



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

REGULAR MEETING MINUTES
July 20, 2017

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, July 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 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. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn and Mr. Asadi.

Absent: Mr. Bazzurro and Mrs. Kurtz.

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

There was the Pledge of Allegiance.

RESOLUTIONS:

Resolution Adopting "The 2016 Annual Report of the Planning Board of the Township of Freehold Pursuant to NJSA 40:55D-70.1"

Mr. Gatto asked if a cover letter would be added to transmit the resolution and report to the Committee to show that the reasons that so many applications were carried to 2017 were due to the date of submission or at the applicant's request.

The report should be amended to remove the recommendation to create a stand-by generator ordinance. The Master Plan Committee reviewed this as a possibility a few times and found it would be too difficult to set standards.

Mr. Shortmeyer made a motion with the noted change, and was seconded by Mr. Kash. The motion passed with the following roll call vote: Mayor Preston, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn and Mr. Asadi.

Mr. Ammiano arrived (7:05 pm).

"D" Use Variance Application # 019-16 - Resolution carried from 7/6/17 due to lack of quorum
Lester Glen Chevy
AGK Chevy, LLC c/o Lester Glenn Auto Group
Block 70.05, Lot 14 – 3712 Route 9

Mayor 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 and Mr. Coburn.



Preliminary and Final Major Site Plan # 300-1-16 - Resolution carried from 7/6/17 agenda
Lester Glen Chevy
AGK Chevy, LLC c/o Lester Glenn Auto Group
Block 70.05, Lot 14 – 3712 Route 9

Mayor 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 and Mr. Coburn.

Site Plan Waiver and Variance #889-16
JB's Diner

John Bochis (Owner)
CSMRL, LLC (Applicant)
Block 90.01, Lots 1 and 2 – 205 Monmouth Road

Mr. Kash made a motion, seconded by Mayor Preston to approve the resolution. The motion passed with the following roll call vote: Mayor Preston, Mr. Ammiano, Mr. Gatto, Mr. Kash, Mr. Shortmeyer and Mr. Bruno.

NEW APPLICATIONS:

Carried from May 18, 2017 Planning Board meeting without further notice:
Amended Preliminary & Final Major SP w/ Waiver of SP Details # 631-2-17
TD Bank, N/A

Block 85.12, Lot 23 – 600 West Main Street Request to excise the condition of the previous approval (SP#631-1-16) in regards to reconfiguring the existing two-way on-site circulation to only allow one-way counter-clockwise circulation

Mr. Gatto stated that the application was carried without further notice from May 18, 2017.

Damien DelDuca, Esq., Del Duca Lewis Law Firm appeared on behalf of the applicant.

Mr. Gatto stated that he had some discussion with Mr. Accisano about this application procedure and continued, referring to COX: Section 19-3.1(c), stating that the Board may attach conditions that are in the public interest. Section 19-6 discusses conditions. Section 19-6.2 of COX discusses unreasonable and unlawful conditions and how a reviewing court may excise conditions which it finds unreasonable. Section 19-6.9 provides the procedures for excisions that the applicant feels may be unreasonable as long as the decisions have not been made final and no interest has been vested to apply to the Board for a re-hearing. Responding to Mr. DelDuca's response letter to the Board (requesting the condition to be excised), Mr. Gatto stated that section 18-4.4 of COX refers to additional sources of evidence, stating they are not bound to the testimony of any expert (he referenced Bridgewater case- where the testimony was insufficient to address to the Board's concerns with safety). A decision of the Board is considered conclusive unless it is considered erroneous as matter of the law. Personal knowledge off a certain property is proper as long it is fully disclosed and may be referred to when rendering a decision.

With the information noted, Mr. Gatto stated he was not really sure why we are here to consider an excision of the condition. It would be more proper to address this at the previous hearing or by appeal under the NJ statute.



Damien DelDuca stated they are here about a TD Bank, 600 West Main Street that was approved in 1998 for a Commerce Bank on the corner of Redwood and West Main and in 2007 turned into a TD Bank. The building is a proto-typical TD Bank with a bank, lobby and a rear drive through.

Mr. Gatto stated that he is confused still why this case should be heard and that the conditions were granted in the interest of public safety. This application is asking for an excision of a condition of something, not to rehear the case. Mr. Gatto questioned on what grounds the Board should grant a rehearing, and asked why the applicant did not appeal the Board's decision. Mr. DelDuca stated that the Board rendered the decision on November 3, 2016 for an application to convert the 4th drive through lane into a drive up ATM with conditions. Mr. DelDuca stated that it was argued that the condition was not necessary and is unreasonable. He stated that this issue came up at the hearing unexpectedly. He stated they did not file an appeal and instead of suing the township, they opted to request the excision based on information that was not previously presented because it was not expected to be a concern. Mr. DelDuca stated there is no requirement for this in the ordinance. He stated the bank has been in operation for over 20 years without an issue. In light of the new information they intend to present, he feels the Board may consider the request to excise the condition.

