

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

**REGULAR MEETING
October 3, 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, Laura Graumann, Bruce McCracken, Alan Rich, Robert Shepherd, Gary Rosenthal, Joel Reiss, Cheryl Bethea and Chairman Thomas

ABSENT: None

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

MINUTES:

- **Regular Meeting – June 20, 2019**

A motion was made to approve the Minutes as submitted and was seconded by Mr. McCracken. The roll was called as follows:

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

AGAINST: None

RESOLUTIONS:

- **ENGEL BURMAN HOTEL AT SOMERSET, LLC / ZBA-18-00006 (Site Plan w/Signage)**

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

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

AGAINST: None

- **101 METTLERS ROAD, LLC / ZBA-19-00010**

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

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

AGAINST: None

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

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

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

AGAINST: None

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

Mr. Reiss made a motion to approve the Resolution as submitted. Mr. Caldwell 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

HEARINGS:

- **MUSLIM FOUNDATION, INC / ZBA-19-00016**

Application for D(3) Conditional Use Variance and Site Plan in which the Applicant seeks approval for the conversion of the 1 ½ story, 1,319 sq. ft. dwelling into a childcare facility. The construction of a 1,530 sq. ft. playground, HC access to the building with ramp, construction of a 425 sq. ft. canopy and additional sidewalk at 47-49 Cedar Grove Lane, Somerset; Block 468.09, Lots 37 & 38, in an R-40 Zone - **CARRIED TO OCTOBER 17, 2019 – with no further notification required.**

DL - 11/03/2019

- **GINA ULRICH / ZBA-19-00029**

Applicant seeks a "C" Variance for construction of a 24-ft round above-ground pool and deck at 209 Wilson Road, Somerset; Block 417.01, Lot 27, in an R-40 Zone - **CARRIED TO OCTOBER 17, 2019 – with no further notification required.**

DL - 12/28/2019

- **CALVARY BAPTIST CHURCH / ZBA-19-00005**

Application for D(3) Conditional Use Variance and Site Plan w/Variations in which the Applicant proposes to construct an addition, 1,444 sq. ft., to the rear portion of the building and expand the on-site parking at 5 Franklin Street, Somerset; Block 71, Lots 1.01 & 2, in the R-10H Zone – **CARRIED TO DECEMBER 5, 2019 – with no further notification required.**

DL – 11/3/2019

- **SHAKTIN PATEL / ZBA-19-00025**

Applicant requesting "C" Variance for construction of a 1-story sunroom addition, 743 sq. ft. in rear of residence at 40 Valleywood Drive, Somerset; Block 508.02, Lot 3.20, in the NRPC(R-40) Zone

Mr. Shaktin Patel, Applicant, came forward and was sworn in. He explained that they were looking to add a sunroom to an existing patio. Chairman Thomas mentioned that they were currently over the maximum impervious coverage on the site. Mr. Healey stated that they complied with the rear and side yard setbacks, however.

A discussion ensued with Mr. Patel as to whether they would be able to reduce impervious coverage on the site.

Mr. Andy Buckel, Builder's Representative, 455 Justin Drive, Watchung, NJ, came forward and was sworn in.

Mr. Healey then told the Board that the Applicant was increasing impervious coverage over the maximum with the inclusion of the sunroom, but that the impervious coverage was already over the maximum because the driveways and the patios were put in without permits.

Mr. Buckel stated that the patio would be removed, and the sunroom placed in the same footprint on the property. A discussion ensued as to how the impervious coverage could be reduced, i.e., reducing the size of the patio next to where the sunroom would be placed.

Mr. Healey indicated that the Application submitted stated that the impervious coverage was currently 32.1% and that the inclusion of the sunroom would somehow be reducing that impervious coverage to 31.9%. He then asked the Applicant in what way were they going to reduce the impervious coverage on the property. Mr. Patel stated that they would no longer need the walkway from the driveway to the patio area that would be removed and replaced by

the sunroom. He also testified that they would be reducing the paved area around the barbeque area.

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

Mr. Healey then discussed the ordinance that requires that some type of storm water management system, like a drywell, would need to be included with 1,000 sq. ft. or more of additional impervious coverage. He told the Board that the Applicant would have to come in to receive permits for the work that had already been done on their property and he felt that they would probably have to include some sort of drywell to mitigate the increase in impervious coverage.

