

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

**REGULAR MEETING  
February 20 2020**

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:

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**PRESENT:** Anthony Caldwell, Laura Graumann, Bruce McCracken, Alan Rich, Gary Rosenthal, Robert Shepherd, Cheryl Bethea, Richard Procanik, and Chairman Thomas

**ABSENT:** Joel Reiss and Kunal Lakhia

**ALSO PRESENT:** Daniel Lagana, Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

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**HEARINGS:**

- **ERIC HU / ZBA-20-00001**

Applicant is requesting a C Variance for placement of an 18' x 20' carport at 357 Bennetts Lane, Somerset; Block 85, Lot 68, in an R-40 Zone.

Mr. Healey then gave a brief overview of the Application, stating that the property was located to the south of Bennetts Lane and that a few homes share a common driveway. He referred the Board to the second page of the Technical Review Committee (TRC) that showed an aerial view of the home and the proposed carport. Mr. Healey then explained that the nature of the variance was that accessory structures were required to be 25 ft. off the property line, with a proposal of 14.2 ft. off the property line. He then told the Board that he had discussions with the Applicant regarding alternative locations for the carport that would comply, and then directed the Board's attention to a copy of the survey that was in their packet that evening, with the location of the proposed carport drawn in. Mr. Healey then explained to the Board that the carport was being located in a narrower portion of the property, where the driveway was to the left side. He then pointed out that there were dashed lines on the survey pointing out the building envelope that would comply with the 25 ft. side yard setback requirement. Mr. Healey then told the Board that the building envelope was partially over the driveway so in order to place the carport to comply with the ordinance would put it in the middle of the driveway. He then discussed the locations of the house and the septic field on the property that limit the other possible locations where the carport could be located in a compliant manner. Mr. Healey indicated that staff recognized that there were some hardships of placing the carport on the property in a compliant location.

Mr. Eric Hu, Applicant, 357 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Mr. Hu discussed the investigations he went through in determining the best location for the carport on the property and what made the location requested special. He noted that the lot was irregularly shaped, somewhat like a backwards "P", with the driveway being in the narrow portion of the lot. He indicated that the only other possible locations for the carport was over the driveway or over a septic field, which wasn't feasible, or in the backyard behind the house which would make him have to drive over the septic field. Mr. Hu told the Board that he obtained a C Variance in 2004 to build the home due to the irregular shape of the lot and being undersized for the zone. He also told the Board that he obtained a variance for the setbacks for the garage in 2004 as well. Mr. Hu explained that the carport was basically an extension of the garage and would sit right next to it, acting like an awning coming off the garage and was nestled between the garage and a tree line. He indicated that his neighbor did not have a problem with the proposed location of the carport.

Chairman Thomas asked if the TRC had any comments to make regarding the Application, and Mr. Healey indicated that they did not have any issues with anything, just that the Applicant was required to obtain variances.

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, and Mr. Caldwell seconded the motion. The roll was called as follows:

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

AGAINST: None

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

Mr. John Wisneski, Esq., Attorney/Principal of Wisneski & Associates, appeared before the Board on behalf of the Applicant, Trust Under Article 6 u/w/o – Sigmund Sommer and Levin Properties, LP. Mr. Wisneski stated that they were before the Board that evening for what he explained was Phase II of the Application, after receiving a D(1) Use Variance approval with bulk variance approvals in a Resolution adopted on September 7, 2017. He then indicated that the Applicant was requesting Site Plan approval for 50 townhouse units provided in nine (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 FROM JANUARY 16, 2020 – with no further notification required.**

In addition to the D(1) Use Variance that was granted, the following additional variances were granted, per Mr. Healey's Planning report, dated November 27, 2019, as follows:

- Maximum Lot (Building) Coverage: 10% maximum permitted – 15% proposed
- Maximum Impervious Coverage: 20% maximum permitted – 55% proposed
- Street Width: 30 ft. minimum required – 26 ft. proposed.

Mr. Scott Turner, Engineer, employed with Menlo Engineering Associates, 261 Cleveland Avenue, Highland Park, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Turner then entered into the record as Exhibit A-2, The Promenade at Somerset overall plan. Mr. Turner then went through the different items shown on the exhibit for the Board's edification. He indicated that the site consisted of approximately 11.01 acres; and after the dedication of property along Cedar Grove Lane, the property would contain approximately 10.7 acres. He then noted that the property had frontage of 454 ft. of frontage along Cedar Grove Lane, with the property being approximately 830 ft. deep to the rear. Mr. Turner indicated that the property was bounded by office/warehouse uses to the rear that have frontages along Worlds Fair Drive, with the remainder of the surrounding uses being single-family homes and places of worship. He noted that the property was undeveloped at that time, and primarily wooded with a small pocket of freshwater wetlands and 50 ft. buffer at the northwest corner of the lot. Mr. Turner stated that there had been a Letter of Interpretation (LOI) issued by the NJDEP to delineate the limits of the wetlands.

