

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

**REGULAR MEETING
January 17, 2019**

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

PRESENT: Anthony Caldwell, Donald Johnson, Bruce McCracken, Alan Rich, Gary Rosenthal, Cheryl Bethea and Chairman Thomas

ABSENT: Laura Graumann Robert Shepherd, Joel Reiss and Cheryl Bergailo

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

OATH OF OFFICE

Board Attorney, James Kinneally, administered the Oath of Office to the following.

- **Robert Thomas**
- **Bruce McCracken**
- **Cheryl Bethea**
- **Joel Reiss**

REORGANIZATION:

- **Nomination/Selection of Chairperson**

Mr. Rich made a motion to nominate Mr. Robert Thomas for Chairperson. Mr. Rosenthal seconded the motion. No other nominations were brought forth, so Board Attorney, James Kinneally closed the nominations

FOR: Mr. Rosenthal, Mr. Caldwell, Mr. McCracken, Mr. Thomas, Mr. Rich, Mr. Johnson and Ms. Bethea.

AGAINST: None

- **Nomination/Selection of Vice Chairperson**

Mr. McCracken made a motion to nominate Ms. Laura Graumann for Vice Chairperson. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Mr. Rosenthal, Mr. Caldwell, Mr. McCracken, Chairman Thomas, Mr. Rich, Mr. Johnson and Ms. Bethea.

AGAINST: None

- **Witness Oath – Director of Planning, Mark Healey and Economic Development Director, Vincent Dominach**

Board Attorney, Mr. Kinneally then administered the Witness Oath to both Mr. Healey and Mr. Dominach.

- **Board Attorney Interviews**

Chairman Thomas indicated that there was one (1) candidate for Board Attorney for the Zoning Board of Adjustment by RFP, Mr. James Kinneally. Since they were required to conduct an interview, Chairman Thomas opened the floor for questions from the Board. Mr. Rosenthal then asked Mr. Kinneally if there would be any conflicts with his schedule in allowing him to participate at the Board meetings, and Mr. Kinneally responded by stating that he was available on Thursday evenings, when the Zoning Board of Adjustment had their meetings and didn't anticipate any conflicts.

A motion was made to appoint Mr. Kinneally as Board Attorney once again for the 2019 calendar year and was seconded. The roll was called as follows:

FOR: Mr. Rosenthal, Mr. Caldwell, Mr. McCracken, Chairman Thomas, Mr. Rich, Mr. Johnson and Ms. Bethea.

AGAINST: None

MINUTES:

- **Regular Meeting – December 6, 2018**

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

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal and Chairman Thomas.

AGAINST: None

RESOLUTIONS:

- **Levin Properties / ZBA-15-00017 (Ext. of Time)**

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

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas.

AGAINST: None

- **Ocean State Job Lot / ZBA-17-00009**

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

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas.

AGAINST: None

- **Tolulope Adeleye / ZBA-18-00012**

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

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas.

AGAINST: None

- **New Cingular Wireless / ZBA-18-00011**

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

FOR: Mr. Caldwell, Mr. McCracken, Mr. Rich and Chairman Thomas.

AGAINST: None

- **Tabatchnick / ZBA-15-00018 (Ext. of Time)**

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

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas.

AGAINST: None

- **Meridian Developers / ZBA-18-00007**

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

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas.

AGAINST: None

- **Somerset Hotel, LLC / ZBA-18-00003**

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

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rosenthal and Chairman Thomas.

AGAINST: None

- **Kings Row Homes, LLC / ZBA-16-00017**

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

FOR: Mr. Caldwell, Mr. McCracken, Mr. Rich, Mr. Rosenthal and Chairman Thomas.

