

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

**REGULAR MEETING
SEPTEMBER 5, 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 Thomas, at 7:30 p.m. The Sunshine Law was read, and the roll was called as follows:

PRESENT: Anthony Caldwell (arrived at 7:32 p.m.), Laura Graumann, Bruce McCracken, Alan Rich, Gary Rosenthal, Joel Reiss, Cheryl Bethea and Chairman Thomas

ABSENT: Donald Johnson and Robert Shepherd

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

MINUTES:

- **Regular Meeting – June 6, 2019**

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

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

AGAINST: None

- **Regular Meeting – July 11, 2019**

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

FOR: Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Ms. Bethea and Chairman Thomas

AGAINST: None

- **Regular Meeting – July 17, 2019**

Ms. Bethea 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. McCracken, Mr. Rich, Mr. Rosenthal and Ms. Bethea

AGAINST: None

RESOLUTIONS:

- **Jayme Moskal / ZBA-19-00019 & ZBA-19-00020**

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

FOR: Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal and Ms. Bethea

AGAINST: None

- **Meilong Jiang / ZBA-19-00011**

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

FOR: Mr. McCracken, Mr. Rich, Mr. Reiss, Ms. Bethea and Chairman Thomas

AGAINST: None

- **Bonnie Lehmer / ZBA-19-00013**

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

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

AGAINST: None

- **Kristin Pastore / ZBA-19-00014**

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

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

AGAINST: None

- **Engel Burman Hotel at Somerset, LLC / ZBA-18-00006 (Subdivision)**

Mr. Reiss made a motion to approve the Resolution as submitted. Mr. Rosenthal seconded the motion, and the roll was called as follows:

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

AGAINST: None

- **Brian Michalski / ZBA-19-00018**

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

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

AGAINST: None

- **Dominick Tierno ZBA-19-00009**

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

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

AGAINST: None

- **Dawn Williams / ZBA-19-0001**

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

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

AGAINST: None

- **7507 Properties, LLC / ZBA-19-00006**

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss, Ms. Bethea and Chairman Thomas

AGAINST: None

DISCUSSION:

- **Amendment to Planning Board By-laws to Add New Sections Regarding Public Hearing Guidelines**

Chairman Thomas spoke about the Amendment to the Planning Board Bylaws regarding public hearing guidelines. The Chairman indicated that the public hearing portion in the Zoning Board meetings comes from the public hearing section related to the testimony given by an Applicant and their representatives. He stated that the Planning Board ran their meetings in the same way, except that they also had a specific public hearing section in the meeting for Planning questions or comments not related to a hearing being heard that evening.

Mr. Healey then told the Board that the Township participated in the Sustainable Jersey program in environmental and good governmental practice, and municipalities could achieve different status of awards with Sustainable Jersey. He then indicated that the Township did have a “Green Team” that was in charge of helping the Township achieve different Sustainable Jersey goals. Mr. Healey then noted that Councilman Chase was the liaison of the “Green Team”. He then told the Board that the amendment being considered was one of the actions (Improving Public Engagement in Planning & Zoning) under the Sustainable Jersey program. He further explained by saying that the language for the proposed amendment came from samples that they had on their website from other towns, with a goal of the action to alert the public of how they interact with the Board. Mr. Healey agreed with Chairman Thomas that it really did match what the Zoning Board already did and approving the amendment that evening would just codify the current practice that already took place during the Zoning Board’s meetings. He further stated that they were being asked to put it in the by-laws and put it on the website.

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss, and Chairman Thomas

AGAINST: None

Chairman Thomas then discussed something that was brought to his attention regarding the public's perception of the board.

Extension of Time:

- **Franklin II Associates, Ltd – Appeal of Zoning Decision - CARRIED TO DECEMBER 5, 2019**

HEARINGS:

- **ODIN PHARMACEUTICAL, LLC / ZBA-19-00007**

Application for D(1) Use Variance and C Variances for the expansion of the existing building and parking at 300 Franklin Square Drive, Somerset; Block 502.02, Lot 39.05, in the C-B Zone - **CARRIED TO SEPTEMBER 19, 2019 – with no further notification required.**

DL - 8/31/2019

- **CSABA MADJAK / ZBA – 19-00023**

Application for C Variance in which the Applicant was seeking to add a second story to the existing garage, Site Plan and associated 'C' variances for construction of an 800 sq. ft. garage (24 ft. x 33 ft.) for property at 324 DeMott Lane, Somerset; Block 386.08, Lot 63.01, in an R-40 Zone.

Mr. Csaba Madjak, Applicant, 324 DeMott Lane, Somerset, NJ, came forward and was sworn in.

Mr. Healey gave some background information stating that there was an existing garage on the property. He reminded the Board that they had a recent application about a month or two prior to that evening that was similar and he told the Board that there was a provision in the ordinance that an accessory structure could not be taller than the principal structure. Mr. Healey then stated that the home was a one (1)-story home with an existing one (1) story garage, and the Applicant was proposing to add a second story to the garage, with the same footprint. He then stated that the Applicant had provided a representative image of what the garage would look like as well as some representative photographs of what the space would look like. He also added that the Application indicated that the additional second story space would be for storage use.

Vice Chair Graumann then asked the Applicant if he were planning to finish the space since the representative photograph showed the proposed space as unfinished. Mr. Madjak stated that he was not planning on finishing off the space. He agreed, as a condition of any approval, to agree not to finish off the space. Mr. Madjak told the Vice Chair that he planned to use the space for storage and for an exercise space and would include electricity for lights, but no water. Mr. Madjak was unsure at that time if he would be including heating. A

discussion ensued regarding the possibility of the walls being finished, but not including any plumbing, etc.

