

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

**REGULAR MEETING
June 1, 2017**

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 Robert Thomas, Chairperson, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Laura Graumann, Alan Rich, Robert Shepherd, Anthony Caldwell, Gary Rosenthal and Chairman Thomas

ABSENT: Raymond Betterbid, Donald Johnson and Bruce McCracken

ALSO PRESENT: Mr. Patrick Bradshaw, Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – Kelso & Bradshaw – Rivera Resolution - \$210.00
- Various Matters (1/2017-3/2017) - \$385.00**

Vice Chair Graumann made a motion to approve the Vouchers as submitted. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **Peter Fiorentino / ZBA-2006-00009 – Extension of Time**

Vice Chair Graumann made a motion to approve the Extension of Time. Mr. Rosenthal seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Rosenthal and Chairman Thomas

AGAINST: None

HEARINGS:

- **ALLEN MAGSIPOC / ZBA-17-00010**

Hardship Variance in which the Applicant was seeking approval to add a second floor addition at 142 Harrison Street, Somerset; Block 192, Lot 62 & 63, in the R-7 Zone - **CARRIED TO JUNE 15, 2017 – notification required to newspaper only.**

DL 09/30/2017

- **ANANDA MANDIR, INC. / ZBA-15-00024**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Ananda Mandir, Inc. He indicated that they were there that evening before the Board for an Amended Site Plan w/Use Variance & Appeal in which the Applicant was seeking to amend their approvals for further expansion of the use: renovate basement, pave banked parking spaces, add second floor, do an addition and revise gate design at 269 Cedar Grove Lane, Somerset; Block 508.02, Lot 5.03, in an R-40 Zone - **CARRIED TO JULY 6, 2017 – no further notification is required.**

Mr. Lanfrit indicated that since the approval and Resolution in 2009, construction had taken place. Since the construction of the project, he indicated that there had been a couple of administrative approvals to make some minor amendments to the project which did not require a Use Variance and were granted through the staff administrative approval process. He explained that they were before the Board that evening for a number of changes that came about because they had now started to operate the facility and determined that there were certain unmet needs, things that could be done better as well as things that had already been approved that didn't make sense for the operation of the facility.

Before the new testimony was given by the witnesses, Chairman Thomas asked Mr. Healey if he could give some background regarding the previous conditions and terms of the two other approvals agreed to and if they had been complied with. Mr. Healey suggested that it might be easier if the background surrounding the two other approvals were discussed as the new testimony was given, point by point. He did say that there had been some issues with compliance with the site, i.e., construction of the overflow parking at the site was started before it was allowed, there were some issues with events at the site regarding the number of people that could be attending at any one time and which significantly exceeded that number (in the range of double the approved amount and sometimes much more than that). Mr. Healey discussed the Applicant's request for approval of the paving of the banked parking area as one item the Applicant wished to discuss that evening.

Mr. Lanfrit then testified that the banked parking was part of the original plan. He then referred to the 2009 approval, where they spoke about building the temple and not knowing when they were going to build the community hall. He noted that the parking was built based on the needs of the temple. Mr. Lanfrit indicated that the reason they were looking to construct the banked parking now was really driven now by the use of the community hall and not the temple.

Mr. Lanfrit then discussed the responsibility of the Applicant as well as the responsibility of the contractor in regards to the issues that have occurred on the site. He noted that it had been taking much longer to get the temple and community hall built than anticipated. Mr. Lanfrit then stated that they were now both built and that they did have a final Certificate of Occupancy (CO) for the community hall and a Temporary Certificate of Occupancy (TCO) for the temple. He added that they would be receiving the final CO with the completion of a small section of the temple. Mr. Lanfrit explained that part of the problems with the over abundance of people was due to the fact that the buildings were not completed so certain things were done that were contrary to the Resolution of Approval because of that. He added that since the buildings had been completed, they had worked with the Township closely to control those issues. He noted that there was one major 2-day event each year (high holy days) that was larger than the agreed upon numbers who would be attending. Mr. Lanfrit also noted that other site conditions that were problematic had now been rectified. He added that all the lighting was in place, the storm water management system was in place, and the originally approved parking area was in place. He did testify that Mr. Healey was correct in stating that the banked parking area had been partially paved, which was not part of any approval and shouldn't have been done. He said that they were there before the Board that evening to take care of the last items left to be approved on the site so it would function properly.

