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

**REGULAR MEETING
September 7, 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: Raymond Betterbid, Laura Graumann, Donald Johnson, Bruce McCracken, Alan Rich, Robert Shepherd, Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

ABSENT: Anthony Caldwell

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

MINUTES:

- **Regular Meeting – June 15, 2017**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

RESOLUTIONS:

- **Magsipoc / ZBA-17-00010**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **Trust under Article 6 u/w/o Sigmund Sommer & Levin Properties, LP / ZBA – 15-00017**

Vice Chair Graumann made a motion to approve the Resolution as submitted. The motion was seconded and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Rosenthal and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – Kelso & Bradshaw – September Monthly Retainer - \$865.00**

Vice Chair Graumann made a motion to approve the Vouchers as submitted. Mr. Rich seconded the motion and all were in favor.

HEARINGS:

- **GILL PETROLEUM, INC. / ZBA-17-00008**

Site Plan w/Use and Sign Variances in which the Applicant was proposing to construct a two-story mixed use commercial building at 799 & 821 Hamilton Street, Somerset; Block 229, Lots 5- 9 & 10.01, in the HBD Zone - **CARRIED TO OCTOBER 5, 2017 – with no further notification required.**

- **CC HAMILTON, LLC / ZBA-17-00013**

Site Plan w/Use Variance in which the Applicant was proposing to construct residential and retail mixed use buildings at 745 Hamilton Street & 1 Martin Street, Somerset; Blocks 223/224, Lots 22-31/1-12 and 28-33 - **CARRIED TO OCTOBER 05, 2017 – with no further notification required.**

- **KYLE PORTER / ZBA-17-00016**

Hardship Variance in which the Applicant was seeking permission to build an addition at 46 Vermont Avenue, Franklin Park; Block 55 ,Lot 10, in the R-20 Zone.

Mr. Kyle Porter, Applicant, came forward and was sworn in. Mr. Porter explained that he was trying to put an addition on the side of his house, a ½ story addition, and trying to build it flush with the front of the house. He stated that the home is just about 31 ft. off the property line in the front and the required setback was 35 ft.

Mr. Healey indicated that the plans were to expand their home to the side, keeping the same 31 ft. setback. He said that the Application is otherwise compliant, is well under in terms of impervious coverage. He stated that the second sheet of the plans submitted show a rendering of what the house would look like and felt it was a rather attractive addition to the house, in keeping with the home's character.

Chairman Thomas asked the Applicant if they read the comments in the reports that were generated as a result of the Application. One comment the Chairman mentioned in the reports was that the survey needs to identify the location of the well on the property. Additionally, the Chairman added that there was a note concerning the impervious coverage regarding soil cannot be imported or removed from the site and all permits must be obtained from the Township as well as the requirement of an As Built Survey plan must be provided after construction was complete. Vice Chair Graumann gave Mr. Porter a copy of the staff comments and explained that those items were requirements for any approval.

Chairman Thomas then opened the meeting to the public for any questions or comments. Seeing no one coming forward, the Chairman closed the meeting to the public.

Vice Chair Graumann made a motion to approve the Application with compliance to the comments in the staff reports. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Raymond Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Shepherd and Chairman Thomas

AGAINST: None

- **THE FOUNDATION OF OSCAR & ELLA WILF CAMPUS FOR SENIOR LIVING, INC. / ZBA-17-00011**

Mr. Larry Kallie, Esq., Attorney, appeared before the Board on behalf of the Applicant. Site Plan w/Hardship & Use Variances in which the Applicant proposes to amend the 2013 approval: Office Building - modified from a 1-story structure to a two-story structure. Parking lot and vehicular circulation – The new parking lot is now proposed on the same side of the access drive as the building and is proposed between the proposed building and the existing hedgerow at 360 DeMott Lane, Somerset; Block 386.07, Lot 54.06, in an R-20 Zone.

Mr. Kallie stated that in 2013, they came before the Board with a proposal for a single-story office building on an interior lot on the campus. He indicated that at that time, they had explained that it was an opportunity for their employees to have a little more working space and that the federal requirements for document storage are growing and growing and the working space was quite cramped. He stated that the Board voted unanimously to allow the office building structure on the property, but it was never realized. He went on to state that the management of the campus re-imagined their vision and felt that if they could finance it a little better, would they be able to make it look a little nicer and function a little better. Mr. Kallie noted that the original building was a modular structure that would be built off-site and put back together on the site, but it looked like a box. He said the new structure was designed with two stories and looks like a residential building, and was placed at a different orientation to the

road and made much more sense than the old proposal in many ways. He said that everything else would stay the same as there were no new uses, no new employees and no new users

