

**Borough of Freehold  
Planning Board  
Agenda No. 21-03  
January 27, 2021**

The Freehold Borough Planning Board will hold a Video Conferencing Online Meeting on Wednesday, January 27, 2021 at 7:00 PM in accordance with the New Jersey State Emergency Declaration.

1. Call to order and statement of compliance. Adequate notice of this meeting has been provided by posting a copy of public meeting dates on the municipal bulletin board and by sending a copy to the Asbury Park Press and the News Transcript and filing a copy with the Municipal Clerk.
2. Roll call of members and consultants.

**Mr. Kevin A. Kane, Mayor  
Mr. William Barricelli, Class IV Member  
Mr. Paul Ceppi, Class IV Member  
Mr. Michael McCabe, Class IV Member  
Mr. Michael Wildermuth, IV Member  
Ms. Shealyn M.S. Crombie, IV Member  
Ms. Caridad Argote-Freyre, IV Member  
Mr. Garry Jackson, Class II Member  
Mrs. Margaret Rogers, Class III Member  
Ms. Brianne Kozlowski, Alternate Member I  
Mr. Ronald D. Cucchiaro, Esq., Board Attorney  
Mr. William Wentzien, PE, Board Engineer**

3. Approval of Minutes from the Reorganization Meeting of January 13, 2021. (See Attachment I)
4. Approval of Minutes from the Meeting of January 13, 2021. (See Attachment II)
5. Memorialize Resolution for Application Broadway Family Health Care  
Applicant Number: PB-UV-2020-005  
Location: 13 Broadway, Block 42 Lot 10  
Zone: R-4  
Request: Use Variance & Final Site Plan  
(See Attachment III)

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6. Adjourn.

\*All backup material in regards to the agenda can be viewed in the Land Use office and on our website [http://www.freeholdboroughnj.gov/PB/PB\\_agendas.html](http://www.freeholdboroughnj.gov/PB/PB_agendas.html)

*Dominica R. Napolitano*

Dominica R. Napolitano  
January 22, 2021

# **ATTACHMENT I**

**FREEHOLD BOROUGH PLANNING BOARD  
REORGANIZATION  
MINUTES OF JANUARY 13, 2021**

**MONTHLY MEETING**

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, January 13th at 6:45 p.m. via remote session, began at 6:54pm; called to order by Ronald D. Cucchiaro, Esq., he requested Mr. Barricelli to read opening.

Mr. Barricelli stated that this meeting was provided in accordance with the Open Public Meeting Act, by providing a notice at 48 hours prior to commencement.

Ronald D. Cucchiaro, Esq., from Weiner law Group preformed the oaths of office for members' terms that expired at the end of 2020. Swearing into the Oaths of Office for the following appointments following appointments; Mr. Paul Ceppi, Class IV Member and Mr. Michael McCabe, Class IV Member, both for a four-year term and Mr. Garry Jackson, Class II Member for a one-year term.

Mr. Cucchiaro called for the Pledge of Allegiance.

**ROLL CALL (members and consultants)**

PRESENT	Mr. William Barricelli
PRESENT	Mr. Paul Ceppi
PRESENT	Mr. Michael McCabe
PRESENT	Mr. Michael Wildermuth
PRESENT	Ms. Shealyn M.S. Crombie
PRESENT	Ms. Caridad Argote-Freyre
PRESENT	Mr. Garry Jackson
ABSENT	Councilwoman Margaret Rogers
PRESENT	Brianne Kozlowski

Board Attorney Ronald D. Cucchiaro, Esq. from Weiner Law Group, read Item No. 5A on the Agenda as follows with a reminder that only Class IV members can be elected Chair and Vice Chair:

**Reorganization for 2020 - Election of Chairperson**

Mr. Jackson made a motion to nominate William Barricelli, seconded by Ms. Crombie.

No Discussion.



Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Barricelli thanked the Board.

Mr. Barricelli read Item 5B on the Agenda as follows:

**Reorganization for 2020 – Election of Vice Chairperson**

Mr. Jackson nominated Michael Wildermuth, seconded by Mr. Barricelli.

No discussion.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Wildermuth thanked the Board.

Mr. Barricelli read Item 5C on the Agenda as follows:

**Reorganization for 2020 – Appointment of Planning Board Secretary**

Mr. Ceppi made a motion to appoint Dominica R. Napolitano, seconded by Mr. Jackson.

No discussion.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Ms. Napolitano thanked the Board.

