

**TOWNSHIP OF FRANKLIN
ZONING BOARD OF ADJUSTMENT
COUNTY OF SOMERSET, NEW JERSEY**

**REGULAR MEETING
September 1, 2016**

This regular meeting of the Township of Franklin Zoning Board of Adjustment was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Laura Graumann, Vice Chairperson, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Raymond Betterbid, Laura Graumann, Alan Rich, Robert Shepherd, Gary Rosenthal and Cheryl Bergailo

ABSENT: Donald Johnson, Bruce McCracken, Anthony Caldwell, Joel Reiss and Chairman Thomas

ALSO PRESENT: Board Attorney, Patrick Bradshaw, Mark Healey, Planning Director, and Vincent Dominach, Senior Zoning Officer

MINUTES:

- **Regular Meeting – July 07, 2016**

Mr. Rosenthal made a motion to approve the Minutes as submitted. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

- **Regular Meeting – July 21, 2016**

Mr. Betterbid made a motion to approve the Minutes as submitted. Mr. Rosenthal seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

RESOLUTIONS:

- **US Clean Energy / ZBA-16-00004**

Mr. Betterbid made a motion to approve the Resolution as submitted. Mr. Rosenthal seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

- **Shree Swaminarayan Satsang Mandal, Inc. / ZBA-15-00019**

Mr. Betterbid made a motion to approve the Resolution as submitted. Mr. Rosenthal seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann and Mr. Rich

AGAINST: None

- **Edward Potosnak & Jeremy Pyke / ZBA-16-00015**

Mr. Rosenthal made a motion to approve the Resolution as submitted. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – August & September Retainers - \$1,730.00**
 - DeSapio - \$227.50**
 - PJ Cavanaugh’s - \$262.50**
 - Shamshair - \$245.00**

Mr. Shepherd made a motion to approve the Vouchers as submitted. Mr. Betterbid seconded the motion and all were in favor.

HEARINGS:

- **RON & YVONNE MCBRIDE / ZBA-16-00030**

Hardship Variance being sought due to Applicant putting up an addition (with proper permits) but when as built was submitted, found that it was over the maximum allowed at 2 Viking Avenue, Somerset; Block 287.02, Lot 28.31, in an R-10 Zone - **CARRIED TO OCTOBER 20, 2016 – with no further notification required.**

DL - 11/14/2016

- **ELITE PREPARATORY ACADEMY / ZBA-16-00013**

Site Plan w/Use Variance being sought to erect a 35,500 sq. ft. gymnasium at 17 School House Road, Somerset; Block 517.05, Lot 35.11, in an M-1 Zone - **CARRIED TO NOVEMBER 03, 2016 – with no further notification required.**

DL - 11/14/2016

- **ST. PETER'S HEALTHCARE SYSTEM PHYSICIAN ASSOCIATES, P.C. / ZBA-16-00029**

Mr. Sandy L. Galacio, Jr., Esq., Attorney, appeared before the Board on behalf of the Applicant, St. Peter's Healthcare System Physician Associates, P.C. Mr. Galacio indicated that they were there that evening to obtain a Sign Variance in which the Applicant was requesting to put up two signs at 59 Veronica Avenue, Somerset; Block 88.02, Lot 78, in an M-2 Zone.

Mr. Galacio indicated there was a two-story medical building location, with the owner occupying the first floor and St. Peter's Healthcare System Physician Associates, P.C. was a tenant of the subject building on the second floor. He then stated that they would like to put up a façade sign facing the road that was a 50.5 sq. ft. sign for each tenant. He noted that the following variances were required:

- Sign area – 50.5 sq. ft., where 5 sq. ft. was the maximum permitted for multiple tenant office buildings.
- Placement of signage on a multiple tenant building was desired above the first floor, which was not allowed.
- Maximum vertical dimension of signage – 4 ft. x 12', where 2 ft. was permitted for multiple tenant office buildings.

Mr. Galacio testified that they had already received exemption letters from Somerset County Planning Board and the D&R Canal Commission.

Mr. John Chadwick, Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. Chadwick briefly described the location of the building where they are proposing the signage. He then discussed other buildings that had larger façade signs than what was being proposed that evening. He also added that the subject building sat substantially back from the roadway compared to other buildings and felt the size of the signage was appropriate in terms of coming on to the site. Mr. Chadwick indicated that a 5 sq. ft. sign placed on the side of the subject building would be worthless in terms of identification and would not be in scale with the size of the building. Mr. Chadwick discussed both the C(1) hardship and the C(2) better zoning alternative criteria as it related to the size of the proposed signs. He stated that he felt the ordinance seemed to be directed at buildings that have 10, 15 or 20 professional tenants, but not large tenants that take up an entire floor of a building. Mr. Chadwick then said that the development was not out of character for the area and serves a basic public safety purpose in helping motorists find the location. He testified that he didn't find any detriments associated with the Application for the reasons he stated. He also then indicated that the variances can be granted without substantial detriment to the public good and that the grant of the variances would not be inconsistent with the intent and purpose of the Master Plan and zoning ordinance.

