

FREEHOLD BOROUGH PLANNING BOARD
MINUTES OF JANUARY 9, 2019

MONTHLY MEETING

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, January 9th 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.

Chairman Reich opened the meeting which was a continuation from the reorganization meeting - no Salute to the Flag.

ROLL CALL

PRESENT	MR. WILLIAM BARRICELLI
ABSENT	MR. CORNELIUS BEGLEY
PRESENT	MS. JAMIE BENNETT
PRESENT	MS. MICHELE GIBSON
PRESENT	MR. GARRY JACKSON
PRESENT	MR. PAUL CEPPI
PRESENT	MR. JOSE GERONIMO
PRESENT	MR. ADAM REICH
ABSENT	COUNCILMAN GEORGE SCHNURR

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

Approval of Minutes from Planning Board Meeting October 24, 2018.

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

ROLL CALL

Yes	4	Barricelli, Bennett, Jackson & Reich
No	0	
Abstain	3	Ceppi, Geronimo & Gibson
Disqualified	0	
Absent	2	Begley & Councilman Schnurr

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

Applicant: Donald W. Schaffner
Application Number PB-BV-2018-018
Location: 31 Monmouth Avenue
Zone: R-4
Request: Bulk Variance Relief

Mr. Asadi – Good evening, my only witness is the property owner, Donald Schaffner;

Mr. Cucchiaro – swears in Donald W. Schaffner;

Exhibits

A-1 Planning Board Application 10-30-2018

A-2 Zoning Denial for Fence App 8-9-2018

A-3 Photo of site showing fence – undated

A-4 Survey – GTS Consultants 5-9-2007

A-5 Map and photos other locations – 6 pages

B-1 Abbington Completeness Report 11-21-2018

B-2 Abbington Engineering Report 1-3-2019

Kevin Asadi – ask Mr. Schaffner to describe lot in question;

Mr. Schaffner – corner of Monmouth Avenue and Stokes Street;

Mr. Asadi – as a corner lot, please advise board what is your front yard and what is your rear yard;

Mr. Schaffner – front of house faces Monmouth Avenue, front yard; and the rear of the yard runs along Stokes Street;

Mr. Asadi – when you purchased the home did it have a fence;

Mr. Schaffner – we purchased home just before September 11, 2000 and the fence was a wooden conforming fence which ran along Stokes Street;

Mr. Asadi – is there a fence between you and your neighbor on Stokes Street;

Mr. Schaffner – yes, a 6ft fence in part, because a tree fell and took part out; but was replaced to conform;

Mr. Asadi – so what was existing at the time was a 6ft tall stockade fence along the common lot line, correct; and the proposed fence for the application was selected to match that run;

Mr. Schaffner – yes, it runs along the common lot line; yes to match as well as to restrain my dog;

Mr. Schaffner – the fence when I moved in did not look great and we took out and replaced with a chain link fence but need to replace the chain link because it wasn't meeting out needs;

Mr. Asadi – you mentioned your dog, can you explain to the Board your life with the dog;

Mr. Schaffner – May 1, 2015 we began to foster a dog from Monmouth County ASPCA, he (Gibbs) was at the shelter for over a year and no one was interested in adopting him;

my wife volunteers at the ASPCA; prior to adopting him we had smaller dogs and that had since passed away; we also have another dog, Bianca; Gibbs is leash reactive and fence reactive to other dogs and people; meaning if someone walks along the property he reacts and runs toward them; Gibbs figured out he could climb the 4ft chain link fence and that frightened people; they would cross to the other side of the street to avoid him or run into the street if he ran after him; this caused concern for the people and the dog;

Mr. Asadi – is proposed fence already in existence;

Mr. Schaffner – it is; I contacted Jim LaPointe of LaPoint Construction, who I have used for a number of other jobs for my home; I explained my concern regarding the fence and Jim did not file a permit; he built us a great fence and the dogs are much less reactive and have had no escapes; I have had people comment on how much they like the fence; we soon learned after construction that it wasn't compliant with the Borough ordinance;

Mr. Asadi – what you found out from the Borough was different than what you were told from the contractor;

Mr. Schaffner – correct; contractor advised we did not need a permit to replace existing fence;