Mr. Accisano stated that he feels that this appears to be the applicant's back door way of resurrecting the right to appeal. However, he recommended that the Board allow the applicant to present the case as they have filed an application for the request. The Board agreed that they should move forward and conduct the public.

Mr. DelDuca agreed that he will only be focusing on the conditions of the approval granted by the Board.

Mr. Accisano stated that at a previous meeting (5/18/17), he reviewed the proof of notice submitted by the applicant which was correct in form, published and served in a timely fashion and the Board took jurisdiction to conduct a public hearing, which was carried without further notice to today. The following witnesses were sworn: Corey Chase, Atlantic Traffic and Design; Gary Kaganowich, TD Bank; Andrew Feranda, Shropshire Associates, Township Traffic Consultant; Kate Keller, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Mr. DelDuca had no objection to the exhibits that were marked. Mr. Gatto read the review letters into record. Additional exhibits were marked. The Board stipulated that any exhibits marked for previous applications are already part of the record.

Mr. White stated he would like to note that comments in his previous application review letter do note issues with the traffic and circulation, which contradicts the commentary of Mr. DelDuca.

Mr. DelDuca stated that the Board has required that in order to have the new drive-up ATM, they would have to convert the site to one-way circulation. He stated that they received review letters prior to the previous application being heard. The only reference to traffic concerns that he recognized is that a stop sign and stop bar was suggested to be added to prevent the potential conflict at the end of the drive through lane (northeast corner) or change the circulation in this area to one-way. At the meeting, the Board members had a concern about potential of conflict.

Mr. Gatto stated he felt Mr. DelDuca is testifying and that he wasn't at the previous hearing to be able to say what happened and he should move to the reason why he is requesting the excision. He suggested that they should address the safety of the site which is why the Board placed the conditions in the resolution, including the safety reason they requested bollards as part of the last application.



Mr. DelDuca stated that the circulation has no relation to the ATM installation. It had nothing to do with the work that was proposed. Therefore he is requesting to modify the condition and to allow the bank to install stop bars and stop signs to make the site safer.

Corey Chase, Senior Project Manager at Atlantic Engineering, qualified himself as a licensed Engineer and was accepted by the Board. He has worked on over fifty TD Bank projects. He looked at the existing operation at the site to see if there are any patterns of accidents on the site. There were two accidents were due to driving maneuvers and one due to a car rolling at the drive through lane. He reviewed the circulation and access points of the site. The Red Wood Lane driveway is more heavily used over the West Main Street driveway. The maximum que in the drive through lanes is approximately two vehicles during peak hours. The design meets all the standards for two way circulation on the site. Although it may be beneficial to change to one-way circulation, he described alternate means to address the site.

The concern with the interaction with the two movements would be addressed by stopping at any conflicting turning movements. If the traffic circulation is changed, the points of conflict would be reduced, but not the conflicting movements and they would be repurposed throughout the site. Drivers would also be required to utilize the by-pass lane for site circulation. The purpose of the by-pass lane is for people that decide they do not want to use the drive-through lane after entering the area. Mr. Chase stated that this would be putting more traffic through the by-pass lane than what was intended by forcing all movements to go through the site. There is full ingress at West Main Street, but right out only onto West Main Street. If there is one way circulation, he explained that the parking spaces would need to be reconfigured to be angled spaces to enforce the circulation. Also, in order to park in front of the bank, cars would be required to go around the bank of the building and cross the cars exiting the drive through lanes. Four cars in que would back up the access to the by-pass lane. Again, he stated that this lane is not intended to be used as a drive-aisle. The bank would have to construct additional site improvements to accommodate the condition imposed by the Board. The drive aisles would need to be reconfigured. If this would be re-purposed to a re-circulation lane, the 12' width would be insufficient and would need to be reconstructed. There is nothing on the site, to his knowledge, which would prohibit the two-way movement.