Mr. Barricelli read Item 5D on the Agenda as follows:

**Reorganization for 2020 - Resolution Establishing Meeting Schedule**

Mr. Barricelli brought up that September 8, 2021 is the last night of Rosh Hashanah do we want to keep that date;

Mr. Cucchiaro advised we could either choose another date or only have one (1) meeting date in the month of September 2021;

Mr. Jackson agreed and suggested that we remove September 8, 2021 and only have one (1) meeting date in September 2021;

Mr. Wildermuth made a motion to approve the meeting calendar by removing September 8, 2021 with only one (1) meeting date in September, (September 22, 2021), seconded by Mr. McCabe.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Barricelli read item 5E on the Agenda as follows:

**Reorganization for 2020 – Resolution Appointing Planning Board Attorney**

Mr. Ceppi made a motion to authorize a contract with Ronald D. Cucchiaro of Weiner Law Group, LLP, seconded by Mr. McCabe.

Mr. Barricelli – stated that he was very pleased with Mr. Cucchiaro and how well he handled everything during this pandemic and be very aware of all the new rules and regulations during this time; thank you.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Barricelli read item 5F on the Agenda as follows:

**Reorganization for 2020 – Resolution Appointing Planning Board Engineer**

Mr. Ceppi made a motion to appoint a contract to William T. Wentzien of Abbington Engineering, LLC, seconded by Ms. Argote-Freyre.

Mr. Barricelli, William we appreciate all you have provided, you have given us some great reports with the various applications this past year; thank you.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Wentzien thanked the Board.

Mr. Barricelli read item 5G on the Agenda as follows:

**Reorganization for 2020 – Resolution Designating Official Newspapers**

Ms. Argote-Freyre made a motion to appoint Asbury Park Press, News Transcript, Star Ledger and Times of Trenton seconded by Mr. McCabe.

No discussion.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Barricelli - anything new, there being no further business, Mr. Jackson made a motion adjourn, seconded by Mr. Wildermuth.

Roll Call:

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Meeting Adjourned at 7:08 PM.

Respectfully submitted,

Dominica R. Napolitano

## **ATTACHMENT II**

**FREEHOLD BOROUGH PLANNING BOARD**  
**MINUTES OF JANUARY 13, 2021**

**MONTHLY MEETING**

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, January 8th at 7:00 p.m. (7:08p.m.) via remote session.

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.

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

**ROLL CALL**

PRESENT	Mr. William Barricelli
PRESENT	Mr. Paul Ceppi
PRESENT	Mr. Michael McCabe
PRESENT	Mr. Michael Wildermuth
PRESENT	Ms. Shealyn M.S. Crombie
PRESENT	Ms. Caridad Argote-Freyre
PRESENT	Mr. Garry Jackson
ABSENT	Councilwoman Margaret Rogers
PRESENT	Brianne Kozlowski

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

**Approval of Minutes from Planning Board Meeting December 9, 2020.**

Mr. McCabe made a motion to approve the minutes, Ms. Argote-Freyre seconded.

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
No	0	
Abstain	0	
Absent	1	Councilwoman Rogers

Mr. Barricelli – Brianne anything from HPC; most recent meeting was awning approval; I am learning to navigate between both Planning Board and HPC and learning the rules, dos and don'ts; I appreciate any guidance anyone wants to give or any information; thank you;

Mr. Barricelli – thank you; anyone else; hearing nothing; anyone to adjourn;

Mr. Wildermuth made a motion to adjourn, Mr. Ceppi seconded;

Yes	8	Barricelli, Ceppi, McCabe, Wildermuth, Crombie, Argot-Freyre, Jackson and Kozlowski
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No	0	
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Abstain	0	
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Absent	1	Councilwoman Rogers
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Meeting adjourned at 7:14 PM.

Respectfully submitted,

Dominica R. Napolitano

## **ATTACHMENT III**



Prepared by:

THE PLANNING BOARD OF THE BOROUGH OF FREEHOLD  
(JOINT LAND USE BOARD)

BLOCK 42, LOTS 10 AND 11  
APPLICATION NO. PB-UV-2020-005

## RESOLUTION

WHEREAS, 13 Broadway Realty, LLC (Broadway Family Health Care), hereinafter referred to as the “Applicant”, is the owner of premises known as Lots 10 and 11 in Block 42 as shown on the Tax Map of the Borough of Freehold and located at 13 Broadway; and

WHEREAS, virtual public hearings were conducted by the Freehold Borough Planning Board on October 28, 2020 and December 8, 2020; and

WHEREAS, the Planning Board also considered the following Exhibits at said meeting which were marked into evidence and enumerated as follows:

A-2 Planning Board Application Form, filed September 18, 2020.