Mr. Shepherd asked whether there was also going to be a freestanding sign at the street level that would have the same information. Mr. Chadwick indicated that the freestanding sign was already in place and had the names of the two tenants listed on it. He explained that all of the signs on Veronica Avenue were difficult to read because of their size. Mr. Shepherd then asked what size the sign at the street level was, but Mr. Chadwick did not have that information. He did say that there was substantial landscaping around the sign and that there was parking in front of the building and that the building was set back very far from the roadway. Mr. Chadwick indicated that the façade signs would be placed on the building so that people coming there would be able to find the part of the building they needed to go to since there was parking in front and parking to the side of the building as well. Mr. Galacio also added that because it was a medical building, they needed to make sure all of their patients, including elderly people, would be able to see the building and be able to find the correct offices to go to.

Mr. Shepherd then asked if the Applicant would agree to any condition of approval that the signs would look like the rendering the Board received in their packet when they were put up. Mr. Galacio answered in the affirmative as it related to the sign for St. Peter's Healthcare System Physician Associates.

Mr. Robert Mulcahy, Applicant Representative, came forward and was sworn in. Mr. Mulcahy stated that they were there that evening for a variance for one side of the illuminated sign. He added that they were trying to standardize their signs at all of their locations and very similar to what was posted at other locations. Mr. Shepherd then asked if they were planning on turning the sign off at a certain time, and Mr. Mulcahy stated that they hadn't thought about that, but certain could do so.

Ms. Bergailo asked if there should be other tenants in the future, would they also want similar façade signs. Mr. Mulcahy indicated that they have taken up the entire second floor and don't intend to sub-lease any of the space, but just use it for their own physicians. He testified that he could not speak for the landlord, who has the other 10,000 sq. ft. on the first floor.

Vice Chair Graumann made a motion to open the meeting to the public. Seeing no one coming forward, the meeting was then closed to the public.

Board Attorney, Patrick Bradshaw, asked for clarification on the actual maximum vertical dimension of the proposed façade sign. Mr. Galacio testified that the sign would be no larger than the 50.5 sq. ft., which would be no taller than four (4) ft.

Mr. Shepherd made a motion to approve the Application and grant the requested Variances for the proposed façade sign that would be no greater than 50.5 sq. ft. and would be no higher than 4 ft. Additionally, the sign would have to look the same as shown in the rendering submitted with the Application and subject to payment of back taxes. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Rosenthal and Ms. Bergailo

AGAINST:

None

- **RARITAN VALLEY HABITAT FOR HUMANITY, INC. / ZBA-16-00021**

Mr. Jeff Lehrer, Esq., Attorney, appeared before the Board on behalf of the Applicant, Raritan Valley Habitat For Humanity, Inc. Mr. Lehrer indicated that they were seeking Use Variance relief in which the Applicant was asking permission to construct a single family dwelling at 589 Howard Avenue, Somerset; Block 534, Lots 6-9, in a CB Zone.

Mr. Lehrer stated that they were planning to construct a ranch-style, three-bedroom home on property that was actually owned by the Township and commonly known as 589 Howard Avenue. He testified that the proposed home would be constructed in accordance with the adjacent R-10 Zoning district bulk requirements. He then gave a background of the presence of Raritan Valley Habitat For Humanity, Inc. homes (18 in all) that had been already built in Franklin Township over the past 25 years. In agreement with the Township, Mr. Lehrer stated that Raritan Habitat for Humanity had agreed to build seven (7) low income homes by December of 2019, and that the proposed home that was the subject of the Application would be the third of those seven (7). He then explained that the process starts with the Township providing the land to build the home upon. He added that all permit and application fees were waived as part of the agreement. Mr. Lehrer then stated that all of the seven (7) homes would become an integral part of the Township's third round affordable housing plan as well.

Mr. Healey agreed with Mr. Lehrer's description, noting that the property was one of the pieces of Township owned property that was offered to Raritan Valley Habitat For Humanity and was within a residential neighborhood ,even though the property was zoned CB (Corporate Business) Zone and was in accordance with the R-10 zoning district. Mr. Healey suggested to the Applicant that they describe and explain how the construction of a specific style home was consistent with the neighborhood (R-10 Zone).

Mr. Thomas Fik, Engineer, employed with Carroll Engineering, came forward and was sworn in. The Board accepted his qualifications. Mr. Fik entered into the record as Exhibit A-1, a colorized copy of the Use Variance Plan. He described the lot as 10,000 sq. ft. in size, with 100 feet of frontage along Howard Avenue and 100 feet deep. He went on to explain that there were no bulk variances for the subject lot and believe it was fully conforming to the R-10 Zone. He then went on to state that there were residential properties all around the subject property, one with 5,000 sq. ft. and another with 20,000 sq. ft., with similar homes to what was being proposed for the new lot. Mr. Fik then showed the Board an enlarged version of the architectural plans for the proposed home that were included in the Application packet. He noted that it was a typical Raritan Valley Habitat home, a one-story ranch home, similar to those in the neighborhood surrounding it.

