

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

**REGULAR MEETING
December 19, 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: Laura Graumann, Bruce McCracken, Alan Rich, Gary Rosenthal, Cheryl ,
Bethea and Chairman Thomas

ABSENT: Anthony Caldwell, Robert Shepherd and Joel Reiss

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

MINUTES:

- **Regular Meeting – November 7, 2019**

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

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

AGAINST: None

RESOLUTIONS:

- **Da'Awatul Islama of Somerset / ZBA-19-00004**

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

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

AGAINST: None

- **Amy Wilmot / ZBA-19-00021**

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

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

AGAINST: None

- **Shaktin Patel / ZBA-19-00025**

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

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

AGAINST: None

- **Gina Ulrich / ZBA-19-00029**

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

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

AGAINST: None

- **Narinedatt & Karen Seepersaud / ZBA-19-00026**

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

FOR: Mr. McCracken, Mr. Rich, Ms. Bethea 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 January 16, 2020 – with no further notification required**

DL - 12/31/2019

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

Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Nester & Victor Marin. The Applicant seeks “C” Variances in association with a two-family home with one 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 FROM OCTOBER 17, 2019, with no further notification required.**

Mr. Lanfrit explained that the hearing that evening was to allow a two-family house in the R-7 Zone, where single-family and two-family uses were permitted. He went on to state that, under the current ordinance, in order to be allowed to have a two-family home, a property must have a lot area of 15,000 sq. ft. and the lot in question has 13, 309 sq. ft. He then added that they required a frontage variance, which was an existing condition, for the frontage on Highland Avenue (90.48 ft. where 150 ft. was required) and noted that the property was a corner property.

Mr. Nestor Marin, Applicant, 198 Franklin Boulevard, Somerset, NJ, came forward and was sworn in. Mr. Marin indicated that he owned the property with his father, Victor Marin. He then indicated that his father first purchased the property in 2004 when it was a single-family home. He went on to further explain that his modified the basement in 2006 so he could live there, and that Mr. Nestor Marin could move into the first floor. Mr. Marin indicated that his father did not believe his father received the proper permits when he turned the home into a two-family house. He then testified that the home has been used consistently as a two-family home since 2006, with two bedrooms, a living room, kitchen and an existing bathroom and laundry room area with a separate entrance. Mr. Marin then told the Board that he now lives in the basement and that there is a 5-bedroom apartment on the first and second floor where his in-laws live.

Vice Chair Graumann asked about whether there were separate utilities and laundry area, and Mr. Marin answered in the negative.

Chairman Thomas then inquired as to whether the home met all the necessary codes and requirements for two-family homes. Mr. Healey stated that he could not answer that question as they needed to get all the necessary permits from the Construction Dept.

Mr. Lanfrit agreed that they would have to set up inspections to make sure that all work that was done in 2006 meets the code requirements.

Mr. Healey then brought up comments in the TRC (Technical Review Committee) report regarding the expansion of the driveway, parking in the right-of-way, etc. Mr. Lanfrit stated that the driveway was expanded by Mr. Marin's father and that there was a portion that was in the Township's right-of-way. He did agree, however, that he would modify the driveway to comply to the zone requirements and keep all parking out of the right-of-way.

Mr. Jimmy Dumas, Architect/Planner, 24 Braxton Drive, Belle Mead, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Dumas briefly described the house as it currently existed and then spoke about the changes that were planned. Mr. Dumas stated that the access to the 5-bedroom apartment was gained from the Highland Avenue side by going up some stairs and the basement apartment was accessed from the other side of the house by going down some stairs for access. He then told the Board that the size of the bedrooms in the basement met code requirements, but the size of some of the windows were inadequate for proper egress and would be changed.

Wearing his Planner hat, Mr. Dumas then described the neighborhood and the history of the zoning of the property to include single-family and two-family homes with approximately 9,000-10,000 sq. ft. lots. Mr. Dumas added that the zoning in the area in 2006 required only 10,000 sq. ft. for a two-family home, so there must have been changes to the Master Plan in the ensuing years since the requirement now was for a 15,000 sq. ft. lot for a two-family home.

