

**TOWNSHIP OF ROBBINSVILLE ZONING BOARD OF ADJUSTMENT MEETING  
TOWNSHIP OF ROBBINSVILLE, MERCER COUNTY, NJ  
WEDNESDAY, JANUARY 2, 2008 7:30 P.M.**

**MINUTES**

**Present:** *Chair Perhacs, Mr. Gibeault, Mr. Kreig, Ms. Carbone, Mr. Bihl, Mr. Kirkpatrick and Mr. Griffin*

**Absent:** *Mr. Siekerka and Mr. Lynch*

**Also Present:** *Mr. West, Township Engineer; Mr. Herbert, Board Attorney; Ms. Kooper, Planning Consultant; Ms. Post, Board Secretary; Ms. Persicketti, Recording Secretary*

Roll call for the above Board members was called and the Flag Salute took place.

**“Adequate notice of this meeting has been provided as required under Chapter 231 P.L. 1975 specifying the time and place with such notice as being sent to the *Times of Trenton* and the *Messenger Press* and posted in the Municipal Building Public notice meeting bulletin board.”**

**Correspondence**

Mr. West submitted a letter that he wrote to the Mercer Mobiles Homes attorney. The letter said the public notice for the shed variance was incorrect. Therefore, a new or amended application would be needed for the variance. Mercer Mobile Homes would not be heard at the 1/2/08 meeting.

Mr. Herbert wrote a letter to James Kenna, who appeared before the Zoning Board last month. There was a question regarding his notice to the property owners because there was no proof that the letters were mailed certified. Mr. Kenna was told that if he could not produce the copies of the certified mailing, he would have to appear before the Board for a second time. We learned that his wife in error sent the notice by regular mail. Therefore, the approval for the application was null and void, and Mr. Kenna has to appear before the Board again for his application.

**Public Comment**

Anne Garrison, 7 High Street in Allentown, stated that she is the Chairman of the Greenbelt Group, who is in the process of preserving land on Breza Road. She commented on open space. The Green Belt has 400 acres preserved in Upper Freehold Township, but only 20 acres have been preserved in Robbinsville. Mr. Herbert responded that Ms. Garrison should appear before the Planning Board regarding the open space matter. The Zoning Board is a Board of Appeal. Ms. Garrison would like to inform as many people as possible. Chair Perhacs said that Ms. Garrison’s comment will be reflected in the minutes. Mr. Kirkpatrick stated that there is an open space subcommittee in Robbinsville that has a plan for preservation.

**Board Comments**

There were no Board comments given.

Minutes

November 7, 2007 - No discussion. A motion was made to approve the minutes as read by Mr. Gibeault and seconded by Mr. Kreig.

ROLL CALL:

AYES: Gibeault, Kreig, Griffin and Chair Perhacs  
NAYS: None

There being four (4) "AYE" votes, the November 7, 2007 minutes were approved as read.

December 5, 2007 - No discussion. A motion was made to approve the minutes as read by Mr. Kreig and seconded by Mr. Kirkpatrick.

ROLL CALL:

AYES: Kirkpatrick, Bihl, Carbone, Gibeault and Kreig  
NAYS: None

There being five (5) "AYE" votes, the December 5, 2007 minutes were approved as read.

BUSINESS TO DISCUSS

**Application ZB07-11-02 – Joseph & Colette Accardi**

**Block 3.34, Lot 10**

**18 Burnet Walk**

**Zoning: TC-1**

**Public Hearing for Bulk Variances**

The applicant is seeking approval of bulk variances to permit the installation of an above ground pool, which will not meet the required minimum distance of 10 ft. from a structure and minimum side yard setback of 5 feet.

Mr. Herbert reviewed the application and found the Board had jurisdiction in the above matter.

Mr. Herbert swore in Joseph Accardi and Mr. West. The application with the attached survey was marked as **Exhibit A-1**.

