

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

**VIRTUAL MEETING
May 21, 2020**

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

PRESENT: Anthony Caldwell, Laura Graumann, Bruce McCracken (arrived at 7:48 p.m.), Gary Rosenthal, Robert Shepherd, Joel Reiss, Cheryl Bethea, Richard Procanik, Kunal Lakhia and Chairman Thomas

ABSENT: Alan Rich

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

MINUTES:

- **Regular Meeting – February 6, 2020**

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

FOR: Mr. Caldwell, Mr. Rosenthal, Mr. Shepherd, Ms. Bethea, Mr. Procanik
Mr. Lakhia and Chairman Thomas

AGAINST: None

- **Regular Meeting – February 20, 2020**

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. Rosenthal, Mr. Shepherd, Ms. Bethea,
Mr. Procanik and Chairman Thomas

AGAINST: None

- **Regular Meeting – March 5, 2020**

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. Rosenthal, Mr. Shepherd, Ms. Bethea, Mr. Procanik and Chairman Thomas

AGAINST: None

RESOLUTIONS:

- **Nester & Victor Marin / ZBA-19-00027**

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

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

AGAINST: None

- **Calvary Baptist Church / ZBA-19-00005**

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

FOR: Mr. Caldwell, Mr. Rosenthal, Mr. Shepherd, Ms. Bethea, Mr. Procanik and Chairman Thomas

AGAINST: None

- **Eric Hu / ZBA-20-00001**

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

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

AGAINST: None

- **Trust Under Article 6 u/w/o Sigmund Sommer & Levin Properties, L.P / ZBA-19-00015**

Mr. Rosenthal made a motion to approve the Resolution, as submitted, and the motion was seconded by Ms. Bethea. The roll was called as follows:

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

AGAINST: None

- **John Sudia / ZBA-19-00008**

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

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

AGAINST: None

- **Diamond Investors & Builders, LLC / ZBA-19-00031**

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

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

AGAINST: None

- **Franklin Food Bank / ZBA-19-00035**

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

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

AGAINST: None

- **Allesha Jaddu / ZBA-19-00044**

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

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

AGAINST: None

HEARINGS:

- **SAI DATTA MANDIR, INC / ZBA-19-00037**

Applicant was seeking a D(3) Conditional Use, C Variances and Site Plan to construct a 28,400 sq. ft. place of worship at 583 South Middlebush Road, Somerset; Block 36.01, Lot 6.03, in the Agricultural (A) Zone - **CARRIED TO A DATE TO BE DETERMINED – with further notification required.**

DL - 8/31/2020

- **TERENCE BROWNING / ZBA-20-00003**

“C” Variance in which the Applicant was requesting to place a 24’ x 32’ garage to the rear of the driveway at 9 Laird Terrace, Somerset; Block 86.01, Lot 9.33, in an R-40 Zone – **CARRIED TO MAY 21, 2020 – with further notification required.**

Mr. Healey explained that the subject property was comprised of a 1-acre property with a single-family residence in a single-family sub-division located just off Bennetts Lane. He went on to explain that the Applicant was seeking a variance to place a 24 ft. x 32 ft. (768 sq. ft.) garage to the rear of the existing driveway. He then noted that the accessory building side setback in the Agricultural (A) Zone was 25 ft., where 10 ft. was proposed. They then showed the location on the property utilizing the plot plan and then showed photographs of the property to give the Board members and the public an idea of where the garage would be located on the property.

Mr. Terence Browning, Applicant/Homeowner, 9 Laird Terrace, Somerset, NJ, came forward and was sworn in. He noted that Mr. Healey summed up correctly the reason that he was before the Board and the need for the variance. He added that there was a line of trees along the property line separating his property with his neighbor’s and that it would not be an eyesore to anyone as a result.

