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

**REGULAR MEETING  
September 21 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:

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**PRESENT:** Raymond Betterbid, Bruce McCracken, Alan Rich, Robert Shepherd, Anthony Caldwell, Cheryl Bergailo and Chairman Thomas

**ABSENT:** Laura Graumann, Donald Johnson, Gary Rosenthal, Joel Reiss

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

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**DISCUSSION:**

***Vouchers:***

- **Patrick Bradshaw – Kelso & Bradshaw – Resolution Work - \$262.50**
  - **Various Matters – April through June, 2017 \$385.00**

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

**HEARINGS:**

- **CORPORATE COMMUNITY CONNECTION CORP / ZBA-17-00001**

Use Variance & Site Plan w/Variations in which the Applicant was seeking to construct a 4-story mixed use development – commercial and residential - at 610 Franklin Boulevard, Somerset; Block 233, Lots 1, 7-14, and 31-36 in the HBD Zone - **CARRIED TO OCTOBER 5, 2017, with no further notification required.**

**DL 10/16/2017**

- **LINDSAY STEIRER TAYLOR / ZBA-17-00018**

Hardship Variance in which the Applicant was seeking approval for a garage that received permit approval, but was built in the wrong location at 1319 Canal Road, Princeton; Block 9, Lot 9.06, in the CP Zone.

Mr. Healey gave a quick summary of the proposal, noting that the Technical Review Committee (TRC) report gave a detail of how the situation occurred. He went on to explain that the previous property owner received a permit to build a detached garage and the zoning requirement was that it had to be placed 50 ft. from the property line. Mr. Healey added that they went to the Historic Preservation Commission and got approval for the garage, but when the previous property owner had it built, they placed it 36.1 ft. from the property line. He then explained that the Applicant subsequently purchased the property and received a notice from the Construction Dept. that they had open permits on the garage. Mr. Healey then told the Board that part of the process was an As-Built Survey, where it was discovered that it had been built too close to the property line. He then noted that in the memo from the TRC and in the packet given to the Board showed the location of the garage, with an aerial view showing that it was surrounded by trees to screen it from surrounding property owners as well as photos of the garage that was consistent with what the Historic Preservation Commission had approved.

Ms. Lindsay Steirer Taylor, Applicant, came forward and was sworn in. Ms. Steirer Taylor reiterated Mr. Healey's testimony that she bought the property and inherited the problem. Chairman Thomas asked if she saw any of her neighbors present in the room, and she answered in the negative. The Chairman stated that he was satisfied with the outline that Mr. Healey gave and the pictures that were enclosed with the Application.

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

Mr. Rich made a motion to approve the Hardship Variance. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Raymond Betterbid, Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **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 explained that they were there that evening for Amended Site Plan w/Use Variance & Appeal approval in which the Applicant was seeking to amend the Use Variance & Preliminary and Final Site Plan approval to add second floor living quarters at 369 Cedar Grove Lane, Somerset; Block 508.02, Lot 5.02, in an R-40 Zone - **CARRIED FROM JULY 06, 2017 – with no further notification required.**

Mr. Lanfrit explained that the last time the Applicant was before the Board was on June 1, 2017. He went on to testify that there was about 2-3 hours of testimony concerning our proposed amendments to a previously approved Site Plan. He added that there were two (2) previously approved Use Variances, one was to construct a house of worship on Elizabeth Avenue and the second one was to construct an expansion of the church and to construct a community hall. He noted that when they came before the Board in June there were a lot of little changes to the plan, and they presented testimony through Mr. Ford and Mr. Mistry of the minor expansion to the Last Rites Room. Mr. Lanfrit also explained that they presented testimony showing the Applicant's request to complete the construction of the banked parking, which was approved in the original application. He added that they showed an area that the Township staff had asked the Applicant to replant on the lot that they acquired. He noted that they also presented testimony concerning the modifications or changes to the gate at the entry of the property, which carried some minor bulk variances associated with it. Mr. Lanfrit then indicated that Mr. Mistry provided testimony to use the basement of the temple for fellowship after services. He stated that there was currently an approved kitchen there, and they wanted to put some tables and chairs so that they could use the basement of the temple. Finally, Mr. Lanfrit testified that the other testimony concerned changes to the existing dwelling, which currently was approved for two (2) apartments and was occupied by the clergy and a caretaker. They were there that evening to finish the basement to use it as a community room as well as to add a second floor to the apartments for visiting clergy members, visiting speakers and for use, perhaps, by certain members of the congregation when services run late.