Mr. Accardi testified that he resides in Washington Town Center. The yards are small. His yard is fenced (14 feet by 25 feet). Mr. Accardi wanted to install a 10 foot to 12 foot above ground pool. He is not 10 feet away from the garage, which is on one side of the yard. He is also not five feet away from the side and back fence. The round pool would be 10 feet and would fit in his backyard. The pool would only affect one neighbor on one side because his garage extends from front to back and barricades the other neighbor. Mr. Accardi spoke to the neighbor and explained the pool installation and stated that his neighbor gave a verbal approval for the pool. **Exhibit A-2 – Picture of the Above Ground Pool** (dated June/July 2007) was marked into evidence. There is no local community pool for the residents to attend. Mr. Accardi is willing to put up a higher fence. The

pool is needed for Mr. Accardi's 16-year-old son who has asthma. The pool would allow his son to be more comfortable outdoors in the humid weather. There is only 14 feet available from the fence area to the garage. The pool would be either 10 feet or 12 feet. A 12-foot pool, which would touch the garage or fence, would leave a two-foot walkway remaining. Mr. West's concern is access (emergency or other). He felt that no more than a 10-foot pool should be permitted. The ordinance requires a 5 foot setback from the fence. He recommended the fence be up against the garage to have the 4 feet along the fence along with the mechanical equipment (above ground filter) along the fence. Mr. Accardi said the pool would only be used in July and August. The pool would be freestanding and have a ladder to it. Mr. Kirkpatrick asked if the neighbor was informed about the filter due to the noise and the yards being so close. Previously, the applicant had a temporary pool with a filter.

A motion was made to open the meeting to the public by Mr. Kreig and seconded by Ms. Carbone at 7:55 p.m. All in favor. No public came forward. Therefore, a motion was made to close the public portion of the meeting by Mr. Kreig and seconded by Ms. Carbone. All in favor.

A brief discussion by the Board took place. In sum, the Board felt that the pool was a safety concern. The Town Center community was not designed to have pools in the small backyards. The yards were designed to have small gardens. It is a very close community and the backyards would become congested with the pools. There were concerns expressed with the 14 foot wide yard and a 10 foot to 12 foot pool, which would take up the entire yard. The fence, per the ordinance, could be as high as 7 feet. The neighbor would have to give his permission because of the common fence between the two properties.

A motion was made to deny ZB07-11-02 – Joseph & Colette Accardi by Ms. Carbone on the basis that the property is rather small for the proposed pool and the comments given by the Board members and the motion was seconded by Mr. Gibeault.

ROLL CALL: (Denial of Pool)

AYES: Bihl, Kirkpatrick, Carbone, Kreig, Gibeault, Griffin and Perhacs

NAYS: None

There being seven (7) "AYE" votes, ZB07-11-02 was denied. Chair Perhacs stated that he appreciated that Mr. Accardi went through the right channels for applying for the pool.

### **Application ZB-7-09-01 – Crossroads Storage, LLC**

**Block 38, Lot 6.01**

**Circle Drive & Robbinsville-Allentown Road**

**Zoning: RR**

#### **Use Variance, Bulk Variances, Minor Subdivision & Preliminary/Final Site Plan**

The applicant is seeking approval of a use variance, bulk variances, minor subdivision and preliminary/final site plan to subdivide a 12.7± acre parcel into two (2) lots consisting of 10.70 acres (proposed Lot 6.02) and 1.98 acres (proposed Lot 6.03), and to allow a commercial mixed use development consisting of 3 two-story mini-storage warehouse buildings with a total floor area of 100,000 s.f. on proposed Lot 6.02 and a 12,000 s.f. two-story building consisting of 9,000 s.f. of office space and a 3,000 s.f. drive-thru bank on proposed Lot 6.03.

David Roskos, Esq. appeared on behalf of the applicant. Notice of the public hearing was provided and proof was submitted. Mr. Herbert reviewed the Notice of Publication and found that the Board had jurisdiction in the matter. Mr. Roskos stated that there is an issue regarding building height. The architectural drawings were modified to reflect the character of the RR Zone due to a request by the Township Architect, Edmund Wilson. Mr. Roskos informed the Board that he did not receive the scaled plans at the time of doing the notice. The architectural drawings before the Board exceed the height limit for the zone (35 foot height limit). Therefore, the request for relief was set forth in Mr. Roskos's "Omnibus Clause" provision to include any and all variance/waiver relief triggered by the application. The height is being added for aesthetics.