Mr. Reiss asked Mr. Browning if the neighbors were okay with the proposal, and Mr. Browning indicated that he had sent out the certified letters to his neighbors, with no one coming forward with any objections. Mr. Browning further explained that the garage would be the same color as the residential home and the roof would be the same color as the roof on the existing home. Chairman Thomas discussed the hardship of having an irregular side yard

property line in the rear of the property as well. Mr. Browning indicated that he would be storing two (2) vintage cars in the newly proposed garage.

Chairman Thomas then opened the meeting to the public for questions or comments. Mr. Healey unmuted all members of the public registered for the meeting and asked if there were any questions or comments. Hearing no one speak up, Chairman Thomas then closed the meeting to the public.

Mr. Reiss made a motion to approve the Variance, and Ms. Bethea seconded the motion. The roll was called as follows:

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

AGAINST: None

- **NEIL PATEL / ZBA-20-00005**

“C” Variance in which the Applicant wanted to construct a single-family home at 237 Lenox Place, Somerset; Block 300, Lots 22-27, in an R-15 Zone - **CARRIED FROM MAY 7, 2020 – with further notification required.**

Mr. Healey then gave a brief summary of the proposal before the Board, noting that the property was a 15,000 sq. ft., undeveloped site on the easterly side of Lenox Place in a zone that allows for the inclusion of single-family homes on 15,000 sq. ft. sites and was compliant in terms of lot area and frontage (150 ft. in width and 100 ft. in depth). He went on to state that the following variances were required in association with the proposed home construction:

1. **Front Yard:** 30 ft. required – 27.5 ft. proposed to the covered front porch
2. **Rear Yard:** 50 ft. required – 33.87 ft. proposed

Mr. Neil Patel, Applicant, 8 Terry Avenue, Edison, NJ, came forward and was sworn in.

Mr. Roberto Hernandez, Architect, 267 Amboy Avenue, Metuchen, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Hernandez explained that he was retained by the Applicant to design a single-family home for the proposed property. He added that he knew that there would be variances required for the front and rear yard setbacks due to the limitations of the depth of the parcel and stated that if he designed a compliant home, the depth of that home would only be 20 ft. Because of that situation, Mr. Hernandez explained that he designed the home to follow the lot, making it wider and not as deep as a typical modern home would be in order to diminish the variances required for front and rear yard setbacks. He then told the Board that he designed a 2,350 sq. ft. home, excluding an oversized garage, that included three (3) bedrooms and three (3) full bathrooms. Mr. Hernandez told the Board and public that the front porch that was included with the home was causing the need for the front yard setback variance. Mr. Hernandez explained that the Site Plan that was being shown on the screen was prepared by Hermosa Engineering. He noted that they were proposing an expanded garage to the right of the home and did not affect any

of the setbacks and would be compliant. He then told the Board that they were also asking to raise the proposed height of the home by 2 ft. from what was shown on the plans and would still be under the required 35 ft. maximum height. Mr. Healey then added that the home, as designed, complied with the 30 ft. setback; however, a covered porch extended forward 2 -1/2 ft. beyond a compliant front yard setback line, creating the need for a variance. The Applicant indicated that they had exhibits to show the proposed changes from the original submission, and they were marked into evidence as Exhibit A-1, which showed the changes to the plan since it was first submitted, and was dated May 19, 2020.

Mr. Hernandez explained that they expanded the originally proposed garage by 9 ft. to the right, providing for two (2) 9 ft. wide garage doors. He added that the other change was to the proposed height of the home in order to save money on the excavation of the site and raise the basement floor by 2 ft., but would still be compliant with the maximum allowable building height. He added that the ceiling heights in the basement, first floor and second floor would remain the same, but they wanted to raise the basement floor by 2 ft. in order to avoid having any issues with the water table.

Chairman Thomas then added that they would want to condition any approval by requiring that the home that was built is what was shown in the amended plan.

Mr. Hernandez then discussed some of the materials that would be used on the home, including vinyl siding and vertical beadboard

Ms. Bethea then opened a discussion regarding the notation on the plans regarding a 2-1/2 story home. Mr. Hernandez indicated that was listed in error as there were no plans to finish the attic and that there were only pull-down stairs for access to the limited height of that space.