Mr. Lanfrit stated that there were certain questions concerning the operation of the temple and the community hall that were still left unopened. He told the Board that he would have testimony given to support those items by Mr. Rakhit, President of Ananda Mandir, Ms. Dolan to present testimony to support the need to construct what was the banked parking area, as well as Mr. O'Brien to provide testimony regarding the fact that they do not meet the requirements of the Conditional Use Standards.

Mr. Healey stated that the only Conditional (D3) Use Variance that the Applicant was asking for was for parking, but indicated that one of the aspects of your Application was to change or modify a number of the conditions of the prior approval. He then stated that he outlined in his memorandum, dated March 16, 2017, on pages 2 and 3, 30 different conditions related to the use and operation of the site. He asked Mr. Lanfrit, at some point in the testimony, to go through those items and identify which ones the Applicant was asking the Board to modify. Mr. Lanfrit agreed to do so.

Mr. Rakhit, President and Member of the Board of Trustees of Ananda Mandir, came forward and was sworn in. Mr. Rakhit testified that he had been involved with Ananda Mandir almost

since its inception. He then described for the Board how Ananda Mandir came to be and where its roots are. He explained that he was from the northeastern part of India in Bengali, India and that there were a number of sects of the Hindu religion in different parts of the country. He indicated that there was another temple in Houston, Texas that was also from the same area in India and the one in the northeast area was basically in the New York/New Jersey/Connecticut/Pennsylvania regional area and felt that they needed a temple in the central portion of New Jersey to service those worshippers. He indicated that the temple conducted service on a daily basis, twice a day, once in the morning (9a-11a) and once in the evening (5p-8p).. Mr. Rakhit testified that approximately two (2) to ten (10) people in the morning on weekdays and possibly 30 to 50 people on Sundays. He noted that the numbers hadn't really changed since 2009 when they received their approvals. Mr. Rakhit indicated that people did not all come together at the same time, especially during weeknight services where they would come at different times during the hours the temple was open. Mr. Rakhit then discussed the major and minor holidays during the year (10-15 minor ones based on the lunar month) that would bring more people to the site (from 50-150, depending on what day the holiday falls). He indicated that maybe 10% stay for the entire time the temple is open. Mr. Rakhit then testified that he understood that the Resolution for the prior approval when the temple was expanded limited the number of people to 200 in the worship area. Mr. Rakhit then testified that they had two (2) primary major events at the site, in September and October, depending upon the lunar calendar, with one being 5-6 days long and the other one was only one night long. He told the Board that those times were when they had much larger gatherings and the 5-6 day event had activities every day, some in the morning and some in the afternoon. He indicated that depending upon which days the major holiday ran, there could be anywhere between 50 to 200/300/400 people on-site at one time and up to 1,000 people for the whole day. Mr. Rakhit stated that almost all activities take place within the confines of the temple building. He added that they also use the community hall during some days of the major holidays, but don't use both buildings at the same time. Mr. Rakhit stated that within the last two years they had received a temporary certificate of occupancy for the temple and had also received a final certificate of occupancy for the community hall. He added that on the major holidays, they worked with local business owners to reach out for shared parking when their businesses were not utilizing them as well as utilizing the Police Dept. to handle high traffic times. He then discussed the use of the community hall, referring to testimony at the previous hearing that it would be used for cultural events as well as social events for the members. Mr. Rakhit said that they had received a certificate of occupancy for the community hall/cultural center in 2016 and had started to use the space for certain activities. He included such things as plays, dance, or music as well as private member events such as birthday parties, anniversaries, small weddings etc. He indicated that they understood that they could not rent it out or make use of the spaces for anyone other than their members. Mr. Rakhit testified that he understood that there was a limit of 818 people for the community hall, based upon fire code. He noted that they were getting requests to allow for more people than the 400 they typically host in the hall due to parking limitations. He then brought up the need for the 117 banked parking spaces to be constructed. He stated that the originally approved number for the temple that was approved was adequate before people do not come all at the same time. He felt that the banked parking was included in the original plan to take into consideration some of the things that happen in the community hall.