Mr. Asadi – in the letter from the Borough engineer, there was a comment about how far from the corner of Monmouth and Stokes is the fence begins, is it greater than 30 feet;

Mr. Schaffner – yes, the fence is about 100 feet away; well away from the corner;

Mr. Asadi – the engineer also requests how far is the fence from the curb of Stokes Street; and the closest point to the sidewalk;

Mr. Schaffner – measured in 2 places, the Monmouth Side and the Stokes side, it varies from 9 feet to about 7 feet, 8 inches; and approximately 1 foot from the sidewalk;

Mr. Asadi – the property along Stokes is how long;

Mr. Schaffner – approximately 173 feet, per the survey;

Mr. Asadi – the portion of the property where the fence is, what is directly across the street;

Mr. Schaffner – basically a vacant lot;

Mr. Asadi – if you look at A-5 the map with photos, you will see other lots with similar fences to what the applicant proposes;

Mr. Cucchiaro – the way you just phrased it is more accurate than what is on the exhibit, stating in violation; we don't know that; and it helps show it is not out of character and worth taking look for the negative criteria; Mr. Asadi what would be best is to review the three (3) areas of variance relief that you need; the applicant has given a pretty detailed testimony as to how it is and how this particular fence was selected; let's identify what

the variance relief is and the purpose of the ordinance, what is supposed to achieve; why this proposal still achieves it and why it doesn't cause any detriment;

Mr. Asadi – the three (3) variances are required; (1) maximum fence height, 4 feet in front yard; 6 foot proposed; (2) maximum fence height 5 feet along the side yard – section that is along lot 1; (3) maximum 50% fencing in the front yard area maybe solid; the purposes of the MLUL and the ordinances are to promote public safety; there is testimony about excitability of this dog and how he frightens passers by; while having a dog is normal and the proposed fence promotes public safety, keeps the dog from escaping, cuts down on the ruckus the dog would otherwise be making, promoting the general welfare; moreover, the fence, as testified was done to match fencing that was existing; keeping it uniform, esthetically pleasing; those are the purposes advanced by this application and the testimony shows the benefits out way the detriments; benefits specifically, the fence screens the public from the excitable and sometimes frightening dog; it prevents the dog from becoming alarmed; cuts down on unwanted noise during the day or at night; it prevents the dog from scaling the fence; as for detriments, I don't see any actually detriments;

Mr. Cucchiaro – to be fair your not a planner; we will base it upon the testimony of the applicant; if I could supplement to your argument; I wouldn't say it is associated or focused with this particular dog, a variance has to be associated with the land more than the people and animals; I think, listening to the applicant, it would make this particular lot more suitable for any owner of pets, and helps create a diversified housing stock where we can have a neighborhood where people can exercise their preferences of how they want to live and the animals they want to live with, without detriment to neighbors; this is particular amplification of that but not limited to this one particular situation; it makes this property more available for certain types of life styles;

Also where the 50% solid and this fence is 100% solid, Bill if you could weigh in on that and the purpose on this and why or how this is affected here;

Mr. Wentzien – on the direct surface, when in the front yard at an intersection this being a corner lot, having a solid fence in the front yard area, it would obstruct your view driving, trying to make turns or check for sight line visibility; a solid fence could block your view and make it very dangerous; that is not the case here, the fence is in the frontage but away from the intersection; any concern from that is not there; only other reason is it is not permitted in any residential zone and goes to the esthetics look; you would normally see an open type fence;

Mr. Asadi – directly across the street is kind of a vacant lot with a two family house, secondly and just past our house, across the street on Stokes is one of the examples of a similar fence and is consistent with the character of the neighborhood at the corner lots in this area; we don't believe there would be any impairment to the zoning plan for those reasons;

Mr. Jackson – do you know if the fence you reference is a 6 foot fence; is it a new fence

Mr. Schaffner – yes, I stood next to and it came up to me – I’m 6 foot; you can see by the over growth in the photo it has been there for a while; as far as I know it has always been there;

Mr. Jackson – when you spoke to code enforcement did you ask, why is that fence allowed and mine is not; just curious if they would have an explanation;

Mr. Schaffner – I did not;

Mr. Jackson – you said you had a chain link fence, did you get a permit for that fence;

Mr. Schaffner – yes,

Mr. Jackson – you didn’t think you needed for the next fence;

