

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

**VIRTUAL MEETING
July 16, 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, Alan Rich, Gary Rosenthal, Joel Reiss, Cheryl Bethea, Richard Procanik, and Chairman Thomas

ABSENT: Robert Shepherd, Kunal Lakhia

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

MINUTES:

- **Regular Meeting – July 2, 2020**

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

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

AGAINST: None

HEARINGS:

- **SOMERSET GROUP HOSPITALITY, LLC / ZBA-20-00011**

Parking Variance requested by Applicant due to interior renovations, eliminating pool and conference rooms, and adding a banquet center at 60 Cottontail Lane, Somerset; Block 530.04, Lot 1.01, in the C-B Zone - **CARRIED TO AUGUST 6, 2020 – with no further notification required.**

- **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. "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 FROM JULY 2, 2020 – with no further notification required.**

Mr. Lanfrit explained that there were two variances that were pre-existing conditions, the first one being for lot area where 9,000 sq. ft. was required and 5,500 sq. ft. was provided. He then told the Board that the second variance was for frontage, and because the property was a corner lot, 90 ft. was required and they 100 ft. on Ray Street, but were deficient in frontage on Juliet Avenue with only 55 ft. He then discussed some minor bulk variances related to a concrete pad and some stairs at the rear of the property, but the Site Plan had been amended and that variance had been eliminated.

Mr. Lanfrit then reminded the Board that the reason they did not complete the hearing in February was because of the lateness of the evening, but also because the Board suggested that the Applicant consider reducing the size of the house that was being proposed even though the size of the home met the coverage requirements, both for building and impervious coverage. Mr. Lanfrit then testified that they revised the Plan and re-submitted a new building plan for the house, reducing the size of the home by 4 ft. in width and about 1-1/2 ft. in depth and was now proposed to be a three (3)-bedroom dwelling. He had the new layout of the home shown on the screen and indicated that it was essentially the same layout on the first floor with the reduction in size of the footprint of the home. Mr. Lanfrit then showed the layout plans for the second floor, indicating that a bedroom was removed and that it would now be a three (3)-bedroom home. He then showed the Board, utilizing the first-floor layout plan, he reminded the Board that they originally had a sliding glass door from the breakfast area out to the backyard with some steps, which created a variance. Mr. Lanfrit testified that the sliding glass door was being removed and there were no steps there now, removing the need for that variance. Mr. Lanfrit then drew the Board's attention to the revised plot plan, speaking about the previously proposed one (1)-car garage with the driveway leading straight into the garage. He noted that they had revised the driveway configuration to accommodate another car on-site, based on Board and public comments regarding on-street parking issues. With the changes that were made, Mr. Lanfrit indicated that they reduced the building coverage from 20%, the maximum allowable by ordinance, to 18.07%, and the impervious coverage went to 28.4% when they added onto the garage. He did state, however, that the maximum impervious coverage allowed was 30%, so that they were under what the ordinance allowed in the zone. Mr. Lanfrit then testified that they would agree to construct the house pursuant to the revised plans.

One of the Board members inquired about what the square footage of the proposed home would be according to the revised plans. Mr. Lanfrit indicated that the square footage of the footprint of the house was 994 sq. ft.

Mr. Rosenthal wanted to know if Diamond Investors was the owner of the property, and Mr. Lanfrit answered in the affirmative. He added that testimony was given at the previous hearing stating the same and that they put letters into evidence that evening showing that they attempted to sell the property to the adjoining property owners, who were not interested.

Mr. Lanfrit also indicated that neither property owner had any land to sell to the Applicant either.

Mr. Kevin O'Brien, Planner, Shamrock Enterprises, Madison House, Suite B, Madison Avenue, Rahway, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien gave Planning testimony related to the two (2) existing conditions discussed by Mr. Lanfrit earlier in the hearing. He explained that the neighborhood was in an area of undersized lots, or about 53% of the houses on Block 160 and on the east side of Juliet Avenue have 50 ft. frontage, plus or minus. He then testified that corner lots were required to have 9,000 sq. ft. and interior lots were required to have 7,500 sq. ft. of lot area. Mr. O'Brien then reiterated Mr. Lanfrit's testimony that the Applicant had sent buy/sell letters, with no interest. He then told the Board that the subject lot was undeveloped and was uncharacteristic of the neighborhood to have a gap. Mr. O'Brien then spoke about the substantial changes that the Applicant had made to the plan since February, including making the home smaller as testified to by Mr. Lanfrit earlier in the hearing. He noted that parking for three (3) cars was now provided on-site with a garage and two driveway spaces and that the back stairs were eliminated to reduce activity there close to the nearest neighbor. Mr. O'Brien then related the portions of the Master Plan that the Application supported. He then stated that the newly proposed home would be an attractive addition to the area and would fit in with the character of the neighborhood. Additionally, Mr. O'Brien testified that the size of house was consistent and compatible with the current development patterns, being setback at the same distance as the other homes on Juliet Avenue. He then gave his opinion as to whether the Board could grant the variances under the C(1) Hardship standards, including the fact that the property was an undersized lot in a neighborhood of undersized lots and the home proposed was in keeping with the character of the neighborhood and met the bulk requirements of the area. Mr. O'Brien then discussed that he felt it also fell under the C(2) variance in that the benefits outweighed the detriments and that the proposal was a better planning alternative than a more conforming design, which was not possible due to the undersized lot configuration. He also added that the proposal supported both the MLUL and the Master Plan. If the Board were not to grant the variances, Mr. O'Brien indicated that they would be zoning the property into inutility and not appropriate under the Municipal Land Use Law (MLUL). Finally, he indicated that he believed the variances could be granted without substantial detriment to the public good and without substantial impairment to the zone plan and zoning ordinance.

