



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

REGULAR MEETING MINUTES
June 1, 2017

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, June 1, 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 19, 2017 to the official newspapers of the Township and by filing such notice with the Township Clerk.”

Present: Mayor Preston, Mr. Ammiano, Mr. Gatto, Mr. Shortmeyer, Mr. Kirk, Mr. Coburn, Mr. Asadi and Ms. Kurtz.

Absent: Mr. Kash, Mr. Bazzurro and Mr. Bruno

Also Present: Frank Accisano, Esq.; Kate Keller, Phillips Preiss and Grygiel, Township Planning Consultant; Andrew Feranda, Township Traffic Consultant; Timothy P. White, Township Engineer and Danielle B. Sims, Administrative Officer.

There was the Pledge of Allegiance.

Ms. Kurtz was seated for Mr. Kash and Mr. Asadi was seated for Mr. Bazzurro.

MINUTES:

Mr. Gatto explained that this matter was carried from the May 18, 2017 meeting to allow for more voting members. A motion to approve the minutes of the January 26, 2017 Special Meeting was made by Mr. Shortmeyer and seconded by Mr. Ammiano and passed with the following roll call vote: Aye: Mayor Preston, Mr. Ammiano, Mr. Gatto, Mr. Shortmeyer, Mr. Kirk, Mr. Coburn and Mrs. Kurtz.

RESOLUTIONS:

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

Mr. Gatto asked if anyone from the public was attending on this matter, no one acknowledged. Mr. Accisano explained that the applicant has asked that the resolution be carried to allow them to return at the June 15, 2017 Planning Board meeting to request to amend some of the conditions of the resolution. The applicant will be providing public notice for the hearing but it will only be done so the Board can discuss the conditions again. The public will not be able to comment as the public portion of the meeting has closed. A motion to carry the resolution to June 15th, 2017 was made by Mr. Shortmeyer and was seconded by Mrs. Kurtz, all in favor, Aye.

**NEW APPLICATION:****“C” Variance Application # 012-17****Fred Schweighardt****Block 42.17, Lot 2 – 177 Pin Oak Road**

Proposal to construct a 4’ waterfall/slide going into pool and a 12’ x 16’ pavilion on paver patio.

Mr. Fred Schweighardt appeared and stated he would be representing himself. 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 explained this is a technical exercise and asked the applicant if he was comfortable representing himself. Mr. Schweighardt stated he was ready to continue, representing himself. Mr. Schweighardt had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Fred Schweighardt, Applicant; and Timothy P. White, Township Engineer.

Mr. Schweighardt explained that he is seeking approval for a non-permitted accessory structure-waterfall, slide and stone-grotto landscape feature and an additional accessory structure. He said he will be able to comply with all of the comments in Mr. White’s review letter. Referring to a set of architectural plans (not admitted or marked), he stated that the pavilion will be 14’ 7” high. Mr. White has no objection to the height as it meets the requirements of the ordinance, maximum of 16’. The proposed pavilion is 16’ x’12’ (this has been reduced from what was previously provided) which is the maximum allowed by the ordinance. The pavilion will be asphalt roofing shingles, partial stone façade. Mr. Schweighardt stated that there would be no detriment to the public good. Kate Keller stated that there was no objection and that the landscaping would substantially screen the proposals with the proposed evergreen row. Mr. Gatto explained that Mr. Schweighardt would be required to maintain the evergreen row. Ms. Kurtz asked of the other structures on the property. Mr. Schweighardt explained that the gazebo has been removed to avoid the need for another variance. There would be a pergola, a pavilion and a shed, leaving two open air structures and one storage shed.

Mr. Gatto opened the meeting to the public for comments and questions. No one from public came forward. A motion to close the public portion of the hearing was made by Mr. Shortmeyer, was seconded by Mr. Ammiano. All in favor, aye.

A motion to authorize a positive resolution with the conditions noted on record was made by Mr. Ammiano and was seconded by Mr. Shortmeyer. All in favor, aye.

CONTINUED APPLICATIONS:

The following continued applications were carried without further notice from 1/26/17 (Special Meeting) and March 16, 2017.