A-3 Zoning Denial, dated June 16, 2020.

- A-4 Site Plan Application, dated September 14, 2020.
- A-5 Site Plan Checklist, dated September 14, 2020.
- A-6 Plan entitled 'Variance/Minor Site Plan, Tax Lot 10, Block 42, 13 Broadway, Freehold Borough, Monmouth County, New Jersey', prepared by Geller Sive & Company, consisting of two (2) sheets. Sheet 1 dated September 11, 2020, revised to November 13, 2020. Sheet 2 dated November 13, 2020.
- A-7 Turning Movement Plan, prepared by Geller, Sive & Company, consisting of one (1) sheet, dated November 13, 2020.
- A-8 Architectural plans entitled 'Office Plan Alterations, Real Estate Investments, Inc., 13 Broadway, Freehold, NJ 07728', prepared by Bach & Clark, LLC, consisting of two (2) sheets, labeled EX1 & EX2 are dated July 16, 2020, indicating existing conditions.
- A-9 Architectural plans entitled 'Office Plan Alterations, Real Estate Investments, Inc., 13 Broadway, Freehold, NJ 07728', prepared by Bach & Clark, LLC, consisting of three sheets, labeled A-1, A-2 & A-3, indicating proposed conditions. A-1 & A-2 are dated November 5, 2020. Sheet A-3 is dated July 16, 2020.
- A-10 3 photo images of existing site, black and white, print date of September 15, 2020.
- A-11 Easement Agreement, dated April 30, 1987.
- A-12 Easement Agreement, dated August 27, 1998.
- A-13 Historic Preservation Advisory Commission Resolution, dated October 26, 2020.
- A-14 Business Plan, consisting of 5 sheets, no date
- A-15 Tree Assessment Report prepared by Shelterwood Forest Managers, LLC, issued November 27, 2020.
- B-1 Abbington Engineering Report dated October 12, 2020
- B-2 Abbington Engineering Report amended December 2, 2020

WHEREAS, the Freehold Borough Planning Board carefully considered all of the evidence, testimony and exhibits presented including questions and testimony of interested parties and based thereon has made the following findings of fact and conclusions of law:

1. The subject Property is identified as Block 42, Lot 10 on the tax map of the Borough of Freehold and is more commonly known as being located at 13 Broadway within the Freehold Center Historic District Area and the B-1 (Office Commercial) Zone. The subject Property contains 5,954 s.f.

2. The subject Property is currently improved with a 2 ½ story building which fronts on Broadway. The rear of the subject Property is primarily paved and contains eight (8) non-striped parking spaces. Access is provided via a paved driveway from Broadway. The rear parking area is also directly accessed by Lot 11 into the South. The existing building is vacant and was formerly used as a doctor's office and architect's office.

3. The Applicant proposes the following development:

- a. A change of use to a Residential Health Care Facility, with 8 Bedrooms.
- b. The Applicant shall provide three (3) meals per day, dietary services, recreational activities, supervision of medications, supervision of and assistance to activities of daily living, and assistance to obtaining health services.
- c. Seating facilities are provided for twelve (12). Ten (10) for residents, and two (2) for service personnel.
- d. The proposed use will utilize both floors, the basement and the attic.
- e. First Floor: 3 Bedrooms, Bathroom, Dining Room, Living Area, Reception.
- f. Second Floor: 5 Bedrooms, 3 Bathrooms.
- g. Basement: Kitchen, Pantry, Laundry, Storage, Utility, Mechanical.
- h. Attic: Office Area, Staff Area, 1 Bathroom.
- i. Handicapped Access Ramp and Stairs to rear building access.
- j. Mill and Repave a portion of the rear parking area.
- k. Stripe the rear parking area to delineate a handicapped parking space and vehicle parking spaces.
- l. The Site Plan delineates 14 parking spaces will be provided on-site. One of which will be for handicapped parking.

4. Counsel for the Applicant, Vincent E. Halleran, Jr., Esq., stated that the Applicant was seeking use variance relief along with preliminary and final site plan approval in order to permit the conversion of the existing vacant building into a residential healthcare facility which is not permitted in the Zone.

5. Testimony was then provided by Mark Vaysberg who identified himself as a representative of the Applicant. Mr. Vaysberg stated that the Applicant owned and operated other buildings in the Borough and enjoys running businesses in the municipality.