Mr. Healey's Planning report indicated that the Site Plan submitted reflected:

- 50 townhouse units, including ten (10) affordable units at a density of 4.68 units/acre.
- Units provided in nine(9) separate buildings with each building containing either 5 or 6 townhouse units.
- Bedroom mix: thirty-eight (38) 3-bedroom units and twelve (12) 2-bedroom units with "studios",
- Total of 179 parking spaces (79 surface spaces, 50 driveway spaces and 50 garage spaces), where Residential Site Improvement Standards (RSIS) required 119 spaces.
- Access to the site is proposed via a single, two-way curb cut on Cedar Grove Lane.
- Buildings in excess of 200 ft. off Cedar Grove Lane with the portion of the site between the buildings and Cedar Grove Lane consisting of preserved wooded area, proposed recreation areas and a stormwater management basin.
- Stormwater management handled by two (2) basins – one (1) in front and one (1) in the rear of the site.
- Units would be two (2) stories in height, compliant with the height limitations of the zone.
- 15 ft. wide emergency access drive along the southerly side of the site.
- A zoning-compliant sign is provided near the site's entrance.
- Sidewalks are provided throughout the development, down the site driveway, and along the site frontage.
- The site plan complies with the dimensional variances previously granted in that: 26-ft. wide drive aisles are provided, lot (building) coverage is 13% (15% previously granted), and impervious coverage is 32% (55% previously granted).

Mr. Turner then discussed the details of the project, reflecting the details listed previously in this report and in Mr. Healey's Planning report. He added to the discussion that the ten (10) affordable units would consist of eight (8) 2-bedroom affordable (COAH) units, two (2) 3-bedroom affordable(COAH) units along with four (4) 2-bedroom market units, thirty-six (36) 3-bedroom market rate units.

Mr. Turner then drew the Board's attention to Exhibit A-3, the Promenade at Somerset Site Plan exhibit. He explained that it was a blown-up version of the Site Plan with an aerial overlay. He then noted that four (4) of the buildings would have five (5) units in each building and five (5) buildings with six (6) units in each building. Mr. Turner told the Board that each unit would have a one (1)-car garage and one (1) driveway space and that all units would have a private patio or deck space at its rear with all buildings built with slab on grade construction, with the exception of one building (Building #6-5 units) which was the most northwesterly building on the property, which would include basements. Mr. Turner showed the Board the location of each of the affordable (COAH) housing units in each building as well as the two (2) and three (3)-bedroom market rate units to see how they would be dispersed throughout all the buildings. He then told the Board that all of the units were located well off of Cedar Grove Lane, with a minimum of well over 200 ft. from the roadway and maintaining a stormwater management basin with a wet pond located in the southeast corner of the property adjacent to Cedar Grove Lane. He then noted the stormwater management facilities at the rear of the property along the west to include an infiltration area to address the Delaware & Raritan Canal Commission (DRCC) requirements for the lack of recharge permitted when properties drain into the canal. Mr. Turner then indicated that the access into the site would be through a single 26 ft. wide boulevard road (Road A) that came off Cedar Grove Lane. He noted the off-street parking spaces that would be dispersed throughout the site. He then discussed the provision of a 15 ft. wide paved emergency access driveway, located on the southerly side of the property that would also lead out to Cedar Grove Lane. Mr. Turner then drew the Board's attention to the new location of some of the recreational areas based on grading, location of utilities, etc. Mr. Turner then addressed a comment in CME's Engineering report asking for a softening of the 90-degree curve at the most northwest corner of the roadway, and he agreed to soften the curve a bit. Next, he discussed the inclusion of curbing and sidewalks within the development as well as along the frontage on Cedar Grove Lane, which was required as part of the Use Variance Application. Mr. Turner then told the Board and public that there would be 6,750 sq. ft. of open play area with corner fencing to delineate it as well as a 5,520 sq. ft. community garden, both of which were located at the southwest corner of the property. He added that they would be adding trash receptacles and water spigots for the garden area as well as fencing to protect the garden from animals. Mr. Turner then spoke about a 6,000 sq. ft. open area dog park that was to be incorporated into the project and would be surrounded by 6 ft. high fencing, located at the northeast corner of the property to include a water spigot and pet waste station. He then added that they had also added a 1,900 sq. ft. area to include a gazebo in combination with a four (4) ft. wide walking path that would connect the gazebo to the two (2) parking areas and Road A.

Chairman Thomas asked about the noise level at the dog park, and Mr. Turner indicated that there were a couple of residential neighbors in that area. A discussion ensued, and Mr. Turner stated that they could swap the dog park location with the community garden area, so that the adjacent residents would not be subjected to the barking dogs. The Chairman then asked if the detention basin would be wet year-round. Mr. Turner indicated that it was a wet pond and designed to conform to all the NJDEP standards and it would include an agitator included to keep the water moving to avoid mosquitos and other bugs. He added that it would be fenced in to include a 4 ft. high post and rail fence with safety mesh with gates included for maintenance.

Mr. Healey then spoke about a requirement for townhouse developments to have 400 sq. ft. of recreational space per unit. He added that larger communities usually include a clubhouse and pool, and that the Board needed to contemplate whether what had just been presented as active recreational space for the development would be adequate. Mr. Healey then stated that if the Board was in agreement to flip the spaces being used for the dog park and the community garden/open play area, that some thought should be contemplated to make the open play area more regularly shaped and to utilize the current community garden area.

Mr. Turner indicated that they did comply with the active recreational needs requirement for the project, allowing for 20,170 sq. ft. where 20,000 sq. ft. was required. He then drew the Board's attention to the parking needs for the development, stating that each unit would have one (1) car garage, a single car driveway, along with 79 (9' x 18') off-street parking spaces that would be distributed throughout the community and protected with Belgian block curbing. Mr. Turner then indicated that they also had 88 parking spaces spread out throughout the development, with a total of 179 parking spaces on-site, where 119 parking spaces were required, and complied with the Residential Site Improvement Standards (RSIS). A discussion ensued.

Mr. Turner then discussed the utilities for the project, including gas, electric, public sewer and water, telephone and cable which would all be brought underground to the site as well as a full stormwater management system that complied with the State, municipal and D&R Canal Commission (DRCC) standards.

