

**FREEHOLD BOROUGH PLANNING BOARD**  
**MINUTES OF AUGUST 28, 2019**

**MONTHLY MEETING**

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, August 28th at 7:00 p.m. in the Council Room of the Municipal Building.

Chairman Reich stated that this meeting was provided in accordance with the Open Public Meeting Act, by providing a copy of the agenda to the official newspaper and posting same on the official bulletin board of the Municipal Building.

**ROLL CALL**

PRESENT	MR. WILLIAM BARRICELLI
PRESENT	MS. MICHELE GIBSON
PRESENT	MR. GARRY JACKSON
ABSENT	MR. PAUL CEPPI
PRESENT	MR. JOSE GERONIMO
PRESENT	MR. MICHAEL McCABE
PRESENT	MR. ADAM REICH
PRESENT	MR. MICHAEL WILDERMUTH
ABSENT	COUNCILMAN GEORGE SCHNURR

**Mr. Reich read Item No. 3 on the Agenda as follows:**

Approval of Minutes from Planning Board Meeting August 14, 2019.

Mr. Reich - any questions or comments;

Mr. Jackson made a motion to approve the minutes, Mr. McCabe seconded.

**ROLL CALL**

Yes	7	Barricelli, Gibson, Jackson, Geronimo, McCabe, Reich & Wildermuth
No	0	
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

**Mr. Reich read Item No. 6 on the Agenda as follows:**

Application Number: PB-UV-2019-009  
Applicant: Colts Pride LLC  
Location: 18 Lloyd Street - Block 74 Lot 1.01 & 15  
Zone: R-5  
Request: Use Variance

Mr. Reich – Vincent E. Halleran Jr., Esq. attorney for the applicant has submitted a letter to the Board requesting the application be carried to Wednesday, November 13, 2019 at 7:00pm; if anyone from the public or professions are here to hear application Colts Pride LLC, this is your

notice that the hearing for Colts Pride LLC is being carried to Wednesday, November 13, 2019 at 7:00pm; there will be no further notice for that application, this is your notice.

**Mr. Reich read Item No. 4 on the Agenda as follows:**

Application Number: PB-UV-2019-007

Applicant: Green House at Freehold LLC

Location: 3 Monument Street - Block 39 Lot 5 - Zone: R-7

Request: Use Variance with Preliminary and Final Major Site Review and Approval

This application was carried from the August 14, 2019 meeting;

Mr. Cucchiaro – Mr. Chairman, procedural history, the prior meeting the applicant went through a portion of their testimony and Mr. Ceppi, Board Member, realized that in his capacity as a New Jersey State employee he was supervising staff that were processing an application from the applicant for financing for the property; Mr. Ceppi had no personal or financial interest or personal relationship with the applicants but to be cautious we stopped the meeting for a formal ethics opinion by the State could determine if Mr. Ceppi needed to recuse himself; It was determined by the State Ethics Officer, in abundance of caution, that Mr. Ceppi should recuse himself from the hearing;

I just want to also state that Mr. Ceppi raised this himself, this wasn't something that anyone else raised or was discovered by anyone; Mr. Ceppi, acting ethically, realized this and took at the correct precautions and process; doing so immediately upon realizing there could be a potential issue;

The Municipal Land Use Law is clear, the only way to remedy this, is to begin the application from the beginning; the application was carried to tonight's meeting but the applicant must represent the application as if it was not heard before;

William Mehr, Esq., Counsel for the firm, Sonnenblich, Parker & Selvers;

Mr. Mehr, Esq. – Mr. Bhaskar Halari, the engineer needs to replace a few of the exhibits, they are not new just replacing what was here, they got damaged;

A-13 – - Ariel Photograph

A-14 – Ariel photograph – larger

A-15 – Photographs – Photo Exhibit from 2018

A-16 – Coloring Rendering

A-17 – ADA Lift photograph

Mr. Cucchiaro – Mr. Chairman – exhibits A1 – A12 were the documents that were submitted as part of the application;

A-1. Planning Board Application Form, signed May 30, 2019.

A-2. Site Plan Application, dated May 30, 2019.

A-3. Correspondence from William J. Mehr, Esq. to the Freehold Borough Planning Board, dated May 30, 2019.

A-4. Plans entitled 'Preliminary and Major Site Plan & Use Variance Application for Lot 5 in Block 39, 3 Monument Street, Borough of Freehold, Monmouth County, New Jersey', prepared by Concept Engineering Consultants, P.A., consisting of 8 sheets, dated April 25, 2019, revised to July 11, 2019.

A-5. Architectural plans entitled '3 Monument Street, Change of Use, Freehold Borough, New Jersey', prepared by L&M Design, LLC, consisting of 5 sheets, dated May 20, 2019.

A-6. Site Plan Checklist, dated May 30, 2019.

A-7. Stormwater Management Plan for "Law Office", Block 39, Lot 5, Borough of Freehold, Monmouth County, New Jersey, prepared by Concept Engineering Consultants, PA, dated May 14, 2019, revised to July 11, 2019.

A-8. Traffic Impact Analysis Report, prepared by McDonough & Rea Associates, Inc., dated May 23, 2019.

A-9. 1 sheet @ 11"x17" copy of a plan entitled 'Site Plan of Proposed Improvements for Lot 5, Block 39, Borough of Freehold, Monmouth County, New Jersey', prepared by Ackerman-Ney Associates, dated April 1974.

A-10. Copy of a Resolution for site plan approval at this location, regarding a single-tenant professional office building, dealing with professional engineers, dated June 19, 1974.

A-11. Profile Pit Report, prepared by Inspection Services of North America, Inc., Environmental Consultants, dated May 30, 2019.

A-12. Copy of Indenture between several parties and the Borough of Freehold, dated July 22, 1960, regarding installation of underground storm sewer.

Mr. Cucchiaro – we also have some Board exhibits;

B-1. Completeness Review by Abbington Engineering date July 8, 2019

B-2. Engineering Review by Abbington Engineering date July 19, 2019

B-3. Pennoni Review dated July 22, 2019

Mr. Mehr – A-17, the ADA Lift - we have copies for the Board, we do not have a large copy only 8 1/2 x 11; Mr. Bhaskar Halari has additional exhibits to mark;

A-18 – photo board of existing surrounding offices around the property;

A-19 – Sign Design

A-20 – Revised Lighting Plan 4-25-2019 – Revised 8-28-2019

A-21- Rendering of rear of Existing structure with proposed stair / ADA lift

A-22 – Pennoni Report last page from Land Use Report 7-22-2019 enlarged

Mr. Cucchiaro – swears in all professionals;

1. Peter Licata, Esq.



2. Bhaskar Halari, P.E.
3. John Rea, P.E.
4. James Higgins, Planner

Mr. Mehr – I would like to start with Peter Licata, Esq.

Peter Licata, Esq, thank you; I am an attorney at law, one of two members of the applicant, Green House at Freehold LLC the other applicant is here, my wife Nicole Sonnenblick, also an attorney; practices in the County but not at the firm; I graduated law school in 1997, worked in Ocean County then joined Sonnenblick, Parker & Selvers currently located at 4400 Route 9 South, Freehold;

The firm was started in 1977 by Gerry Sonnenblick on Rt. 33 old Victorian house; the firm is now three full time attorneys with two part time attorneys and three full time administrative staff; our lease is coming to an end in a larger space than we require, we've been at this location since the early 1990s; I have looked for a new location to reconstitute the firm and looking to have three to five full time attorneys and three to five administrative staff depending on the type of attorneys we have working with us;

We run typical office hours 8:30 to 5:30/6:00pm; a few attorney may remain a bit later; we will occasionally work late if facing a deadline but tend to keep general business hours; a few of us will come in on the weekend to work quietly; all appointments are scheduled, we don't take walk in business, not the nature of our practice; our practice is commercial real estate, commercial transaction, land use and related litigation; closings and depositions are scheduled;

With the lease ending I have looked at a few locations and this location attracted me the most because of the close proximity to the Court House, County Administrative Office, County Clerk and surrounding law offices; as a location it is very convenient; the large lot size, typography, existing large parking lot seems like a good starting point to try and address parking as required by ordinance; the structure itself, very easily adaptable to office use; I don't plan on many alterations to the interior of the property; I would use the first floor as waiting area, administrative staff and professional staff offices and a conference room; I envision two non-load bearing partition walls on the first floor as an alteration; also envision if approved, taking the small butlers pantry and making it an ADA compliant bathroom;

The second floor would simply be repurposed without alterations for offices for staff and attorneys; I don't plan on any revisions architecturally to the front or side of the property, except for a proposed sign; also I plan to widen the driveway and the engineer will address that when he provides testimony; in order to widen the driveway a bit we have to disturb a large hedge row; I have spoken with Mr. Travino and we have agreed to replace the hedge row once the driveway is widened in a way that will allow people going to either driveway to see the other coming and going; I also discussed with him about installing bollard lighting on my side of the property and directing the light to my side of the driveway so nothing is spilling to his driveway or be seen further down the street by the way of glare;