Mr. Healey stated that the first page of his memo indicated the approvals granted in 1999 for the site and then the approvals that were granted in 2009 for the site were listed on page two and three of the report. He noted that various conditions that were imposed on the Use Variance that was granted in 2009 were listed and suggested that the Applicant go through each item during the testimony that evening and explain to the Board to what degree the Applicant was going to comply with them.

Mr. Michael Ford, Site Engineer/Professional Planner employed with Van Cleef Engineering, came forward and was sworn in. The Board accepted his qualifications. Mr. Ford stated that he was the Site Engineer for the project in 2009 and prepared the plans that would be presented that evening. Mr. Ford then entered into the record as Exhibit A-1, which was a colorized versions of the existing condition plan and Exhibit A-2, which showed a colorized version of the proposed site changes. Mr. Ford also gave 11' x 17' handouts to the Board for their edification and was identical to the exhibits that were digitally submitted as part of the Application.

Mr. Ford had Exhibit A-1 showing on the screen and went on to describe the existing conditions on the property. He noted the existing residential structure, the temple building in the middle and then the larger rectangular community hall building. He then noted the access driveway from Cedar Grove Lane, the existing paved parking area approved in 2009. Mr. Ford then discussed the area on the plan that was identified in 2009 as the banked parking area. He noted that that was one of the items that they were discussing to get approval to complete the construction of the banked parking area. He indicated that many of the components of the Site Plan had been completed and constructed and that they had not received any comments from the Township Engineering Dept.. Mr. Ford noted that the 2009 approval included the caveat that the banked parking could be constructed, but stated that the Applicant did not follow the procedures in seeking permission to construct the banked parking area. He added that the Planning/Zoning Dept. sent them back before the Zoning Board that evening to gain that permission to complete the construction.

Vice Chair Graumann noted that there was a Township Engineering Dept. memo, dated March 2, 2017 that they had received, and Mr. Ford stated that they must not have received that memo. Mr. Lanfrit also testified that if there was an Engineering memo, it had never been provided to him.

Mr. Ford stated that the 2009 approval included the statement that they would not build the banked parking at that time; however, the storm water management system was designed to handle the runoff of all the parking areas, including the banked parking area. He also added that the storm water management system had already been constructed and was ready to handle the additional runoff from the banked parking area, should the Board agree to allow them to do so. Mr. Ford then indicated that they were there before the Board because they did not meet some of the conditions of the standards for a house of worship. He mentioned that the lot area in the R-40 Zone for a house of worship was 120,000 sq. ft. and the Applicant had 406,999 sq. ft. He then indicated that the frontage requirements for a house of worship were 200 ft. and they had 412.61 ft. Additionally, he testified that they met the side yard setbacks in all aspects as well as the coverage requirements of a maximum of 40%, with an additional 10% if utilizing pervious pavement was used. He indicated that they were at 36.79%, which included the banked parking area. Mr. Ford stated that the only condition they did not meet in the 1999 approval was the parking standards, i.e., that they would have to consider having enough parking spaces as if all the different functions on the property would occur simultaneously. In that scenario, Mr. Ford indicated that the total required parking was 465 parking spaces. In actuality, the Applicant proposed 323 parking spaces, with 206 constructed initially and 117 parking spaces were banked. Mr. Ford then stated that 24 additional parking spaces were required in association with the proposed dining use of the existing basement of the temple and another 9 parking spaces were required as part of the renovations that were proposed to the front residential structure. A discussion ensued with Mr. Healey regarding his memorandum that included the requirement of 96.3 parking spaces based upon 1 space per 15 sq. ft. for the basement dining area since the seating was not permanent. Mr. Lanfrit stated that he would have to have some discussion regarding this issue. Mr. Healey stated that the total parking requirement, per the Township ordinance, was 656 spaces that also included 113 alone for the finished basement in the priest house based on 1 space per 15 sq. ft. Mr. Lanfrit stated that he would re-verify the calculations