Vice Chair Graumann asked if the basement would be a finished floor, and Mr. Fik stated that it would hold the laundry area and utilities and was meant for storage. He noted that there were a few windows, but that there was no ingress or egress from the basement to the outside.

Mr. Fik then entered into the record as Exhibit A-2, a colorized rendering of the Landscape Plan showing the location of the ranch-style home on the property. He gave a dialogue and noted the locations of the various components of the Plan for the Board's edification. He indicated that they would have to remove three (3) trees and would be replacing them in kind as well as providing some foundation landscaping and grass.

Mr. Fik testified that they would be able to comply with most of the comments in the Township Engineer's report, but ask for relief from providing a few items since the cost to the Homeowner would be prohibitive. He also added that item #1 on the Engineer's report didn't apply since it looked like it might have been a carry-over from another application. Mr. Fik asked for relief of providing fees for the cost of making upgrades and modifications to the Tax Maps and geographic information (GIS), according to the developer's agreement with the Township. He then asked for relief of providing a tree replacement calculation since, as was already stated, they plan to replace the three (3) trees they are removing at a one for one ratio. Mr. Fik then drew the Board's attention to item #16, asking that the request to put in a dry well be waived because of the cost to do so as well as the cost for maintenance of the dry well. Mr. Lehrer brought up the waiver standard for minor developments, and Mr. Fik didn't believe a dry well was necessary on the property. He also noted that the impervious coverage on the lot was just under 20% and didn't feel the runoff from the property did not warrant a dry well. He asked for a waiver from this obligation. Finally, Mr. Fik asked for a waiver to provide the extra geotechnical testing, which would be a financial burden imposed upon Raritan Valley Habitat For Humanity and would be willing to work with the Township Engineer's office to come up with another solution that didn't require extensive geotechnical testing. He talked about digging a test hole to the depth of the basement and monitoring it on-site to make sure there was no seepage to allow for the inclusion of the basement. Mr. Fik indicated that they went through a similar process with the homes on Churchill Avenue.

Mr. Fik indicated that they could comply with the Sewerage Authority's comments as well as the Department of Public Works (DPW).

Mr. Rich inquired as to how the exclusion of a dry well on the property would affect the surrounding neighbors. Mr. Fik indicated that the presence of a dry well might in some way

affect the properties nearby, and Mr. Dominach stated that the lot would be graded property to ensure that the water drains properly off the site.

Vice Chair Graumann opened a discussion regarding small properties not being required to provide for a dry well. Mr. Dominach stated that some small developments are granted waivers if the Applicant meets some of the requirements.

Vice Chair Graumann then made a motion to open the meeting to the public.

Ms. Halla Sauer, 582 Jerome Avenue, came forward. She explained that her concern was in regards to the drainage from the property since she lived right behind the subject property. Mr. Fik showed her on his exhibit how the drainage from the property flows in the opposite direction of her home.

Mr. Al Sansone, 589 Jerome Avenue, came forward. He stated that his home was adjacent to the subject property and he questioned Mr. Fik regarding a statement made during his testimony regarding the type of homes already existing in the neighborhood. Mr. Sansone stated that there were seven (2) homes there presently, and that only one (1) was in the ranch style that matched what was being proposed. Board Attorney, Patrick Bradshaw, stated that Mr. Fik did not state that most of the homes in the neighborhood were of the ranch style, just that the ranch style of home was the typical style of home that Habitat for Humanity builds. Mr. Sansone also stated that at least four (4) of the seven (7) homes there run businesses out of their homes since they were located in the CB Zone. Mr. Dominach stated that Mr. Sansone might not want to go further with the line of questioning since businesses were not permitted in those homes as they were built as single family homes and businesses were not allowed without permits and a Use Variance or they would need to get a certificate of pre-existing, non-conforming use and prove that a business was run out of the home consistently since 1958.

Seeing no one else coming forward, the meeting was closed to the public.

Mr. Richard Brown, Planner, employed with Carroll Engineering, came forward and was sworn in. The Board accepted his qualifications. Mr. Brown indicated that he had reviewed the Zoning Ordinance and Master Plan of Franklin Township. He stated that they first identified the benefits advanced by the Application and indicated that the project did advance the Township's third round of Affordable Housing. He stated that it was classified as an inherently beneficial use because it was 100% affordable and doesn't see any detrimental impacts by the Application. He gave a brief history of the area, noting that there were six (6) properties built in the area from 1890 to 1970, with only one (1) built after the construction of I-287. Mr. Brown stated that he felt that the benefits certainly outweigh any detriments since he doesn't see any detriments and it did advance the Township's Master Plan. He then discussed the negative criteria test, noting that it was an inherent beneficial use in an area that already had residential uses and wouldn't comply with the requirements of the CB Zone for a corporate business since it would require 5 acres of property, which it doesn't have. Mr. Brown addressed the second prong of the negative criteria test by saying that he did not feel that the Application would impair any intent and purpose of the Zone and Master Plan of 2006 and 2016 Reexamination. He also stated that it would not be a substantial detriment to the Zoning Ordinance because the property would be built strictly and completely to the R-10 criteria.