Vice Chair Graumann made a motion to approve the Application, conditioned upon the space not being used as a bedroom. Chairman Thomas seconded the motion, and the roll was called as follows:

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **ANTON & SHARON LEMLI / ZBA-19-00022**

The Applicant was asking for an amendment for a variance approval previously approved as the house was not located in the proper location at 621 Canal Road, Somerset; Block 58, Lot 1, in C-P Zone.

Ms. Sharon Lemli, 621 Canal Road, Somerset, NJ, came forward and was sworn in. Mr. Anton Lemli, 621 Canal Road, Somerset, NJ, came forward and was sworn in.

Mr. Healey then explained that the house currently existed at the corner of Canal Road and Blackwells Mills Road. He reminded the Board that the house was relocated about 10 years ago and went before the Zoning Board then because the relocation of the home needed some variances. Mr. Healey then told the Board that after the home was relocated and the As-Built Survey was prepared, it was revealed that the home was placed slightly different than the variances that were granted. Mr. Healey then discussed the differences that were realized compared to what was approved, as follows:

Mr. Healey indicated that the setback from Blackwells Mills Road was approved at 50.49 ft. and the actual location was 47.3 ft. from Blackwells Mills Road. He then explained that there were some very minor adjustments to some lot coverage and impervious coverages that might have been due to someone else doing the calculations.

Chairman Thomas then asked Ms. Lemli and Mr. Lemli if Mr. Healey's description basically what they were there for that evening, and the Lemlis were in agreement with his statements.

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

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **DA'AWATUL ISLAMA OF SOMERSET / ZBA-19-00004**

Mr. Lawrence Sachs, Esq., Attorney, appeared before the Board on behalf of the Applicant, DA'AWATUL ISLAMA OF SOMERSET. They were asking for a D(3) Conditional Use Variance, "C" Variance and Site Plan in which the Applicant was seeking the inclusion of the existing lot as well as two lots located to the east, with demolition of the existing structures, to construct a two (2)-story place of worship with a 52-space parking area at 118-122 Churchill Avenue, Somerset; Block 102, Lots 4.01, 6-7, in an R10 Zone.

Mr. Healey's Planning report indicated that the Applicant was required to obtain the following approvals:

- Site Plan approval
- D(3) conditional use variances:
 - Off-Street Parking (112-37D): 178 parking spaces required – 52 spaces proposed.
 - Parking Lot Setback (112-37.F): Parking not permitted in required buffer area (i.e., 15 ft) – 9.5 ft. proposed (rear property line)
 - Front Yard Setback (112-37.G): 50 ft. required – 25 ft. proposed
 - Impervious Coverage (112-37.I): 60% maximum permitted – 66.04% proposed
 - Buffer (112-37.K(1) and (2)): Required 15 ft. buffer consisting of double, staggered row of evergreen trees planted at a maximum of 10 ft. on center with a minimum planting height of six (6) to eight (8) ft., or approved equivalent, a mix of evergreen and deciduous shrubs; and a six (6) ft. high, solid, board-on-board fence or a 25 ft. wide, heavily landscaped buffer with triple, staggered row of evergreen trees planted at a maximum of 10 ft. on center with a minimum planting height of six (6) to eight (8) ft., or approved equivalent; and a mix of evergreen and deciduous shrubs – buffer requirements not fully satisfied along the rear property line.
 - Lighting (112-37.K(3)): Lighting shall not exceed 0.0 footcandles beyond the property line zoned or used for residential purposes – above 0.0 footcandles indicated on adjoining properties.
 - Minimum Lot Area (112-37.L): 1-acre required – 0.84 acres proposed
- "C" Variance:
 - Freestanding Sign Setback: 25 ft. required – 10 ft. proposed
 - Parking Aisle Width (112-88): 26 ft. required – 24 ft. proposed

Mr. Sachs indicated that the property already held an existing house of worship that receiving Zoning Board approval back in 2006, with the caveat that if they exceeded 49 members, they would have to seek a larger location. He then indicated that that was why they were there that evening since the Applicant was able to secure some adjacent property and were looking to construct a new house of worship with a much larger parking lot, storm water management, with curbing, landscaping, lighting, etc. Mr. Sachs then indicated that the existing house of worship was approximately 1,800 sq. ft., with a gravel parking lot in the rear with about 17 parking spaces. Mr. Sachs then told the Board that the new house of worship would have two-stories and would be approximately 3,800 sq. ft., with 52 parking spaces. He told the Board that currently, some of the parking occurs on Churchill Avenue on Friday afternoons, and said that the new proposal would eliminate the need for on-street parking. He also added

that they were making a commitment to have two Friday services, in addition to the 52 parking spaces, to lessen any impact on the neighborhood. Mr. Sacks then told the Board that they were seeking a D(3) Conditional Use Variance. He stated that even though houses of worship were a conditional use in the R-10 Zone, they did not comply with all of the conditions, with some of them pre-existing non-conformities.

Mr. Brima Rahman, Chairman of the Board of Trustees, 1305 Englishtown Rd., Old Bridge, NJ, came forward and was sworn in. Mr. Rahman told the Board that he was with the organization since its inception in 1992 and then discussed his participation in the original hearing and his involvement in the proposed expansion. Mr. Rahman then explained to the Board that since their approval in 2006 at the present location they have never had any site issue or violation and have always followed all of the rules and regulations stipulated by the Board and the Township. Mr. Rahman testified that they currently had 50-60 active members and then spoke about the different services that were held there. He told the Board that the mosque was open for five (5) daily prayers; one (1) early in the morning, another around mid-day, another mid-afternoon, and two (2) in the evening. Mr. Rahman told the Board that their main worship day was on Fridays and that they see an increased volume of people then. He added that they currently had one (1) service on Fridays and were proposing to have two (2) services on that day at the new facility in order to relieve the on-street parking situation, along with the new 52-space parking lot.