Vice Chair Graumann made a motion to approve the Application, provided that the Applicant remove the walkway from the driveway and the new sunroom be removed and subject to drainage ordinances. Mr. Reiss seconded the motion and the roll was called as follows:

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

AGAINST: None

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

Mr. Peter U. Lanfrit, Esq., Attorney, appearing on behalf of the Applicant, Odin Pharmaceutical. He noted that the Application for a D(1) Use Variance and "C" Variances as well as a Site Plan approval 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 FROM SEPTEMBER 19, 2019 with no further notification required.**

Mr. Healey's Planning report indicated that the Application required the following variances:

- Site Plan approval
- The Site Plan requires the following "D" variances:
 - D(1) Use Variance – Warehouse/manufacturing is not a permitted use in the Corporate Business (CB) zoning district/Expansion of the use permitted by a use variance.
 - D(4) Variance – Floor Area Ratio: 0.4 max. permitted – 0.56 proposed
- The Site Plan requires the following "C" variances:
 - Front Yard Setback: 75 feet minimum required – 46.4 ft. proposed (Davidson Avenue)
 - Side Yard Setback: 50 ft. minimum required – 20.5 ft. proposed
 - Lot Coverage: 30% maximum permitted – 30.53% proposed
 - Impervious Coverage: 55% maximum permitted – 69.5% proposed
 - Front Yard Setback (accessory structure): 75 ft. front yard parking setback required – approximately 58 ft. proposed (chiller pad) (Davidson Avenue)
 - Parking Required Front Yard: 75 ft. front yard parking setback required – approximately 19 ft. proposed (Franklin Square Drive).

- The following landscape design waiver is required:
 - A belt of landscaping at least five (5) ft. in width of massed plantings which plantings shall consist of one two-inch caliper tree for each 2,000 sq. ft. of paved area.

Mr. Lanfrit indicated that they appeared before the Board in 2017 when the Applicant purchased the property for a Use Variance to use the property for pharmaceutical manufacturing, storage, labs and office space. He told the Board that they granted that approval in 2017. Since that time and looking forward to the long-range plans for the site, decided to make a commitment to expand the facilities so that they could provide a better operation on the subject property. He then noted that the addition was a little bit more than 730 sq. ft.

Mr. Shepherd then clarified that the Applicant was also seeking a D(4) Variance as well, and Mr. Lanfrit agreed.

Mr. Veerappan Subramanian, Principal of Odin Pharmaceutical, LLC, 475 Bernardsville Rd., Mendham, NJ, came forward and was sworn in. Mr. Subramanian then gave the Board the benefit of his background and experience with businesses he owned in Franklin Township for the past 17 years and spoke of the business at Odin Pharmaceutical related to injectable pharmaceuticals. He then told the Board that they were hoping to create an additional 250 jobs in the next 5-6 years.

Mr. Subramanian then told the Board that the location here in Franklin Township was now the corporate offices for the company and would remain so. He told the Board that the building would include space for manufacturing, warehousing and laboratories with a three (3)-shift operation, with approximately 50 employees per shift, initially. He then told the Board that the main shift would be from 8 a.m. to 5 p.m., with roughly 100-125 people in the building at any one time. In addition, Mr. Subramanian stated that there would also be locker facilities provided as well as cafeteria and game room. He then spoke about deliveries to the site, indicating that there would be three (3) to four (4) trucks coming to the site in one day, to include large tractor trailer trucks. Because they would be dealing with sterile injectable medicines, the building would need to be very clean. The various basic medicines would be delivered to the site where they would be formulated into specific dosed medicines and then brought to various distribution centers utilizing the local highways (Rte. 287, etc.) and using trucking companies for that purpose. Mr. Subramanian then testified that most deliveries to and from the facility would occur during the 8:00 a.m. to 5:00 p.m. shift.

Mr. Kamlesh Shah, Architect, 1 Liberty Way, Cranberry, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Shah then entered into the record as Exhibit A-1, a picture of the existing building taken from the corner of Davidson Avenue and Franklin Square Rd. He then discussed Exhibit A-2, which he explained showed the one (1)-story addition that they were making that was parallel to Davidson Avenue and the two(2)-story addition that would be behind the one(1)-story addition on the west side of the property. A discussion ensued regarding the height of the one (1)-story addition being taller than the existing building due to the floor levels being different. Mr. Shah went on to describe the way in which the facility operates, noting that the one (1)-story building would house all the equipment that supports the injectable manufacturing equipment. Mr. Shah then introduced Exhibit A-3, which he indicated showed the various components on the first floor. He told the