Mr. Roskos introduced his professional witnesses, who were sworn in by Mr. Herbert as follows: Martin Katz, P.E., PLS of Princeton Junction Engineering; John McDonough, CLA, RLA, AICP/PP of Pennoni; Ted Rica, Principal of Crossroads Storage; and Geoffrey Brown, PE of Princeton Junction Engineering. Also sworn in, were Township professionals, Ms. Kooper and Mr. West.

Michele Donato, Esq. represented Washington Storage, LLC, (located on Route 130) in opposition to the use variance. She raised the question regarding the notice (jurisdictional threshold issue) and height issue. Ms. Donato stated that the applicant did not notice as to the height variance and they relied on an "Omnibus Clause" provision. The applicant filed the application, and prior to giving notice the height variance was on the plan. Therefore, it is appropriate to let everyone know that there is a height variance, rather than relying on a generic provision, which is intended to address variances which arise in the course of the Board's deliberation. Therefore, Ms. Donato objected to the notice because it was deficient.

Mr. Roskos replied that he wanted to make his presentation. If the Board felt he should re-notice, the applicant would agree to do so. At the next scheduled meeting, the applicant would bring back the needed witnesses if there was still a height issue. Mr. Herbert replied that the suggestion made by Mr. Roskos was prudent. Mr. Herbert suggested to the Board not to take any action tonight, but to continue with the hearing. The notice issues would be resolved at the next scheduled meeting. In sum, the jurisdictional matter was resolved in that the applicant agreed to re-notice the matter for the February 6, 2008 meeting.

The following township reports were marked into evidence:

- **Exhibit B-1** – Division of Fire memorandum, dated October 8, 2007
- **Exhibit B-2** – Mr. West's memorandum, dated October 26, 2007
- **Exhibit B-3** – Township Architect, Mr. Wilson's memorandums, dated November 25, 2007 and October 16, 2007
- **Exhibit B-4** – Ms. Kooper's memorandum, dated November 28, 2007
- **Exhibit B-5** – Doug Davidson's (Health Dept.) memorandum, dated November 26, 2007

Mr. Katz requested the following exhibits be marked into evidence: **Exhibit A-1 – Revisions to Colored Site**, dated January 2, 2008. This addresses the comments made by the Township professionals to relocate the driveways down Circle Drive; **Exhibit A-2 – Aerial**, dated July 24, 2007. Mr. Katz gave a brief description of the site. The site is located at the northwesterly corner of Robbinsville-Allentown Road and Circle Drive. It is bounded on the east by Route 526; on the south by Circle Drive; on the west and north by wooded and farmed lots. This application is across the street from Mercer Corporate Park. The Wittenborn property was zoned for commercial use.

Mr. West said the town is negotiating for the Van Cleef property for open space (located on the other side of Circle Drive). The lot size is over twelve acres and four acres is wooded consisting mostly of wetlands and 8.6 acres is in active farmland. The site slopes from east to west to an unnamed tributary to Doctors Creek.

The application is in three parts: minor subdivision; develop the larger parcel as a mini storage area (three buildings being two stories), and an office building with a bank component and drive-up window. The driveways were relocated. Fifty-eight parking spaces will be provided. There will be some shared facilities between the two sites for drainage and storm water management. The two lots will be developed separately. Mr. Katz indicated that they would comply with the professional memorandums for the most part. One of the outstanding issues is that after roadway dedication the lot size will be 1.8 acres whereas it conforms now. Mr. West stated that the lot will be less than 2 acres, and the applicant has to apply for the variance because of the dedication. The waiver requests are for building coverage, setbacks and impervious coverage (numbers 3 through 7 in Ms. Kooper's memorandum. Dumpster requires a variance.