6. Testimony was then taken from Daniel Vaysberg who also identified himself as a representative of the Applicant. He began by providing the Board with a history of his professional background. He stated that he is a graduate of Rutgers University and had previously works as an operations analyst at the Jewish Renaissance Medical Center. This included grant writing and electronic health systems operations. Mr. Vaysberg testified that the Applicant was seeking use variance relief in order to convert the existing vacant building in to a luxury residential health care facility.

7. Mr. Vaysberg further testified that the proposed healthcare facility would operate 24/7 and provide three (3) meals a day to residents, laundry services, housekeeping services and medication supervision. He then explained that the use would be regulated by the New Jersey Department of Community affairs. Mr. Vaysberg also stated that residents would be subject to a review process which would include a criminal background check and eviction history. The process would also include an emotional and mental assessment to determine compatibility with the resources of the facility.

8. In response to questions from the board, Mr. Vaysberg stated that residents would be permitted to drive. He further explained that one (1) employee would live on the site with others having shifts. He stated that the attic area would be converted into a bedroom for the onsite employee with a separate bathroom and also an area on the third floor for the shift employees. He further testified that residents would attend medical appointments off site. Mr. Baysberg then testified that the employees would be licensed by the Department of Community Affairs.

9. Members of the public were then permitted to cross-examine Mr. Vaysberg. Paul Saker identified himself as the owner of 9 Broadway and asked for greater clarification concerning the characteristics of the potential residents as well as the total number of residents. Daniel Vaysberg replied that the proposed use was not a substance abuse facility. He noted that they prefer to cater to seniors and veterans. This, however, was not a requirement for residency. He then stated that between eight (8) and ten (10) residents would live on site.

10. Jean Holtz of 107 Broad Street questioned whether a certificate of need would be required to operate the proposed residential facility. Mr. Vaysberg responded that the Applicant had not yet proceeded through the DCA application process because it was waiting to see if it received approval from the Planning Board. He further anticipated that residents would primarily come from referral programs.

11. The Applicant's Engineer Robert Sive, PE testified that the subject Property is currently improved with a 2½ story building. He provided the following detail concerning the building:

- a. First Floor: 1,221 s.f.
- b. Second Floor: 1,157 s.f.
- c. Basement: 920 s.f.

d. Attic: 460 s.f.  
Total: 3,758 s.f.

12. Mr. Sive stated that the structure had previously been used as an office building. He identified a driveway entrance on the southern property line with a paved parking area in the rear. He explained that the access was a shared driveway with adjacent Lot 11 which circulates in a counter clockwise fashion. Mr. Sive further stated that Lot 11 has a property right to use the angled parking spaces on the southerly side of the subject Property as well as five (5) parking stalls along the rear of the subject Property.

13. Mr. Sive then testified that the Applicant was seeking to convert the existing office building into a residential healthcare facility. He stated that limited site improvements were proposed. These improvements included the installation of a handicapped ramp along the rear of the building, the striping of the parking area which would include an ADA space, parking lot repair where needed as well as the replacement of fencing.

14. Mr. Sive then provided additional testimony regarding the proposed parking. He stated that thirteen (13) total parking stalls were being proposed. He again stated that the five (5) parking stalls located along the rear property line were reserved for use by Lot 11. Eight (8) parking stalls would therefore be available to the proposed use. He stated that two (2) of these stalls would be reserved for employees. Mr. Sive then testified that eight (8) bedrooms were proposed for the building excluding the employee bedroom. He did not believe that a majority of the residents would have on site vehicles.

15. Mr. Sive then explained that the Applicant intended to continue the previously used curbside trash pickup system. He anticipated the cans would be stored in a screened area in the north-westerly portion of the subject property. Mr. Sive then testified that the Applicant did not believe there would be any deliveries once the site became operational. Only groceries transported by an SUV were anticipated. He next stated that the Applicant would engage in greater research on the existing tree which is causing the sidewalk to be elevated in certain areas. Mr. Sive also agreed to use traffic calming devices in order to control flow on the subject Property. He further testified that the existing stormwater management, sanitary sewer service and public water lines would be used for the proposed use. He then stated that a lighting plan would be provided demonstrating compliance with all Borough requirements.

16. In response to further questions, Mr. Sive testified that the main entrance would be located in the rear of the building and that the doors in the front would be used by residents to ingress and egress for leisure time activities such as walks. He stated that a walkway was not proposed. Mr. Sive further explained that the access drive is 12 ft. wide at its narrowest point. He testified that emergency vehicles enter through the access drive on Lot 10 and circulate through and egress from the subject Property. Mr. Sive further agreed to revise the landscaping plan to provide landscaping where the grass is currently growing wild at the top end of the angled parking spaces.



