

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

**REGULAR MEETING  
September 6, 2018**

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:** Laura Graumann, Donald Johnson, Bruce McCracken, Alan Rich, Robert Shepherd (arrived at 7:32 p.m.), Joel Reiss, Cheryl Bergailo and Chairman Thomas

**ABSENT:** Anthony Caldwell and Gary Rosenthal

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

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**MINUTES:**

- **Regular Meeting – July 5, 2018**

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

**FOR:** Vice Chair Graumann, Mr. McCracken, Mr. Rich, Ms. Bergailo and Chairman Thomas.

**AGAINST:** None

- **Regular Meeting – July 19, 2018**

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

**FOR:** Vice Chair Graumann, Mr. Reiss and Chairman Thomas.

**AGAINST:** None

**RESOLUTIONS:**

- **The Korean Baptist Church / ZBA-18-00002**

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

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

AGAINST: None

**DISCUSSION:**

***Vouchers:***

- **Marriott Callahan & Blair –NJ Chinese Community Center, Inc. - \$86.00  
-Tuan/NJ Chinese Community Center - \$244.00**

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

***Extension of Time:***

- **Tabatchnick Fine Foods, Inc. / ZBA-15-00018**

Mr. Francis P. Linnus, Esq., Attorney, appeared before the Board on behalf of the Applicant, Tabatchnick Fine Foods, Inc. Mr. Linnus explained to the Board and the public that they were before the Zoning Board of Adjustment back in 2016 and received Site Plan approvals, D variance approval as well as bulk variance approvals. Since that time, Mr. Linnus stated, they were trying to complete the Resolution compliance phase of the project only to find out that the company was going to change the product line which might have an impact on the Site Plan. Because of this change, Mr. Linnus told the Board that they would have to come back before the Board, but in the meantime, they wanted to ask for a 1-year extension of the period of protection of those approvals.

Mr. Reiss made a motion to approve the Extension of Time for one (1) year and Mr. McCracken seconded the motion. The roll was called as follows:

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

AGAINST: None

- **Levin Properties, L.P. / ZBA-15-00017**

Mr. John Wisniewski, Esq., Attorney, appeared before the Board on behalf of the Applicant, Levin Properties, L.P. Mr. Wisniewski indicated that they had been before the Zoning Board about a year ago and had obtained approval, with a Resolution memorialized on September 16, 2017. He then stated that they were in the process of preparing an Application to get Site Plan approval for the Application for a D variance, which was a bifurcated application at that time. Mr. Wisniewski stated that they were in the process of putting that together, but would not be within the 1-year time frame to get that filed, so they were asking for a 1-year extension of time. He added that they anticipate coming before the Board for Site Plan approval long before that, however.

Vice Chair Graumann made a motion to approve the Extension of Time for one (1) year. Mr. Reiss seconded the motion and the roll was called as follows:

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

AGAINST: None

**HEARINGS:**

- **SURINDER & RANO SINGH / ZBA-17-00020**

Hardship Variance in which the Applicant was seeking a variance due to his going 1,070 sq. ft. over the previously approved impervious coverage at 3 Buell Street, Somerset; Block 83, Lot 1.04, in an R-20 Zone – **CARRIED TO OCTOBER 4, 2018 – with no further notification required.**

**DL 10/31/2018**

- **OCEAN STATE JOB LOT (OSJL) / ZBA-17-00009**

Mr. Francis P. Linnus, Esq., Attorney, appeared before the Board on behalf of the Application Ocean State Job Lot. Mr. Linnus then gave some background regarding Ocean State Job Lot (OSJL), stating that it was the largest closeout retailer in the Northeast, started in 1977 up in North Kingston, RI, and have operating stores in New England, New York and New Jersey. He added that they were opening up an anchor store in the shopping center in Franklin Park, NJ and would be occupying approximately 31,000 sq. ft. of space and replacing a liquor store and an eye doctor's office that were both moving to other spaces within the center. Mr. Linnus also stated that they would be replacing two unoccupied spaces as well, with the intent to revitalize the center. Mr. Linnus then explained that they were before the Board that evening for a Sign Variance in which the Applicant was seeking approval for two (2) building-mounted tenant signs at Route 27/South Middlebush Road, Somerset; Block 20.11, Lot 14.01, in the N-BR-20 Zone - **CARRIED FROM AUGUST 2, 2018 – with notification required.**

Mr. Healey's Planning report showed that the following variances were required:

1. Number of permitted signs: 1 permitted – 2 proposed.

2. Sign Area: 30 sq. ft. max. permitted – 70 sq. ft. (Sign 1) and 180 sq. ft. (Sign 2) proposed.
3. Sign Vertical Dimension: 3 ft. max. permitted – 5 ft. (Sign 1) and 4.5 ft. (Sign 2) proposed.