At the rear of the property I am proposing an ADA compliant entrance; on exhibit A-21, bottom right corner, photo of existing rear property, superimposed on it is the stairwell to replace the existing stairwell; it is ADA code compliant, to the left, superimposed is the ADA lift as noted in exhibit A-17; the architect suggested putting in a rail fence to block the stairs leading down to



the cellar exit, as a safety; in the back on the site plan, we have plotted out a spot for an emergency generator, rather than the side of the building;

I found the property shortly after it was listed, visited it a number of times, consulted with two architects over about five months and went into contract in March 2019;

Mr. Mehr – Peter, there are no other changes to the rear of the house;

Mr. Licata – correct;

Mr. Mehr – in the area where the lift would be located, there is existing shrubbery, you will supplement;

Mr. Licata – correct, nothing will be visible from the street; we would propose screening landscaping;

Mr. Mehr – you indicated there is parking behind the building, there is an additional parking lot being proposed;

Mr. Licata – correct; we are proposing parking in the rear area where it is flat; we proposed more spaces than currently shown but the Board Engineer suggested we taper it back and still remain ordinance compliant and to create a greater buffer to the rear neighbors; but Mr. Bhaskar Halari will speak further about;

Mr. Mehr – you are providing an excess of parking than required;

Mr. Licata – correct;

Mr. Mehr – do you propose anything with the existing fencing;

Mr. Licata – there is aluminum rail fencing and it is quite attractive and needs a little maintenance but it will remain; we would propose to put a gate where the existing stormwater inlet is located; there is a grate which is an easement in favor of the town and the gate is a long run, we would put a gate to allow access to that;

Mr. Mehr – was at the request of the Board's Engineer;

Mr. Licata – yes, correct;

Mr. Mehr – there is a large old tree behind the building, you can see in the exhibit;

Mr. Licata – I would like to keep as much of the trees and vegetation as possible; I have spoken to some of the rear neighbors and they would like to see the overgrowth cleaned up and I will do;

Mr. Mehr – you indicated you want to put up a sign, will it be on the building;

Mr. Licata – we would not put on the building, if approved we would put the sign in the front yard, closer to the building; exhibit A-19 is the sign designed, in the Residential Professional Office (RPO) zone, one sign is permitted; this property is not in the RPO zone but was looking for something to work with; so you can have one sign, no greater than three square feet and no

higher than four feet of the ground; so the architect designed a sign that compliments with the facade of the home; it blends in and seems to be appropriate;

Mr. Reich – where will it be located;

Mr. Licata – it would be in front of the large tree, placed so it is not intrusive by appearance and you will be able to see over the fence; it will be 37 feet from the edge of the sidewalk;

Mr. Geronimo – are you illuminating the sign;

Mr. Licata – I am not proposing any illumination;

Mr. Barricelli – your purchase of the property is contingent upon the Board granting a Use Variance.

Mr. Licata – correct;

Mr. Barricelli – when you inquired to the building was it occupied or vacant;

Mr. Licata – it was vacant at the time; Mr. Dittmar moved out most of the furniture when I visited over a couple of months;

Mr. Barricelli – how long was it vacant, months;

Mr. Licata – it was vacant a number of months; I researched the area and next door is a community residence with the assistance of the Oxford House Organization; there are up to ten gentlemen that can live in that house; on the other side there is an undersized vacant lot; the property is so much bigger than what the zone requires and the proximity got my attention as did the architecture; it is uplifting, dignified, my staff would be over the moon to be there; giving them a nice environment to work in; reinforcing our moral and becomes an outward symbol of quality for our clients;

Mr. Cucchiaro – is there a basement;

Mr. Licata – yes, it is unfinished; I don't propose to occupy by staff, conference rooms, but would like to use for storage of files; the firm is over forty years in existence and we have a lot of files and could use the storage room; keeping the first and second floors as uncluttered as possible;

Mr. Reich – how will garbage be handled;

Mr. Licata – I would have a shredder for office printouts and utilize the kitchen for food and trash collection; then in the garage of the property, exhibit A-21, see the existing two car garage, I would like have your typical wheeled trash receptacle, store in the garage and wheel it out the night before garbage pick up;

Also, see all this space, all visitors would park in the rear of the building and enter through the rear as well; come up the rear stairs and enter the waiting area; the front entrance won't be used, it doesn't make sense; all arrivals delivers alike are in the rear;

Mr. Reich – what type of delivers;

Mr. Licata – paper and overnight deliver service;

Mr. Reich – small box truck;

Mr. Licata – yes, we order things weekly and if a staff member doesn't pick up then we have it delivered;

Mr. Cucchiaro – you will also have Fed Ex, Lawyers Service etc coming everyday;

Mr. Licata – as frequently as need given the business;

Mr. McCabe – what are your plans for the parking lot;

Mr. Licata – we initially proposed an eighteen foot pole lamp opposite the garage; but the engineer has proposed the same lights that are on the back of the house be placed along the eve of the garage and on the lower portion of the garage roof; direct that lighting down at the parking area; more attractive and less intrusive than the original eighteen foot lamp post; also using back shields on any light that is along the top of the garage so there is no glare or light going away or toward Mr. Travino's property; Bhaskar will speak about further when he gives testimony;

Mr. Reich – any other questions from the Board; we will open to the public for questions only for Mr. Licata; there will be a time for comments at the end of the application;

Scott Clayton – 19 Monument Street; You didn't talk about driveway lighting, are you doing pole lighting, what are you doing;

Mr. Licata – we are not doing any pole lighting, we are put in bollards that will be directed down and toward the driveway and house so there is no spillage toward Mr. Travino's property and further up the road; they are approximately 3 feet high and have back shields; Bhaskar will speak of further;

Greg Goldman – 19 Schanck Street; A critical part about the application is a request for a variance relief based on hardship; what is the testimony that goes to the point of hardship;

Mr. Cucchiaro – they will have a planner that will testify and provide testimony; they have an expert that will speak directly to that point;

Mr. Goldman – wouldn't the applicant be required to testify for the variance hardship;

Mr. Cucchiaro – yes but through the expert in the field of planning;

Mr. Cucchiaro – so you know, there are three ways you need to prove what you need for a use variance; one is hardship, one is inherently beneficial, mostly hospitals and daycare centers and third is particular suitability; they can prove any one of those I suspect, they'll argue particular suitability;

Mr. Mehr – there is one other variance, that is the existing garage which is closer to the property line per the ordinance and that is a hardship;



Mr. Cucchiaro – there is an MLUL that when you are coming in – Polio vs. North Brunswick case – when you have a Use Variance that is not permitted in the zone, those types of things are subsumed within the grant of the Use Variance; that would be considered but as part of the grant of the Use Variance not separately;

Mr. Goldman – exhibit A-22 can you clarify, shows the property and two lots behind it, color in red as commercial; the application shows them as home based business; I am unclear as to why those two properties are listed as commercial and the are residential;

Mr. Mehr – the Board Planner prepared and designated those properties as commercial; we understand them to be home business being operated;

Mr. Goldman – I find that to be a bit misrepresenting; the nature of this neighborhood is residential 100%; on part of the application is an identical diagram;

Mr. Licata – to clarify, that exhibit is an enlarge copy of the map attached to a review report prepared by the Pennoni Group which is the Board's Planner; they are not here to provide testimony; when I did a Google search to see what their business was for those properties it came up on the first page, one as a party planner and the other was soccer related;

Ms. Gibson – Mr. Goldman will you please point to where your property is on the map;

Mr. Goldman – I am here;

Vanessa Taylor Long – 7 Morris Street; I live behind this subject property, I know my neighbors and they are not running businesses out of their homes; when you were looking at the property, it is all residential why are you looking at residential to turn into business zone; we as families live there, we don't want businesses;

Mr. Licata – I found it because it is across the street from the Court House and Monument Park with a significant number of offices across on Court Street and to the left and right; also because it is so much larger than the minimum lot size required, I thought I could propose a scalable plan that would allow a low traffic professional use to blend in with the other offices in the area; keeping the character structure and provide the right landscaping and lighting and maintain quality of the appearance of the property in a positive way for the neighbors;

Mr. Mehr – do you know how large the lot is;

Mr. Licata – approximately 60,000 square feet, six to seven times the required area in the zone; as compared to lots in the zone; many of the lots on Court Street heading to Main are significantly smaller than the subject property;

Ms. Taylor – it may be larger but what part of the lot is not useable;

Mr. Licata – the entirety of the lot is usable subject to setbacks requirements; there is narrow storm drainage easement along the edge of the property line – it was dedicated back in 1960; my engineer and the Board engineer have reviewed and is outside the existing fence that runs along the side property toward Jacob Zlotkin's lot;

Mr. Cucchiaro – Mr. Chair, looking at the Planner's report and the source is State of New Jersey MOD4 Property Class Data, they apparently review state data to come up with what the properties were classified as;

Mr. Mehr – we did a Google search and it brought up the business names under the address;

Mr. Geronimo – I think we need to stick with what the Board has in front of them prepared by the Planner and information from the State and not what a Google search pulls up;