Mr. Rahman then confirmed that the new building was going to be 1,800 sq. ft., all of which was used for ritual prayers and sometimes extend the praying area to the kitchen. He explained that the current bathroom situation is that men and women use the same bathroom entrance and was not conducive to their religious practices so part of the expansion would be to include separate entrances for men and women. He then explained that their current parking lot was graveled and that there was no green space. Mr. Rahman stated that the new lot would be made from asphalt, but that there would be more impervious coverage as a result. He noted, however, that there would be an increase in green space with the consolidation with the other lots. He indicated that there currently was no storm water management system on their property, but that there would be with the new proposal. Mr. Rahman then told the Board that there would be the inclusion of a library, a study and an all-purpose room in addition to the ritual prayer area. He testified that when ritual prayer was occurring within the building, that there would be no other activity going on at the same time. Conversely, he indicated that when the all-purpose room was being used for an activity or event, the ritual prayer area would not also be used at the same time. Mr. Rahman testified that there would be no cooking on-site, with no stove located in the kitchen, and only packaged food would be brought in.

Chairman Thomas inquired about whether their count of 50-60 members was for individual members or was that for family units. Mr. Rahman stated that it was more for family units, but some members were single and others were just a husband/wife with no children. As explained by Mr. Rahman, for purposes of the parking lot, a husband and wife would typically come together to attend services and that their Friday service was at 1:00 p.m. when the children were in school. The Chairman then indicated that he would like to see a condition of approval included where all of the parking for the facility be contained on-site.

Mr. Healey then asked Mr. Rahman if there was a religious expression in the 42 ft. minaret planned for the proposed building. Mr. Rahman then discussed the symbol of the minaret and

its purpose, noting that they would not be using it as a call to worship as in other churches that have bells or chimes, etc.

Mr. Adnan Khan, Project Engineer, employed with AWZ Engineering, Inc., 150 River Road, Montville, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Khan then drew the Board's attention to an exhibit, which was a survey prepared by 3Wire Surveying, LLC on 2/7/18, on that was an enlarged portion of the plan showing the existing conditions on the site. He indicated that the current mosque building was located on Lot 4.01, which was the easternmost lot, and noted that over time they had acquired the two adjacent residential properties, Lot 6 and Lot 7. He spoke of the narrow ingress and egress lanes, with one coming in and the other going out, but were undersized at 10-12 ft. wide. Mr. Khan stated that the rear of the property was all graveled and would accommodate 17-20 parking spaces on-site, but that they were not striped. He explained that they were planning to consolidate the three (3) lots into one (1) lot.

Mr. Khan then drew the Board's attention to the next exhibit, which was the enlarged site plan, prepared by himself, dated 6/15/18 and revised 3/7/19. He then noted that they were proposing a new mosque building, with 3,800 sq. ft. two(2)-story structure that would sit in the center area of the consolidated lots, with a two-way driveway towards the east, with parking around the building throughout the site, which included some handicapped parking spaces toward the western side of the building. He noted the separate handicapped parking areas so they could separate the entrances for men and women. Mr. Khan then reiterated the previous testimony that there would be 52 parking spaces and then discussed the way the parking requirement was calculated. Mr. Healey corrected Mr. Khan by stating that the parking requirement was based upon the square footage of the prayer room and the multi-purpose room, divided by 15., because those are the areas of the building used for assembly. He did testify that only one (1) activity at a time would take place on site, so that when the prayer room was in use, there would be no other activity anywhere else in the building, which would only require 50 parking spaces where they were providing 52 spaces. He then told the Board that they were also proposing curbing and sidewalks along their frontage. Mr. Khan then referred to another page of the site plan (C-04) showing the storm water management plan proposed on-site. He noted that they would be providing an 8,300-gallon underground storm water detention basin, with the size determined by the NJDEP and the Township ordinance, to reduce the current runoff from the site as well as from the new building proposal.

Mr. Healey testified that he had heard of some water issues in the Churchill area, in general, but nothing particular to the subject site.

Mr. Khan explained that they had an additional driveway proposed on the western side of the property, which was only one way out. He told the Board that it would not only aide in circulation around the property, but also provided a driveway for emergency vehicles.

Chairman Thomas then opened a discussion regarding the parking lot lighting, noting that he was pleased to see that there was a more open parking lot plan that was not dotted with multiple parking lot lights that could provide a hazard there for vehicle circulation.

Mr. Khan then drew the Board's attention to Sheet C-06 of the plan set, which was the Landscape and Lighting Plan. He stated that there were 12 light poles that were not in the parking lot, but in the green area or the open area next to the building and were to be used in

combination with the 10 building mounted light fixtures. He discussed the light fixtures, indicating that they would be all LED lights and explained that they were proposing over 90 deciduous trees as well as evergreen trees located throughout the sight. He added that they were proposing to add 114 shrubs in the front area as well as the parking area to make the parking area more aesthetically appealing. He said that the Applicant was also proposing a free-standing sign in the front, which required a variance for setback where 25 ft. was required and 10 ft. was proposed.

