



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

**REGULAR MEETING MINUTES**  
**October 19, 2017**

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, October 19, 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, Mr. Shortmeyer, Mr. Bruno, Ms. Jahn (late), Mr. Coburn, Mr. Asadi and Mr. Levy (sworn in 10/19/17).

**Absent:** Ms. Kurtz

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

Chairman Gatto welcomed and Frank Accisano performed the swearing in of new Planning Board member, Jason Levy, Alternate III.

There was the Pledge of Allegiance.

**MINUTES:**

A motion to approve the minutes of the September 7, 2017 Regular Meeting was made by Mr. Ammiano and seconded by Mr. Shortmeyer and passed with the following roll call vote: Aye: Mr. Gatto, Mr. Kash.

**RESOLUTIONS:**

**"C" Variance # 024-17**

**Katherine Saffer**

**Block 26, Lot 6 – 63 Cannon Road**

Mayor Preston made a motion, and was 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, Mr. Shortmeyer, Mr. Bruno and Mr. Coburn.

**Site Plan Waiver Application # 758-4-17**

**Kirkland's Stores, Inc.**

**Block 69.01, Lot 18.01 – 3710 Route 9 - Space M202**

Mr. Ammiano made a motion, and was 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, Mr. Bruno and Mr. Coburn.



**Preliminary and Final Major Site Plan # 771-1-16 and Var. # 024-16  
DCH Investments, Inc. - Nissan/Volkswagen  
Block 65.01, Lot 15 – 4039 and 4041 Route 9 North**

Mr. Gatto announced that the resolutions for this will be carried to next meeting.

**Soil Removal/Fill Permit Application # SR-01-17  
DCH Investments, Inc. - Nissan/Volkswagen  
Block 65.01, Lot 15 – 4039 and 4041 Route 9**

Mr. Gatto announced that the resolutions for this will be carried to next meeting.

There was a five minute break. Mayor Preston and Mr. Ammiano are disqualified from the following application as it is a “D” variance and both left the meeting for the evening.

**CONTINUED APPLICATIONS:**

**Carried from 7/20/17, 8/17/17 and 9/7/17 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, 8/17/17 and 9/7/17 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, 8/17/17 and 9/7/17 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).

Mr. Accisano announced that Mr. Bazzurro, Mr. Levy and Ms. Jahn certified that they listened to the recording and reviewed exhibits from previous hearing and are eligible to hear the matter. Mr. Moore took no objection to them hearing the application. Mr. Gatto explained that this is a continued hearing for a proposed Cracker Barrel.

Mr. Kevin Moore entered his appearance again representing the applicant, Cracker Barrel. He gave a brief summary the previous meeting of September 7, 2017. He stated his Traffic Engineer had not completed his testimony at the last hearing and was not available for this meeting, so his colleague was there, in his place.



Lee D. Klein, Bowman Consulting, was sworn in. He described his qualifications as a licensed professional Engineer and was accepted by the Board. He described the traffic studies performed on the proposed project. The various access drives to the site were evaluated and determined the weekday peak hours between 8:00 am and 9:00 am and between 4:30 pm and 5:30 pm. Saturday peak hours were determined to be between 1:15pm through 2:15pm. The particular site is currently vacant and is part of the Freehold Marketplace. There are two access points. The signalized intersection operates at level “D” or better.

Un-signalized intersection performs at a level “C” or better, which he stated is good service. In doing the traffic study, they added a 2% anticipated growth factor, to arrive at the future built condition. The signalized intersection the thru right turn went from a level “D” to a level “E”, otherwise, the level of service was unchanged.