Mr. Cucchiaro – I would tell the Board not to give much weight at all to sites that come up, unofficial sites on a Google search; they may or may not be current; no way to verify;

Ms. Gibson – I understand what we are looking at but just clarify are the zoned R-7 or commercial;

Mr. Wildermuth – does the applicant feel that there is a significant difference between having a home office in a residence versus a law firm in a house;

Mr. Licata – there can be a difference; if your home office is one practitioner and a small part of the house, less intense than a multi member firm; but if my plan to have three no more than five full time attorneys, keep a cottage small style law firm;

Mr. Mehr – the concept of a law firm and what is involved daily has change over the years; I've been around for forty nine years and has changed significantly; particularly the past three to four years, how many clients does an attorney see in a day;

Mr. Licata – I go most days of the week without seeing clients; many consultations are done by phone, a lot of initial contact is by phone and email; some people want to sit face to face but once the process begins it is by phone or email; closings are about one to two closings a week, some three or four and some weeks with none; many closings are done by mail; less people come to closings and send signed documents by express mail; less visitor intensive as it was years back;

Mr. Reich – anyone else from the public;

Lori Annetta – 74 E. Main Street; where do you live Mr. Licata, what town;

Mr. Licata – Manalapan

Ms. Annetta – in Manalapan you live in a residential area;

Mr. Licata – correct;

Ms. Annetta – are there any businesses in your neighborhood, on your block;

Mr. Licata – not to my knowledge;

Ms. Annetta – none next door to you or across the street

Mr. Licata – no

Ms. Annetta – no dentist has approached you about opening a shop next door, behind you;

Mr. Licata – no

Ms. Annetta – you said you spoke to the neighbors behind you because of hedge overgrowth or something and you are going to remediate that – did you speak with anyone at 3 or 5 Morris;

Mr. Licata – yes I plan to remediate; I can tell you I spoke with Ms. Taylor Long at one point, she ask me to send her a copy of the color plan; she mentioned the overgrowth; I sent her the plan and spoke over the phone; said she would call back if she had other questions or thoughts but we have not talked since – until today;

I spoke to Ashish Gajar and his wife, 5 Morris and there are tree limbs hanging over their lot line and would like them addressed, some clean up; I also spoke to Mr. Travino, one house over towards corner, the yellow house at the bend or Sheriff and Morris St; he wished me luck, had no concerns or objections; those are the rear neighbors I spoke with; I spoke with Mr. Clayton last year, Jacob Zlotkin, Mike Detzky, Karen Sciarappo, Michael Mirabello, Patrick Bonner, Ray Raya and Brian Miller all area residences; in the same order 19 Monument, 15 Monument, 17 Monument, 45 & 49 Monument, 47 Court St, Ms. Lewis a white house, that used to be her husbands home doctors office there, 43 Court, 1 Morris, 5 Morris, 9 Morris, 55 Court, 52 Court;

Ms. Annetta – thank you; you spoke with them or mailed them something;

Mr. Licata – I spoke with them, either by phone or face to face;

Ms. Annetta – they had no problem with you putting a law office in a residential neighborhood;

Mr. Licata – everyone was directly positive; in all fairness, Mr. Scott Clayton said would prefer it remain a house but I am not against what you're proposing; everyone else stated no concerns and a number where quite encouraging;

Ms. Gibson – are any of them here;

Mr. Cucchiaro – Mr. Clayton spoke earlier;

Ms. Muzzio (17 Monument) – I didn't speak to him

Mr. Licata – I spoke to Mr. Muzzio by phone;

Ms. Annetta – did you look at property on Main Street;

Mr. Licata – yes

Ms. Annetta – you made reference to you want a beautiful home, you found nothing suitable on Main Street;

Mr. Licata – there were a number of properties for sale on Main, 125 Main, steep slope in the rear, difficult typography for stormwater management and parking, layout and condition less than desirable and location far from the Court House and County Administrative offices;



Ms. Annetta – do you litigate with this business, you need access to the Court House;

Mr. Licata – we have always had litigators in the firm, yes we handle litigation;

Ms. Annetta – you just made reference to closings by mail and remote; yet you still need a property for people to come to, for lawyers to set up shop, in this residential area;

Mr. Licata – every lawyer is required to have a physical location for their practice for people to locate them;

Ms. Annetta – particular suitability is the basis for this Use Variance, I call spot zoning, can you define particular suitability;

Mr. Licata – my planner will address in his testimony, I am not qualified to give testimony in that regard;

Vanessa Taylor Long – 7 Morris St; office hours, when will the building be not occupied;

Mr. Licata – most leave 5:00pm/5:30pm; occasionally a few stay until 6:30pm/7:00pm at the latest; weekends, not much traffic by way of office staff and don't encourage weekend client visits; and sometimes an attorney may come in on the weekend, midday to work quietly; we can work remotely so we don't need to come in to the office; it can be convenient to work at home;

Joan Muzzio – 17 Monument; you spoke to my husband, in your notes do you have what his reaction was;

Mr. Licata – I spoke to him by telephone, on a Friday afternoon, his words generically were, I have no problem with it;

Ms. Muzzio – there is no way he said that, he couldn't be here tonight;

Mr. Reich – you can't provide testimony for your husband but if you like at the end of the meeting you can provide your own;

Ms. Muzzio – ok; you mentioned that you would use the basement and possibly the garage for storage, have you started moving boxes in;

Mr. Licata - no;

Ms. Muzzio – you said you're going to widen the driveway and eliminate some of the landscaping between your home and the neighbor; how wide will the driveway will be;

Mr. Licata – the engineer will testify as to the width;

Ms. Muzzio – I am concerned about the flow of traffic;

Mr. Cucchiaro – the engineer and traffic engineer and discuss when they testify;

Mr. Reich – any other questions at this time for Peter Licata, Esq.; seeing none

Mr. Jackson – made a motion to close public comments for Mr. Licata; Mr. Geronimo seconded the motion;

ROLL CALL

Yes	7	Barricelli, Gibson, Jackson, Geronimo, McCabe, Reich & Wildermuth
No	0	
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

Mr. Mehr – calls Mr. Bhaskar Halari, Engineer Concept Engineer, BA & MA in civil engineering – working since 1988;

Mr. Halari – I prepared the site plan; The Ariel map you see, the mark out in yellow was obtained from the State of New Jersey GIS, showing Monument Street & Court Street; as stated earlier the site is approximately 60,000 sq feet in size, located in R-7 zone; north of the property is existing a Recovery House, the east Residential Home, south Existing Vacant Property, west Monument Park; A-16 shows the structure, garage, driveway, existing park lot, with four to five spots, landscaping and lighting; slope on the property going north to south, runoff goes to southerly property line; existing storm system coming from Monument Street, running along southerly continuing southeasterly corner; prior to filing application we met with Borough engineer and discussed improvements; pointed out drainage issue along southeasterly corner, off site and advised we should make an effort to reduce the amount of runoff; we are making 5% impervious coverage on the site, considered minor with DEP improvements, normally you are required to propose stormwater improvement; given the concern we propose a 1 ½ foot deep detention area, to collect the run off from the proposed park and existing parking; design to not look like a retention basin but to look like a natural area; keeping bottom of basin as green as possible; propose a pipe outlet into the inlet along the southerly property line, small PVC pipe going out and connecting into the existing stormwater system; the purpose is so all the property draining at the same time; we will hold into the retention basin and slowly discharging it and minimizing the impact and discharge flow; for a small storm frequency we are reducing the flow by 13% per year and 100 year storm frequency we are reducing by approximately 28%; normally the larger storm creating more of the flooding situation, like 10, 25, and 100 we are about 20% flow reduction; we went over what is required to minimize any impact this property is creating on any neighboring properties;

We are providing landscaping to northerly and southerly property lines; also discussed in our pre-application meeting; we have a rear setback of 57 feet and existing hedge row that will be maintained and will plant evergreens to supply year round buffer; no changes to utilities on the site, it will be less intense use, bathroom water flow is much less than a residential property; only changes of exterior is a stair redesign for the ADA lift and will be screened off with vegetation; we propose one ADA van accessible parking which is required; driveway is currently 7 ½ to 8 feet wide and we are increasing to a 10 foot wide driveway; we will encroach further to the northerly property line and will need to remove existing vegetation; we met with the neighbor to explain the scope of work and he was agreeable to making the changes;

Lighting, with reference to our pre-application meeting and now we have made modifications; Exhibit A-20 we are placing a light on the eve, at the peak of the garage roof, lighting the rear lot



and a light on the easterly face of the existing home, fifteen feet up; on the driveway, we propose four bollard lights, 3 ½ feet high, picture mark as A-23 – they are miniature version of a parking lot light, 42 inch total height; square pole, with light on one side and offers no spillage on the neighboring driveways;