In speaking about parking requirements, Mr. Dumas then showed an aerial photograph from Google Maps taken in 2019 and marked into evidence as Exhibit A-1. He then discussed the parking area that was in the right-of-way. Mr. Dumas then entered into the record as Exhibit A-2, the existing survey with a superimposed sketch showing the six-car parking area that was prepared by Mr. Dumas. He explained to the Board how the parking area would work, indicating to the Board that they would be well under the maximum limit for impervious coverage. He then discussed the benefits vs. the detriments in describing the C-2 variance they were seeking. Mr. Dumas then testified that the granting of the lot area variance would not negatively affect the zone scheme or zone plan.

Vice Chair Graumann asked if there were any issues with the neighbors, and Mr. Marin answered in the negative. A discussion ensued among the Board, and Mr. Dumas explained how five (5) cars could enter the driveway and exit the driveway without having to back out onto Highland Avenue. They also discussed the management of the parking should the house no longer be owner occupied.

Mr. Rich then asked about what work needed to be done down the basement, and Mr. Dumas reiterated his testimony regarding the replacement and enlargement of the windows and showed the architectural drawings of the basement that were part of the plan set submitted with the Application.

Chairman Thomas then opened the meeting to the public. Seeing no one wanting to speak, the meeting was then closed to the public.

Mr. Lanfrit then gave his closing summation.

Mr. Healey then summarized the items that needed to be obtained, should the Board be inclined to approve the Application. He first noted that they would need to get the zoning permit for the driveway to widen it as indicated, remove the gravel from the right-of-way and return it to lawn and they need to submit the building permit for the improvements to the windows, etc. and register it as a rental unit with the Clerk's office. Mr. Healey suggested that the Board impose a reasonable time limit to complete the work to ensure that it actually gets done.

Mr. Lanfrit stated that he thought that 30 days of the resolution of approval to submit all the permits would be a reasonable time frame

Vice Chair Graumann made a motion to approve the Application with Variances, subject to all the conditions described by Mr. Healey, the Planning Director. Mr. McCracken 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

- **DEMOND BARBER & ALINA NEWTON / ZBA-19-00033**

Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Demond Barber & Alina Newton. Applicant is requesting a C Variance from the 20% impervious surface limitation at 1743 Amwell Road, Somerset; Block 417.01, Lot 6, in an R-40 Zone.

Mr. Lanfrit indicated that they were there before the Board that evening to seek a variance for impervious coverage for the driveway.

Mr. Demond Barber, Applicant, 1723 Amwell Road, Somerset, NJ, came forward and was sworn in. Mr. Barber indicated that he bought the house/property in 2017, that also included a garage. He indicated that they had a two-car garage, but they store one car and the rest was used for storage. Since the driveway goes straight back to the garage, they widened the pavement to allow for a K-turn. Mr. Barber indicated that they did not get a permit and did not know they needed a permit to add the additional pavement on the property. He then explained that he found out later that he exceeded the impervious coverage that was allowed on his property and encroached on the neighbor's property. Mr. Barber indicated that he wanted to remove some of the blacktop, especially that which was put down on his neighbor's property but keep enough to still be able to perform a K-turn to safely exit his property. He testified that he would replace the removed blacktop with topsoil and seed. Mr. Barber also added that they presented the Application to the Historic Commission since the home was in an historic district. And they conceptually agreed with the removal of the blacktop.

Mr. Stephen Fisk, Planner/Surveyor, 631 Union Avenue, Middlesex, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Fisk then discussed the site

conditions before Mr. Barber purchased the property, what was existing and what was proposed. Mr. Fisk explained that the real problem started with the fact that the property was ¼ the size of the minimum sized property in the R-40 Zone. He added that the situation becomes even more difficult when a 20% impervious coverage limitation was imposed on the property as well to allow for a safe turnaround on the property. Mr. Fisk stated that when Mr. Barber purchased the property, the impervious coverage was already at 27.79%, which far exceeded the allowable coverage for the size of the lot. Mr. Fisk stated that the plan was to remove all the blacktop on the neighbor's property and some of the blacktop along the common property line.

Mr. Fisk then described the situation on the roadway in front of Mr. Barber's property, noting a curve, reduction of lane and motorists driving 40 miles per hour, all creating a safety hazard in trying to exit the property.

Mr. Fisk then told the Board that the additional impervious pavement was going to be less than 1,000 sq. ft. from when Mr. Barber purchased the property in 2017 and would be considerably less than what was on the property currently for a total impervious coverage of 36.5%. He spoke about the benefits and detriments, which he indicated were minimal to none. A discussion ensued among the Board.

