



Township of Freehold

OFFICE OF THE PLANNING BOARD

One Municipal Plaza, Freehold, NJ 07728

REGULAR MEETING MINUTES September 7, 2017

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, September 7, 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. Bruno, Ms. Jahn, Mr. Coburn (late) and Mr. Asadi (late) and Ms. Kurtz.

Absent: Mr. Bazzurro and Mr. Shortmeyer

Also Present: Frank Accisano, Esq.; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; Steven Leone, Township Architectural Consultant, Township Architectural Review Consultant, Speizle Architecture; Timothy P. White, Township Engineer and Danielle B. Sims, Administrative Officer.

There was the Pledge of Allegiance.

Chairman Gatto announced that Margaret Jahn is replacing Ron Kirk on the Board as a Class II member of the Board and welcomed her and her 30 years of experience with the Health Department. Ms. Jahn was sworn in as Class II Member of the Planning Board by Mr. Accisano.

Apryl Kurtz was seated for Mr. Shortmeyer. There was a motion by Mr. Ammiano to appoint Mr. Bruno as a temporary Secretary in Mr. Shortmeyer’s absence, and was seconded by Mayor Preston. All in favor, Aye.

MINUTES:

The approval of the minutes from the August 17, 2017 Regular Meeting was carried to the October 5, 2017 Planning Board meeting.

RESOLUTIONS:

Resolution for O-17-10: Ordinance Amending Chapter 190 (Land Use), Article II (Planning Board), Section 190-14 (Membership) – Alternate Members

This ordinance designates the Township Committee to appoint additional Alternate Members to the Planning Board, as well as amends the terms and order in which Alternate Members vote.

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



Preliminary and Final Major Subdivision # 856-2-16

**Fitzpatrick, John
Block 105, Lot 42 & 43**

RESOLUTION OF DENIAL

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

“C” Variance # 019-17

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

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

MISCELLANEOUS BOARD ACTION:

Request to withdraw application without prejudice:

**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**

Applicant has filed a letter dated August 23, 2017, requesting to withdraw the application without prejudice for the 128’ monopole with associated site improvements.

Mr. Ammiano made a motion, seconded by Mr. Kash to accept the applicant’s request to withdraw the application without prejudice. The motion passed with the following roll call vote: Mayor Preston, Mr. Ammiano, Mr. Gatto, Mr. Kash, Mr. Bruno, Ms. Jahn and Ms. Kurtz.

NEW APPLICATIONS:

**Capital Review Project – Site Plan # 807-2-17
Monmouth County – Heavy Equipment Maintenance Building (HEMB)
Block 43, Lot 16.01 – 250 Center Street**

Proposal for a 220’ x 120’ maintenance building for heavy equipment with six (6) double length bays within the existing Public Works yard on Center Street (intersection of Kozloski Road).

Mr. Bruno disqualified himself from this application with a conflict and left the meeting room. Mr. Kash was appointed temporary Secretary for this application.

No public notice is required for a Capital Review project. Mr. Christopher Beekman, Esq. entered his appearance on behalf of the applicant, Monmouth County. Mr. Beekman had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Trevor Taylor, PE, CME Associate; John Tobia, Monmouth County Director of Public Works; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

Trevor Taylor has previously appeared before the Board and was accepted as a professional Engineer. He described the site plan including a proposed sand blasting booth the circulation to the building, the



building will be 37' tall with office space, restrooms, tire storage, lube room and a hose room on the first floor. The mezzanine level is proposed for an equipment platform and is open to the lower level. The building is a pre-engineered building with muted earthtones to match the other existing buildings on the site (refer to A-10). There will be 12 bays doors for drive thru access. The plans provide for 16 vehicle spaces for employees and 13 spaces for heavy equipment vehicles for service. There is an existing vegetative buffer between the facility and Kozloski Road which will remain to screen/buffer. Mr. Taylor explained that the utilities will be extended from the existing services on the site. There is a generator proposed for the electric service. The proposed basin will be enlarged for the new increase in impervious coverage. An oil/water separator will be connected to the existing sanitary sewer system. There are additional buildings noted for the future on the plan, including a future Shade Tree building, and Mr. Taylor acknowledged that the County would need to come back for site plan approval

The meeting was opened to the public. There were no members of the public that came forward to speak.