The sign proposed sign location is about 38 ½ feet from the curb; typography in the front goes up hill, the ground is about 1 to 1 ½ feet higher than the sidewalk and the sign is 3 ½ feet high, so it will be visible above the existing fencing which is there; the sign is designed to be a less intrusive as possible; we are providing a low hedge row, so it does grow higher than 2 ½ to 3 feet to provide visibility from both sides for safety, allowing both driveways to see traffic from the street in both directions;

Mr. Geronimo – is the landscape along the driveway low now;

Mr. Halari – it is somewhat low but gradually increases in size as you continue up the driveway;

Mr. McCabe – how much space do you have between the properties after you expand the driveway and will the hedges overspill to either driveway; are they being planted on your side of the property line;

Mr. Halari – about 2 ½ feet; we have about 1 foot of property and the neighbor has about 1 ½ feet of property before their driveway; adequate for what is proposed; we have proposed hedges only 3 feet in height but all vegetation will need to be maintained for overgrowth;

Mr. Mehr – we have discussed with the neighbor, the landscaping will be centered and we will maintain;

Mr. Cucchiaro – the landscaping will be on the subject property;

Mr. Mehr – it will be centered and Mr. Travino has discussed with us and agreed;

Mr. Cucchiaro – if approved that will be required to be part of the resolution;

Mr. Mehr – covered everything but need to go through Mr. Wentzien's report;

Mr. McCabe – parking – you will have parking behind the garage, will there be lighting, you spoke about lighting on the peak of the eve but what about at the rear;

Mr. Halari – previously the light was on the South side of the parking lot but we have changed so the lighting is at the peak, it will spill over the to the rear of garage, and the light on the rear of house will spill to the front of the garage and side of garage;

Mr. McCabe – the entrance to the basement, will that be gated off so that no one falls down, it is near the proposed ADA lift area;

Mr. Mehr – we can, that is not a problem;

Ms. Gibson – this is final approval so we should put it in as a condition if approved; a protective gate in front of the rear stairwell leading to the basement;



Mr. Jackson – Mr. Halari can you discuss the driveway, widening to 10 feet; will where the water go; a gutter off the roof going to the driveway, will it end up on the neighbors property;

Mr. Halari – the driveway has a high point at the rear and will run to the stormwater basin and at the front, it will run down the driveway and to the south down Monument Street to an existing inlet at the property line and bring back to the drainage system; there will be curbing on the north part of the driveway;

Mr. Wentzien – ok, your installing curbing on the north side only which will prevent any overflow to the north and I agree with no curbing to the south to allow the water to continue to flow south;

Mr. Barricelli – regarding the driveway – are you patching 1 ½ feet or take out entire existing driveway and regard and repave;

Mr. Halari – we are widening 1 ½ to 2 feet as needed, then toping entire parking lot and driveway; mill out as necessary 1 to 1 ½ inches then provide new toppings; so it will all look new;

Mr. Barricelli – would a paver driveway be more effective;

Mr. Halari – existing driveways blacktop and from stormwater perspective we are addressing more than necessary, it will drain properly;

Mr. Wentzien – on my page 5, #9 – my recommendations, due to widening and regarding, all pavement both existing and proposed be indicated as an area of total new pavement in construction with full depth pavement detail; that is my recommendation;

Ms. Gibson – can you explain why that is your recommendation;

Mr. Wentzien – there are areas that require regarding even on existing pavement; if you try to single out patch work here and there, at the end of the day, it would behoove anyone that will use to have good pavement that will last as long as they hope it will last;

Ms. Gibson – that will be another condition if approved;

Mr. Wildermuth – it was previously stated that you would leave the tree in the rear parking area and deliveries would e in the back; can you attest, if there are vehicles all parked will a delivery truck be able to navigate;

Mr. Halari – I believe so, we have a traffic engineer that will also address; but during out design criteria we but into the template to make sure it would work; there is 16 feet allowance around the tree;

Mr. Mehr – ok the report;

Mr. Wentzien – page 4 – noted the engineer reduced parking by four spaces which now makes the rear property line 57 feet; the criteria for business or commercial including the basement, 13 spaces required and 18 are provided; 2 are in the garage and there is still and excess of 5 spaces;

Mr. Cucchiaro – testimony previously was garbage cans were going in the garage, you have space for the garbage cans in the garage with 2 cars parked inside;

Mr. Mehr – yes

Mr. Wentzien – fencing – you indicate no changes except by the south side were you propose to tie in the discharge pipe to the storm system;

Mr. Halari – a 4 foot wide gate will be provided;

Mr. Wentzien – Signage – you presented; copy of referenced survey to be supplied that is on the cover sheet;

Mr. Halari – we will supply;

Mr. Wentzien – we went over the driveway – all pavement new; 40 inch tree to stay; the engineer testified, there is an outlined well around the tree and there is a minimum of 16 feet to the curb around; it is narrow, cars can drive in and out but traffic engineer should testify that the first car to the left of the ADA stall has the ability to pull in and back out;

Refuse in garage – no dumpster; additional information on grading to be provided;

drainage – I ask for amendments to detention basin design, outlet pipe full structure to be provided, grate to be provided and backend fails add a notch to the south; I ask for a low flow channel; I think you said you're doing grass;

Mr. Halari – we want to keep the vegetative look;

Mr. Wentzien – I'm okay with but you must kick the end of the basin at the outlet up a little, when the rain is past, you want it to go try again; this way you have regular grass that can be mowed;

We spoke about a gate at the connection point; I note that you mentioned a drywell in the pre-application meeting but you haven't mentioned;

Mr. Halari – that was prior to us proposing the storm drainage improvement; we don't need now with the drainage improvements;

Mr. Wentzien – Agreed; emergency overflow we discussed; we will need an operation maintenance manual, outlining who will own the basin and who will maintain the basin; as well as the technical procedures to maintain and how often; Landscape, amended plan needs to be provided; agreement put in place with neighboring property owner, as to placement and maintenance;

Mr. Geronimo – what does that look like;

Mr. Cucchiaro – simple document; it will identify the two properties, reference the approval, if there is one tonight, it will reference the resolution and what it states and both parties agree that the applicant/property owner will be responsible for maintaining the landscaping; the document gets submitted in draft form prior to execution; and be recorded so if there is a sale of this property it will follow and be in the responsibility of the next owner;

Mr. Wentzien – lighting – removing 18 foot pole; light on eve of garage facing south away from adjacent property and rear of house 15 feet high; 4 bollard lights 42 inches high with no spillage; provide location of soil log and discuss briefly, what to expect during construction;

Mr. Halari – the Borough has an ordinance allowing construction during certain hours of the day; we'll comply with all requirements; soil erosion permit will get from the Freehold Soil and County and seed the ground; all comply with all inspections;

Mr. Wentzien – in terms of engineering that is all;

Mr. Cucchiaro – with respect to Monmouth County Planning Board, are there any conditions that will alter or change any of the plans presented tonight;

Mr. Halari – no changes;

Mr. Cucchiaro – you testify there will be no spillage but is that a fact, there is no light spillage on the adjacent properties;

Mr. Halari – no spillage;

Mr. Reich – any questions from the Board; seeing none, open to public questions for Mr. Halari;

Seeing none – Mr. Barricelli made a motion to close public portion; seconded by Ms. Gibson;

#### ROLL CALL

Yes	7	Barricelli, Gibson, Jackson, Geronimo, McCabe, Reich & Wildermuth
No	0	
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

Mr. Reich – 10 minute recess – 8:50pm;

Mr. Reich – 9:03pm – meeting to continue

Do to the length of this application, two more professionals to provide testimony, we are going to carry Application Number: PB-SP-2019-008 - Applicant: 618 Park Avenue LLC - Location: 618 Park Avenue - Block 110 Lot 9.03 - Zone: B2-B – Request - Preliminary and Final Minor Site Plan Review and Approval;

If anyone from the public or professionals are here to hear application 618 Park Avenue LLC, this is your notice that the hearing for 618 Park Avenue LLC is being carried Wednesday, September 11, 2019 at 7:00pm; there will be no further notice for that application, this is your notice.