AGAINST: None

DISCUSSION:

Vouchers:

- **Marriott Callahan & Blair – Cargill - \$259.00**
Adeleye - \$272.50
Ocean State Job Lot - \$459.00

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

Extension of Time:

- **Franklin II Associates, Ltd – Appeal Zoning Decision – CARRIED TO MARCH 7, 2019**
- **Revision to By-Laws**

Mr. Healey explained the two proposed changes to the Zoning Board of Adjustment bi-laws, He noted that the first change was to section 1:2-4 related to the Order of Business and dictated the order of the agendas for the ZBA meetings. Mr. Healey then indicated that the second change was to Rule 3:6 regarding the listing of vouchers paid related to the new law where the Township was required to pay all bills within 45 days. He told the Board that the current practice was to put the bills to be paid on the current agenda before they get paid, but that the practice presented problems in the timeliness of paying those bills and the Township wanted to avoid having to pay the required interest going forward. He went on to state that allowing staff to pay the bills on the Board's behalf after the Chairman was notified of them and approved them avoids the issue of late payments and interest fees. Mr. Healey then indicated that they would put those bills on the agenda for the next meeting so the rest of the Board members would be aware of the bills that were paid of their behalf.

Mr. McCracken made a motion to adopt the changes to Board's bi-laws, and Mr. Caldwell seconded the motion. The roll was called as follows:

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Ms. Bethea and Chairman Thomas.

AGAINST: None

HEARINGS:

- **ADICHUNCHANAGIRI CULTURAL & SPIRITUAL FOUNDATION OF USA, INC. / ZBA-18-00014**

Site Plan w/Use Variance in which the Applicant was proposing to construct a new one-story 4,998 sq. ft. house of worship with 80 parking spaces at 216 Weston Road, Somerset; Block 512, Lot 12.01, in an R-20 Zone - **CARRIED TO FEBRUARY 21, 2019 – with no further notification required.**

DL - 3/27/2019

- **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 FEBRUARY 21, 2019 – with no further notification required.**

DL 2/28/2019

- **FRANKLIN TOWNSHIP/AP REALTY GROUP / ZBA-18-00010**

An Application for a minor subdivision with variances and a certification of pre-existing, nonconforming use or D(1) Variance for the property located at 418 Lewis Street and 150 Shevchenko Avenue, Somerset; Block 228, Lots 17-24 and 29-30, in an R-7 Zone - **CARRIED FROM JANUARY 3, 2019 – with newspaper notification required.**

Mr. Vincent Dominach, Economic Development Director and Project Manager for the youth center that was going to be constructed across from the sub-division, came forward. He told the Board that he would be discussing the proposed subdivision and that A.P. Realty was representing and dealing with the certification of the pre-existing, non-conforming use. Mr. Dominach then stated that if the Board did not approve the use, A.P. Realty would then be giving testimony to support a Use Variance.

Mr. Dominach then entered into the record as Exhibit A-1, the Minor Sub-Division Plan that was prepared by the Reynolds Group, dated 12/27/18. He then went on to explain that they were proposing to subdivide Lots 17-24 (20,000 sq. ft.) and Lots 29-30 (5,000 sq. ft.) into two lots. He noted that the Township was specifically purchasing the lots (17-24) for the purpose of constructing approximately 40 parking spaces for use by the youth center that they were constructing across the street. Mr. Dominach then indicated that there were a series of variances that were required for the Application, including four (4) new variances listed below:

1. Lot Area: 15,000 sq. ft. was required, 5,000 sq. ft. was proposed for the existing two-family home on the property (proposed Lot 29.01).
2. Rear Yard Setback (accessory structure): 10 ft. minimum required and 5.5 ft. was being provided. (proposed Lot 29.01).

3. Impervious Coverage: 42.9% proposed, increasing due to the creation of smaller lot sizes.
4. Lot Coverage: 31% proposed, increasing due to the creation of smaller lot sizes.

Mr. Dominach explained that the existing two-family home on the property was already functioning as a 5,000 sq. ft. lot since there were no improvements on the proposed 20,000 sq. ft. lot

Mr. Healey then referred the Board to the report from the Technical Review Committee (TRC) and asked them to look at Page 5 at the exhibit presented there that matched the one presented that evening) fronting on Lewis St. and Shevchenko which was currently undeveloped and forested, and proposed Lot 29.01 that contained the existing house and other improvements, including an accessory structure, driveway, etc. associated with it, fronting on Martin Street. Mr. Healey then reiterated the newly created variances that Mr. Dominach had mentioned and then detailed all of the other variances listed in the TRC report, including lot frontage, front yard setbacks, side yard setbacks, total side yard and side yard setback (accessory structure) were all existing situations presently that were not being created or worsened by the Application.

