



# Township of Freehold

## OFFICE OF THE PLANNING BOARD

One Municipal Plaza, Freehold, NJ 07728

### REGULAR MEETING MINUTES

August 17, 2017

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, August 17, 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. Bazzurro, Mr. Gatto, Mr. Kash (late), Mr. Shortmeyer, Mr. Bruno, Mr. Kirk, Mr. Coburn and Mr. Asadi.

**Absent:** Mrs. Kurtz.

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

There was the Pledge of Allegiance.

Chairman Gatto announced that there will be a change in the Sign Committee – Mr. Shortmeyer, Mr. Gatto, Mr. Leone and Mrs. Kurtz. Chairman Gatto stated that the Sign Committee will now schedule any meetings at 6:30 pm on Thursdays on nights with a Planning Board meeting, any requests for other times can be accommodated.

Mr. Gatto announced that Mr. Kirk will be leaving the Township and this will be his last Planning Board meeting. He thanked Mr. Kirk for his time on the Board and his dedication and wished him all the best in his future endeavors. Mr. Kirk thanked everyone and stated it has been an honor to serve on the Planning Board.

#### MINUTES:

A motion to approve the minutes of the August 3, 2017 Regular Meeting was made by Mr. Ammiano and seconded by Mayor Preston and passed with the following roll call vote: Aye: Mayor Preston, Mr. Ammiano, Mr. Shortmeyer, Mr. Bruno, and Mr. Kirk.

#### RESOLUTIONS:

**Granting 30 day extension to file Minor Subdivision # 896-16**  
**E. Brock LTD, LLC (Applicant)**  
**E. Brock LTD, LLC and Michael Katerinis (Owners)**  
**Block 91, Lots 22, 23, 24 and p/o 25**



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

**Minor Site Plan # 496-1-17 and Variance # 009-17**  
**Seaview Orthopedic MRI Suite**  
**Patriots Professional Park Condo Association**  
**Block 70, Lot 34.02 – 222 Schanck Road**

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

**NEW APPLICATIONS:**

**“C” Variance # 019-17**

**Jodi Mazzara**

**Block 105, Lot 60.06 – 31 Love Lane**

Proposal to construct a three car detached garage with a second story game room and balcony. Variance relief is requested for accessory structure size, accessory structure height and total number of garage spaces exceeding the maximum allowed. Lot has pre-existing insufficient lot frontage.

Mr. Bazzurro left the dias as he has a conflict with the application.

Mr. Kash arrived at 7:06 pm.

Sal Alfieri, 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 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. The following witnesses were sworn: Mr. Isidoro Mazzara, homeowner/husband of applicant, Steven Leone, Township Architectural Consultant, Speizle Architecture; Andrew Feranda, Shropshire Associates, Township Traffic Consultant; Kate Keller, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer.

Mr. Mazzarra stated that he is the homeowner with his wife, Jodi Mazzara, listed as the applicant. Mr. Mazzara confirmed that his property is over twenty (20) acres and currently has a two garage doors. He is seeking the additional garage spaces to store his additional vehicles, sport ATV's for his children, bikes and other personal equipment, which is currently stored outside. Recognizing the discrepancy in the zone table and the architectural plan, Mr. Mazzara confirmed that the proposed garage will be 1,861 s.f. He is proposing to have a play room above the garage for his children and would have a pool table and other games for their use. Mr. Mazzara stated that they are not proposing any bathrooms or a kitchen and this area would not be used for living space. He stated that the garage will match the existing house in color, design and material. The proposed garage is located at the rear of the property and no neighbors would be able to see the proposed garage. There would be no impact at all on the neighbors. All play equipment would now be stored in the garage and not throughout the lawn, eliminating the negative visual effect from the property.

There were no comments from the public. There were no comments from the Board.



A motion to close the public hearing was made by Mr. Shortmeyer, seconded by Mr. Kash, all in favor, aye. Mr. Ammiano moved that a positive resolution be prepared, seconded by Mr. Kash, all in favor, aye.