Preliminary & Final Major Subdivision #894-15**MACW Freehold, LLC**

The applicant is seeking preliminary and final major subdivision approval in order to subdivide existing Block 70.05, Lot 17 into five new lots (in conjunction with SP# 868-15)



Preliminary & Final Major Site Plan #868-15

MACW Freehold, LLC

Block 70.05, Lot 17

Preliminary and final major site plan approval in order to construct site improvement infrastructure necessary to support Phase 1 of a new mixed use development on the subject property (commonly known as the Bellemead Tract).

Preliminary & Final Major Site Plan #869-15

Freemall Associates, LLC

Block 69.01, Lot 18.02

Modifications to existing parking lot to accommodate site plan applications associated with Bellemead GDP. (i.e. Jug handle at Route 537/Trotter's Way northeast corner).

Preliminary & Final Major Site Plan #870-15

Roseland Freehold, LLC

Residential component of the Phase I Development of MACW for 400 luxury residential apartments. The proposed residential development is located on the 20.9± acre (future lot 17.03) at the southern corner of the 77.3± acre Bellemead Tract. The proposed development consists of six (6) four-story residential buildings containing a total of 400 individual residential units, an approximate 10,000 s.f. clubhouse, a three-story parking structure, nine (9) single level free-standing garages, and all associated site infrastructure.

Soil Fill Application # SR-05-16

Roseland Freehold, LLC – Liberty House

Proposal to import approximately 3,000 c.y. of fill to the Roseland Property site.

Mr. William J. Mehr, Esq. and Mr. Robert Kasuba, Esq. appeared on behalf of the applicants for all five (5) applications.

Mr. Gatto asked if the applicant's would address the certifications that were requested to be part of the record or the report that was requested from the applicant's traffic consultant.

Mr. Kasuba, instead, offered an opening summary. He said that we are working within the time to act, extended through June 15, 2017 and stated that it is not their intention to extend. He said that the application is an inclusionary development for low-moderate income housing; the law shows that they should expedite applications that facilitate this type of application. Mayor Preston asked if the original application was intended to include the affordable housing aspect. Mr. Kasuba was not aware of this and Mr. Mehr explained that the original application was for 360 units and after the Township asked to have this as an inclusionary application, they increased the number to 400 units to comply. Mr. Kasuba explained that in his view, this is a fully conforming application. He acknowledges that there are issues that have been raised, specifically the stipulation of settlement agreement, and in his view, due to the change in the zoning, it is no longer relevant. Mr. Kasuba feels that they are compliance with the GDP Plan that governs the traffic improvements. They are working towards their outside agency approvals. There were certifications that were submitted and he asked that they included for the Board to review in an effort to expedite the process of the hearing and that all the witnesses would be available for cross examination. Mr. Kasuba acknowledged that the Board attorney deemed that it is not appropriate to distribute to the Board for review and they were not distributed, but will reserve his rights on the request to admit them (they were marked but not admitted). Mr. Kasuba asked that his witnesses each be able to offer a short presentation.



Mr. Gatto stated that the reports will be read into record. Mr. Mehr stated that the reports have all been responded to and can consent to most of the comments in the reviews, as it applies to Phase I. Mr. Gatto stated that the applicant's traffic consultant was not able to answer questions from members from the Board and that there are serious reservations that the applications may not comply with the GDP. He stated that the applications may not fit the intent of the GDP so that it does not impair the public good and showing it would have no impact on the general welfare of the surrounding area. Mr. Gatto explained that the reports will be read into record, which is how the Board starts every application for the 23 years he has been on the Board. He stated that this is the Board's standard procedure. Mr. Gatto asked if there was any objection to the exhibits that were marked. Mr. Mehr stated he had no issues with A1-A57 with the exception of A-27 (under SP# 868-15), the Supplemental Traffic report (Phase II), as it was submitted as a courtesy to see some potential possibilities of what "could" be done to help the traffic. Mr. Mehr explained that the statute states that for all off-track improvements clearly states that they would only be required to make a fair share contribution towards any such improvements. Mr. Ammiano stated that Route 537 traffic congestion has always been a major concern. Mr. Mehr stated that the Phase I proposal will reduce the traffic issues. Mr. Ammiano is concerned that the concerns may never get addressed. Mr. Gatto read an email dated May 1, 2015 that referred to Mr. Mehr's request to soften the language in the resolution for the GDP. This exhibit that is requested to be removed, Mr. Gatto stated, was submitted to help address the traffic concerns. Mr. Gatto deferred to Mr. Accisano to respond to the request to strike the exhibit (which also appears under different exhibit numbers under each of the four applications). Mr. Accisano stated that he sees no reason that this would be "un-evidenced" as it is relative to the applications and advised the Board that it should not be removed. Mr. Gatto asked if anyone from the Board had any objections to leaving the exhibit on the record/exhibit list, there were no objections. The Board ruled that it was relevant and would remain. Mr. Mehr had no objections to any of the other exhibits that were marked.