17. Mr. Sive was then cross-examined by members of the public. Ms. Holtz questioned why construction work was currently progressing on site. Mr. Sive responded that any work currently being performed involved interior renovation not associated with site plan approval.

18. Anthony Cammallre of 11 Broadway stated that he has the property right to five (5) of the parking spaces located at the rear of the subject Property and questioned whether his trucks would have an adequate turning radius in the proposed plan.

19. The Board's Professionals then stated that a cross-access agreement between lots 10 and 11 would need to be submitted for review and approval.

20. The Applicant's Architect Greg Clark, AIA testified that his office had been located in the existing building for ten (10) years and that he was very familiar with the subject Property. He stated that the proposed first floor would include three (3) bedrooms and two (2) bathrooms. He then stated that the proposed second floor would contain five (5) bedrooms with three (3) bathrooms with access to a public area. Mr. Clark then testified that the staff would have an area in the attic space which would have a bathroom. He stated that then entire building has a floor area of 3,758 s.f. Mr. Clarke next explained that the basement would have a kitchen area, a washroom as well as a bathroom for use by the staff as well as storage and mechanical areas.

21. Mr. Clark further testified that the Borough Historic Preservation Commission ("HPC") had reviewed the application and issued several recommendations. The HPC recommended that the entire structure be painted and to replace or repair the windows. He stated that the building has a set of windows from the 1920's as well as newer windows in the rear. The HPC further recommended the use of Powderpuff aluminum rails on the handicapped access and rails. Mr. Clark, however, believed that the use of PVC pipe would be better.

22. In response to questions, Mr. Clark testified that he would review if the use would require the building to have fire suppression system which included a sprinkler. He further explained that the staff living area had not yet been fully designed but would include a private bedroom with direct access to a bathroom. Mr. Clark also explained that the residents would have their meals in a main dining room. In response to further questions, Mr. Clark stated that bedrooms #4 and #6 could accommodate two residents each. It was anticipated that these rooms would have husband and wife couples. These two large bedrooms would also have their own private bathroom.

23. Mr. Clark was then open to cross-examination by the public. Ms. Holtz questioned why an elevator was not planned. Mr. Clark responded that the first floor would be handicapped accessible and that a lift would be installed if required by Code.

24. The Applicant's Planner James W. Higgins, PP testified that the subject Property containing 15,954 s.f. and is improved with a 2 ½ story building. He described the surrounding

area by identifying a construction office to the south, single family and two-family homes to the north, with an Elks Lodge across Route 79 to the north. Mr. Higgins characterized the proposed use as being similar to an assisted living facility which he asserted was an inherently beneficial use which presumptively satisfies the positive criteria to be granted use variance relief.

25. Mr. Higgins referenced the testimony of Mr. Sive and Mr. Clark and argued that the proposed use would result in an upgrade to the existing structure and result in an aesthetically improved property and create a visually appealing environment. He also did not perceive any appreciable increase in traffic. Mr. Higgins noted that staff would arrive at designated times. He also testified that the proposed use would create a gentle transition from the commercial uses to the north to the more residential uses in the south.

26. The hearing was then opened to the public at which time Ms. Holtz testified that she did not believe the proposed use was consistent with the vision of the Master Plan or Redevelopment Plan.

27. Mr. Cammallre testified that he operates T & K Contractors on Lot 11. He reiterated that he has a property right to use five (5) parking spaces at the rear of the subject Property. Mr. Cammallre expressed concern about his trucks being able to safely park and pull out of parking spaces.

28. The Applicant returned to the Board's December 9, 2020 meeting at which time Mark Vaysberg presented additional testimony concerning his experience in housing development and management. He also confirmed that a licensed nurse would be on site. Mr. Vaysberg then stated that he had met with neighbors to discuss the plans and had further revised the previously submitted plans to respond to the comments of Board members and Board professionals. He further confirmed that there would be 24/7 supervision on that site. Mr. Vaysberg explained that the first administrator shift would be from 8 am to 5 pm with the second shift starting at 5 pm and running to 8 am. He also noted that three (3) service staff employees would be on site. He stated that there will always be at least two (2) staff members and one (1) administrator on site at all times.