Mr. Klein continued explaining that there are 198 seats for a high turnover restaurant. There was a slight error on the table provided in the traffic study on the Saturday morning peak hour. Level of service “D” to “E” was a change of less than seven seconds. He stated that a restaurant of 180 seats would require a peak parking demand for a high turnover restaurant, which the proposed plan exceeds and also exceeds the parking requirements of the Township. The intersection driveway off-set to the Olive Garden is about 70 and is designed to avoid head-on conflicts. Mr. Klein reviewed the weaving movement on Route 537 as per concerns raised at previous hearings. He observed this area and recognized that there are gaps from the signalized intersection that offer enough distance to make the required movement. For the purpose of wayfinding, a logo would offer a safe way to recognize the location from the roadway.

Mr. Feranda stated that the loading zone is to the east of the building. The loading zone is also the circulation area, between the two access driveways. Mr. Feranda expressed concern with conflicts during deliveries. The area becomes unusable for two-way circulation as a vehicle would be stopped to load and unload. Mr. Klein responded stating that traffic would make a left turn into the site from the access road. Mr. Gatto asked about conflicts with trucks unloading and buses. Mr. Feranda stated that truck unloading and buses dropping off people would narrow the circulation aisles. Mr. Moore stated that Ms. Patricia Hill would be testifying, but has confirmed that deliveries are made between 5:00 am and 7:00 am once-a-week.

Mr. Gatto said that Cracker Barrel typically 40% of patrons are travelers and that Cracker Barrel’s are typically located on Freeways. Mr. Klein was not familiar with such information, but follows the standards for a restaurant with 180 seats. Mr. Gatto read from an article placed in the News Transcript from September 12, 2017. The article listed many traffic/safety concerns with regards to Rt. 537 from the bridge at Route 9 extending to CentraState Hospital. Mr. Klein did not think it would have been productive to review the report mentioned in the article (Route 537, 5-year study).

Mr. Feranda mentioned the Monmouth County report from August 28, 2017 and that the County’s concern is the “pork-chop” island could provide better geometry that could lessen the ability to make the non-permitted left turn into the site. Mr. White stated that the County’s report may be looking for some type of reconfiguration eastbound on Route 537 to make it an easier movement to make a right turn into the access drive aisle. Mr. Klein confirmed that they would have no objection to redesigning the island. Mr. White repeated the concern of Mr. Coburn from a previous hearing with the merging on Rt. 537 eastbound. Mr. Gatto suggested that the Board may have a finding that a widening or deceleration lane should be installed (not a condition since it is under County jurisdiction).



Mr. Feranda wanted to know how westbound travelers would recognize and get into the site. Mr. Klein stated the entrance would be the same as it is for Wal-Mart Customers. To access the site heading westbound, cars would use the Jug-handle to Castronova Blvd., crossing over Rt. 537 and entering site.

Ms. Jahn arrived at 7:56 pm (it was noted earlier that she would be late and would be able to listen to the recordings of any earlier testimony).

Mr. Moore asked if the Board could offer any questions from the Board or public since Mr. Klein was not available on November 9<sup>th</sup>.

Mr. Bazzurro asked if there were any concerns with the intersection of Wal-Mart Drive. Mr. Klein indicated that he included this intersection in his analysis.

Mr. Moore introduced some additional Exhibits. Mr. Madden, still under oath, was in the middle of his testimony at the last hearing, was introduced to supplement his previous testimony. He continued describing the architectural design of the proposed Cracker Barrel and also described the Township's ordinance required design requirements in the zone. There are no specific details, illustrations or otherwise dictating the requirements. The ordinance describes Architectural styles as to be as determined by the Historical Commission. Short of having a specific detail, it leaves everything up to the reviewing authority. The ordinance, as written, Mr. Moore noted, is not complete and may be justification in granting a variance. In Mr. Madden's opinion, they have met the test and in his belief, the style of the proposed building meets the spirit of the Colonial design. Without a definition of Colonial, and with the proposed style, he feels that they have proposed many elements of the design criteria for what they would consider Colonial in style.