Mr. Bazzurro returned to the dias.

**Carried from 2/16/17 & 5/15/17 Planning Board meetings without further notice:**

**Preliminary and Final Major Subdivision # 856-2-16**

**Fitzpatrick, John** (Owner & Applicant)

**Block 105, Lot 42 & 43**

Proposal to subdivide two existing lots into four new lots with two new homes being proposed. One of the lots was subject of a previous subdivision (SD# 856-04 and SD#854-1-06).

Mr. Gatto stated the Board was intending to hear the Fitzpatrick subdivision after the Cracker Barrel application. Mr. Sonnenblick explained that he only has about ten minutes of additional testimony. The Board granted him the requested time to finish his case.

Mr. Accisano stated that the Board previously took jurisdiction on the application, carried without further notice. Gerald Sonnenblick, Esq. again appeared on behalf of the applicant.

Mr. Gatto reminded the Board that the applicant finished their testimony and that the Board requested to review the recordings from a previous application. The Board reviewed the recordings and felt comfortable moving forward.

Mr. Sonnenblick added the recordings from the 2007 PB meetings (3/1/07, 10/18/07 & 12/6/07) as exhibits as received from the Township's Planning Office, of which their planner and engineer have also reviewed as part of the record.

Mr. John Ploskonka was previous sworn in and is still under oath. He gave a quick description of the subdivision proposed. By using approximately 15,000 sf from lot the previously subdivided lot, he was able to design a conforming four-lot subdivision. In 2007, the split-zoned, 9.13 acre lot was subdivided along the zone boundary line with the R-E (lot 43.01-7.32 acres, fronting on Winding Woods Way) and R-40 (lot 43-81,000 s.f., fronting on Clover Court). There were freshwater wetlands on the larger lot (lot 43.01) fronting on Winding Woods Way, but there were still some uplands on Mr. Fitzpatrick's property (lot 43). The resolution for this subdivision states that there will be no further subdivision of lots 43 and 43.01. Mr. Ploskonka stated it was his understanding that this was referring to splitting Mr. Fitzpatrick's 81,000 s.f. lot into two lots and the Board did not want to see that happen as part of the 2007 approval. During this testimony, they recognized that there was another acre of land adjoining lot 43 which could be added to create a three acre lot on Clover Court that could be subdivided in the future and the Board pre-empted this by restricting the number of lots that could be created from these two lots. Mr. Ploskonka explained that for this application, he was engaged to design a subdivision for lot 42. He was able to create a three lot subdivision, but it had some variances that would be required. By adding the 15,000 s.f. from Mr. Fitzpatrick's lot (lot 43), he was able to create four conforming lots. At the time, the restriction imposed on lot 43 was not considered or recalled.

Allison Coffin, PP, was previously sworn and is still under oath. She stated that she has had a chance to review the recordings for the previous application. Her interpretation was that the restriction was to prevent the 81,000 sf lot from being subdivided into two 40,000 s.f. lots. In her opinion, this application does not affect the intention condition of the 2007 resolution. If the applicant were to propose lot 43 to be subdivided into two lots, the lots would not be fully conforming. This application advances the purposes of zoning the municipal land use law and doesn't violate the intent of the



condition of approval from the previous application. There are other 40,000 s.f. lots in the area. In her opinion, there is no reason to not approve the application as it is a fully conforming subdivision and advances the purposes of the Municipal Land Use Law. The records she reviewed didn't give her any indication that any other property was considered when the restriction was made.

Mr. Sonnenblick stated that after listening to the tape, he didn't hear anything that would prohibit the current application. There was no intention at the time to have a subsequent application utilizing lot 43.

Mr. Gatto stated that in the 2007 application, there was a question asked whether the applicant could obtain additional property and the response was no, whereas at the February 2017 meeting for this application, the applicant stated he has owned the adjoining property for over thirty years. The Board marked the written record of a portion of the public hearing from October 18, 2007 starting at 1:08:25 of recording #2. Mr. Gatto read this into record, describing the condition imposed by the Board, specifically citing that the Board found that lot 43 should remain at 80,000 s.f.