Now to continue with Application PB-UV-2019-007 – Green House at Freehold LLC

Mr. Mehr – our next professional, John H. Rea, P.E. – McDonough & Rea Associates, Inc., Traffic & Transportation consulting



Mr. Rea – it is unusual for me to be ask to do a traffic study for such a low intense use; using exhibit A-8 - looking at two intersections, Monument and Schank and Monument and Court; there will be minimal impact, reviewing existing conditions the two current offsite intersections mentioned, currently operate at a level service B during morning and afternoon peak hours; the average motorist faces an average delay of about 15 seconds at Monument and Court before pulling out onto Court Street during peak hours; same thing at Schank Street and Monument Street; following this traffic impact and adding those six peak hour trips to those intersections the level of service will remain B; small incremental increase of delay, less than one second, one tenth of a second as a result of a few additional vehicles; I wanted to measure those two intersections to make sure we would not have a negative impact there; when justifying a use variance, I need to conclude is if the application is approved it will not have a negative impact on traffic conditions in the area;

The site driveway itself will operate at a service level A, minimal delay based on traffic volumes passing the driveway; I reviewed the site plan prepared by Mr. Halari; I have observed other office plans converting single family homes to offices, I go to Dr. McDermott for the past 35 years, his driveway is 8ft wide, active dental office and never had an issue; in spite of that, they will add a sign near the tree in front of the garage facing the parking lot, that they need to yield to traffic coming in from Monument Street; this should work safely and efficiently;

As far as parking we are little over parked, offering 18 and required 13; we ask the Board to keep parking configuration the way it is, because when UPS and Fed-Ex come they can make the turn around and have no concerns; the parking is adequate, site design is adequate, building is appropriate for use being proposed; low intense use from a traffic standpoint; as stated it is unusual to prepare a traffic study for something that generates 6 peak hour trips;

Mr. Mehr – also the tree and the one parking space, is that okay;

Mr. Rea – I just scaled it with Mr. Halari and from the one parking space, right behind the ADA space, there is a dimension of 17 feet; a passenger vehicle parked in a regular 9x18 parking space can back up and navigate around the tree; the traffic will circulate in a counter clockwise direction around the tree;

Mr. Reich – is there an adequate site line from the yield sign and property line;

Mr. Rea – the height of the drivers eye is assumed to be 42 inches; we don't want any shrubby at the first part of the landscaping to go any higher than 30 inches for the first 15 feet;

Mr. Reich – is the site triangle inhibited by the house itself; and if someone is at the yield sign will the see the incoming traffic;

Mr. Rea – no, the house is set far back; the site triangle is measured from a point of 15 feet from the edge of the road; yes, you can see incoming traffic when at the yield sign;

Mr. Barraicelli – the County had to place a sign on a round about in Colts Neck; do you think it is necessary to place a similar sign;

Mr. Rea – no, it is not necessary;

Mr. Wentzien – you covered all my concerns;

Mr. Cucchiaro – Mr. Rea in your professional opinion is there a real perceptible difference in the traffic generated from this site than generated by a single family home, if it were to remain;

Mr. Rea – no perceptible difference, it will be little higher, but not at a magnitude to create any concerns;

Mr. Cucchiaro – what would be the maximum cue that you could image on the public street, if someone was exiting and arriving at the same time;

Mr. Rea – I can't see more than one car;

Mr. Cucchiaro – in your professional opinion, that type of situation wouldn't create any type of damage to ingress or egress to the property;

Mr. Rea – I do not believe so, the car turning in would have to wait for 5 to 10 seconds for the vehicle to exit out and open the driveway; that is not a traffic safety concern;

Mr. Cucchiaro – do you have an opinion on what the difference in traffic for the evening hours and weekend between proposed use and residential use;

Mr. Rea – evenings and weekends a single family home generates ten trips a day that is what the manuals and NJ DOT tell us; and from what I'm hearing you will have two trips, if approved;

Mr. Cucchiaro – in your professional on weekends it is less traffic than the permitted single family;

Mr. Rea – correct, if approved it would be less on the weekends than a permitted single family;

Mr. Reich – any questions from the Board; none;

We will open to public questions for Mr. Rea's testimony;

Lori Annetta – 74 East Main Street, Freehold; you referenced Dr. McDermott, where is he located;

Mr. Rea – 115 West Main Street

Ms. Annetta – what is that property zoned sir;

Mr. Rea – I count cars, I don't know the zone;

Ms. Annetta – he is zoned in a business district, unlike the property you're testifying on;

Ms. Annetta – is there room for two way traffic;

Mr. Rea – not simultaneously;

Ms. Annetta – Mr. Licata testified that the nature of the legal business would require USP and Fed-Ex trucks to come and go more so than a normal resident; is that accurate;

Mr. Rea – we discussed, yes;

Ms. Annetta – would that not define as a more intense use in a residential neighborhood;

Mr. Rea – not a significantly higher use;

Ms. Annetta – would it be a more intense use;

Mr. Rea – slightly but not significantly

Scott Clayton – 19 Monument Street – in your study did you look at the actual street itself, comparing to other streets with commercial locations;

Mr. Rea – I made a site visit, observed the traffic using Monument Street, mostly passenger vehicles and school bus; do you have a specific question;

Mr. Clayton – the concern is Monument Street, that area, has a 25 foot width at this driveway, across the street on Court Street, you have 31 feet; those locations all have parking lots behind them; all those businesses have people parking on the street;

Mr. Rea – we will not have parking on the street and if the Borough has to restrict parking in front of the property to make sure everyone parks in the rear parking lot then I think we would accept;

Mr. Clayton – if approved and I hope not but would like to ask that you restrict parking in that location;

Mr. Cucchiaro – that can be made a condition but it would require an ordinance by Borough Council;

Mr. Geronimo – what is allowance for parking there;

Mr. Rea – I did not observe any signage, I believe it is allowed but there is no need for it;

Mr. Clayton – there are no curbs and is a two lane street with no sides; if a delivery truck stops traffic only has one side;

Mr. Rea – this is a low impact and is not going to generate a significantly more traffic than a single family home; Court Street is wider because it is what we call a collector roadway; it is a higher order roadway; there is no safety or capacity issue on Monument Street that it couldn't accept another five or six peak hour trips;

Mr. Reich – what is Monument Street and how wide is a typical neighborhood street;

Mr. Rea – considered a local neighborhood street; anywhere from 24 to 30 feet depending on whether parking is permitted;

Mr. Rea – the delivery trucks are to enter the site so they shouldn't be blocking traffic;



Greg Goldman – 19 Schanck Street; with respect to traffic patters and the difference in areas, are you representing that the difference between 13 parking spaces in a residential house, multiple delivers and employees that may need to go out on a regular basis that there is no perceptible difference to that house being changed to that use;

Mr. Rea – that is very good testimony, that is exactly what I’m saying;

Vanessa Taylor – 7 Morris Street; being disabled I get a lot of deliveries from UPS and postal, I have ask them to come up my driveway; they have advised because of insurance reasons they are not allowed; they cart items up; how can they get these companies to come into their driveway;

Mr. Rea – the difference is your driveway is a residential driveway and we will have a parking area in our driveway with room turn around; they would have to back out onto the street from a residential property and that is cause for safety;

Mr. Geronimo – Ms. Taylor what is your concern;

Ms. Taylor – drivers for UPS if an accident they loose their job, they don’t want to come on your property; so from a safety issue, they will park on the street which causes a problem for us;

Mr. Barricelli – testimony was deliveries are being made in the rear; they won’t receive packages in the front;

Mr. McCabe – does the driveway narrow at the house;

Mr. Halari – the driveway is much wider near Monument Street but the minimum width is 10 feet;

Mr. Reich – any other questions from the public for Mr. Rea, seeing none;

Mr. Jackson made a motion to close public portion; seconded by Mr. McCabe;

#### ROLL CALL

Yes	7	Barricelli, Gibson, Jackson, Geronimo, McCabe, Reich & Wildermuth
No	0	
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

Mr. Mehr – called Mr. James Higgins, Professional Planner, Licensed 40 years;

We have ask you to provide planning testimony; you have reviewed the opportunity to hear all the testimony, review all plans and participate in some of the planning; Please give us your analysis of the site;

Mr. Higgins – this site is a unique and unusual site for the area and the largest by far in the area, particularly along Monument Street; Exhibit A-22 site outlined in black, significantly larger than any other site in this area; looking in the area, the area of influence are the Court House and the properties surrounding the Court House on Court and Monument Streets; the overwhelming use in the area is the Court House; this zone is an R-7, permitting single family residences and

community residences on 8,400 square foot lots; this site is 60,500 square feet; substantially larger, area, width and depth, over 300 ft deep; in addition the lot is isolated from surrounding residential uses; looking at A-22, you have residential and mixed uses; 300 ft depth and the applicant is providing a 50 foot wide buffer along the rear of the property for a very low intensity office use; you have the building situated on the north side of the property adjacent to a community residence which allows up to ten unrelated individuals to live in the residence; the buildings are very close to each other; you have a substantial buffer between the building and property line to the south, a stream and extreme slopes going to the stream and vacant property on the other side which are impacted by the stream; Monument Park is direct across the street and the Court House, again has a substantial influence on this entire area; I think the site is unique in the area; the building is very ideally suited for a small, low intense office use as proposed; maintaining the integrity of the building and only changing the rear with ADA compliance provided; and parking for 16 surface and 2 cars in the garage; the fifty foot buffer between the parking and the rear is substantial; the site is particularly suited for the use because of its proximity to the Court House, County Offices downtown and other offices in the immediate area and various locations in the downtown area; it will have minimal impact on surrounding properties;

Your master plan emphasizes the need to maintain the character of existing historic buildings throughout the community; this application is proposing to maintain that character; other than the sign, it won't appear to be an office; it will look the same, elegant and inviting; if maintained as a residence, it could remain the same, it could be left to run down because of costs or knock down and build a bigger home because of the large lot size; this application is ideal for this situation;

