

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

**REGULAR MEETING
October 17, 2019**

This Regular Meeting of the Township of Franklin Zoning Board of Adjustment was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman Thomas, at 7:30 p.m. The Sunshine Law was read, and the roll was called as follows:

PRESENT: Anthony Caldwell, Bruce McCracken, Gary Rosenthal, Joel Reiss, Cheryl Bethea and Chairman Thomas

ABSENT: Laura Graumann, Alan Rich and Robert Shepherd

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

MINUTES:

- **Regular Meeting – September 5, 2019**

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

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

AGAINST: None

HEARINGS:

- **NARINEDATT & KAREN SEEPERSAUD / ZBA-19-00026**

Applicant is seeking a Certification of Pre-Existing Non-conforming Use for a two-family house at 104 South Lawrence Street, Somerset; Block 171.02, Lots 40-41, in an R-7 Zone - **CARRIED TO NOVEMBER 7, 2019 – with no further notification required.**

DL - 12/16/2019

- **URVIM PATEL / ZBA-19-00024**

Applicant was requesting a “C” Variance for construction of a single-family, 6-bedroom home at 441 Skillman Lane, Somerset; Block 57.01, Lot 24.02, in the A Zone - **CARRIED TO DECEMBER 5, 2019 – with no further notification required.**

DL - 1/10/2020

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

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Muslim Foundation, Inc. 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 FROM OCTOBER 3, 2019 – with no further notification required.**

Mr. Lanfrit indicated that he was approached outside of the chambers before being called for the hearing that evening by counsel, Mr. Brancato, who represented the adjacent property owner. Mr. Lanfrit then told the Board that Mr. Brancato indicated that the adjoining property owner had a concern because there was a history of members of the congregation parking on the adjoining property. Mr. Lanfrit then told the Board that he advised Mr. Brancato that as a result of a previous approval, that there was a fence that would be installed when the school was completed between the two properties. Mr. Brancato indicated that the adjoining property owner wanted to know if some additional signage could be put up to keep members of the congregation from parking on his property. Mr. Lanfrit stated that he told Mr. Brancato that they would be willing to do that.

Mr. Kharazi, Director & Vice President of the Muslim Foundation, 14 Margaret Drive, Somerset, NJ, came forward and was sworn in. He told the Board that he had testified before the Board the last two (2) years regarding some improvements that were being made to the property. He added that one of the past hearings was to construct a school and new parking lot to the rear of the property and came back a year later to amend the application to reconfigure the building. Mr. Kharazi then gave the Board an update of the progress they had made with the construction of the parking lot and school. He told the Board that the sidewalk was completed, and the parking lot was just about completed and should be done within a week’s time. Mr. Kharazi added that the construction of the school had started and that they were hoping to be completed within two (2) years. Mr. Kharazi testified that they had been using, as a gravel lot, the parking area for their Friday religious services. He then noted that when the school was constructed, it would serve as a Kindergarten through 8th grade. Mr. Kharazi then told the Board that during the week, the main activity at the mosque was on Friday, usually between 12:00 Noon and 2:00 p.m., with about 150-200 people coming to say their prayers. Mr. Kharazi indicated that there were no other activities during the week at the mosque, except for special occasions two (2) or three (3) times during the year where the school would be closed and there were only religious events taking place at the mosque.

Mr. Kharazi then spoke about converting the home at the front of the property into a day care center for ages 2-1/2 to 4 years old. He then testified that they envisioned a maximum of 23 children attending the day care center regularly, with 2-3 employees on-site. He indicated that the hours of operation would be from 7 a.m. to 6 p.m., with some of the parents of the children being dropped off at the daycare center parking at the school building in order to teach there. Mr. Kharazi added that parents would park at the daycare center to walk their children in and then leave the property. He told the Board that the first floor of the converted home would be used as the day care center and the second floor would be used for staff, for their lunch break, etc., but would not be used for the children. Mr. Kharazi then drew the Board's attention to the fact that they were also proposing an outdoor play area, which he stated was required of a day care center. In order to accommodate for the play area, Mr. Kharazi testified that it would require the removal of five (5) parking spaces. Since they had gained the additional parking as a result of the previous site plan approval, he stated that they had sufficient parking for Friday's religious observance, which was their busiest day. Mr. Kharazi told the Board that they had added about 40-45 additional parking spaces on-site as a result of the school construction and had only been using about 10-15 of those spaces. Since they anticipate faculty members for the school at between 20-30, Mr. Kharazi stated that he felt they would have sufficient parking to also handle the two (2)-hour prayer service time on Fridays as well.

Mr. Kharazi then drew the Board's attention to their request to put a canopy over the entryway at the school for safety reasons for the students and faculty.

Mr. Rosenthal then asked Mr. Kharazi if there would be a kitchen in the day care building, and Mr. Kharazi stated that there would be no kitchen, but just one big open space for the children.