Mr. Linnus testified that they were seeking approval for two (2) building-mounted signs where one (1) was permitted and they were seeking a variance for the maximum vertical height and size of the signs, with one (1) sign proposed to be 4 ft. 6" high and 40 ft. wide (totaling 180 sq. ft.) and the second sign proposed to be 5 ft. high and 14 ft. wide (totaling 70 sq. ft.).

Mr. Peter Ricci, Architect & Planner, came forward and was sworn in. The Board accepted his qualifications. He noted that Ocean State Job Lots had been his client for approximately six (6) years. Mr. Ricci indicated that he was aware of the Franklin Township sign regulations and the Municipal Land use law (MLUL). He then briefly described the Site Plan and what they were proposing to do on the site. He noted that the entire shopping center was comprised of a total of 138,800 sq. ft., with all the retail stores facing Rte. 27 (just under 90,000 sq. ft.) as well as the old supermarket (just over 48,000 sq. ft.). Mr. Ricci stated that Steinmart occupied approximately half of the old supermarket for about four (4) years before the moved out, with the entire old supermarket space still vacant. He then told the Board that the Applicant, Ocean State Job Lot was moving into what used to be four spaces that used to be occupied by a women's clothing store, a liquor store that relocated within the shopping center, an optometrist that just recently relocated within the shopping center and a vacant space that was previously occupied by CVS. He added that at the end of the strip mall was a vacant space with a gym on the end. Mr. Ricci stated that the building where Ocean State Job Lot would be located was set back from Rte. 27 approximately 300 ft. from the sidewalk. Mr. Ricci then spoke about an exhibit that was displayed digitally of the existing elevation of the portion of the shopping center that Ocean State Job Lots would occupy as well as the proposed elevation. He spoke of the tower shown to the right side where the women's clothing store used to be, then the previous liquor store where the lower roofline started and a set of double doors would be, then a single entrance door to what was previously utilized as an optometrist's store. Finally, to the very left where a small tower was shown was the location of where the CVS used to be located at one time. He described the exterior building materials as red brick with a green standing seam metal roof and four (4) small towers as well as two (2) large towers that included the one on the right that was always meant to be for an anchor store and the other that was on the previous supermarket. Mr. Ricci then explained that all the walls would be removed and made into one large open space and they would be getting new bathrooms and new finishes inside. He told the Board that the large tower was where the main sign would be located to attract shoppers to the store as the main entrance and have asked for a second sign on the smaller tower to the left. Mr. Ricci indicated that the smaller tower was on a 45 degree angle facing the old supermarket portion of the site to the left where the majority of the parking area was located and where the main driveway was located coming off of Rte. 27.

Mr. Ricci then discussed the numerous signs on the building, noting that two of those would be moved to go along with the liquor store and optometrist to another portion of the shopping center and the two other signs for the two (2) other presently vacant spaces that Ocean State Job Lot would occupy. He then spoke about the comments on Mr. Healey's Planning report regarding the number of signs and the size of the signs being requested. Mr. Ricci indicated that the allowed size of the signs would be great for a small tenant, but would not be appropriate for an approximately 32,000 sq. ft. anchor store that would occupy 23% of the whole shopping center gross area with the scale of the building here. He added that they felt that the parameters of what was permitted was extremely small was the reason that they were asking for more. In addition, he noted that the title of the store

