

**FREEHOLD BOROUGH PLANNING BOARD**  
**MINUTES OF APRIL 27, 2022**

**MONTHLY MEETING**

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, April 27, 2022 at 7:00 p.m. in the Council Room of the Municipal Building.

Chairman Barricelli 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
ABSENT	Mr. Paul Ceppi
ABSENT	Mr. Michael McCabe
PRESENT	Mr. Michael Wildermuth
PRESENT	Ms. Shealyn M.S. Crombie
PRESENT	Ms. Caridad Argote-Freyre
PRESENT	Ms. Brianne Van Vorst
PRESENT	Councilwoman Margaret Rogers
PRESENT	Mr. Garry Jackson
ABSENT	Mr. James Keelan
PRESENT	Mayor Kevin A. Kane

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

Approval of Minutes from Planning Board Meeting March 23, 2022.

Mr. Wildermuth made a motion to approve the minutes, Councilwoman Rogers seconded.

Yes	8	Barricelli, Wildermuth, Crombie, Argote-Freyre, Van Vorst, Councilwoman Rogers, Jackson and Mayor Kane
No	0	
Abstain	0	
Absent	3	Ceppi, McCabe and Keelan

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

Memorialize Resolution for Ciaglia Custom Builders, Application PB-SD-2021-013, Block 69, Lot 14, Zone R-5, Ford Avenue requesting Minor Subdivision;

Councilwoman Rogers made a motion to approve; Ms. Van Vorst seconded;

Yes	7	Barricelli, Wildermuth, Crombie, Argote-Freyre, Van Vorst, Councilwoman Rogers and Mayor Kane
No	0	
Abstain	1	Jackson
Absent	3	Ceppi, McCabe and Keelan

**Mr. Barricelli read Item No. 5 on the Agenda as follows:**

Memorialize Resolution for Colts Pride, LLC, Block 74 Lot 1.01 & 15 Zone R-5, 18 Lloyd Street requesting Minor Subdivision & Preliminary & Final Site Plan approval;

Mr. Wildermuth made a motion to approve; Councilwoman Rogers seconded;

Yes	6	Barricelli, Wildermuth, Argote-Freyre, Councilwoman Rogers, Jackson and Mayor Kane
No	0	
Abstain	2	Crombie & Van Vorst
Absent	3	Ceppi, McCabe and Keelan

Mr. Barricelli – before we adjourn I ask Ron to review a few items with the board;

Mr. Cucchiaro – because this is a short meeting, take the opportunity to review procedural items and if anyone has any questions I can answer; what I want to do go over is a discrete part of the process at the end, board deliberations; you do a great job, more so than many of my boards; there is not a requirement there be a formal requirement, there can just be a vote; your actual reasoning is expressed in the resolution; when you deliberate and I hear comments and concerns it helps the way I draft the ordinance and understanding how you get to the determination; there are many of you, sometimes I am taking a lot of different viewpoints and try to harmonize into one document; what I want to review is during the deliberative process, two contexts; one you are a combined board you are hearing things permitted, site plan, permitted use and compliant, subdivisions and compliant; the deliberation should flow from the ordinance, does the applicant comply with the borough ordinance; if they do, that is why you are voting to approve, because they comply and that is what the law requires; if they don't, then you focus on things that don't comply with and what they need relief for and why the relief should or should not be granted; what is the benefit to the public and the benefit to the zone; what are the detriments, does it cause more noise, than a use that is compliant; does it cause more traffic or dangerous traffic, those are things that are useful for the record and the process and things to focus on;