Board that the ground floor of the two(2)-story building was going to house five(5) injectable filling lines to fill various vials, bottles and bags in the southwest corner of the building that would be housed in a clean area, all concealed, isolated, and next to freezers, boilers and chillers. Mr. Shah told the Board that the remainder of the first floor would house the packaging, manufacturing, warehousing portion of the operation as well as locker rooms, bathrooms and respective storage areas. In discussing the second story, Mr. Shah stated that the setback of the building was the two (2)-story addition and was the dormer part of the building. He added that within the existing building, they were creating an equipment platform to house air handling units, exhaust fans, etc., to create and support the required sterile environment on the mezzanine. Mr. Shah then spoke about locating laboratories, locker rooms, cafeteria in the northern portion of the building. He told the Board that approximately 30,400 sq. ft. would be allocated to all the mechanicals being located on the mezzanine he just described. Mr. Shah then indicated that one of the variances required was for floor area ratio, but because there was 30,400 sq. ft. of supporting mechanicals within the confines of the building and did not include floor space for people to work in, they were requesting the variance. Mr. Shah then told the Board that there would be some mechanicals placed outside the building, including equipment to feed the cafeteria, locker rooms and toilets because they were considered non-critical spaces and only required "normal" air and would not be required to be filtered. He continued by stating that those mechanicals would be placed on the low side of the roof, the existing roof and will not be able to be seen. He then stated that there would also be equipment on the ground, i.e., transformers, generators and gas manifold, which were driven by the utility companies and needed to be placed where the utilities came into the building. Mr. Shah added that the outdoor equipment would be on the side of the building that fronted Davidson Avenue. He then spoke of working with Mr. Subramanian on another similar facility in Franklin Township and used vegetation and fencing to screen the outdoor mechanicals from the roadway. He noted that they had the advantage of having a berm that was higher than the equipment and was already in place paralleling Davidson Avenue. Mr. Shah stated that the tallest piece of equipment on the ground outside of the building would be approximately 7-7^{1/2} ft. tall. Mr. Shah then marked into evidence as Exhibit A-4, showing a full rendition of the two (2)-story structure, looking from the south side of the property from the adjoining property.

Mr. Shah then drew the Board's attention to the materials that would be used on the additions, noting that the existing building was a concrete, tilt-up structure, and that the same materials would be utilized for the additions as well as the same colors.

Mr. Shepherd questioned Mr. Shah regarding the exhibit and wanting to know where the overhead door and concrete pad were on the exhibit since it was shown on the plans. Mr. Shah stated that the concrete pad shown was there in case it was needed in the future and the overhead door was for the staff to be able to bring larger equipment inside the facility, so they wanted to include it in the impervious coverage calculations right now. Mr. Lanfrit indicated that Exhibit A-4 showed where the loading docks were located and their visibility from the hotel.

Mr. McCracken then opened a discussion regarding the truck traffic on-site and the hours that they would be coming and going, with his concern for not disrupting hotel guests at night. Mr. Lanfrit indicated that testimony was given by Mr. Subramanian that all truck traffic would occur during daylight hours. Mr. Healey stated that he cautioned both boards to condition applications regarding their operations because it would be next to impossible for staff to

remember what each could do. He added that the building was in a commercial area that included truck traffic. Mr. Healey suggested that the Board have the Applicant screen the trucking area, including acoustically. Mr. Lanfrit added that there were State statutes governing the noise levels that were allowed on commercial properties, both for daytime and evening, and were enforceable.

Mr. Matthew Bersch, Engineer, employed with Dynamic Engineering, 1904 Main Street, Lake Como, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Bersch then entered into the record as Exhibit A-5, an aerial map exhibit. He reviewed the map with the Board for their edification. He then described the surrounding land uses, noting that access to the subject property was from Franklin Square Drive with one existing full movement driveway. He then noted that the parking area was to the rear of the existing building and to the west side of the site, with 153 existing parking stalls. He then drew the Board's attention to the loading zone, which was in the southwest corner of the property. Mr. Bersch then entered into the record as Exhibit A-6, the colorized Site Plan rendering that was a combination of the Site Plan and the Landscape Plan. He then testified that they were going to have a total of 195 parking spaces on site that included 34 banked parking spaces located on the northwest corner of the property.

