

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

**REGULAR MEETING  
June 20, 2019**

The 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:

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**PRESENT:** Laura Graumann, Robert Shepherd, Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

**ABSENT:** Anthony Caldwell, Donald Johnson, Bruce McCracken, Alan Rich and Cheryl Bethea

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

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**DISCUSSION:**

**Extension of Time:**

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

With no legal representation present by Mr. Francis P. Linnus, Esq., Mr. Healey summarized the letter that was received from Mr. Linnus, dated June 11, 2019, as follows: The Resolution was memorialized in July, 2016 and on September 6, 2018, the Board took action granting a one (1) year extension. He went on to read from the letter, stating that on January 19, 2019, the Board of Adjustment adopted a Resolution memorializing the action it took on September 6, 2018. He further went on to read from the letter, stating that since the time of the original approval and the first extension, my client had been working diligently to satisfy the conditions of the approval. However, after receiving the latest review of revised plans, my client anticipates changing its product line. This change in product line, in all likelihood, would require an amendment to the prior development approvals and, therefore, additional time is necessary to proceed with the change in the product line. We anticipate meeting with the Township professional staff to discuss this change in product line. Reading further in the letter, Mr. Healey stated that the Applicant was seeking a second extension of the approvals and the period of protection of those approvals for an additional one (1) year period through July 20, 2020. The Applicant was confident that it will either be in a position to complete

resolution compliance or proceed with an application to amend the approvals within the next year. A discussion ensued among the Board.

Vice Chair Graumann made a motion to approve the Extension of Time, and Chairman Thomas seconded the motion. The roll was called as follows:

**FOR:** Vice Chair Graumann, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

**AGAINST:** None

### **HEARINGS:**

- **KRISTIN PASTORE / ZBA-19-00014**

C Variance which the Applicant wanted to erect a one-story addition of 12' x 14' at 9 Terry Terrace, Somerset; Block 386.0,7 Lot 79, in an R-20 Zone.

The Technical Review Committee (TRC) report indicated that the current Application involved a 12 ft. x 14 ft. (168 sq. ft.) addition to the right rear corner of the house and that the Application required the following variances:

- **Rear Yard Setback:** 50 ft. minimum required – 42.5 ft. proposed.

Ms. Kristin Pastore, Applicant, 9 Terry Terrace, came forward and was sworn in. Ms. Pastore stated that the original goal was to expand her kitchen and remodel it. She stated that she couldn't go straight back because she would have to tear out a patio and that to the right side was her existing dining room which was already cantilevered by 2 ft., so they planned to push that out another 10 feet and expand the kitchen in that direction. Ms. Pastore also stated that the hardship she was having was the location of the home on the property since it was set on an angle, with the rear property line set on an angle as well.

Mr. Healey then spoke about the building envelope of the property being very shallow, so he felt that there was a bit of a hardship with the shape of the lot on the cul-de-sac as well as the placement of the home on the property.

Ms. Pastore then told the Board that the rear of the property had a 6 ft. fence that was also lined with pine trees. She then stated that she had talked to at least one neighbor, who did not have any objections. Mr. Healey directed the Board to look at page 3 of the TRC report that showed the property and the home's placement there as well as the surrounding properties.

Chairman Thomas then asked about the impervious coverage, and Ms. Pastore stated that they had put on a two-story addition on their home 14 years ago and found out during that process that the previous owners never pulled a permit for the existing deck, so they tore it down and put in a patio. She went on to state that the impervious coverage numbers that were submitted with the present Application included the patio on the property as well. Mr. Healey indicated that they do comply with the impervious coverage requirements (20% where 25% was allowed) and staff would just have to figure out whether the patio was put on before the ordinance went into effect to determine if any storm water management systems would need to be included.

Chairman Thomas then made a motion to open to the public for questions or comments. Seeing no one further coming forward, the meeting was then closed to the public.

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

**FOR:** Vice Chair Graumann, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

**AGAINST:** None

- **BONNIE LEHMER / ZBA-19-00013**

C Variance where the Applicant sought to construct a two-story addition, will include a garage and a second-floor dwelling at 205 Park Street, Somerset; Block 240, Lot 2, in an R7 Zone.