Vice Chair Graumann opened a discussion regarding the note in Mr. Healey's Planning report about the buffer requirements not fully being satisfied along the rear property line. Mr. Healey stated that that situation could be satisfied two (2) different ways; the first is that if it was 15 ft. in width with a double staggered row of evergreens and a fence and the other was if it were 25 ft. in width with a triple staggered row of evergreens. He told the Board that they would have to weigh the balance that the Applicant faced in being able to provide enough parking for the facility, which didn't leave a lot of space for buffering. Mr. Healey noted that he felt that the Applicant had made a good effort to comply with the intent of the ordinance. A discussion ensued.

Mr. Kahn then spoke about how the trash and refuse would be handled on the site. He noted that he was proposing a 10 ft. x 10 ft. trash enclosure at the southeastern corner of the property and accessed by the trash hauler one (1) to two (2) times per week, depending on how often it was needed and could be scheduled during off-peak hours

Mr. Kahn then spoke about the aisle widths, noting that the proposed 24 ft. wide aisles were an industry and RSIS (Residential Site Improvement Standard) standards. He testified that he felt that it was more than adequate enough for cars to make the turn into and out of the parking spots and utilized the turning templates for the fire department and the emergency services of Franklin Township. Mr. Kahn testified that he felt there would be adequate circulation for emergency vehicles and for fire vehicles on the site based upon the turning templates shown on Sheet C-05.

Mr. Kahn then drew the Board's attention to the phasing plan that they were proposing for the project. He told the Board that the Applicant wanted to keep the existing structure intact for as long as possible, especially the parking area and a portion of the building while the other improvements were being made on the property. Mr. Kahn indicated, however, that at some point in construction, it might not be possible or safe to occupy the existing structure while the work was progressing, and they would agree to move the services elsewhere. Mr. Sachs then stated that they would agree to provide a phasing plan to the Township Engineering Dept.

Mr. Healey asked for some clarification of how the phasing plan was going to work because he did see some conflicts in trying to utilize the current building during construction of the new one. He stated that, if the Board were inclined to approve the Application, they would need to see a Phasing Plan to see how the process would work throughout construction. Mr. Sachs indicated that they would agree to that request as any condition of approval. He also stated that in speaking with the leaders and congregation, that they were aware that they would have to relocate for a period of time and they agreed to submit some type of Phasing Plan to include when they would vacate the facility to complete construction.

Mr. Reiss inquired as to whether they had already set up some kind of rental of space elsewhere, and Mr. Sachs indicated that they had utilized the rental of hotel space in the past and they realize that they would have to do that here as well. A discussion ensued among the Board.

Mr. Kahn then addressed a comment from the CME Engineering report regarding the one (1)-foot separation between the southernmost building corner and the back of the curb. He stated that they could add some bumper stops to avoid any vehicle overhang in that location. Mr. Kahn then spoke about comment #3 in the Landscaping and Lighting Comments section of the CME Engineering report regarding lighting not exceeding 0.0 footcandles beyond the property line in areas adjacent to residential properties. Mr. Kahn explained that they would accomplish that with the utilization of landscaping and fencing along the perimeter of the property, with the net affect being 0.0 footcandles.

Mr. Kahn then spoke about the request for a variance for the minimum lot area, which he indicated was a pre-existing non-conformity. He then drew the Board's attention to the issue of impervious coverage, with the existing at nearly 100% coverage and the proposed at 65.4% to provide almost 35% green space on the site. Mr. Kahn told the Board that the front yard setback variance was being requested in order to accommodate the parking in the rear of the property. Mr. Kahn then told the Board that they submitted their application to Somerset County as well as the Delaware & Raritan Canal Commission (DRCC) and received comments from the latter, which were incorporated into the plan being presented that evening. He noted that they received a letter, dated June 13, 2019, from the Somerset County Planning Board indicating that they did not have any issues with the project because it was not on a County roadway. Mr. Kahn indicated that they did get some grading and storm water management comments in the CME Engineering report to discuss how they could clean up the plans and agreed to continue working with them to their satisfaction.

Ms. Elizabeth Dolan, Traffic Consultant and Principal of Dolan & Dean Consulting, 181 West High Street, Somerville, NJ, came forward and was sworn in. The Board accepted her qualifications. Ms. Dolan then gave her explanation of the analysis that was done related to the parking and site layout for the proposed site. She indicated that they prepared a brief report, dated December 7, 2018, based upon two (2) sets of traffic counts on Friday afternoons done last October. She noted that they saw a lot of parking on the street, with the lot full at around 1:00-1:15 p.m., with a maximum demand of about 80 parking spaces. Ms. Dolan indicated that her letter report suggested that the provision of 52 on-site parking spaces and that the Applicant go to two (2) services on Friday afternoons to eliminate any impact to the Churchill Avenue corridor. She did note, however, that some people were shown to choose parking on the street instead of in the parking lot, and the Board could make it a condition of approval to have all parking kept on-site. Ms. Dolan then suggested that they have at least an hour between the start of one (1) service and the start of the next service to allow for a 15-20 minute period of time to allow the parking lot to be cleared before the next service started, assuming a 30-minute service.

Ms. Dolan then addressed the 24 ft. aisle width proposed and stated that it was the appropriate width having 90-degree parking and that the inclusion of the two driveways could accommodate emergency vehicles. She also noted that there was plenty of stacking room on-site to accommodate vehicles attempting to exit the site. Ms. Dolan then told the Board they the parking area was currently graveled and that the proposed parking arrangement

would be paved with asphalt, curbed and striped. Ms. Dolan indicated that the condition of not allowing more than one (1) space to be utilized at a time was appropriate and, in combination with having two (2) services makes the provision of 52 spaces adequate to accommodate the people coming to the site presently.

