gatto explained that they would not be able to watch the videos. They would need to be reviewed by the applicant to make sure there is no objection to admitting them into evidence. All video submissions should be sent to Danielle Sims.

Mr. Duong Thai, 14 Hanging Rock Road was sworn in. He explained that they have lived at this address for seven years. Since he moved into the site, more trucks have come in and out of the site and smoke has been visible. He doesn't allow his daughter to go outside his home due to the trucks idling and fumes emitted. He has had to call the police for the noise that occurs on site. Fire, Fumes, Diesel emissions, noise are all concerns.

Inderjit Samra, 26 Great Bridge Road appeared and was sworn in. He is concerned that the applicant sold the surrounding property and developed by Centex. The homes were sold with the idea that this was an egg farm. The operations have significantly expanded over the years. He explained loud noises occur, fumes and people walk around with no shirts on at the site. Mr. Samra moved into the home 2012.



Kulbir Walia was sworn in. He is a practicing physician and believes that a variance to continue would cause harm to the land, the water and the neighbors. He stated his privacy is a concern with the close proximity. The other concern is security, as non-residents are in the neighborhood. His children were yelled at by people, who are non-residents, from the subject site.

Manoj Prasad of 9 Chadford Lane was sworn in. He feels this operation is a direct conflict of enjoyment of their property. The operation is diminishing the property values and can possibly reach \$200,000 diminished values in the home. He stated that the applicant admitted that they have been in violation of zoning for the last several years, if this continues it will set a bad precedent. . As the values come down, the assessment will not be relevant and will cost huge financial loss to the township.

Scott Preston 343 Broadway was sworn in. He has lived in the area for a long time (dating back to when the site was a chicken farm) and has witnessed the evolution of the area. He suggested that there should be some consideration of the traffic issues on Route 79.

The application was carried without further notice to May 18, 2017.

Mr. Alfieri offered to meet with the residents to listen to their concerns and possibly offer some solutions.

There was a short break at 9:05 pm and resumed at 9:13 pm.

Mr. Bazzurro arrived and joined the dias.

**Preliminary and Final Major Site Plan #878-15 (Court Order - Remanded back to the Board)
New York SMSA Limited Partnership - d/b/a Verizon
Block 102, Lot 11 – 363 Monmouth Road**

Lynne Dunn, Esq. appeared on behalf of the applicant. 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. Accisano described that this is an application that was previously denied by the Board and was appealed in court and remanded back to the Board by the Judge. The Judge found in Verizon's favor. The site plan submitted has some features that need to be explained. The 120' monopole tower is footnoted that due to the Federal regulations it may be extended to 140' and depict two future locations for utility shelters.

Ms. Dunn had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Frank Pazden, PE, Maser Consulting, PE; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

Mr. Pazden had previously appeared before the Board and was accepted as a professional licensed Engineer. There was discussion during original hearing regarding the potential of the monopole having to be extended in the future by someone else. Verizon had originally located the monopole within the compound. The setback was set based on the 128' installation top of lightening rod. The 140' possibility created the need to shift the monopole to allow for the required setbacks of the theoretical future expansion. Lightening rod was reduced from 8 ft to 4 ft.



Mr. Accisano stated that the Board is required, by the Court Order, that they approve a 120' monopole with one equipment shelter. If there is substantial disturbance, with any future co-locators, the applicant's may be required to come back to the Board if there is any substantial disturbance.

Ms. Dunn explained that the plans have been revised to allow for the possible future expansion. As a result of the Judge's mandate and based on condition of approval, the applicant, Verizon, offered to redesign the monopole to allow for the possible future co-location, in-so-that the base would be capable to expand the antennae with the additional height.

Mr. Accisano explained that the Board would not be considering a 140' monopole and would only consider the 120' monopole with associated equipment and access facilities. Unless the FCC permits a future developer to install additional height without Board approval, he stated that any future developer would be required to submit a site plan application. A substantial disturbance of the site would require further Board approval.

Mr. Gatto stated that the Board will be approving a 120' pole and will not reference anything to the site plans reference of a 140' monopole. The proposed plan shows two additional possible future equipment shelters and is not sure why it is on the plan.

Mr. Bazzurro affirmed his understanding that if there is substantial disturbance; the applicant would have to make an application before the Board. He stated he understands that they have made accommodations so that a future developer may not have to move the pole. Mr. Gatto explained that the court order mandated that they approve a 120' monopole.

Mr. Accisano stated that he would suggest to the Board that there would be language in the resolution that the Board does not approve of the 140' monopole or additional equipment compounds or additional sheds.

Ms. Dunn entered A-2, the Court Order from Judge O'Brien, into evidence.

Mr. Pazden stated there was a modification to eliminate one variance for the shelter height. The shelter will now meet the 10' restriction would be a split face masonry structure, rather than a wood frame structure and everything else would remain the same. Mr. White took no exception to this.

Mr. White asked that the plan to be submitted for signature that they remove the reference of the 140' monopole and the future colocations.

Mr. Accisano stated it should be covered in resolution of approval. The plan as submitted will suffice since it is what was before the Court.

Mr. Bazzurro clarified that the notations of the future equipment shelters are shown on the plan so that they can fit within the compound, but are not part of the application and approval. He confirmed that the Board would not be approving these future notations. He suggested that they all be removed from the plan. Ms. Dunn suggested that a notation be added to the plan.

Mr. Pazden, will add a notation on the plan that the additional equipment shelters will be "for illustrative purposes only". Mr. Accisano stated he would include this in the resolution.

Mr. Gatto offered to open the matter for public comment, although this was already closed and not required. There was no one from the public that came forward. A motion to close the public portion was made by Mr. Bruno, was seconded by Mr. Shortmeyer, all in favor, aye. Mr. Bruno offered to authorize Mr. Accisano to prepare a positive resolution subject to the conditions on record, which was seconded by Mr. Shortmeyer. All in favor, no one against.



FIELD ADJUSTMENT

Dancer Estates (South Brunswick Enterprise, LLC)
Subdivision Application # 858-04 - Field Adjustment # 1
Block 90.01, Lot 6.01

The applicant has requested to change the grading plan proposed by the original developer, lowering the houses 2-3 feet. A plan has been provided to the Township Engineering office and Tim White, Township Engineer, took no exception to the requested grading changes.

Also, the applicant has requested to relocate the water main approximately 15', moving it into a grassed area along Rt. 537, out of the travel lane of the roadway. Mr. White stated that this is a much better location than what was previously provided.

The Field Adjustment Committee recommended that the Planning Board approve the field adjustment. There was a motion to approve it by Mr. Shortmeyer, seconded by Mr. Bazzurro. There was a roll call vote with all in favor to approve the request for a field adjustment..

DISCUSSION:

Ms. Sims reviewed the upcoming agenda for May 4, 2017.

ADJOURNMENT:

There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 9:43 p.m.

Respectfully Submitted,


Robert H. Shortmeyer
Secretary