Mr. Accisano stated that based on the testimony and the reports from the Planning Board professionals, he believes that the request really is for request for relief from or excise a condition of a previous application. He directed the Board to see if there were any substantial changed circumstances that would support the Board to reconsider the condition imposed on the previous application. The Board decided in 2007 (through the findings) that the creation of any new lots would be inappropriate and contrary to the intent and purpose of the Land Use Ordinance and Municipal Land Use Law.

Mr. Sonnenblick stated that there was never a question if there was any additional land that would make it more conforming. He stood on this response.

Mr. Bazzurro stated that in 2006/2007 the applicant sought and gained a variance and there was a restriction put on the land. By reviewing the record, he believes the applicant understood the condition, and that the restriction was very clear as was the Board's intentions.

A motion to close the public hearing was made by Mr. Shortmeyer, seconded by Mr. Ammiano, all in favor, aye. Mr. Ammiano moved that a negative resolution be prepared, seconded by Mr. Shortmeyer. There was a roll call vote, all in favor of preparing a negative resolution.

Mr. Sonnenblick granted a 30 day time extension for the resolution memorialization.

**Carried from 7/20/17 Planning Board meeting without further notice:**

**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).

**Carried from 7/20/17 Planning Board meeting without further notice:**

**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.

**Carried from 7/20/17 Planning Board meeting without further notice:**

**Soil Removal Application # SR-08-16**

**JDN Real Estate – Freehold, LP**

**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. Kirk will not be at the following meetings and left the dias.

The Board took jurisdiction on this application on July 20, 2017 and the application was carried without further notice.

Kevin Moore, Esq. again appeared on behalf of Cracker Barrel and JDN (Ph. I, Ph. II and Soil Application). Mr. Moore had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. Mr. Accisano stated that Mr. Kash is a restaurant owner and although the proposed restaurant would not be a competitor, he asked if Mr. Moore took any exception to Mr. Kash participating in the hearing, Mr. Moore took no exception. The following witnesses were sworn: Colleen Atwood, Architect, Design & Engineering, Inc.; John Madden, Professional Planner, Maser Consulting; Steven Leone, Township Architectural Consultant, Speizle Architectural Group; Andrew Feranda, Township Traffic Consultant, Shropshire Associates; Kate Keller, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

Mr. Moore gave an opening statement, describing that the proposed Cracker Barrel is in the VC Zone and they are seeking a conditional use variance as they do not meet the architectural design requirement of the conditional use requirements for restaurants. He described the variances they are seeking.

Ms. Colleen Atwood gave her credentials as a licensed Professional Architect and the Board accepted her as a professional Architect. She described the surrounding buildings in the Freehold Marketplace, including Sam's Club, Walmart, two banks and two free-standing restaurants. She stated that there are some similar design elements with the two other restaurants on the site (Longhorn's and Olive Garden). She described colonial architecture as being a collection of architecture of what people bring from their home country and became a hybrid. In her opinion, the proposed design is what she considers a first period architectural example of colonial design. In referring to Exhibit A-28, Ms. Atwood explained that the building consists of browns and very neutral with wood columns on the deep front porch. This is a classical general store design from the early first period colonial times. The material proposed appears to look like wood, however is a more durable cement board. The signage contains three colors and reads "Cracker Barrel" with the brand logo, "Uncle Hershel" and is classical and traditional in design. The proposed front doors are colonial. The porch is a space for guests to gather and play checkers and relax. They are proposing gooseneck and traditional lantern style lighting. The proposed site is generously landscaped. She explained that the roof drainage goes to leaders at the rear of the building. The proposed rooftop mechanicals will be screened. There is a pile of wood displayed outside for the interior fireplace. Ms. Atwood described the interior of the building which contains a general store area (1,933 s.f.) and the restaurant (7,180 s.f.) which seats about 180 guests.