was longer and took up more space than some other store names and would be miniscule in size if they tried to fit it onto a 30 sq. ft. sign. Mr. Ricci also felt that the scale of space that they would be occupying was also asking for a larger sign. He then compared the subject shopping center to the new Stop & Shop shopping center that was just east of the subject site on Rte. 27. He noted that the Stop & Shop building façade had many signs advertising fresh food, fresh meat, welcome, etc., in addition to their logo and the Stop & Shop name. Mr. Ricci testified that the Stop & Shop name sign was 5 ft. tall and they were asking for 4 ft. 6". He then added that their sign was only 36 inches long, but their store name was shorter than Ocean State Job Lot. Mr. Ricci then drew the Board's attention to the fact that their logo next to the Stop & Shop sign was 6 ft. 8" tall and when put together with the store name, Stop & Shop, the length was just under 39 ft. and the square footage was 261.5 sq. ft. He then reminded the Board that that logo and sign was also accompanied by other signs on the building. Mr. Ricci stated that he didn't feel the signs there were flashy or even out of scale to the size of the building and felt the same way about what the Applicant was asking for on the subject store front. Mr. Ricci then showed another digital exhibit of a rendering that was drawn to scale of what the signs would look like in real life. He again noted that the second smaller tower sign was at a 45 degree angle to the front façade of the building and facing the old supermarket space in the shopping center.

Mr. Ricci then discussed the Franklin Township sign ordinance, specifically section 112-106, which was the statement of purpose and intent. He testified that he felt the proposed signs were orderly, readable and appropriate to the activity with which they pertain, compatible with their surroundings, complementary to the character of the community and not distracting to passing motorists. He stated that the signs were internally laminated lights that don't flash or shine bright outside of the boxes, but adequate to be read by passing motorists from a distance.

Mr. Shepherd asked if the proposed signs were anything like other signs in the shopping center, and Mr. Ricci indicated that when and if the large supermarket space was every occupied by one, two or three tenants, he felt that the signs for those businesses would be comparable to what was being proposed.

Mr. Ricci then addressed the negative criteria, stating that Franklin Township discouraged the use of signs that represent overloaded and overstated graphics that defeat its communicative purpose. He indicated to the Board that he didn't feel that what they were proposing was overstated and that there was a large portion of the building that had no signs on it at all. In discussions with Board member, Mr. Shepherd, Mr. Ricci stated that the optometrist's sign was within the ordinance measurements of what was appropriate, but was for a space that was only 1,200 sq. ft. in size. He then stated that he didn't feel the proposed signs contributed to visual pollution and clutter.

Mr. Ricci then discussed the Municipal Land Use Law's reasons for granting variances and pointed the Board's attention to Section I regarding the promotion of a desirable visual environment through creative development techniques and good civic design and arrangement. He then spoke about the inclusion of the towers and the intention to use them to promote what was happening within the shopping center. He added that putting the signs on the towers and removing what was in between them, he felt cleaned up the façade quite a bit. Mr. Ricci explained that they would be seeking a c-2 variance and didn't feel that the signs they were proposing would create a substantial detriment to the zone plan or scheme or to the public good. Mr. Ricci then indicated that he felt that the granting of the variances would outweigh any detriments

Vice Chair Graumann asked for some supporting evidence related to Mr. Ricci's testimony regarding the public good. Mr. Ricci put up a photograph of the space in the shopping center that Ocean State Job Lots would be occupying. He added that they had superimposed, to scale, the signage that they were proposing onto the building. He then stated that the photograph was taken from the sidewalk along Rte. 27 looking toward the proposed shopping center and signage, which was approximately 300 ft. away. Mr. Ricci then told the Board that the shopping center was struggling, noting that its main anchor, the supermarket, that supported the other businesses there, moved out. Since that time, he noted, there was not enough interest in the center for other smaller businesses to thrive. H added that the Applicant, Ocean State Job Lot, they believe, has the drawing power to bring enough business to the center to fill up the other vacancies. He testified that Rte. 27 was mostly filled with commercial businesses. Mr. Shepherd discussed with Mr. Ricci all of the residential properties that surrounding the site, including apartments across on the other side of Rte. 27, apartments to one side of the shopping center and an assisted living center to the other side. Mr. Ricci then discussed that the signage would be internally illuminated and would go on approximately 30 minutes before the store opened and turned off within an hour after the store closed. He added that the signs did not make any noise to disturb anyone.