Mr. Healey then spoke about the justification for the variances and stated that he would put forward that he believed it would be considered a C(2) variance because the purpose of the subdivision was to allow for the conveyance of the property to the Township for the purpose of building the parking lot associated with the youth center, an inherently beneficial use. Mr. Healey then indicated that he did not see any substantial detriments in the Board approving the variances because they were being created by the drawing of the new lot line and not being created by any new development that was being presented. Mr. Healey then discussed the surrounding neighborhood, with seven (7) homes in close proximity right along Martin Street that had a similar size and width lot

Chairman Thomas then opened the meeting to the public for comments and questions regarding the presented testimony.

Ms. Ursula Cargill, 160 Bennington Parkway, Somerset, NJ, came forward and was sworn in. Ms. Cargill asked what evidence the Board required in order to substantiate that the Application met the requirements of pre-existing, non-conforming use. Board Attorney, Mr. James Kinneally, indicated that they had not heard that portion of the Application yet, and they were just discussing the subdivision portion of the Application.

Mr. Carl Wright, 139 Fuller Street, Somerset, NJ, came forward and was sworn in. Mr. Wright expressed his concern for the parking lot lights he assumed would be placed on the proposed parking lot and wondered how they would affect the surrounding residential neighbors. He also wanted to know how the cars coming in and out of the parking lot affect the character of the existing neighborhood. Mr. Dominach indicated that they had not as yet designed the parking lot and was not the subject before the Board that evening. Mr. Dominach then explained to Mr. Wright that an Application for the construction of the parking lot would be considered a public improvement and would not come before the Zoning Board, but would be reviewed by Township staff. When the project was designed, Mr. Dominach explained that they would be going before the Planning Board for an informal presentation to show them, and any public would have an opportunity to comment at that time.

Seeing no one further coming forward, Chairman Thomas then closed the meeting to the public.

In discussions with AP Realty Group, Mr. Dominach told the Chairman that they would prefer getting all testimony on the record and going for one (1) vote, tying both portions of the hearing together in that way. Chairman Thomas agreed to do so.

Mr. Aravind Aithal, Esq., Attorney, appeared before the Board on behalf of the Applicant and owner of the property, AP Realty Group. He explained to the Board that the subdivision would carve out the larger piece of property for municipal purposes and a remaining piece of property (Part B) of the remaining Application. He noted that there were two (2) structures on the smaller portion of the property that included a two-family home, which was permitted in the zone, and a second residence in a separate structure that was to the rear of the property. Mr. Aithal asked if the Board would consider Part B of the Application either a pre-existing, non-conforming use with the secondary structure on-site with forensic proofs provided that it existed prior to 1958 when zoning ordinances came into effect or if the Board would consider a Use Variance if they didn't feel that the use of the property was a pre-existing, non-conforming use since 1946. He then discussed the hardships placed upon the smaller lot because of the proposed subdivision.

Mr. David Bekus, Forensic Residential Construction Expert, 45 Hutt Lane, Skillman, NJ, came forward and was sworn in to establish, for the Board's purposes, how old the residential units were and how they had been used since their creation up until today. The Board accepted his qualifications. He discussed the specific residential structures, with addresses of 83 Martin Street (front structure-two-family residence) and 85 Martin Street (rear structure-single family residence). Mr. Bekus first spoke about 83 Martin Street; when he visited the property and the forensic process he utilized to date the structure as well as to determine how the structure had been utilized over the subsequent years. Mr. Bekus testified that he visited the property in May of 2018 and his research revealed that the home was built in 1946. He then discussed the type of materials utilized in the construction of the home, noting that sheetrock used in the 1940's and 1950's had holes in it to mimic lathe that was previously used in lathe and plaster walls. His conclusion was that the home was not significantly altered since its construction in the 1940's. He added that the second floor kitchen revealed cabinets that had first aid squad stickers from 1966, indicating that the home was utilized as a two-family structure at least as far back as that year and the framing construction was the same as the first floor with the use of materials used in 1946. Mr. Bekus then discussed the electrical panel in the home, noting that it was not the uniform type of panel that they started to see in the 1950's and 1960's. He then testified that there was evidence in the second floor bathroom of an electrical outlet capable of utilizing 110/220 current, which was not the norm starting in the 1950's and 1960's. Mr. Bekus also testified that he could see, due to the recent demolition, that the framing was set up in such a way that it was made for a two-family structure and had continued to be set up and used in that way since its construction.