In addressing the CME Engineering report, Mr. Turner indicated that they had been in contact with them and would be working with them on some of their technical comments to address them to their satisfaction. Mr. Turner then discussed the solid waste removal, indicating that it would be done by curbside pick-up with storage of cans in the garages or the sides of their homes. He testified that there would be no dumpsters on-site. Mr. Turner then drew the Board's attention to the Lighting Plan, noting that it was a pretty conventional plan that included all LED lighting on single post-hung fixtures with 12 ft. mounting heights with no spillage off the property. Mr. Turner moved on to the Landscaping Plan, to include 110 deciduous trees, 216 evergreen trees and 41 flowering trees along with 181 shrub plantings scattered throughout the development as well as 50 ground cover plantings. According to Mr. Turner, the Plan included street trees on the residential streets and along Cedar Grove Lane as well as maintaining the buffer around a good portion of the property, supplementing that with the buffer plantings of varying evergreen tree species, particularly along the frontage on Cedar Grove Lane and the northerly and southerly property limit. Mr. Turner testified that they would be maintaining as much of the vegetation on the property as they could and indicated that they would be planting street trees along their entire frontage of Cedar Grove Lane, with the exception of the area to be left undisturbed to the satisfaction of the municipal ordinance, making sure to stay out of the sight triangle areas of the driveways..

A discussion ensued about the placement of the dog park, the community garden and the play area. Mr. Turner suggested that the dog park could be placed at the rear of the property with the play area and the community garden could be placed at the front of the property, but with a substantial wooded area in front of it for screening.

Mr. Healey asked Mr. Turner what efforts they had made to create a 50 ft. buffer along the adjacent residential property lines. Mr. Turner discussed having more than a 50 ft. buffer

along Cedar Grove Lane and having roughly 54-56 ft. from the back of the buildings to the property line on the northerly property line, with the decks being 10 ft. closer than that. He then discussed their efforts to give as much space behind those units as possible, noting that they were able to maintain 25 ft. of existing vegetation, along with providing supplemental plantings. He then spoke about moving the emergency roadway slightly to increase the space on the southerly side of the property as well as proposing supplemental plantings in that area.

Mr. Turner then addressed CME's Engineering comments in Part G, items #9 and #11, speaking about the strict standards for runoff into the canal required by the DRCC and how they would accomplish adhering to them as well as to the Engineering comments. Mr. Turner testified that they would be able to comply with all the items in CME's report, by working with their staff.

Mr. Turner then drew the Board's attention to Mr. Healey's Planning report, indicating that he would work with Mr. Healey to satisfy all engineering/technical issues. He added that they would work to satisfy any comments from the Traffic Safety Bureau, Fire Prevention (no objection, with changes made), Franklin Township Sewerage Authority and Dept. of Health (no objection). Mr. Turner then stated that the Environmental Commission had a comment regarding the impervious coverage on the property. He noted that the Use Variance had been granted with a maximum coverage of 15% for building coverage and a maximum of 55% for impervious coverage, where 10% building coverage and 20% impervious coverage was the maximum allowed in the R-40 single-family residence zone. Mr. Turner indicated that they had a 13% building coverage and a 32% impervious coverage on the subject property, significantly lower than what was permitted by the grant of the Use Variance. He then told the Board that they would comply with all the comments in the Public Works memorandum.

Ms. Daniel Simon, Architect employed with NVR, Inc., 5285 Westview Drive, Frederick, MD, came forward and was sworn in. The Board accepted his qualifications. Mr. Simon entered into the record, Exhibits A-4 through A-19. He showed Exhibit A-4, which he stated was a rendering of a typical five (5)-unit building, showing the affordable (COAH) unit in the middle called the "Roxbury" and the two market rate units flanking that on each side called the "Waldorf". He described the building materials as including cultured stone and a neutral-colored siding with white trim with accents located within the gabled roof and a "cottage-style" garage door with windows. He then noted that each unit would have a covered entry. Mr. Simon then showed Exhibit A-5, which was a black-line drawing of the previous rendering shown in Exhibit A-4 as well as the left end side unit elevations and rear elevation. He discussed the architectural features on both as well as the plan view showing the units stepped in and out to avoid a flat building façade. Mr. Simon then showed Exhibit A-6, which he stated was a rendering of a typical 6-unit building, with the two "Waldorf" market rate units on each end and the two (2) "Roxbury" affordable (COAH) units in the center. He told the Board that the exterior design and building material were the same as the five (5)-unit building. Mr. Simon then showed Exhibit A-7, which was a black-line drawing of the previous rendering shown in Exhibit A-6. He noted that it also included the left-end side unit elevations, the rear elevations as well as showing the units stepped in and out. Mr. Simon then showed Exhibit A-8, showing the main level entry constructed on a slab, one (1)-car garage first floor interior view of the "Roxbury" affordable (COAH) unit that included a bedroom, closet, kitchen, dining area and fully accessible bathroom space as well as closets, water heater closet and stairs leading up to the second floor. He then showed the Board

