

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

**VIRTUAL MEETING
August 6, 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, Robert Shepherd, Joel Reiss, Cheryl Bethea, Richard Procanik, Kunal Lakhia and Chairman Thomas

ABSENT: None

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

RESOLUTIONS:

- **NYSMSA Limited Partnership / ZBA-16-00033**

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

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

AGAINST: None

- **Tabatchnick Fine Foods, Inc. / ZBA-15-00018**

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

FOR: Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Reiss, Ms. Bethea 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 SEPTEMBER 3, 2020 – with no further notification required.**

DL 09/27/2020

- **FRANCIS E. PARKER MEMORIAL HOME, INC / ZBA-20-00012**

Mr. Bob Smith, Esq., Attorney, appeared before the Board on behalf of the Applicant, Francis E. Parker Memorial Home, Inc. Mr. Smith indicated that they were there that evening seeking a D(1) Use Variance and Preliminary and Final Site Plan "C" Variances in which the Applicant was looking to add a 1,400 sq. ft. child day care center in the facility at 11 Dellwood Lane, Somerset; Block 424.01, Lot 39.08, in an R-20 Zone.

Mr. Smith then stated that they were seeking approval for a licensed child day care center in the facility to repurpose 1,400 sq. ft. of an already approved outdoor recreation space for use by children as a playground on the west side of the new addition. He then told the Board that the primary use of the proposed day care center was to provide care for Parkers' employees' children/grandchildren and to promote intergenerational programming opportunities for the Parker at Somerset elders. He added that Parker also intends to offer the service to the public as well, and subject to available space for additional children beyond those of Parker's employees. Since the childcare use was not permitted in the R-20 Zone, a D(1) Use Variance was being requested. Additionally, Mr. Smith stated that the Applicant sought C bulk variances for maximum impervious coverage, where 25% was permitted, 38.23% previously approved and they were seeking 38.44%. Mr. Smith then gave some background regarding previous approvals, noting that they were granted impervious coverage approval for the existing elder care facility (then known as the McCarrick Care Center) in 2017.

Ms. Beth Sparling, Chief Operating Office, Parker At Somerset, came forward and was sworn in. Ms. Sparling then gave a brief description of what Francis Parker does in New Jersey, noting that it was a not-for-profit organization in New Jersey serving aging services for over 113 years. She noted that they had multiple communities, both in Somerset and Middlesex Counties, with Parker @ Somerset as well as three (3) nursing homes and assisted living in Middlesex County along with two (3) day care facilities, a rehab community as well as a home health and wellness center. Ms. Sparling testified that they did have an existing childcare center where they were able to provide an environment that was right between the assisted living and skilled nursing areas for the past 13 years to provide an intergenerational environment and provide a child care opportunity for their employees. Ms. Sparling stated that they wanted to speak tonight about re-zoning their already approved adult day care center at Parker at Somerset where they would be converting that space into a child care center for up to 25 children to include both infants and toddlers. She then described how the patients in the sub-acute areas and long-term care areas would be able to interact and observe some of the children's performances and provide their employees the choice to bring

their children to work so that they could have their children nearby. Ms. Sparling then explained that the modifications to the previously approved space were very minor, and she gave the Board an update of the status of the prior approval. She testified that the construction of the prior approval is right on schedule and that the requested modification was timely. Ms. Sparling then described the procedures and protections that would be put in place regarding the safety of the children during the pandemic. She described their current childcare center as having the children go through the same screening as the adults do, along with questionnaires and temperature screening while following all the required regulatory requirements. She explained that employees would bring their children in the front door and both go through the proper screening and that non-employees would drop off their children where they would also go through the proper screening protocols. She did note that the screening process was done outside of the building.

Mr. Rich Morale, Engineer/Planner, T&M Associates, 11 Kendall Rd., Middletown, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Morale then described the minor changes to the site that were being proposed. He spoke of the 5,365 sq. ft. area in the courtyard that was part of what was previously approved and was proposed to be part of the adult day care. Mr. Morale testified that the area would be reduced to 4,035 sq. ft. for adult day care, with the remainder of about 1,330 sq. ft. utilized for the child day care center. Mr. Morale then told the Board that the previous approval included 2,480 sq. ft. of area in the adult day care area that was defined as impervious in the Township ordinance, which would now be 2,270 sq. ft. In the proposed childcare area, of the 1,330 sq. ft., 695 sq. ft. would be classified as impervious coverage. He noted that there would be a de minimus increase in impervious coverage, approximately 485 sq. ft. or about 0.15% of the lot area increase. Mr. Morale then testified that no other changes were proposed from the original approval