Mr. Bekus then drew the Board's attention to 85 Martin Street, the rear, single-family structure. He noted that there were two dormers on the home that had been re-sided at some point, but looking on the inside he indicated that it was clear that the framing of those dormers were exactly the same as the rest of the structure and were intended as occupancy and not for storage. He noted that the garage doors were very narrow and that when they were

opened up it was evident that a car would not be able to fit into it. He added that the inclusion of a window to the side of the door definitely pointed to an occupancy use. Mr. Bekus then noted that the home had also been recently demoed, but that he could see a provision for a toilet, a kitchen and that the old plumbing pipes pointed to it predating the 1960's. He also noted that they found a refrigerator on-site that was dated to the 1940's and that the electrical panel was straight out of the 1940's. Mr. Bekus then testified that it was his opinion that the rear home was a single family residence since 1946 and had been used in that fashion until the recent demolition for updating purposes.. A discussion ensued.

Mr. Jimmy Dumas, Planner, 24 Braxton Drive, Belle Mead, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Dumas then went over the planning justifications for the pre-existing uses on the property as well as the alternative Use Variance that was before the Board that evening. He spoke about his opinion that it would be considered a D(2) variance because it was pre-existing and non-conforming, which would be exacerbated by the subdivision to create other C variances. He then spoke to the undue hardship placed upon the owner/Applicant because he purchased the property with all structure already in place. Mr. Dumas indicated that he was also an architect and testified that he prepared the drawings for the renovations for the two-family as well as the single family home on the property. In doing so, he was able to see the structures pre-demolition and also agreed with Mr. Bekus that both structure were built in 1946 prior to zoning in 1958. Mr. Dumas indicated that one of the special reasons he could validate was that the current structures did not create any problems in the neighborhood and that there were no reports or testimony that there had been any issues with the property over the years. He also testified that should the Board not grant the D(2) variance, it would then become a hardship for the Applicant to have to demolish and remove the single family structure from the property. Mr. Dumas then stated that he felt that the Board could grant the variance for the Applicant to utilize the three units on the property since it had been utilized as such since 1946 to the present time. He then discussed the proofs that there would not be any substantial detriment to the zone plan or public good because it was an existing condition and that nothing additional was being added to the property either.

Chairman Thomas then opened the meeting to the public for questions or comments regarding the testimony.

Ms. Ursula Cargill, 160 Bennington Parkway, Franklin Park, NJ, came forward and remained sworn in from her previous testimony that evening. Ms. Cargill wanted to know how the Applicant would demonstrate continuity of use. Mr. Kinneally then told the public that the Applicant employed the services of a Forensic Residential Construction Expert to establish continuity of use prior to zoning in 1958. He noted that the use need not be continuous, 24/7 for every year, particularly if an owner of the property has some difficulty renting a unit in a structure. Mr. Kinneally further explained that if a kitchen/bathroom was removed from a unit and replaced with bedrooms, it would be enough to show intent to abandon the use. He then stated that the sewer lines and supply lines were remaining from a bathroom and kitchen area in the rear single-family unit due to the recent demolition for remodeling.

Mr. Vincent Dominach, Franklin Township Economic Development Director, came forward and continued to be sworn in from earlier in the hearing. He indicated that since the Township was going to purchase the 20,000 sq. ft. parcel once the subdivision was approved. He indicated that the parcel would be utilized for a parking area for a proposed youth center

across the street and that the Township took no opposition to the proposal. Mr. Dominach testified that the Construction Dept. was at the property and examined the two homes at 83 and 85 Martin Street, granting a permit for demolition and remodeling. As such, he indicated that the Construction Dept. saw that there was a kitchen and toilet area at 85 Martin Street that was intact prior to the granting of demolition permits.

Chairman Thomas then closed the meeting to the public, seeing no one further coming forward.

Mr. Healey then spoke to the Board about a possible approval for Certification of a Pre-Existing Non-Conforming Use as well as a D(2) Use Variance, which was approval for expansion of a Pre-Existing Non-Conforming Use as being appropriate due to the subdivision. He then stated that if the Board was not convinced that they provided enough testimony to prove that, he then suggested that a D(1) Use Variance for the use for three (3) residential units on the property where only two (2) were allowed would be appropriate. Mr. Kinneally added that they would also have to approve the C variances that were being created by the subdivision.