Mr. Healey then asked for clarification of the size of the proposed store, and Mr. Ricci indicated that it was exactly 31,150 sq. ft. in size and approximately 160 ft. of store frontage. He noted that it was split up into as many as five (5) store fronts and most recently was split into four (4) spaces, but could be split up into more. Mr. Ricci added that each business could have up to a 30 sq. ft. sign, which would result in multiple signs along the frontage.

Mr. Johnson asked about the size of the sign for the physical fitness center on the corner of the center. Mr. Ricci did not know the size of their sign but that it wasn't as large as what was being proposed for Ocean State Job Lot, but stated that they only occupy 13,000 sq. ft. of space. He noted also that the physical fitness center had frontage on Rte. 27 as well as South Middlebush Rd. and that Steinmart did as well on the other end of the shopping center. He stated that the former Steinmart retail space had signage on both sides of their façade even though they were only 50 ft. away from Rte. 27.

Chairman Thomas then opened the meeting to the public for anyone wanting to make a comment or ask a question of Mr. Ricci. Seeing no one coming forward, the public portion of the meeting was closed.

Mr. Linnus then gave his summation in support of the testimony given by Mr. Ricci addressing the positive and negative criteria of the variances they were seeking.

There was a discussion among the Board members regarding the visual perspective of the proposed signs, with the smaller sign being oriented towards the interior of the center, with no visual impact to Rte. 27 at all. Mr. Ricci explained that depending on the view from the sidewalk or Rte. 27, even the larger sign could not always be seen due to the larger trees within the parking lot. A discussion ensued among the Board.

Ms. Bergailo stated that she felt that the larger signs would be a benefit for the travelling motorist along Rte. 27 because the building was set back so far from the roadway and because of all the trees blocking the view.

Mr. Healey commented that, by right, there could be up to six (6) tenants occupying the space that Ocean State Job Lot was going to occupy, bringing with them up to as many 30 sq. ft. signs along the frontage of the shopping center in that area. He indicated that the ordinance did not necessarily take into account for the larger anchor stores in a shopping center and suggested the Board think about whether the proposed sizes of the signs were in scale with the building, the visibility from Rte. 27, the trees that block visibility, etc. Mr. Healey then drew the Board's attention to the second variance the Applicant was seeking by asking for a second sign where the ordinance only allowed for one (1). He discussed the fact that the second tower was encompassed by the square footage of the Ocean State Job Lot store and would look strange not having some signage. He left it to the Board to decide how large each of the signs should be allowed to be, based on the Applicant's testimony.

Mr. Reiss discussed his opinion that the signs should be approved as he would like to see the shopping center thriving again.

Vice Chair Graumann suggested that the Applicant could have put together a Site Plan to present to the Board that would show the interior of the entire shopping center so that they would have been able to see the scale and proportions of the signs compared to the scale and proportions of the entire center. Mr. Healey stated that an aerial view of the entire shopping center was part of the record in the review by the Technical Review Committee (TRC).

Chairman Thomas gave his comments regarding the signs and the profitability of the center. Mr. Shepherd then gave his remarks, noting that he felt the owner of the shopping center was part of the problems the center has had over the years by not allowing a large chain grocery store in the facility because of the one they own just down the road. He, along with the Chairman, testified that they didn't like the combination of the large red lettering in the signs against a white background. That being said, Mr. Shepherd felt that they really only needed one (1) large sign instead of the two (2) that were proposed.

Mr. Reiss made a motion to approve the proposed variances. Mr. Shepherd asked that they include some lighting cut-off time frames included in the Resolution. He suggested they include turning on the lights about a half hour before the store opens and up to an hour after closing. Mr. Johnson seconded the motion and the roll was called as follows:

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

AGAINST: Mr. Shepherd

**• MERIDIAN DEVELOPERS, LLC / ZBA-18-00007**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Meridian Developers, LLC. He explained that they were there that evening for a Site Plan w/Use Variance in which the Applicant was seeking approval for demolition of the existing buildings and construction of a two-story apartment building consisting of eight (8) 1-bedroom apartments, along with a 14-space parking lot at 52 Norma Avenue & Franklin Blvd., Somerset; Block 234, Lots 2 & 8, in the OP Zone - **CARRIED FROM JULY 19, 2018 – with no further notification needed.**

