

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

**REGULAR MEETING
November 7, 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 7:35 p.m.), Bruce McCracken, Alan Rich, Robert Shepherd, Joel Reiss, Cheryl Bethea and Chairman Thomas

ABSENT: Laura Graumann and Gary Rosenthal

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

MINUTES:

- **Regular Meeting – October 3, 2019**

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

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

AGAINST: None

- **Regular Meeting – October 17, 2019**

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

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

AGAINST: None

RESOLUTIONS:

- **Csaba Madjak / ZBA-19-00023**

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

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

AGAINST: None

HEARINGS:

- **TRUST UNDER ARTICLE 6 u/w/o SIGMUND SOMMER AND LEVIN PROPERTIES, LP / ZBA-19-00015**

Applicant is requesting Site Plan approval for 50 town house units provided in 9 separate buildings with 179 parking spaces at 31 Cedar Grove Lane, Somerset; Block 468.09 Lot 34 in an R-40 Zone. The development previously received a Use Variance approval. **CARRIED TO DECEMBER 19, 2019 – with no further notification required**

DL - 12/31/2019

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

Mr. Lawrence Sachs, Esq., Attorney, appeared before the Board on behalf of the Applicant, Narinedatt & Karen Seepersaud. Applicant is seeking a Certification of a 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 FROM OCTOBER 17, 2019 – with no further notification required.**

Mr. Sachs indicated that they were seeking a Certification of Non-Conformity for a property constructed in 1936 as a two(2)-family structure and had continued in that fashion up the present time. Despite this, the homeowner received a violation last year regarding the zoning and was seeking to legitimize the two(2) family status of the property. Mr. Sachs then handed out copies of all the exhibits that they would be presenting that evening.

Mr. Narinedatt Seepersaud, Applicant, came forward and was sworn in. He told the Board that he acquired the subject property on August 4, 2017. Mr. Seepersaud then testified that when he purchased the property, it was represented as a two(2)-family home. He indicated that he presently lived in the first-floor apartment, with a tenant in the upstairs apartment. Mr. Sachs entered into the record as Exhibit A-1, which was a seller's disclosure statement that was provided to Mr. Seepersaud at the time the home sale contract was signed. In the document, Mr. Seepersaud testified that 1936 was listed as the year the home was built. Mr. Sachs then entered into the record as Exhibit A-2, a Central Jersey multiple listing exclusive right to sell listing agreement, that Mr. Seepersaud indicated was attached to the contract when he purchased the property. He added that the second page of Exhibit A-2 showed a