Ms. Bergailo then asked if the home would be owner occupied and Mr. Brown answered in the positive. She then asked what the deed restriction was and it was revealed that it would be for 30 years.

Vice Chair Graumann made a motion to open the meeting for questions and comments to the public. Seeing no one coming forward, the meeting was closed to the public.

Mr. Shepherd made a motion to grant the Use Variance to construct a single family dwelling with the provision of waiver from items #1 and #8 on the Township Engineering report and modified item #14 of the same report so that the Applicant would provide a tree replacement on a one for one basis. Also recommended was that the Township Engineering Dept. waive the requirement for a dry well in item #16 as well as waive the provisions of item #'s 17 and #18, with the requirement that the Applicant's Engineer work with the Township Engineer to develop an alternative solution, possibly the same one that was used in the Habitat home on Churchill Avenue, to determine whether the ground there was sufficiently dry there to allow for a basement to be included on the property. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Vice Chair Graumann

AGAINST: None

- **ELVIN CARABALLO / ZBA-16-00018**

Variance in which the Applicant was proposing to construct an attached garage at 31 Kassul Place, Somerset; Block 171.01, Lots 164-165, 197-199, in an R-7 Zone.

Mr. Dominach's Zoning report stated that the Applicant was proposing to construct an attached garage, with the following variances required:

1. Impervious coverage: 30% maximum, 31% proposed
2. Side yard setback: 8 ft. minimum, 1.5 ft. proposed
3. Total side yard setback: 20 ft. minimum, 15.4 ft. proposed
4. Side yard setback (shed): 8 ft. minimum, 7 ft. existing/proposed
5. Side yard setback (pool): 8 ft. minimum, 7 ft. existing/proposed
6. Side yard setback (pool equipment): 8 ft. minimum (Applicant must confirm location of equipment as only the pad location was shown on the survey)
7. Front yard setback (pool): 25 ft. minimum, 20 ft. existing/proposed
8. Thru lot was not permitted (existing condition)

Vice Chair Graumann asked how close the proposed garage would be to the home adjacent to his property. Mr. Caraballo stated that it would be 30 ft. away from the home next door, noting that he had spoken to his neighbor who had no problems with the inclusion of the garage. He indicated that they were not there that evening either.

Vice Chair Graumann then made a motion to open the meeting to the public. Seeing no one coming forward, the meeting was closed to the public.

The Board then discussed the Township Engineer's report with the Applicant, noting that he would have to hire an attorney to consolidate the lots. Mr. Shepherd gave Mr. Caraballo a copy of the Township's Engineer's report and Vice Chair Graumann told the Applicant that he would have to comply with all the items noted there as a condition of any approval.

Mr. Shepherd made a motion to approve the Application, with Variances, to construct an attached garage to his home. He stated that the variances include those for Impervious Coverage of 31%, Side Yard variance of 1.5ft. on the side of the property in which the garage was being built, Total Side Yard Setback of 15.4 ft., as well as Side Yard Setback for the shed (7 ft.), pool (7 ft.) and pool equipment , Front Yard Setback for the pool (20 ft.) and the existence of a Thru Lot, which was not permitted. Also included was the fact that Mr. Caraballo had to pay his 2nd Qtr. Water bill. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Vice Chair Graumann

AGAINST: None

Vice Chair Graumann made a motion to take a break at this time in the hearing and all were in favor..

- **RUTGERS COMMUNITY CHRISTIAN CHURCH / ZBA-16-00024**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Rutgers Community Christian Church. Mr. Lanfrit explained that they were before the Board that evening for a Site Plan w/ Use Variance approval in which the Applicant wants to combine newly purchased property with their worship campus at 61-65-71 Cedar Grove Lane, Somerset; Block 468.09, Lot 41.02, in an R-40 Zone.

Mr. Dominach's Zoning report indicated that the Applicant had purchased land with various improvements on said land adjacent to their house of worship campus and will combine that land with their existing property. Also noted in the report was the fact that the Applicant must clarify the exact use(s) proposed for the newly purchased land and improvements and that a D(3) Variance was needed since the required buffering was not provided.

Mr. Lanfrit stated that the Applicant wished to combine the old Henning's Flower Fair into the church's current campus. According to Mr. Lanfrit, since houses of worship were conditional uses, the Applicant was required to meet all of the requirements of the conditional use standards. He then stated that the Application did fulfill all requirements, with the exception of the buffer between the adjoining property, which was why they were before the Zoning Board of Adjustment that evening.