Vice Chair Graumann then gave a copy of the Township Engineer's report, dated March 2, 2017, to Mr. Ford for his review. Referring to Exhibit A-2, Mr. Ford then reviewed with the Board the site changes that were being proposed. He indicated that the banked parking was now shown as paved and the 445 sq. ft. addition to the temple was highlighted. Also shown on this plan was the proposed second floor addition to the front residence and a proposed gate at the main driveway that was somewhat different than the previously approved gate, and included wing walls that violate the front yard setback for an accessory structure. He added that there was also a request to provide additional plantings on Lot 5.03 that was also depicted on the plan. Mr. Ford described the differences between the originally approved gate, which was just an archway over the entrance drive, and what was being proposed now with a gate that closes. He added that the newly proposed gate was in the approximately same location as the previously approved gate, with the wing walls slightly closer to Cedar Grove Lane. Mr. Ford testified that the placement of the wing walls were the reason for the need for a variance for front yard setback to an accessory structure.

Mr. Mistry, Architect, came forward and was sworn in. The Board accepted his qualifications. Mr. Mistry indicated that he was the architect of record in 2009 and also prepared the revisions that would be shown that evening. He introduced into evidence as Exhibit A-3, the 7-sheet architectural plan that was included as part of the application submission. He drew the Board's attention to sheet 2, which showed floor plans of the temple building showing a "last rites" room at the rear of the temple and was originally 13 ft. x 16 ft. and now proposed at 16' 6" x 26' 11" (an additional 235 sq. ft.). Utilizing Exhibit A-2, Mr. Mistry showed the Board where the location of the "last rites" room was on the plans. He went on to explain that the additional square footage would increase the seating capacity in that area, allowing for approximately 30-40 people sitting down. Since the original "last rites" room in the temple building was never completed, they still did not have their completed Certificate of Occupancy (CO) for that building. He then described the worship area, the "religious" kitchen in the basement of the temple and the unfinished space in the basement of the temple. He indicated that there were 72 seats in tables/chairs in the basement kitchen space in the open eating area to be utilized after their services for food offerings. He noted that there was also a general use kitchen in the community hall building on the site for events there. He testified that the "religious" kitchen would be utilized for the congregants after services and would be the same people who would be utilizing the temple space, whereby the temple space would be used first and then the attendees to the service would then congregate in the basement of the temple for something to eat. Even though they were required to provide parking for every possible use on the property, assuming that it was all being utilized at the same time pursuant to the Township ordinance, Mr. Mistry noted that the practical use of the temple building was for the use of the same people attending services in the worship space of the temple as would be used for the basement kitchen space after the services were over. He testified that there were no other changes to the temple building.

Mr. Shepherd opened a discussion regarding whether the tables/chairs were fixed or moveable in the temple kitchen space. Mr. Mistry indicated that they were moveable. Vice Chair Graumann then inquired as to whether there was unexcavated space under the temple that might be utilized at a future date. Mr. Mistry indicated that there was a poured slab on grade in the worship area as well as in the "last rites" room and would not and could not use any space underneath that area as it was already constructed. She then discussed the occupancy load for the basement kitchen, and Mr. Mistry indicated that they got an occupancy load from the Fire Dept. to not exceed 72 people there. Chairman Thomas asked if the temple kitchen might be used during a special event at the same time as the community hall would be used. Mr. Mistry then deferred to the Applicant on that question. Mr. Healey inquired how many people would be able to fit in the temple worship space and Mr. Mistry stated that it was the amount of people that was approved in the original application, approximately 200 people. Mr. Healey questioned how the two spaces could be utilized with the number of allowed people in each space differed so greatly. Mr. Mistry indicated that some people might have to wait or eat in the lobby, but that they do not normally have full capacity in the temple space either. Mr. Healey inquired why the basement space was originally approved for storage only and wondered why they were now proposing an eating space. Mr. Mistry stated that he felt that the way they were distributing food from the religious kitchen up to the lobby area was not practical.

Mr. Lanfrit asked to move into evidence as Exhibit A-4, the Township's Building Dept. analysis of the maximum capacity usage for the temple basement, noting that their number was 72. Mr.

Healey inquired as to how the Building Dept. arrived at the number, since the seating was moveable and was usually based upon the square footage of the space.