29. Mr. Sive then testified that the Applicant was now proposing fourteen (14) parking stalls. He also confirmed that eight (8) bedrooms with ten (10) beds were proposed for residents. Mr. Sive stated that this satisfied the parking requirements pursuant to the Residential Site Improvement Standards ("RSIS"). Nine (9) of these parking spaces would be available for the proposed use while the remainder would be used by adjacent Lot 11 through an easement agreement. He then confirmed that the sidewalk along the frontage would be replaced. The existing tree along the frontage would also be removed and replaced with two trees subject to review and approval of the Board Engineer. Mr. Sive then agreed that additional landscaping would be planted along the front of the subject Property subject to the review and approval of the Board engineer. Mr. Sive further agreed that the angled parking spaces would be used exclusively for passenger vehicles and that construction sized vehicles would be prohibited. This would also



be communicated via signage on the subject Property. He also confirmed that the parking circulation would need to be approved by the Borough Fire Official. Mr. Sive confirmed that the proposed milling and paving would include both the driveway as well as the angled parking spaces.

30. Mr. Clark then provided further testimony and confirmed that the first floor would be ADA compliant. He also explained that one bathroom had been eliminated on the first floor in order to create one large bathroom rather than two smaller ones. He stated that the second and third levels were not required to be ADA compliant under the construction code. Mr. Clark then explained that there would be a staff lounge area located in the attic area. He further confirmed that the structure would be served by a sprinkler fire suppression system.

31. Mr. Clark then testified that decorative elements would be added to the shingles in a "fish scale" design subject to the review and approval of the Board engineer. He also confirmed that two over two windows would be utilized in order to create a historic appearance. The shutters and trussers would also have a gingerbread appearance. He specifically testified that the structure would resemble the buildings located at 62 Broad Street and 111 West Main Street.

32. The hearing was then opened to the public at which time Carlo Castronovo of 104 Broad street testified that he has been a Borough resident for fifteen (15) years and explained that he has operated a business next door to the Applicant and found the operation to be quality and the owners to be good neighbors.

33. Anthony Cammallre testified that he is the owner of adjacent Lot 11 and that he was satisfied with all proposed parking.

34. Nicholas Mastriana of West George Street testified that he has known the Vaysbergs for an extended time and found them to operate quality sites within the Borough.

35. There were no other members of the public expressing an interest in this application.

**NOW, THEREFORE,** the Board makes the following conclusions of law based upon the foregoing findings of fact:

1. The Applicant requires use variance relief to permit the conversion of the existing building into an eight (8) bedroom group home.

2. Under the Municipal Land Use Law, a Board of Adjustment, when considering a "d" variance, cannot grant relief unless sufficient special reasons are shown and there is no substantial impairment of the intent and purpose of the zone scheme and Zoning Ordinance. In

addition, the burden of proof is upon the applicant to establish the above criteria. It is the Board's responsibility, acting in a quasi-judicial manner, to weigh all the evidence presented before it by both the applicant and all objectors, and reach a decision which is based upon findings of fact and conclusions of law and is not arbitrary, unreasonable or capricious.

3. The New Jersey Courts have been willing to accept a showing of extreme hardship as sufficient to constitute a special reason. The courts have indicated that there is no precise formula as to what constitutes special reasons unless the use is determined to be inherently beneficial, and that each case must be heard on its own circumstances. Yet, for the most part, hardship is usually an insufficient criteria upon which the Board can grant a variance. In addition, special reasons have been found where a variance would serve any of the purposes of zoning as set forth in N.J.S.A. 40:55D-2. However, in the last analysis, a variance should only be granted if the Board, on the basis of the evidence presented before it, feels that the public interest, as distinguished from the purely private interests of the applicant, would be best served by permitting the proposed use. In these instances, the Board must also find that the granting of the variance will not create an undue burden on the owners of the surrounding properties. The Board also notes the special reasons requirement may be satisfied if the applicant can show that the proposed use is peculiarly suited to the particular piece of property. With regard to the question of public good, the Board's focus is on the variance's effect on the surrounding properties and whether such effect will be substantial. Furthermore, in most "d" variance cases, the applicant must satisfy an enhanced quality of proof and support it by clear and specific findings by this Board that the variance sought is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. The burden of proof is upon the applicant to establish the above criteria.

4. The Board finds the Applicant has satisfied the positive criteria. The Board specifically concludes that the proposed group home is an inherently beneficial use pursuant to both the Municipal Land Use Law as well as the prevailing New Jersey case law. This means that the application is subject to the Sica standard and presumptively satisfies the positive criteria.