Mr. Wei Liang, Trustee and Elder of Rutgers Community Christian Church, came forward and was sworn in. Mr. Liang noted that he was affiliated with the church for the past 27 years. Mr. Lanfrit entered into the record, as Exhibit A-1, a survey of the property. Mr. Liang used the exhibit to show the Board and public the various buildings located on their property and their uses, including the timeline of their incorporation into the church's use. He spoke about the

purchase of the former retail/nursery property (Henning's Flower Fair) in 2012. He then discussed the location of their current office space on the campus and their desire to consolidate that office space in the future, but want to utilize the former retail space on the former nursery property now for additional office space. Mr. Liang prepared a chart showing the office needs, which was marked into evidence as Exhibit A-2. Mr. Lanfrit then distributed copies to the Board members of the chart for their review. Mr. Liang explained that the people listed on the chart had something to do with the ministry at the church and would need office space either on a daily basis or a fairly regular basis in order to accomplish their tasks for their ministry. He testified that they currently only have twelve (12) offices. Mr. Liang then explained that the architectural plans that were submitted with the Application showed the addition of five (5) more offices in the former retail area of the flower shop for office staff, who would park in front of the building. Mr. Lanfrit then marked into evidence as Exhibit A-3, a colorized rendering of the other buildings on the former retail/nursery property, prepared by Mr. Reynolds, Project Manager, and Mr. Ardman, Engineer, both employed by the Reynolds Group, Inc. Mr. Lanfrit then passed out copies of the colorized rendering to the Board members for their use during the hearing. They then discussed the uses for the other buildings on the subject property, noting that they would be using the two-story home for occupation by one of the ministers of the church and his family. Mr. Liang explained that one of the greenhouses (rectangular building colorized in tan on the rendering) on the property was going to be utilized for additional participation with the Food Bank to raise seedlings. He stated that the small brown building on the rendering showed a storage building that they would be utilizing for storage. He then stated that the garage with residence above would be used for visiting missionaries, lecturers or church-related instructors and would only stay for the time period they were working with the church.

Vice Chair Graumann asked what they were going to use the greenhouse that was behind where the additional office space would be used for. Mr. Lanfrit explained that it was not going to be used initially, but that the church was putting together a Master Plan for the entire campus and would be moving some activities around. He added that they would be finished with that Master Plan within two years and would be back before the Board again with a full Site Plan that would probably eliminate some things and add some things.

Mr. Healey then summarized the plan for the former Henning's Flower Fair property for the Board and public's information, noting that the Applicant would only be utilizing the property, for the time being, as a low intensity use since there were only six (6) parking spaces provided presently, five (5) regular parking spaces and one (1) handicapped parking space.

Mr. Liang clarified for the Board and public the fact that the lecturers and dignitaries who would be utilizing the apartment space over the garage would come to the site utilizing their own vehicles and parking in front of the garage. He also noted that there was parking available in front of the two-story home for the minister's vehicle. Mr. Liang then testified that the hours of operation for the five employees in the new office space would generally be from 9:00 a.m. to 5:00 p.m.-Monday through Friday, but that sometimes they would be out visiting people in need in the community.

Vice Chair Graumann made a motion to open the meeting to the public for questions of Mr. Liang. Seeing no one coming forward, the meeting was closed to the public.

Mr. Jeffrey D. Reynolds, Project Manager and Landscape Architect, employed with the Reynolds Group, Inc. The Board accepted his qualifications. Mr. Reynolds stated that the Applicant would be consolidating the subject lot into the rest of the campus, should the Board grant approval that evening for the Site Plan.

Mr. Reynolds then drew the Board's attention to the larger colorized rendering of Exhibit A-3 to show the ingress and egress of the subject property as well as any changes that were made that were different than when the site was utilized as a flower shop. He stated that the site, as it currently existed, had two-way ingress and two-way egress with a circular driveway, but were proposing to make it a one-way in and one-way out circulation plan with lighting, do not enter signs and stop signs, along with the restriping of the parking area. Mr. Reynolds then explained that they were also planning to decommission the wells that were on-site for drinking water and permit their use only for irrigation only. He added that they plan to bring in some new water lines through the entrance driveway from the water main on Cedar Grove Lane to all of the buildings on the property. Mr. Reynolds then discussed the lighting on the property at the present time, noting that there was a single, fluorescent spotlight on a telephone pole adjacent to the driveway which was directed to the entrance of the driveway. He testified that it did illuminate the site well enough to see where the driveway was. He also noted that there were five (5) high hat lights mounted on the front porch, which illuminated the porch very well. Mr. Reynolds then noted that there was a motion activated light on the garage of the home that lights up when someone comes close. He added that he felt the lighting was sufficient enough for the employees to enter/exit the building and get to their vehicles safely. He testified that they were not proposing any additional lighting. Mr. Reynolds then addressed the buffering variance that they were seeking, stating that the property houses a commercial flower shop in the past and that there was a residential home to the right of the property, approximately 50 ft. away. He then stated that there currently was a row of red cedar straight down the property line that had been there many years. Mr. Reynolds entered into evidence as Exhibit A-4, a photograph he took about a year ago of the vegetation between the subject property and the closest residential property. He then testified that the vegetation shown in the photograph being presented into evidence was still there just the week before the hearing and will remain on the property. Mr. Lanfrit then passed out copies of the photograph to the Board members for their review.