Chairman Thomas asked whether the additional parking spaces would still be adequate for the busier holidays, and Mr. Rakhit said that they would work with the Police Dept. and utilize other

facilities' parking for those events and utilize shuttle busses to transport people. Mr. Lanfrit indicated the parking availability would work for 359 days of the year.

Chairman Thomas then opened a discussion regarding the parking availability, noting that after constructing all the banked parking, there didn't seem to be any more room to add any additional parking spaces. He stated that the Applicant needed to make sure that the parking lot lighting was not intruding on adjacent residential properties. Mr. Lanfrit indicated that the parking lot lots were dealt with at the last hearing, and included shielding on the light boxes and were on timers. He added that the lighting for the parking areas were on separate timers and would only be utilized where the activity was taking place. A discussion ensued among the Board regarding limiting the crowd that shows up for events at the community hall. Mr. Rakhit stated that they would not allow events to occur at the community hall if they would attract many more people than the site can handle.

Mr. Rakhit then opened a discussion regarding adding more bedrooms on the second floor and redoing the basement to accommodate small meetings in the priest's home. He explained that there was a kitchen in the basement of the temple, and they would like to be able to provide a separate vegetarian kitchen. He also added that the meetings in the priest's home would mostly be during the week in the evenings and were expected to attract up to 30 people. Mr. Rakhit then discussed the need for the additional bedrooms on a second story addition to accommodate visiting priests, guest speakers or older members who can't drive home at night for a night or two and would not be charging any fee to stay. Mr. Lanfrit indicated that each proposed bedroom was about 12' x 12' and that there would be four (4) bathrooms. Mr. Lanfrit reminded the Board that the first floor had two apartments, one for the priest and one for the caretaker, and were approved in 2009. Each apartment had two (2) bedrooms. Mr. Rakhit also added that there would be a small elevator installed to get to the second floor and there was a small kitchen area to make tea or snacks. Mr. Rakhit indicated that if the Board thought there were too many rooms on the second floor, they could reduce the number. A discussion ensued among the Board.

Mr. McCracken opened a discussion about where the members were driving from to attend the temple when it was first built. Mr. Rakhit stated that it was 70% from New Jersey and 30% from other areas in the Tri-State area.

Mr. Rich asked if there were going to be any outside activities. Mr. Lanfrit indicated that the previous Resolution prohibited any outside activities and they were not planning any in the future and no outside speakers.

Mr. Healey read the Traffic Study which stated that the peak attendance for the 5-6 day event in September was 1,000 people, did that mean that 1,000 people was the peak amount of people attending at any one time or was it the cumulative amount of people attending for the duration of the 5-6 days. Mr. Rakhit testified that 1,000 people would be the maximum amount of people for the entire event and the maximum for any one day would be up to 600 people, especially since the temple would not accommodate more than that amount.

Chairman Thomas then opened the meeting to the public for questions of Mr. Rakhit. Seeing no one coming forward, the meeting was closed to the public.

