

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

**VIRTUAL MEETING  
October 1, 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:

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**PRESENT:** Anthony Caldwell, Laura Graumann, Bruce McCracken (arrived at 8:00 p.m.), 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

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**RESOLUTIONS:**

- **Faris Jirjis / ZBA-20-00013**

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

**AGAINST:** None

- **7507 Properties, LLC / ZBA-19-00006 (revised)**

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

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

**AGAINST:** None

- **NYSMSA Ltd Partnership d/b/a Verizon Wireless / ZBA-19-00036**

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

AGAINST: None

**HEARINGS:**

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

Preliminary & Final Major Site Plan w/ C& D Variances in which the Applicant wanted to construct a 28,970 sq. ft. place of worship at 583 South Middlebush Road, Somerset; Block 36.01, Lot 6.03, in the Agricultural (A) Zone - **CARRIED TO NOVEMBER 5, 2020 – with no further notification required.**

**DL - 11/30/2020**

- **DADA BHAGWAN VIGNAN INSTITUTE / ZBA-19-00040**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Dada Bhagwan Vignan Institute. D(3) Conditional Use Variance, “C” Variance and Site Plan in which the Applicant was asking to construct a 21,083 sq. ft. place of worship with parking lot and 5’ monument sign at 60 South Middlebush Road, Somerset; Block 37.02, Lot 46.03, in the Agricultural (A) Zone – **CARRIED FROM SEPTEMBER 17, 2020 – with no further notification required.**

Mr. Lanfrit indicated that there were questions raised by attorney’s for adjoining property owners concerning the issue of jurisdiction. He added that the issue was addressed, but because of the lateness of the hour, the matter was adjourned. He went on to explain that he received a phone call earlier in that evening from the Board Attorney, Mr. Daniel Lagana, who indicated that one (1) of the attorneys representing an objector may have an additional issue regarding jurisdiction. Mr. Lagana stated that the additional issue of jurisdiction should be discussed before the hearing commences.

Mr. Gregory Asadorian, Esq., Attorney, on behalf of the interested parties, John Warwick III, and Mary Ellen Warwick. He reminded the Board that at the last hearing (September 17, 2020), they had discussed some jurisdictional issues with respect to the notice that was made for the hearing. Upon review of the Application, he indicated that there were some additional issues that needed to be brought to the Board’s attention. Pursuant to the Site Plan Application, Mr. Asadorian indicated that the County was not listed as a property owner in the notice. He specifically mentioned that when a property abutted a County road, as noted in the Municipal Land Use Law (MLUL), Section 40:55 E-OE, which the subject property does,

notification must be made to the County Planning Board of the Application. More importantly, he added that a review of the Site Plan on the second page showed that the Applicant was proposing a conservation preservation easement along their property as well as along Block 37.02, Lot 65, which was owned by Franklin Township, as well as Block 37.02, Lot 46.04, which was owned by Raj Holding. Mr. Asadorian indicated that when an easement abutted or entered upon a neighboring property, a 200 ft. distance list also needed to be requested and received by the adjacent lots. Finally, he respectfully requested and informed the Board that the notice was deficient.

Mr. Lanfrit indicated that he had provided, at the last hearing as well as that evening's hearing, the notice given to all property owners. Included in that notice provided to the Board, according to Mr. Lanfrit, was a notice to Somerset County. He added that they provided the Township with an affidavit that the County had been notified and that they have had numerous correspondence from the County in reviewing the Application that indicated that they did receive notice. Mr. Lagana, Board Attorney, stated that he did review the paperwork that was provided to the Township that included the affidavit that Mr. Lanfrit spoke about, along with the certified United States Post Office receipt and a return receipt card for the certified Somerset County mailing. Mr. Lagana did agree with Mr. Lanfrit that they had notified properly, according to MLUL guidelines.

Mr. Lanfrit then asked for the Engineer to be sworn in so that he could respond to the issue of the easement.

Mr. F. Mitchell Ardman, Engineer, employed with the Reynolds Group, 575 Rte. 28, Suite 110, Raritan, NJ came forward and was sworn in. The Board accepted his qualifications. Mr. Ardman then described the proposed conservation easement, noting that the NJDEP required the Applicant to show the location of the wetlands, but that they were not proposing any easement aside from what was noted on the subject site.

Mr. Asadorian then stated that the Application showed a proposed an easement offsite, and if the Applicant was now stating that there was not going to be an easement offsite, then that would have to be made clear on the record to make a determination.

Mr. Lagana then asked Mr. Lanfrit if the Affidavit of Service had been marked into evidence, and Mr. Lanfrit stated that it usually was not since they usually send that to the Township ahead of any meeting; however, they could do so now by marking it as Exhibit A-1. He then explained that there was no requirement to provide an easement on a property that they did not own.