Mr. Schaffner – I trusted my contractor, he said you’re replacing an existing fence, you don’t need a permit;

Mr. Barricelli – (1) I reject the notion that because other people have illegal fencing that we should grant you relief for your illegal fence; (2) when you were speaking with LaPointe, did you discuss any other options, like put the fence for the dog inside the property and perhaps shrubbery on the road side; that would be esthetically pleasing; what are the dimensions for the run for the dog, where the dog plays; Could you have put a 6ft fence on the inside of the property;

Mr. Asadi – it is essentially everything back here; it is a fenced in back yard; it is not a dog run; Bill you would still have a problem because the ordinance is front yard set back is 25 feet and the front yard is 55 feet and that would cause the lot to be dysfunctional;

I do agree that other people are violating things that we should not be permitted to violate also; that wasn’t the point of the map, it was strictly to show you other fences in the area and this fence would not be inconsistent with the character of the neighborhood; not that they got to do it, why can’t we;

Mr. Reich – Mr. Asadi do you have anything else to present;

Mr. Asadi – no

Mr. Reich – Mr. Wentzien, were the questions in your report answered;

Mr. Wentzien – yes,

Mr. Reich – begin Board deliberations;

Mr. Gibson – no questions, I would like to hear what the rest of you have to say about it honestly;

Mr. Ceppi – I agree with my colleague and happy to hear it is not why can they and not us; I did drive by on the way over tonight and there don’t seem to be any visual

obstructions; I come down Monmouth towards my home on a regular basis and never had a problem; replacing an existing fence so it can be a reasonable thing; you should have gotten a permit, you are clearly in violation; I don't have necessarily have any issue or concern, it is your back yard, not in anyone's way; I'm okay at this point;

Mr. Jackson – I clearly agree there is no obstructions, if there was it would be a none starter for me; one of the issues we face with these issues, if someone does something they shouldn't have done and they don't get caught, alright, no big deal; if they do get caught, they come here and I hate to reward someone for doing something they shouldn't have done; at the same time, I do agree that it is consistent with what is going on in that neighborhood; I will take that into consideration when it comes time to vote;

Mr. Geronimo – I agree, there is always a concern with the precedent you're setting when you are doing things that are out of the common law and procedure we have; however there don't seem to be any issues from a safety prospective; I think the point from Jim LaPointe's advice can be argued many different ways, it is something that should be considered; I don't have any objections to what is being proposed;

Ms. Bennett – I don't follow the hardship argument;

Mr. Cucchiaro – they are making a hardship argument; they are making a C-2 argument, the flexible C variance;

Ms. Bennett – did I miss read the application;

Mr. Asadi – we marked both but the crux of the case is that we advanced of the purposes of the land use law benefits out way the detriments, the public good wouldn't be substantially detrimental and granting this variance would not substantially detriment the zoning plan;

Ms. Bennett – I don't disagree as to the negative criteria; let me ask a question – so the fact that we could grant a variance of a waiver, as to height and capacity – there a two (2) separate variances;

Mr. Cucchiaro – there are three (3); fence height front yard, fence height in the side yard; and the set backs

Ms. Bennett – I'm not even at the side yard; I live by here and walk by here; it looks great, I miss seeing the dogs but it is intimidating, I'm short and that may play into it; the street slopes down toward the back of the fence and as you walk along the 6 foot fence feels even higher; I don't disagree with the other fences in the neighborhood that are as high but they change the feel of the neighborhood; I also agree to the point, that we are defining the character of the neighborhood by characteristics that we don't have testimony if people came in and got a waiver to put up the fence or it just happened and changed the character of the neighborhood and now we are relying on this condition maybe evolved but hasn't been changed in our ordinance; I have a little hesitation of relying on these other large fences as justification to put other large fences in the neighborhood;

Ms. Gibson – how did you end up here;

Mr. Cucchiaro – a violation from the zoning officer;

Mr. Barricelli – I don't like the idea of the fence; I don't know how this happen, someone that has done so much work in Freehold, years, highly respected and comes up with a fence like this without checking with someone; having said that, it does not present a safety hazard to drivers; that is the only good thing I can say about this fence; I understand what happen, I don't like it but I think I can understand how it all developed;

