

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

**JUNE 29, 2022 MINUTES
APPROVED AUGUST 3, 2022**

TIME AND PLACE OF MEETING

The regular meeting of the Cranbury Township Zoning Board of Adjustment for July 6, 2022 was rescheduled and was held via Zoom <https://us06web.zoom.us/j/89352721724> Webinar ID: 893 5272 1724 on June 29, 2022, at 7:00 p.m.

CALL TO ORDER

Mr. Nissen, ZBA Vice-Chairperson, called the meeting to order and presided over the meeting.

STATEMENT OF ADEQUATE NOTICE

Adequate notice as well as electronic notice of this meeting was provided in accordance with the requirements of the Open Public Meetings Act and the regulations governing remote public meetings. The notice included the time, date and location of the meeting and clear and concise instructions for accessing the meeting. A copy of the agenda for this meeting was made available to the public for download on the Township's website, and all documents and other materials pertaining to any applications listed on the agenda were posted electronically and made available for download at least forty-eight hours prior to the meeting.

All participants in this meeting are required to keep their microphones muted until recognized or directed otherwise. The Board will engage the Zoom "mute" function until the time for public comment is reached.

Members of the public who wish to make a comment are required to use the "Raise Hand" feature in Zoom, or, if participating by telephone, by pressing *9. Once recognized by the chair, the participant will be able to unmute his or her microphone and offer a comment. Interested parties wishing to ask a question or make a comment during a public hearing on an application will be sworn in and asked to provide their name and address before proceeding. The Board Chair or his designee will manage the order of the comments.

MEMBERS IN ATTENDANCE

- ☒ Joseph Buonavolonta
- ☒ Robert Diamond
- ☒ John Hoffman
- ☒ Richard Kallan

- ☒ David Nissen
- ☒ Steven Schwarz
- ☒ Frank McGovern (Alternate #1) (Arrived Late)
- ☐ Saras Kothari (Alternate #2)
- ☐ Merilee Meacock

PROFESSIONALS IN ATTENDANCE

- ☒ Robert Davidow, Zoning Board of Adjustment Attorney
- ☒ Robin Tillou, Secretary
- ☒ David Hoder, Engineer
- ☒ Paul Phillips, Planner
- ☒ Andrew Feranda, Traffic Consultant

MINUTES

Upon a motion made and seconded the minutes for June 1, 2022 were unanimously approved by those members eligible to vote on said dates.

RESOLUTION

ZBA305-17 Mobin Management,
Block 18.07, Lot 44 & 45, Zone GC,
112 South Main Street,
Ext of Time for previous approval of Use Variance, Preliminary and Final Site
Plan with Bulk Variances

MOTION TO APPROVE: Mr. Kallan

SECONDED: Mr. Schwarz

ROLL CALL

AYES: Mr. Kallan, Mr. Nissen, Mr. Schwarz and Mr. McGovern

NAYS: None.

ABSTAIN: None.

APPLICATIONS

ZBA360-22 **Holly Johnson**
Block 35, Lot 13, Zone V/HR
3 Station Road
Bulk Variances – Setback for Back Patio

Representatives: Holly Johnson, Owner and Applicant

Mr. Davidow announced that notice for this application is adequate, and this Board can take jurisdiction over this application.

Ms. Johnson introduced her application by stating this application has been approved by Historic Preservation Commission. She would like to put a patio in the rear of her home. Due to the narrowness and the odd shape of the property the rules for setbacks are too restrictive to do that. The patio would have to be triangular and would be 4' wide which would not make a patio. She would need an adjustment to have a narrower setback which would be 6' and 3' back from the fence line. The property line already has a 7' high fence and behind that are 15' tall trees. They are asking to match what their neighbors already have due to the neighbor behind the 15' tall trees having a patio that comes directly to the fence line. The request is due to the code not considering historic properties like theirs.

Mr. Kallan stated HPC already approved the application and what is being done is reasonable and cannot be seen from the roadway and/or sidewalk.