Mr. Healey's Planning report indicated that the proposal required the following approvals:

1. D(1) Use Variance: Apartment buildings are not a permitted use in the O-P Zone.
2. D(5) Density Variance: More residential units would be realized than under the O-P zoning.
3. Site Plan approval.
4. Additional Variances:
  - *Garden apartment requirements (Section 112-39)*
    - Setback of 200 ft. from single-family dwelling required – approx. 145 ft. proposed from house on Lot 14.01.
    - 10-ft. wide planted buffer area screening required – such buffer not provided.
    - No parking permitted in required front yard – parking proposed in front yard.
    - Required parking lot setback of 10 ft. – 4 ft. proposed on both sides.
    - Recreation requirement – 400 sq. ft. of recreation area per unit – non provided.
    - Lot Area: 10-acre minimum required – 0.59 acres proposed.
    - Lot Frontage: 300 ft. minimum required – 50 ft. existing/proposed (Norma Avenue) and 61.04 ft. existing/proposed (Franklin Boulevard).
    - Minimum Side Yard: 40 ft. required – 8.1 ft. (south) and approximately 8 ft. (north) proposed.
    - Maximum Building Height: 30 ft. maximum permitted – 31 ft. proposed
  - *Impervious Coverage:* 30% maximum permitted – 39.8% existing – 37.4% proposed.
  - *Parking Lot Drive Aisle Width:* 26 ft. minimum required – 24 ft. proposed.
  - *Through Lot:* Consolidation of the lots would technically create a “through lot”.

Mr. Lanfrit indicated that the property was 50 ft. wide and approximately 250 ft. in length. He also noted that the property was angled and did not have a straight 50 ft. measurement. He then indicated that they were there before the Board to ask for a Use Variance because the property was in the OP Zone, noting that the zone allowed for offices and one (1) and two (2)-family homes.

Mr. Frank Assuncio, Applicant and Principal of Meridian Developers, LLC, 52 Hillcrest Rd., Bridgewater, NJ, came forward and was sworn in. Mr. Assuncio explained that he purchased the subject property about a year ago and that his family owned the adjacent, fully occupied, 14-apartment garden-style apartment building that was purchased approximately four (4) years ago. Mr. Assuncio stated that they had renovated the adjacent apartments and would continue to do so when there was rental turnover. He then entered into the record as Exhibit A-1, which was a packet of 13 photographs, taken that morning (9/6/2018). Mr. Lanfrit handed out copies to the Board members for them to peruse. Mr. Assuncio indicated that the buildings on the subject property were vacant and dilapidated when he purchased it and that included five (5) apartments (two (2) one-bedroom units two (2) two-bedroom units and one (1) three-bedroom unit. He then noted that there was no way to save these buildings in the state that they were in. which was why he decided to demolish and rebuild. Mr. Assuncio stated that the buildings was an eye sore to his tenants just next door and were nervous about the people who were congregating around the vacant property, leaving trash behind. He told the Board that he felt that there was a need for rental properties in that area since he gets phone calls all the time, before advertising for a vacant apartment in his building next door, for interest in an available apartment. He then described the improvements that he was proposing on the subject property as being contained within the building envelope that already existed there.

Mr. Mark Marcille, Architect, 505 Main Street, Metuchen, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Marcille explained that the proposal was for eight (8) one-

bedroom units on two stories. He detailed that each apartment would be just over 600 sq. ft. and then described the building materials proposed. Mr. Marcille then explained that they designed the building to have a residential feel, with the inclusion of cultured stone, vinyl siding, gabled roof lines, shutters with two (2) portico entrances. He added that the building would be 30 ft. x 90 ft. in size and that the building would have a partial basement for laundry, storage and meters. Mr. Marcille indicated that the colors to be included on the building, as shown on the renderings of the submitted set would be gray vinyl siding and gray stone just as shown.

Vice Chair Graumann inquired as to the size of the bedrooms, and Mr. Marcille responded that they would be 10 ft. x 12 ft., with a walk-in closet.