Mr. Reich - I think the fence does not cause a detriment, no sight line issues for vehicular traffic; allows people to walk by the property without being intimidated by the dog; also crosses into public safety as you stated pedestrians had jumped into the street to avoid the dog on a few occasions and the concern for the dog that had learned to climb the chain link fence; it does fall in with similarities of the neighborhood, your not taking away from the fabric of the neighborhood by installing the fence; agree it is a very imposing fence, offset stockade would be less imposing but as the home and pet owner I understand how you would want to completely block the view of the fence reactive view dog; other than it being a large imposing fence, based on the requested variances I don't see a detriment to the negative or positive criteria; it is always a difficult situation when ask to grant variances for applications after the work is already completed; hopefully going forward you rely back to your contract to ask questions;

Mr. Geronimo – have you ask Jim LaPointe about anything he could do to alleviate what is going on;

Mr. Schaffner – he feels terrible about all this;

Mr. Cucchiaro – I think Mr. Geronimo means did he offer to add any shrubbery or something, alternate fencing; any conversations with the contractor to make this look as esthetically pleasing as possible;

Mr. Schaffner – no substantial conversations at this point;

Mr. Reich – it is already installed and it would be difficult to replace now but you could take a foot off the top and add lattice work; it may feel less overbearing to the passers by;

With all that said, I don't see why we could not put forth a resolution to grant the variances requested for this matter; I do not have any concerns voting in favor to grant;

Mr. Cucchiaro – an applicant does not derive any advantage from constructing the fence before going to the Planning Board; you view the application as if nothing is there; either they satisfy the criteria or they don't; the fact that it was built without permits does not give them a leg up; also you don't get to punish him either; the fact that it is up does not mean you should punish him; they either satisfy the negative and negative criteria or they don't;

Mr. Reich – any comments or questions from the public; seeing none

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

ROLL CALL

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

Mr. Reich – would any like to put forth a motion;

Ms. Gibson made a motion to approve the variance; Mr. Barricelli seconded the motion;

ROLL CALL

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

Mr. Reich – thank you gentlemen;

Mr. Reich – I would like to officially welcome Mr. Jose Geronimo; tell us about yourself, your background;

Mr. Geronimo – I live at 30 Kiawah Ave, love the neighborhood; I have 2 young children and as going through the school changes and being a part of the participatory budget process I got a feel for how important it is to contribute to the town; we love it here and want to help improve; the opportunity presented itself, I expressed my interest and here I am; I work in pharmaceutical development; I am a program manager, doing project management for life cycle management and products in oncology and cardio metabolic diseases; I am familiar with budget and program strategy etc.; hoping to help with some of my skill sets to bring a different perspective to the team to help our community improve and am happy to be here;

Mr. Reich – what is your schedule like on the fourth (4th) Monday of every month; I have stepped down from the Historic Preservation Commission (HPC) and we no longer have a liaison between the Planning & Zoning Board and the HPC; for your knowledge the town has a downtown historic core and there is a commission that governs the design standards of the downtown core, mostly business and some residential; they meet on the fourth (4th) Monday of the month; I have been the liaison for five (5) years;

Mr. Bellina – Jose and I are meeting in a few days and will discuss in greater depth the responsibilities on the Board and can discuss HPC;

Mr. Reich – I attended the reorganization meeting on Sunday, a fantastic event; Sharon (Councilwoman Shutzer was at the meeting) you spoke wonderfully as always; I noticed on the agenda, The Melvin Group was retained as the Professional Planner;

Mr. Bellina – they are going to guide us through the redevelopment process;

Mr. Reich – because of that I assume that is why there wasn't a Land Use committee assigned this year;

Mr. Bellina – that was the Mayor's decision;

Mr. Reich – thinking we should put together a subcommittee of the Planning and Zoning Board to review the ordinances and master planning changes that are presented until Melvin Group are up to speed;

Mr. Bellina – they are a lot closer than you think Mr. Chairman I wouldn't do anything at this juncture;

Mr. Cucchiaro – just so you, the Board are aware, you have a critical role to play in that process;

Mr. Reich – I understand but my thought was that we get a packet on a Friday night, we have a until Wednesday, to review and vet and vote on it;

