

Franklin Township

Somerset County, New Jersey



DEPARTMENT OF PLANNING AND ZONING

Planning – Zoning – Affordable Housing Planning Board – Zoning Board of Adjustment

MEMORANDUM

To: Zoning Board of Adjustment

From: Mark Healey, PP, AICP
Director of Planning/ Senior Zoning Officer

Date: May 21, 2020

Re: Dada Bhagwan Vignan Institute
D(3) Conditional Use Variance, "C" Variance and Site Plan (ZBA-19-00040)
60 South Middlebush Avenue (Block 37.02, Lot 46.03)

[\[NOTE – underlined and striked-out text reflect changes to previous review \(1/8/20\) based on review new/ updated submittals indicated below\]](#)

As requested, I have reviewed the application materials listed below and issue the following report for the Board's consideration:

- 1-sheet Boundary & Topographic Survey prepared by The Reynolds Group Inc., last revised 11/12/19
- 14-sheet set of site plan drawings prepared by The Reynolds Group Inc., last revised [4/8/20](#)
[4/07/20](#)
- 2-sheet architectural drawings prepared by MistryDesign last revised 9/27/19
- [4/15/ letter from The Reynolds Group describing changes to site plan](#)

Site Description

The 15.96-acre subject site is located on the easterly side of South Middlebush Road several hundred feet south of its intersection with Cortelyous Lane. The site is currently occupied by a single-family dwelling and is located within the A (Agricultural) zoning district. The southerly two-thirds of the site is forested while the northerly one-third of the site is open field. A wetlands area exists in the far southeasterly portion of the site.

Surrounding land uses consist of preserved farmland to the north and east, single-family homes to the west fronting South Middlebush Road and Township open space to the south.

Project Description

The application consists of the following:

- Construction of a 21,083 square foot place of worship including a 6,864 square foot worship

area (as well as ancillary areas such as a warming kitchen, rest room, storage, 2,533 square foot basement, etc.).

- 157 parking spaces provided in two parking areas
- Access to South Middlebush Road is proposed via a proposed driveway located in roughly the same area as the existing residential driveway on the site.
- Associated site modifications include utility extensions, grading and drainage modifications, and site lighting and perimeter site landscaping/ fencing.
- A 5-foot tall monument sign is proposed near the site's entrance on South Middlebush Road.
- The existing 2-1/2 story dwelling is proposed to remain.¹
- The development would be served by on-site well and septic and an underground water storage tank is proposed for fire-fighting purposes.

Places of worship are a permitted conditional use in the A zone. Applicable conditional use requirements are found in Section 112-37.

South Middlebush Road is a Township-designated Scenic Corridor.² The site is located within the Six Mile Run State and National Register historic district.³

The proposal requires the following approvals:

- *Site plan approval*
- *D(3) conditional use variances:*
 - Off-Street Parking (112-37.D(1)): 457⁴ parking spaces required – 157 spaces proposed
 - Parking location (112-37.E). The majority of the parking shall be located to the rear of the main structure, with no more than 10% of the total parking located at the front entrance for handicapped accessibility, weddings and funeral services – parking located in front of building.
 - Building Setback – Side (112-37.G): 75 feet required – 67.9 feet proposed
 - Building Setback – Rear (112-37.G): 200 feet required⁵ – 50 feet proposed
 - Buffer (112-37.K(1) and (2)): Requires 15-foot buffer consisting of double, staggered row

¹ The applicant needs to clarify the intended use of the existing house. The Parking Requirements may need to be revised as necessary to reflect such use(s). Comment remains. No clarification provided. [Parking calculations on plans are unchanged.](#)

² Per Section 112-37.C, places of worship are limited to 5,000 square feet when located along a Township-designated scenic roadway *unless* such roadway is under state or county jurisdiction (i.e., a larger roadway). Since South Middlebush Road is under County jurisdiction, this application is not subject to the 5,000 square foot limitation.

³ The site is not within a Township historic district thus the application is not subject to review by the Township Historic Preservation Advisory Commission.