The Technical Review Committee (TRC) had prepared a report, dated May 21, 2019, which listed the variances that were required:

- Lot Area: 15,000 sq. ft. required for the 2-family home in the R-7 Zone – 14,169 ft. existing.
- Lot Frontage: 150 ft. required for the 2-family home in the R-7 Zone – 92 ft. existing (Park Street).
- Front Yard Setback: 25 ft. required – 8 ft. proposed (along paper street “Ashland Street”).
- Front Yard Setback: 25 ft. required – 24.78 ft. existing and proposed (Park Street).

Ms. Bonnie Lehmer, Co-Applicant, 205 Park Street, Somerset, NJ, came forward and was sworn in. Mr. David Snyder, Co-Applicant, 205 Park Street, Somerset, NJ, came forward and was sworn in. Mr. Snyder then stated that they would like to install an enclosed garage so that they could comfortably get in and out of vehicles as they grow older and not deal with the weather. He then added that they would also like to install a handicapped bathroom in their ranch house as well as a laundry room on the first floor to be able to enjoy their property as they age in place. Additionally, they wanted the second-floor addition to be used for a caregiver, either a family member or an employee.

Mr. Healey then explained to the Board that the home was located in the R-7 Zone and that two (2)-family homes were permitted in that zone, so the Application would not require a Use Variance. Mr. Healey went on to detail the variances that were required, noting that the home was built on a corner lot and they had frontage on Park Street, which was the improved road, as well as frontage on a paper street (Ashland Street), which was a Township right-of-way. He stated that he did not anticipate that the paper street would ever be improved. Mr. Healey then told the Board that the Applicants intended to put their extension to the paper street side of their property at 8 ft. He then indicated that the TRC report was mostly written to give the Applicants information for when they submit for the building permit

Mr. Healey then asked the Applicants whether they calculated for what the building and impervious coverage calculations would be on the property, and Mr. Snyder indicated that they were at about 24.8% impervious coverage with the existing footprint of the home, driveway and carport. He told the Board that the with the proposed addition and the proposed driveway space would bring them out to 24.8%. Mr. Healey then stated that they had the percentages a bit higher, with the building coverage just short of 20% and the impervious coverage at just short of 30%. Mr. Snyder indicated that they were not planning to go over those percentages and did not need to request variances for building coverage or impervious coverage.

Vice Chair Graumann asked if they had an architect or engineer providing plans for the construction, and Mr. Snyder indicated that he had provided the plans for the hearing that evening, but testified that they would employ an engineer to provide professional plans should they receive a favorable approval that evening. Mr. Shepherd then asked the Applicants if they had seen the TRC report, where they requested a survey and some additional site improvements related to additional impervious coverage. Mr. Snyder indicated that they would comply with the comments within the TRC report.

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

Ms. Michelle Mosen, 211 Park Street, Somerset, NJ, came forward and was sworn in. Ms. Mosen stated that she lived right next door to Applicants and was concerned for her children's safety during construction. Ms. Lehmer, Co-Applicant, indicated that the construction would not be on Ms. Mosen's side of the property, but that they were just improving the driveway on Ms. Mosen's side of the property.

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

Vice Chair Graumann 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. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

**AGAINST:** None

- **MATSON CONSTRUCTION, INC. / ZBA-18-00019**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Matson Construction, Inc. The Applicant requested to construct a single-family dwelling at 235 Jerome Avenue, Somerset; Block 564, Lots 23-25, in an R-10 Zone – **CARRIED FROM MAY 16, 2019 – with no further notification required.**

The Technical Review Committee report (TRC) indicated that the following variances were required:

- Minimum Lot Area: 20,000 sq. ft. required – 7,500 sq. ft. existing/proposed.
- Minimum Lot Frontage: 100 ft. required – 75 ft. existing/proposed.