A discussion ensued regarding having the plot plans revised as well, and Mr. Hernandez indicated that they would be having the engineer re-do the plans to reflect the changes that they were proposing.

A discussion then ensued regarding the possibility of pushing the home further back on the property to avoid the need for a front yard setback variance. Mr. Hernandez indicated that they were trying to preserve as much backyard space as possible and that some of the other homes in the neighborhood were built even further forward than their proposal.

Vice Chair Graumann asked if they were planning to merge the two lots, and Mr. Healey indicated that at the time of building permit, they would have to consolidate the lots.

Chairman Thomas then opened the meeting to the public for questions or comments. Mr. Healey unmuted all members of the public registered for the meeting and asked if there were any questions or comments. Hearing no one speak up, Chairman Thomas then closed the meeting to the public.

Chairman Thomas then asked about and landscaping plans and whether there was a buffer at the rear of the property.

Mr. Healey stated that the plot plan showed a number of trees around the perimeter of the property. He suggested that the emphasis be placed on trying to preserve as many of the existing trees on the property as possible.

Vice Chair Graumann made a motion to approve the Application with Variances, with the caveat that the home be built, as shown in the updated plans dated May 19, 2020, and the preservation of the existing trees on the property to the extent possible to create a buffer. Mr. Reiss seconded the motion and the roll was called as follows:

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

AGAINST: None

- **URSULA GIBSON & ADAM CORA / ZBA-20-00006**

“C” Variance in which the Applicant was seeking to construct a 10’ x 16’ shed on a 12’ x 18’ gravel pad at 23 Dorset Court, Somerset; Block 83, Lot 17.23, in an R-20 Zone - **CARRIED TO MAY 7, 2020 – with further notification required.**

Mr. Adam Cora, Applicant, 23 Dorset Court, Somerset, NJ, came forward and was sworn in.

Mr. Healey indicated that the Applicant was seeking to building a 10’ x 16’ shed in the back left corner of their property. He then explained to the Board that the Applicant was currently slightly over the maximum for impervious coverage on the property. He then noted that the maximum impervious coverage was 25%, where 26.3% was existing and 27.4% was proposed. Mr. Healey added that the shed did comply with all of the setbacks of the zone, but just affected the impervious coverage on the property.

Mr. Cora indicated that Mr. Healey’s description of the situation on his property was accurate.

Chairman Thomas asked whether the size of the shed could be reduced and asked if there was a specific reason Mr. Cora wanted to have the 10’ x 16’ shed on the property. Mr. Cora explained that the home only had a one (1)-car garage, so that it was not adequate to house outdoor lawn equipment. A discussion ensued regarding how much impervious coverage would be eliminated if the gravel pad was made the same size as the shed. Mr. Healey indicated that it might bring the impervious coverage down to 27%.

Chairman Thomas then opened the meeting to the public for questions or comments. Mr. Healey unmuted all members of the public registered for the meeting and asked if there were any questions or comments.

Mr. Steven Walder, 27 Dorset Court, Somerset, NJ, came forward and was sworn in. Mr. Walder indicated that they did not have any objections to the placing of the shed on the Cora’s property.

Dr. Keith Wilson, 22 Nina Court, Somerset, NJ, came forward and was sworn in. Dr. Wilson indicated that he did not have any objections to the placing of the shed on the Cora's property.

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

Mr. Reiss made a motion to approve the Application with Variance. Vice Chair Graumann seconded the motion and the roll was called as follows:

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

AGAINST: None

- **ANDREW BRUIAN & CAROLYN DELLATORE / ZBA-20-00009**

"C" Variance in which the Applicant sought to erect a 24 ft. above ground pool at 36 Buffa Drive, Somerset: Block 84.03, Lot 24, in an R-40 Zone.

Mr. Andrew Bruian, Applicant, 36 Buffa Drive, Somerset, NJ, came forward and was sworn in.