Mr. Emad Abousabe, Architect and Planner as well as President of Land Trust Studio, LLC, 110 Skillman Road, Skillman, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Abousabe first spoke about the architectural layout of the site and the architectural features. Mr. Abousabe entered Exhibit A-1 into the record, which was an aerial image of the property and the surrounding neighborhood with a 3D visual from Google. He then entered the record as Exhibit A-2, the colorized architectural plans for the proposed building. Mr. Abousabe indicated that the exhibit showed floor plans and elevations of the proposed facility, noting that the first floor would house library space, office space, some utility space, bathrooms and kitchen area, closet space and mechanical rooms as well as a prayer room and common area/lobby space. He stated that there was a spiral staircase leading to the second floor that housed a multi-purpose room, with additional mechanical space and elevator override and a closet. He then drew the Board's attention to an eastern elevation and a western elevation of the building and noted where all of the functions would occur inside the building. Mr. Abousabe then discussed the minaret dome and its symbolism and its role as a religious integral piece of architecture. He noted that the height of the dome was functionally related to the space that it covered inside, which was the spiral staircase. He explained that if the staircase was wider, the dome would be taller and if the staircase was narrower, the dome would be shorter. Since there wasn't any way to make the staircase any narrower, he couldn't make the minaret dome any shorter than what was proposed. Mr. Abousabe wanted to correct an error on the plans and stated that the overall square footage of the entire facility was 5,800 sq. ft., with the first floor encompassing 3,800 sq. ft. He noted that the prayer room was 1,300 sq. ft. the multi-purpose room was 1,370 sq. ft. He then explained the proposed building's location on the site, noting that Muslim's prayed in an easterly direction, toward Mecca, and needed to stand in a rectangular room that was askew in order to pray in that direction.

Mr. Abousabe then entered into the record as Exhibit A-3, which was part of a dome study showing domes, minarets, bell towers and other call to prayer structures of three (3) different faiths, including a synagogue, a mosque and a church. He testified that the proposed minaret would be externally lit along with other building lighting.

Mr. Abousabe then gave the Board the benefit of his Planning testimony and Planning analysis, noting that they had to satisfy the positive criteria and two (2) negative criteria. He discussed all of the components to satisfy the proofs required. Included by Mr. Abousabe in the proofs to satisfy the negative criteria included improved and enhanced appearance, broadening the ability of religious venues in the neighborhood and surrounding area, improvement of the circulation on site and the availability of on-site parking. He then discussed the variances that were being requested, including some that were pre-existing non-conformities, noting that they placed the minaret in the rear of the building in order to present a two(2)-story residential looking building to face and continue the existing streetscape along Churchill Avenue. Mr. Abousabe testified that there was no substantial detriment to the public good and to the purpose of zoning

Mr. Abousabe then addressed the D(3) Conditional Use Variance that was required for the proposal, as enumerated in Mr. Healey's report and noted earlier in the hearing by Mr. Sachs. He stated that the proposal was not an overly intense use and was appropriately designed. Additionally, he indicated that where the limits of the project were tested, they have appropriately mitigated those by adding screenings and buffers and incorporating storm water management. Mr. Abousabe then stated that the use was already being accommodated on the site and that they were enhancing the use by adding the additional lots to accommodate it. He then discussed the bulk variances and used the flexible C(2) analysis explained why those could be granted.

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

Mr. Alex Kharazi, 14 Margaret Drive, Somerset, NJ, came forward and was sworn in. Mr. Kharazi stated that he was speaking as the President of the Interfaith Council in Franklin Township noting that there were 70 houses of worship in the Township. He added that parking can be an issue during larger events and that all the houses of worship help each other out when they can. As Director of the mosque at 47 Cedar Grove Lane, he testified that they share their parking with the house of worship across the street, the Jain Center and the Korean Church when needed. Mr. Kharazi stated that he came forward to offer the Applicant to join them in their prayer service on Fridays, or the use of their multi-purpose room and the shared use of their parking space during the construction of their new building.

Mr. Sulaiman Sannoh, 16 Meadowhurst Drive, Somerset, NJ, came forward and was sworn in. Mr. Sannoh indicated that he was a member of a house of worship down the road from the proposed and was hopeful that they would be able to utilize and share parking with the other houses of worship on the same street during their holy day celebrations.

Mr. Foday Mansaray, 224 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Mr. Mansaray stated that he had been a lifelong member of the proposed house of worship and that it had grown conservatively over the years. He wanted to show the Board his support of the proposal.

Ms. Khadija Jalloh, 12 Cypress Road, Somerset, NJ, came forward and was sworn in. She gave the Board her approval of the proposal and asked that they approve the Application.

Ms. Tuey Jalloh, 12 Cypress Road, Somerset, NJ, came forward and was sworn in. Ms. Jalloh also wanted to show the Board her support of the project.

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

Mr. Sachs then addressed the rest of the staff reports, noting that they could comply with the office of Fire Prevention, Police Traffic Safety Bureau, Sewerage Authority, Engineering, and Planning. He noted that they would provide a detailed construction and phasing plan to the Township. Mr. Sachs then agreed to the condition to having two (2) services on Fridays and that there would never be any simultaneous activity on the property within the multi-purpose room and prayer room. Additionally, Vice Chair Graumann asked that all parking be contained on-site at all times, and Mr. Sachs agreed to that condition as well. A discussion ensued among the Board

Vice Chair Graumann made a motion to approve the Application, subject to the conditions discussed. Mr. McCracken seconded the motion and the roll was called as follows:

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **AMY WILMOT / ZBA-19-00021**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Amy Wilmot. The Applicant was seeking D(1) Use Variance, Site Plan, Minor Subdivision, and associated 'C' variances for the Application which involved expanding the existing nursery/landscaping business located at 2135 & 2145 Amwell Road (Block 510, Lots 2.04 & 3.01) by expanding the lot area of the existing lot comprising the nursery business and construction of two storage buildings as well as other site modifications. A D(1) Use Variance was required since nursery/landscaping businesses were not a permitted use in the R-40 or A zoning districts. Requested "C" variances relate to the placement of existing storage areas, setbacks of accessory structures, impervious coverage and placement, height and area of signage.