Mr. Lagana, Board Attorney, asked Mr. O'Brien what specific Master Plan goal he was referring to and whether it was in the 2016 revision. Mr. O'Brien indicated that he was referring to the 2016 re-examination of the Master Plan, and the goal he was referring to was "maintain diversity of housing . . . , etc.

Chairman Thomas then made a motion to open the meeting to the public. Hearing no one coming forward with questions or comments, the meeting was then closed to the public.

Mr. Lanfrit then gave his closing summation.

Mr. Reiss made a motion to approve the Application, with variances. 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. Reiss, and Chairman Thomas

AGAINST: None

- **ELION ACQ., LLC / ZBA-19-00043**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Elion Acq., LLC. "D(1)" Use Variance, "C" Variances, Minor Subdivision & Site Plan in which the Applicant was subdividing the property into two lots and will be constructing two warehouses – 1) Building 1 - 425,250 sq. ft. and 2) Building 2 - 118,800 sq. ft. at 47 Veronica Avenue and 74 & 102 Bennetts Lane; Somerset; Block 88.02, Lots 13, 25, 26, 71, 72, with portions of the property in the M-2, R-40, A and O-P Zones – **CARRIED FROM JULY 2, 2020 – with no further notification required.**

Mr. Procanik remained recused from voting on the Application from the last hearing on July 2, 2020.

Board Attorney, Mr. Daniel Lagana, asked whether there were enough voting members on the panel that evening for a quorum. Mr. McCracken and Mr. Caldwell were sending e-mails to Board Secretary, Christine Woodbury, to certify that they had viewed the 7/2/2020 hearing for ZBA-19-00043 and would be eligible to vote that evening on the Application. A brief recess of the meeting took place while this was being accomplished.

During the recess Chairman Thomas discussed the fact that it was not unusual to have a draft Resolution approved should an Application be approved just prior during a meeting, for the benefit of some Board members who were questioning about that policy.

Mr. Healey then discussed that he did not think it was necessary for Mr. Lanfrit to give another summation since the hearing was closed, after all testimony was given, on 7/2/2020. He added that he could remind the Board of some of the potential conditions of approval that were discussed to form a motion to refresh the Board's memory from a few weeks ago.

It was then determined by Mr. Lagana that they would have a quorum of seven (7) Board members available to vote on the Application that evening.

Mr. Healey then gave some potential conditions that were discussed at the 7/2/2020 hearing, as follows:

- The Applicant shall provide NJDOT's comments of their review regarding traffic flow generated by the proposed development.
- Applicant shall submit the new Letter of Interpretation (LOI) that was currently under review by the NJDEP.
- The larger lot (48 acre lot) was identified by the Engineer as Lot 7.01 was identified as Lot 72.01 on the Subdivision Plan and as Lot 13.01 on the Site Plan The lot numbers

associated with the minor subdivision should be reviewed and approved by the Township Staff and subsequently revised, along with the associated deeds, prior to filing.

- Applicant shall comply with the Technical Review Committee (TRC) comments of the Delaware & Raritan Canal Commission (DRCC).
- Applicant shall obtain an official street address from the Franklin Township official 911 Coordinator.
- Applicant shall provide the appropriate bonds and engineering fees and attend a pre-construction meeting prior to site work.
- All fees shall be paid and submitted under separate cover at the time of the adoption of the Resolution of Site Plan approvals for the cost of making upgrades and modifications to tax maps and the General Information System (GIS).
- Applicant shall provide files for plans for signatures of municipal officials.
- Applicant shall submit CAD-generated data files prepared by a NJ licensed surveyor of an identical image of the plans submitted per the requirements of Ordinance section 112-329.
- Applicant shall comply with requirements for both warehouse buildings, although the detention basins should be contained within the easement, and the easement approved by the Township Engineer prior to filing with the Somerset County Clerk's office.
- Applicant was responsible for the maintenance of the buffer area surrounding the basins in perpetuity.
- An easement allowance for the Applicant's maintenance of the buffer shall be provided for review and approval of the easement prior to filing and any ambiguities.

Mr. Rich made a motion to approve the Application, with all the conditions discussed during the hearing and just enumerated by Mr. Healey. Additionally, Mr. Rich would like to add the inclusion of fencing around the detention basins as well as a 6 ft. high fence from Veronica down to the entrance and along the entrance where the buildings were located, particularly near the doctor's office. A discussion ensued among the Board, with Mr. Lagana stating that the Applicant's engineer's testimony indicated that the slopes were not to a degree that required fencing and that the fencing could cause an impediment to a rescue. It was then agreed to remove the condition of providing fencing around the detention basin in Mr. Rich's motion. Chairman Thomas then discussed how he observed that the medical offices in the area were traffic-generators and that there did not seem to be much interaction, if at all, with the medical offices and warehouse buildings. It was agreed to remove all proposed fencing along Veronica Avenue and behind the warehouse buildings. Mr. Reiss seconded the motion, and the roll was called as follows:

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

AGAINST: None

RESOLUTION:

- **Elion Acq., LLC / ZBA-19-00043**

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

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

AGAINST: None

WORK SESSION/NEW BUSINESS:

There was no work session or new business discussed.

MEETING ADJOURNED:

Vice Chair Graumann made a motion to adjourn the meeting at 8:50 p.m. Mr. Reiss seconded the motion, and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
August 31, 2020