Mr. McCracken made a motion to approve the Certification of a Pre-Existing Non-Conforming Use as well as a D(2) Use Variance for expansion of a Pre-Existing Non-Conforming Use and associated C variances being created by the subdivision. Mr. Caldwell seconded the motion and the roll was called as follows:

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Ms. Bethea and Chairman Thomas.

AGAINST: None

- **REV. URSULA CARGILL / ZBA-16-00025**

The Applicant seeks Certification of Pre-Existing Non-Conforming Use. The Applicant contends that the one-bedroom apartment in the finished portion of her basement was constructed at the time the house was constructed (with the house being constructed prior to enactment of the Township Zoning Ordinance) at 160 Bennington Parkway, Franklin Park; Block 38, Lots 6-7, in an R-20 Zone - **CARRIED TO FEBRUARY 21, 2019 – with no further notifications required.**

The Board agreed to give Ms. Cargill additional time to prepare and return with her attorney to prove Certification of Pre-Existing Non-Conforming Use. It was noted to the public that the hearing would be carried to February 21, 2019, but that anyone in the audience that evening who felt that they would not be able to attend the hearing in February, the Chairman was giving them the opportunity to speak that evening.

Mr. Paul Welch, 16 Meadowrun Rd., Burlington County, NJ, came forward and was sworn in. Mr. Welch indicated that he was the grandson of the original owners, Vivian and Wesley Welch. Mr. Welch indicated that he spent time in the home at 160 Bennington Parkway during the 1980's and 1990's when he was a child and on and off while attending Rutgers University after that. He testified that during all of that time, the home was only used a single

family home. He indicated that when he was a child, there was a basement bedroom with a TV, with the other side of the basement unfinished. He noted that the bathroom was put in down in the basement in the early 1980's by his grandfather and was used by he and his brother only sporadically when they stayed at their grandparents' home since it was a flush up system and didn't always work properly. When he lived with his grandmother full time after his grandfather died, Mr. Welch testified that he stayed in one of the upstairs bedrooms because there were no kitchen facilities in the basement. He then noted that there was a walkout basement situation at the house, but that there was no ramp and it just led out to a chicken coop and a horse barn. Finally, he testified that the home was only ever used as a single family home for the use of his grandparents, their children and grandchildren. He indicated that he stayed at the house as late as 2006, and there were no kitchen facilities down in the basement at that time.

Ms. Cargill then asked Mr. Welch a number of questions regarding the statements made by his grandmother and the way the home was marketed to her when it was being sold. Mr. Welch testified that the bedroom was finished off in the home when his father was 16, which he said was approximately in 1966.

- **PRAISE PRESBYTERIAN CHURCH, INC. / ZBA-17-00028**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Praise Presbyterian Church, Inc. Mr. Lanfrit explained that they were there before the Board that evening to obtain a D(3) Use Variance and Site Plan in which the Applicant was requesting to expand the parking lot with an additional 115 spaces, provide a new storm water basin, 75' x 62' asphalt, fenced basketball court and use the previous residence for "religious purposes" at 15 Cedar Grove Lane, Somerset; Block 436.09, Lots 31 & 31, in an R-40 Zone - **CARRIED FROM DECEMBER 20, 2018 – with no notifications required.**

Mr. Lanfrit stated that Praise Presbyterian Church received their approvals to construct their facility under PLN – 2002-0015. He indicated that when it was approved in 2002, it was a permitted use and there were no deviations or variances required. He went on to further explain that the Township did not have any buffer requirements at that time for a church, and that they were there that evening for a D(3) variance because of the buffer requirements. He described the three phases of construction, starting with the multipurpose room, an educational facility added in 2005, with the third phase to include the construction of another 16,000 sq. ft. of space in front of the existing facility. Mr. Lanfrit then noted that the church was not proceeding with that portion of what was approved in 2002 and that the Board could make it a part of any resolution to exclude that from the plans.