Mr. William Lane, Civil Engineer, employed with Menlo Engineering, came forward and was sworn in. The Board accepted his qualifications. Mr. Lane then described for the Board where the new proposed structure would be going, the accessory improvements and will also show the elevations and renderings of what the building was going to look like. He noted that the site was accessed by a private boulevard (Levinson Boulevard) or about 500 ft. and goes to the senior, six (6)-story housing complex with a 57 car parking area just to the north of that building. Beyond that where the curve starts on Levinson Boulevard, Mr. Lane indicated that there was an access drive, which led to the assisted living building that had a 40 car parking area associated with it. He explained that what the Wilf Campus was proposing to do between the two campuses was to provide a new 12,000 sq. ft. office building that would include an additional seven (7) parking spaces to the south of the building that would tie into the existing 57 car parking area. Mr. Lane added that they were going to provide an additional lot of about 53 parking spaces to the north of the proposed building, along with a walkway that would lead into the office building from that newly proposed parking lot and over to the assisted living building. Mr. Lane entered into the record as Exhibit A-1, a colored rendering of the Wilf Campus For Senior Living, dated 9/7/2017. He stated that the exhibit was basically the site plan, with a landscaping plan added in, overlaid on an aerial photograph.

Mr. Shepherd asked whether the 53 parking spaces were part of the original approval, and Mr. Lane stated that the original plan included 49 parking spaces and they were now going to create 60 parking spaces, based on the ordinance's requirements for that exact amount of spaces.

Mr. Lane then showed the Board on the aerial exhibit where the utilities would be run for the new building. He also noted that they would be amending the existing detention basin to offset the additional impervious coverage and complying with all design standards for lighting, landscaping and storm water management. Mr. Lane testified that they have their permit from the County, Soil Erosion permit and approval from the Delaware & Raritan Canal Commission (DRCC) once they were awarded the municipal approval as well as their storm water discharge permits. He testified that the newly proposed office building did not bring any additional negative impacts over what was improved with the original plans and that they had improved the building so that it would look a little more residential in character around all four (4) sides. Mr. Lane also explained that with the new orientation of the proposed building, they would not have access out the side of the building that lead directly out to the parking lot and sidewalk that lead to the assisted living complex. He noted that the proposed building was a bit more streamlined than the previous plans, and that the previous design had a bit more impervious coverage. Mr. Lane entered into the record as Exhibit A-2, a colored rendering elevation prepared by the site architect and passed it around to the Board members for their perusal.

Mr. Shepherd inquired as to how many sq. ft. were in the one (1)-story building that was previously proposed and approved. Mr. Lane indicated that it was 10, 275 sq. ft. and what was now being proposed included 12,000 sq. ft. on two floors, with an additional 5,500 sq. ft. of floor spaces to come in the future, for a total of 14,000 sq. ft. once the measurements for stairwells and elevators were removed. Mr. Shepherd then asked if they were asking to have all of the proposed square footage approved or just the 12,000 sq. ft. building that had been

discussed. Mr. Kallie indicated that they would be asking for approval for both square footages so that they would have some breathing room in the administrative office space for the future, but not have to come back before the Board for the approvals down the road. He stated that they would not be building the 5,000 sq. ft. addition at this point as the construction has to be funded. He also added that the reasoning was not growth for the campus and not for additional services being provided. Mr. Shepherd wanted to know if Exhibit A-2 showed just the building they wanted to build now or both the building and the addition that they had planned, and Mr. Lane indicated it was just showing the 2-story building they planned to build now. Mr. Shepherd wanted to know if they had a rendering of the future addition, and Mr. Lane indicated that the submitted architectural plans (pg. A-3) showed both buildings on the plan. Mr. Lane testified that the intent was to have the 5,500 sq. ft. addition match the original building in appearance, look and character.

Vice Chair Graumann asked if they anticipated any more employees based upon the additional square footage, and Mr. Kallie answered in the negative. He then spoke to the need to keep paper records longer (up to 10 years) and had the need for more storage space as such. A discussion ensued among the Board. The Vice Chair asked Mr. Lane if he had reviewed the Township Engineer's comments, and he stated he read a report that was written back in June, 2017 from their office. He indicated that they did not have any problem complying with any of the comments within the report.

Mr. Shepherd then asked whether the requirement for 60 parking spaces also took into account the additional 5,500 sq. ft. two (2)-story building. Mr. Lane indicated that it took into account the parking needs for both portions. The parking lot was not adequate at the present time, with employees parking along the drive aisle, but would be eliminated with the approval of the new building (s) and associated additional parking areas.