Exhibit A-9, which was the second-floor view of the “Roxbury” two (2)-bedroom affordable (COAH) unit that included a bedroom, closet space and laundry area and a small attic storage area, for a total of 1,182 sq. ft. of living space. He added that a 3-bedroom unit would include 1,512 sq. ft. of living space. Mr. Simon then showed the Board Exhibit A-10, which showed the second floor of a three (3)-bedroom “Roxbury” affordable (COAH) unit that included two (2) bedrooms, closet space, laundry area, with an option for a second bathroom on that second floor. Mr. Simon then detailed what was included in Exhibit A-11, which showed a “Waldorf” market-rate unit with a basement, with an option to finish off the recreation room area, adding approximately 520 sq. ft. of living space and an option to add a half bathroom as well. Mr. Simon then showed Exhibit A-12, which detailed the main floor of the “Waldorf” market rate unit that included a one (1)-car garage, a flex space or living room as you enter, a kitchen, powder room, coat closet, staircase to second floor (with storage area underneath for units constructed on a slab), and a family room/dinette space. He explained that the “Waldorf” market rate unit had approximately 2,000 sq. ft. of living space. Mr. Simon then showed the Board Exhibit A-13, that showed the interior views of the first floor for the “Waldorf” market rate unit with basement, showing an interior unit and an end unit. He then drew the Board’s attention to Exhibit A-14, which showed the second floor options for the two (2)-bedroom “Waldorf” market rate unit that included a laundry space at the top of the stairs, master bedroom, master bathroom. walk-in closet and secondary bedroom with closet, a hall bathroom. Next, Mr. Simon showed Exhibit A-15, which showed the second floor of a three (3)-bedroom “Waldorf” market rate unit that was the same as the two (2)-bedroom “Waldorf” market rate unit, but with three bedrooms.

Mr. Simon then addressed some of the comments from the staff reports. He described where the steps would be to the rear patio, noting that the slab units would have a 10 ft. x 18 ft. concrete patio with a four (4) inch stepdown from the main living level. He noted that there would be a same sized deck on the basement units with the same stepdown from the main level.

A discussion ensued among the Board regarding some of the elements of the units.

Mr. Healey then asked for better clarification on the plans to better differentiate and identify the affordable units as well as better differentiate between the coordination of the Site Plan and the architectural drawings as far as exactly where the two (2) bedroom and three (3) bedroom market rate units were located. Mr. Simon then agreed to make the changes on the plans to make things clearer.

Mr. Healey stated that the exhibits being shown that evening were different from what was presented at the Use Variance hearing, and he wanted Mr. Simon to explain the changes that had been made. Mr. Simon then discussed the conceptual plan, marked into evidence as Exhibit A-16, that was presented at the Use Variance hearing, stating that some of the reasons for changes to the plan since that time were for various reasons, including code compliance, structural reasons, constructability of materials, etc. Mr. Healey explained that all the components, including the Site Plan, the layout, lighting, landscaping, the architecture as well as the character of the development, of the Use Variance hearing were used in support of the granting of that variance. A discussion ensued among the Board, and Mr. Simon explained some of the differences in what was proposed in the conceptual plan and the Site Plan being shown that evening.

Mr. Scott Kennel, Traffic Engineer/Principal with McDonough and Reyes Associates, 1431 Lakewood Road, Manasquan, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Kennel indicated that he testified at the Use Variance hearing about the traffic report he had prepared and submitted to the Township, dated September 26, 2016, as well as a supplemental report, dated December 27, 2016 that included additional data collection requested by the Board. He noted that both reports were prepared for the Applicant to obtain the Use Variance. Mr. Kennel then gave a general overview for the Site Plan being presented that evening, making sure the Board understood that the traffic counts presented previously were conducted in 2015/2016. He then told the Board that he reviewed traffic data that was collected by NJDOT in 2018, which he indicated was fairly consistent with the data presented at the prior hearings. Mr. Kennel indicated that the morning peak hours on a typical weekday were between 7:15 a.m. and 8:15 a.m. (30 trips) and between 5 p.m. and 6 p.m. (35 trips) on Cedar Grove Lane taken from data published by the Institute of Transportation Engineers (ITE). He added that they anticipated that 60% of the traffic from the site would be oriented towards Easton Avenue and 40% would be oriented towards the south and that the driveway on Cedar Grove Lane would operate at a level "C" for site access. Mr. Kennel then told the Board that they analyzed the data to determine that there would be a level "A" for left turn movements into the site. He then discussed sight distances, emergency access, design of Road "A" and parking provision. Mr. Kennel testified that he believed the parking provided was more than adequate to support the development.

Mr. Healey asked whether they had any input from Somerset County since Cedar Grove Lane was a County road. Mr. Kennel indicated that they had already submitted their plan to the County with comments returned on December 18, 2019 regarding storm water management and recycling requirements. He noted that there were no comments on the traffic analysis.

Mr. Caldwell inquired as to what the posted speed limit would be within the community. Mr. Kennel responded that they did not have a posted speed limit because the development was mostly a parking area.

Mr. Paul Phillips, Planner/Principal with Phillips Price, 33-41 Newark Street, Hoboken, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Phillips indicated that he testified at the Use Variance hearing and was there to satisfy the negative criteria on the Site Plan and told the Board that he felt the Site Plan could be granted without substantial detriment to the public good or substantial impairment of the zone plan. He indicated that the Site Plan largely mirrored the Use Variance, both in terms of the unit count and basic layout, with some changes to the recreation area layout. He then also pointed out that there was actually less building and impervious coverage than what had been permitted with the Use Variance approval and believed that they satisfied all the conditions of that approval.

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

Mr. Wisneski then gave his closing summation for Preliminary and Final Site Plan approval.

Mr. Shepherd opened a discussion regarding the affordability to add an optional bathroom on the second floor for the affordable (COAH) units and his belief that the second-floor



bathrooms should be included. Mr. Wisneski indicated that, in consultation with the Applicant, they would have all the affordable units include a bathroom on the second floor.

Vice Chair Graumann then opened a discussion regarding the locations of the open play area and dog park as well as the community garden. The Board agreed to place the open play area and dog park together in the rear portion of the property, with the community garden near the front of the property.