Ms. Elizabeth Dolan, Traffic Engineer and Principal of Dolan and Dean, came forward and was sworn in. The Board accepted his qualifications. Ms. Dolan stated that she or Mr. Dean from her company had been involved with Ananda Mandir from its conception. She added that her firm was asked by the Applicant to analyze the operations of the temple and to review the parking needs and parking requirements of the functionality of the temple. She also stated that she had met with the temple representatives to review their religious calendar, their activities and how their events function and as a result prepared a report, dated August 16, 2017. Ms. Dolan testified that she did hear the testimony given that evening from Mr. Rakhit as well as review the meeting minutes from the last hearing that she did not attend. Ms. Dolan then summarized her opinion of what the appropriate needs of the temple, the community hall and the religious needs of the temple were for the Board's edification. She indicated that she looked at the requirements in terms of ordinance and based upon the needs and use of the Applicant's property, focusing on the cumulative use of all of the spaces on the property. She noted that 200 parking spaces were required for the temple, the community hall required 228 parking spaces, the dining area in the basement required 24 parking spaces, the two apartments require four (4) parking spaces, the eight (8) bedrooms proposed for the senior members and guests require another nine (9) parking spaces, for a total of 465 parking spaces for the site. Ms. Dolan testified that there were 206 that have been constructed and another 117 that were approved as banked parking. She added that the present parking spaces on site somewhat limit how many people can attend a function in the community hall. Since there was an assumption that all of the spaces on site might be occupied simultaneously, what the Applicant was really trying to do was build out the banked parking that was previous approved as banked parking and create an on-site supply of parking numbering just in excess of 300 parking spaces. She testified that doing so would not only help with the pea, annual 5-6 day major holiday, but it would also accommodate higher attendance at functions in the community hall. She indicated that there was discussion regarding 818 occupants as a maximum, with one (1) space per three (3) people, would require about 270 parking spaces. Ms. Dolan stated that, according to Mr. Rakhit, however, they were looking at about 600 people on-site at one time and would require, conservatively, 300 parking spaces. She indicated that they were trying to achieve a parking count that got closer to the requirement, but functionally they were looking to have a bigger on-site parking supply so they could accommodate higher attendance levels at cultural presentations or social events in the community hall. Ms. Dolan indicated, however, that there should be a continuous arrangement for off-site parking and police presence for the highest holy day event. Ms. Dolan testified that based upon the testimony of Mr. Rakhit and the lower usage needs during most of the year outside of the 5-6 day holy days event, she indicated that she felt the facility could operate properly and efficiently with the current parking plus the banked parking. She stated that even though they would still have a deficiency of parking spaces on-site according to the ordinance, the ordinance assumes that the temple, the community hall and all of the other spaces on-site would be utilized simultaneously, which would not happen. She also detailed the fact that the priest would require one parking space for his residence, one for the temple and one for the community hall, where he would be able to park near his residence and walk to the other buildings on-site.

Mr. Shepherd posed a question as to whether the Applicant started to use their temple and community hall simultaneously. Mr. Healey stated that they have had a house of worship violate the condition that buildings on-site would not be utilized simultaneously, and the event was shut down. A discussion ensued regarding the consequences of the violation, regarding Fire Prevention Dept, Construction Dept. and Zoning code fines, etc.

Chairman Thomas then asked about the 818 number of people allowed on-site, and Mr. Lanfrit reiterated Mr. Mistry's testimony from the last hearing that when the Certificate of Occupancy (CO) was issued for the community center, it indicated that the maximum capacity for that building was 818. Ms. Dolan then indicated that she had used one (1) parking space per three (3) seats, which would calculate out as needing 272 parking spaces for the 818 people. The Chairman then questioned Mr. Healey regarding the user who violated the parking and an event had to be shut down. Mr. Healey confirmed that it was the Applicant and the Chairman expressed concern. Mr. Lanfrit stated that the issues that occurred on-site in the past at the property were before all of the buildings had been constructed and had crowds there that were larger than allowed. He also indicated that once all of the buildings had been constructed, they were able to conform to all of the conditions of the previous approval. Mr. Lanfrit noted that the problems were with the high holy days, but that the Applicant was now working with the municipality for off-site parking and police presence. He added that they were now looking to operate the facility so that there were no parking issues or traffic issues related to the site. Mr. Lanfrit also reminded the Board that the testimony from Ms. Dolan and from Mr. Rakhit was that if they built out the banked parking, they would adequately be able to accommodate what has been approved for the community hall.

Chairman Thomas asked Mr. Lanfrit, as the Applicant's attorney, if they understand the restrictions with which they must operate under. Mr. Lanfrit agreed that there were issues before and during the construction of the community hall and while they were trying to operate the temple at the same time. He added that they do now have the CO for the community hall and were waiting on the final CO for the temple once they finish construction for the Last Rites room, which was before the Board that evening. He then testified that the Applicant does understand the protocols and the Resolution now and have had numerous meetings in the municipal building with Zoning and Planning, meetings with the Applicant at the site on numerous occasions and in developing these plans to clean up all of the issues. He added that the Applicant understands what they can and can't do and how they must operate.