Ms/ Bergailo then asked if there was any way for the units on the first floor, which would be more likely to house handicapped people, to have a washer/dryer in the HVAC closet. Mr. Marcille stated that there currently was no plan to include that, but that they could possibly carve out a space next to the refrigerator for a stackable unit.

Mr. Robert Gazzale, Engineer employed with Fisk Associates, PA, 631 Union Avenue, Middlesex, NJ 08846, came forward and was sworn in. The Board accepted his qualifications. Mr. Gazzale testified that he prepared the Site Plan that was the subject to the night's Application and went on to describe the subject property. He then noted that the property was L-shaped and had frontage on both Franklin Boulevard (61 ft. of frontage and 235 ft. deep) as well as Norma Avenue (50 ft. of frontage and 250 ft. deep). Mr. Gazzale indicated that the combined lot area was almost 0.6 acres (25,600 sq. ft.) and located in the O-P Zone that was currently developed with a one-story and a two-story apartment building that had a total of 5 apartments, with 9 bedrooms combined. He then noted that the two buildings were both long and narrow and the property was developed along Norma Avenue from the front of the property to almost the 235 ft. property line. Mr. Gazzale then showed Sheet 1 of the Site Plan where they were planning on removing all of the buildings on the site and re-develop it. He told the Board the proposed building was set back from Norma Avenue about 163 ft., which allowed for a parking lot to be constructed between the building and Norma Avenue. He noted that there wasn't really an opportunity to put the parking behind the building because the lot was only 50 ft. wide, and with a 24 ft. wide drive aisle and setbacks there wouldn't be any buildable space left for the actual construction of the building. Mr. Gazzale then drew the Board's attention to the proposed 14 parking spaces to be constructed in the front and that would comply with the Residential Site Improvement Standards (RSIS) requirements for one-bedroom apartments. He then showed the Board the location of the proposed trash enclosure adjacent to the parking lot, in line with the access aisle. Mr. Gazzale did note that they were asking for a waiver for the dimensions of the access aisle to have it proposed at 24 ft., which he stated was pretty standard, but where Franklin Township's requirement was for 26 ft. He then told the Board that they had designed the minimum size for a parking lot, with 18 ft. spaces and a 24 ft. wide drive aisle. Mr. Gazzale added that it left 8 ft. of space left over to accommodate for 4 ft. of space to each property line. He added that they had also left space for a trash enclosure and a walkway to the building along with a concrete walkway along the northerly side that lead up to the two porticos.

Mr. Gazzale then discussed the adjacent land uses to the subject property, including a primarily wooded vacant lot along Franklin Boulevard, a residential apartment building owned by Mr. Assuncio, with the next two lots running up Lewis Street were two (2) single-family dwellings, the Post Office parking lot and another parking lot to the southwest of the subject property. He then told the Board that the distance between the two (2) residential single-family dwellings and the back of Lot 13 was about 125 ft. and about 135 ft. to the building that they were proposing. He noted that

the current building was built partially over the property line, which would be eliminated by demolishing that current building and by constructing the proposed building.