Exhibit A-32 was described as a group of handouts. The first page clarifies the square footage of the proposed Cracker Barrel. There were several photos which included different style porches, gables, columns and gables typical for general store style. The front doors are classical colonial wooden doors. She explained that the proposed design has many elements of colonial design.

Mr. Kash asked about the general store function and if this would be considered a second use. Mr. Gatto followed up asking what types of items would be purchased. Mr. Moore called up Ms. Patricia Hill to respond.

Ms. Patricia Hill, consultant to Cracker Barrel, was sworn and explained that Cracker Barrel typically sells nostalgic candy, clothes, toys, household goods, seasonal items, prepared items or items to make items that are typically prepared at a Cracker Barrel. Mr. Gatto asked if a store is permitted. Ms. Keller said it is. Mr. Gatto inquired if a store as an ancillary or accessory use to a conditional use is permitted. Mr. Moore explained that this application includes a "D" use variance for not meeting the architectural design requirements of a conditional use. Mr. Accisano explained that ancillary variances as part of the D-3 relief should be included. Signage variances should be included as part of the D-3 relief request. These requests are all relevant to appearance.

Mr. Moore clarified how the Board would like him to proceed with presenting his case.

In doing some research, Ms. Atwood explained how towns, like Freehold, developed by starting with a courthouse, residences and other buildings including a general store were built surrounding it.

Mr. Moore asked for a ten minutes recess at 8:45 pm. The Board took a recess and came back into session at 8:55 pm. Mr. Gatto announced that the application will continue until about 9:30 pm. It does not appear that the application will conclude this evening and announced that the application will continue to 9:30 pm and will be continued on September 7, 2017 without further notice.

Jim Craig of Design and Engineering, Inc. was sworn in, described his qualifications as a NJ licensed engineer and was accepted by the Board as a qualified expert. Additional exhibits were marked. Mr. Craig described the site and its peculiar shape. The lot is less than 200' wide at the rear and there is a 100' setback requirement, leaving much of the lot, technically unusable or in need of variance relief. When applying all of the setback requirements, of the 3.4 acre site, the allowable buildable area is approximately 6,000 s.f. The proposed restaurant is 10,400 s.f. and would not fit within the 6,000 s.f. allowable buildable area. The site would have a building with a front porch and there would be a 8' high, 30' x 10' masonry dumpster enclosure with metal gates at the front. The adjacent restaurants, he estimated, contain approximately 6-7,000 s.f. Mr. Gatto asked if the building were to be reduced in size, if it would eliminate the need or reduce the requested relief. Mr. Craig explained that due to the extreme geometry, it would still require relief, but possibly one variance may be eliminated. Mr. Bazzurro asked if here were any restaurants would be able to build on the site. Mr. Craig responded that in his experience, any restaurant other than possibly fast food restaurants would require a variance.

Mr. Craig described the setback variances and explained the site was designed in this manner due to the unique shape and restricted buildable area. Regarding Stormwater, Mr. Craig stated they have established a ridge to drain to two catch basins. Mr. Craig explained that the building is landscaped on three sides. The front porch will have a 12' landscape buffer surrounding it. There are fifteen large trees on the site which will remain. Due to the site restrictions, they would not be able to meet the buffer requirements in the front, however when you average the buffer depth across the front, it exceeds the requirement. They do not intend to remove the existing vegetation along the right-of-way on Route 537. Mr. Craig stated that it would be difficult to see the proposed Cracker Barrel from the



roadway. He could shift the building back a little, but would still require relief because he needs circulation around the rear. The configuration proposed allows the applicant to not require a side yard setback, any alteration may trigger additional relief. Addressing circulation, Mr. Craig explained that trucks would access the site from Walmart Drive and travel along the rear of the building and continue out. Cars would come from Walmart Drive or would pass Walmart drive, past the Longhorn's and Olive Garden and turn right on the existing access drive. Parking required for the restaurant would be 99 cars, the retail use would be 16 additional spaces and the Township's historical site requires 4 spaces for a total of 119 required total parking spaces and 128 are proposed.