Mr. Roskos indicated that some variances are triggered by the lot line being created by the uses between the two lots. Ms. Kooper stated that she has not seen the revised plans; therefore, it was hard to make comments. The trash and driveways were moved per Ms. Kooper's suggestions. The applicant can provide a small picnic area if requested to do so. With respect to plantings, the applicant will comply. However, in respect to the plantings around the detention basin, the applicant will be subject to DEP requirements. Landscaping will be heavy along Circle Drive up to the septic system. The applicant will provide detail as to what the fence will look like along the frontage area. The applicant will provide final revised plans at the next scheduled meeting. In the front yard, the applicant is seeking a variance for 6 feet due to security reasons (ordinance allows for three feet). Mr. West indicated that the fence be a decorative type as opposed to a chain link fence. The driveways can be combined. This issue will be addressed at the next meeting. The office building entrance will be in the rear.

Ms. Donato requested cross-examination, which will be done once all the witnesses have testified.

Leon Walczak, 14 Allen Drive, Allentown, from the public requested to see the revised changes.

Mr. West would like for the applicant to state when they are submitting the revised plans for the public to review.

Chair Perhacs reinforced to the public that the Board will not vote on an application if not provided with the proper information.

Mr. Roskos said the applicant can bring all the details and show what they are proposing or come before the Board with a concept plan and ask for a use variance. It was the client's preference to show the Board everything. Their witnesses will give their testimony. The applicant is aware that they have the right to bifurcate the application, but it was not the approach they chose to take.

Mr. Brown stated that a waiver is required for the trash enclosure. Mr. Brown and Mr. Katz gave their credentials to the Board. The detention basin is located on the westerly part of the site and will be a wet basin and will meet the State's storm water regulations. Several dry wells are being

proposed; one for each of the buildings to provide recharge rates. Mr. Brown referred to B-4, Ms. Kooper's memorandum. The applicant will address the unresolved issues. The ditch opens into the culvert that leads to Doctor's Creek.

Mr. McDonough, Professional Planner stated his qualifications to the Board. The Board accepted him as an expert witness. Mr. McDonough testified that there are four parts to their analysis: existing conditions, proposed conditions, site zoning and the relief being requested and the fourth part is the statutory burden associated with the relief and whether the statutory burden is met with the variances being sought. Exhibit A-2 Aerial Photo was referred to. The site is a corner lot. **Exhibit A-3 – Close-up Version of the Aerial** (showing site condition) was marked into evidence. Two-thirds of the site has been cleared for agricultural purposes. The site is suited for the applicant's proposal. The subject property is located next to Mercer Corporate Park (Lot 31). The Wittenborn property is located further south. **Exhibit A-4 – Photos** (series of six photographs taken in July/August of 2007) was marked into evidence. **Exhibit A-5 – Architectural Rendering of Bank/Office Building** prepared by Gedalia Group, Inc. dated January 2, 2008 (evaluation of the plan) was marked into evidence. The architectural mimics a rural meeting house. The Board would like for Mr. Wilson to see the revised plans. The bank/office building will require a height variance. **Exhibit A-6 – Architectural Rendering of Storage Structures** prepared by Gedalia Group, Inc., dated January 2, 2008 was marked into evidence. This looks like a horse barn.

Mr. Roskos stressed that the applicant is not asking for Board action tonight, but will provide the Board with the current revisions, and also provide a list of outstanding variances and waivers. The applicant is seeking a D-1 Use Variance to allow the bank, storage and office component, all of which are not permitted uses in the RR district. There is also a companion D-6 variance for height being sought. Series of bulk variances are also being sought: lot area, building coverage, impervious coverage of each of the two lots, setback and side yard variances, accessory variance for dumpster enclosure and a variance for the sign. Signage is needed for the storage building and the bank. The statutory proofs were discussed outlining the negative and positive criteria. The site will be lit at night with low intensity lighting.

Mr. McDonough said that a building coverage variance is being sought for the self-storage facility. A height variance is being requested for aesthetic purposes. The additional height does not impede the view shed. The additional height was recommended by the Township Architect. The application is consistent with the Town's Master Plan. The applicant will meet their COAH obligations. There will be multiple buildings (mini warehouse) on site.

Ms. Kooper wants the applicant to provide her with landscaping and lighting details, which they have issues with, prior to the next scheduled meeting.