Mr. Healey then asked if the clergy was presently living in the home on the property, and Mr. Kharazi stated that the clergy lived outside of the property due to his own preferences. He added that currently, the second floor was used for storage, with a caretaker living on the first floor of the home at the present time. Mr. Kharazi testified that once the home was converted to a day care facility, the caretaker would no longer be living there.

Mr. Healey then inquired as to the attorney that Mr. Lanfrit referred to that he discussed the parking issue with prior to the hearing beginning that evening. Mr. Lanfrit stated that he spoke to Mr. Mark Brancato, whom he said he knows, and that Mr. Brancato was there that evening on behalf of Continental Resources, the property to the rear of the subject property. Mr. Lanfrit indicated that sometime before the additional parking area was built, apparently some of the members of the congregation would park in the lot behind their property belonging to Continental Resources, that fronted on Worlds Fair Drive to attend Friday services. He testified that they had already put up a 6 ft. board on board fence between the two properties to avoid that issue.

Ms. Brittany Klimm, Architect, employed with Mr. Mistry's firm, 350 Clark Drive, Suite 101, Budd Lake, NJ, came forward and was sworn in. The Board accepted her qualifications. Ms. Klimm stated that Mr. Mistry's firm prepared the plans for the school under construction on the site. She testified that she had prepared the plans for the childcare center. Ms. Klimm discussed the rendering on the screen of the permanent canopy that would be added to the school and stated that it covered the stairs and provided some coverage from rain and snow

for the main entry. She then drew the Board's attention to the next slide on the screen that showed a rendering of the existing home on the property that was going to be converted to a daycare center. Ms. Klimm stated that the general condition of the home was good, and the exterior would not be changing, and the interior would be where all the alterations would be occurring. She did note, however, that the main entry in the front would be made handicap accessible with an exterior ramp and a play area would be constructed to the rear of the house for the children. Ms. Klimm stated that the size of the play area was regulated by the State at 350 sq. ft. for the first 10 children and 35 sq. ft. for each additional child. Ms. Klimm stated that the childcare center would be housed on the first floor and would be opened up, with classroom space on the left-hand side and a vestibule entry with a secured front entry. She added that there was a sign in area, a sick room, staff toilets, children's toilets, with a direct access from the classroom for egress in the rear. Ms. Klimm testified that the facility was designed to cater to children from the ages of 2-1/2 to 4 years old. She indicated that the staff would only be heating food via microwave, with a small counter and sink provided. Ms. Klimm indicated that the home was a Cape Cod style home, and the second floor would be comprised of a break room and an office with another staff bathroom, and no children allowed there. Ms. Klimm testified that the space on the first floor for the children complied with State code for the requirements for 23 children. She added that they would be adding perimeter lighting around the building for safety and security once the construction was completed.

Mr. Michael Ford, Engineer, employed with Van Cleef Engineering, 32 Brower Lane, Hillsborough, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Ford stated that he had prepared all the plans and had testified previously at the other hearings for the mosque. He then brought up the slide showing the site plan and described the current conditions on the property. He noted that there were two driveways, one was an entrance only driveway and the other was an exit only driveway on either side of the property. He discussed the detention basin on the property, the single-family home, parking area and main mosque building. He then showed the Board where the proposed school and additional parking would be located on the site. Mr. Ford then discussed the new entry for ADA access to the single-family home in order to convert it to a daycare center. He also spoke about the walkway that would lead to the main entry and the removal of five (5) graveled parking spaces to allow for the play area. Mr. Ford then spoke about the existing detention basin that was already expanded to accommodate the new impervious surface on the property from the previous hearing. He added that there would be a slight decrease in impervious surface due to the elimination of the five (5) parking spaces to make room for the play area. Mr. Ford testified that there would be no changes to the circulation system on the driveway and that there would be free access between the two parking areas on the property.

Mr. Ford then discussed the requirement for a D(3) Use Variance for the church and school at the last hearing because they did not meet the buffering requirements for a conditional use in the zone. He then told the Board that the buffer was not being changed in this Application and, therefore, the D(3) Use Variance that was granted by the Board in the previous application was not changed in any way in the current Application.

Mr. Ford then testified that they could meet all of the comments and requirements of the staff reports, including CME's Engineering report, dated 9/16/19, the Police Dept. report, dated 10/1/19, the Sewerage Authority report, dated 9/10/19, Mr. Hauss' Fire Prevention report, dated 10/14/19, Health Dept. report, dated 9/20/19, and Mr. Healey's Planning report, dated

9/3/19. Mr. Ford then indicated that any modifications, changes or revisions to the plan would not substantially alter the plan presented.

Chairman Thomas expressed his concern that there would be a free-flowing traffic flow in the drop off the 2-1/2 to 4-year olds at the day care center to allow for minimum queuing in the entrance driveway from the street. Mr. Lanfrit stated that they would hear from Ms. Dolan, the Traffic Engineer regarding that issue.

Mr. Healey first wanted to ask a question about the lighting for the day care center. Mr. Ford stated that the plan would be updated and that they would comply to all the requirements.