Mr. Reynolds addressed the staff reports and testified that they would be able to comply with all comments. Mr. Lanfrit referred the Board to the Township Engineer's report where he asked how refuse would be handled on the site. Mr. Reynolds indicated that the subject property would be utilizing the dumpsters on the larger property to the south that would be able to accommodate the refuse from the subject property. He noted that the subject property would not be generating much garbage, and the Applicant has a custodian that utilizes a golf cart to go between the properties and pickup and dispose of anything coming from the site.

Mr. Reynolds then addressed the subject of signage on the property, as noted in Mr. Healey's Planning report. He testified that there was signage on the property that would be repurposed for the church. Mr. Healey indicated that they already had signs on the property that required variances and they would also need a variance for the existing sign. Mr. Lanfrit stated that they would be asking for a variance to keep the sign, if it were necessary, to identify the property as part of the church's campus. He added that the notice he sent out for the Application stated that if there were any additional variances needed that were determined

during the course of the hearing, that they would be requesting them, so he felt that the hearing was adequately noticed.

Mr. Shepherd asked whether or not the buffer shown in the photo that was part of the record as Exhibit A-4 was going to remain on the site. Mr. Lanfrit indicated that Mr. Reynolds had already testified that the vegetation at the property line would remain.

Ms. Bergailo asked if the present lighting exceeded what was allowed in the ordinance at the property line. Mr. Reynolds stated that all the lighting was facing the building and did not shine onto the neighboring property line and did not exceed what was allowed in the ordinance there. He did state that it might shine onto the right of way (1.25 foot candles at the face of curbing), but that it provided good lighting at the driveway to enter the site. Mr. Reynolds offered to submit the foot candle readings he took at the property line to the Township Engineer, if the Board so desired. Ms. Bergailo asked that he do so. She then addressed the subject of landscaping, and Mr. Reynolds stated that there was nothing proposed at that time. He did state that he could submit a Landscaping Plan as part of the Application, should the Board request it.

Mr. Rich opened a discussion regarding the Health Dept. notation for the wells on the property to be capped. Mr. Lanfrit stated that the report indicated that they should be abandoned or re-permitted to be used for irrigation. He said that they would agree to this condition as part of any approval and could also state that the existing septic system could handle the change of use of the retail building, noting that it was now a less intensive use than when it operated as a retail outlet for the flower shop/nursery.

Vice Chair Graumann made a motion to open the meeting to the public for question of Mr. Reynolds. Seeing no one coming forward, the meeting was closed to the public.

Mr. Lanfrit made his closing statements and Vice Chair Graumann opened the meeting to the public for comments regarding the Application. Seeing no one coming forward, the meeting was then closed to the public.

Mr. Shepherd made a motion to grant the variances requested in the Application, including the buffering variance and for the repurpose of the existing sign. Also included in the motion was the agreement that the Applicant's professionals meet with the Township professionals to design a Landscape Plan in the front of the property. Ms. Bergailo added that the results of the lighting study be submitted to the Township Engineer as well. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Vice Chair Graumann

AGAINST: None

- **MATSON CONSTRUCTION, INC. / ZBA-16-00019**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Matson Construction, Inc. He explained that a Hardship Variance was being sought in which the Applicant was requesting permission to build a single family home at 10 Maxwell Lane, Somerset; Block 449.01, Lots 7-15, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to erect a house in an R-20 Zone and that the following variances were required:

1. Lot area: 26,000 sq. ft. minimum, 21,752 sq. ft. existing/proposed
2. Lot frontage: 130 ft. minimum, 120.36 ft. existing/proposed
3. Front yard setback: 35 ft. minimum, 25 ft. proposed

Mr. Lanfrit stated that they were there before the Board to obtain variances for lot area, lot frontage and front yard setback because the property was a corner lot. For lot area, the zone requirement was only 20,000 sq. ft. if it were not a corner lot. Also, the lot frontage on Easton Avenue did not have the required frontage because it was considered a corner lot; however, since they were not extending Maxwell Lane and it did not connect to Easton Avenue, it technically was not a corner lot. The last variance Mr. Lanfrit proposed was one for front yard setback in which the proposal was to only have a 25 ft. setback as opposed to the required 35 ft. minimum.

Ms. Maureen Matson, Applicant, came forward and was sworn in. She indicated that she purchased two approximately 10,000 sq. ft. lots in 2015 from Phillip Barrood and Theresa Ann Barrood to consolidate them into one 21,752 sq. ft. lot.