Ms. Bergailo inquired about the noted drop off area on the plan. She asked whether they would revise the Landscaping Plan if they did not include the drop off area, and Mr. Lane testified that they would, indeed, revise the plan for the Board's edification. She then asked if the generator shown on the plan was part of the original approval. Mr. Lane testified that it was shown on the original plans and included a sound enclosure that would comply with all State regulations regarding noise levels.

Mr. Paul Ricci, Planner and Principal of Ricci Planning, LLC, came forward and was sworn in. The Board accepted his qualifications. Mr. Ricci stated he was familiar with the campus and the Township code and had reviewed the plans in connection with the Application before the Board that evening. He also testified that he had reviewed the approval documents from the previously approved 2013 application. Mr. Ricci first summarized the findings of fact from the 2013 Resolution. He noted that the Zoning Board of Adjustment, on May 10, 2013, approved a D-1 Use Variance to permit the office function on the site. He added that at that time, an impervious coverage variance was granted to permit 33.2%, where 25.4% was existing. Also, he stated, that the Zoning Board permitted a parking variance of 103 spaces, where 114 were required as well as found the application to be inherently beneficial. Mr. Ricci then stated that the Board found the site particularly well suited for the use, specifically due to the size of the property and the beneficial use of an office space for employees to support elder care work on the site in the previous scenario. He then added that, from a planning perspective, these conditions remained unchanged. Mr. Ricci then took the Board through the benefit of his analysis and conclusions from a planning perspective as to the suitability of what the Applicant

was proposing on the amended application. He testified that there was a small increase in office space being proposed, but was being mitigated by having additional parking, which as heard from the Site Engineer, the variance for the parking was associated with an existing, non-conforming condition for the senior building itself. He then stated that the office building would be fully compliant with off-street parking standards for office buildings. Mr. Ricci then testified that they were not exacerbating an off-street parking variance and on the plus side were getting the cars off of the access driveways that would provide improved safety for the site, provides better flow of traffic through the site as well as better access for emergency vehicles. He reiterated the fact that they were seeking a D-1 Variance to allow for an approximately additional 7,500 sq. ft. office space and at the same time would decrease the variance that was previously approved for impervious coverage, where the standard was a maximum of 25%, 25.4% was existing today, the previous approval was for 33.2% and the proposal was for 31.7% due to the more compact design of the building as well as the floor space being spread out over two (2) stories.

Mr. Shepherd asked if the 31.7% proposed impervious coverage took into account the portion of the building that would be constructed at a later date. Mr. Ricci answered in the affirmative. Mr. Shepherd also inquired as to whether the reason for the reduction due to the smaller footprint of the newly proposed building, and Mr. Ricci also answered in the affirmative.

Mr. Ricci then indicated that they were also seeking a variance for 117 parking spaces, where 140 spaces were required, and 103 spaces were approved with the original application, where 114 were required. He reiterated that the 23 parking space shortfall was due to a pre-existing condition from the senior building and the spaces being added for the proposed office building would be fully compliant with the parking requirements.

Mr. Ricci then presented the positive and negative planning criteria along with balancing the benefits with any detriments. He noted the very minor changes that were being made to the plan that were centralized to the site, the reduction of impervious surface, while at the same time adding office space and increasing the amount of parking. Mr. Ricci then spoke of the benefits of the back office space to support the congregate care for seniors on the site, citing their inherently beneficial use in the supporting role to an inherently beneficial use. He then discussed the purposes of the 2016 Master Plan of the Township and how it encouraged senior housing. He also testified that he didn't feel there were any detriments as the additional building would be centralized to the site that was currently a grassed field which would limit the amount of trees that would have to be removed and that additional supplemental landscaping would be added to the perimeter of the site for buffering from the adjacent neighbors. Mr. Ricci reminded the Board that there would be no additional employees added as a result of the Application to affect the current traffic flow in the area and will in no way affect the area in terms of noise, glare, heat, pollution, etc. He then added that the redesign of the building was a much nicer looking design, with added architectural features to enhance the site.

Mr. Betterbid asked how many employees are and would be on the site if the Application was approved. Mr. Ricci testified that it was his knowledge that there would be approximately 130 employees on the site and they were looking to move Finance, HR, Hospice and IT departments. He added that by moving those departments from their current locations, it would free up that space for more recreation and physical therapy in the existing building. Additionally, there would be more space for record keeping needs and office equipment as well as some "breathing room" in the employee work areas. A discussion then ensued regarding

the parking issue currently on-site, and Mr. Ricci testified that the new parking configurations being proposed would bring the parking into the central portion of the site, allowing for more buffering around the perimeter of the site.