I don't see any negative impact to the granting of the variance; the use is low impact, the site is seven times larger than the zone permits and other zones permitting; RPO zone permits 8400 square feet, B-1 zone 8,000 square feet, B-1A zone 7,000 square feet; this is a 60,000 square foot lot, most being left as open space and buffer; the closest use that is impacted is to the north and is a community house with ten unrelated individuals residing there; no negative impact, it will have positive impact and be maintained with current appearance; not expanded and parking area will have a larger buffer area;

the other concern is the setback of the garage; existing set back is 2.2 feet and 3 feet is required; planner and report says that is not a variance; permitted and meets section 18.888.101 of the ordinance providing standards for an existing non-conforming structure can be maintained; he has opined that a variance is not necessary; in the event the Board disagrees, I do think there is a hardship, the building has existed for years; preexisting non-conforming and is not impacted in anyway by this application; no substantial impact to the neighboring properties;

Mr. Mehr – in your opinion the use variance is based upon the unique property;

Mr. Higgins – it's based on the fact the site is particularly suited for this use and there are benefits to the granting of the variance due to the particular suitability; a member of the public ask for the definition of particular suitability; there is none to my knowledge; Courts in cases have said if an applicant can demonstrate that a site is particularly suited for a use, and the general welfare is advanced due to the particular suitability – in my opinion as a planner, doesn't have to be uniquely suited; the suitability of the site, is not unique but more than just suitable, it has to be a particular suitability; in this case, the size, location of the building on site, adjacent to multi-family residence and proximity to the Courthouse, County offices and other legal offices in the immediate area; put all that together and you get particular suitability;



Mr. Cucchiaro – Mr. Higgins you referenced the Court, it just recently came out with particular suitability is by advancing one or more of the goals of planning, which are in section 2 of the MLUL; that the quality or characteristic of the property are what is promoting the goals of planning; would you agree with that; can you highlight a few in section 2 that are being advanced;

Mr. Higgins – desirable visual environment by maintaining the building and current state; the master plan wants buildings such as this to be historically maintained; to have appropriate uses, sufficient land and appropriate locations for specific uses; the driveway improvements, providing adequate site distance entering and exiting as proposed now with the agreement with the neighbor; that advances the MLU with public safety;

Mr. Cucchiaro – there was questioning earlier in the evening concerning alternate locations; in your planning review of particular suitability, does the availability of the alternate locations have any relation at all to particular suitability;

Mr. Higgins – no

Mr. Cucchiaro – Mr. Mehr from your legal perspective that is consistent with prevailing case law;

Mr. Mehr – I do;

Mr. Reich – any questions from the Board; none;

We will open to public questions for Mr. Higgins' testimony;

Steve Newman – 19 Monument Street; parking in the rear, will it be visible from Monument Street;

Mr. Higgins – it will be block by the buildings and landscaping;

Mr. Newman – will you plant large shrubbery because when walking up Monument from the North you will be able to see the added parking; the beauty of this area and Monument Park and now to look at the parking is not what we moved here for; if you approve, this should have to have heavy shrubbery all around so no one can see 16 cars;

Mr. Gibson – would added shrubbery affect the basin and drainage;

Mr. Halari – yes, there is shrubbery near the house, we can continue the shrubbery to block the view;

Mr. Wentzien – you should not block the basin, but can put along the front of the basin and the street;

Mr. Reich – your request is the applicant provide shrubbery blocking the parking area view from the sidewalk; if they are providing shrubbery is that acceptable;

Mr. Newman – yes;



Greg Goldman – 19 Schanck Street; requesting clarification of testimony, where the attorney helped make the case for zoning; is your testimony that the primary reason to have the application grated so the house is maintained properly and because the lot is 1.4 acre lot size; is that your testimony;

Mr. Higgins – part of my testimony; the site is uniquely suited to this proposed use because of location, proximity to Court House, County Offices other legal offices in the area and downtown; substantially oversized site, six to seven times what the ordinance requirement in the zone; substantial depth to provide adequate buffing;

Mr. Goldman – I appreciate the ordinance and the property size required but clearly this lot is not six to seven times the size of the lots around it;

Ms. Gibson – I ask earlier for you to point out where you live, will you please point out again; I didn't forget, just want to see;

Mr. Goldman – I live here, two houses in on Schanck;

Ms. Gibson – who is your neighbor;

Mr. Goldman – this neighbor is Danziger Law Office and apartments;

Ms. Gibson – did you purchase your property previous to them being there;

Mr. Goldman – no, they were there already;

Mr. Reich – any other questions from the public for Mr. Higgins, seeing none;

Mr. Jackson made a motion to close public portion; seconded by Mr. Geronimo;

#### ROLL CALL

Yes	7	Barricelli, Gibson, Jackson, Geronimo, McCabe, Reich & Wildermuth
No	0	
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

Mr. Reich – Mr. Mehr do you have any further testimony;

Mr. Mehr – no further testimony;

Mr. Reich – we open up for public comments, if you testify please provides your name and address and get sworn in; comments only, a response is not required;

Scott Clayton – 19 Monument; I am a realtor over 30 years; family has oldest real estate firm in Monmouth County; excited to come to Freehold, over the years continuously expanded the commercial footprint, not always the healthiest; to maintain the best return on commercial you wan to meet a need and be tight and controlled to get top dollar; can say exact for residential; Freehold now, last three years we've sold approximately 350 single family homes, homes of \$380,000 was about 12% of community; when approaching Monument Park from Court, you

leave Main Street the commercial district completely stops; before you hit the park going to Monument you have two residential houses, the Court House is a nice back drop but what you see is clearly residential; we have 14 residential homes in front of the Court House between commercial district between Court and Broad; seven of the homes sold in the last three years, they sell in the 12%; it is a strong healthy residential community; the block this property sits on has 4 single family homes; on my block and Court Street you have homes that have sold at the same price point that were on the market longer than this property; commitment has been made by home owners to buy and restore the homes; with my real estate background, I disagree; there is commercial on Court and Broad and 4 buildings close to the Court House; a museum, 68 Court was approved with limited commercial but sold and is no longer commercial zone it is back to single family; people are believing our neighborhood; approving this application creates a domino affect, no reason to turn down the next person; we should focus on putting commercial in commercial district; there is a beautiful property across the street from here that is a law office which is same square footage, same parking; there are other properties in the Borough they could look to purchase; I ask we don't approve and motivate our commercial district to be strong, no need to expand; thank you

Steven Newman – 19 Monument Street; we spoke to about Google searches earlier; it is a sure fire way to hurt residential property values and reduce buyers interest in a neighborhood is to add commercial use buildings; [www.homeguides.sfgates.com](http://www.homeguides.sfgates.com); commercial use areas can have increase noise, odor, light intrusion, increase traffic and potential crime; 68 Court was approved to use a small portion of the property for a law office this was about 10 years ago; see that young man, he is my neighbor; we have some kids in the area; your traffic engineer, ten trips a day for residential, I wait five to ten minutes to pull out of my driveway because of traffic Monday – Friday; Google also shows that \$1.9 million in revenues, so you will have the taxes; Gregory Goldman – 19 Schanck Street; Scott and Steve did a great job discussing what is going on in our neighborhood; I don't have a lot to add but with respect to what we've heard; you were provided with least impactful, perfect lighting, no intrusion, shrubs will be perfect and remove for the neighbors, neighbors they spoke with agree with everything, there is business never has any clients or barely any, so traffic won't impact anyone; nothing they do will impact anyone at anytime, it will be perfect; with an 18 car parking lot will impact our neighborhood; take any property and if someone wants to come in with their professionals and make a case, we as neighbors don't have the capacity to hire professionals to argue it; they ran their office for twenty years on Route 9 and now that is not good enough; now it has to be a residential house, in our Borough; there a several properties for sale or rent in our town; I don't think any case can be made by any applicant that this is the only option for an office.

