

**RESOLUTION OF MEMORIALIZATION
FREEHOLD TOWNSHIP ZONING BOARD
MONMOUTH COUNTY, NEW JERSEY**

IN THE MATTER OF : **ZONING BOARD OF ADJUSTMENT**
REVOLUTIONARY : **FREEHOLD TOWNSHIP**
COMMONS, LLC : **VARIANCE APP. NO. 777-1-09**
(FORMERLY WEMROCK : **BLOCK 69.01, LOT 33**
LLC) : **119 WEMROCK ROAD**
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APPROVED: January 14, 2010
MEMORIALIZED: February 11, 2010

WHEREAS, Revolutionary Commons, LLC, (formerly known as Wemrock, LLC hereinafter designated, the "Applicant"), located at 119 Wemrock Road, Freehold, New Jersey, has submitted an application to the Freehold Township Zoning Board of Adjustment (hereinafter designated, the "Board"), for Amended Preliminary and Final Major Site Plan approval pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50, on the property located at Block 69.01, Lot 33, on the tax map of Freehold Township (hereinafter designated the "Township"), being commonly known as 119 Wemrock Road, Freehold Township, Monmouth County, New Jersey, and said premises being located in the HC Zone; and

WHEREAS, Use and FAR variances were granted by the Board on February 8, 2007 for two office buildings connected by an "enclosed breezeway" for a total of 15,950 square feet having a FAR of 0.131; and

WHEREAS, the applicant received Preliminary Major Site Plan Approval to construct two (2) office buildings with an inter-connect breezeway element on May 8, 2008 and is now seeking Final Major Site Plan Approval; and

WHEREAS, the applicant provided adequate notice of the application and the hearing in accordance N.J.S.A 40:55D-12; and

WHEREAS, the Board having heard the testimony and the evidence presented by the applicant and having received no comments from the public.

Block, 69.01, Lot 33

NOW, THEREFORE BE IT RESOLVED, that the Board of Adjustment of the Township of Freehold, County of Monmouth, and State of New Jersey, on the 14th day of January, 2009 made the following findings of facts:

1. The Board found the application complete.
2. The plan, essentially the same as the Preliminary Site Plan, shows a two-story professional office building with a breezeway connecting to a barn. The combined buildings total 15,950 square feet. The existing house and outbuildings would be demolished. The parking lot will accommodate 67 vehicles. The plan also indicates a drainage basin, other storm water devices, landscaping and site lighting, on-site septic disposal and a well.
3. The following variances were previously granted:
 - A. Maximum impervious coverage of 15% is permitted and 39.5% is proposed.
 - B. Minimum buffer of 50 feet is required and 15 feet is provided.
 - C. A lot depth of 300 feet is required and 241 feet is provided.
 - D. The maximum number of driveways in a Scenic Corridor is 1 whereas 2 are proposed.
 - E. There are no structures permitted in the Scenic Corridor, however, portions of the septic field and an exfiltration trench are proposed.
4. The Final Major Site Plan appears to reflect the Preliminary Site Plan approval except for the following minor technical revisions:
 - A. The applicant is not proposing sidewalk along the frontage of the site and the Board Approved the waiver. Therefore, a contribution of \$11,520.72 will be made to Freehold Township.
 - B. Applicant is requesting a Soil Removal Permit for the removal of 6,000 cubic yards of material.

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- C. The site requires confirmation from BRAVO that it concluded a cannon ball search and requires an archeological examination per item number 11 A. of the Resolution of Approval.
 - D. In accordance with the Resolution of Approval approved May 8, 2008, the applicant shall enter into a Developer's Agreement with the Township which provides that if municipal sewer and water becomes available, that the applicant will either connect or contribute their share to the establishment of those facilities per item 11 B in the Resolution of Approval.
5. Based upon the sworn testimony of the applicant's Professional Engineer, Robert Sive, P.E., the Board made the following findings of facts:
- A. The site is located at the intersection of Wemrock Road and Route 33 and contains 2.7 acres.
 - B. The applicant is proposing to construct a 15,950 square foot building comprised of two (2) separate buildings connected by a breezeway.
 - C. The first building contains approximately 9,350 square feet and the second building approximately 6,600 square feet.
 - D. The access to the site will be from two (2) points. There will be a right in, right out driveway off of Route 33; and a full movement driveway off of Wemrock Road.
 - E. Both driveways provide access to a sixty-seven (67) stall parking lot.
 - F. The applicant received septic approval and the site is now ready.
 - G. The applicant is asking for a soil removal permit to remove approximately 6,000 cubic yards of material from the site that will be removed from the site.
 - H. This soil is below the top soil horizon, but will send BRAVO a certified letter of their intention to remove the soil from the site to allow for inspection of the site for historical artifacts prior to construction.