Ms. Elizabeth Dolan, Traffic Engineer and Principal of Dolan & Dean Consulting, 181 West High Street, Somerville, NJ. The Board accepted her qualifications. Ms. Dolan stated that she prepared the reports and testified to them in the previous hearings. Ms. Dolan gave testimony regarding the traffic impacts of the addition of the day care center and operationally as it related to the site circulation with the inclusion of the day care center. She stated that the analysis they performed was summarized in a 7/8/19 letter, noting that a free-standing day care center for 23 children would have a lower trip generation during the peak a.m. and peak p.m. hour than the school and the mosque when it was busy. Ms. Dolan added that their analysis did not take into consideration that some of the teachers in the school would have children attending the day care center. She also stated that their analysis assumed that all the traffic during the peak hours would be coincident with the school hours, which wasn't the case. Ms. Dolan testified that the analysis showed that the driveways would still function even if they had 100% new activity coincident with the school activity. She told the Board that the drop-off at the day care was over a few hours since there wasn't a set start time and pickup would be after the school dismissal. Ms. Dolan indicated that the circulation on the site wasn't changing and that the parking area closest to the day care center would be used by staff and parents and had talked about having the day care staff park a little further away from the door so that they left the spaces closest to the door for parents. She stated that the day care would utilize the circulation aisle closest to the day care center, leaving the larger loop for any of the school activity. Ms. Dolan stated that she felt it would be an operational task to make sure parents of day care attendees get the drop-off and pick-up protocol.

Mr. Caldwell asked what the hours were for the day care center and the hours of the school. Ms. Dolan indicated that the testimony given was 7:00 a.m. to 6:00 p.m. and that the hours of the school were 9:00 a.m. to 3:00 p.m., with drop-off and pick-up before and after those times.

Mr. Healey then asked about how they arrived at the parking calculation of 10 spaces needed for the day care center when there was no industry standard. Ms. Dolan stated that she went back to the capacity and it was Mr. Ford's calculation. She did state, however, that she did run some numbers from the ITE's (Institute of Traffic Engineers) parking generation and running the numbers, based on the building area, they would be looking at four (4) parking spaces with a maximum of nine(9) depending upon which ratio was used. Based on the number of children, ITE would say eight (8) parking spaces were required. Mr. Healey then asked about issues with circulation on the site when dropping off children the day care center and then dropping off children at the school in one trip. A discussion ensued and Ms. Dolan stated that there would be signage on the site and informational items given to parents to understand the site circulation. She suggested areas on the site where signage would be

appropriate and added to the plan and have pavement markings to supplement the signage as well.

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

Mr. Lanfrit then gave his closing summation.

Mr. Reiss made a motion to approve the D(3) Variance and Site Plan approval, with all of the conditions discussed at the hearing, including signage at the back of the property prohibiting the parking on adjacent properties and the inclusion of fencing there at the request of Mr. Brancato, the attorney representing the adjacent rear property owner. Additionally, the Applicant should add signage and striping to the plan and show the lighting for the day care center on the plan as well as comply to all the staff reports. Mr. McCracken seconded the motion and the roll was called as follows:

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

AGAINST: None

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

The Applicant seeks "C" Variances in association with a two-family home with one(1) 5-bedroom unit on the first and second floors and a 2-bedroom unit in the basement at 204 Franklin Boulevard, Somerset; Block 275, Lot 1.01, in an R-7 Zone - **CARRIED TO DECEMBER 19, 2019 – with no further notification required.**

DL- 12/01/2019

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

Mr. Peter U. Lanfrit, Esq., Attorney, appearing before the Board on behalf of the Applicant, Gina Ulrich. 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 FROM OCTOBER 17, 2019 – with no further notification required.**

Ms. Gina Ulrich, Applicant, 209 Wilson Road, Somerset, NJ, came forward and was sworn in. Ms. Ulrich indicated that she had lived in her home on Wilson Rd. for about 7 years with her husband and daughter. She stated that they were asking for a side yard variance for the pool. She then told the Board that the aerial provided by the TRC (Technical Review Committee) was an accurate view of her property. Ms. Ulrich indicated that her property was 100 ft. wide x 450 ft. long and required a side yard variance for their preferred placement of the pool because it was the closest spot to their house, was the area of the yard that got the most sun and would it not require cutting down any trees to put the pool in their desired location as well. Ms. Ulrich stated that there were many large trees on her property and the neighbor's property on the side that required the side yard setback for the desired placement of the pool.

She also stated that the neighbor's house on the side closest to the proposed pool was also closer to Wilson Rd. than her home was and therefore a substantial distance between the location of the proposed pool and the neighbor's house.

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

Mr. Lanfrit then gave his closing summation.

Mr. McCracken made a motion to approve the Application for a "C" Variance. Mr. Reiss seconded the motion and the roll was called as follows:

FOR: Mr. Caldwell, Mr. McCracken, Mr. Rosenthal, Mr. Reiss, Ms. Bethea 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 8:09 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
October 31, 2019