Vanessa Taylor Long – 7 Morris Street; it appears they are buying residential property paying residential pricing rather than buying commercial paying commercial; I live behind the property and can see directly into the property from my home; I can see the flow of traffic going up and down Monument Street; I go on that street every day, I sit at the traffic spot during the day, five minutes to make a turn because of the Court House; I feel the Court House and its traffic is enough; I bough my property twenty years ago, my children, grandchildren, nieces and nephews play in the back yard; the half way house in my back yard, they let slip by, please don't let this slip by; 16 cars, people coming and going, the house empty on weekends and nights, rather than a family there, that sounds like jeopardy and unsafe to me; I don't know any family leaving ten times a day; take to school, come back home, pick the kids up, come back home, you might leave to go to work; not ten times; appearance of the property was maintained by the owners and the previous owners and all the neighbors around maintain their properties; it is easy for the owner of the half way house to agree, they don't maintain; your offering to do something for the better



of both your properties and maintaining of course they will agree; one of their trees fell on my property and I am out \$1,000.00; I would like to see a single family there, more kids in the area; for them this is an investment property, not a home; this lot is not much bigger than those around; it is zoned R-7 because it is in a residential neighborhood; are you setting a precedence by letting this go commercial; I don't want kids playing in the yard and people coming and going all day; I don't want kids knowing this is an empty property, at night, weekends, it feels dangerous; it doesn't make me feel safe; lord have mercy, the halfway house, the Court House, you ask all to deal with those things, this is asking to much more; they are a business, buy in a commercial area; I hope you give consideration to the residence of this neighborhood;

Robert Muzzio – 17 Monument Street; my house was on the market for a few years, need work; beautiful area, we decided to invest and fix the house up; my only problem on Monument Street, is when you go down to Pond Road it is 40 mph, they still think it is 40 mph going down Monument Street; now you want to add cars and more traffic; you have to wait to get out of the driveway adding more aggravation; it is a single family area, lets keep it that way; there are plenty of commercial properties available. I'm pleading with you, do not approve;

Lori Annetta – 74 East Main Street, majority of neighbors are hear; Lezzos who spent \$570,000 on their property would be but having a baby; I spoke with them, know them personally; I moved to the Borough years back buying a historical property on East Main Street built in 1868; I'm not the only person who loves property like that; this is a charming town and needs a bit of attention; deteriorating and letting things go is not the right thing to do; for this committee to listen to these types of applications, I ask you why we even have zoning; why is this neighborhood, residential R-7 zone, to have you all decide, we like this guy; there is a lot of property available, that won't disrupt a neighborhood and a beautiful property, there is no reason for it; the planning people can explain the particular suitability, requirements from the state but bottom line, if you all feel this way then why has the Planning Board not raised this with Council to amend zoning; if the property values in these home are not maintained, for some this is the largest investment people make, if you can dismiss, because you like the idea of a lawyer opening an office in a residential neighborhood, instead of going to existing commercial area; then I ask, when does it happen to you, what is the next business to uproot your family, your sister, your parents; how do you allow an entertaining of this, it leaves me frustrated and dumb founded; the neighbors have done an exception job, I was also going to list the multiple properties available, we all did our home work, we know what is out there and what is available; this is a beautiful home, on a beautiful property on a lovely street, I think the Court House adds to it, it's a stunning building; we don't need to add this legal office; they said not busy, very few people coming and going, two closings in a week and majority via mail; but in the next breath, they will be there, box will be delivered; a lot of contradictions and I think it has been done so the applicant, who is not the property owner and think he will pass on the property if the variance is not approved; a shame because if he bought and lived in, I'm sure these very nice people would welcome him; their properties and property values are at stake; you folks have an obligation to the residents and Borough to do what is right for the residents of the Borough;

Jean Holtz – 107 Broad Street; Point of clarification, Dr. McDermott is in an R-7 zone, as the entire block; I guess he was given a variance at some point, you can look it up; I am actually here to support, the applicant; as a person being involved in redevelopment efforts, slow to come to fruition, as review the application, the investment the law firm is looking to put into this town is truly a valuable asset; I recognize there are many areas that co-exist amicably business and residential; many streets, I could list them but those that live here know them; I respect that they want to keep the historical integrity of the building; and from what was testified, it sounds like



they are going to maintain very nicely; my home built in 1870, at one time it was a doctors office and a law office; that is the nature of the Borough, professionals use residential homes for their work; finally as one of the authors of the Visionary Plan, which your Board approved;

I want to remind you the vision statement we all agreed to; Freehold Borough, the commercial, cultural, social and historical hub of Western Monmouth County will be a highly desirable and competitively sought after place to live, work and do business; redevelopment initiatives in and around downtown will spur public and private investments throughout the community; this resurgent will attract young professionals, entrepreneurs and investors who appreciate and value the towns enhanceability, historic distinction and access to transit;

These folks that have recently moved in will attest, it is a desirable place to live and do business; also a desirable place to bring employees, go into town and spend money at lunch time; this application demonstrates this area is continually migrating with dual and different uses; it is not unusual and I don't think it is detrimental to the neighborhood; I think it is an asset and will improve property values; I encourage you to vote affirmative for this application;

Joan Muzzio – 17 Monument Street; my neighbors have all spoke and said it well; I want to explain about the child; we moved to Freehold to raise our child with other children; we put a considerable amount of money into the house and our neighbors across the street; they also have young children; young children behind us too; I disagree with the professionals; yes Court is in session during the day but not in the evening or weekends; people ride bikes, walking dogs, jogging, flying kites that is the type of neighborhood this is; I have a 300 foot, not a spec; when we purchased, the halfway house was presented as a bed and breakfast, it was discerning; but I have come to see the men that live there all have jobs, cars and polite; the property owner has improved the property a little, we have no problems with the gentlemen that live there; I respect that they will maintain the outside but what about a family, trick or treating, play dates, that is not happening at that house; not all lawyers, on the circle predominantly residences; I appeal to this body to consider before allowing more professional buildings come, empty at night and the weekends.

Mr. Reich – anyone else from the public to offer testimony; seeing none;

Ms. Gibson made a motion to close public testimony; seconded by Mr. Jackson;

#### ROLL CALL

Yes	7	Barricelli, Gibson, Jackson, Geronimo, McCabe, Reich & Wildermuth
No	0	
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

Mr. Cucchiaro – I need to advise the Board, there was one statement made that the Board should not consider an application like this; that has been soundly rejected by the Courts, case TWCU Edison Zoning Board, where they made a determination that an application was in there jurisdiction and they did not hear the entire application; the Court says that in the MLUL, a Board “shall” hear an application; does not have discretion, you can deny or approve an application but you can't make a decision that you are not going to hear an application because you don't think it is the kind of application you should hear;

Subsequent to that decision, the State of New Jersey adopted the Civil Rights Act; if you receive an application and you decide your not going to hear it, you are violating their civil rights; when you loose the case, there is a fee shifting provision, you will pay their attorneys fees after you loose the case; you are required to hear this application, your not required to approve or deny but you are required to hear the application;

It was brought up by the applicant's planner, the proximity to the neighboring property with the group home and that those living there are not related; Group Homes are permitted in every residential zone, under the MLUL; also whether there is a blood relation, is not the definition of what a family is; a family social structure of how you live; there a United States Supreme Court cases that attest to that, Clayborne vs East Cleveland; I want to make sure that is understood and you do not take into account the social structure or the fact that there is not blood relationship, in your decision making process;

For a Use Variance an applicant has three ways to make their proofs; 1. hardship, they did not argue there is hardship; 2. Use is inherently beneficial, they did not argue that point; 3. Particular suitability, special reasons, they chose to provide information for particular suitability;

In order to satisfy the proofs, the applicant needs to prove to court satisfaction that it advances one or more of the goals of planning under section 2 of the MLUL; that was under the Price case of NJ Supreme Court case; not just merely advancing goals, the goals need to have the characteristics to this particular piece of property as to why they are being advanced; that is really what you are looking at for positive criteria; the Price case tells us that the availability of other properties does not affect the factor that makes this property suitable or unsuitable;

also there is enhanced criteria for Use Variance; harmonizing the request for variance with what is recommended with what is recommended in the Municipal Master Plan and the Governing Body's decision to or not to retain the zoning in the area; you must determine if applicant placed the proofs on the record sufficient to grant an approval;

finally the substantial detriment to surrounding property owners, zone plan, zone ordinance and the public good; so those are things you should not be looking at and the standard you need to look at and whether the testimony you heard tonight satisfies or does not satisfy;

a few other things; various witnesses have talked about the internet; I would counsel the Board to not carry any weight on things found on the internet that are not associated with an official website, government agency; Mr. Licata testified he spoke with a lot of different property owners, no reason to disbelieve but they are not hear to confirm or deny the conversations, so the discussions are not relevant to suitability and have a discussion with someone not present can really form a basis on the negative criteria; I can answer any questions;

Mr. Reich – please reiterate enhanced criteria, first with the Municipal Master Plan, what does it recommend for the area; can it be harmonized with the recommendations; harmonize with the variance relief with the fact that the property has not been rezoned by the Governing Body;

Mr. Jackson – Mr. Cucchiaro - during public comments some residents talked about establishing a precedent; if this Board denies or approves would we be establishing a precedent or does each application stand on its own;



Mr. Cucchiaro – each application stands on its own; you have to prove everything again; you base them individually as they come in;

Ms. Gibson – there was a lot brought up about property value, should we consider;

Mr. Cucchiaro – no; but you can consider things that affect property values; quality of life, increased traffic, noise, smell; you can take those into account;

Mr. Geronimo – what about property taxes;

Mr. Cucchiaro – the impact of property taxes is not a criteria that makes a property particularly suitable;

Mr. McCabe – a resident brought up that the Board approved a resident 350 square feet of use for business in their home, should we consider;

Mr. Cucchiaro – no, we do not have the resolution; also each application stands on its own merits;