Chairman Thomas then opened the meeting to the public for questions of Ms. Dolan, the Traffic Engineer. Seeing no one coming forward, the meeting was then closed to the public.

Mr. Healey then asked to clarify that during the one large event each year that the temple and community hall was not utilized simultaneously. Mr. Rakhit indicated that once the religious services were over in the evening, everyone then moved to the community hall for cultural events. He also added that the timing of everything during the high holy days event was based upon the lunar calendar. Mr. Healey then asked since the testimony given regarding the community hall was that it was only for members' use, did they charge their members for the use of the hall. Mr. Rakhit answered in the negative. Mr. Healey asked Mr. Rakhit whether they would have overflow parking on the grass during the 5-6 day high holy day event. Mr. Rakhit stated that they would have a volunteer crew to show people where to park. Mr. Healey then reiterated Ms. Dolan's testimony that stated 465 parking spaces were required for the site should all of the spaces be used simultaneously. He then told the Board and Applicant that the actual requirement was 656, with a footnote in his report, dated March 16, 2017, as to why that was required. Mr. Lanfrit indicated that if the number required was 656, then they would be seeking relief for the difference between 323 parking spaces they were providing and that number.

Mr. Rich then asked how the arrival of 1,000 people on the site would affect Cedar Grove Lane. Ms. Dolan indicated that that was why the Police Dept. has been involved allowing the traffic to get in and out of the site. Mr. Lanfrit also stated that all of the houses of worship who have a larger event have to fill out an application and meeting with the Fire Dept., the Health Dept., the Police Dept., Planning and Zoning, noting the dates and times. A discussion ensued regarding what level of control was appropriate based upon the number of people coming to the site and when, whereby the Applicant would have to pay for police services. Mr. Lanfrit also indicated that the Applicant had learned that when they advertise the larger events, they also include information as to where the overflow parking would be located and that there would be shuttle buses available to get them to the venue. He added that they would have to arrange and pay for in advance the police services as well as the shuttle bus service.

Chairman Thomas explained that there was an active Application for 40+ townhouses relatively across the street from their location and wondered how that would affect their operations and traffic. Mr. Lanfrit explained that that development was several hundred feet away from the subject property and that there was open space directly across from the temple property.

Mr. Healey wanted to correct Mr. Lanfrit's earlier testimony, noting that the temple property was also located on Elizabeth Avenue, which he agreed was an incorrect statement and wanted to correct the record.

Mr. McCracken asked if there was an Event Manager who reviews the applications for Police Dept. assistance during a large event. A discussion ensued regarding the process of preparing for a larger event and the steps needed to be taken.

Mr. Kevin O'Brien, Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien indicated that he had heard the testimony of the witnesses that evening as well as reviewing the minutes from the previous hearing. He then explained exactly what a D-3 variance was, stating that it was a conditional use and allowed in the zone but that doesn't meet all of the conditions required. He then indicated that the Applicant didn't meet the requirements for parking and the addition of uses on the site discussed that evening also exacerbated that problem. Mr. O'Brien then discussed the different denominations of the Hindu religious, based upon the deity they honor and the geographic area that they come from. He then went on to discuss how the Applicant's temple's schedule was dictated by the lunar calendar, as previously testified to by Mr. Rakhit. He discussed the differing timing each year during the high holy days of when they have prayer services related to that timing of the New Moon, etc. Mr. O'Brien then discussed that with the skies darkening earlier in the fall, they felt they needed some additional space for older members to stay over should the services run late. He then spoke about the temple's growing pains over the years, a unique congregation, a number of uses that were not anticipated when it first started out that had all come together at this point in time. He went on to state that the Applicant was attempting to wrap up the loose ends from the previous approval and discuss the needs that they see at the present time and present that to the Board. Mr. O'Brien then discussed the Community Development element of the Master Plan as well as the Municipal Land Use Law (MLUL). He then discussed the temple as an inherently beneficial use as well as one that promoted the general welfare of everyone. In discussing its inherently beneficial use, Mr. O'Brien focused on the negative criteria, noting that he could not find any negative impacts. He then indicated that he believed that the site remains suitable for the use that was originally approved by the Zoning Board,



despite the deviations, because it made the temple more suitable for the practice of their religion. He added that he felt that the Application could be granted without substantial detriment to the public good and without substantial impairment of the zone plan and the zoning ordinance.