Mr. Morale then gave Planning testimony in support of the Application, noting that they were seeking a D (1) Use Variance to allow the child care center which was not conforming in the R-20 Zone as well as the de minimum increase in impervious coverage from what was previously approved. He told the Board that the childcare facility was proposed primarily to support the employees and residents of Parker at Somerset as well as employees of Parker at River Road nursing home and Parker at Stonegate assisted living facility nearby. He described a child care facility, according to the Municipal Land Use Law (MLUL), as an inherently beneficial use so long as it is licensed by the State of NJ and provided the recreational use that was proposed for the adult day care center in the previous approval, which he said it will. Mr. Morale stated that the increase in impervious coverage was de minimus and not perceptible on the property. He then discussed the positive criteria, as testified to earlier, as well as the negative criteria in which he stated that there would be no visual impact on the public good as it would be located within the previously approved adult day care center space. He added that the recreational space was within the footprint of the previously approved adult day care recreational area. Mr. Morale stated that the childcare facility would not have any noise impact upon the public as it was proposed to be located within the proposed buildings and shielded from the adjoining uses around the property. He then testified that the provided benefits substantially outweigh any detriments and that the proposed childcare use would not only support employees of nursing and adult day care facility but would also be accessible to the general public. Mr. Morale added that the purposes of the zone plan and zoning ordinance were met given that the current plan did not expand the physical improvements of the prior approval.

Mr. Steven Leone, Architect/Principal of Spiezle Architectural Group, 1395 Yardville Hamilton Square Road, Hamilton, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Leone testified that the proposal would look exactly as it did when it was previously approved and would be located within the footprint of the previously approved project, with no change to the exterior facades of the buildings, and the egress and entry points have not changed. Mr. Leone then showed the interior floor plans of the proposed plan that was submitted with the Applications and pointed out the location of the two classrooms, an entrance sequence with a secure vestibule off the main lobby of the facility and an outside area for pre-screening. He also pointed out the administrative space, staff lounge, staff bathrooms and storage area, children's bathrooms for the two classrooms with a central open area for activities and programs

Chairman Thomas opened a discussion regarding the chance that the childcare center would be available to the general public and, if so, would they need a traffic report, a drop off/pick-up plan. Board Attorney, Mr. Daniel Lagana, asked whether the testimony of a maximum allowable number of children accepted would be 25 and if that would be an agreed upon condition of any approval. Ms. Sparling indicated that the license obtained was for 25 children (infants and toddlers) and that they would accept that number as any condition of approval. She then described that the use would be mainly for employees.

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

Chairman Thomas then asked if the Applicant would be able to comply with the few comments in the Technical Review Committee (TRC) report. Mr. Smith indicated that he assumed that they would be able to comply; however, they did not receive that staff report. He stated that he assumed that the comments were of a very minor nature but wanted to reserve the right to come back before the Board if they had questions.

Mr. Healey spoke about the removal of all temporary striping/traffic calming measures along Darlington Blvd. from the existing condition plan. Ms. Sparling agreed to do so. The next item brought up by Board Attorney, Mr. Daniel Lagana referred to the crosshatch detail for the proposed playground area on Inset A, Sheet #5 on the plan. He indicated that it referred to the Applicant providing additional information identifying the type of surface material, i.e., bonded rubber surfacing, wood fiber, etc. and if playground equipment was proposed. It also indicated in the TRC report that playground safe zones and fall height criteria should be provided, if proposed. and then the detail of the fencing and gate between playground area and courtyard should be included on the plans. He asked that the stormwater design comply with the N.J.A.C. 7:8 Stormwater Management Regulations and that a Supplemental Stormwater report may be necessary. Mr. Smith agreed to all the foregoing terms.

Because the site was located within the review zone of the Delaware and Raritan Canal Commission, Mr. Lagana indicated that the TRC report asked that the Applicant should obtain a certificate of approval or exception from the Commission, with a copy of the permit provided. Mr. Morale, Site Engineer, indicated that the Application would be exempt in terms of the impact to the DRCC, so he felt that a simple letter and copy of the drawing from the previously approved DRCC plans would be able to generate an exemption letter from the Commission.

Mr. Lagana then read the next item from the TRC, stating that the Applicant shall submit a Request for Determination of Non-Applicability to the Somerset – Union Soil Conservation District for their review. Mr. Morale indicated that they already had that letter and would submit that to the Township. Next, there was an Engineering Cost Estimate that would be required once final plans were signed off on by the Board and upon approval, the Applicant shall provide appropriate bonds and Engineering inspection fees and attend a pre-construction meeting, prior to the start of any site work. Mr. Smith stated that it was the law and that they would comply. The last item was read by Mr. Lagana, who stated that no soil can be imported to or removed from the site until a Soil Importation or Exportation Permit has been obtained from the Township as required by the ordinance and that soil removal shall be in accordance with Section 206 of the Ordinance. Mr. Smith also agreed to comply.

Mr. Smith then gave his closing summation.

Vice Chair Graumann made a motion to approve the Application, with D(1) Variance, subject to the conditions discussed during the hearing that evening and that the children accepted at the facility did not exceed 25. The motion was seconded, 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

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 8:57 p.m. The motion was seconded, and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
September 21, 2020