

**MINUTES
OF THE
CRANBURY TOWNSHIP
ZONING BOARD OF ADJUSTMENT
CRANBURY, NEW JERSEY
MIDDLESEX COUNTY**

**MINUTES OF FEBRUARY 3, 2016
APPROVED ON JUNE 15, 2016**

TIME AND PLACE OF MEETING

The regular meeting of the Cranbury Township Zoning Board of Adjustment was held at the Cranbury Township Town Hall (Old School Building), 23-A North Main Street, Cranbury, New Jersey, Middlesex County on February 3, 2016 at 7:30 p.m.

CALL TO ORDER

Marilee Meacock, Chairman called the meeting to order and presided over the meeting.

STATEMENT OF ADEQUATE NOTICE

Pursuant with the Sunshine Law, adequate notice in accordance with the Open Public Meeting Act was provided of this meeting's date, time, place and agenda was mailed to the news media, posted on the Township bulletin board, mailed to those requesting personal notice, and filed with the Municipal Clerk.

MEMBERS IN ATTENDANCE

- Sean Deverin
- Michael Dulin 7:35 PM
- James Gerberich
- John Hoffman
- Marilee Meacock
- David Nissen
- Robert Diamond
- Frank McGovern (Alternate #1)
- Ronald Witt (Alternate #2)

PROFESSIONALS IN ATTENDANCE

- James Kochenour, Conflict Traffic Consultant
- David Hoder, P.E., Board Engineer
- Trishka, Cecil, Esquire – Board Attorney
- Josette C. Kratz, Secretary
- Janice Talley, P.P., Conflict Board Planner (Ms. Britton substituted)
- Virginia Guinta, Court Reporter (substitute provided)

RESOLUTIONS

**ZBA275-15 Kern, Brain & Diane
Block 33, Lot 22, Zone V/HR
20 Maplewood Avenue
Bulk Variance – Shed**

ROLL CALL:

MOTION MADE: Mr. Diamond
MOTION SECONDED: Mr. Dulin

AYES: Mr. Diamond, Mr. Dulin, Mr. Hoffman, Mr. McGovern, Ms. Meacock
NAYS: None
ABSTAIN: Mr. Gerberich, Mr. Nissen, and Mr. Witt (ineligible to vote)
ABSENT: Mr. Deverin

MOTION PASSED

APPLICATIONS

**ZBA 180-10 The Verde Group, LLC II
Block 5, Lot 18, Zone LI
1260 South River Road
Amending Use Variance, Preliminary & Final Site Plan**

**REPRESENTATIVES: Robert Smith, Esquire – Attorney for the Applicant
Todd Ochsner, Verde Group – Owner/Applicant
Bob Vallario, VP of Real Estate for Quick Check**

Mark Lescavage, PE – Principal of Envision
John Rea, Traffic – McDonough & Rea Associates
Russ DeRosa, Architect
Alice Coffin, Planner
Derek Jordan, Quick Check Engineer

PUBLIC WHO SPOKE: James Gallagher, Member of the Environmental Commission
Paul Mullen, Member of the Environmental Commission
Arthur Hasselbach, Member of the Planning Board

APPLICANT EXHIBITS:

EXHIBIT A-1 Ariel
EXHIBIT A-2 Previously A-4 for original application, as approved in 2010
EXHIBIT A-3 Color Rendering of Site Layout
EXHIBIT A-4 Stone – Proposed Layout
EXHIBIT A-5 Brick – Proposed Layout
EXHIBIT A-6 Concept Rendering Site Plan – A Mixed Use Project, Color Exact layout as submit site plan only color
EXHIBIT A-7 Color Rendering titles The Proposed Lyaout, an artist computer rendering arial view of proposed site.

PUBLIC EXHIBITS: None

REPORTS BY TOWNSHIP PROFESSIONALS AND OUTSIDE AGENCIES:

Janice Talley of Talley Planning Assoc., LLC dated November 23, 2015
David Hoder of Hoder Associates dated November 23, 2015
Cranbury Vol. Fire Co, Plan Review Committee dated November 30, 2015
James L. Kochenour, Arora and Associates, P.C. dated December 2, 2015
David Hoder of Hoder Associates dated January 29, 2016
James L. Kochenour, Arora and Associates, P.C. dated January 29, 2016
Cranbury Township Environmental Commission dated January 22, 2016

Mr. McGovern and Mr. Witt signed a certification that they listen to the audio of the December 9, 2015 meeting and could vote on the application.