Mr. Lanfrit stated that they were before the Board in May of 2019 and presented testimony through Mrs. Matson, the Applicant, and Mr. Fisk, the surveyor who prepared the plan as well as providing planning testimony. Mr. Lanfrit then stated that there were a few issues that were raised at the May, 2019 hearing, which resulted in the meeting being adjourned to that evening. He then detailed the issues raised, stating first that there was the issue of the size of the home and the amount of the impervious coverage on the lot. He further went on to state that it was their position and still was there position that they had a right to have the impervious coverage right up to the allowable percentage and had the right to have a home built up to the maximum allowable building coverage. Mr. Lanfrit then stated that those issues were not creating any variances, and that the only variances needed were for the size of the lot. He then indicated, however, that Mrs. Matson heard the concerns of the Board and had now agreed to reduce the size of the home as well as the impervious coverage. The second issue of wetlands was raised again by Mr. Lanfrit, and he told the Board that they retained an Environmental Wetlands Consultant who prepared a report which was marked into evidence as Exhibit B-1. Mr. Lanfrit stated that the report was prepared by Mr. Cook of Eastern States Environmental Associates, who he indicated went to the site and examined the property, and concluded that the field evaluation determined that there were no wetlands on the property nor were there any located in excess of a distance within 50 ft. of the property. Mr. Lanfrit then testified that they would agree to apply for a Letter of Interpretation (LOI) from the NJDEP to confirm those findings. Mr. Lanfrit then spoke about the third issue that was discussed at the last hearing, which were the road improvements that were going to be made along the frontage of Jerome Avenue. He went on to tell the Board that they went ahead and prepared a new set of plans which were submitted by Mr. Fisk to deal with all of the issues.

Mr. Fisk, Land Surveyor/Planner, continued to be sworn in from the last hearing. Mr. Fisk stated that he had prepared the original plans as well as the revised plans, dated June 5, 2019, that were being presented to the Board that evening. Mr. Fisk then discussed the percentage of coverage of the dwelling that was proposed in the first hearing, stating that it was almost 20%, which was the maximum allowed in the zone. He testified that they had now reduced the footprint of the dwelling by 15% of its prior size to 1,252 sq. ft., an over 200 sq. ft. reduction, which he stated was smaller than the sizes of the homes currently existing on Howard Avenue. Mr. Fisk indicated that the size reduction was accomplished by reducing the home to include only a one (1)-car garage and making

the rooms within the home smaller and the home comparable, if not a bit smaller, than the comparable homes on Howard Avenue.

Mr. Shepherd asked Mr. Fisk if the 6/5/19 memorandum from the Township Engineer, Scott Thomas, was written before or after the revised plans. Mr. Fisk stated that he believed the 6/5/19 report written by the Township Engineer was done before the revised plans were submitted. Mr. Fisk then testified that they could comply with all the recommendations in Mr. Thomas' 6/5/19 Engineering report and would satisfy the Township Engineering Dept. as a condition of any approval.

Mr. Fisk then entered into the record as Exhibit B-2, which were the floor plan and elevation plans for the dwelling given to him by Mrs. Matson, which reflect the newly proposed dwelling. In addition to reducing the size of the dwelling, they also were able to reduce the amount of impervious coverage on the site from almost 30% down to 24.5% (over 400 sq. ft. less than the maximum) in order to allay any concerns from the Board that a future homeowner would not be able to erect a small shed or other amenity on the property.

Mr. Fisk then addressed the concerns of the Board regarding the improvements along the frontage of the property, stating that they would improve the roadway in front of the property to 28 ft. wide and would comply with the additional comments from the Township Engineering Dept. and work with Mr. Scott Thomas, to his satisfaction. A discussion ensued among the Board, and Mr. Lanfrit stated that there most likely would not have another home constructed on the remaining open property at the end of the street since it was Township owned land and that the testimony at the last hearing was that the Township was not interested in selling the property.

Mr. Healey indicated that the neighbor across the street parked on that side of the street, so the Board may want to condition the approval with stating that the no-parking signs be placed on the Applicant's side of the street. Mr. Lanfrit indicated that they would agree to that condition.

Mr. Fisk then testified that it wasn't an issue that came up at the last hearing, but that he corrected the Zone Chart to reflect that 20,000 sq. ft. was required so that the Board would be approving a plan that had the correct numbers on it for the lot size.