Mr. Cucchiaro – that is not the case with The Melvin Group; the redevelopment process involves the governing body adopting a resolution, referring it to this Board, the Planning Board for a preliminary investigation; that is a public hearing which requires public notice; you can't just mail it out on a Friday and say your going to have a meeting; there are 2 public notices that happen in advance of the preliminary investigation; it is not casual; this is governed by the local and redevelopment housing law; its more notice than required under the MLUL; under the MLUL when a application get referred here there is no notice required to the public, a hearing is not even required; this is very different; it is not new but new for each of you;

I want to be clear, it is a two (2) part process; the first part of the process is whether the land satisfies the criteria to be declared an area in need of redevelopment; so you will hear⁴ about in part 1, this is what the land is, this is what the characteristics are, these are the limitations, these are the challenges, this is what the statute lays out, it is the criteria for declaring an area in need of redevelopment and this is why we believe these collections of properties satisfies one or more of them; that is what the Melvin Group is going to do; the only thing we are going to do at that point in time is say yes we are agree it is an area in need of redevelopment or no, or we agree some of the lot should be and some of the lot should not be; that is then presented to the Council and the Council will make a determination as to some all or none of the lots are going to be declared; if some or all of the lots are declared in need of redevelopment part 2 happens; that is the adoption of the redevelopment plan; that tracts a little more of the ordinance referral; they have to introduce at the governing body, then that is referred here to the Planning Board for review of consistency of the Master Plan and goes back to the Governing Body for a public hearing; but what the Melvin Group is first going to present to you is not what we see being developed, it is whether these properties satisfies the criteria to be declared an area in need of redevelopment;

Mr. Reich – 2 questions – what about recommendations to change the Master Plan that are not related to the redevelopment projects; ordinance changes, someone has an idea, something that is not related to the Melvin Group tasks;

Mr. Cucchiaro – I recommend you wait until our next meeting when our Class III member is here, Councilman Schnurr because he can provide some further information;

Mr. Reich – I just want to make sure that we aren't receiving a package on Friday and required to provide something on the following Wednesday;

Mr. Cucchiaro – under the MLUL you have 35 days to review something that is referred to you; so if the Board feels it just can't review it in a meaningful manner it can be tabled;

Ms. Bennett – can I ask where we are in that cycle with The Melvin Group;

Mr. Cucchiaro – that process was funded by a grant; they are not in the beginning stages, they are toward the end in terms of having performed all the analysis to determine whether they satisfy the criteria;

Mr. Bellina – one of their recommendations for the Vision Plan was to make it part of our Master Plan; they will definitely be hear to give a presentation on that; I think the Governing Body will be asking the Planning Board to do the study, preliminary investigation at either the January meeting or the February meeting;

Mr. Reich – we will wait for Councilman Schnurr at our next meeting and discuss again if needed;

Mr. Reich – HPC notes; HPC has new member Brianne Koslowski, a conservationist working primarily with stain glass restoration; Kevin brought in Lee Moffitt and they will be working on interactive map for the Borough's website that allows someone digitally visiting our town to look at different historic places and read about the history of the town;

Mr. Reich – any public comments, you are the public tonight;

Sharon Shutzer, 76 West George Street; I just want to say welcome Jose and among other things on his resume, my daughter says he is an excellent neighbor;

Mr. Barricelli – last year there was a young man that sat next to Bill and advised us on certain details, his he still with us; is there a need for an appointment;

Mr. Bellina – no he was for a particular case Bill;

Mr. Cucchiaro – that was Justin, that was an intricate use variance where we needed a planner for the Board;

Mr. Reich – Joe anything coming down the line for upcoming meetings;

Mr. Bellina – there is an application for 32 Broad Street, it will be heard at the first February 2019;

Mr. Reich – I made a request for a refresher and now with Jose joining us it would be a good idea;

Mr. Cucchiaro – when we have night when we have no applications that might be a good night; we are pretty slow right now;

Mr. Jackson – I would like the minutes to reflect the appreciation for Annette Jordan's years of service to the Planning Board; she is not here because she was elected to Council and normally that would have been done after the election but we have not had a meeting since the end of October;

Mr. Reich – that is all, anyone want to make a motion to adjourn;

Mr. Jackson made a motion to adjourn, seconded by Ms. Bennett. All in favor. Meeting adjourned at 8:01 PM.

Respectfully submitted,

Dominica R. Napolitano