⁴ Per Section 112-37D(1) the parking requirement where no permanent seating is provided is “one parking space for every three persons at the largest anticipated gathering *or a minimum of one parking space for every 15 square feet of worship area.*” The 457 space figure is based on the square footage of the worship area (6,864 square feet). $6,864 / 15 = 457$ spaces. The Parking Requirements calculations on Sheet 1 of the site plan shall be revised accordingly. [Comment remains. Parking calculations on plans are unchanged.](#)

⁵ ~~The site plan drawing must be revised to correctly reflect the applicable 200-foot rear yard setback of the zone (a rear setback of 150 feet is incorrectly reflected on the site plan drawings.)~~

of evergreen trees planted at a maximum of 10 feet on center with a minimum planting height of six to eight feet, or approved equivalent; a mix of evergreen and deciduous shrubs; and a six-foot high, solid, board-on-board fence *or* 25-foot wide heavily landscaped buffer with triple, staggered row of evergreen trees planted at a maximum of 10 feet on center with a minimum planting height of six to eight feet, or approved equivalent; and a mix of evergreen and deciduous shrubs – Buffer requirements not fully satisfied in certain areas (e.g., along rear property line).

- Lighting (112-37.K(3)): Maximum mounting height of 15 feet – ~~17.5⁶~~ 20-foot mounting height proposed.
- ~~Lighting (112-37.K(3)): Lighting shall not exceed 0.0 footcandles beyond the property line zoned or used for residential purposes – 0.1 footcandles indicated on adjoining properties~~
- “C” variances
 - ~~Freestanding Sign – Setback: 25 feet required – 10 feet proposed.~~
 - Freestanding Sign – Area: 25 square feet permitted – 67.5 square feet⁷ proposed.

Review Comments

1. D-3 (Conditional Use) Variances.

- a. Required Proofs. With respect to the D-3 variances, the applicant must prove that the application satisfies the:
 - *Positive Criteria* – Demonstrate that the *site remains suitable* for the use *despite the deviations* from the particular conditional use requirement
 - *Negative Criteria*
 - *1st Prong* – Demonstrate that the deviation would not result in such damage to the character of the surrounding area as to constitute a substantial detriment to the public good.
 - *2nd Prong* - Demonstrate that the deviation would not substantially impair the intent and purpose of the zone plan and zoning ordinance - the applicant must reconcile the requested deviations with the municipality’s legislative determination that the condition should be imposed
 - The applicant must also demonstrate that benefits of granting the variance(s) substantially outweigh any detriments.

Based upon a review of the application materials, I offer some preliminary comments/questions regarding the D(3) conditional use variances below:

- b. Off-Street Parking (112-37.D(1)). As indicated above, the application requires a relatively substantial variance from applicable parking requirements based upon the manner in which the ordinance requires that parking requirements be calculated (i.e., 1 space per 15 square feet in the worship area without fixed seating).

⁶ The applicant needs to clarify if the lights are 15 feet poles on top of 2.5 foot bases (17.5 feet total) or 12.5 foot poles on 2.5 foot bases (15 feet total). The former would require a D(3) variance.

⁷ The Township measures sign area as the area of the entire sign structure which is 14 feet by 5 feet = 70 square feet. It is noted, however, the area of the sign message area is compliant with the 25 square foot limitation (22.2 square feet proposed – as reflected on the freestanding sign detail on sheet A2.01 of the architectural plans. The Signage Requirements on sheet 1 of the site plan shall be revised accordingly.

In order to justify the variance the applicant needs to prove that the proposed number of parking spaces (157 spaces) would adequately serve the parking needs of the site. It is noted that the traffic study identifies anticipated activity as follows:

- *Saturdays (3 times per month): 75 - 100 attendees*
- *Saturdays (1 time per month): 125 - 140 attendees*
- *Sunday (1 time per month): 50 - 75 attendees*
- *Twice a Year (on a Saturday and Sunday): 225 - 250 attendees*

Based upon the figures above it would appear that less than 100 spaces would be necessary even to serve the largest event with 250 attendees⁸ (with fewer spaces necessary to serve the weekly events). However, the site plan indicates an occupancy level of 458 people which would need 153 spaces (again following the intent of the ordinance to have 1 space for every three attendees). This leads to two main questions:

- Which occupancy levels provided by the applicant are accurate? If there is a reason for the discrepancy in the figures the applicant needs to explain.
 - If the largest anticipated gathering would be 250 people why is the worship area being designed to accommodate nearly twice that number (458)?
- c. Parking location (112-37.E). As indicated above, application requires a variance from the requirement that the majority of the parking be placed behind the building. The intent of this requirement is to minimize view of large parking lots from the street (by putting them behind the church building). While the applicant should explain the rationale for the site layout, it is my opinion that the proposed site layout does not violate the intent of this requirement by placing the parking area several hundred feet from the road and within the forested area of the site (thereby minimizing potential views of the parking lots).
- d. Building Setback – Side (112-37.G): As indicated above, the building placement requires variances from the side (75 feet required – 67.9 feet proposed) and rear (200 feet required – 50 feet proposed) setback requirements. While it is understood that the building has been placed in a manner to reduce potential visibility of it from South Middlebush Road, the applicant nonetheless needs to explain why the building couldn't be placed in a compliant or more nearly compliant way.
- e. Buffer (112-37.K(1) and (2)). The applicant has placed the building, access drive and parking areas within the forested area of the site consistent with the intent of the Township's Scenic Corridor Ordinance which seeks to preserve the aesthetic character of South Middlebush Road (which consists of views across large open fields framed by hedgerows.⁹ However, while the site plan proposes some screening around the adjoining two residential lots, the site plan does not fully comply with the buffer requirements of Section 112-37.K.. I offer the following comments:

⁸ Following the intent of the ordinance - 1 space being necessary for each 3 attendees

⁹ See discussion of Scenic Corridor Ordinance below

- The applicant should present exhibits that accurately depict the visibility (or lack thereof) of the proposed development from South Middlebush Road. Such an exhibit would aid in the Board’s review of consistency with the buffer requirements of Section 112-37.K as well as with the requirements of the Scenic Corridor Ordinance (e.g., should additional landscaping be proposed to supplement the existing vegetation to remain to the north of the building and parking area to provide sufficient screening?).
 - The applicant should demonstrate the sufficiency of the buffer to the adjoining residences – i.e., to the rear of these lots and also appropriate screening of the lighting along the access drive (which is in close proximity to lot 45.02).
 - While it is understood that the site to the rear is preserved farmland, the applicant should justify the lack of buffering to the rear of the building.
 - ~~All evergreens in the buffer should be revised to 6-8 feet high consistent with the ordinance~~
- f. Lighting (112-37.K(3)). In my opinion, the plans should simply be revised to comply with the requirements of this section (i.e., lights no more than 15 feet in height with no light spillage). [See footnote 6, above.](#)

2. **Site Plan Comments.**

a. Scenic Corridor Ordinance.

(1) As indicated above, the site is located along a Township-designated scenic corridor – South Middlebush Road. Consistent with the design standards of the Scenic Corridor Ordinance (e.g., 112-201.G(1)(a) and (b)) the overall site layout places the proposed building and parking areas within the forested area of the site thereby preserving the open field vista/ aesthetic along South Middlebush Road. In particular, in my opinion, the overall site layout is consistent with Section 112-201.G(1)(b) which states in part:

“Building location. The establishment of building envelopes and building sites in open fields shall be avoided...Existing tree lines, woodlands and hedgerows that frame open fields shall be preserved and used to effectively screen new buildings from view, or used to blend new development into the scenic landscape...”

(2) The applicant should nonetheless provide testimony demonstrating their efforts to comply with specific requirements of Scenic Corridor Ordinance. This testimony should address other aspects of the ordinance:

- signage (112-201.F(4));
- stormwater management (112-201.G(3));
- landscaping, clearing and planting (112-201.G(5)(a) through (d));
- utilities (112-201.G(6));
- building plans (112-201.G(8))

~~(3) The applicant should explain the purpose of the proposed planting scheme proposed on the front and rear of the open field (i.e., planting of native shrubs within a “farm~~

~~pollination buffer mix”.~~

~~(4)(3)~~ Section 112-201.G(2)(c) restricts driveways to 12 feet in width, technically requiring a variance. While the ordinance does not make the distinction this requirement is clearly intended to apply to residential driveways. While a C(2) variance from the 12-foot width limitation is clearly justified, the Board may wish to discuss whether a more narrow driveway (e.g., 20 feet rather than 26 feet) and a narrower curb cut should be investigated, consistent with the intent of the Scenic Corridor Ordinance. The applicant has narrowed the proposed driveway to 22 feet in width.

b. Chapter 222, Trees. I offer the following comments with respect to the Chapter 222, Trees:

- Could any adjustment be made to the site layout to increase the number of trees preserved on the site? Applicant has addressed in their 4/15/20 letter, however, they should also address in testimony as well.
- ~~• The plan should demonstrate how the limit of disturbance would be delineated in the field (particularly in locations where a silt fence is not proposed on the plans).~~
- ~~• All replacement trees must be at least 2^{1/2}” caliper (deciduous) or 6 feet in height (evergreen). The Planting Schedule needs to be revised to be consistent with the 107 replacement tree value indicated on the plans (i.e., in order to qualify, identify the ornamental trees as at least 2^{1/2}” caliper and the evergreen trees at least 6-8 feet in height).~~
- Any shortfall in replacement must be addressed on-site replacement or via contribution to the Township Tree Fund as per ordinance. The plans indicate a shortfall of 360 replacement trees.