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

Mr. Coburn arrived to the dias and Mr. Bruno re-joined the Board.

“C” Variance # 020-17

Tom Garcia – Trinity Solar

Block 105, Lot 60.07 – 21 Love Lane

Proposed Roof and Ground Mounted Solar Panels – variance relief from Ordinance 190-123 whereas, grounded mounted arrays are non-permitted accessory structures

Mayor Preston stated he has a relative that works for Trinity Solar and disqualified himself from this application. Mr. Asadi arrived to the dias.

Richard Stone, 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. Stone had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Lawrence Murphy, PE, Civil Engineer Engineering; Kevin Kura, Trinity Solar; Steve Leone, Township Architectural Consultant; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

Lawrence G. Murphy, III, a licensed Engineer, listed his qualifications and he was accepted by the Board as a Professional Engineer. Mr. Murphy described the location of the proposed solar array to the rear of the house, which was designed in order to reduce any visual. He stated that they are proposing a total of 79 solar panels with 59 roof mounted panels and 20 ground mounted. Two inverters are proposed on the array to convert the solar to electricity. The arrays are black aluminum framing. The units fully comply with the State noise regulations. All wiring would be underground and would not be visible. The power will be net metered for this house and would not be able to be installed completely on the roof due to the many roof angles. If this house had a more traditional roof line, it would be able to accommodate the necessary panels to provide enough power to operate this house. The area they are proposing the ground mounted solar array is not visible to any neighbors and will only be able to see it from a portion of the cul-de-sac and from the homeowner’s driveway. There is a significant amount of woods that provide a



large buffering area. A-14 shows the area of the proposed array. Mr. Gatto asked if they would be able to screen the array from the street view. Mr. Murphy stated they would to some extent, but should not block the panels. Mr. Gatto suggested that if the Board were to approve the application, that he would request that it be screened with some landscaping or a berm to the satisfaction of the Township Engineer or Township Planner to the extent it would not block the solar collection. Mr. Phillips confirmed that the screening can be fencing, however the preferred screening method would be landscaping. The accessory structure meets all setback requirements.

Addressing Mr. White's review letter, Mr. Murphy explained that the electric line would need to cross the septic line, but would be at least 10 feet away from the septic system. The property owner, through Mr. Murphy stated that they will not be removing any trees as a part of the application. There is a practical difficulty of putting the additional panels on the roof due to the roof line, and this would be the only other option. The application is before the Board due to the non-permitted accessory structure (solar array). Mr. Phillips stated he believes the negative criteria has been satisfied, so long as the array is fully screened from the street.

(Mr. Kura did not provide any testimony.)

The application was opened to the public.

Mr. Thomas Garcia, the applicant was sworn in, he stated he was looking to enclose the bottom of the panels to protect from the many deer. He is requesting a fence option. Mr. Gatto stated they typically leave the screening to the discretion of the Township Engineer or Planner. Subject to Board approval, he explained this can be addressed on compliance submission along with the zoning schedule being updated addressed per the review comments.

There were no other members of the public that came forward to speak.

A motion to close the public hearing was made by Mr. Ammiano, 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.

Mayor Preston returned to the dias.

"C" Variance # 022-17

Gerard and Shamica Joseph

Block 71.07, Lot 11 – 220 Stonehurst Boulevard

Proposal for an oversized shed (20.5' x 23.5') on an existing concrete pad where a smaller shed previously existed, but was in disrepair and was removed. Electricity currently exists at pad.

Shamica and Gerard Joseph appeared as the applicants. 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. Accisano explained that variance applications are technical in nature and asked the Joseph's if they would like to continue with the hearing, Ms. Joseph confirmed they would like to continue. Mrs. Joseph had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Shamica Joseph, Applicant; Gerard Joseph, Applicant; Steve Leone, Township Architectural Consultant; Paul Phillips, Phillips Preiss and Grygiel, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.



Mrs. Joseph explained that when they purchased the property about ten years ago, the house and the shed were ridden by termites. Due to this, the shed was taken down within the first year. They are proposing to construct a new shed on the existing pad. Ms. Joseph indicated that they propose to store bikes, lawnmower, etc. in the shed and will be able to put their in their existing garage. The proposed shed will be of the same/similar material as the existing home. The proposal will not negatively affect the view or create any hardship to the general welfare of the public.