Ted Rica said that there is a demand for storage in Washington Township. Individuals will need a key pad to get in or off the site. Individual buildings will have individual keypads and each unit will be individually alarmed. A manager will be on site 24 hours a day. Each building will have an elevator for access to the first and second floors. **Exhibit A-7 – Lease Agreement** was marked into evidence. People will be responsible for taking their own garbage in and out. **Exhibit A-8 – Administrative Information from Crossroads Storage was marked into evidence.** This exhibit provided hours of operation, rules and regulations. Hours of operation will be: Monday-Friday 8:00 a.m. to 6:00 p.m., Saturdays – 8:00 a.m. to 5:00 p.m., and Sundays – 10:00 a.m. to 4:00 p.m.

and closed on all major holidays. The access hours will be the same as the office hours. **Exhibit A-9 – Definition of Hazard Materials Which are Prohibited under Exhibit A-7** was marked into evidence. The intention of the applicant is not to sell any of the uses. There will be 750 storage units proposed in each building. The development will be built in phases: first phase to be built on Circle Drive and then Phase II (depending on the demand in the area). Mr. Rica stated that a trash enclosure is not needed for each building. One trash enclosure will suffice. The aisle widths are 35 feet and there may be blind spots. “Stop” lines will be provided as individuals approach the intersections.

A motion was made at 10:05 p.m. by Mr. Kirkpatrick to open the meeting to the public and seconded by Ms. Carbone. All in favor.

All of the public who wished to testify were sworn in by Mr. Herbert.

Leon Walczak, 14 Allen Drive, Allentown, had questions regarding the Township 2000 Master Plan. He felt that no mention was made of Allentown.

Mr. Kirkpatrick stated that the Master Plan is a guideline document created by the Planning Board, which sets forth the guideline for the town. The Master Plan is not a governing document. The town government creates and changes zones.

Mr. Walczak said that he looked at the wrong version of the Master Plan. The 2007 Revision of the Master Plan is on the website. The agricultural site will be going septic and no one discussed the filtering. Allentown has well water.

Mr. Kirkpatrick responded that the site is zoned for septic use for residential.

Mr. Walczak said he didn't know the number of people who will be there on the site, but any development should be considered an impact to Allentown. Heading westbound into Robbinsville from Route 526, you cannot get into 195 eastbound. He asked where will all the people who come out of Circle Drive, heading east go. Are they going to go through Allentown?

Mr. West answered that one of the conditions for approval for Mercer Corporate Park is that they construct an eastbound ramp. At the signal, there will be a left hand turn and loop around, which is moving forward.

Martin Hoffman, 10 Circle Drive, Robbinsville, resides on the corner of the applicant's property. It is a rural residential zone, and the applicant is proposing commercial property. The application should meet commercial zoning requirements. The applicant is seeking a use variance from the zone. With respect to the mini warehouse, which will store residential goods, the ordinance states that two builders with the same type of “development” should not be within five miles from each other. The site is not flat. A stream of water runs down Circle Drive, and with the design of the water basin, and if there is a storm surge, the water will flow to the stream, which is constantly running, and come down onto Mr. Hoffman's property. This will cause erosion. The application also does not meet the setback requirements. The application is seeking a six-foot fence around a property which will stop the migration of animals (deer, raccoon, fox, etc.) The animals use the stream as a marker. The local authorities should address the Allentown bypass issue.

Sheree McGowan, 7 Thistle Place, Robbinsville said that she is the Township Planning Board Chair in addition to being the Vice Chair on the Master Plan Review Committee (which completed the reexamination in 2007). She stated that they spoke about ratables and making the town affordable for people. Currently, the town is not very affordable and the town needs ratables. However, the town does not want office buildings everywhere. The town looked at the gateway from Allentown and Route 526 to include the Wittenborn tract. It is surrounded by ORH and PCD zoning and Mercer Corporate Park. This area is zoned RR, which is 2 acre zoning with well and septic. Homes do not belong in this particular area. The plan, which the applicant presented, does not look like a warehouse. It looks like barns and is not using all of the available land. Mrs. McGowan also said that by bringing in the ratable, it does help the goal of affordability for the township. If land is preserved, no one will be paying the property taxes and help the town with the affordability problem. There is a need for storage. With respect to the septic, if homes were in place, there would be more septic. The storage use will generate low traffic use as well as low septic and well use..

