



# Township of Freehold

## OFFICE OF THE PLANNING BOARD

One Municipal Plaza, Freehold, NJ 07728

### REGULAR MEETING MINUTES

#### January 17, 2019

The Regular Meeting of the Planning Board was called to order by Chairman Gatto on Thursday, January 17, 2019 at 7:16 p.m., immediately following the 2019 Planning Board Re-Organization Meeting, 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 22, 2018 to the official newspapers of the Township and by filing such notice with the Township Clerk."

**Present:** Mayor McMorro, Mr. Ammiano, Mr. Bazzurro, Mr. Bruno, Mr. Gatto, Ms. Jahn, Mr. Kash, Mr. Shortmeyer, Ms. Kurtz and Mr. Asadi.

**Absent:** Mr. Coburn and Mr. Levy.

**Also Present:** Frank Accisano, Esq.; Kate Keller, Phillips Preiss, Grygiel, Leheny & Hughes, Township Planning Consultant; Timothy P. White, Township Engineer and Danielle B. Sims, Administrative Officer.

There was the Pledge of Allegiance.

**Ms. Kurtz was seated for Mr. Coburn.**

#### MINUTES:

Approval of the Minutes for April 20, 2017 (carried from 12/20/18) and October 5, 2017 were carried to the following meeting due to lack of eligible votes (minimum of five eligible voting members required per Mr. Accisano).

#### RESOLUTIONS:

**Resolution for O-19-2: An Ordinance Amending Chapter 190 (Land Use) Article XIII (Zone Regulations), Section 190-150 (Professional Zone P-1) of the Revised General Ordinances of the Township of Freehold, County of Monmouth, State of New Jersey.**

This Ordinance amendment clarifies the types of uses supporting a dormitory or other housing facility use.

Mr. Ammiano made a motion, and was seconded by Mr. Kash to approve the resolution. The motion passed with the following roll call vote: Mayor McMorro, Mr. Ammiano, Mr. Bazzurro, Mr. Bruno, Mr. Gatto, Ms. Jahn, Mr. Kash, Mr. Shortmeyer and Ms. Kurtz (No vote recorded-Mr. Asadi, Alt.).

**Resolution for O-19-3: An Ordinance Amending Chapter 190 (Land Use) Article XIII (Zone Regulations), of the Revised General Ordinances of the Township of Freehold, County of Monmouth, State of New Jersey.**

This Ordinance amendment clarifies where public, private and parochial schools may be located.



Mr. Kash made a motion, and was seconded by Mr. Ammiano to approve the resolution. The motion passed with the following roll call vote: Mr. Ammiano, Mr. Bazzurro, Mr. Bruno, Mr. Gatto, Ms. Jahn, Mr. Kash, Mayor McMorrow, Mr. Shortmeyer and Ms. Kurtz (No vote recorded-Mr. Asadi, Alt.).

**Variance Application # 038-18**  
**Scalli, John and Maria**  
**Block 1.04, Lots 17.01 – 20 Colonial Court**

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

**Preliminary and Final Major Site Plan with Waiver of Site Plan Details # 435-1-18**  
**and Variance Application# 044-18**  
**Chadwick Square Shopping Center**  
**Block 80, Lots 5 – 3333 Route 9 North**

Mr. Shortmeyer made a motion, and was seconded by Mr. Kash to approve the application and to adopt the three resolutions together (Use Variance, and Preliminary and Final Major Site Plan, together). The motion passed with the following roll call vote: Mr. Bazzurro, Mr. Bruno, Mr. Gatto, Ms. Jahn, Mr. Kash, Mr. Shortmeyer and Mr. Asadi.

**NEW APPLICATIONS** (done out of order from the agenda):

**Carried from 12/20/18 w/out further notice**

**Preliminary and Final Major Site Plan w/ Waiver of Site Plan Details #783-1-18**  
**and Variance Application #004-18**  
**DCH – BMW of Freehold**  
**DCH Investments, Inc. (New Jersey)**  
**Block 5, Lots 19.04 (Previously 19.01 & 21.02) 4225 Route 9**

Proposed building addition of 1,048 sf (total of 28,274 sf), façade renovations and sign appeal to an existing BMW car dealership.

William J. Mehr, Esq. appeared, representing the applicant. The Board previously took jurisdiction for this application on December 20, 2018 and carried to this night (1/17/19), without further notice. Mr. Gatto announced that the matter was again carried without further notice, this time to February 7, 2019 at 7:00 pm without any further notice. There was a motion to carry without further notice to the announced date and time made by Mayor McMorrow, and was seconded by Mr. Shortmeyer. The motion to carry passed with the following roll call vote: Mayor McMorrow, Mr. Bazzurro, Mr. Bruno, Mr. Gatto, Ms. Jahn, Mr. Kash, Mr. Shortmeyer and Mr. Asadi (Mr. Ammiano was disqualified).