Mr. Bazzuro asked if there is any study as to if people are going to Cracker Barrel to go to the store or if it is typically a place for people to shop while waiting for a table. Mr. Craig responded that there are some people that know they can stop at the Cracker Barrel, sit on the porch, relax and use the facilities and never go to the restaurant.

Mr. Gatto inquired about the proposed RV/bus parking. Mr. Craig described the RV/bus circulation. Mr. Gatto noted that there are no designated bus stops in this area. Mr. Craig explained it is typically a charter bus where the driver would bring a bus of people to the restaurant on their route elsewhere. Ms. Patricia Hill explained that the RV parking is also for busses, overnight parking is not permitted. Mr. Gatto noted that per their approval, the adjacent Walmart is prohibited from having buses and RV's. Mr. Craig explained that no tractor trailer parking is permitted on site (signage is provided) and they do not permit overnight parking. There are two to-go signs at two designated parking spaces for pick-up/to-go. There is a pylon sign proposed located 78' from front r-o-w (100' required), 47' from the side property line (100' required), 20' in height and has a 100 s.f. sign cabinet. There are 50'-60' tall trees along Route 537 which may restrict visibility. The proposed sign is white, gold and brown and contains the name and "Uncle Hershel" logo.

Mr. Craig confirmed that a 30' access easement to the historic site will be added to the plan and they are providing five parking spaces for the historic site, located on the easement (4 are required).

Mr. Craig described the water and sewer services coming to the site and that they intend to connect to the public sewer system within the roadway.

Mr. Coburn expressed his concern with the RV's and busses circulation within the site.

Mr. Craig stated that they have no objection to supplementing the lighting per the professional reviews. Decorative lighting is proposed on the front of the building and shoe box lighting is proposed in the rear of the building.

Mr. Moore stated he would be calling his traffic expert as his next witness and would require much more time to present his testimony.

Mr. Bazzuro noted that he would request that if the Board does vote to approve the application, he would request that the existing vegetation along Route 537 to remain.

The application was continued to September 7, 2017 at 7:00 pm without further notice.

#### **FIELD ADJUSTMENT:**

**Site Plan #'s 711-03, 711-1-08 and 711-2-09**

**Village Partnership, LLC**

**Village Commons: Raceway Storage, Village Carwash and Lightbridge day care center**



Mr. White explained that the developer has requested a field adjustment for plan changes that were done without prior approval. The changes were recognized during inspections and as-built plan review while trying to get the developer off their performance bond. The developer requested field adjustment approval for the below:

1. To remove the second refuse enclosure on site they feel they do not need.
2. To remove the approved apartment for the storage facility keeper which was never built and was instead constructed as additional storage space.
3. To not install some retaining walls that were originally proposed because after developing the site, it was recognized that there was no need and there is no evidence of site erosion as a result.
4. A guiderail originally proposed is requested to not be installed. After site operation for so many years, there has been no issue and Mr. White has no objection to this removal and does not feel it is warranted.
5. The developer also pushed the curb line back away from the storage buildings about 5' in the rear parking areas. The head on parking was shifted about 5' away from the building and also the parking spaces were enlarged, possibly to accommodate box trucks for the storage facility. Mr. White explained that these changes are a better option in his opinion.
6. The developer also installed a decorative aluminum fencing instead of the board on board fence that was approved.

Mr. Gatto noted that there is one non-permitted sign on the site. The Board took no exception to the requested field changes, subject however, to the removal of the existing non-permitted sign. Mr. Gatto suggested due to the length of time since the original approvals and the extent of the requests, that there should be a resolution granted the field adjustment requests.

Mr. Kash made a motion to approve the requested field adjustments, was seconded by Mr. Shortmeyer. There was a roll call vote with all in favor.

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.

Respectfully Submitted,



Robert H. Shortmeyer  
Secretary