Mr. Shepherd made a motion to grant the Site Plan approval with the addition of the second bathroom in the affordable (COAH) units and the movement of the dog park and open play area to the southwestern corner of the property, with the community garden placed to the northeastern corner of the property. 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. Shepherd and Chairman Thomas

AGAINST: None

- **JOHN SUDIA / ZBA-19-00008**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, John Sudia. He indicated that they were before the Board that evening in order to obtain approval for C Variances in which the Applicant was seeking to construct a 1-story addition to the rear of the house, a covered porch to the front of the house and two large additions to the existing garage at 2024 Amwell Road, Somerset; Block 73.01, Lot 53.01, in an R-40 Zone - **CARRIED FROM JANUARY 16, 2020 – with no further notification required.**

Mr. John Sudia, Applicant/Owner, 2024 Amwell Road, Somerset, NJ, came forward and was sworn in. Mr. Sudia stated that he purchased the property in the 1990's from his uncle. He gave the Board an overview of what was on the property at the present time, including a small, one-story single-family with a basement and one-car garage with a pole barn beside it. He then told the Board that he owned the property, which was at the end of the flag lot, as well as the property just opposite the subject property. He stated that the flag lot came to be as a result of a subdivision that took place in the 1990's. Mr. Sudia indicated that he planned to add an additional bedroom to the home as well as make all the existing rooms in the home larger. He then explained to the Board that he uses the pole barn for woodworking, car repairs, etc. and wanted to make the space larger in order to bring some of his equipment inside and to store some classic cars. He added that another part of the project was to create a covered porch on the front of the home.

Mr. Ronald Sadowski, Engineer, 10 Edward Avenue, Edison, NJ 08820, came forward and was sworn in. The Board accepted his qualifications. He then entered into the record as Exhibit A-1, a site rendering (drawing #R, dated January 1, 2020). Mr. Sadowski oriented the Board regarding the location of the property in relation to Amwell Road, how one would access the property and what surrounded the subject property. He then spoke of the access driveway, which was a 50 ft. wide easement. Mr. Sadowski then noted that there was another lot (Lot 53.02) at the rear of the access driveway that was also owned by Mr. Sudia. He then

testified that the subject property contained close to 68,000 sq. ft. He directed the Board's attention to Exhibit A-1 where he discussed the structures that existed on the property currently and their dimensions. He noted that the existing single-family home included 1,500 sq. ft. with an existing garage (pole barn) that was also 1,500 sq. ft. Mr. Sadowski indicated that they were proposing an approximately 750 sq. ft. covered porch on the front of the home and a new one-story addition on the back of the home consisting of 1,400 sq. ft., for a total of almost 3,000 sq. ft. in livable space. Mr. Sadowski then explained to the Board how the pole barn was going to be expanded, noting that a concrete slab with a roof over it would be added to the north side of that structure and a one-story addition would be added to the south side. He testified that the new pole barn addition would be approximately 1,800 sq. ft.

Mr. Sadowski then reviewed the bulk variances that they were seeking, including:

- Setback (north) – 40 ft. required for flag lot– 19.6 ft. existing – 23.1 ft. proposed (house addition)
- Setback (west) – 40 ft. required for flag lot – 40+ ft. existing – 19.8 ft. proposed (coverage porch)
- Setback (east) – 40 ft. required for flag lot – 50 ft. (house) and 38 ft. (garage) existing - 10.7 ft. (garage addition) and 25 ft. (house addition) proposed
- Lot (Building) coverage - 10% permitted – 13.9% proposed
- Impervious coverage – 20% permitted – 25.3% proposed

Mr. Sadowski drew the Board's attention to the aerial photograph of the subject property shown on Page 3 of the Technical Review Committee (TRC) report, showing a nice tree row buffering the property from the adjacent residential property. He noted that there was Rutgers-owned open space at the rear of the subject property and property that Mr. Sudia also owned that was adjacent on the other side of the subject property.

Mr. Sadowski then addressed the TRC report and indicated that they would be able to comply with all the comments listed.

Chairman Thomas then inquired as to the use of the concrete slab with an overhead roof attached to the pole barn. He wondered whether the exclusion of that concrete slab could reduce the impervious coverage. Mr. Lanfrit referred the Board to the plan set, showing that both additions to the pole barn would be enclosed, noting that the previous testimony of Mr. Sadowski was erroneous. Mr. Sudia then enumerated the types of equipment he wanted to store inside of the enlarged pole barn to include tractors, lawnmowers, leaf blowers and other household equipment as well as woodworking equipment.

Chairman Thomas then expressed his concern that the equipment that Mr. Sudia wanted to keep enclosed in the pole barn was not going to be used for commercial use. Mr. Sudia testified that the expansion proposed had nothing to do with any kind of commercial use and wanted it for his own personal use and enjoyment.

Vice Chair Graumann then opened a discussion regarding the second lot that Mr. Sudia owned adjacent to the subject lot, suggesting he could merge the lot into one to avoid the impervious coverage variance. Mr. Sudia indicated that he had subdivided the property years ago and was approved. He added that he planned to keep the adjacent lot undeveloped at this time, and Mr. Sadowski stated that they did design, as part of the Site Plan Application, a

dry well to take into consideration the impervious coverage increase. He explained that the net results of the runoff there would be less than what was currently on the property.

Mr. Healey indicated that there was an additional variance that was not listed on the TRC report, regarding the 18.6 ft. setback to the new one-story garage addition to the west but were reflected on the plans. Mr. Lanfrit agreed that was included in the plan set.