5. The Board also finds that the Applicant has satisfied the negative criteria. The Applicant has agreed to design the building to match other historic sites in the Borough. This includes the treatment to the shingles and windows. The Applicant has also agreed to replace the sidewalk, remove the existing tree and replace same with two new trees as well as additional landscaping. The Board also finds that the proposed parking complies with RSIS requirements and that adequate space exists to accommodate residents and employees. The proposed traffic circulation is also safe and efficient. The Board therefore concludes that the proposed use will take place in an aesthetically pleasing structure which maintains the historic character of the neighborhood, will not create undue additional noise or traffic and will fit well within the prevailing neighborhood scheme. The Board therefore conclude that there will not be any substantial detriment to the zone plan, the zoning ordinance or to the general welfare. The negative criteria has therefore been satisfied. The Board concludes that the positive criteria substantially



outweighs the negative criteria and that use variance relief may be granted pursuant to N.J.S.A. 40:55D-70d(1).

6. The Board also finds that any bulk variances and design waivers are subsumed within the granting of use variance relief. Puleio v. Tp. of North Brunswick Zoning Bd. of Adj., 375 N.J. Super. 413 (App. Div.) certif. den. 184 N.J. 212 (2005).

7. The Board further finds that the above analysis also applies to the review of site plan approval. The proposed use is inherently beneficial and will comply with all conditions attached hereto. There is no substantial detriment to the Zone Plan, Zoning Ordinance or general welfare. Preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50 are therefore appropriate in this instance.

NOW THEREFORE, BE IT RESOLVED by the Freehold Borough Planning Board based upon the foregoing findings of fact and conclusions of law, the Application for use variance relief pursuant to N.J.S.A. 40:55D-70d (1) along with preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50 to 13 Broadway Realty, LLC (Broadway Family Health Care) bearing Application Number PB-UV-2020-005 is hereby memorialized.

#### SPECIFIC CONDITIONS

1. The Applicant shall comply with all recommendations contained in the reports of the Board's professionals.
2. One of the on-site employees shall be a registered nurse.
3. An Administrator shall be on duty at all times and shall be ready and prepared to assist residents immediately.
4. There shall be at least two (2) staff members in addition to the Administrator on duty at all times.
5. The subject Property shall contain fourteen (14) total parking spaces.
6. Nine parking stalls shall be available exclusively for the staff and residents of the group home.
7. The angled parking spaces shall be used exclusively by passenger vehicles. Construction sized vehicles are expressly prohibited.
8. The parking restrictions for the angles parking spaces shall be expressed in appropriate signage subject to review and approval by the Board Engineer.
9. The easement between lots 10 and 11 shall be subject to review and approval of the Board Engineer and Board Attorney.

10. The sidewalk across the lot frontage shall be replaced subject to review and approval by the Board Engineer.
11. The recommended tree removal and replacement contained in the "Freehold Borough 13 Broadway Tree Assessment Report" prepared by Shelterwood Forest Managers, LLC shall be complied with.
12. The Applicant shall landscape the front portion of the subject Property subject to review and approval of the Board Engineer.
13. Then proposed parking circulation is subject to the review and approval of the Borough Fire Official.
14. The milling and repaving shall include the angled parking spaces.
15. The first floor shall be ADA compliant.
16. The structure shall have a fire suppression system which includes sprinklers.
17. The Applicant shall incorporate decorative shingles to the gables and roof which incorporate a "fish scale" design subject to review and approval of the Board Engineer.
18. The Applicant shall use two over two windows.
19. The Applicant shall incorporate the recommendations of the Historic Preservation Commission concerning treatment to the shutters and trusses subject to review and approval of the Board Engineer.
20. The design treatment to the structure shall mimic, to the extent possible, the appearance of the structures located at 62 Broad Street and 111 West Main Street.
21. The entire building shall be painted consistent with the recommendations of the Historic Preservation Commission.
22. This approval does not include any signage. Any signage must obtain all necessary approvals.
23. The location and screening of garbage cans shall be subject to the review and approval of the Board Engineer.
24. Bumper stops shall be added to the parking area subject to review and approval of the Board Engineer.
25. The final lighting plan shall be subject to review and approval of the Board Engineer.
26. The Applicant shall secure all necessary State approvals and licenses.

27. All residents shall be subject to a criminal background check.
28. The use shall be prohibited from being converted to a substance abuse facility.
29. The use shall cater to senior citizens and veterans.