Signs with logos, in Mr. Madden's opinion, are not prohibited. He read the ordinance Sec 190/176 Q and P3 and 190-173 (C). There is nothing stated in ordinance prohibiting logos and noted that the definition of a sign in the Township's ordinance includes the term "emblem" and Webster's Dictionary defines an emblem as a symbol, which is a logo.

Mr. Madden described A-48 as a sign of three colors: brown, gold and ivory. He conceded that ivory is a color, but only three colors are proposed. Mr. Gatto asked about the review letter by Mr. Popolizio which states that directional signs are limited to three colors and that the submission is for gold, ivory, brown, clay, black and red. Mr. Moore stated that the façade and pylon sign would only contain three colors. Mr. Moore offered that all of the signs would be altered as a condition of approval to only contain two or three colors. Mr. Moore explained that a logo as a registered trademark cannot be forced to be altered per free speech rights.

Due to the constraints of the site and the particular shape of the property, the proposed free-standing sign location, Mr. Madden stated is in the best possible place. In his opinion, the benefits would outweigh any detriment.

Mr. Madden stated he feels this is an architecturally pleasing design and in a cohesive look within the Freehold Marketplace and particularly with the adjacent restaurants, even if it is not considered Colonial. He feels they still meet the intent of the Zone Plan and the public good in terms of quality architectural and promotes a desirable visual environmental (Purpose I). In his opinion, granting of this variance would continue a cohesive architectural design, and would not impair the intent of the zone plan. The proposed building would be considered high quality design. Some of the proposed signs contain the Cracker Barrel logo with Uncle Herhall and a barrel. There is a sign that contains a frying pan. Mr. Madden explained that no advertising is permitted on signs; however he is not sure that this would qualify as an advertisement on signs. Other signs he would consider for safety reasons, ex: "No



Tractor Trailers” or directional. The “To-Go” signs are proposed to direct patrons to the proper parking spaces. The directional signs proposed are unique to Cracker Barrel and help in efficiency in the parking lots and since the zoning ordinance allows for directional signs, he sees no detriment to granting a variance for any of these signs.

Mr. Gatto asked Mr. Madden if he had worked on other Cracker Barrels. Mr. Madden said he had not worked on any other Cracker Barrels. Mr. Madden stated that he had examined other Cracker Barrels as a consultant. Mr. Gatto asked if there would be any difference in the proposed Freehold Cracker Barrel versus other Cracker Barrels. Mr. Madden agreed that it would be deminimus in features.

Ms. Patricia Hill, previous sworn and still under oath, is a consultant for Cracker Barrel. She provided a history of the Cracker Barrel brand. They will soon be in 44 states. All locations are corporate owned and there are no franchises of Cracker Barrel. The design is consistent across the nation. There are slight deviations under certain circumstances, which may be a brick accent, an eyebrow awning over windows, faux windows on a blank wall. The colors, floor plan, décor, the covered porch, etc. are all consistent for the brand recognition. Cracker Barrel choose Freehold as a place to build based on local demographics, economics of ground lease, surrounding mix of businesses, traffic patterns, site was available. The hours of operation are Sunday thru Thursday 6:00 am to 10:00 pm. Hours on Friday and Saturday would be 6:00 am to 11:00 pm. Typically there are 35-50 employees per shift and two to three shifts, settling after the initial opening around 120 total employees. Deliveries occur between 5:00 am and 7:00 am and take about 2-3 hours to off-load, once a week. The gift shop is ancillary to the restaurant; most people would not go to the gift shop if they are not visiting the restaurant. The “retail area” also is ancillary to the restaurant because it is the waiting room, the hostess station, and cash registers for the restaurants. The buildings are always the same square footage and no deviation is made.

Mr. Shortmeyer asked if overnight parking was allowed. Ms. Hill stated it was not allowed.

Mr. Phillips asked under what circumstances consideration would be made to make an attempt to make changes to façade; for example brick on the building. Ms. Hill stated that they have made some deviations with certain developers, but that would not be an offering any deviations at this location. Cracker Barrel, she stated, has traditionally been located near a highway, but has more recently moved away from that business model, creating suburban and urban locations, not relying on highway traffic.