representation of the property being a two(2)-four(4)-family home. Mr. Sachs then entered into the record as Exhibit A-3, the contract of sale between the Applicant and Mr./Mrs. Kapp. He noted that there was a clause in the contract where the seller referred to the zoning ordinances and that there were not any violations of those zoning ordinances. Mr. Sachs then entered into the record as Exhibit A-4, which was a letter addendum from Mr. Francis to Mr. Rothenberg containing a similar reference to the zoning ordinances. Later in the document, Mr. Sachs stated that the document represents that the property included a two(2)-family home, with one unit occupied by tenants who would be vacating on or before July 2, 2017, with all security deposits returned. Because of all the documentation presented thus far, Mr. Seepersaud indicated that the home was represented as a two(2)-family home. Mr. Sachs then entered into the record as Exhibit A-5, which was the loan application that was filled out by the Applicant, with a question asking how many units were included on the property, which was filled in as "two". Mr. Sachs then entered into the record as Exhibit A-6, which was a multiple listing agreement that was listed on the Middlesex and Somerset County MLS site. He told the Board that the listing showed that the property had two(2) units, with a description of what the two separate apartments included, noting that each unit had a kitchen and bathroom and bedroom(2). Mr. Sachs then entered into the record as Exhibit 7, which was a realtor's description referencing that the property was a two(2)-family residential home. Mr. Sachs then entered into the record as Exhibit A-8, which was an appraisal that was done in order to obtain a mortgage, that also described the property as having a two(2)-family home with 1-1/2 stories and constructed in the 1930's with the same number of bedrooms/bathrooms as the other exhibit. Mr. Sachs then entered into the record as Exhibit A-9, which was the mortgage Mr. Seepersaud signed that included a multi-family rider. Mr. Sachs then referred to Exhibit A-10, which was a fire inspection certificate that the seller obtained upon closing of the property that was represented as a two(2)-family dwelling by the fire marshall. Next, Mr. Sachs entered into the record as Exhibit A-11, which was a tax card from the Franklin Township Tax Assessor, showing that there were two (2) apartments within the structure and indicating the number of rooms in each unit in the home that was built in the 1930's. Mr. Sachs then entered into the record as Exhibit A-12, an affidavit provided by Mr. Kapp, the seller of the property, stating that he purchased the property in September of 1986 and was represented and utilized as a two(2)-family residence at that time as well. He further stated in the affidavit that it was continuously utilized as a two(2)-family unit and was under the impression that it was constructed in the 1930's or 1940's. The affidavit further refers to Mr. Kapp's closing documents that showed that the home was always utilized as a two(2)-family unit. Mr. Sachs then entered into the record as Exhibit A-13, which was the rental registration that was on file when Mr. Seepersaud purchased the property showing two (2) tenants on the property at that time. Mr. Sachs then entered into the record as Exhibit A-14, which was Mr. Kapp's mortgage paperwork from 1986, also representing that the property was a two(2)-family home. Mr. Sachs then entered into the record as Exhibit A-15, which was the closing statement when Mr. Kapp purchased the property in 1986, showing that there were two tenants living on the property at that time.

Mr. Sachs then spoke to the Board about a floor plan that was submitted with the Application that Mr. Seepersaud had an architect draw up. Mr. Seepersaud then verified that the floor plans before the Board showing a two(2)-family unit was an accurate representation. Mr. Sachs then entered into the record as Exhibit A-16, including photographs of two gas meters, two water meters, two furnaces, two electrical panels. Other photographs were of the backyard access from the first-floor unit only and front of house pictures as well as two(2) vestibule doorways for each apartment, etc.

Mr. Reiss then opened a discussion regarding what prompted this investigation regarding the zoning, and Mr. Healey stated that it most likely stemmed from a complaint that the home had been recently converted to a two(2)-family property. A discussion ensued.

Mr. Patricio Perez, 36 Rose Street, Somerset, NJ, came forward and was sworn in. Mr. Perez stated that he lived next door to the subject property since 1963. He testified that the subject property had always been a two(2)-family home and had never changed from a two(2)-family home in all the years he lived next door. Mr. Perez indicated that there was one other resident who had been in the neighborhood longer than he was, but Mr. Sachs stated that his health was not good and was unable to come down to testify.

Ms. Bethea asked Mr. Perez if there were other two(2)-family homes in the neighborhood there, and Mr. Perez indicated that there was just the one home that was a two(2)-family.

Ms. Allison Coffin, Planner, came forward and was sworn in. Ms. Coffin gave her analysis regarding the subject property, noting that the property did not conform to the minimum lot area for the zone. She then testified that the earliest aerial photograph of the area was from 1931 and that the subject home was present on the property and continued to remain on the property throughout the years. Ms. Coffin indicated that a 1950 aerial showed the same footprint that included the vestibule on the property. She also noted that there was no evidence that she could find to show that the home had ever been converted.

Mr. Reiss and Mr. Shepherd both opened a discussion with the Board Attorney, Mr. Kinneally, regarding what information they needed in order to vote on the Application.

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

Mr. Sachs then gave his closing summation.

Mr. Reiss made a motion to grant the Certification of Pre-existing, Non-conforming Use. Mr. Shepherd seconded the motion and the roll was called as follows:

FOR: Mr. Caldwell, Mr. McCracken, Mr. Rich, Mr. Shepherd, 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. Shepherd made a motion to adjourn the meeting at 8:07 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
November 24, 2019