Mr. Gatto asked how the CVS traffic would have any bearing on this site. Mr. Chase stated that he doesn't feel that there would be any effect on this project. Mr. Gatto asked where the landscaping trucks park for their service time, especially without a loading zone. Mr. Chase stated that typically, these services are performed during off-peak hours and would utilize existing parking spaces or available stacking area behind the drive through lanes. Mr. Gatto asked where the loading dock is. Mr. Chase stated that it is typical for TD Bank to not have a loading zone due to their needs. Mr. Gatto asked where the armored car parks. Mr. Chase stated they should be in a parking space. Mr. Gatto stated he banks there and the armored car parks directly in front of the building for 20 minutes and the landscaping truck parks in the overflow parking lot during service times. Mr. Chase stated that if there was one-way circulation, there is a more likely occurrence of cars being queued. He stated if you enforce the circulation around the site, you would have to reduce the drive aisle width and if armored cars were to park in front of the building, it would restrict the one-way circulation.

Mr. Feranda stated that he doesn't feel that converting to one-way circulation isn't unreasonable. It has been 20 years with two way circulation, without major issue. For two way circulation to continue, he doesn't feel it is a safety issue to continue at two-way direction, but more so a matter of convenience.



Mr. Gatto asked Mr. White if he has knowledge of the Bank of America site across the street and he asked if he can describe the circulation on that site. Mr. White explained the other site, including one-way circulation within the site. Mr. Gatto asked Mr. White to describe the redesign that occurred at the Hallmark across the roadway and Mr. White explained that he worked with the owner to angle the parking spaces, that the aisle width remained and they restriped the parking spaces. He has had positive feedback about the change in circulation. There is no confusion on the site with the minor changes done completely with the signage and striping.

Mr. Coburn recalled that the concerns from the last meeting were regarding the customers coming in and out of the bank with the cars passing. Also, he stated that when you are parked, you are parked on an upslope and it is difficult to see when backing up in your rear view mirror. He recalls his concern was the customers.

Mr. Chase stated he did look at the point of the customers and doesn't feel that re-orienting the site to one-way circulation would help since you would be seeing a conflict more frequently.

Mr. Ammiano stated that the change in circulation across the street at Hallmark has made a big difference and made it easier to navigate. He believes similarly, one-way circulation would be better.

Mr. White looked at the traffic counts, and doesn't feel that the increase in circulation would create a failing level of service. Mr. Chase explained that there would be a higher count because the customers seeking to park in front of the site would now be required to circulate completely around the building.

Mr. DelDuca asked Mr. White if the concerns are related to switching a drive through lane to an ATM or if they are general concerns on site regarding circulation typical for one-way circulation. Mr. White agreed. Mr. DelDuca inquired about other bank sites and Mr. White stated he is not aware of situations of other banks. When asked, Mr. White stated he believes the ordinance does provide for twelve foot wide one-way circulation.

Mr. Feranda stated he would encourage angled parking in any one-way circulation. He stated that a 24' width is typical for two-way drive aisle. He stated you can utilize striping and arrows to restrict the aisle width and direction. He stated he did not have a recommendation for one-way circulation on his initial review letter. Mr. Feranda acknowledged that there are conflicts on the site and did initially recommend a stop bar. When asked, Mr. Feranda agreed that there may be another way to address the conflicts, including a stop bar/stop sign. Mr. Gatto asked if the one-way circulation condition is unreasonable. Mr. Feranda stated it isn't unreasonable and would be able to be accomplished with minimal changes.

Ms. Keller stated, that though her office did not prepare a review on this application, but based on the testimony heard this evening, she feels that the condition is not unreasonable. When an applicant comes in for a site plan, she stated that the Board does have an opportunity to look at the entire site to see if improvements can be made anywhere. In this case, it is not about the direct change in use, the Board and professionals did see an opportunity to address concerns.

Mr. White stated that the public interest is served by changing the circulation to a one-way circulation.

Mr. Gatto explained that the applicant received additional relief including the requirement, including the requirement for a masonry dumpster enclosure and bollards, as requested by the applicant for safety.

Mr. Preston asked how many additional transactions would result from the new ATM.

Gary Kuganowich, Vice President of TD Bank explained that approximately 110,000 transactions happen a year at this site and this would provide a second option to the walk-up lobby. The ATM in



the lobby would remain. It is anticipated that about 20% would utilize the drive through lane and the walk up would likely remain about 80% of the ATM customers. He stated he has been involved in over 400 bank renovations and new construction. He feels that the customer base is accustomed to the circulation over the last 20 years and would likely be confused. He also stated that the customers will be forced to go around the back to get to the parking spaces up front. Mr. Kuganowich stated, based on previous experience, that the armor cars always park out front for safety reasons.

Mr. Gatto asked if there were any questions from the public. A motion to close the public hearing was made by Mr. Ammiano, seconded by Mayor Preston, all in favor, aye.