Mr. Lagana, after confirming that there were no other jurisdictional issues that Mr. Asadorian wished to raise, he indicated that he was satisfied that the notice requirement in that regard was appropriate and that the Affidavit of Service had been marked into evidence as Exhibit A-1. He then added that the Engineer's testimony regarding the easement had clarified the issue that NJDEP required that the off-site easement be shown, but that the Applicant was not proposing an easement onto those adjacent properties.

Mr. Lanfrit then made his opening comments by stating that they were there that evening for a Site Plan approval and Conditional Use Variance to construct a house of worship on the property known as 60 South Middlebush Road. He added that houses of worship were a

permitted use in the zone. He stated that they were before the Zoning Board of Adjustment because there were three (3) conditions of the Conditional Use Standards that they did not meet, and they were seeking deviation from.

The variances that they were seeking were detailed in Mr. Healey's Planning report, and are as follows:

- Off-Street Parking: 457 parking spaces required – 157 spaces proposed.
- Buffer: Required 15-ft. buffer consisting of double, staggered row of evergreen trees planted at a maximum of 10 ft. on center with a minimum planting height of six (6) to eight (8) ft., or approved equivalent; a mix of evergreen and deciduous shrubs; and a six (6)-ft. high, solid, board-on-board fence or 25 ft. wide heavily landscaped buffer with triple, staggered row of evergreen trees planted at a maximum planting height of six (6) to eight (8) ft., or approved equivalent; and a mix of evergreen and deciduous shrubs around the perimeter of the property provided that the property abuts either a residential zone boundary line – Buffer requirements not fully satisfied in certain areas (e.g., along the rear property line).
- Parking Location: 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: 75 ft. required – 67.9 ft. proposed
- Building Setback – Rear: 200 ft. required – 50 ft. proposed

Mr. Lagana then gave the other counsel present the opportunity to make an opening statement.

Ms. Martina Bailey, Esq., Attorney, representing Ray and John Snyder, owners of the adjacent property. She stated that she had brought their own witnesses and indicated that she should defer her opening statements till that time.

Mr. Yogesh Mistry, Architect, 350 Clark Drive, Budd Lake, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Mistry then discussed the exterior of the building, the materials that were being used and what it would look like. He then entered into the record as Exhibit A-2, which was a 3D colorized rendering of the exterior and titled Proposed House of Worship DBBI and was a front view of the temple. He noted that the one-story temple would be located to the rear of the property, with parking in front of the building, with a covered canopy where patrons could drop people off at the entrance. He described the front door and windows at the front that were along the lobby/atrium space, with the taller rear portion behind that which would be utilized as a multi-purpose/prayer hall. Mr. Mistry noted that the front portion of the building was about 20 ft. high from grade to the parapet, with the multi-purpose/prayer hall measuring at an average of 34.6 ft. from grade. He then explained that they would be utilizing a white, stucco material, which reflected the color of their clothing and the temples in India. Mr. Mistry then showed the architectural plans that were submitted as part of the plan, Sheet A2.01, dated 9/27/2019, and was a floor plan of the building. He told the Board that the building consisted of 21,083 sq. ft. on the first floor, a donation office and coat/shoe closet, along with a small, utility basement that was added due to sprinkler pump requirements that measured 2,533 sq. ft. The utility basement would also be utilized for storage as well. He described the main hall as being comprised of 6,864 sq. ft. that included

a stage with platforms behind it that would be an area that they would place their idols. Mr. Mistry added that the space would also be utilized for cultural events for their organization, and that there was a small changing room for those participating in cultural events there. Additionally, he described the inclusion of mens/ladies' restrooms and a warming kitchen. Mr. Mistry testified that they were not proposing any food preparation on the site but would be brought to the site and warmed as part of their religious practice of serving food as offerings after their programs. He then detailed a utility room and storage area for the kitchen and a storage area for tables/chairs for the multi-purpose room/prayer hall. Mr. Mistry showed an emergency exit to the rear as well as a side exit, with walkways leading back to the front of the building. He then showed a small patio area in the front of the building and a long driveway leading out to South Middlebush Rd. where they were proposing a small monument sign that was perpendicular to the roadway and would have signage on both sides so that it could be seen coming from either direction. Mr. Mistry then showed an exhibit that displayed the elevations of the building. He then told the Board that the mechanicals/utilities for the building would be located on the roof and would be screened by the parapet walls. He then noted the inclusion of some small lights along the front of the building which were decorative, with security lights on the other sides of the building for security and would have motion sensors. Mr. Mistry then testified that there would be no spires or towers on the building.