Mr. Procanik then inquired as to whether there would be any new bedrooms included in the house addition, and Mr. Lanfrit indicated that there was testimony earlier stating that there would be one (1) additional bedroom which was why the Health Dept. needed to review the septic system on-site and be redesigned to accommodate for that.

Mr. Lagana, Board Attorney, asked whether there was any consideration given regarding the 10.7 ft. setback for the garage addition since the rear of the property was largely the buffer area to the open space land. He suggested that the addition could have been expanded to the rear of the property. Mr. Lanfrit stated that if the Board had a concern, it could be adjusted.

Mr. Kevin O'Brien, Planner, Madison House, Suite B, Madison Avenue, Rahway, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien then gave his justification for the variances requested and discussed the proofs for both C-1 and C-2 arguments. He noted that the property and proposed buildings were so far from any other neighbors, he did not see that there would be any negative impact. In discussing the issue of the 10.7 ft. setback variance required, Mr. O'Brien indicated that there was a horse corral that would be impacted should they shift the garage expansion more towards the rear of the property. He then indicated that he felt the variances could be granted without substantial detriment to the public good or without substantial impairment to the zone plan and zoning ordinance.

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

Mr. Lanfrit then gave his closing summation to the Board.

Mr. Procanik then opened a discussion regarding a memo from the January 25, 2020 Somerset Union Soil regarding the disturbance on the property being 40,000 sq. ft. which was in excess of the 5,000 sq. ft. permitted without obtaining a permit. Mr. Sadowski indicated that they would be submitting to Somerset Union Soil for a permit, but there would be some additional land disturbance for the construction of the dry well and new septic system over and above the 3,000 sq. ft. disturbance for both the home addition and garage addition. In totality, Mr. Sadowski indicated that the disturbance would be more in line with approximately 10,000 sq. ft. total at the high end. A discussion then ensued regarding a tree replacement plan which Mr. Sadowski indicated would be finalized when they went for permits.

Vice Chair Graumann made a motion to approve the Application, with variances, 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. Shepherd and Chairman Thomas

AGAINST: None

- **DIAMOND INVESTORS & BUILDERS, LLC / ZBA-19-00031**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Diamond Investors & Builders, LLC. He indicated that they were seeking a C Variance in which the Applicant was looking to build a 2-story single family dwelling. The subject is a corner lot located at the intersection of Market Street and Livingston Street in East Millstone; Block 62, Lot 3, in an R-10 Zone - **CARRIED FROM JANUARY 16, 2020 – with no further notification required.**

Mr. Lanfrit indicated that they had been before the Historic Commission on three (3) different occasions for their approval of the proposed dwelling, with modifications given. He noted also that the home that would be constructed on the property was going to be somewhat smaller than what was shown on the plan before the Board that evening. Mr. Lanfrit advised the Board that the only reason that they were before the Board was because the property was a corner lot in the R-10 Zone and the requirements were for 13,125 sq. ft. lot area and 105 ft. minimum lot frontage. The following variances were enumerated in the Technical Review Committee (TRC) report of 10/29/2019, as follows:

- Lot area: 13,125 sq. ft. minimum required – 10,000 sq. ft. existing/proposed
- Lot frontage: 105 ft. minimum required – 100 ft. existing/proposed (both frontages)

Mr. Sanjeev Satwah, Principal/Owner – Diamond Investors & Builders, 3086 Rte. 27, Suite 12, Kendall Park, NJ, came forward and was sworn in. Mr. Satwah indicated that he purchased the property in 2016, which was a vacant lot. Mr. Satwah then described for the Board the plans for the home he originally submitted as part of the Application before they went before the Historic Commission. He indicated that it was a single-family colonial-style home with four (4) bedrooms and 3-1/2 baths with vinyl windows, vinyl siding, vinyl shutters with a plain plastered foundation. Mr. Satwah then described the suggested changes made by the Historic Commission, including a change to using fibrex windows (Andersen 100 Series), utilizing a fiber cement siding with a smooth finish and the use of wood shutters, and the change from a plain plastered foundation to a veneer brick foundation. He also stated that the proposed home was made smaller after going before the Historic Commission, indicating that the home went from having a two-car garage to now having a one-car garage. Mr. Satwah also noted some changes to the exterior, with the inclusion of a break in the architecture of the front of the home so that there would not be one solid mass across the front. Mr. Satwah testified that the Historic Commission did approve the home with the changes that were made. Mr. Satwah then testified that the two lots to the left of the subject property on Livingston as well as the one lot to the right of the subject property on Market Street were already fully developed, so there was no land available to make the subject lot larger in order for it to comply. He told the Board that they sent out the traditional buy/sell letters to the adjacent property owners, noting that he sent a letter to Mr. Tuvlin, the owner of 34 Market Street, in 2019 asking if he was interested in purchasing the subject property or selling his property, but received no response. Mr. Lanfrit entered that letter into the record as Exhibit A-1. He also offered that there was a letter sent to the owner of Block 62, Lot 3, which

was 27 Market Street, owned by Andras and Patricia Fichetti,, with no response as well. Mr. Lanfrit entered that letter into the record as Exhibit A-2.

In response to the TRC report of 10/29/19, Mr. Satwah indicated that they were asking for a waiver of curbing and sidewalk since there was none included in the entire village of East Millstone. He indicated that they could comply to all the other comments in the TRC report, including tree removal, dry well, affordable housing fees, etc.

Mr. Shepherd then questioned the Applicant regarding the buy/sell letter that was sent out to the neighboring property owners. He questioned the language used in the letter and asked the Board Attorney, Mr. Daniel Lagana, for his opinion. A discussion ensued regarding this topic. Mr. Lanfrit indicated that they worded the letter by just asking if they wanted to buy the subject lot at market value because all of the adjacent property owner's land was 10,000 sq. ft. in size, which was the requirement in the zone so they did not have any land to sell the Applicant.