Keith Becker, 73 Potts Road, Upper Freehold Township, said that tax ratables do not lower taxes. Taxes are high because the town is building. He feels that tax ratables raise taxes. The Board just turned down an application for a pool because it is not the design of the community. There will be congestion on Route 526 with a total of 789 cars per day including Saturdays. The facility will be lit with security lights all night.

Sal Diecidue, 16 Smith Drive, Upper Freehold Township, stated that the proposed building is close to the corner and will stand out. There will be security lighting. The driveway is either paved or stone, which would affect the impervious coverage and run-off. Will there be outdoor storage (boat trailers). The applicant responded that they are only proposing indoor storage. Will the first floor of the storage be able to hold vehicles? Mr. Diecidue stated no discussion took place regarding fire protection in the building. How many employees will work there? No numbers were given.

Michael McGrath, 3 Kensington Road, Trenton, said that the ordinance for the Wittenborn property has not been introduced yet. Mr. West said that this statement was correct. Mr. McGrath said that the biggest point against the development was that the parcel is a visual accent on both roads.

Mark Renzulli, 71 Potts Road, Upper Freehold Township, stated that Potts Road runs off of Circle Drive. The application does not belong there. Mr. Renzulli does not have a problem with Mercer Corporate Park, but he will have a problem with a 40 foot building on a corner of a road with an extruded aluminum fence (6 foot tall) because no other property has this type of fence. He would like the use variance denied.

Dave Mansue, 501 Circle Drive, Upper Freehold Township, stated that he is Mr. Hoffman's neighbor. The project will be phased in and the applicant does not have all of the statistics. The true tax benefit is not realized until completed. The gateway is from Allentown into Robbinsville. The curve is beautiful (one sees cornfields, etc.) what Robbinsville used to be. He feels that the site is not horse farm like. Circle Drive is a back route to Hamilton Market Place and there is a lot of traffic. There is enormous traffic on Route 526. He asked if there would be cameras in the parking lot. Mr. Rica responded yes. Because of security concerns, there will be cameras and lights. Mr. Mansue would like for the application to be denied.

Micah Rasmussen, 74 North Main Street, Allentown, thanked the Board for allowing the neighbors to address the Board with their concerns. The tax benefits do not pay for themselves. There is limited access to the ramps and the approval should be contingent upon those movements. Signage on Circle Drive is insulting to the residents. There will be excessive truck traffic. The area is not in transition because it is rural.

Bill Borkowski, 39 south Main Street, Allentown, said that he likes the quality of life and the uniqueness the town stands for. The town's name was changed to "Robbinsville" from Washington, which shows that the town is unique. Mr. Borkowski referred to Planning Board Chair McGowan's statement that it takes money to pay for the values to be preserved. The idea to curb high taxes is to introduce non-residential ratables that will spread the tax burden across a larger number of people. But in this case, there is a minimum tax relief which the town will receive from the applicant and not see the taxes go down. Mr. Borkowski stated 3 reasons why the application should not be approved: (a) there were no hardships imposed because they were all self-imposed. The applicant started out with a piece of vacant land; (b) bank proposed – town does not need any more banks. The bank will not service the community. You can not walk to it; and (c) storage units – the pitch line is not reflective of what will be built. The applicant should propose a side view of the building.

Christine Sadley, 505 Circle Drive, Robbinsville, encouraged the Board to deny the application because she does not see the hardship, which is required to have the applicant's proposal approved. This site is a gateway.

The meeting will remain open to the public. The applicant is coming back to the Board to finish his presentation, and then the public can speak again. Chair Perhaps would like to have the following issues addressed at the next meeting: number of people and the impact; the five or six homes which can be built as far as septic use is concerned versus what the septic use is for the new use; discussion of traffic impact; position of driveways; and culvert or stream issue (potential negative impact). This application is being carried to the February 6, 2008 meeting.

A motion was made to adjourn the meeting at 11:30 p.m. by Mr. Kreig and seconded by Mr. Kirkpatrick. All in favor. Meeting adjourned at 11:15 p.m.

Respectfully submitted,

Phyllis Persicketti  
Recording Secretary

**ADOPTED: MARCH 5, 2008**