Mr. Leone inquired as to if the applicant would be willing to offering articulation to enhance the building such as an awning. Ms. Hill stated that she was given the strict direction that they are not to deviate from the proposed design. She was not in a position to offer any additional articulation.

There was a 10 minute break.

Mr. Moore explained that Ms. Hill was mistaken and did not realize that the colonial design elements that were offered under the “certain circumstances” elsewhere, was done so to meet design requirements from the towns, not as an agreement with the land owner as she thought. He stated that she does not have the authority to offer any design alteration to add any architectural enhancements to offer a more colonial design. Mr. Moore asked if they could be offered an opportunity for her to go back to corporate and work with their design architect and the Township’s Architectural Consultant, Mr. Leone, to attempt to incorporate colonial features.

There was another 10 minute break.



Mr. Moore offered to respond to each of the professional review letters, starting with Mr. Popolizio's sign review letter. Items one (1) and two (2) are informational. Item three (3) sign has been located on site plan. Item four (4) would offer to change the directional sign colors to be gold, ivory and brown, to meet the three color maximum. He acknowledged that these colors are not within the Township color pallet. Item five (5) testimonies provided with regards to logo. He would be able to comply with the review comments from Shropshire, T&M Associates, Township Engineer, Mott MacDonald, Fire Bureau, Environmental Commission, and Health Officer. Regarding Mr. Phillip's review he reiterated his previous statement that he believes the sign comments do not apply since there is no ordinance in this zone. He stated that they disagree with Mr. Leone's review letter in regards to the comment about the Colonial design. In response to the Historic Preservation Commission, the applicant will not be able to display artifacts uncovered in the restaurant. Mr. Moore concluded his direct presentation.

Chairman Gatto asked if there were any questions from the Board, there were no questions, and he opened the hearing up to the public. There was no one from the public that came forward. There was a motion to close the public portion of this application made by Mr. Shortmeyer and was seconded by Mr. Kash. All in favor, Aye.

Mr. Moore offered his summation.

Mr. Gatto questioned the need for variances and how they would differ if a smaller building was proposed. He asked about the difference in size between the adjacent Olive Garden and Longhorn. Mr. Phillip confirmed that the proposed Cracker Barrel is about 50% bigger. Mr. Phillips estimated that a smaller footprint would likely still need relief, but may be less required. Mr. Asadi questioned if this presents a better planning alternative and in his opinion, he is not sure that this proposal would be. Mr. Bruno feels that this proposal may be a benefit to the town.

Mr. Moore waived Ms. Jahn's requirement to be required to listen to the earlier testimony.

Mr. Gatto polled the Board. Denial: Mr. Levy, Mr. Asadi, Mr. Gatto, Mr. Kash, Mr. Shortmeyer. Approval: Mr. Bazzurro, Mr. Bruno, Mr. Jahn, Mr. Coburn. A motion made to prepare resolution of denial was made by Mr. Shortmeyer and seconded by Mr. Gatto. All in favor, Mr. Levy, Mr. Asadi, Mr. Gatto, Mr. Kash, Mr. Shortmeyer; those opposed, Mr. Bazzurro, Mr. Bruno, Mr. Jahn, Mr. Coburn. Ms. Jahn agreed to listen to the recording from the early part of the hearing.

#### **DISCUSSION:**

There was motion to cancel the meeting of November 2<sup>nd</sup>, 2017 made by Mr. Bazzurro and seconded by Mr. Kash; All in favor, aye. Ms. Sims reviewed the upcoming agenda for November 9, 2018. Mr. Gatto reviewed some of the applications to be heard before the end of the year.

#### **ADJOURNMENT:**

There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 9:57 p.m.

Respectfully Submitted,

Robert H. Shortmeyer  
Secretary