Mr. Healey's Planning report indicated that the Application required the following land use approvals:

- Minor Subdivision Approval
- The subdivision required the following "C" variances
 - Lot Area: 6 acres minimum required – 5,874 acres proposed (Lot 3.01)
- Site Plan Approval
- The Site Plan (proposed Lot 3.01) required the following "D" variances
 - D(1) Use Variance: Nursery/Landscaping businesses were not a permitted use in the R-40 or A zoning districts.
- The Site Plan (proposed Lot 3.01) required the following "C" variances
 - Front Yard Setback: 100 ft. minimum required – approx. 68.5 ft. proposed (storage bins)
 - Equipment Storage (112-30(A)): a six (6) ft. stockade, board and batten or chain link fence with redwood or treated lumber slats to completely and aesthetically conceal the outdoor stored materials from any adjacent properties was required.
 - Side Yard Setback: 25 ft. minimum required (R-40) – 0 ft. proposed (actually 1.6 ft. encroachment onto adjoining Lot 3.02)
 - Impervious Coverage: 20% maximum permitted – 46.4% proposed
 - Number of freestanding Signs: 1 per site – 2 proposed.
 - Freestanding Sign Front Yard Setback: 5 ft. minimum required – 2 ft. proposed (for two (2) signs)
 - Freestanding Sign Height: 5 ft. maximum permitted – 8 ft. proposed

- Freestanding Sign Area: 25 sq. ft. maximum permitted – 37.56 sq. ft. (Sign A) proposed
 - Off-Street Parking Screening (112-87): Continuous planting screen at least six (6) ft. in height was required where off-street parking, loading or service areas were to be located closer than 50 ft. to a lot in any residential zoning district.
 - Pavement Markings (112-93): Each off-street parking space shall be clearly marked with white striping. Markers shall be properly maintained so as to ensure their maximum efficiency.
 - Temporary Construction Trailers (112-126(B)): Temporary construction trailers can be permitted on site for the period of construction beginning with the issuance of a construction permit or start of site work in accordance with an approved development plan and concluding with the issuance of a final certificate of occupancy or one year, whichever is less.
- The following “C” variances were required for “new Lot 2.04”:
 - Principal Building Rear Yard Setback: 200 ft. required – 140.6 ft. existing
 - Accessory Structure Rear Yard Setback: 150ft. minimum required – approximately 131 ft. existing (deck)
 - Accessory Building Side Yard Setback: 50 ft. minimum required – 7.8 ft. existing (garage and driveway constructed without permits)
 - Accessory Building Rear Yard Setback: 150 ft. minimum required – 89.4 ft. proposed (garage and driveway constructed without permits)
 - Accessory Structure Side Yard Setback: 50 ft. minimum required – 49.8 ft. existing (solar panels)
 - Connection to public right-of-way (112-17A). No subdivision shall be approved unless the area shall have frontage and access from an existing street (new Lot 2.04 would access Amwell Rd. via an access easement over Lot 3.01)

Mr. Lanfrit explained that there were two (2) parcels of land that included Lot 3.01, which encompassed the existing nursery and existing landscaping business, and was approved as a pre-existing non-conforming use as a landscape business dating back to the 1950’s. He continued by stating that in 1971, there was an application before the Board of Adjustment requesting a use variance for the retail component, the garden center and the construction of the building and was approved. He noted that when the application was approved, there was also the Wilmot dwelling on the property (now located in the adjacent Lot 3.02) and was part of the applications. He further stated that there was a subdivision created, granted by the Planning Board on September 1, 1978, in order to separate the house from the landscape business. Continuing his explanation, Mr. Lanfrit indicated that there was an application in 1986 to build a building in the rear of the property and granted by the Board of Adjustment, but was never built. He then discussed the adjoining parcel, purchased by Ms. Wilmot in the 1990’s as vacant land (10-acre site), that Ms. Wilmot’s dwelling was built. He went on to explain that the Application before the Board that evening was to be able to take a portion of the property owned by Ms. Wilmot, subdivide it and then add it to the landscape business for them to operate more efficiently. The lot remaining that would still be owned by Ms. Wilmot was a conforming lot in the A-Agricultural Zone. Should the subdivision be granted, Mr. Lanfrit indicated that they would be proposing to construct two (2) structures on the site where the commercial business was located.

Ms. Amy Wilmot, Applicant, 2145 Amwell Road, Somerset, NJ, came forward and was sworn in. Ms. Wilmot indicated that the original landscape business was started by her father in 1956. She agreed with Mr. Lanfrit by saying that the original landscape business was originally started on proposed Lot 3.01, with the family home located next door. She then indicated that at the point she took over the business from her parents the original name of the landscape business was Countryside and she then changed the name to Spooky Brook. Ms. Wilmot then indicated that there was building on the property that was being used as a retail business, with part of the building being utilized by a florist for the past three (3) years. She then testified that she purchased the 10-acre piece of land next door around 1984 and was vacant land at that time. She told the Board that she built her home on that 10-acre lot and access the property through the garden center. If the subdivision were to be granted, Ms. Wilmot indicated that she would get an easement from the commercial property to continue to access the home through the garden center.