Mr. Shepherd asked if Ms. Matson purchased the lots from separate people, and Ms. Matson indicated that that they were purchased from the same people. Mr. Lanfrit indicated that he had the deeds with him and entered them into the record as Exhibit A-1 and Exhibit A-2. Mr. Lanfrit reminded Ms. Matson that she would have had to contact the adjacent property owners in order to satisfy the buy/sell letter obligation that the Applicant would have to undertake when dealing with an undersized lot. Mr. Lanfrit stated that the property to the right of the subject property was owned by Edward and Joanne Galizan. Ms. Matson testified that the Galizans were sent both a certified and a regular buy/sell letter on June 15, 2016, and the certified letter was returned to sender, unclaimed by the owners. Mr. Lanfrit then entered into the record as Exhibit A-3, the two buy/sell letters that were sent. Vice Chair Graumann asked if the letter sent by regular mail was returned to sender, and she answered in the negative. Ms. Matson then stated that there was an adjacent property to theirs on the Easton Avenue side owned by the Bacon's. She indicated that she sent them a buy/sell letter in June, but that it did not meet the statutory requirements, so she resent the letter on July 7, 2016 to the Bacons, who live at 1440 Easton Avenue, Somerset, NJ. Mr. Lanfrit indicated that the Bacon's property was slightly over 20,000 sq. ft. so there was a possibility that they could sell Ms. Matson some of their land, and Ms. Matson concurred. Mr. Lanfrit marked that buy/sell letter into evidence as Exhibit A-4. Ms. Matson indicated that she met them at their property and had a discussion regarding the possibility of them either selling a portion of their property or purchasing the subject property from her. She added that they were not interested in either choice. She did describe some of the questions the Bacon's had regarding the home she planned to build on the subject property and the landscaping they wanted her to provide. Ms. Matson stated that

the Bacon's wanted to have pine trees between the property lines to maintain privacy. She testified that she was agreeable to that request and would provide a Landscape Plan showing an evergreen buffer between the two properties. Ms. Matson explained to the Board the reason for the request for a front yard setback. She indicated that by placing the home with a 25 ft. front yard setback as opposed to one that conforms to the zone at 35 ft., it would give the home more backyard space, create more distance between the subject property and that of the Bacons to the rear, and would align the proposed home with the home directly next to it.

Mr. Betterbid asked how many square feet was going to be included in the proposed home. Ms. Matson stated that it would be approximately 2,250 sq. ft. She stated that the building coverage maximum in the zone was 15% and that they were building a home on the property that would only cover 7%, which was half the space that they could use to build a home there. Ms. Matson also stated that the home they propose to build was in keeping with the character of the existing neighborhood. She also added that they built the home across the street on Maxwell Lane in 2005, and it was approximately the same size home that was proposed in the current Application. She indicated that the home across the street was connected to public water through Easton Avenue

Mr. Healey asked if they were going to build the exact home that was shown in the plans, to the exact dimensions and the exact location on the property as in the architectural plans. Ms. Matson answered in the affirmative.

Mr. Shepherd asked Ms. Matson if the Bacon's were attending the hearing this evening, and she answered in the affirmative.

Vice Chair Graumann then made a motion to open the meeting to the public regarding Ms. Matson's testimony. Seeing no one coming forward, the meeting was closed to the public.

Mr. Stephen M. Fisk, Professional Land Surveyor, Planner and Principal of Fisk Associates, came forward and was sworn in. The Board accepted his qualifications. Mr. Fisk stated that his office prepared the Variance Plan and that the same plan was shown on the board at the easel and was marked into evidence as Exhibit A-5. Mr. Fisk then briefly described what was being proposed, reiterating the testimony given by both Ms. Matson and Mr. Lanfrit regarding the size and shape of the proposed property, along with the required variances. Being that there was no other property available to purchase, Mr. Fisk stated that the variances were beyond the control of the Applicant and that was what created the hardship. He indicated to the Board that it should be noted that the subject property was the largest one on Maxwell Lane, with the three other homes approximately the same size as the one proposed for this Application. He discussed the floor area ratio (FAR) of the proposed property, indicating that the proposed home was no larger than others in the neighborhood on a much larger lot size. He also added that they were allowed to have impervious coverage of up to 25%, but were only utilizing 10% with their proposal. Mr. Fisk also reiterated the testimony of Ms. Matson, stating that they were asking for a front yard setback variance in order to place the home in conformance with that of the homes in the neighborhood. He then talked about having additional rear yard space to create more space between the proposed home and the adjacent home to the rear, allowing for approximately 80 ft. between the two houses. Mr. Fisk testified that it would be a benefit that would outweigh any detriment to granting the variance. In summary, Mr. Fisk stated that he felt that the placement of the home on the property in the proposed location would also be a better zoning alternative.