Everyone previously sworn at remained under oath.

Mr. Ochsner explained the property was located at the intersection of Dey Road and RT 535/South River Road. In December it became evident there were too many uses on the proposed site and they have eliminate the rear building. He explained that they did not have enough time to clean up all the engineering and all of the specifics from the professionals report, however, he indicated they did take a couple of the more important things from the feedback. He stated they removed the entire section in the rear, which was where the office building was located, and all the parking associated and focused in on what they had that they would be ready to move forward with now. Doing that they ended up providing enough parking in areas that were in their opinion they would not need a parking variance. They would continue to not seek relief for parking areas as well. They also notice there was no connectivity between the Quick Check and the Bank and Warehouse so they added in some crosswalks and sidewalk to allow for circulation. They obtain the list of the trees and planting approved and made sure all the landscaping mapped back to what they had. In 2010 they had 75,000 SF approved, 2015 the original application had 59,050 SF and today they are roughly at 27,000 SF after the removal of the rear building. If some point in the future, there is a tenant or particular use that would be suited for that they would come back to this board, reintroduced, and receive approval, if that happens. The circulation remains, as it was with a similar architecture design with brick face on all buildings, similar to all the surrounding development.

Mr. Lescavage stated he reviewed the FAR and SF and went through the changes, repeating much of what Mr. Ochsner had already testified. To keep with the same impervious coverage they did have an opportunity to add space on the south end near the warehouse. There would be a row that is being used presently and would be long and wide enough to accommodate four spaces at that location. They would have 155 spaces proposed and 159 spaces were the required based on the revised site plan.

There was discussion about the buffer and Mr. Smith pointed out the extreme buffer the NJDEP had for protection was for CAT 1 streams. Mr. Smith asked Mr. Lescavage to explain how this project compared with the stream buffer required by the NJDEP. Mr. Lescavage said in order to have a 300-FT riparian buffer to a stream one would have to have a CAT 1 waterway, sensitive in terms of fish for trout production or maintenance, which is not the case with the Cedar Brook. Assuming if it were the case and was a CAT 1 it would be a project where the fueling area was over 300-FT from the top of the bank of the Cedar Brook and would require a permit from the NJDEP and they are making modification to the plan according. Currently the area in question was being maintained as a lawn. As proposed, it would definitely be considered an improved condition associated with this project.

Mr. Nissen felt the applicant responded favorably to the concerns of the last board meeting. He commented their copy of the EC's report did not provide a color copy, which appears the freshwater wetlands as verified by NJDEP does not overlap with any being constructed. He asked if that interpretation was correct or was the applicant encroaching.

Mr. Lescavage stated the disturbance within the riparian area would fall under the jurisdiction of the NJDEP. However, it would go through the pavement area and they need to prove there would be no net fill in the flood plain. Ms. Cecil asked if the limit of the riparian zone show on the applicant's site plan. Mr. Lescavage answered it was not shown only identified in the memo however he agreed with the EC assessment of the general location. Ms. Cecil asked for something to be shown on the plans.

Mr. Smith said that state wide people invest the standards that are set in the ordinance which whether valid or not exceed the State's standards.

Mr. Ochsner stated they analyzed what they were doing post development vs. today. Today there are parking lots, trash enclosures, buildings and a driveway. All of those things exist today. Post development would be removing the driveway and relocating it out of the area, planting in the area 5,200 SF with a reforestation program as result of NJDEP and DRCC meetings they did prior to designing his project because they still need those approvals. He stated these were things that at post development would be better than if they did nothing. The impervious area that they have would actually be 6,800 SF less than what is provided today.

Mr. Nissen asked if they were assessing the variance as if they had no history. He felt what they did was good.

Mr. Hoder stated the ordinance was 150-FT from the stream. That 150-FT runs through all the existing areas but the post development it would be part of the dumpster, parking area and shed. There is a section of the ordinances that allows for exemptions to the riparian zone for existing conditions.

Ms. Cecil stated there was a list of exception in the ordinance being redevelopments within the limits of existing impervious surfaces, which was testified this evening. She wanted their testimony was all of the development activities would be in existing disturbed areas. There is nothing new.