Mr. Myung J. Lee, Parishioner and Construction Committee Member, Praise Presbyterian Church, came forward and was sworn in. Mr. Lee explained that he agreed with the history given by Mr. Lanfrit regarding the property and that they were there that evening to obtain approvals for 115 additional parking spaces adjacent to the existing facility. Mr. Lee noted that the property that they plan to use for the additional parking spaces was just purchased a few years ago for that particular use since they do have a parking issue on the site. He then stated that they had 500 parishioners in their congregation in 2005 when the first building was constructed and that now they had 1,000 adults and 300 children. He then noted the four (4) services that they presently have: 8 a.m., 9:45 a.m., 11:45 a.m. and 2:00 p.m. on Sundays.

Mr. Lee then told the Board that there were parking issues at the 9:45 a.m. and 11:45 a.m. services, with 50-80 spaces short. He indicated that they were presently renting space at an office building a couple hundred feet from the site on Sundays for the overflow parking, utilizing a shuttle bus to get the parishioners to the church. Mr. Lee then explained that the property they recently purchased for extra parking space also had a home there as well and it was their intention to keep the house and use it to store the donations they collect for their missionary work. He then told the Board that the shed that was also on that property was currently being used to store church paraphernalia.

Chairman Thomas then inquired as to whether the house in question would remain looking like a house, and Mr. Lanfrit answered in the affirmative. The Chairman then complemented the current landscaping on the property and asked that the parking lot they were proposing would carry some of that same element. Mr. Lanfrit discussed some of the landscaping included on the parking lot plan, and Chairman Thomas asked to make sure that the quota of street trees was included. Mr. Lanfrit indicated that those were also on the plans before them. Chairman Thomas then opened a discussion regarding the possibility of having sidewalks along the frontage of the church. Mr. Healey indicated that he would look into the subject of sidewalks in that area during the course of the meeting.

Mr. Healey then asked for clarification on the number of seats in the worship space, noting that there would be no additional square footage built. Mr. Lanfrit confirmed the number of seats at 647.

Mr. Anthony Gianforcaro, Engineer/Architect and Principal of Gianforcaro Architects, Engineers and Planners, 555 East Main Street, Chester, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Gianforcaro then described the property the church was built upon first and then moved on to the property that was recently purchased for parking use. He utilized a larger version of SP-1.1 that was part of the plans submitted with the Application that showed the existing condition, with the two phases completed that included the multipurpose space and the school. He then showed the fan-like parking area to the north of the buildings as well as an existing detention basin to the north of the parking area. He noted that there was an industrial park to the northeast separated from the subject property by a ditch, with Cedar Grove Lane on the easterly side of the property. Mr. Gianforcaro then pointed out on the plans the location of where Phase III would have occurred, but would now remain a grassy area. Mr. Gianforcaro indicated that the original property included 8 acres. He then showed the Board the location of the newly acquired property they plan to use for additional parking space that was located to the south of the existing property that was 145 ft. wide by 760 ft. long and included an existing residential structure with an existing residential driveway that would remain. Mr. Gianforcaro then drew the Board's attention to SP-1.2 to show the proposed locations of the new parking lot and half court basketball court along with all the associated drainage structures. He then showed the Board the two different access points to the newly proposed parking lot, one from the existing fan-shaped parking area and one from the existing roadway from Cedar Grove Lane. Mr. Gianforcaro then testified that there would be no new curb-cuts from Cedar Grove Lane or widening of any of the driveways on Cedar Grove Lane. He added that the new parking area would be behind the existing dwelling that was on that lot and would include 103 new parking spaces. Since there were 298 existing parking spaces, the total number of parking spaces would amount to 401 total parking spaces on-site.

Mr. Gianforcaro then showed the Board the Landscaping Plan on SP-7.1 on the plans submitted with the Application that include the tree removal plan and planting plan. The plans included trees between the new parking area and the building, some street trees and a two-row buffer of trees between the parking lot and the adjacent property. He then noted that the residential structure on the adjacent property was up near the front of the lot and away from the newly proposed parking lot. Mr. Gianforcaro then added that they could put some landscaping in the parking lot islands to satisfy comments in staff reports. He then discussed how drainage would be handled for the new impervious surfaces, noting that it would eventually drain into the existing basin. Mr. Gianforcaro then testified that they would show that the existing detention basin can handle the new impervious coverage, particularly when it was built to handle the Phase III building that was never constructed.