Mr. Gazzale then briefly took the Board through the bulk variances that were required due to the size of the lot, speaking first about the current impervious coverage of 39.9% existing which would be lowered to 37.4% where 30% maximum was required. He then discussed the variances for lot frontage with 50 ft. on Norma Avenue and 61 ft. on Franklin Boulevard where 300 ft. minimum was required. Mr. Gazzale then brought up the required variances for side yard where the roof porticos were included in the building setback calculations. He told the Board that the calculations put the setback on the northwest side at 7.8 ft. and the setback on the southeast side at 8.1 ft. where a minimum of 40 ft. was required. He then added that the building, as proposed, exceeded the garden apartment standard height of 30 ft. by 1 ft., bringing the height in at 31 ft. Mr. Gazzale then discussed the issues that they had with buffers and setbacks to the parking lot, stating that they were supposed to have a 10 ft. buffer to either side where the geometry of the property only allows for 4 ft. on each side. He did state, however, that they were planning to plant an evergreen screen along both sides between the curb and property line. He added that there would also be some plantings on the northwest side where the site lighting for the parking lot would be located. Mr. Gazzale stated that the parking lot abutted the adjacent property, however, it was also owned by Mr. Assuncio. He then discussed the fact that the proposed property was considered a "through lot" because it had frontage on two streets. He then discussed Somerset County's report where it stated that there was to be no access to the site from Franklin Boulevard and that the only access should be from Norma Avenue. He told the Board that it was their intention to merge the two lots as a result of the Application, as requested by the Township staff and basically preserve the wooded area that was on the lot that currently fronted on Franklin Boulevard. Even though the proposal did not exactly match the description of a garden apartment by only having one (1) building, Mr. Gazzale testified that they tried to address the standards of garden apartments. He then noted that there was a comment in one of the staff reports regarding light spillage, and Mr. Gazzale testified that they would control light spillage where they could to make sure that all lighting remained on the subject property. He stated that they've kept the fixtures as low as possible at 14 ft., but that since the site was only 50 ft. wide, they had some minor light spillage onto the vacant land and onto the Applicant's adjoining lot. Mr. Gazzale then reverted back to the discussion of the parking lot, noting that they were proposing to provide 14 parking spaces, designating one (1) space for each unit and leave the remaining spaces as visitor parking. He then noted that the Applicant informed him that they would be handling all refuse and recycling privately for the building. He reiterated what he briefly spoke on regarding the landscaping plan. Mr. Gazzale indicated that they would be providing landscaping along both sides of the parking lot, screening was proposed around the trash enclosure, decorative foundation plantings along the northeast side of the building facing Norma Avenue and running down to the first portico entrance along the northwest side.

Ms. Bergailo asked if they could move the proposed arborvitae plantings to the property line since it was right next to the Applicant's adjacent property so as to keep them as far from the parking area as possible to reduce damage.

Mr. Gazzale then addressed the staff reports and testified that they would be able to comply with any of the comments in Mr. Healey's report regarding screening and lighting. He also indicated that they would be able to comply with all of the comments in the Township Engineer's report. He then added that they would comply with all of the comments from the Sewerage Authority. In reviewing Mr. Hauss' Fire Preventing comments, Mr. Gazzale stated that they would speak to him regarding his particular concerns for fire hydrant placement and could comply with all his other comments.

Mr. Healey then opened a discussion regarding snow removal, with Mr. Gazzale indicating that they would have to remove the snow completely from the property since there was no room on the site. The other item Mr. Healey asked for clarification was how the Applicant planned to deal with the current encroachment of the current building on the property. Mr. Lanfrit indicated that they would reach out to the other adjacent property owner to get permission to remove whatever portion of that building was sitting on their property as well as restoring their property. Mr. Healey then asked that the Township staff be included in any correspondence and contact that occurred with that adjacent property owner. Mr. Lanfrit agreed to do so.

Mr. Rich opened a discussion regarding the problem of a "through lot". Mr. Healey explained the intricacies of the technical variance that was required. A discussion ensued by the Board, and Mr. Healey stated that the Board could impose a condition that access would only be from the Norma Avenue side. A discussion also ensued regarding the Office/Professional (O-P) Zone.

Mr. Edward Kolling, Planner, 123 Oak Hill Avenue, Long Branch, NJ, came forward and was sworn in. The Board accepted his qualifications. He noted that the multi-family use was not a permitted use in the O-P Zone and there were more units proposed for the lot than would be expected so they were before that evening for a D(1) Use Variance and a D(5) Density Variance. He noted that there was already a multi-family use on the site and they just wanted to replace and expand that use. Mr. Kolling then spoke about the uniqueness of the L-shaped lot that wraps around the corner lot and would be very difficult to develop for any use without variances. He stated that he felt that the property was well suited as a multi-family residential use in part because it was not well suited for an office use. He added that he didn't feel an office use was needed in the area, noting the empty and run down office space just next to the property. Mr. Kolling did feel that a multi-family use would be most appropriate because there was already a multi-family use just next to the property and owned by the Applicant who testified that he had seen a good demand for apartments in the area. Mr. Kolling then went about proving the positive and negative criteria for the granting of both the D(1) and D(5) variances they were seeking. He talked about the positive nature of removing the dilapidated structures on the property at present because they were an eyesore and because at least one of the buildings intrudes upon the property fronting on Lewis Street. Mr. Kolling then addressed the negative criteria, noting that he did not see any detriments to the neighborhood, public good or surrounding area. He then told the Board that he felt that the inclusion of this new, multi-family residence would have a positive effect on the Hamilton Street Business District, which was in need of revitalization. Mr. Kolling then addressed the need for the bulk (C) variances listed, noting the unique shape and size of the property that created a hardship in attempting to develop the property. He then discussed the Applicant's ability to comply with garden apartment requirements, noting that the proposal for only one (1) building did not really support the definition of what a garden apartment was. All that said, Mr. Kolling indicated that he didn't feel the proposal was a detriment to the zone plan or zone scheme or to the public good. He testified that the proposal could be approved with a C(2) variance reasoning as well, indicating that the benefits outweigh any detriments, because he testified he didn't feel there were any. Finally, Mr. Kolling stated that any development of the site with an office building or any "as of right" development would require bulk variances because of the condition and shape of the proposal lot.