Mr. Mistry then drew the Board's attention to the temple gate out by the entrance driveway. He then entered into the record as Exhibit A-5, a drawing presented back in 2010 and was an additional sheet in the architectural plan set, depicting the originally proposed gate that spanned over the entrance driveway and stood at 25 ft. high and 41 ft. wide. Due to cost and other factors, Mr. Mistry indicated that they now revised those plans. Referring back to Exhibit A-3, Mr. Mistry opened a discussion regarding the new plans for the gate, in which he referred back to Mr. Lanfrit's earlier comment that part of it (two pilasters) were already administratively approved. He then described the components of the new gate, noting that it would manually open and close. Mr. Mistry stated that they were there that evening to ask for the addition of wing walls on each side as well as the signage that was on the wing wall (approximately 12 sq. ft. each on the face of each wing wall). He then noted that the closest point of the pilasters and wing walls to the front yard setback was 16 ft. 4 inches, whereas the original approval was for 25 ft. back. Compared to what was originally approved, however, Mr. Mistry described the proposed gate as much less massive in size. He then indicated that they were proposing two landscape lights at the base of each sign to illuminate the signage on the wing walls and testified that there would otherwise be no other lighting involved there. Mr. Mistry then described what the wing walls would be made of and what they would look like, saying that they would be of masonry materials with stucco finish to match the temple building and community hall building.

Mr. Shepherd opened a discussion regarding the signage. Mr. Mistry stated that the sign was also an additional 22 ft. from the roadway. Mr. Healey stated that they did not need a variance for the size of the sign, but that only one sign was allowed and they were proposing two. He added that the signs were required to be 25 ft. back from the front setback line.

Mr. Mistry then drew the Board's attention to the third project on the site that was being proposed for the front residential building. Referring to Exhibit A-3, he discussed what was originally proposed for the dwelling and what was now being proposed. He indicated that the original plan that was approved in 2009 was to keep the same footprint, but to convert the first floor of the ranch home into two, 2-bedroom apartments for their priest with the garage to remain as storage and small amount of common area, approximately 15 ft. x 8 ft. He stated that the changes that were originally proposed and approved have yet to be constructed. Mr. Mistry went on to describe the additional changes to the home that were proposed, including finishing the basement area and use the open area there for a meeting room. He then discussed the two ways of egress proposed as well as adding a toilet room there as well. Mr. Mistry testified that the open area square footage was 1,698 sq. ft., which also triggered the need for additional parking spaces on the site. Additionally, he described another project proposed for the residential dwelling as taking the roof off and adding a second floor on the same footprint to include eight (8) single bedrooms, a kitchen, dining area and one common living area for short-term dormitory living for speakers, visiting guests or volunteers helping out early or staying late for special events. A discussion ensued as to the permitted accessory uses for the residence, including visiting clergy, caretakers, and speakers. Mr. Lanfrit described the use of the residence for elderly congregants to stay a night or two during the high holy days and felt that this use would be an acceptable accessory use for a house of worship. He discussed utilizing the residential structure for housing any guests who might have attended a birthday party or wedding reception at the community hall as something that

he didn't believe would be considered related to a religious use and would not be permitted. Mr. Lanfrit suggested that there should be language in the Resolution that would include that stipulation.

Chairman Thomas questioned why they needed eight (8) rooms to be available. Mr. Healey also agreed with the Chairman about the scale of the provision for guest space and that the Applicant needed to explain why this amount of space should be approved as an accessory to a house of worship.

Mr. Shepherd then asked for confirmation of the fact that there were now three (3) kitchens proposed for the residential dwelling. Mr. Mistry explained that each of the 2-bedroom apartments on the first floor had their own kitchen and a kitchen was proposed on the second floor for the use of those who were staying in the guest rooms on that floor.

Mr. Mistry then entered into the record as Exhibit A-6, which was a colorized rendering of the home after construction, indicating that it would look like a two-story colonial home. He indicated that they would keep the siding and roofing complementary to the materials that were already used on the temple building and community hall.

Chairman Thomas asked if there was any way to soften the look of the home, possibly by adding shutters. Mr. Mistry testified that they could add shutters, and Mr. Lanfrit also stated that they could add some additional landscaping in front of the house once the construction was completed. The Chairman asked whether all of the trees that were required as buffering along the back of the property were planted and alive today. Mr. Lanfrit stated that all the trees were planted and all but one was alive presently.