MOTION TO APPROVE: Mr. Hoffman

SECONDED: Mr. Kallan

ROLL CALL

AYES: Mr. Buonavolonta, Mr. Diamond, Mr. Hoffman, Mr. Kallan, Mr. Nissen, Mr. Schwarz and Mr. McGovern

NAYS: None.

ABSTAIN: None.

MOTION PASSED

**ZB354-22 Woodmont Industrial Partners, LLC (Continued from June 1, 2022)
Block 7, Lot(s) 1 & 2, Zone HC
2678 Route 130 (Lot 1) – 376 Half Acre Road (Lot 2)
Preliminary and Final Major Site Plan
d(1) Use Variance**

REPRESENTATIVE: Mr. Richard Hoff, Esq., Bisgaier Hoff, LLC
 Mr. Steven Santola, Woodmont Properties
 Mr. William Lane, Menlo Engineering
 Mr. John McDonough, P.P.,
 Mr. Alan Lothian, Traffic Engineer

EXHIBITS:

- A-1 – Woodmont Industrial – Recent Developments**
- A-2 - Existing Conditions, 6/1/2022**
- A-3 – Overall Plan Exhibit**
- A-4 – 1995 Aerial View of Prologis Property**
- A-5 – 2002 Aerial View of Prologis Property**
- A-6 – 5/31/2022 Existing Condition Photo of Stormwater Pond**
- A-7 – Color Rendering Option #1 – 2678 U.S. 130 & Half Acre Road Perspective View**
- A-8 – Color Rendering Option #2 - 2678 U.S. 130 & Half Acre Road Perspective View**
- A-9 – Aerial Drone View of Subject Site Looking South/East/North/West – 2/1/22**
- A-10 – 6/29/22 – Color Rendering Site Plan**
- A-11 – 6/28/22 – Woodmont Line of Site**
- A-12 – Landscape Perspectives – 3 Sheets.**
- A-13 – 6/27/22 - As of Right**

Mr. Davidow announced all witnesses were previously sworn in and are still under oath.

Mr. Paul Phillips is replacing Ms. Elizabeth Leheny for tonight's meeting and Mr. Davidow swore in Mr. Phillips.

Mr. Hoff continued the application by stating they had given extensive testimony at the June 1, 2022 ZBA hearing. The applicant has submitted revised plans in the 10-day requirement which is on file for review. The questions that were received at the previous hearing is the site plan questions and one of the issues was the waiver for the width of loading bays. They were requesting 12 ft. and the ordinance requires 15 ft. They have revised that to eliminate the waiver and the bays fit the requirement. Another topic was the mechanical equipment and if they will be shielded. Mr. Lane, the applicant's engineer will go through that. The comments for the striping plan from the Board's traffic engineer were addressed. The community impact statement was provided between the last hearing and now. The landscaping and buffering have been revised to increase the size of landscaping and the berms. The existing vegetation will be addressed to provide greater shielding. The use variance issues that were addressed is the Board's jurisdiction and if the application intrudes on the Township's ability to zone. A use variance gives this Board the discretion and authority to look closely at a particular site as it relates to that zone. The Board is fielding questions as to a particular site's suitability for that zone and if you present the factors based on a site-specific basis this Board can grant use variances. The site suitability does not relate to the Township as a whole. They are not under obligation to show this site more than any other in town is suitable for a warehouse. Regarding the issue of traffic, the potential impact for the permitted use is more exacerbated than what is being proposed tonight. The issue of the HC zone being threatened is not the case, this proposal fits better to this parcel.

Mr. William Lane, applicant's engineer, displayed exhibit A-10 – 6/29/22 – Color Rendering Site Plan.

Mr. Lane stated they have revised the loading docks from 12 ft. to 15 ft. wide. They originally had 34 loading docks and they now have 28. The waiver previously requested for the loading docks is now being withdrawn.