Mr. Shepherd inquired about the use of the new office space in regards to Hospice. Mr. Ricci indicated that it would be used entirely for office space for the employees who work in that department and would not be used for treatment space.

Ms. Bergailo pointed out, in the Resolution for the previous application, that there would be an agreement that the office building would not be leased or sold as a stand along building, all or in part. She asked whether the Applicant would continue to agree with that condition. Mr. Kallie then answered in the affirmative.

Mr. Healey wanted the Applicant to summarize the reasoning for adding a little more building space, but adding more parking with this new application. Mr. Kallie explained that the Site Engineer, Mr. Lane, did not design the building and parking areas for any kind of projected growth or future need. He noted that they wanted to plan for the possibility of a few more office machines or two (2) or three (3) more employees coming in over time. He added that the parking counts were really a way to meet the code; however the Applicant felt it was an ambitious number, but embraced the opportunity to increase the parking availability to eliminate the parking along Levinson Boulevard

Mr. Shepherd inquired as to if the Board limited the Applicant to a maximum of 140 employees on the site, would they be agreeable. A discussion ensued with Mr. Kallie and Mr. Healey stated he felt a better way to place a condition on the number of employees was to say that the office building use was only for the use of employees of the campus and not for any other use.

Chairman Thomas then opened the meeting to the public for questions of any of the witnesses and/or comments or statements regarding the Application.

Mr. Chris Williams, 20 Magnolia Rd., Somerset, NJ, came forward and was sworn in. Mr. Williams wanted to know why the parking area was planned for the north side of the campus, near residential properties, as opposed to the south side of the campus and closer to the detention basins where it would reduce the drainage costs. Mr. Lane, Site Engineer, indicated that the building was laid out in a central location between the existing parking lot and the proposed parking lot and how it lined up with the assisted living facility. Mr. Williams was concerned for the light spillage onto his property from the parking area. Mr. Kallie indicated that the office building hours was a 9 a.m. – 5 p.m. operation on weekdays, with only security lights on the building after hours. Mr. Healey explained that the Applicant had a total of six (6) parking lot lights, with a typical shoebox fixture, 20 ft. in height, with five (5) of them on the other side of the hedgerow around the parking lot. He noted that there were none planned for the parking lot nearest the residential properties.

Mr. Rob Belbiers, a Magnolia Rd. resident, came forward and was sworn in. Mr. Belbiers noted that where he lives, there was an open space between his property and the Wilf Campus property, where trees had fallen down. Mr. Belbiers indicated that they had requested an 8 ft. fence on the property line there for the one (1)-story building they were originally proposing and they did comply. He indicated, though, that Super Storm Sandy had eliminated a lot of the buffer that had been there along the property line. He suggested that they plant trees, include

a berm for any landscape buffering to increase its height or moving the parking lot away from the residential neighbors should all be considered.

Mr. Kallie stated that moving the parking lots would completely ruin the campus operations. With the proposed building at 300 ft. from the property line and with the newly improved residential look of the building. He did agree that some of the taller, more mature trees may have fallen, and they could provide more perimeter screening, but did not know what they could plant that would screen much higher than the 8 ft. fence they already provided. Mr. Lane indicated that there was also a row of mature trees screening the line of sight to the building. Mr. Belbiers asked for a more permanent buffer that would extend more than two home's length and noted the commercial delivery trucks that might come to the sight as early as 7:00 a.m. Mr. Kallie agreed that the Applicant would work with Mr. Healey to come up with a satisfactory Landscaping Plan, but that they couldn't relocate a parking lot and drive that had existed for 20 years. Mr. Healey explained to Mr. Belbiers that the Application was not for something that had existed on the property for some time, but for the building and parking lot that they were adding at that time. He felt that the Applicant could add a row or two of evergreen trees between the 8 ft. fence and the existing parking lot as well as increase the under plantings along the tall tree line.

Vice Chair Graumann asked if the Applicant would be able to provide what Mr. Healey had suggested and would agree to it in the Resolution should the Board act favorably upon the Application. Mr. Kallie answered in the affirmative.