c. Signage Variances. I offer the following comments on the sign variances:

- While the total sign area exceeds the 25 square foot limitation, the area of the sign message area would comply at 22.2 square feet. Thus, the variance results from the fact that the Township counts the entire sign structure. I offer no objection to the size of the monument sign. However, as indicated above the applicant needs to demonstrate that the sign design is consistent with signage-related design standards of the Scenic Corridor Ordinance (112-201.F(4)). ~~Further, it is noted that the ordinance requires that the base of signs be landscaped.~~
- ~~• The applicant needs to justify the requested sign setback, particularly in light of the fact that the site is located along a Scenic Corridor.~~
- ~~• The plan should specify lighting for the sign and should provide landscaping around the base of the sign as required by ordinance.~~

d. Although likely not to affect zoning compliance, the Zoning Table must be revised as follows to properly identify/ address applicable zoning requirements:

(1) *Building Height*

- Per definition of “building height” – “The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof” and
- Per Section 112-28.A building height does not include parapets extending above the roof that are 5 feet or less in height
- Provide necessary calculations on the plan

(2) The “Signage Requirements” should reflect the revised 25-foot sign setback (it still references the previously proposed 10-foot setback).

~~(2) *Max. Impervious Coverage*—Per Section 112-37.I(1) maximum permitted impervious coverage is two times the permitted percentage in the applicable zoning district, thus the maximum permitted impervious coverage is 40% (not 20%).~~

~~(3) *Min. Lot Area*—Per Section 112-37.L(1) the minimum required lot area is two times that required of a single family home, thus the minimum required lot area is 12 acres (not 6).~~

~~(4) *Min. Front Yard Setback (Scenic Corridor Ordinance)*—Per Section 112-201.F(2)(a)[1] the minimum required front yard setback is twice the required front yard setback for the zone thus the applicable front yard setback is 200 feet (not 100 feet).~~

- e. As a place of worship, the development is exempt from payment of the affordable housing development fee.