Mr. Rich then asked why the Historic Commission wanted the house to be smaller, and Mr. Satwah stated that, even though the house met all the bulk requirements of the zone, because the one roof-line created a larger mass of building than was typical of the neighborhood, they were asked to reduce its size. In reducing the size, there remained only one (1) garage and a smaller rear bedroom. Mr. Lanfrit then reiterated that the Historic Commission approved the smaller, redesigned home, and that they would agree to a condition of approval to build the home that was approved.

Mr. Kevin O'Brien, Planner, Madison House, Suite B, Madison Avenue, Rahway, NJ 07065, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien gave his opinion of his conclusions, noting the de minimus exception to the lot frontage requirement, the proposed home meeting all the bulk requirements of the zone, and mirroring the suggestions from the Historic Commission. He indicated that he felt the bulk variances for the property could be granted under a C-1 Hardship argument since the deficiencies were existing and not being exacerbated by the proposal. Mr. O'Brien also mentioned that attempts were made to sell the property, with no practicality to purchase adjoining properties. He then stated that the two (2) required variances also met the standards of the flexible C-2 in that the benefits outweigh the detriments in that it was a better planning alternative than leaving the property as a vacant lot, which would be out of character with the neighborhood. Mr. O'Brien also mentioned that other corner lots in the neighborhood were similarly undersized. His conclusions were that he believed the Application could be granted without substantial detriment to the public good and without substantial impairment to the zone plan and the zoning ordinance.

Mr. Procanik stated that the engineering plans for the proposal indicated that a four-bedroom home required 2-1/2 parking spaces on-site, based on Residential Site Improvement Standards (RSIS) standards, and that only two (2) were being provided. He then asked whether a variance for less than the required parking provided was needed. Mr. Lanfrit stated that when they submitted the Application, it did not require a variance because they had a two (2)-car garage to account for two parking spaces, plus there was adequate parking for two (2) cars in the driveway. When asked to reduce the garages to only one (1) garage by the Historic Commission, Mr. Lanfrit believed that they would require a variance for the 1/2 parking space because they only had two (2) parking spaces on-site and the Township required a

rounding up of parking requirements when there was a fraction of a parking space required. He then asked for a variance for the lack of a third parking space on-site but told the Board that they had noticed the hearing to include all additional variances required. A discussion ensued regarding whether there was street parking available. Mr. Lanfrit indicated that there were narrow streets, but that there was some street parking available. He added that if the Board had a concern, they could widen the driveway to allow for an additional parking space on the driveway. A discussion ensued. Mr. O'Brien added that since the property was a corner lot, there were two (2) frontages on which to park. He also reminded the Board that the Historic Commission approved the house presented that evening as more in keeping with the neighborhood.

Chairman Thomas then opened the meeting to the public.

Ms. Matson, Principal of Matson Construction, 4 Devons Court, Hillsborough, NJ, came forward and was sworn in. Ms. Matson indicated that she almost bought the subject property about six (6) years ago, finding out then that the whole block there was contaminated with chemicals, with notification from the NJDEP that showed contamination from a previous chemical company that had been on the property. Mr. Lanfrit indicated that they would employ an Environmental Consultant to do a review of that issue and would have to do any remediation if that were still a concern. A discussion ensued, with Mr. Lanfrit explaining that if the Applicant went to obtain financing to build the home, they would have to do an environmental audit in Phase I of the construction and would come to light at that time. He noted, however, that the Township would not require an environmental study on the property in order to obtain a building permit unless it was being built on a registered hazardous waste site.

Chairman Thomas then closed the meeting to the public.

Vice Chair MacIvor made a motion to approve the Application, granting a Parking Variance for two (2) parking stalls instead of three (3) and subject to the changes approved by the Historic Commission. Mr. Rich seconded the motion and the roll was called as follows:

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

AGAINST: None

- **DIAMOND INVESTORS & BUILDERS, LLC / ZBA-19-00030**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Diamond Investors & Builders, LLC. Mr. Lanfrit indicated that they were seeking a C Variance in which the Applicant was looking to build a 2-story, single family dwelling at 61 Juliet Avenue, Somerset; Block 160, Lot 1.01, in an R-7 Zone - **CARRIED TO MAY 7, 2020 – with no further notification required.**

Mr. Lanfrit advised the Board that the only reason that they were before the Board was because the property was a corner lot in the R-7 Zone, at the corner of Ray Street and Juliet

Avenue. The following variances were enumerated in the Technical Review Committee (TRC) report of 11/25/19, as follows:

- Lot area: 9,000 sq. ft. minimum required – 5,500 sq. ft. existing/proposed
- Lot frontage: 90 ft. minimum required – 55 ft. existing/proposed (Juliet Avenue frontage)

Mr. Lanfrit then explained that there was a deck shown to the rear of the property on the plans, but they were removing that so as not to create another variance.