**Capital Project Review Application # 904-18**  
**Freehold Township Board of Education – C. Richard Applegate School**  
**Freehold Township School District**  
**Block 8, Lot 1.01 – 47 Jeanne Brennan Drive**



Proposal to construct a new 3,500 s.f. outdoor hard surface play area with a new barrier free accessible walkway and to construct a travel path (ADA accessible) from the existing early elementary grade wing to the existing playground

Douglas Kovats, Esq. appeared for the applicant. Mr. Kovats had no objection to the exhibits that were marked and Mr. Gatto read the review letter into record. The following witnesses were sworn: Robert DeVita, Freehold Township Board of Education; John Veisz, AIA, Fraytak, Veisz, Hopkins, Duthie, P.C.; Kate Keller, Phillips Preiss, Grygiel, Leheny & Hughes, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

John Veisz described the location of the proposed improvements in providing ADA access and a barrier free walkway to the playground area. He confirmed that the new hard surface play area would be approximately 2,100 s.f., for a total of approximately 3,000 s.f. of additional coverage when you include the proposed barrier free walk path. He stated that the proposal is an enhancement of the site and for the benefit of the children. They would comply with the outstanding comments in the Freehold Soil Conservation District review.

Although this was a capital project review and no public hearing was required, Mr. Gatto opened the application to the public. There was no one from the public who came forward. A motion to close the public portion was made by Mr. Kash and was seconded by Mr. Bazzurro. Mayor Ammiano made a motion to authorize Mr. Accisano to prepare a positive resolution, which was seconded by Ms. Jahn, all in favor, Aye.

**Capital Project Review Application # 905-18**  
**Freehold Township Board of Education – Dwight D. Eisenhower Middle School**  
**Freehold Township School District**  
**Block 38, Lot 11.03 – 279 Burlington Road**

Proposal to construct a new ADA accessible travel path from the rear of the school, across the drive and down to the athletic field. Scope of work includes new sidewalks, paving, ramps and railings.

Douglas Kovats, Esq. appeared for the applicant. Mr. Kovats had no objection to the exhibits that were marked and Mr. Gatto read the review letter into record. The following witnesses were sworn in under the previous application and were still under oath: Robert DeVita, Freehold Township Board of Education; John Veisz, AIA, Fraytak Veisz, Hopkins Duthie, P.C.; Kate Keller, Phillips Preiss, Grygiel, Leheny & Hughes, Township Planning Consultant; and Timothy P. White, Township Engineer. An additional exhibit was marked.

Mr. Kovats confirmed that no paving is proposed as a part of the project.

Mr. John Veisz, Architect, described the proposed improvements...the existing paved drive to the rear of the property will have a painted crosswalk to a barrier-free walkway to gain access to existing ball fields on the campus. They were also proposing prefabricated spectator bleachers for the existing fields. They would also be improving the refuse area and enclose the area (approximately 12' x 36') with bollards and to provide an area for emergency/snow removal equipment. There would be a major price difference for the school if they were to install a masonry enclosure as required. Mr. White explained that the ordinance requires site plan applicants to provide a masonry enclosure. Mr. Gatto asked if the Board or Mr. White would be okay with adding some landscaped screening, suggesting 6' high evergreens, to the refuse enclosure area. Mr. Kovats took no exception to providing the requested landscaped screening. Mr. Kovats confirmed that the work proposed is not in the area of the drainage problems noted in Mr. White's review letter. Mr. White explained that there are some existing swales



on the site but they are no longer sufficient and asked if the Applicant would work to mediate some of the excessive run-off. Mr. Veisz stated that they will investigate and make the recommendation with the Board and work with Mr. White. Mr. Gatto suggested that they should work with the Township Engineer to restore/improve the integrity of the swales or to otherwise remediate the water. Mr. Kovats stated that if they cannot come to terms with the condition, they will come back to the Board.

Although this was a capital project review and no public hearing was required, Mr. Gatto opened the application to the public. There was no one from the public who came forward. A motion to close the public portion was made by Mr. Shortmeyer and was seconded by Mr. Kash. Mayor Ammiano made a motion to authorize Mr. Accisano to prepare a positive resolution, which was seconded by Mr. Kash, all in favor, Aye.

### **Minor Subdivision # 897-18 and Variance Application # 016-18**

#### **Visanthi Dunphey – Dunphey Subdivision**

#### **Block 108, Lots 20/25 – 97 Ely Harmony Road**

Proposal to subdivide one, approximately 22\* acre, additional parcel to be gifted to a family member to ultimately build their own residence. The property is split zoned R-80 and RE- zone. The revised application results in two (2) total lots, with the new, larger lot being a “flag lot,” providing driveway access to Ely Harmony Road.