Ms. Wilmot then described numerous trailers on the property, Quonset huts, bins, etc. She indicated that they were there that evening to consolidate everything and clean up the property to make it more orderly. She then described the two (2) buildings they were proposing for the property, one of which was shown on the plan behind the existing garden center in the location that used to be a Quonset hut to be used for storage. Ms. Wilmot told the Board that the proposed location of the building was in the same place proposed and granted in 1986, but was never built. She then stated that they were proposing to construct a second building closer to Amwell Road on the other side of the entrance drive to also be used for storage. She then explained that they would be storing power equipment, landscape equipment and lawn maintenance equipment that was presently stored in the trailers. Ms. Wilmot indicated that they wanted to get the equipment out of the elements and be able to service it. She then spoke about the bins on the property that store three (3) different kinds of mulch, topsoil and decorative stone. She added that they do not store and don't plan to store any chemicals or pesticides on the property, but that they purchase them and use them during the operation of the business. Ms. Wilmot then told the Board that she had eleven (11) vehicles for the business that were parked on-site overnight in an open area right across from the Quonset hut and that they employed anywhere from 12-18 employees, depending on the season. Ms. Wilmot stated that the employees come to the site and work from 6:30 a.m. to 6:00 p.m. off-site, with one (1) onsite employee in the office trailer that was proposed to stay on the property. She then explained that there was another trailer on the property that was located right behind the garden center that was used to store items for the retail business with seasonal items and was also proposed to stay on the property. She testified that she did not believe that either storage trailer was visible from Amwell Road. She also stated that the changes that were proposed was to have the business operate more efficiently and that they would not be changing the number of employees or the hours of operation as a result.

Vice Chair Graumann then asked what type of servicing of equipment would be done within the propose buildings. Ms. Wilmot stated that they need to change the blades, filters, and oil on the lawn equipment to keep them maintained so that they don't break down. She then explained that they send most of their vehicles out for servicing.

Mr. Rosenthal questioned the operation of Biagio's Florist on the property. Ms. Wilmot indicated that the florist leased about half of the inside retail space, with the remainder for the garden center use. She stated that Biagio's main operation was to sell flowers for weddings, funerals and special occasions, and that he didn't have a lot of walk-in traffic.

Mr. Healey then opened a discussion regarding the testimony given regarding the two (2) trailers they wanted to keep on the site and all others would be removed. Mr. Lanfrit explained that the equipment trailer and the office trailer would be the only ones to remain on-site with the others removed and the plan corrected to indicate that. Mr. Lanfrit then wanted to clarify a point that was brought up in Mr. Healey's Planning report regarding an existing shed that was located in the upper right hand corner of the plans which belonged to the home adjacent to the property and will be relocated to meet the setback requirements. Mr. Lanfrit then drew the Board's attention to the plan, in the upper left-hand corner of Ms. Wilmot's property, where it showed a garage, but was actually a shed. He indicated the plans would be corrected to reflect that, but that they were aware that they still needed a variance because of its location. Mr. Lanfrit then discussed another driveway connection to the subject lot, noting that Ms. Wilmot's brother lived next door and was part of the business and utilized that access drive to the property. Mr. Healey indicated that it was brought up in his review report because there was signage there. Mr. Lanfrit stated that the signage in that area either had already been removed or would be removed.

Mr. Christopher Melick, Engineer, employed with Van Cleef Engineering, 32 Brower Lane, Hillsborough, NJ. The Board accepted his qualifications. Mr. Melick then entered into the record as Exhibit A-1, which was a colorized, existing conditions plan as well as Exhibit A-2, which was a proposed site plan rendering. Mr. Melick then took the Board through the existing conditions on the two (2) properties. He noted that Ms. Wilmot's existing residence was located on Lot 2.04 (10.4 acres) and Lot 3.01 (2.5 acres) included the garden/nursery operation. Mr. Melick then stated that should the subdivision be granted that evening, Lot 2.04 would then include 6.9 acres and Lot 3.01 would include 5.9 acres. He did tell the Board that the garden/nursery operation would then consist of property both in the R-40 and the A-Agricultural Zones and showed on the plan where the zone separation line was. He also added that everything on the exhibit was existing and would not be changing and everything related to the retail business on the plan was what was approved as a result of the applications in 1971 and would also not be changing. Mr. Melick told the Board that the changes that were going to be made would be located to the rear of the garden center and to the left of the entrance driveway. He did note, however, that there was an ADA parking space proposed to be paved for the retail business. Mr. Melick testified that there were several trailers, the Quonset hut and trailers with metal lean-tos attached to them in the rear of the existing nursery business. He then told the Board that the proposal was to remove the trailers and metal lean-to's and replace them with the two structures that were proposed. Mr. Melick stated that one building would be located to the rear of the retail space and any other things that were shown on the plan as lean-to's or trailers would be removed. Mr. Melick then discussed some of the bins that were located to the left of the entrance drive that stored materials, indicating that the area would remain unchanged. He added that the new building (40 ft. x 70 ft.) would be located to the west of the storage area and would be accessed by a driveway on the property. Mr. Melick then discussed the landscaping around the bins, stating that there was a small amount of landscaping to screen the bins from Amwell Rd., but additional landscaping would be provided to better screen them.