Mr. Gatto started to read the review letters into record. Mr. Mehr stated that they responded to all of the review letters directly and asked if the comment/responses also be read into record. Mr. Gatto asked if these items would have been addressed via a TRC meeting. Mr. Mehr stated that with a typical application, yes, but they addressed them with a response. Mr. Gatto asked if the actual plans have been changed to address the comments and reflect the responses. Mr. Mehr stated that they were not changed as some of the comments stated that the changes should be made prior to plans being signed. Mr. Gatto continued to read the review letters into record.

There was a 15 minute recess at 8:35 pm and re-convened at 8:50 pm.

Mr. Gatto continued to read the reviews into record.

Looking at the time, Mr. Gatto asked if the applicant would be willing to grant the Board another extension to allow for a proper hearing. Mr. Kasuba stated that they offered the manner in which they would like to proceed with the applications and there have been substantial delays and there has been correspondence in this regards. Mr. Gatto clarified that the applicants would not grant the Board another extension of time, which currently expires June 15th, 2017. Mr. Gatto stated that the requirements have not been met, and the evidence presented so far, there is a definitely uncertainty that this application can proceed with causing a detriment to the public good; therefore the requirements of the GDP have not been met. There is a definite uncertainty, including with the presentation made by the Monmouth County Planning Board and Engineering office, if the Phase I improvements would be sufficient to accommodate the increased traffic. He also stated that there has been no proposal from the applicant to show they would be able to comply with the terms of the outstanding stipulation of



settlement (P-11), concerning the relocation of the jug handle at Bank of America. There has not been any proposal to remediate all of the environmental concerns. He summarized by stating that many issues have not been addressed and without the willingness to offer an extension of time.

Mr. Accisano asked to confirm that the request is for all of the five applications (SP# 868-15, SD# 894-15, SP# 869-15, SP# 870-15, and SR-05-16). Mr. Accisano advised the Board that since the Board has a limit of time to act, that the Board should authorize action based on the evidence offered so far, in order to avoid a claim of a pocket approval for the applicants.

Mr. Ammiano offered a motion to prepare a negative resolution, and it was seconded by Mr. Kirk. Mr. Ammiano stated they have stated clearly on the record. There was a roll call vote, all approving the authorization to approve the negative resolution. There was a roll call to confirm, all affirmative votes. Mr. Asadi asked if it would be better to take action also tonight, in case for some reason there is no meeting on June 15th (to adopt the resolution), that the Board should take action to not gain a pocket approval. Mr. Kasuba stated that he believes the Courts would look at this as if the Board took action should there be an emergency.

Mr. Ammiano stated he would make a motion to take action to deny the five applications and was seconded by Mr. Kirk. There was a roll call (Mr. Asadi disqualified himself as he has not yet listened to the tapes from 1/26/17- he has since listened to the tapes and has signed the certification regarding this).

DISCUSSION:

Ms. Sims and Mr. White reviewed the upcoming agendas.

ADJOURNMENT:

There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 9:25 p.m.

Respectfully Submitted,

Robert H. Shortmeyer
Secretary