Mr. Fisk then addressed the staff reports. Firstly, Mr. Lanfrit asked for a waiver of constructing sidewalks and curbing since there were no curbs or sidewalks on Maxwell Lane. Mr. Fisk indicated that the Applicant would make a contribution, in lieu of providing curbing and sidewalks. He then stated that they were originally going to ask for a waiver to provide for a water detention basin due to the fact that the soil was not really compatible for permeability; however, they were now not going to ask for the waiver due to the Delaware & Raritan Canal Commission's (DRCC) requirement to put the basin in anyway. He stated that they would have to add a relief pipe to drain that basin since it probably would not percolate. Mr. Fisk stated that they would meet and satisfy all of the requirements of the DRCC. Mr. Fisk then detailed the connection in front of the proposed property to the sewer line, and noted that the Sewerage Authority had no objection to. He then discussed a request to extend a water line to the property; however, there was an existing 12" water line along Easton Avenue on the subject property's side of the street which they planned to connect to. Mr. Fisk then stated that the Engineer, Fire Prevention and Public Works have all suggested that we might extend an 8" water line up Maxwell Lane, but see no reason to do so since there was a water line 5 ft. from the property. He then opened a discussion regarding a request for a new fire hydrant, noting that there was an existing hydrant less than 20 ft. from the property right on Easton Avenue. In all other respects, Mr. Fisk testified that they would be able to comply with all other comments in the staff reports. A discussion ensued among the Board. Mr. Lanfrit then entered into the record as Exhibit A-6, showing the Variance Plan that was approved in 2005 for the property across the street that showed that that plan had a tie-in of a water line onto Easton Avenue. Mr. Lanfrit sent an open request and asked to have a water line tie in from Easton Avenue and received a letter back from Ann Marie McCarthy, which generated a report dated August 4, 2016, indicating that there were currently 157 tie-ins to the transmission line on Easton Avenue and 78 water connections to Cedar Grove Lane. Mr. Lanfrit entered the report into the record as Exhibit A-7.

Ms. Bergailo then opened a discussion regarding whether there was a clear path to put a water line tie in from Easton Avenue. She also asked for clarification regarding how far away the fire hydrant on Easton Avenue was from the subject property, and Mr. Fisk stated that it was less than 20 ft. away. A discussion ensued among the Board.

Mr. Rosenthal asked if the 2nd qtr. Taxes were paid, and Mr. Lanfrit stated that everything was current

Vice Chair Graumann then opened the meeting to the public for questions of Mr. Fisk's testimony. Seeing no one coming forward, the meeting was closed for questions. Vice Chair Graumann then opened the meeting for comments on the Application.

Mr. James E. Bacon, 213 Hazelwood Avenue, Middlesex, NJ, came forward and was sworn in. Mr. Bacon was there representing his parents, Margaret and Donald Bacon, residing at 1440 Easton Avenue, Somerset, NJ. He noted that his father, Donald Bacon was there that evening, but that his mother, Margaret Bacon could not make the meeting. He stated that his parents lost a significant portion of their property to eminent domain when they widened Easton Avenue, so were not open to losing any more of their property. He said that his parents were very concerned for their privacy, but were very happy with what the Matson's were proposing. Mr. Bacon did state that they were concerned for the drainage of the property as that lot was the lowest in the neighborhood and that his parents have resided in their home for sixty (60) years with the use of a well. Mr. Fisk indicated that all the water from the property

drains to Easton Avenue and that there would not be any detrimental effects on any other neighboring properties because the storm water would be collected from the house to a proposed underground dry well with piping and released towards Easton Avenue. He also added that there would be no water directed to or going towards the Bacon property or any other neighboring property. He asked that the requirement for landscaped screening between the properties be a condition of any approval. Mr. Bacon stated that they very much encourage the Matson's to build the home as far forward as they are approved for in order to maintain privacy and space between the properties. Finally, Mr. Bacon wanted to make sure that they would be made aware if there were going to be any significant changes to the plan in the future, and Mr. Bradshaw, Board Attorney, indicated that they would have to come back before the Board and that the Bacon's would be notified as such.

Mr. Healy asked for more clarification from the Applicant regarding the screening they would put in place between the subject property and the Bacon's property in terms of how many trees, type and size, and where would it be placed, etc. Mr. Fisk indicated that his understanding was that the Applicant had agreed to place a screen between the existing shade trees along the rear of the Applicant's property with between 10-12 pine , 5-6 ft. in height , along the property line so that it adequately screened the properties from each other.

Mr. Shepherd made a motion to grant variances to build a single-family dwelling discussed during the hearing and subject to the following requirements:

1. There shall be a screen of evergreens planted between the shade trees along the property line that abuts the adjoining property.
2. The house that will be built should be in the same location and will be the same house that was shown on the plans that were submitted as part of the Application.
3. Waivers from providing curbs and sidewalks
4. Waiver for having to extend the water main to Maxwell Lane or install a fire hydrant there as well.

Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Vice Chair Graumann

AGAINST: None

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Vice Chair Graumann made a motion to adjourn the meeting at 9:48 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
September 30, 2016