Mr. DelDuca summarized his case, stating, that he appreciates the concerns about safety, but feel that there is a practical way to address the concerns by utilizing stop bars and stop signs. He feels this will accomplish the same goals and that this would be a reasonable resolution. Changing to a one-way circulation would be very unreasonable because it doesn't relate to the site plan proposed. No waivers were requested as part of the application. He asked that the Board reconsider the imposed condition.

Mr. Asadi made a motion to excise the condition as he feels that the one-way circulation would create additional conflicts on site and could be more dangerous. The request was seconded by Mr. Shortmeyer.

Mr. Gatto made a motion to deny the request to excise the condition based on his previous statement and findings and feels the condition is within the public interest and not unreasonable. The motion to deny the request and keep the resolution as previous granted was seconded by Mr. Ammiano.

There was a roll call vote to prepare a positive resolution to remove the condition: Mayor Preston and Mr. Asadi, aye. Mr. Ammiano, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Kirk, Mr. Bruno and Mr. Coburn voted opposed.

There was a second roll call vote to prepare a resolution to deny the request to excise the condition: Mr. Ammiano, Mr. Gatto, Mr. Kash, Mr. Shortmeyer, Mr. Kirk, Mr. Bruno and Mr. Coburn, Aye. Mayor Preston and Mr. Asadi voted opposed.

The request was therefore denied by a vote of 7:2.

**Preliminary & Final Major Site Plan # 859-14 (Phase II)
Conditional Use "D" and Bulk Variance Application # 029-16
Cracker Barrel Old Country Store, Inc.**

Block 70, Lot 20.07 – 288-308 West Main Street (Freehold Marketplace)

Phase II proposal to construct a 10,396 s.f. Cracker Barrel Old Country Store/Restaurant with a pylon sign and one façade sign on a portion of the Freehold Marketplace Shopping Center. Phase I has been filed by the landlord, JDN, to complete the site clearing and rough grading work. Phase II has been filed by Cracker Barrel for final grading through project completion (Conditional Use-D3 and bulk).

Preliminary and Final Major Site Plan # 859-14 (Phase I)

JDN Real Estate – Freehold, LP

Block 70, Lot 20.07 – 288-308 West Main Street (Freehold Marketplace)

Phase I has been filed by the landlord, JDN, to complete the site clearing and rough grading work in advance of Phase II of Site Plan #859-14, for a proposed Cracker Barrel. Phase II application has been filed by Cracker Barrel for final grading through project completion.



Soil Removal Application # SR-08-16

JDN Real Estate – Freehold, LP (Rcvd. 12-21-16, Dist. 12/27/16, Reviews Due 1/10/16)

Block 70, Lot 20.07 – 288-308 West Main Street (Freehold Marketplace)

Proposal for a Soil Removal permit to export approximately 14,500 c.y. of excess fill in conjunction with Site Plan # 859-14 (Phase I).

Mayor Preston and Mr. Ammiano are disqualified from hearing the application and left the dias. Mr. Asadi has another meeting to go to and left the dias.

Kevin Moore, Esq. entered his appearance for the three applications. He explained that he feels that the application for the site work (Phase I) should be heard first in order to build a foundation for the Phase II Conditional Use application. He understands that the Board would not take action until the Phase II has been determined, but he would like to present Phase I first. Mr. Moore asked that since the Board has six qualified voters in attendance, that he be allowed to move forward with testimony and that the Board reserve the vote for the additional members that are absent to review the record and in order to be eligible to vote.

Mr. Gatto explained that it is 8:30 pm and offered to allow the application to be carried to give the application a larger voting Board. Mr. Gatto offered a ten minute break for the Mr. Moore to consult with his client. The Board went back into session at 8:44 pm.

Mr. Moore requested that the Board take jurisdiction and carry the application to the next available hearing to allow for the full voting Board.

Mr. Accisano said he reviewed the proof of notice submitted by the applicant for both applications were correct in form, published and served in a timely fashion so the Board has jurisdiction to conduct a public hearing.

A motion was made by Mr. Kirk to carry the three applications to the August 17, 2017 Planning Board meeting without further notice, and was seconded by Mr. Shortmeyer, and a roll call vote, all in favor.

DISCUSSION:

Mr. Accisano explained that Ordinance O-17-08: FAR definition (basements/cellar), reviewed at previous hearing, has been withdrawn by the Township Committee. No further action is required by the Planning Board.

Mr. Gatto reviewed the upcoming agenda.

ADJOURNMENT:

There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 8:49 p.m.

Respectfully Submitted,

Robert H. Shortmeyer
Secretary