#### GENERAL CONDITIONS TO APPROVALS

1. **Conditions and Agreements in Record.** Applicant shall comply with all other requirements, agreements and conditions contained in the record of the proceedings in this matter including those set forth in the reports of the Freehold Borough agencies, boards, commissions and staff which have not been satisfied or specifically waived by the Board.
2. **Escrow Accounts.** It is a condition of the approval granted by the Planning Board herein that the Applicant shall pay any additional escrow fees required in order to pay the expenses for professional services related to the application.
3. **Other Governmental Approvals.**
  - 3.1 **Monmouth County Planning Board.** If the within application is subject to review and approval from the Monmouth County Planning Board, and said approval has not been obtained, then the within approval shall be deemed to be conditioned upon the applicant securing approval from the Monmouth County Planning Board. If the Applicant has obtained such conditional approval from the Monmouth County Planning Board then such County conditions shall be satisfied as further conditions of this approval.
  - 3.2 **Freehold Soil Conservation District.** If the within application is subject to the New Jersey Soil Erosion and Sediment Control Act, and the applicant has not obtained certification of a soil erosion and sediment control plan from the Freehold Soil Conservation District, then the within approval shall be deemed to be conditioned upon the applicant securing certification of its soil erosion and sediment control plan.



**3.3 Department of Environmental Protection.** If the subject premises are affected by any freshwater wetlands or freshwater wetland transition areas the Applicant shall obtain from the State of New Jersey Department of Environmental Protection all required letters of interpretation, permits or other authority necessary to permit the development to proceed. Further, if the applicant requires any stream encroachment permit from the New Jersey Department of Environmental Protection, the securing of such permit shall be deemed to be a condition of this approval. If the application involves public water service, the Applicant shall obtain permits as required from the NJDEP Bureau of Safe Drinking Water relative to extension of the Borough water system. If this application involves public sewer service, the applicant shall obtain permits as required by the NJDEP Division of Water Quality to extension of sanitary sewers of either the Borough, Manasquan River Regional Sewage Authority and Ocean County Utilities Authority or the Borough and Western Monmouth Utilities Authority as applicable.

a. **State Highway Permits.** If the proposed development is on a State highway, the applicant shall obtain such highway access permits or other permits as shall be required by the State of New Jersey Department of Transportation.

4. **Modification of Plans.** In the event that any other agency having jurisdiction over the application or any portion thereof requires modifications of the plans approved by the Freehold Borough Planning Board, such modifications may require further action by the Planning Board and in no event shall the Freehold Borough Planning Board be deemed to have given authority for development of the project in any manner other than as shown on the approved plans herein. Any modifications to the plan submitted to the other concerned governmental agencies shall simultaneously be submitted to the Planning Board.

5. **Taxes and Assessments.** All taxes and assessments applicable to the subject premises shall be paid and current.

6. **Restrictive Covenants.** Any restrictive covenant or other condition of record proposed to be included in deeds to purchasers shall be set forth on the final plat and a copy thereof shall be submitted to the Board for approval.

7. **Plan Revisions.** It is a condition of this approval that the Applicant submit to the Planning Board within 90 days of the date of the adoption of this resolution the revised plats, maps, reports or other data containing the additions or corrections specified in the record of the proceedings including but not limited to those additions or corrections set forth in the reports of Freehold Borough agencies, boards, commissions and staff. No construction permits shall issue nor shall any further action whatsoever be taken on account of the application until this condition is met. Further, in the event that the correctly revised data is not submitted within the 90-day period aforesaid, the Planning Board shall presume that the Applicant does not intend to submit the revisions and therefore the within approval shall be rendered null, void and of no further effect.
8. **Breach of Conditions.** Failure to satisfy any conditions set forth herein or a subsequent breach of any such condition or a failure by the Applicant to discharge any obligation hereunder will result in the reconsideration and possible revocation or rescinding of the within approval. A certification by the Freehold Borough Engineer that the Applicant has breached any such conditions shall immediately terminate the right of the Applicant to obtain construction permits, certificates of occupancy or any other government authorizations necessary in order to continue or complete development of the project pending a hearing before the Freehold Borough Planning Board regarding the breach.

ROLL CALL

YES:

NO:

ABSENT:

ABSTAINED:

DISQUALIFIED:

DATED:



I HEREBY CERTIFY that the foregoing is a true copy of a Resolution which was approved by the Freehold Borough Planning Board at its meeting held on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Dominica Napolitano,  
Planning Board Secretary

State of New Jersey:

County of Monmouth: ss:

Be it remembered on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, a Notary Public of the State of New Jersey personally appeared before DOMINICA NAPOLITANO who being duly sworn by me, according to law on this oath stated:

1. He is the secretary of the Planning Board of the Borough of Freehold;
2. The within Resolution represents the action taken by the Freehold Borough Planning Board at its meeting of \_\_\_\_\_, 2021.

Record and Return to:  
STEPHEN J. GALLO,  
FREEHOLD BOROUGH  
ADMINISTRATOR  
51 West Main Street  
Freehold, New Jersey 07728