Mr. Melick then drew the Board's attention to the signage on the front of the property. He indicated that there were three (3) signs on the plan and two (2) signs that were off the plan for the florist and a banner for the entrance driveway. He noted that the two (2) signs off the plan and the banner would be removed. Mr. Melick stated that there were two (2) signs at the driveway, one to be seen by eastbound traffic and the other to be seen by westbound traffic.

He then indicated that the driveway signs were located within the right-of-way of Amwell Rd. and it was proposed that both signs be relocated further into the property to be placed on the subject lot. He then discussed the stone wall on either side of the driveway entrance and partially within the County right-of-way. Mr. Melick stated that the proposal was to move the stone wall out of the County right-of-way as well. He then showed the Board pictures of the signs along Amwell Rd. currently, indicating that the Spooky Brook Landscape signs that flank the driveways and the florist sign was the double-sided sign that was located more centrally in front of the nursery. Mr. Melick then discussed how the signs were lighted, noting that the Spooky Brook signs and the florist sign were lit with a solar-powered light that shone down from the top of the sign and onto the sign. He stated that they were proposing to keep the florist sign, but just to move it onto the property and out of the right-of-way. He added that the florist sign exceeded the height requirement and they proposed to lower the height of the sign in order to conform.

Mr. Melick then discussed impervious coverage on the site and that there was a request on the engineering report to have dry wells constructed on the property. He testified that it could be accomplished. He then told the Board that Somerset County reviewed the Application and they asked that sight distance be improved

Mr. Melick then addressed the staff reports, starting with CME's Engineering report, dated July 25, 2019. He indicated that they would be able to comply with all the comments and requests within the report. He testified that by complying with all the comments, doing so would not substantially alter what was being presented to the Board that evening. He stated that part of the approval was dependent upon the Applicant receiving a Letter of Interpretation (LOI) from the NJDEP, which they agreed to do and testified that there were wetlands on both properties.

He then addressed Mr. Healey's Planning report, dated July 19, 2019, and reviewed the variances being requested and enumerated on Mr. Healey's report for the Board's edification. He spoke of the variance requiring fencing to screen the equipment storage, and Mr. Melick already testified that they would be providing landscape screening instead. The variance for a Side Yard Setback would be eliminated, according to Mr. Melick, because they would be moving the shed onto the adjacent property with the proper setbacks. He then discussed the elimination of both the Freestanding Sign Front Yard Setback variance since they were planning to move the signs as well as the Freestanding Sign Height variance since they were making the sign conforming. Additionally, Mr. Melick stated that they could eliminate the Freestanding Sign Area variance for the florist sign since they would be making that a conforming sign. He discussed the Off-Street Parking Screening variance that was listed as being conforming presently. Mr. Melick asked for the Pavement Markings variance for all parking since it had been a graveled parking area since the 1971 approval, except for the ADA compliant parking space that would be paved and striped. Mr. Lanfrit stated that the use was not going to be intensified as a result of the Application and, in fact, it would probably be lessened by the partial use of the property by the florist. As for the variance for Temporary Construction Trailers, Mr. Melick indicated that most of the trailers would be removed from the property, except for the nursery storage trailer and the office trailer that was used for the landscape business. He then discussed the "C" variances required for new Lot 2.04, indicating that they would be asking for the relief from all of those listed in Mr. Healey's Planning report.

Mr. Melick stated that they were removing some trees from the property to construct the building to the left of the driveway. He testified that Ms. Wilmot had already planted some replacement trees, but that they would comply with the ordinance and give Mr. Healey all the appropriate calculations regarding tree removal and tree replacement.

Mr. Kevin O'Brien, Planner, Shamrock Enterprises, Madison House, Madison Avenue, Rahway, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien rendered his opinion as to the basis for the variances they were seeking. He first spoke about the request for the required D(1) Use Variance, but he felt that it was more along the lines of a D(2) Variance. He indicated that the storage shed (pole barn) that was going to be constructed in the A-Agricultural Zone was an allowed accessory use in that zone; however, the ones to be put in the R-40 Zone were additions to the property there and would be considered an expansion of the non-conforming use, which was what made him think it was a D(2) Variance. Mr. O'Brien then discussed the 1971 approval that was overseen by the Township Council and Zoning Board of Adjustment before the Municipal Land Use Law (MLUL) was in effect, allowing a garden center and vegetable stand on the premises. Also, in the approval was a discussion of a home constructed on the property and a landscaping business that worked out of the property as well. Mr. O'Brien, wanting to cover all basis, started by giving the proofs for a D(1) variance giving special reasons rooted in the Municipal Land Use Law (MLUL) and providing the positive and negative criteria and be reconciled with the zoning ordinance. He then explained that a D(2) variance explanation would have to show that the expansion of a lawfully created pre-existing, non-conforming use need not show that it would have been entitled to a variance for the initial non-conformity, but it nevertheless must satisfy the same positive and negative criteria. Mr. O'Brien then went through the positive and negative criteria for the Board's edification. In his discussion, Mr. O'Brien referred to a June 28, 2019 aerial photograph of the property from Google Earth. Mr. O'Brien then discussed the pre-existing bulk variances and the remaining C(2) bulk variances which he felt could be granted since the benefits outweigh the detriments. He also stated that he felt the Application could be granted without substantial detriment to the public good and without substantial impairment of the zone plan and zoning ordinance.

Chairman Thomas opened the meeting to the public. Seeing no one coming forward, the meeting was closed to the public.

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

WORK SESSION/NEW BUSINESS:

There was no work session or new business discussed.

MEETING ADJOURNED:

Mr. Reiss made a motion to adjourn the meeting at 10:11 p.m. and Vice Chair Graumann seconded the motion. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
October 6, 2019