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6. Based upon the comments of the applicant's Attorney, Kenneth L. Pape, Esquire, the Board considered his opinion as to:
- A. BRAVO, the applicant made a commitment to allow them to come onto the site and conduct an archeological study; to date they have failed to do so.
 - B. On October 29, 2009 a letter was sent to Daniel Silivich, a representative of BRAVO, inviting him to make arrangements to conduct that inspection and contact them within thirty (30) days. There has been no response.
 - C. The topsoil will be stored on site as part of construction and they will contact BRAVO once again to afford them the opportunity to examine the soils when they are stock piled.
 - D. He referred to a letter from Aspen Tree Experts that had comments that were not consistent with Zig Panek, the applicant's tree expert. This inconsistency will be resolved with the Shade Tree Commission.
 - E. The site does not have city water and sewer available at the present time, so the applicant will install septic and a well but will participate in water and sewer programs when available.
7. Based upon the sworn testimony of Tom Richie, of 127 Wemrock Road, the Board made the following findings of facts:
- A. Mr. Richie is a member of BRAVO and indicated that if there are any artifacts, the exact location needs to be mapped out.
 - B. He hopes arrangements can be made to come on the site before the soil is disturbed.
 - C. Mr. Pape said the applicant agreed to this condition a year and a half ago. The applicant would like to develop the site in the spring of 2010, so he requested the investigation be completed before March 15, 2010.

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- D. The Board was puzzled why arrangements have not been done prior to this time since BRAVO came before them in 2007. Mr. Richie represented that he would contact Mr. Silivich.
8. The applicant is to extend to BRAVO the opportunity to perform an archeological inspection at this site.
9. There are no substantial negative impacts arising from the Final Site Plan.
10. The benefits of this proposal outweigh its detriments.

CONCLUSIONS OF LAW

WHEREAS, the Board concluded that this application has met the requirements of N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50 for Amended Preliminary and Final Site Plan Approval as the Final Major Site Plan appears to reflect the Preliminary Site Plan approval except for minor technical revisions; and

WHEREAS, the Board has determined that the relief sought can be granted without a substantial negative impact on surrounding property owners; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Township of Freehold.

Based on its Findings of Fact and Conclusions, the Board voted on January 14, 2010, to grant the applicant bulk variances, subject to the terms and conditions described below.

NOW, THEREFORE BE IT RESOLVED, by the Board of Adjustment of the Township of Freehold, in the County of Monmouth and State of New Jersey, on the 14th day of January, 2010, upon a motion made by Mr. McCloskey and seconded by Mr. Yoon, that the application of Revolutionary Commons, LLC is granted, subject to the following terms and conditions:

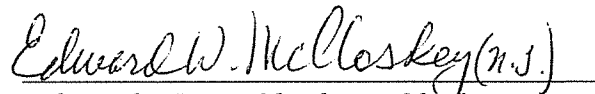
1. The applicant shall be bound by all exhibits introduced, all representations made and all testimony given before the Board at its meetings of January 14, 2010.

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2. The applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance.
 3. The applicant shall be responsible for the obtaining of any other approvals or permits from other governmental agencies, as may be required by law; and the applicant shall comply with any requirements or conditions of such approvals or permits, including but not limited to the Municipality's and State's compliance with the COAH regulations.
 4. An essential and non-severable condition of this approval is compliance with the Development Fee Ordinance of the Township of Freehold, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
 5. The applicant shall make the required contribution to the sidewalk fund.
 6. BRAVO may still inspect the site for historical artifacts prior to construction and to review all soil prior to removal. The applicant is to resend their letter of October 26, 2009 to BRAVO via Certified mail by the United States Postal Service.
 7. The applicant will submit its plan to the Shade Tree Commission and will identify any heritage trees on the site and will ensure compliance with the Heritage Tree Ordinances.
 8. A general note is to be added to the plan that additional shielding will be added to the parking lot lighting if deemed necessary by the Township Engineer during or after construction.
 9. The applicant will enter into a Developer's Agreement with the Township of Freehold. This agreement is to be reviewed and approved by the Municipal Attorney and will include all conditions and representations made at the time of all hearings, inclusive of the use approval, preliminary site plan approval, and the reaffirmed preliminary and final site plan approval.
 10. The applicant will also include in the Developer's Agreement a provision that if municipal sewer and water become

available the applicant will connect and/or contribute its share to the establishment of those facilities.

11. All conditions of the use variance application number 14-07 shall be satisfied prior to the issuance of a building permit.
12. Publication in the Asbury Park Press.

BE IT FURTHER RESOLVED, that Nancy Torre is hereby authorized and directed to cause a notice of this Resolution to be published in the Asbury Park Press at the Applicants' expense and to send a certified copy of this Resolution to the Applicants and to the Township Clerk, the Township Engineer, and the Township Assessor and make same available to all other interested parties.


Edward W. McCloskey, Chairman
Freehold Township Zoning Board

CERTIFICATION

I hereby certify this to be a true and accurate copy of the resolution adopted by the Freehold Township Zoning Board of Adjustment, Monmouth County, New Jersey, at a public meeting held on January 14, 2010.



Freehold Township Zoning Board

The vote on the motion
was as follows:

The vote on the resolution of
memorialization was a follows:

Yes: Mr. Yoon; Mrs. Ferdinando;
Mr. Apostle; Mr. Nero;
Mr. McCloskey

Yes: Mr. Apostle; Mr. McCloskey

No: Mr. Elowitz; Mr. Decker

No:

ADOPTED this 11th day of February 2010