William J. Mehr, Esq. appeared for 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. Mehr had no objection to the exhibits that were marked. Mr. Gatto read the reviews letters into record. Mr. White elaborated on his comment regarding the dirt driveway that crosses the subject property and provides access to the three landlocked lots to the rear of the subject property. The applicant uses this lot and has a gate on this access driveway. Mr. White suggests that the new proposed lot should be limited to use the driveway to Ely Harmony Road and not to the existing dirt access driveway. Mr. Mehr agreed that the Applicant will provide the requested turn-outs for access on this driveway, but noted the gate is only for emergency access and that the Applicant does not use the dirt access driveway. Ms. Keller added that the reference to a rear yard setback variance required for the existing home deck, as noted in Mr. White’s review letter, does appear to be required and was missed in the Planner’s review. Ms. Jahn inquired about the buildability and Mr. Accisano stated that should the Board approve the application, there would be a condition that the lot be “buildable for septic or until public sewer is available” and that the property would not be considered “un-usable” because it would be conditioned on the approval that the lot must be deemed buildable in respect to the Board of Health requirements. Otherwise, the property stays as it is today. The following witnesses were sworn: Gary Yuro, Crest Engineering (did not provide any testimony); Michael Intile, PE, PP, Crest Engineering; Kate Keller, Phillips Preiss, Grygiel, Leheny & Hughes, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional Exhibits were marked. Mr. Mehr stated that the surveyor researched further, as a result of Mr. White’s comments regarding the existing right-of-way, and recognized that there is an existing 25’ right-of-way and provided a revised right-of-way dedication sketch for the requested additional 5’ of right-of-way, which was marked as an exhibit. Mr. White took no exception to the updated right-of-way sketch.

Mr. Michael Intile had previously appeared before the Board and was accepted as a professional licensed Engineer and Planner. He described the site as being approximately 22.3 acres near the Pittenger Pond Road intersection, bordering Jackson Township, Ocean County. The site is currently two lots, Lot 20 and Lot 25, in a split zone, R-80 and RE. The site is surrounded by residential



properties. There is a fence along (almost) the entire property with a drift gravel/dirt road which provides access to three landlocked parcels at the rear of the property. Mr. Mehr stated that they researched the access driveway and could not find anything filed regarding access for the parcels to the rear. He stated that it is a drift road that has existed over many years. The only recorded document allows for access to a lot to the rear of the property. Mr. Mehr stated that they will provide a variable width easement on the property for the benefit of the lots in the rear that will be 30' and taper to 20' in areas where it crosses to the adjacent property, but the total area would be 30' wide. Mr. Intile stated the easement would run with the existing unimproved road. Mr. Intile stated that there are some wetlands on the property on the east side of the property and would have a 50' buffer.

Mr. Intile stated that the proposed Lot 20 would be completely in the R-80 zone and the remaining Lot 25, a flag lot, would be primarily in the RE zone, 10 acre zoning. The Applicant agreed to relocate the proposed lot lines to eliminate the need for rear yard variance on proposed Lot 20, and not skew the bulk standards.

Mr. Intile reviewed the variance relief being requested. The proposed residential use is permitted on the two lots and both lots would be substantially conforming. There is a variable width easement that will be recorded to allow the access to the lots in the rear creating a benefit. There would be no substantial impact on the zone plan or the intent of the zoning ordinance and the proposal would keep in the character of the surrounding area. Due to the particular dimensions of the property, the requests for the lot frontage relief would result in improvement of the site. Ms. Keller took no exception to Mr. Intile's comments.

Mr. Gatto opened the application to the public.

Mr. Robert Rosenberg of 15 Exton Way, Jackson Township, Ocean County, was sworn in and stated that he was concerned because the applicant had installed a 6' fence along the entire property and he lives in the adult community at the rear (in Jackson). The new fence is about 10' from the fence for the adult community (running parallel to each other). Mr. Intile stated that the proposed location of the house is over 600' from Mr. Rosenberg's property. Mr. Rosenberg asked if they can put something against his lot or build a second house on the new lot. Mr. Accisano explained that they are only permitted one principal structure, residential, and they can put in an accessory structure, as long as it is within the town's restrictions, including the required setbacks. Mr. Rosenberg is concerned that there may be a road installed behind his home. Mr. Accisano stated that anything other than a single family home and any permitted accessory structures or uses would require Board appearance and approval.