Mr. Hoder stated that was not a true statement. He said there are four spaces near the dumpster and a little piece of the dumpster that was proposed impervious that was previously grass. He proposed that the applicant move the four spaces, not previously there.

Mr. Nissen explained that he was very reluctant to override the EC unless there was a very good case too.

Mr. Hoder said the overall plan had many items still not taken care, but there were many in concerns with the removal of the rear building but not addressing comments in his priors review, such as lighting, landscaping, etc. Mr. Nissen concurred with Mr. Hoder.

Ms. Meacock stated she wanted to put the EC concerns “to bed” tonight in order for the Board to move on.

Paul Mullen, sworn, member of the EC, was inaudible mostly but that the impervious was moving closer and the applicant was removing trees.

James Gallagher, sworn, member of the EC and addressed the comments made about the 300-FT buffer. He understood the point but it was not necessarily protective of what would happen if there were a release of an underground storage tank or spill which could travel well beyond they area which they were concerned with.

Arthur Hasselbach, sworn, he stated there were far more sites in town with the potential to be more dangerous to the Township, in operation and granted uses. Two of which are downstream from this which no one is concerned with where this project has the state-of-the art construction addressing potential hazards. He made comments about the “Cranbury Dump” and the Public Works Department, all within the 300-ft of the stream which were more hazardous and should be looked into. Three gas stations are located on the Millstone, which there has never been an issue with contamination. Mr. Hasselbach felt this applicant was being penalized.

Mr. Vallario explained the ways in which they protect with shear valves, bollard system, double walled tanks, gas insulation to alarms for leak system, pressure alarms, containment, double walled fiberglass tanks, mandatory corrosion protection, spill prevention overfill protection and the vapor recovery system. He added that over time all the technology continues to improve.

Mr. DeRosa gave an overview of the architectural elements of the plan as submitted to the Board previously.

Mr. Nissen questioned the signage and asked if the applicant was requesting variance to accommodate signage SF.

Mr. DeRosa said the reasoning was the length of the building and type of tenants anticipated. There would not be large corporations. The bank signage was meant to be consistent with the 4.5 FT x 4 FT allowed by ordinance. They are looking for everything to match and work together. Quick Check would be responsible for the pylon sign. They intent to have stencil and

raised type letters but are not proposing back-lit. There still was not an agreement on the lighting of the signs between the applicant and the board.

Ms. Talley suggested a number for the wall signs. Mr. DeRoas did say they would be channel letters.

Ms. Meacock said she had expressed concerns with size and the way with the way, they were lit.

Ms. Coffey gave her planning testimony for the justification of the use variance.

Mr. Dulin said Ms. Coffey stated mixed use as justification. Those items referred to specifically were retail in nature, which were already granted; there was no mention to gas stations. He asked why gas stations would be particularly suited for this area.

Mr. Coffey answered that she felt the gas station was not significantly different from the retail uses in terms of the market it would serve.

There was discussion brought up about drug rehabilitation. Mr. Ochsner said that use was not intended and the facilities would be too small for an urgent care. Ms. Meacock said that as soon as they indicate what they do not want there are twenty more, but they asked him to be a little more specific on what he wanted for the site.

Ms. Meacock summarized the variances.

Ms. Cecil said it was the mix and use and the percentages/ratios, including the gas station. Some of the uses were the same but the SF associated where changed.

Mr. Ochsner said that in 2010 the Board granted margins up and down. The uses are the same with the exception of the gas.

Ms. Meacock wanted discussion the signage. She felt the reduction in intensity was in the right direction.

Ms. Cecil urged the applicant to go through the Board engineer's report and address the items.

FINDINGS: None at this time

ACTION TAKEN BY THE BOARD: Meeting carried to March 2, 2016 with no further notice.

ADJOURNMENT OF MEETING

There being no further business, on motion duly made, seconded, and carried, the meeting was thereupon adjourned.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify;

That I am duly elected and acting secretary of the Cranbury Township Zoning Board of Adjustment and, that the foregoing minutes of the Zoning Board of Adjustment, held on February 3, 2016, consisting of 8 pages, constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Zoning Board of Adjustment this JUNE 15, 2016.

Josette C. Kratz, Secretary

/jck