when dealing with applications for a use that is not permitted, it is a deeper dive into the process; you should be making a determination as to why this particular piece of property is particularly suited for the use; fact that it is a good ratable is not a reason to grant something; is it bring an improved esthetic environment, is there something about the shape of the property that lends itself to this particular use, rather than others in the area; it does not have to be unique in terms of being the only location for that use but should have some distinguishing factors about the lot that can be discerned in the deliberation process; then the criteria is the same, however there is more intention to it, for instance when looking at traffic for permitted use, you understand it is permitted and the governing body anticipated some level of traffic associated with this kind of use; for a use not permitted the governing body has not determine that type of traffic from that type of use is permitted in that neighborhood, maybe it is less traffic than permitted for uses, if more traffic then something to consider; not necessarily a reason to deny right away but something to consider in terms of the impact on the neighborhood; looking to see whether the granting of the use variance is going to substantially determinant that neighborhood; noise, odors, traffic things of that nature; also for uses not permitted we have what is called the enhanced criteria, to look at and will hear the applicant talk about and the master plan; maybe the master plan talks about the use but somehow it did not make to the ordinance; if the master plan has negative things to say about the use, that is something you need to consider; the governing body has considered the proposed use and has

decided, no we don't want this use; that is something to consider, if the masterplan does not say one way or the other about a use, that is something to consider; it does not appear that it would be consistent with the masterplan; if the governing body has not looked at the zone in a long time, maybe it is a use that didn't really exist the last time they look at it; when cell towers came around, no master plan or ordinance talk about cell towers; it was a new technology; before convenience stores became gas stations, gas stations were doing convenience stores and there were issues as to whether it was two principal uses, whether it was a principal and accessory use, just wasn't something anyone had thought about; new technology, evolution of uses are things to be considered and discussed during deliberation process; helps to flush out and sometimes helps other board members to understand what you are thinking and give a different prospective and they had, could be something persuasive to them; you may be persuaded by the way some board members; it is a very important part of the process and you already do this; I encourage full robust discussions flowing from those elements; it should be found in something in our ordinance or master plan or some government document like; any questions I can certainly answer;  
Just want to take the opportunity with the short meeting to do some continuing education;

Councilwoman Rogers – as entering into the phase of planning for our town, things are tied to emotion and has been coming out in some of our meetings; how do we reign in when having deliberation; understand sticking to what the ordinance states and we have ordinances for certain businesses but I noticed our discussions have branched off to specific comments on architecture and specific comments on type of business;

Mr. Cucchiaro – again it goes back those elements; take use variance context, the architecture is relevant in a use variance context because it is a use that is not supposed to be there; so what the use looks like is important to determine a particular suitability and also the impact on the neighborhood; now if the use is permitted in the zone, if permitted in the zone, those comments have to find a basis in the ordinance; assume you are completely compliant with the ordinance, no variances or waivers required, you have to get approval regardless; now look at it this way, suppose they need a variance because of setbacks and they are much closer to the street than they are supposed to be, I would say the architecture comes into play then because people passing by cars, walking, now people looking at it, it is a more profound presentation structure to them than the ordinance provides; in that context we can look at; not about what we think is, we should do this or people want this – what impact does the impact that the architecture that you are proposing have on the fact that you are closer to the street than you are permitted to be; and if a negative impact what can be done to mitigate that impact so you can satisfy the criteria, maybe you don't, maybe you can't and that helps for a basis;

the other portion are projects in the historic districts that has a separate element to it, they have to go to Historic Preservation Commission and receive a certificate of appropriateness (CA); everywhere in our resolutions we have you have to obtain all outside agency approvals, DEP, DOT, Freehold Soil, Monmouth County Planning Board, and HPC; we are not here to replace the determination of the HPC; it is within their jurisdiction, if they say you have to do A/B&C, the applicant has to do A/B&C and that is part of our approval process, they have to incorporate that HPC approval into their plans; from that prospective, we are not here to re-litigate the HPC process, what that determination is, you have to do; there is an appeal process; unless they engage in the appeal process we are not here to second guess them;

Mr. Barricelli – I ask Ron to make a few comments, I am impressed with the members on this board; we have had a tremendous turnover in a short amount of time; we have had to go through virtual meetings

and you guys are really very good; this is a short meeting and wanted to take the opportunity; we have the brightest lawyer in Monmouth County; thank you all, you are doing a great job, congratulations; it is a tough learning process in a short amount of time; thank you all for coming; anyone else;