Mr. Healey then asked Mr. Fisk how he was going to address the Township Engineer's review comments #3 and #4. Mr. Fisk stated that they would include a roadside swale off the edge of pavement mainly on the Applicants side of the roadway, which would drain to the north, and would deal with an outfall, if necessary. He testified that there was no drainage in the neighborhood currently. Mr. Fisk indicated that the Township Engineer's #4 comment was most likely made before he saw the newly revised plans, which showed a great deal more information than the original. Mr. Fisk stated that if the Township Engineer desired any more information, they would be happy to provide it to their satisfaction. Mr. Lanfrit stated that they did revise the plans, based on the comments from the May, 2019 hearing and before they were in possession of Mr. Scott Thomas' 6/5/19 memorandum.

Chairman Thomas then opened the meeting to the public.

Ms. Louann New, 521 Jerome Avenue, Somerset, NJ, came forward and was sworn in. Ms. New asked whether the Applicant was still going to look into hooking into South Bound Brook's sewer system. Mr. Lanfrit indicated that they did have an easement going out to Howard Avenue to hook into the sewer system and that the swale was proposed along the roadway for drainage. Ms. New then inquired as to the health and safety of having a well on an extremely undersized lot. Mr. Lanfrit stated that Mr. Fisk's testimony at the last hearing noted that there were wells on all of the lots in the neighborhood, with many of them on 7,500 sq. ft. lot sizes. He added that they would have to drill for a well and make sure that it worked. Ms. New then asked about the status of having the new home being able to hook into South Bound Brook's sewer system. Mr. Lanfrit indicated that they had made application to South Bound Brook, and that they were in the process of putting through the paperwork. He added that getting access to South Bound Brook's sewer system was a condition of the approval.

Mr. Shaw Dougher, Howard Avenue resident, Somerset, NJ, came forward and was sworn in. Mr. Dougher stated that he lived in the home directly behind the subject property and stated that he has both water and sewer and had never experienced any issues with drainage problems in the area and supported the project.

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

Mr. Lanfrit then gave his summation comments. He reminded the Board that they did send out the buy/sell letters as they were required to do with a non-conforming lot size in order to acquire additional land or to sell the land. He noted that the Township was the only viable party, and they chose not to sell any land or to purchase the subject property from the Applicant. As such, Mr. Lanfrit indicated that if the variances were not granted, the property would be zoned into inutility and the Township would then be forced to purchase it.

Mr. Shepherd made a motion to approve the Application, with variances, to build the home that was submitted as part of the revised Application, subject to the acquisition of sewer approval from South Bound Brook, an LOI from the NJDEP showing no wetlands on the property, complying with the 5/7/19 and 6/5/19 Township Engineering reports and the agreement to have the No Parking signs placed on the Applicant's side of the street . Vice Chair Graumann seconded the motion and the roll was called as follows:

**FOR:** Vice Chair Graumann, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

**AGAINST:** None

- **ENGEL BURMAN QC at SOMERSET, LLC / ZBA-18-00006**

Mr. Peter U. Lanfrit, Esq., Attorney appeared before the Board on behalf of the Applicant, Engel Burman QC at Somerset, LLC. Application for D(1) Use Variance, Site Plan and associated 'C' variances for the construction of a 5,694 sq. ft. Quick Chek convenience store with an 8-pump gasoline filling station. Variances associated with the proposed Quick Chek consist of variances from requirements pertaining to impervious coverage, rear yard, rear yard (accessory building) and parking in required front yard. Signage variances consist of variances from requirements pertaining to size of freestanding signs (monument and pylon signs), height of freestanding sign (monument and pylon signs), setback of freestanding signs (monument and pylon signs), number and size of building-mounted Signs (Quick Chek), and placement of corporate logos on directional signage for property at 1860 Easton Avenue & 4 Worlds Fair Drive, Somerset; Block 468.01/468.10, Lots 26.02/4.01, in the C-B & M-2 Zones.

Since there were only going to be 5 members voting on the hearing that evening, Mr. Lanfrit asked if the hearing could be carried to another date when there would be at least seven (7) members voting. After discussing with Mr. Healey the next available date for a hearing, the Board agreed to carry the hearing - **CARRIED TO JULY 11,2019 – with no further notification required.**

**WORK SESSION/NEW BUSINESS:**

There was no work session or new business discussed.

**MEETING ADJOURNED:**

Mr. Shepherd made a motion to adjourn the meeting at 8:47 p.m. Vice Chair Graumann seconded the motion and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
July 26, 2019