Mr. Shepherd expressed concern for Mr. O'Brien's testimony as it only seemed to address the inherently beneficial use of a temple, which he indicated was already there. Mr. Shepherd stated that now they wanted to add parking spaces, add 8 bedrooms to the Priest's house, for a total of 12 bedrooms, as well as take two basement areas and make them active spaces instead of leaving them as storage areas as previously approved. He reiterated the Chairman's comment that they felt that the temple's space was mostly built out already.

Chairman Thomas then stated that the temple might be inherently beneficial, but that he didn't see how the additional changes proposed that evening were inherently beneficial.

Mr. Lanfrit then attempted to assuage any concern the Board might have that the Applicant was trying to overuse the space and discussed the original approval. He added that the building coverage was only 4.78% of the entire property and the zone maximum was 10%. He added that there was a zone requirement for houses of worship for 120,000 sq. ft. and the proposed site was 406,999 sq. ft. He then discussed impervious coverage, where the requirement was no more than 40% and the temple was at 28%, so he didn't believe the site was overbuilt or overdeveloped. He then discussed the proposal for the additional space on a second floor addition of the Priest's house and felt it would be considered an accessory use for a house of worship for visiting priests and guest speakers. He then indicated that if the Board felt it was inappropriate to use the additional bedroom space for members to stay over, then they could deny that request, but didn't feel the Board could deny the construction of the additional rooms. He then discussed the parking needs, noting that it was the result of the way the Township calculated the parking spaces required (656 spaces). Mr. Lanfrit then indicated that they were asking to build out the 117 banked parking spaces to bring the spaces available to 323 parking spaces. He added that the site was planned out for a total possible 323 parking spaces and that they designed the detention basin to accommodate the full build out of the site. He added that Ms. Dolan's testimony was that the 323 parking spaces would adequately accommodate the proposed needs of the temple, with the exception of the 5-6 high holy days, which they had an alternate plan to accommodate.

Mr. Healey asked to clarify Mr. Lanfrit's testimony. He indicated that the actual impervious coverage on the site was 37%, according to the plan. In relation to the parking, Mr. Healey stated that the Board approved the previously testified number of parking spaces plus the 117 banked parking spaces based on the testimony given to the Board at that time for the nature of the operation of the site and the nature of the special events that would be held there. He added that the Applicant's Traffic Engineer reiterated that in their testimony as well. Mr. Healey stated that they were changing the use of the property since the approval in 2009 with the one larger event held once per year, with a possible attendance of up to 1,000 people. A discussion ensued among the Board.

Mr. Lanfrit indicated that the kitchen in the basement of the temple was already approved, and all they wanted to do was to get approval to add tables and chairs so that people did not have to eat standing up in the temple space. He added that these would be the same people who were attending the services upstairs in the temple, so they would not be using the two spaces

simultaneously and would not be adding more people utilizing the space. He stated that it didn't create traffic or noise, but functionality. Mr. Lanfrit stated that what they were attempting to do was to make the temple more functional. He then discussed using the basement of the residence as a gathering space for the trustees or the priest to meet with members of the congregation rather than walking up and turning on the lights to use the community hall. Mr. Lanfrit stated that the priest could utilize that community hall space, but utilizing the residence basement space didn't add more people or add to the facility, but just make it more functional. He indicated that the only thing that added more people to the site was the second floor addition on the residence.

Chairman Thomas then expressed regret for approving a temple that apparently can accommodate 818 people, and now are in the position to make the site work properly. A discussion ensued regarding having bedrooms for the use of the congregation. Mr. Lanfrit stated that it was at the Board's discretion to allow the use, but felt that having a few bedrooms for visiting clergy and guest speakers was a permitted accessory use to a house of worship.