Michael Emanuele of 103 Ely-Harmony Road was sworn in and stated he took no exception to the proposed subdivision, but noted that that he is one of the homes that uses the access driveway and wanted to know where the proposed turn-offs would be located. He stated that he currently maintains the road and inquired who would be required to continue to maintain it. Mr. White stated that the area of the turnoffs would likely be determined in the field and the turn-offs are to accommodate emergency vehicles and delivery vehicles which have become more popular with home deliveries.

There was no one else from the public who came forward. A motion to close the public portion was made by Mr. Shortmeyer and was seconded by Mr. Ammiano. There were no further comments from the Board. Mr. Shortmeyer made a motion to authorize Mr. Accisano to prepare a positive resolution subject to the noted conditions, which was seconded by Mr. Ammiano, all in favor, Aye.

**Minor Site Plan #283-4-18****Cusa Realty, LLC****Block 49 Lot 46.01 – 225 Willowbrook Road**

Renovation of rear area of the existing building to convert warehouse space into office space, to add windows to the area to be used as office space and to add three overhead doors to the existing warehouse space

George McGill, Esq. appeared for the applicant and noted that there is a variance referenced with the application, but it has been determined, through the reviews, that no variance is required. 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. He noted that although no notice is required for a minor site plan without variances, however, just in case something is recognized, they are compliant with the notice requirement. Mr. McGill had no objection to the exhibits that were marked and Mr. Gatto read the review letters into record. The following witnesses were sworn: Patrick Ward, InSite Engineering (did not provide any testimony); Paul Moore, AIA, PP (did not provide any testimony); David Kunceovich, Cusa Realty; Kate Keller, Phillips Preiss, Grygiel, Leheny & Hughes, Township Planning Consultant; and Timothy P. White, Township Engineer. Additional exhibits were marked.

Mr. David Kunceovich stated the property has a larger front building and a smaller rear building. They are proposing to convert approximately 2,000 s.f. of the larger building from warehouse to office space. He stated that they previously proposed five (5) windows, but are now proposing to install only two (2) windows on the easterly side of the building, three loading dock with garage bay doors on the westerly side of the larger building and an access door for a future (unknown) tenant at an existing warehouse building. Some of the work was already completed by the owner, but stopped the work when they found out that they would require site plan approval. This was clarified by Mr. McGill who added that there is also a concrete pad proposed (also already constructed). Mr. McGill provided a clarification on the square footage and referenced A-15, a revised marked architect's certification, which now also includes the rear building. Mr. Kunceovich took no exception to the installation of bollards at the discretion of the Township Engineer and that they would be required to match the existing building and located at the discretion of the Township Engineer. The Applicant took no exception to the site maintenance comments noted in Mr. White's review letter. The materials and colors proposed will be consistent with the existing building. The building is currently used for office and warehousing. The current tenants are CentraState offices, a company that provides services for the mentally handicap, BidService, Red Lion Insulation. Mr. Bazzurro inquired that if the future tenant is not a permitted use, would the applicant need to come back to the Board. Mr. Accisano confirmed that they would, and also any change of use that intensifies the site would also require site plan approval. Mr. Bazzurro stated he was concerned with some of the recreational uses which typically occupy space in warehouse type buildings, like this. He stated he typically experiences an issue with parking at these places. Ms. Keller responded that the comment in the Planner's review had to do with the new proposed loading docks and stated she was satisfied with the information provided.

Mr. Gatto opened the application to the public. There was no one from the public who came forward. A motion to close the public portion was made by Mr. Shortmeyer and was seconded by Mr. Kash. Mr. Shortmeyer made a motion to authorize Mr. Accisano to prepare a positive resolution with the conditions noted on record, which was seconded by Mr. Kash, all in favor, Aye.



**DISCUSSION:**

Ms. Sims reviewed the upcoming agenda items.

**CLOSED SESSION:**

Mr. Gatto made a motion to go into closed session to discuss pending litigation, seconded by Mr. Shortmeyer; there was a roll call vote with all in favor. Frank Accisano, Esq. announced that the Planning Board has authorized a resolution allowing the Board to go into closed session, excluding the public from the hearings in order to discuss litigation for:

- Litigation – Leemilt’s Petroleum (Shake Shack) v. Freehold Township Planning Board
- Litigation – T-Mobile Northeast, LLC v. Freehold Township Planning Board
- Litigation – Fitzpatrick v. Freehold Township Planning Board
- Litigation – Bellemead, MACW, Roseland v. Freehold Township Planning Board

The Board went into **closed session**.

The Board reopened in public session.

**ADJOURNMENT:**

There being no further business, a motion was made to adjourn the meeting and passed unanimously. The meeting concluded at 8:50 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "R Shortmeyer".

Robert H. Shortmeyer  
Secretary