Mr. Jackson – thank you Dominica, for delivering our packages;

Ms. Napolitano – you are welcome – thank you;

Ms. Van Vorst – HPC vote no to a demolition, 55 East Main Street and it is the first one since the Christopher House; they may appeal, may submit a new plan; there were about 15 to 18 people come to the meeting and that is a full house; they stayed to ask questions after and learn more about HPC;

Mr. Jackson – where do they go to appeal;

Ms. Van Vorst – they would come to this board;

Mr. Cucchiaro – if you have a Planning Board and Zoning Board they would appeal to the zoning board to appeal the decision of the HPC, as a combined board they would come to the planning board; they have to file an application;

Mr. Jackson – the Christopher House, they went to Mayor and Council;

Ms. Van Vorst – the HPC ordinance is different now and they would appeal to this board; the Christopher House was a few years ago – not relevant;

Mr. Cucchiaro – if they appeal it won't be for a while, they will wait for the HPC resolution, then complete the application;

Ms. Van Vorst – on your side, there is a Certificate of Appropriateness (CA) and they are ask to come here or the redevelopment entity and we are advising the planning board and the redevelopment entity; the planning board still has the power to not take the advice;

Mr. Cucchiaro – it depends on how it gets here; if in jurisdiction of HPC granting CA, we can't overturn that; there are other project referred to the HPC for comment, whereas referred for comment and recommendation we will take into account of making decision; where it is the subject of issuing a CA, that is the way it is;

Mr. Wildermuth – as a member of the HPC, Brianne need to recuse herself from the Planning Board;

Mr. Cucchiaro – I have not dealt with in a town of a combined Board, but yes, you should not sit in judgement of your own action;

Mr. Wildermuth – what is the legal criteria and threshold to be met in order to appeal something like that;

Mr. Cucchiaro – it is not a free for all at the HPC, if you comply with design guidelines you should get a CA; if you don't comply you get denied or some relief granted; when it comes here, the applicant may argue they comply with the design guidelines and HPC got it wrong; we would look at it, whether what is proposed fits within what is permitted in the design outlines; if seeking some relief and did not get,

then that question been answered, comply or not; then we decide if we agree with the HPC whether we should grant or not; it is a review, so we are not looking for a presumption of validity that we are affording to; reviewing anew and determining; that would be the rarer of the two; mostly you would be looking to see if the design guidelines were properly interpreted and complied to the plan;

Ms. Van Vorst – in cases where there is not a CA, just an advisement do I recuse myself or only an appeal;

Mr. Cucchiaro – that is correct, only appeal and the same relates to environmental planning boards; statute states you are sitting in both places, you are not sitting in judgment or judicial capacity over recommendation; the law contemplates HPC and Environmental Commission, members sitting on the board;

Ms. Argote-Freyre – I certainly appreciate Ron taking the time for the reminders or guidance when we sometimes get off track or something being considered in appropriate material;

Ms. Crombie – I agree, I love when you talk to us; I sincerely appreciate;

Councilwoman Rogers – nothing right now;

Mayor Kane – if denied to HPC and appeal to this board and this board denies then the final goes to the governing body;

Mr. Cucchiaro – no, they would appeal to the Superior Court; this body would defend because the decision they appeal is no long the HPC decision but the decision of this body reviewing that decision;

Mayor Kane – follow up to Mr. Jackson, the Christopher House is why everything was redone; Council wise, we are moving along, redevelopment starting;

Ms. Napolitano – next meeting – May 11, two bulk variances;

Mr. Barricelli – thank you all for coming tonight; anyone, motion to adjourn

Councilwoman Rogers made a motion to adjourn, Ms. Argote-Freyre seconded;

All in favor, aye (all) – nay (none)

Meeting adjourned at 7:24 PM.

Respectfully submitted,

Dominica R. Napolitano