Mr. Healey stated that the testimony given in 2009 was for 352 seats in the community hall and was approved. Mr. Lanfrit stated that they were looking to be able to have more than 352, but not as much as 818 people on the site at one time. A discussion ensued, and Mr. Healey stated that the Board granted a variance in 2009 for insufficient parking spaces and allowed the land-banking of 117 parking spaces based upon the occupancy levels that was given during testimony.

Chairman Thomas opened the meeting to the public of questions for Mr. O'Brien or make a comment. Seeing no one coming forward, the meeting was closed to the public.

Mr. McCracken and Mr. Betterbid both agreed that they felt the requested uses on the site could be accommodated.

Ms. Bergailo wanted to comment on the pillars out front and the lighting of the sign and was concerned with the level of the lighting. She requested that they utilize low voltage landscape lighting. Mr. Lanfrit testified that they could comply and noted that there was landscaping around the pillars.

Mr. Healey reminded Mr. Lanfrit that they also needed two variances for the signage. Mr. Healey stated that in the original approval, there was going to be a larger illuminated structure that would be going above the driveway and changed it to two (2) smaller monument signs that need variances because only one (1) was permitted as well as a variance for the setbacks for those as well.

Mr. Healey walked Mr. Lanfrit through the conditions approved in 2009 and what was different with this Application. Mr. Healey started with attendance and events (on Page 2 of his March 16, 2017 Planning report), and indicated that the testimony given that evening was consistent with what was discussed and approved back in 2009 related to that topic. He added that it was discussed that evening that during the 5-6 day high holy days event, there could be up to 1,000 people throughout the duration of the day and the maximum attendance at one time would be up to a maximum of 600 people. He then discussed the community hall being for the benefit of the members only, the nature of the activities there and that activities would go no later than 11 p.m., which was all included in the original approval. He stated that he didn't hear

any testimony given that evening to change the lighting on the site. Mr. Healey then discussed the approvals for the two basement spaces as being for storage only and now the Applicant wanted to change the use of those spaces. He then added that there were no outdoor activities approved originally and the testimony continues to show that they were not looking to have any outdoor activities out outdoor noise (speakers), nor would they be having any daycare facilities as agreed to in 2009.

Mr. Lanfrit agreed that every condition imposed in 2009 would remain in force, except for the use of the basements and for the major 5-6 day event.

Ms. Bergailo made a motion to approve the Application as submitted. Mr. Betterbid seconded the motion. A discussion ensued among the Board members. Chairman Thomas felt that the bedrooms should not be used other than for visiting clergy and guest speakers. Ms. Bergailo then amended her motion to exclude using the proposed bedrooms for members use and only for visiting clergy and guest speakers. A discussion ensued among the Board members. Mr. Shepherd seconded the revised motion and the roll was called as follows:

FOR: Raymond Betterbid, Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Ms. Bergailo and Chairman Thomas

AGAINST: None

Chairman Thomas agreed to a 5-minute recess for Mr. Lanfrit to speak to his client to see how he wanted to proceed that evening, considering that they were not going to be able to put all the testimony on the record that evening.

- **MUSLIM FOUNDATION, INC. / ZBA-17-00012**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Muslim Foundation, Inc. He explained that they were there that evening before the Zoning Board for a Site Plan w/Use &Variances in which the Applicant proposed to construct a school, add parking, put up a fence, add an outdoor field and put up a sign at 47-49 Cedar Grove Lane, Somerset; Block 468.09, Lots 37 & 38, in an R-20 Zone - **CARRIED FROM JULY 6, 2017 – with no further notification required.**

Mr. Lanfrit testified that the subject mosque was existing mosque and was approved by the Planning Board about 10-12 years ago. He added that the mosque acquired a piece of land to the rear of the subject property. Mr. Lanfrit indicated that there was a proposal before the Board to construct a school to the rear of the subject mosque. Due to the late hour and because he had a conflict with the next hearing date, Mr. Lanfrit asked if he could put the architect on that evening, and reserve the rest of the testimony for the next hearing. He noted that there was a Site Plan to construct a building to the rear of the existing mosque.