Chairman Thomas then opened a discussion regarding the provision of a smaller amount of larger 800 sq. ft. apartments rather than the eight (8) smaller one-bedroom apartments. Mr. Lanfrit testified that in discussions with the Township staff, they felt the one-bedroom apartments were more appropriate for the site. The Chairman stated that there would be less parking requirements with larger apartments. He also brought up the fact that the intensity of the use would be diminished if

the property was developed as an office building. A discussion ensued regarding how differing developments would affect traffic and intensity of use of the property.

Mr. Reiss asked how long the average tenant stayed in their apartment on the adjacent property, and Mr. Assuncio indicated that everyone who had leased an apartment since he owned the building were still there. He also stated that there were no students leasing any of his apartments.

Mr. Lanfrit then addressed a comment made by Chairman Thomas regarding access onto Franklin Boulevard. He told the Board that the County prohibited any access from Franklin Boulevard for that site whether it was developed as an office building or as residential, most probably because of the curvature of the roadway there and because there was an alternative access to the site on Norma Avenue.

Chairman Thomas stated that, for the record, there was no public in the chambers that evening, so they did not open the meeting to the public.

Mr. Lanfrit then gave his closing statements, asking for the Board’s approval.

Mr. Reiss made a motion to approve the Application with Variances. Mr. Shepherd seconded the motion and the roll was called as follows:

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

AGAINST: None

**WORKSESSION/NEW BUSINESS**

***Discussion:***

- Lawsuits – Mark Healey

Mr. Kinneally, Board Attorney, gave a status update on two matters he handled for the Board, noting that one (1) was now concluded. He indicated that it was a Time of Decision case where the Garden Apartments came before the Board and the Zoning Officer found that a Use Variance was necessary. He continued by saying that the matter went all the way to the Supreme Court, where they upheld the decision of Franklin Township’s Zoning Board and Zoning Officer. He then stated that the other piece of litigation that he was handling was the Central Jersey Charter School that came before the Board for a Use Variance to move the school from one office building to another office building. Mr. Kinneally indicated that the landlord from the original office building objected to the Board allowing that and filed suit against the Zoning Board, the Charter School and the new landlord. He continued by saying that there were two lawsuits because they came before the Zoning Board two times and there was concern from the Board regarding the location of the gymnasium and its proximity to the gas pipeline. Mr. Kinneally added that they removed the gymnasium from that Application and the vote at the hearing was just for the Use Variance. He then stated that the Applicant came back before the Board with an amended application for just the new location of the gymnasium and the Zoning Board granted approval for the new location of the gymnasium since it was no longer located within the setback of the gas pipeline. He then stated that Judge Miller ruled

in favor of the Zoning Board's decision on both of those appeals and the original landlord had now appealed that to the Appellate Division and filed their briefs the previous week. He then stated that the Township's brief was due by the third week of September and was planning on filing briefs in opposition to that basically suggesting that Judge Miller and the Zoning Board were correct and that the Appellate Division should uphold those decisions. He stated that, unfortunately, the decision from the Appellate Division would probably not come out until late 2019. A discussion ensued among the Board.

**MEETING ADJOURNED**

Mr. Shepherd made a motion to adjourn the meeting at 9:36 p.m. Mr. McCracken seconded the motion and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
October 5, 2018