Mr. Bersch then discussed the storm water management system planned for the site, recommending an underground detention system located in the southern side of the parking area. He then went on to discuss the components that would be included in the underground detention system and how it would operate.

Mr. Bersch then told the Board that they were proposing five (5) new free-standing light fixtures located outside of the parking area. He added that they were also re-lamping six (6) of the existing free-standing light fixtures. Mr. Bersch indicated that they were also going to add five (5) new building-mounted light fixtures to the new portion of the building, with no light leaving the subject property.

Mr. Bersch then discussed how the tractor trailer circulation would work on the site. He entered into the record as Exhibit A-7, an enlarged version of the Vehicle Circulation Plan - Sheet 20 in the Site Plan set showing a worst case scenario of three (3) trucks in front of the loading bays and another truck still able to circulate out of the northwest driveway on to Franklin Square Drive. He testified that all the driveways met with the Township requirements and provide adequate radii for truck circulation. He then discussed the proposed retaining wall and fencing on top that would separate the proposed site from the adjacent hotel property.

Mr. Bersch then re-introduced Exhibit A-6, the Site Plan rendering, in order to discuss the location of the trash compactor in the western corner of the building and adjacent to the four (4) loading bays on the site. He spoke of the 1-2 pickups per week by a local private hauler and the provision for recycling as well. Mr. Bersch stated that since they were using a trash compactor, there would be no need for any dumpsters on-site.

Mr. Bersch then moved on to the subject to landscaping and screening, stating that they would be maintaining as many of the existing trees on site as possible. He noted that they were now proposing to regrade the property along Davidson Avenue and include a small retaining wall (2^{1/2} -3 ft. tall) on the southeast side of the site that ran along Davidson Avenue.

He then added that they were going to provide 82 (6 ft. tall) arborvitae trees on top of the retaining wall to help screen all the operations on the southwest side of the building. He then told the Board that they were proposing a PVC fence in that area to also screen the utilities but were also willing to put up a chain link fence with green privacy slats in order to blend in with the proposed arborvitae trees. Mr. Bersch then told the Board that they were proposing ten (10) new shade trees along Davidson Avenue to supplement the existing trees already on-site and to replace some of the trees that will have to be removed as a result of the building addition. He stated that they had modified their grading plan in order to maintain all the existing trees along Franklin Square Drive as well as the trees within the proposed banked parking area.

Mr. Bersch then entered into the record as Exhibit A-9, a sight-line profile, that essentially shows the elevations of what an automobile travelling along Davidson Avenue would see as they were looking at the southeast corner of the building. As a result of all the proposed landscaping and fencing in that area, Mr. Bersch did not believe that anyone would be able to see the mechanicals. Utilizing the architects photo inlay exhibit, Exhibit A-1, showing what the building would look like in that area, the Board was able to envision what the building would look like with the landscaping that was proposed.

Chairman Thomas stated that he would like to see the Davidson Avenue side of the building be additionally screened with more landscaping so that it fit in with the rest of the streetscape. Mr. Lanfrit testified that the Applicant would be more than willing to add some additional landscaping on the Davidson Avenue side of the building. Vice Chair Graumann stated that adding additional landscaping on that side of the building would help to mitigate the need for a front yard setback variance.

Mr. Bersch then ran through the variances being requested, as enumerated in Mr. Healey's Planning report and noted earlier, utilizing Exhibit A-6 which was the Site Plan rendering. In discussing the variances with the Board, Mr. Bersch stated that the impervious coverage variance requested was for 69.5% where 55% was the maximum allowed, assuming that all land banked parking stalls were built out. Mr. Healey pointed out that the parking requirement was 178 parking stalls, and that they were proposing to install 161 parking stalls and land bank 34, for a total of 195 parking spaces, so they did not need a parking variance. Mr. Bersch indicated that they could reduce the impervious coverage from 69.5% down to about 65.3%. He added that the storm water management system also considered the building of the land banked parking spaces even though they may never be built.

Mr. Shepherd then opened a discussion regarding the variance for parking in the required front yard on the Franklin Square Drive side of the parking lot. Mr. Healey then stated that 90% of the variance for the parking in required front yard setback involved the land banked spaces, so he suggested that the landscaping plan should show screening of that parking area if that area were to ever be built. Mr. Bersch told the Board that there was another parking lot adjacent to the parking area on the site and associated with the Phillips Lighting parking lot.