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

Mayor Preston and Mr. Ammiano are disqualified from hearing the following “D” Variance and left the meeting room. Mr. Asadi was seated for Mr. Bazzurro.

Carried from 7/20/17 and 8/17/17 Planning Board meetings 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 and 8/17/17 Planning Board meetings 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 and 8/17/17 Planning Board meetings 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).

Ms. Jahn and Aryl Kurtz (certified listened to tapes and reviewed exhibits from previous hearing)

Mr. Gatto explained that this is a continued hearing for a proposed Cracker Barrel

Mr. Accisano announced that both Mrs. Kurtz and new Board member, Ms. Jahn have listened to the record of the previous hearing and reviewed the exhibits presented. Both have signed an affidavit regarding their review of the records. Mr. Moore accepted the member’s certifications and took no objection to them hearing the application.

Additional exhibits were marked. The Board took a break until 8:30 pm.

Mr. Craig, previously sworn in and is still under oath, referred to A-38 as an aerial photograph of the two adjacent restaurants, Olive Garden and Longhorn. He described the anticipated travel route for cars,



busses, trucks and RV's. He explained that from the east, the cars would come in and make the left to the lot. Trucks and busses would be directed by signage to go to Walmart Drive make a left and another left to the rear of the site. He showed the buildable area as being at the maximum depth as being 40' and at the smaller point of 30', and would make a small building footprint. Mr. Gatto asked if there is a way to design a restaurant that can meet the requirements, including on with possibly a 3,000 sf footprint. Mr. Craig stated it may be able to be done, however practically most would likely still be greater than the 30 and 40' allowable area. Mr. Craig showed how Olive Garden and the Longhorn restaurants would layout on the same lot and would all still require numerous bulk variances. The setback distances from the parking vary and 132 parking spaces are being provided whereas 119 spaces are required, the loading area has been revised to circulate one-way. The pylon sign does not require a variance for the side yard setback as the line is a lease line, not a property line. The access easement to the historic preserved site is approximately 20'-25' feet and Mr. White took no exception to this as proposed.

Mr. Lee Klein, a Traffic Engineer had previously been sworn, but was not qualified by the Board. Mr. Gatto explained that the Board traffic consultant was not present and suggested that Mr. Madden offer one of his other witnesses. Mr. Moore called Mr. Moore, his Planner as a witness.

Mr. John A. Madden, a licensed Planner, described his qualifications including that he has testified before over 150 Boards in New Jersey. His qualifications were accepted by the Board. The retail component is 1,933 sf and the restaurant is 7,180 s.f.. The retail portion is an important part of the Cracker Barrel brand as it sets the old time general store feel. It integrates the mixed use similarly to the zone requirements. In his opinion is that it is an ancillary use to the restaurant and is a permitted primary use, and he believes it meets the intent and the character of the Village Center zone. The D-3 Conditional Use variance is being sought for a restaurant in the VC-zone that must meet the traditional colonial/federal appearance. The proposed Cracker Barrel has a traditional general store appearance and has the attributes of the zones requirements, but does not meet the requirements. He believes that there are special reasons for the requested relief. The proposal is still reconcilable in meeting the zone requirements. The proposal does not violate the intention of the zone. He feels that the other two restaurants on the site do not meet the intention of the architectural ordinance with the Olive Garden having a Tuscan style and the Longhorn having a southwestern style. These two examples are tastefully done with quality design and architecture, however they do not meet the design requirements. These quality features portray to the public that it is a quality restaurant. Cracker Barrel, in his opinion, invokes a modern day version of a traditional general store. Similar to the Moore's Tavern, the proposed Cracker Barrel would have the rocking chairs and the pitched roofline over the deep porch. This is done in keeping with the timely design. Referring to the Township's Architectural consultant's review, Mr. Leone (Spiezle Arch.) explains that although it does not conform to the architectural requirements, it does not take any exception as the materials and colors proposed. Mr. Madden stated the proposed architectural design can be reconcilable with the zone as many of the features have elements of the colonial zone requirements, for example: the large front porch, fireplace, lantern lights, the large panel and glass door, etc. He stated that the quality architecture and style of building is more closely relates to the zone requirements than the adjacent existing restaurants and would more closely meet the intent of the requirements. This would have a traditional rustic design and shows it is keeping with the intention of the requirements.