Mr. Gianforcaro then discussed the variances that they were seeking, including:

1. Building Setback (Accessory Structure): 25 ft. required, 3.3 ft. along southerly property to existing 560 sq. ft. shed.
2. Building Setback: 25 ft. required, 15.8 ft. along the southerly property line to existing residence on Lot 32.
3. Impervious Coverage: 40% maximum permitted, 43% existing and 45% proposed.
4. Buffers: Required buffering not provided along southerly property line, existing shed (proposed to remain) in required buffer area.
5. Buffers: Required buffering not provided along westerly property line, retention of existing vegetation proposed.

Mr. Gianforcaro stated that there was existing buffering along the property line with the industrial park that was planned to remain. He added that there was buffering planned to screen the newly proposed parking area from the adjacent residential property.

Mr. Gianforcaro stated that he didn't believe that any of the variances negatively affected any of the adjoining properties or have any adverse affect on them.

Mr. Gianforcaro then discussed the proposed Lighting Plan, showing the Board drawing SP-2.4 of the plan set. He noted that the exhibit showed where all of the fixtures would be located and demonstrated the area of light spillage that would remain on the property. He indicated that the lighting for the new parking lot would be on a separate timer from the lighting on the existing parking lot.

Mr. Gianforcaro then reviewed the staff reports, stating that they could comply with all of the comments in Mr. Healey's August 16, 2018 Planning report. He then indicated that they could comply with all of the comments of CME's Engineering report of August 1, 2018. He then told the Board that they would agree to remove the speed bumps currently in the parking lot as requested by Mr. Hauss, the Fire Prevention Director. Mr. Gianforcaro then stated that they would request for a waiver in order to keep regular pavement material on the new parking lot and basketball court as opposed to the suggestion by the Environmental Commission to replace it with pervious pavement.

Chairman Thomas then asked for clarification regarding the buffering to be provided along the property line with the adjacent residence. Mr. Gianforcaro reiterated his previous testimony regarding buffering along the new parking lot, with the exception of buffering where the shed

was located along that property line. He noted that there was an existing 6 ft. stockade fence along the property line.

Chairman Thomas then discussed the benefit of having the additional parking lot so as not to have to utilize an alternate site for overflow parking.

Mr. Healey then responded to the Chairman's earlier inquiry regarding sidewalks. Mr. Healey stated that there currently were no sidewalks along that side of Cedar Grove Lane, however, there were currently two developments that the Board had recently approved and included the Levin Townhouse development just next door and Kings Row Homes townhouse development, both of which required sidewalks along their frontages on the same side of Cedar Grove Lane. A discussion ensued.

Mr. Lanfrit agreed to make a "payment in lieu" for sidewalks, but asked only to be required to do so for the newly acquired property since it was not required for the original property.

Chairman Thomas then opened the meeting to the public for questions or comments regarding the testimony heard that evening. Seeing no one coming forward, the meeting was closed to the public.

Mr. Lanfrit then gave his closing remarks.

Mr. Rich made a motion to approve the D(3) Variance, with bulk variances, a total of 401 total parking spaces on-site, use of regular pavement and payment in lieu for the provision for sidewalks on the new property. Mr. McCracken seconded the motion and the roll was called as follows:

FOR: Mr. Caldwell, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Ms. Bethea and Chairman Thomas.

AGAINST: None

- **RUKH Cedar Grove Lane Properties LLC / ZBA-18-00022**

Applicant seeks D(1) Use Variance, Site Plan and associated variance approval for construction of a 1,070 sq. ft. patio with 40 seats. Applicant requires D(1) Use Variance as outdoor seating was prohibited in the Board's original grant of use variance approval. Variances also required with respect to parking, front yard setback and building coverage for the property located at 16 & 18 Cedar Grove Lane, Somerset; Block 424.02, Lot 21.01, in an R-40 Zone - **CARRIED TO FEBRUARY 21, 2019 – with no further notification required.**

Due to the hour and the fact that there would be five (5) witnesses presenting that evening, Mr. Lanfrit asked if the hearing could be carried. The Board and staff agreed to carry the hearing to February 21, 2019.

DL 04/11/2019

WORK SESSION/NEW BUSINESS

There was no work session or new business discussed.

MEETING ADJOURNED

A motion was made to adjourn the meeting at 9:24 p.m. and was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
February 8, 2019