Mr. Sanjeev Satwah, Principal/Owner – Diamond Investors & Builders, 3086 Rte. 27, Suite 12, Kendall Park, NJ, came forward and was sworn in. Mr. Satwah indicated that he purchased the corner vacant lot property through a foreclosure sale in 2017 and intended to build a single-family home on the property. He then described the dwelling he intended to build on the property that would include four (4) bedrooms and 3-1/2 bathrooms with vinyl siding and windows and an asphalt-shingled roof. He then noted that the proposed home was oriented towards Ray Street. He told the Board that they sent out the traditional buy/sell letters to the adjacent property owners; however, the adjoining lots were either already conforming lots or even undersized for the zone. Mr. Lanfrit indicated that he sent two letters, both dated February 26, 2019, to adjoining property owners. He stated that the first one, sent to Beatrix Kerper, 63 Juliet Avenue, was signed and returned on March 11, 2019, indicating no interest in purchasing the lot. Mr. Lanfrit then stated that he sent the second letter to Gabriella Teta Mora, who did sign and return the letter indicating interest in purchasing the lot. Mr. Lanfrit went on to explain that after understanding the fair market value of the property, Ms. Mora then signed a letter dated March 27, 2019, indicating that she was no longer interested. The two letters related to Ms. Mora were then entered into the record as Exhibit A-2 and Exhibit A-3.

Mr. Lanfrit then addressed the comments in the November 25, 2019 TRC report. He then discussed the comments in the report related to a previous subdivision related to the property. He stated that Mr. Healey, Planning Director, brought to their attention that there was an approval in the late 1970's regarding the property and that the subject lot was supposed to have been conveyed and merged with Lots 5, 6, and 7, which was the corner property of Ray Street and Newport Avenue. He then explained that that never happened, and at that time, the subdivision involved some family members. He further detailed that the property at the corner of Ray Street and Newport Avenue to which the subject property was to have been conveyed is no longer owned by any of the people involved in the application in the 1970s. He also added that the subject lot was also not owned by anyone who had any relationship to the 1970s application. Furthermore, he reiterated that the person who now owned the corner lot on Ray Street and Newport Avenue were not interested in acquiring the subject property. Mr. Lanfrit told the Board that the subject property remains as is, as an isolated lot and, therefore, felt it was subject to review by the Board and the grant of the variance if the proofs were met. Mr. Lanfrit then told the Board that the subject lot was not owned by anyone who had any dealings in the 1970s application.

Mr. Lanfrit explained that they did meet all the coverage requirements of the zone. The Applicant agreed to provide sidewalks along both frontages of the property since there were sidewalks in the area but was requesting a waiver to provide curbing since there was none in the neighborhood currently. Mr. Satwah agreed to comply with all other comments in the TRC report, i.e., tree replacement, dry wells, etc.

Vice Chair Graumann opened a discussion regarding the size of the home and whether it was consistent with what was typical of that neighborhood. She indicated that the lot was substantially sub-standard in the zone and the proposed home was just below the maximums for building coverage and impervious coverage.

Chairman Thomas then asked what the square footage of the proposed home was. Mr. Lanfrit indicated that the footprint was 1,100 sq. ft. and they were proposing a 2-1/2 story home.

Mr. McCracken opened a discussion regarding ADA curbing and sidewalks near the signalled intersection. A discussion ensued among the Board.

Chairman Thomas then opened the meeting to the public.

Mr. Dennis Lukovitch, 51 Ray Street, Somerset, NJ, came forward and was sworn in. Mr. Lukavitch expressed his concern regarding the proposed size of the home and the significantly undersized lot. He told the Board that he was concerned for where the storm water would go with the subject lot being mostly encompassed by the footprint of the home. Mr. Lukovitch was also very concerned regarding the parking since there was only one on-site parking space being provided. A discussion ensued regarding the mitigation that would occur on the property regarding the storm water runoff.

Ms. Geraldine Fudge, 35 Ray Street, Somerset, NJ, came forward and was sworn in. Ms. Fudge expressed her concern for the safety of the children in the neighborhood, especially with the recent addition of the Wawa on Rte. 27 bringing additional traffic into the neighborhood and what the four (4)-bedroom home that was proposed will do to affect traffic, especially at the corner of Ray Street and Juliet Avenue as well as at Newport Street and Juliet Avenue. She also discussed her concerns for her basement flooding and the parking issues in the area. A discussion ensued among the Board.

Ms. Betty Horvath, 32 Ray Street, Somerset, NJ, came forward and was sworn in. Ms. Horvath. She expressed her concerns regarding residents' safety and opposed the construction of such a large home on such an undersized lot.

Ms. Jennifer Howard, 88 Eugene Avenue, Somerset, NJ, came forward and was sworn in. Ms. Howard expressed her concern for the already inadequate parking in the area and was concerned for more of the same from such a large home. Mr. Healey stated that the home, as presented, included a one-car garage and a 12 ft. wide driveway. As it stood at that point, they would either require a parking variance, or a possible impervious coverage variance to provide more on-site parking.

Mr. Lanfrit stated that if there was concern for the size of the home and the parking requirements, they would be agreeable to eliminate one (1) of the bedrooms, which would allow them to comply with the parking requirements based on Residential Site Improvement Standards (RSIS).



Ms. Howard questioned how the height/size of the home would affect the site line at the corner. Mr. Healey indicated that the Application complied with the setbacks of the zone – 25 ft. back from each street. Mr. Lanfrit indicated that they were 29 ft. back from Juliet Avenue.

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

A discussion ensued among the Board regarding any future owner having a problem putting up any additional items on the property, i.e., pool, shed, patio, etc., if the size of the home were not reduced.

Mr. Lanfit asked that the matter be carried to May 7, 2020, with no further notification required to submit new plans for a three (3)-bedroom home. Mr. Lagana, Board Attorney, also added that a consideration should be given to possibly increase the size of the driveway in order to allow for an additional car on-site. The Board was in agreement.

**DL 5/30/2020**

**WORK SESSION/NEW BUSINESS:**

There was no work session or new business discussed.

**MEETING ADJOURNED:**

Chairman Thomas made a motion to adjourn the meeting at 11:00 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
April 8, 2020