Mr. Madden explained that they are seeking C-1 hardship variances and C-2 variances along with design waivers. There are specific physical restrictions that exist on the property that would prohibit a conforming restaurant. In his opinion, the reduced setbacks for the building and the proposed are necessary due to the irregular shape of the property, mostly created by the historic preserved area of 1.4 acres that was removed from the property. The majority of the site is restrained to .31 acres of available



buildable area. The proposed setback is similar to that of the other to existing restaurants, as they are in line with and look consistent so that it looks like it is part of the same development comprehensive shopping center. He does not feel that there would be any detriment or negative effect to the Board granting this relief. Mr. Madden explained that there is a hardship that any commercial development placed on this parcel would have, due to the irregular shape and restrictions on the property, any applicant would have similar hardship issues in regards to setbacks. The property is left with .36 acre area that is available for buildings, accessory buildings and signage. A hardship variance, he feels can be granted without any substantial detriment to the public good and would still look like they were part of a cohesive plan in regard to the setback deficiency. The proposed reduced planted screen by two feet is de minimus and is off-set by the enhanced parking lot landscaping being provided and does not violate the intent of the zone plan. Regarding the sign logos, he explained that there is a question if there is a variance required for the proposed sign with Uncle Hershall and the barrel. He feels that the interpretation of the Zoning Officer regarding the logos is not correct and may not meet the intent. Also, he explained that the referred sign ordinance refers to signs in others zones and no sign requirements exist in the VC zone. The Zoning Officer's review stated that absence a sign regulation for the VC-zone, he has applied the requirements for the other commercial zones. In Mr. Madden's opinion, the logo is an identification to the brand and is the trademark of the business and is part and parcel of the sign and should not be separated. He pointed out that throughout the commercial districts included within the sign regulations. He surveyed these sites and roughly half of the surveyed commercial sites had signs with logos and the others were without. Mr. Gatto noted that the sign ordinance is only about ten years old and the timing may skew the findings given by Mr. Madden. The proposed Cracker Barrel, Mr. Madden explained is the only remaining outparcel on the site. The adjacent Longhorn's has their logo horns and the Olive Garden has their logos on their signs. The logo of Cracker Barrel is a trademark is protected and read a portion of the Federal Trademark Act, stating it strictly prohibits a public entity from requiring a trademarked logo to be altered or changed. A logo is also used as a way finder and promote safe traveling. Omitting the logo from the signage would could become confusing to the restaurant's customers. He feels that logos are not detrimental to the zone plan since signs are permitted and that businesses are found throughout the town by wayfinding containing logos. These logos contribute to public safety by allowing those traveling to more easily recognize a business. He also feels that people may not identify with the Cracker Barrel name without a logo.

The proposed colors are yellow, gold, brown and ivory. Mr. Madden would consider them neutral and muted. He said that they are similar to the adjoining restaurants on the site. The proposed colors are part of the recognized Cracker Barrel brand. In his opinion the proposed ivory color is a neutral background and should not be considered a color. The Board didn't agree with this opinion. Mr. Madden clarified that a color like ivory being used as a background does not intensify the colors.

Regarding the freestanding sign setback relief, Mr. Madden explained that the ordinance requires a 100' set back 77.82" from Rt. 537. It appears that this variance is not required as the setback noted is from the lease line, not the property.

Due to the time, the applications were carried to the October 19th, 2017 Planning Board meeting at 7:00 pm without further notice to continue with the testimony.

DISCUSSION:

Mr. Gatto reviewed the upcoming agenda.



RESOLUTIONS (CONTINUED):

**Site Plan # 711-03 - Field Adjustment # 1
Village Partnership, LLC - Village Commons
Block 70, Lot 21 – Route 537 & Schlectweg Way**

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

ADJOURNMENT:

There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 9:52 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "R. Shortmeyer", written over a horizontal line.

Robert H. Shortmeyer
Secretary