Mr. Healey brought up again the need for planning testimony as to how eight (8) bedrooms qualifies as accessory incidental to a house of worship.

Mr. Shepherd asked what the size of the bedrooms were and if they each had their own bathroom. Mr. Mistry indicated that there was a total of four (4) Jack and Jill style bathrooms serviced by public sewer. He added that the bedrooms range in size from 12 ft. x 12 ft. to 17 ft. x 16 ft.

Mr. Healey inquired as to how many people would be allowed by code in the basement, based upon the square footage provided. As a meeting use, which Mr. Mistry previously testified it would be used for, the calculations would be 100 sq. ft. per person, but that there might be 25-30 people attending a meeting. Mr. Healey then opened a discussion as to why more than 17 people would be allowed and Mr. Mistry indicated that the 100 sq. ft. per person code was used for planning exiting purposes, but doesn't mean that you could not have more than 17 people in a 1,698 sq. ft. space. He felt that the space could comfortably fit 30-40 people.

Chairman Thomas then opened the meeting to the public for questions of either the engineer or the architect.

Mr. Frank P. Lake, 283 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Lake asked how tall the pillars of the gate structure going to be. Mr. Mistry indicated that they were going to be 8 ft. high. He then asked how far away from the curb line the gate would be and Mr. Mistry indicated it would be approximately 38 ft. from the road. Mr. Lake questioned why there were

going to be kitchens in the home and Mr. Lanfrit explained what was approved in 2009. Chairman Thomas indicated that the kitchen in the home was removed in 1999 with the first approval and then was reinstated with the 2009 approval for each of the two (2) apartments. Mr. Lake then asked about the use of the two apartments on the first floor.

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

Mr. Lanfrit asked for a 5 minute recess to decide whether to continue with the next witness since they would have to come back before the Board again anyway.

After the recess, Mr. Lanfrit stated that he felt the testimony of the next witness would be rather lengthy and that they would also have to have additional testimony regarding traffic to present based upon the Board's request, he asked if the matter could be carried to the July 6, 2017 meeting, with no further notice required.

Mr. Shepherd indicated that he would not be at the July 6, 2017 meeting. It was agreed to carry the meeting to the July 6, 2017 meeting.

Mr. Lanfrit indicated that he would provide additional traffic testimony in order to present an analyzation of the uses on the site, how it was operating and the need for the banked parking spaces. He was not going to provide traffic counts on Cedar Grove Lane since that testimony was provided in the 2009 application.

Chairman Thomas opened a discussion regarding the fact that they did not have enough space on the property to bank enough parking spaces to get from what was proposed (323 spaces) to what was required (656 spaces). The Chairman also recommended that the traffic engineer should look at what would be necessary to efficiently supervise getting the people in the parking lot and out of the parking lot with a minimum amount of trouble because there had been parking and travel issues on the property in the past. Mr. Lanfrit testified that there were traffic problems in the beginning on high holy days, but that they had actually resolved the traffic problems as a result of the last high holy day. He added that anything that was done for the high holy days would require off-site parking and shuttle busses and would present testimony to that effect at the next meeting.

Mr. Healey stated that they were proposing to utilize more useable building space and to improve a certain number of spaces that previously they testified were not needed. He indicated that the assumption was, without the benefit of the Applicant's testimony, was that their intention was to increase the intensity of use on the site. He indicated that the assumption would also include additional traffic since they are telling the Board that they need more parking. Mr. Healey asked the Applicant to describe the operations in the form of a report, prove that the amount of parking being provided was adequate and describe whether it would add traffic to the site or not. Even though it was not a requirement of the Municipal Land Use Law (MLUL), he felt it would be beneficial for the Board members to review it as well as Township staff to be able to review it and give the Board input on it before the next hearing. A discussion ensued among the Board. Chairman Thomas asked that the Board be shown how they plan to transport people and how many shuttle busses would be used at larger events.

Mr. Lanfrit agreed to try to get a report to the Board in advance of the meeting in July. He stated that if he could not get it done before the next hearing, he would probably want to carry the meeting.

DL 07/31/2017

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Mr. Shepherd made a motion to adjourn the meeting at 9:33 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
June 29, 2017