Figure 1: Site Location

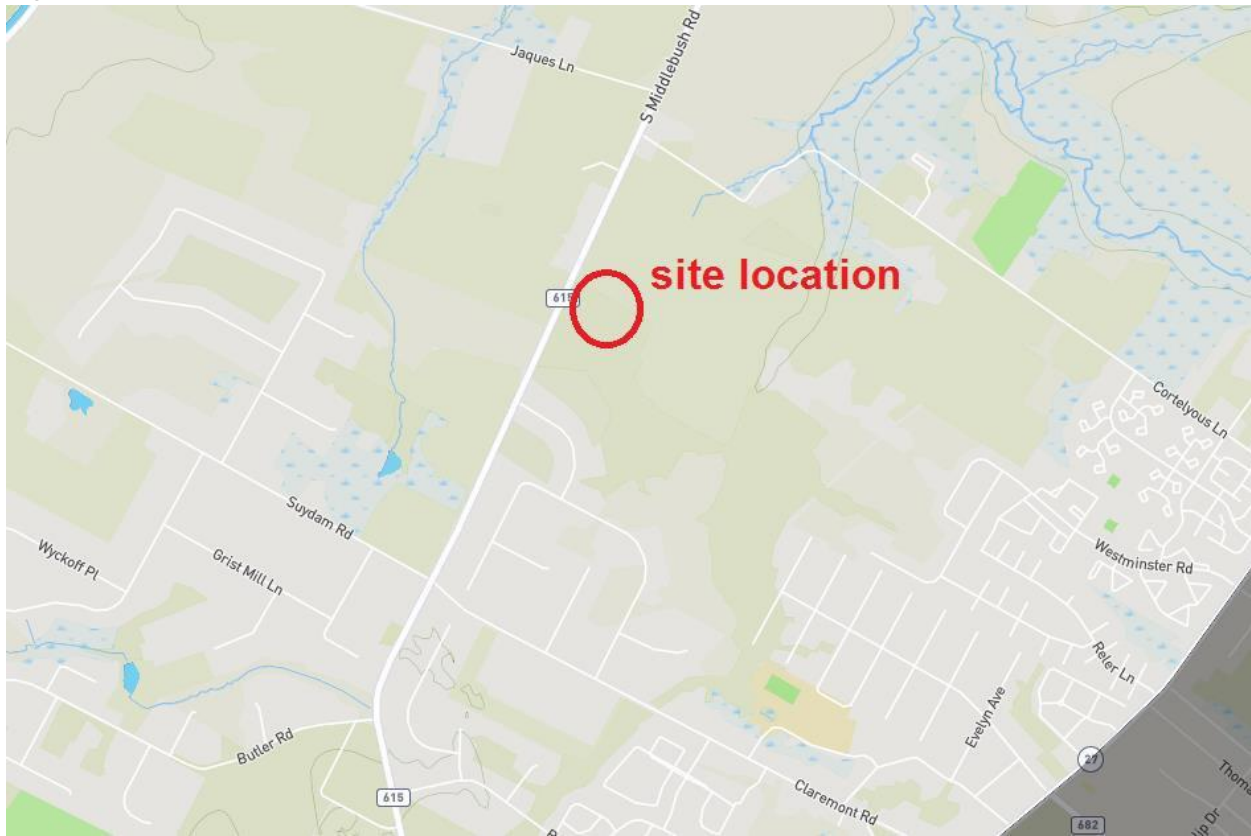


Figure 2: Site and Surrounding Area



Figure 3: Site

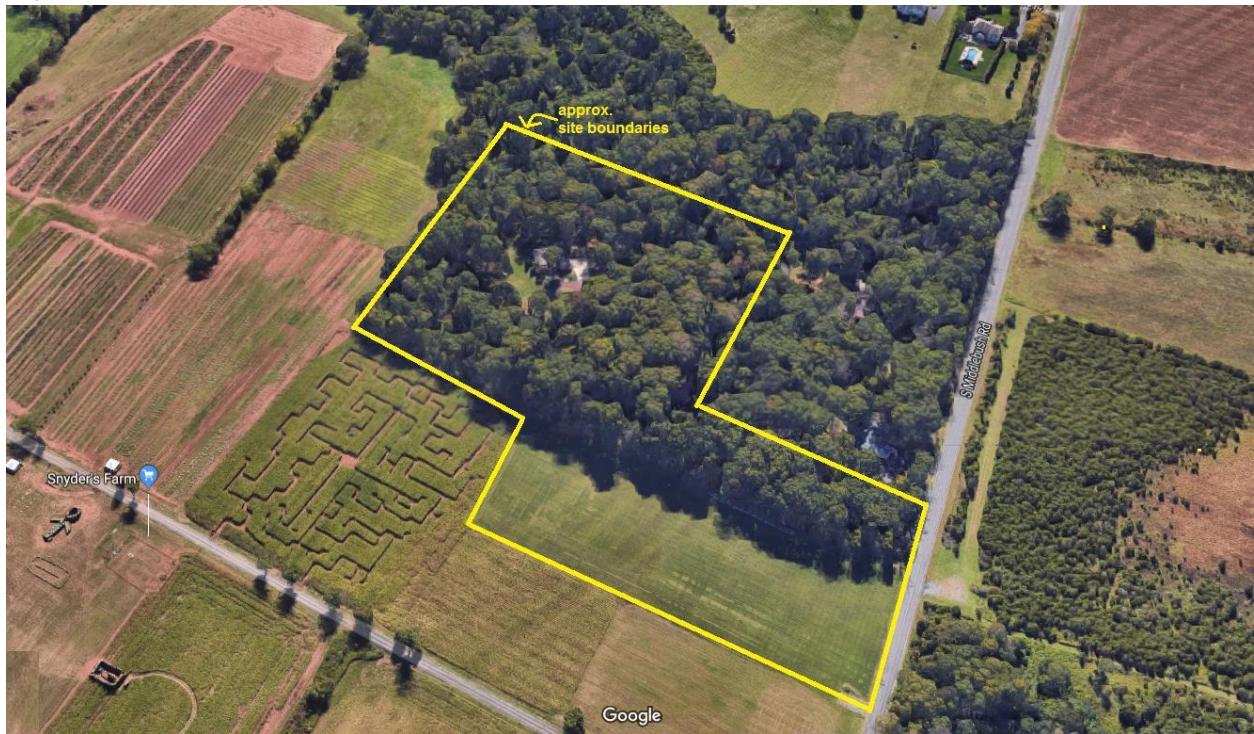


Figure 4: South Middlebush Road – Southbound View of Site Over Adjoining Site (B 37.02, L46.04)