Mr. Bersch then discussed the staff reports, including Mr. Healey's Planning report, Mr. Hauss' Fire Prevention report, Franklin Township Sewerage Authority report, Board of Health, Police, CME's Engineering report, noting that they could comply with all of the comments and recommendations, with the exception of providing at least five (5) ft. wide massed plantings

which shall consist of one (1) two(2)-inch caliper tree for each 2,000 sq. ft. of paved area. Mr. Bersch stated that they agree to supplement the landscaping throughout the development to help mitigate the waiver. He then told the Board that by complying with all the comments in the staff reports, it would not substantially alter the plan that the Board was looking at that evening.

Mr. Paul Phillips, Planner and Principal of Phillips Price, 33-41 Newark Street, Hoboken, NJ, came forward and was sworn in. The Board accepted his qualifications. He discussed the D variances that the Applicant was seeking, noting that the CB zoning district permitted the office and laboratory components of the Application, but did not permit the warehousing and manufacturing components. He did remind the Board that they granted the D variance back in 2017 to the Applicant to allow the manufacturing and warehouse use on the property. He also told the Board that the Applicant exceeded the FAR (Floor Area Ratio) in the district, which required a D(4) variance, and that they required several C variances that were discussed by the Site Engineer. In terms of the planning proofs, he felt that the basis of the D(1) variance granted in 2017 by the Board remained valid, With regard to the D(4) FAR variance, which was a limit on the overall intensity of development on a site and the scale and size of a building, he indicated that up to 0.40 was an acceptable level that was permitted in the zone. He noted that the Applicant was seeking a D(4) variance for a FAR of 0.56, and the Applicant had to prove that they could overcome that deviation. He then went on to describe what FAR (Floor Area Ratio) was, stating that it was the calculation of the ratio of the gross floor area divided by the total lot area. He went on to further explain that the FAR for the proposed site was mostly due to the expansion, basically for the equipment platform proposed for the second level that encompassed 40% of that calculation, as opposed to the southerly building addition. Mr. Phillips told the Board that it would not visibly changing the mass of the building and would not contain any employee space that would include office space, manufacturing space, or business activity in that space. He stated that if the equipment platform were not included in the calculations, the FAR for the addition would be 0.44, which he felt was not a significant deviation. He then reminded the Board that they previously granted a D(1) variance to allow manufacturing and warehouse uses on the site and that the CB Zone did not intend for that use and, therefore, had a lower acceptable FAR number. Mr. Phillips then told the Board that the M-2 Zone, which was close to the subject property, had a FAR of 0.50 for that type of use as well as allowing the manufacturing and warehousing use. Mr. Phillips then discussed the fact that the Township had proposed an update to the Master Plan back in May of 2019 but wasn't adopted yet. He did add that it did propose the consolidation of the C-B, M-1 and M-2 Zones, which would set forth new regulations. He told the Board that, it would create what would be called a B-I district, which would have a FAR of 0.50. A discussion ensued among the Board. Mr. Phillips gave his opinion that he did not see that the granting of the D(4) variance would have a detrimental impact on the surrounding area nor would it be substantially detrimental to the zone plan. He then discussed what he felt would be the flexible C-2 type variances that were being requested, and stated that he felt that they would be subsumed, to some extent, within the D variance, and recognizing that what was proposed in the use was not contemplated in the C-B district but would be contemplated in the new zone being considered in the Master Plan. He indicated that he felt the benefits of granting the relief outweighed the detriments and that several purposes of the statute would be advanced. Mr. Phillips also indicated that he thought that they could satisfy the negative criteria. He first discussed the variances for front and side yard setbacks and drew the Board's attention to Exhibit A-6. He indicated that due to the angle of the building relative to the street, a portion of the building did not meet the

setback requirements. He discussed the setbacks at 50 feet that were in the M-2 Zone as well as in the newly proposed B-I Zone. He also reminded the Board that the height of a building was directly related to the setback requirements and that they were at 47 ft. at their tallest and 26 ft. at the lowest, but were not near the maximum of 65 ft. high buildings that were allowed in the zone. He did add that they were offering additional plantings to mitigate those impacts. He then discussed the outside equipment, i.e., transformer, chiller and generator, which he reiterated were located about 8 ft. below the level of Davidson Avenue and would be screened by a double row of arborvitae as well as some kind of fencing. He then discussed the parking in the front yard variance was due to the proposed front row land banked parking spaces. Lastly, he discussed the coverages, both building and impervious, comparing those to what would be required in the M-2 Zone, and indicated that the requirement in the C-B Zone of 30% lot coverage as opposed to 30.3% requested was de minimus. He then discussed the impervious coverage variance requested of 69.5% where 55% was the maximum. He reminded the Board that the proposed calculation did include the banked parking area as if it were built out and would be at 65% if not included in the calculation. He said he did realize that 65% was the allowable coverage in the M-2 Zone. Mr. Phillips told the Board that they were also proposing landscaping within the parking islands and some additional trees in the front yard of Davidson Avenue. He then discussed some of the purposes of zoning that related to the proposed Application.