Mr. Thomas Maher, 12 Magnolia Rd., Somerset, NJ, came forward and was sworn in. Mr. Maher stated that he was against the increase in parking due to the fact that they are already dealing with flooded basements on their property. He then asked what the process was for changing the use of the proposed office building in the future if they wanted to use the space for more residents. Mr. Shepherd gave an explanation that the Applicant would have to come back before the Board to request a change for the space because any Resolution written for the building now would limit the use to office space. Mr. Maher then asked what controls would be in place for outdoor lighting of buildings and parking areas. Mr. Shepherd reiterated the Planner's testimony that after end of day at 5:00 p.m., the building would only have security lights on, which would be part of the Resolution. Mr. Maher then drew the Board's attention to the screening from plantings in the warmer months, but was concerned for what would screen their properties in the winter time. Mr. Shepherd indicated that they had agreed to place a buffer of a double row of 8 ft. tall pine trees and any other landscaping that Mr. Healey deems appropriate. Mr. Maher asked how many residential properties that buffer span would cover, and Mr. Shepherd felt that Mr. Healey would have control over how much length that double row of evergreens would cover, especially considering that the 8 ft. fence that was placed only spans two properties..

Mr. Healey then indicated that the issue had come up at the original hearing, and the Applicant had proposed 24 evergreen trees along the driveway, and the proposed plan had carried that forward with the addition of the 8 ft. fence, which was placed already. Mr. Healey then reiterated his testimony earlier that evening that they do the same thing in an area that was deficient along the parking lot area and where the fencing was to supplement that area. He also reminded Mr. Maher that there would also be low, evergreen shrubs to additionally buffer the area to help block headlights.

Ms. Linda Shepherd, 18 Magnolia Rd., Somerset, NJ, came forward and was sworn in. Ms. Shepherd stated that when many of the residents bought their homes, the property behind them was supposed to be Green Space and never developed. Since that time, she indicated that it had turned into a commercial area, with deliveries and trash removal/recycling on the Wilf Campus property. Ms. Shepherd was concerned for additional development in the future.

Mr. Henri Saseque, 33 Cedar Brook Drive, Somerset, NJ, came forward and was sworn in. Mr. Bradshaw, Board Attorney, reminded Mr. Saseque that he could not represent a group, but just himself. Mr. Saseque stated that he was concerned for how the water would be drained from the site with the addition of new impervious coverage. Mr. Lane explained the storm water system that would include a large infiltration bed and were increasing the size of the detention basin to alleviate the additional impervious coverage and runoff. Mr. Saseque also expressed his concerns for lighting, noise and parking lot runoff pollution right in his backyard and for future development of the site.

Ms. Linda Shepherd, already sworn previously that evening, came forward. She added to her previous testimony that there were holes in the road on Magnolia Rd. due to the extra truck traffic.

Chairman Thomas asked the Applicant when their typical deliveries occur on the site. Mr. Kallie stated that there were bread and milk deliveries first thing in the morning. Aside from that, he stated that they tried to manage the other deliveries during the daytime hours and asked for clearer, more timely communications from the neighbors so that issues can be addressed outside of an Application. Mr. Kallie offered that they could not control when emergency vehicles came to the location or when snowplows needed to access the property. A discussion ensued between the Board and the Applicant. Mr. Kallie stated that they want to be good neighbors and all the residents have contact information for the facility.

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

Ms. Bergailo asked the Applicant whether the parking lot lighting was going to be lower to security levels after hours or will it stay at the same illumination the entire time. Mr. Kallie indicated that they intend to lower the parking lot illumination to the point where their Site Engineer could comfortably say that it was at a safe level for people to traverse that parking lot when it was not in typical usage hours if not turned off entirely. He stated that they could add notes on the plan that discuss that issue.

Mr. Shepherd made a motion to approve the Application for a D-1 Use Variance and related Bulk Variances necessary to construct a two-(2) story office building to be used only by employees of the campus for office work from 8:a.m. to 6:00 p.m, with the lighting in the parking lot associated with the use be reduced to security levels between 8:00 p.m. and 6:00 a.m. the following morning. Additionally, the Applicant would be required to plant a double row of evergreen trees on the northern edge of the parking lot that was closes to Magnolia Dr. as well as planting lower shrubs on both sides of the double row of evergreens, all of which would be subject to the review of the Township Planner, Mr. Healey. The Applicant would also provide an alternate landscaping scenario if it is determined that it would not provide for a drop off and pick up area at the new office building. Vice Chair Graumann seconded the motion.

Mr. Shepherd then commented that he personally felt it would be a better plan to keep to the original plan with a one (1) story building, in view of the comments from the public that evening.

Mr. Reiss gave an opposite opinion than Mr. Shepherd, noting that the Applicant's proposed building was no taller than the surrounding residential homes and was over 300 ft. away from the residential structures.

Chairman Thomas then asked for the roll, and it was called as follows:

FOR: Mr. Betterbid, Ms. Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, and Chairman Thomas

AGAINST: Mr. Shepherd

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Mr. Reiss made a motion to adjourn the meeting at 10:24 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
September 29, 2017