Mr. Healey then gave a brief summary of the Application, stating that the subject property was ½ acre, residential property. He added that the Applicant wanted to construct a 24 ft. in diameter round above-ground swimming pool in the left rear portion of the property. He then discussed the two (2) variances that were required, as follows:

1. Side Yard Setback (Accessory Structure): 25 ft. required – 15 ft. proposed
2. Rear Yard Setback (Accessory Structure): 25 ft. required – 15 ft. proposed

Mr. Bruian stated that their property was in the R-40 Zone, which required 1 acre of property by zoning. However, he indicated that they only have a ½ acre lot, which was closer to the size of the R-20 Zone. Mr. Bruian then added that the proposal was compliant with the R-20 requirements. Addressing the chosen placement of the pool, Mr. Bruian indicated that his drawing, submitted with the original Application, showed that there were three (3) mature trees in the middle of the lot that they were trying to preserve and didn't want to interrupt the root zone or drip zone of the trees.

Chairman Thomas then asked Mr. Bruian to describe the buffering that was on the side of the property in the area where the pool was proposed to be placed. Mr. Bruian indicated that there was a line of pine trees on his neighbor's side of the fence and a line of mature lilac and forsythia bushes on his side of the fence. Along the rear yard property line, he indicated that there was an approximately 45-50 ft. patch of wooded buffer between his property line and the Middlebush sub-division.

Vice Chair Graumann asked Mr. Bruian if he had discussed his proposal with his neighbors. Mr. Bruian indicated that he had and that they just all wanted an invitation to swim in the pool.

Mr. Rosenthal indicated to Mr. Bruian that they only had a 2010 survey of his property that was included with his submission and wanted to know whether there had been any changes to the property since that time. Mr. Bruian stated that there was a deck that had been built over the existing patio shown on the survey.

Chairman Thomas then opened the meeting to the public for questions or comments. Mr. Healey unmuted all members of the public registered for the meeting and asked if there were any questions or comments. Hearing no one coming forward, Chairman Thomas then closed the meeting to the public.

Ms. Bethea opened a discussion regarding the hardship of locating a pool on the property due to the large, mature trees and the smaller, undersized ½ acre lot.

Vice Chair Graumann made a motion to approve the Application with Variances. Mr. Reiss seconded the motion and the roll was called as follows:

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

AGAINST: None

- **CONSTANCE ROSSI / ZBA-20-00010**

“C” Variance in which the Applicant sought to erect a 12’ x 16’ sunroom to the rear of 23 Hughes Road, Somerset; Block 399, Lot 7, in an R-20 Zone.

Mr. Healey gave a brief summary of the proposal, noting that the sunroom was 1,292 sq. ft., with the variances as follows:

- Rear Yard Setback: 50 ft. required – 34 ft. proposed
- Lot (Building) Coverage: 15% permitted – 20% proposed
- Impervious Coverage: 25% permitted – 35% proposed

Ms. Constance Rossi, Applicant, 23 Hughes Road, Somerset, NJ, came forward and was sworn in. Ms. Rossi indicated that there were multiple trees in the back of her property but would not affect the placement of the proposed sunroom. She indicated that there was also shrubbery and that her neighbors would not see the sunroom due to all the vegetation in the rear of the property.

Mr. Reiss asked Ms. Rossi if she had discussed the proposal with her neighbors, and she stated that the neighbors did not have a problem with the addition of the sunroom.

Mr. Healey indicated that 40% of the area that the sunroom would cover already had a patio there. He stated that the property was already over the impervious and building coverage already and estimated that their current building coverage was 17% and that their current impervious coverage was at 32%.

At this time, there were some technical difficulties and that the rest of the hearing was not able to be captured. A motion was made to approve the Application and seconded and the roll was called as follows:

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

AGAINST: None

WORK SESSION/NEW BUSINESS:

There was no work session or new business discussed.

MEETING ADJOURNED:

A motion was made to adjourn the meeting and was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
June 26, 2020