Mr. Healey then asked about the side yard setback of 20 ft. where 50 ft. was required and how that variance would be mitigated. Mr. Phillips indicated that the adjacent hotel property was well setback from the side yard and was also well setback from where the building expansion was proposed to satisfy the requirement for light, air and open space due to the hotel parking being located there. He also added that there was fencing proposed in that location as well to separate the two properties. Mr. Phillips then deferred to the Site Engineer regarding the possibility of including some landscape screening along the retaining wall on the Davidson Avenue side of the property. Mr. Bersch stated that they could move the retaining wall closer to the building, allowing for some additional landscaping. He indicated that they would work with the Township Planner to accommodate what would satisfy the requirements.

Mr. Healey stated that he was troubled by Mr. Phillips' use of a draft Master Plan and a draft ordinance as a discussion point for proofs to grant a variance as they hadn't had a hearing yet and that it was not completed. Mr. Healey then asked Mr. Phillips if he had any modification to his testimony and not relying on the draft Master Plan ordinance. He then told the Board that the C-B Zone was designed for large, office-type buildings and not manufacturing and warehousing and looked to the M-2 Zone for guidance for the subject use.

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

Mr. Vincent Dominach, Township Economic Development Director, told the Board that the Applicant already made a significant investment and was now making an even larger investment in his business because he believed in the Township and created hundreds of jobs at one site and he would be created hundreds of jobs at the subject site. He noted that he felt that most of the variances requested were de minimus and that most of the variances if the building were in the M-2 Zone would be mostly de minimus. He then discussed the explanation that Mr. Phillips gave for the FAR variance that was requested. He also spoke about the many changes that were made from the original Application that was submitted to the Township about six (6) months ago. Mr. Dominach also mentioned that, originally, most

of the trees on the site were going to be removed and came up with the landscaping plans that were presented that evening that were in stark contrast to what was originally presented. He then thanked the Applicant for doing an excellent job in making the necessary changes in the plans to be able to present the plans that were being presented that evening and urged the Board to approve the Application.

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

Mr. Lanfrit then gave his summation comments.

Mr. Healey wanted the Board to know that there were actually light industrial/light manufacturing facilities along the Davidson Avenue corridor, with two facilities right across the street from the subject property. He also added that two lots up on Davidson Avenue was a warehouse operation.

Mr. Shepherd explained that he was troubled by the intensity of the use on the property that was proposed that evening. A discussion ensued among the Board, and Mr. Healey told the Board that they just need to consider what was proposed that evening on its own merits and based upon the more intense use presented regardless of the fact that there had been a previous approval two (2) years ago.

Vice Chair Graumann made a motion to approve the Application, with D and C variances, to include a waiver requested for the number of trees but should work with staff to add as many as possible on the site to make it as compliant as possible. Additionally, the Applicant agreed to comply with all staff reports, paint the existing building to match the color of the proposed addition, investigate the moving of the retaining wall along the side property line and add landscaping where possible, Similarly, the Applicant agreed to add landscaping along the front property line and hire a landscape architect to mitigate the front yard variance of the addition. There was no parking variance for the reasons discussed during the hearing, and the land banked parking screening would include street trees and a low hedge unless the land banked parking area was to be improved. Mr. McCracken seconded the motion, and the roll was called as follows:

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

AGAINST: Mr. Shepherd

- **NESTER & VICTOR MARIN / ZBA-19-00027**

The Applicant seeks "C" Variances in association with a two (2)-family home with one (1) five (5)-bedroom unit on the first and second floors and a two (2)-bedroom unit in the basement at 204 Franklin Boulevard, Somerset; Block 275, Lot 1.01, in an R-7 Zone - **CARRIED TO OCTOBER 17, 2019 – with no further notification required.**

DL - 12/1/2019

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 10:11 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
October 27, 2019