Ms. Gibson – we have adjusted the Master Plan, what ten years ago was, today is not the same focus and goal that we voted and agreed to; I have much to say – based on the criteria, I would vote to approve with all the conditions; when we talk about a residential zone, some of the map showing red is actually B-2, so with that said, this is a less intense use when you think of retail or commercial; much of the public argued that when they came here, I have been here for fifteen years and came because of the redevelopment have going on; these people picked this area because they thought it was the best place for them to invest; this business owner feels this is best for him; it is perfect for his business, on one side you have attorney offices, it does not break up a neighborhood, you have four houses, one being a group home, then this an attorney office, then an attorney office across directly across from the Court House; it is not disrupting to their daily life; one person named trips in and out of the driveway, naming six and didn't include errands or anything else you do in family life; it is positive and what we are looking to do; looking to bring business downtown, rejuvenate; I apologize if someone bought on the wrong block and thought it would be best residential investment; if more experience in real estate perhaps they would not have purchased there; three houses being so expensive in Freehold Borough, not our responsibility to speak for; I feel favorable for this, great small business and looking for more professionals downtown; I am for it;

Just so everyone knows residential homes sales are down 6.2% according to NARS (National Association of Realtors) since January 2019; Monmouth County is one of the weirdest markets we've seen for both buyers and sellers; when people speak as testimony to be the truth, I just want the Board to realize, the truth is manipulated by what your perception is and not always facts; the fact that we know or yes that is the highest pocket of sales in the Borough; we also know it is mixed and there are different uses in that area that would make it a unique exception for this variance; they have gone above and beyond to mediate any type of negative affect; they are widening the driveway, yield sign, allowing extra parking for K turns; looks like all the grading on the entire street grades down to the vacant lot and the basin; which has been sitting there a long time, we have a run off issue and they are addressing that as well; so he is taking all of the rain water and run off from the neighboring properties and remediating the problem to make the neighborhood nicer; willing to buffer; I don't see why he should have to buffer, rather than the lot next to; he is keeping the historical integrity, perfect to bring young professionals in



the area; it gets emotional and change is difficult; we did vote against a commercial lot in a truly residential neighborhood, so we do take into consideration the surrounding area; I just think this is a unique piece of property in a mixed area; if this was denied tonight I would go in front of Council and ask for it to be rezoned; it should have been addressed when looking at the redevelopment area; I think it was an over site;

Mr. McCabe – I don't see the mixed use, how far can you allow that to go before you push away all the residents; although he is doing all the things you stated and could be a perfect neighbor, I don't see the need for another business; you have about eight people working there, bring in about \$80.00 to a local pizzeria; just don't see it, I think it is a detriment;

Mr. Gibson – it is not everywhere else, it is a specific block, specific lot, there are business every other or every two houses; they are worried about Fed-Ex trucks, I'm worried about bomb scares; they are concerned about a vacant house, I drive past the Court House and I'm afraid to stop because of some of the people walking down the street; this business will not impact their kite flying at 4:30pm or their walking around with kids in the neighborhood, impact their life in any negative way that I could say it doesn't fit; I understand what your saying, I just think if there was no red in the zone, Kiawah, Cottage, Lincoln – this is part of the downtown; it is a block away from Redevelopment;

Mr. McCabe – I understand but where does the bleeding stop – yes a block or so away but I don't think it fits;

Mr. Geronimo – I generally agree with you Michele, mixed use already happening; applicant is doing a lot for the property and area to not negatively impact the area and keeping the historical look; Mike, your concern is where do we stop, we decide, it will have to be revisited each time, each application;

Mr. McCabe – that is why I am not for this, this is where it should stop; we have gone far enough in that direction;

Mr. Wildermuth – the map is misleading, the two lots behind this property is in red and looks residential, one has a swing set; then on the other side, Court Street, it is zoned commercial; the Court House area is distinctly separate from the downtown, I feel like when you leave the area, you go to a new section; in the plan we just approved, the boundary doesn't end one lot away it is actually two blocks;

Mr. Reich – the Council just approved the red on Broad Street as a redevelopment area, that is what Ms. Gibson was speaking towards;

Mr. Wildermuth – I feel like this does break up a residential neighborhood; doesn't feel right, I don't think it would benefit the neighborhood; I'm inclined to deny;

Ms. Gibson – I think the house not selling at the price, knowing what I know, is because of what is next door; we are limiting the opportunity on resale on this piece of property;

Mr. McCabe – say we approve, next week the house next to the boarding house decides to sell and the buyer wants to put a business; eventually the entire block goes commercial;

Mr. Reich – the goal of the Use Variance is to look at the positive and negative criteria of the property in the zone; this particular property;

Mr. Barricelli – I have sat in this room on five different occasions, on both side of the dais, comments on applications, complaints with respect to five properties in this area; Veronica Davis, residential to law 68 Court Street and resold for a lot of money, nothing bad happen; 25 Monument Street, Danziger with a two story apartment complex and they protested, it is going to be disastrous, I live a few blocks away, the house looks lovely and looks better than it ever did before; 54 Court Street – law office on weekends, another large applicant came but now no longer lives there; I sat in the audience and watch my neighbors get upset about the rooming house/boarding house next to 3 Monument Street; worried all types of disastrous things were going to happen; I'm glad to hear the neighbor say tonight they are good people; the point is we are not talking about putting in a 7-11 at 3 Monument, this is a professional office with lawyers; I agree with the planner, that when they moved the Court House to Monument, it would forever change the character of the area; nothing we can do, it will happen; I can understand why the applicant wants to be on Monument and not on Main; I will vote yes on this application;

Mr. Jackson – I agree with Bill; I listened to the Planner and he mentioned how the Master Plan speaks of maintaining the historical integrity of the town; the applicant clearly going out of his way to make sure it will happen; I don't see it as a bad thing; the Court House is there, other law offices in the area; we have had other applicants come before this Board in residential areas and as Michele said, they wanted to operate until 2:00am, we said no; other business down the street that were approved by the Board, bank, vet and that was ok with the neighbors; I don't see how a small group of lawyers, maintaining the historical character of the property are going to hurt the neighborhood; I will be voting in favor of the application;

Mr. Geronimo – I agree it would be beneficial based on the proposed and character of the neighborhood; it is already mixed use in this area, we are not changing; I agree with Michele and Bill; I am in favor, I don't see a detriment;

Mr. Reich – we talk about changes, zoning; when the Borough was constituted we had this little area of homes surrounded by farms; then more homes came, then businesses expanded; pushing residents away from downtown, out further; more homes built; then you have homes that turned to business and eventually we created zoning ordinances; if you go down the collection streets, Main, Rt 79, Park Avenue you can see businesses being run out of the older homes; some do a great job and some don't; that also goes with the character the property is in, keeping up with your neighbors; Ms. Gibson you spoke about how sometimes homes become business and they go back to being homes; Mr. Barricelli said the Court House changes this zone, making an area where mixed uses can reside in harmony because you have the Court House, homes with offices and they keep them maintained; we may or may not ever see another application on Monument or Court Street; we have to focus on the individual application before us and decide if they provide the positive and negative criteria; I applaud the applicant for doing his best to keep the house looking like a house, 90% of the exterior; you have made accommodations for parking, lighting and buffering; we don't like change but we hope the change is positive and with what the applicant presented appears to be a positive change for this property in this zone; I would also be in favor of the application;

Ms. Gibson – I would like to make a motion to approve with the following conditions; Final sign plan approval with William Wentzien, Borough Engineer; shrubs to guard the driveway; gate at the basement stairwell in the rear; all the asphalt needs to be replaced entirely, all items mentioned with Mr. Wentzien;



Mr. Cucchiaro basement for storage only; no illumination for sign, no building signs, overgrowth trimmed, maintenance agreement with neighboring property owner, extension of shrubbery along the side but not within the basin, modification to slope at the basin and operating and maintenance manual, owner responsible for; amended landscaping plan, no light spillage to adjacent properties; gate at the storm drainage easement; site triangle easement to the driveway; addition of signage that Mr. Rea put on the record; no on street parking; keep historical integrity;

You would make a motion to grant Use Variance relief with preliminary and final site plan approvals subject to conditions expressed and any other conditions on the record;

Ms. Gibson – yes, that is my motion to approve and grant the application for a Use Variance; Mr. Geronimo, seconded the motion;

ROLL CALL

Yes	5	Barricelli, Gibson, Jackson, Geronimo and Reich
No	2	McCabe and Wildermuth
Abstain	0	
Disqualified	0	
Absent	2	Ceppi & Councilman Schnurr

Mr. Reich – just to state again, the application for 618 Park Avenue LLC, is being carried Wednesday, September 11, 2019 at 7:00pm; and Colts Pride LLC is being carried to Wednesday, November 13, 2019; there will be no further notice for the applications, this is your notice.

Mr. Reich – anyone from the public have any comments regarding none agenda items; seeing none;

Mr. Jackson made a motion to close public comments; Mr. Wildermuth seconded;

All in favor, aye (all) - opposed (none)

Mr. Reich – anything further, what is coming before the Board on September 11, 2019;

Ms. Napolitano – 618 Park Avenue LLC;

Mr. Reich – anything further;

Ms. Gibson made a motion to adjourn, seconded by Mr. McCabe. All in favor, Aye (all), opposed (none). Meeting adjourned at 11:18 PM.

Respectfully submitted,

Dominica R. Napolitano