Mr. Lane stated it was spoken about to repave Half Acre Road across the half width across the site frontage. There is a striping plan that was agreed upon that has a left turn lane that turns into the driveway. This gets restriped out and is 14' – 15' wide in each direction one way where it gets to the right turn lane on Route 130. There is a center turn lane further down. This has been worked out with Mr. Feranda and the applicant's traffic engineer.

Mr. Lane displayed Exhibit A-11 – 6/28/22 – Line of Site.

Mr. Lane stated this shows a car along Rt. 130 and their line of site. At the lowest point it shows just above the berm of the building and 45° angle up to the sky. As you see from Rt. 130 that view that continues that is about 15 – 20 ft. is the rooftop mechanical equipment, and that line of site goes up and above that so the mechanical equipment will not be viewed from Route 130. The applicant will make modifications if needed to screen the equipment.

Mr. Lane stated the plan submitted shows the berm. The berm was increased to 7' high across the roadway elevation that goes down from the corner of Half Acre Road and Route 130 to where the building ends. If they save the existing vegetation that is along Route 130, they can save a 50' swab of the existing trees and vegetation off the property line which is 63' from the edge of the roadway. It has matured trees there and it will be better to leave the existing trees. To the right of that they can pick up the berm with additional landscaping of evergreens which gives a better screening.

Mr. Lane displayed Exhibit A-12 – Landscape Perspectives – 3 Sheets.

Mr. Lane showed the different perspective views from exhibit A-12. Mr. Lane stated the applicant is willing to work with the Board with the landscaping if needed. The evergreen plantings have been increased to keep buffer year-round.

Mr. McDonough, applicant's planner, displayed exhibit A-9, sheet one. Mr. McDonough stated every variance application must relate to a particular piece of property. Regarding the zone plan, what could be on this property is an office building or a self-storage building. Mr. McDonough displayed exhibit A-13, as of right. This is a build out showing the subject site with the north being oriented to the right. The odd shape building is the existing liquor store to remain and a new large 63,000 sq. ft. retail center which would go to 72,000 sq. ft. so a substantial build out

could be realized with this build out zone. This is the weakest submarket in the entire state. Notwithstanding a large retail center could be built here. ITE data shows the generation of traffic north of 72,000 ft. would be 17 times more than what the applicant is offering. This is one of 22 lots of the HC zone so this will not take a substantial chunk of the HC zone and will not erode the HC zone. The NJ Supreme Court case of Price vs. Himeji which speaks about being located on the edge of a zone being a basis for a grant of a use variance based on the edge where a use is permitted. That is the case here. This use will not compete with your downtown center. This will promote the general welfare and the fundamental purposes of the Land Use Law without creating any adverse impacts on the zone plan or the public. This is an economic development district and we put forth the community impact to show the positive impact this project will have.

Mr. Davidow stated regarding site suitability and how the Board gets to the standard that needs to be evaluated is evaluating the positive and negative criteria. All the other factors mentioned by Mr. McDonough goes towards that balancing act of the positive and negative criteria.

Mr. Phillips asked how many properties south of us on the same side of Route 130 are within the confines of the HC district and what is there now.

Mr. McDonough stated there are three lots which are the Penske facility projecting from the LI zone into the HC zone. One of those lots have been constructed in a manner familiar to what is being proposed. There are three lots in the HC zone not being retail.

Mr. Phillips asked if they feel the proposal has been exacerbated by the pandemic and how you look at prospects in retail in this location.

Mr. McDonough stated in 2019 Master Plan Reexamination was done and plenty has changed since then. The world now comes to you and this proposed development caters to what is the “new normal”. This ties to the Medici case which is the benchmark case in terms of a use variance.

Mr. Phillips stated the applicant needs to demonstrate the site is particularly suited for the use. The zone plan impacts and the reconciliation under the Medici case must have a planning rationale as to why this Board should grant relief which is contrary to the intent. Changed circumstances is also cited in the Medici case. The key is can the variance be granted for this particular property without compromising the integrity of the balance of the HC zone.