Chairman Thomas then opened the meeting to the public.

Ms. Amy Thorkilsen, 1747 Amwell Rd., Somerset, NJ, came forward and was sworn in. Mr. Thorkilsen explained that she was the next-door neighbor and told the Board that she and the previous owner used to use the apron that connected the driveways at the end near Amwell Rd. to turn forward to exit their properties. Ms. Thorkilsen then asked to hear more details of the plan and the timeframe in which they planned to complete the removal of the pavement.

Mr. Lanfrit stated that they would complete the work within 120 days of the resolution of approval.

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

Mr. Lanfrit gave his closing remarks.

Vice Chair Graumann made a motion to approve the Application and that the Applicant obtain a permit for the work be done within 30 days, with work completed within 120 days. Ms. Bethea 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

- **RENTAL HOUSE, LLC / ZBA-19-00032**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Rental House, LLC. He stated that they were before the Board for a Pre-Existing, Nonconforming Use in which the Applicant contends that the property is a two-family dwelling and was so prior to adoption of the first zoning ordinance at 17 Home Street, Somerset; Block 184, Lots 16-18, in an R-7 Zone.

Mr. Justin Kallaracko, Applicant, 1818 Oak Road, North Brunswick, NJ, came forward and was sworn in. Mr. Kallaracko then indicated that he acquired the property in December, 2018 through a foreclosure sale. He told the Board that he visited the property after he bought it, and that it was listed as a two-family house. Additionally, Mr. Kallaracko stated that he applied for permits to upgrade the house since it needed a lot of work. He told the Board that he found out when he went to pull permits for the demolition work that the home was listed as a one-family home in the Township records. Mr. Kallaracko stated that the first floor and second floor both included one bedroom, living room, kitchen and bathroom, with separate entrances. He testified that the entrance to the first floor faced Home Street and the entrance to the second floor was at the back of the home with an exterior stairway. Mr. Kallaracko stated that his goal was to get the home certified as a two-family home and continue with the remodeling and continue using it as a two-family home.

Mr. Healey then discussed the deficiency in the lot area and lot frontage for the zone and mentioned that the R-7 Zone allowed for two-family homes.

Mr. David Bekus, Building Inspector/Builder, 45 Hunt Lane, Skillman, NJ, came forward and was sworn in. The Board accepted his qualifications. He testified that there were two distinct apartments within the home. He then explained how he came to the opinion that the house was always a two-family home and pre-dated zoning. He noted that the back exterior staircase addition looked to have been added shortly after the initial construction of the home based upon the use of the same hinges and door locks as well as the same rubble foundation found in the front of the home. Mr. Bekus then told the Board that the tax records indicate that the home was built in 1920.

Chairman Thomas then 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 for Certification of Pre-Existing, Non-Conforming Use. Ms. Bethea 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

- **MADDALENA RUBINO / ZBA-19-000389**

Applicant is seeking a C Variance to construct a roughly (8ft x 5ft x 40sqft) 1-story porch to the front of a single-family home at 557 Garfield Avenue, Somerset; Block 555, Lot 11, in an R-10 Zone.

Mr. Dan Fortunato, Architect, came forward and was sworn in. The Board accepted his qualifications. Mr. Fortunato explained that he is the architect who designed the interior renovations to the home at 557 Garfield Avenue. He indicated that a previous owner had made the front porch somewhat habitable, but that Ms. Rubino wanted to create a front porch with a front entrance to the home, where one currently did not exist. He added that the entrance to the home is currently on the side of the home and told the Board that the home did not comply with the 25 ft. front yard setback requirements of the R-10 Zone and only had a 21 ft. front yard setback.

Ms. Maddalena Rubino, Applicant, 557 Garfield Avenue, Somerset, NJ, came forward and was sworn in.

Mr. Healey stated that he felt that the grant of the variance could be supported by both a C-1 and a C-2 variance in that it was an older home already placed closer to the road and that any improvement in that area would result in a variance. He also stated that you could make the argument that it would increase the usability of the property and improves the aesthetics as well as enhance the safety of entering and exiting the home.

Chairman Thomas then 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 Variance. 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

WORK SESSION/NEW BUSINESS:

There was no work session or new business discussed.

MEETING ADJOURNED:

Mr. McCracken made a motion to adjourn the meeting at 8:50 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
January 5, 2020