Mr. Yogesh Mistry, Architect, came forward and was sworn in. The Board accepted his qualifications. He stated that he prepared the architectural plans for the school, which was a free-standing building we were proposing to construct to the rear of the mosque. In

conjunction with the Application, he provided to the Board floor plans and elevations for the building. He then entered into the record as Exhibit A-1, a 3D color rendering of the proposed school, which was taken from the front, right corner of the building behind the mosque. Mr. Mistry then went on to describe what the building would look like, first from the inside and then from the outside. Mr. Mistry testified that they were proposing a 2-story school building, consisting of four (4) classrooms, a library, a cafeteria, a gymnasium, some administrative offices and associated spaces as well as other accessory spaces such as toilets, storage etc. He noted that the total square footage of the building was 31,795 sq. ft., broken up into two (2) levels. Mr. Mistry testified that the upper level consisted of 18,267 sq. ft. and a lower level of 13,528 sq. ft., which would be considered the basement and would be useable space for the use of the school. Referring to the architectural drawings submitted as part of the Application, Mr. Mistry indicated that the basement plan would include four (4) classrooms, small library, staff lounge, small cafeteria, administrative offices, nurses room, common toilets for the children, sprinkler/storage/server rooms, etc. He then detailed what was located in the upper floor, including a gymnasium/multi-purpose hall (3,700 sq. ft.), locker rooms for both boys and girls, six (6) regular classrooms and two (2) Pre-K classrooms, two (2) Kindergarten classrooms, another set of toilets for the children and some administrative offices in the entry lobby. He detailed where the lobby would be located on the plan, with a set of stairs and a handicapped ramp leading to the lobby at the main entrance. Mr. Mistry noted that the gymnasium would be built on a slab and would not have a level underneath it and was roughly 70 ft. x 50 ft. and would not have a full basketball court and would not be used for competitive athletics. Since planning the building, the grade levels of the children who would be attending the school had changed; initially it had been planned for Pre-K through 5<sup>th</sup> grade and now was going to be used for Pre-K through 8<sup>th</sup> grade. He testified that the size of the building did not change and it had the same number of classrooms as first designed, but the class assortment had changed. Mr. Mistry then entered into the record as Exhibit A-2, the revised floor plans showing the classrooms ranging from Pre-K through 8<sup>th</sup> grade. Mr. Lanfrit handed out copies to the Board members for their edification. Mr. Mistry did note, however, that other than the change in classroom grade distribution, all of the other dimensions and everything contained in Exhibit A-2 was the same as was cited in the original plan set. Mr. Mistry then described what the building would look like from the outside, including the various construction material choices, which are a mix of stone, glass, stucco, metal trim pieces, with some exterior lighting by referring to Exhibit A-1. He noted that they went for a more modern appearance for the building to contrast the more traditional looking mosque. He discussed how he broke up the volumes of the building, with some ins and outs on the elevations. Mr. Mistry noted that the highest point of the building was the gymnasium at 35 ft., average height to the peak and really appeared like more of a one-story building than a two-story building. He noted that there was no cooking facility in the cafeteria, and would be more of an eating/dining cafeteria and have an existing full kitchen in the mosque. Mr. Mistry estimated that the occupant load of the proposed building was 20 students per classroom, for an approximate total of 270 maximum.

Ms. Bergailo wanted to know why they decided to build a basement instead of a second floor on the school building. Mr. Mistry indicated that a lot of it had to do with the cost of construction.

Mr. Healey reiterated the testimony that the square footage was remaining the same as originally proposed, with 14 classrooms, and 30 staff people to remain the same.

Chairman Thomas then opened the meeting to the public for questions of the Architect. .

Ms. Josepha Michalski, 51 Cedar Grove Lane, Somerset, NJ, and adjacent neighbor next to the mosque and school property, came forward. She explained that they already experienced a lot of traffic based upon the church traffic and wonder what the addition of a school will do to the traffic. Chairman Thomas stated that Mr. Mistry was not the witness to ask that question of, but indicated that they would probably have difficulty seeing the building

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

Due to the lateness of the evening, the hearing was **carried to October 19, 2017 – with no further notification required.**

### **WORKSESSION/NEW BUSINESS**

There was no new business

### **MEETING ADJOURNED**

Mr. Rich made a motion to adjourn the meeting at 9:53 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
October 10, 2017