Mr. Feranda stated this is already a movement that is challenged based on the existing traffic during the peak periods because of any truck making movement due to the turns that need to be made from Maplewood Avenue to the short piece of Half Acre Road. This will back up Maplewood Avenue. The report he had done does focus on this. Using the alternate route from South River Road to Liberty Way to Half Acre avoiding Route 130 does not mean the employees

at the warehouse would not use that same route. A truck may have difficulty making that movement, a car would not have issue making that. This would add another car in the queue. This is focusing on the comments from the Board.

Mr. Lothian stated the truck analysis that routed the trucks down Route 130, Maplewood and Half Acre Road states most of the trucks will be going down Liberty Way. There will be no significant impact with regard to local service delay. If this was redeveloped the employees that will access the route for a retail site, you would be seeing hundreds of more trips exiting and entering the site and utilizing Maplewood to Half Acre Road jug handle. The proposal will be significantly less.

Mr. Kallan stated what is being asked here is a gross adjustment and feels it sets a negative precedence due to ignoring the Master Plan.

Mr. Hoder stated he had done research regarding the detention basin next door and the water flow was a concern and that is no longer a concern after research. The winter may not provide enough of a buffer with the existing trees and canopy. The applicant should provide an additional understory or evergreens so there would not be an issue with wintertime views. The applicant agreed to everything in his review letter.

Mr. Hoff stated the applicant would work with the engineer and planner regarding the landscaping.

Mr. Schwarz asked if Mr. Phillips agreed with Mr. McDonough's assessment that the shift of this single property will not change the character of the HC due to the development to the south of Half Acre Road is not as retail as it is on the north end even though this is a primary lot.

Mr. Phillips stated he feels that a planning argument can be made legitimately due to the properties to the south as he had requested to know. The Board must have a comfort level that you buy the argument that the character is different so if the property were to be developed as proposed it would not change the character, that is a test to use. And whether it would compromise the integrity of the HC, it is up to you, the Board whether that is credible or believable. Mr. Phillips does believe that the character is different in this quadrant based on looking at the rest of the context of the HC zone. He recognizes that it does seem to differ from other properties in the district due to the large size of 9 acres and most of the HC properties are not that large. The Board must weigh whether this site in the context is suitable to what is being proposed.

Mr. Nissen asked if the reduction of bays change the trip generation.

Mr. Lothian stated it does not, it is based on the overall sq. ft. of the building. It does reduce the number of trucks that can be on the site at any given time.

Mr. Schwarz asked if the truck traffic going to Liberty Way is something we can force.

Mr. Feranda stated you can guide them and make it the desired route for trucks to traffic, but they are public roads, and they can be used in either direction and are likely to be using the easiest route.

Mr. Diamond asked to advise why the HC zone is located where it is and centered on that interchange of Route 130 and Maplewood Avenue.

Mr. Phillips stated it has to do with the historical development context along Route 130 and the certain concentrated area that is not a large area (20 properties) has historically been developed for a variety of highway-oriented uses. Other lands when Cranbury was less developed adjoined it on both sides were largely vacant. The zoning attempts were to have the zoning modify the existing context. It always was a retail service corner that has transitioned. The Master Plan states it is a struggle to find what makes sense here. There still are underutilized sites. It is a challenging zone. It tends to mirror what was there and has morphed into trying to find uses to fit the zone. There was a balance that was attempted to be south with commercial uses and preserving the integrity of downtown Cranbury.

Mr. Kallan stated the point on Route 130 where this development is being proposed is the closest access to the Village area, the next location would be Station Road.

Mr. Schwarz asked if the operating hours of this facility will have overnight hours.

Mr. Hoff stated they do not have a tenant at this time, but it could be the hours.

Mr. Diamond stated in regard to the use as a storage warehouse as opposed to a distribution warehouse, is there any way to predict what it will be like?

Mr. Hoff stated this facility is not designed for a distribution warehouse, for a warehouse this is a relatively small building for that and is not large enough to host a direct-to-consumer activity.

Janice Mondoker, 92 Halsey Reed Road, Cranbury, NJ, stated regarding traffic, Liberty Way needs to be completed. The applicant cannot predict traffic until they have a tenant. Ms. Mondoker would like the applicant to work on Liberty Way if this is approved.

Mr. Hoff stated he cannot answer due to not having a tenant.

Mr. Nissen stated he does not feel the Zoning Board contemplating the uncertainties to deal with finishing Liberty Way, those issues would have to be dealt with the Township.

Mr. Davidow agreed.

Deanne Napurano, 92 Halsey Reed Road, Cranbury, NJ, stated the town is currently at a truck traffic saturation point and representatives of the town and surrounding municipalities are currently exploring solutions to send the tide of increased truck traffic on local neighborhoods. The height of the building and amount of truck bays seem inconsistent with Cranbury. If there is an increased, need it does not mean the town is equipped to handle it. Liberty Way has not been fully completed.

Steve McMaster, 64 Maplewood Avenue, Cranbury, NJ, stated he is directly behind George's Garage and EMS, so this will essentially be in his backyard. He would prefer the run-down liquor store than this. He feels this proposal would diminish the enjoyment of his property. He feels this is not especially well suited due to the conflict of the neighboring properties going westward. There are plenty of retail uses that would be more beneficial.

Marianne Bossard, 91 Halsey Reed Road, Monroe, NJ, stated the reasoning for this use change is not viable and other suitable uses were mentioned like, office space and self-storage. There is nothing about this change that would increase the benefit to the public welfare.

Holly Johnson, 3 Station Road, Cranbury, NJ, stated right near this property has a strip mall and other local businesses (Italian Touch) that others frequently visit. Air quality and noise pollution are also a concern from the trucks.

Due to no other public comments, Mr. Nissen closed the public forum.

Mr. Hoff made his closing statements.

Mr. Diamond stated this location serves as a gateway to Cranbury Village Historic District. This warehouse development is proposed to be in the middle of the commercial district. The argument that the commercial part is failing is not correct. There are multiple properties as mentioned by Holly Johnson. In terms of traffic, you cannot compare a truck trip to a car trip. If you compare 3 – 4 cars to the space of a truck they still behave differently.

Mr. McGovern stated he feels the proposal promotes the general warfare and is consistent with the surrounding properties and the witnesses have proven that. This parcel is particularly suited for the LI zone based on the testimony and exhibits. The application would close the entrance and exit to Route 130 and that would help to eliminate an on and off access from Route 130. This will eliminate a rundown liquor store. He does not feel the proposal is inconsistent with the

intent of the purpose of the Master Plan. This property is on the edge of a permitted zone. The issue of completing Liberty Way does not relate to this project due to Liberty Way North being the access to this property and Liberty Way South would not be the access.

Mr. Schwarz stated he feels the applicant has acquiesce to all the design requests that the Board has made, and this is the best warehouse that can be put on this property. It is still a warehouse in an HC zone. He does not see the public benefit.

MOTION TO APPROVE: Mr. Kallan

SECONDED: Mr. Diamond

Roll Call: Ayes: Mr. McGovern

Nays: Mr. Buonavolonta, Mr. Diamond, Mr. Hoffman, Mr. Kallan, Mr. Schwarz and
Mr. Nissen

Abstain: None

The Application has been denied.

ADJOURNMENT OF MEETING

There being no further business, Mr. Kallan made a motion to adjourn, and Mr. Diamond seconded, the meeting was thereupon adjourned.

CERTIFICATE OF SECRETARY

I, the undersigned, do at this moment certify.

That I am duly elected and acting secretary of the Cranbury Township Zoning Board of Adjustment and, that the preceding minutes of the Zoning Board of Adjustment, held on June 29, 2022, consisting of ten pages, constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS of which, I have hereunto subscribed my name of said Zoning Board of Adjustment this August 4, 2022.

Robin Tillou
Robin Tillou, Secretary