Mr. Healey then stated that Mr. Bruce McCracken had joined the meeting, and he proceeded to unmute him so that everyone could get a sense of when he tuned in. Mr. McCracken indicated that he did hear Mr. Mistry's entire testimony, and Mr. Lagana, Board Attorney, told the Board that he was comfortable with Mr. McCracken proceeding to a vote on the matter. Mr. Healey then gave the public notice of how the meeting would be going to proceed. He declared that the meeting would be open to the public for questions for the Architect and explained how to participate after any Board questions/comments.

Mr. Rich asked what the maximum for height of the building could be in the zone. Mr. Mistry stated that the building was as tall as 34.6 ft. from grade, where the maximum allowed in the zone was 35 ft.

Ms. Bethea asked what the view would be from South Middlebush Road. Mr. Lanfrit indicated that that would be best described by the Engineer when he put the building in context with the property.

Mr. Asadorian then asked whether there would be another color for the building other than white. Mr. Mistry explained that there would be a light gray color with approximately a 60/40 mix. Mr. Asadorian then asked if there would be other building materials utilized besides the stucco, and Mr. Mistry stated that there would be masonry material at the base of the building below the windows. He added that there would be glass, steel and aluminum utilized as well, noting that the canopy would be constructed of steel. Mr. Asadorian then asked for an explanation of the height of the building and if there were any portions that exceeded 35 ft. from grade. Mr. Mistry stated that there were, based upon the grade of the property, more specifically in the rear of the property, but did not have any more specifics. Mr. Asadorian then asked what the purpose was for the side patio, and Mr. Mistry indicated that it was to deal with the grade of the property there where they included a small retaining wall so that they could have an exit there. Mr. Asadorian then discussed why the patio was placed on that side of the building as opposed to putting it on the other side of the building, further away from adjacent property owners. Mr. Mistry explained that they had exits on that side of the building

and not on the other side. They then discussed whether the patio would be made from pervious or impervious materials, and Mr. Mistry testified that it would be made from pavers and would be impervious. Mr. Asadorian wanted to know what the square footage of the patio was, and Mr. Mistry deferred the question to the Site Engineer. He also wanted to know if there would be outdoor events held on the patio, and Mr. Mistry did not know the answer to that question. Mr. Asadorian then wanted to know the purpose of the basement, and Mr. Mistry repeated his testimony that it would be to house the sprinkler pump and to provide some additional storage area, with no events being held in the space and no windows in the space either. Mr. Asadorian then inquired as to the square footage of the drop-off area in the front of the building. Mr. Mistry indicated that it was comprised of a two-way drive lane under the portico so that one car could drop off and another could drive through. Mr. Mistry testified that he did not know the exact square footage of that area. Mr. Asadorian then questioned the totality of the square footage and if that included the basement area and the drop off area. Mr. Lanfrit then objected to the questioning as the validity of the notice related to square footage of the building was discussed at length at the last hearing and that there was no requirement to give exact square footage numbers in the notice in the MLUL for each of the uses within the building. Mr. Lanfrit indicated that the notice was for a building first floor of approximately 21,000 sq. ft., with a 2,500 sq. ft. basement. Mr. Asadorian wanted to know if the calculations were considered not only for the notice issue, but also for parking needs. Mr. Lagana indicated that Mr. Asadorian could proceed on the grounds of the parking issue and that Mr. Lanfrit's objection was noted on the record. Mr. Asadorian then proceeded to question Mr. Mistry of what was included in the warming kitchen, and he replied that there would be a three (3)-basin sink, a hood, refrigerator, dishwasher, etc. Mr. Asadorian then questioned when food was served and where the food was served. Mr. Lanfrit objected to the questioning and stated that he would have a member of the congregation testify to those concerns. Mr. Asadorian then asked the dimensions of the warming kitchen, and Mr. Mistry testified that it was 27 ft. 2 1/2 inches by 18 ft. Mr. Asadorian then asked what the religious service area was comprised of, with Mr. Mistry stating that it was 6,864 sq. ft. Mr. Asadorian then opened a discussion as to whether there was seating in the service area. Mr. Mistry indicated that there were tables and chairs placed in that area when food was served. Mr. Asadorian then asked how many tables/chairs could fit in the space at the greatest peak use, with Mr. Mistry replying that he was not sure. Mr. Asadorian then asked what the stage would be used for, and Mr. Mistry stated that it would be used for a combination of cultural programs, guest speakers and lecture programs, with their idols along the back of the stage. Mr. Asadorian then asked if there would be any concerts or dances held there, and Mr. Mistry indicated that he did not know. They then discussed the signage for the building, with Mr. Mistry indicated that there would be no building signage, just the freestanding sign at the front of the long driveway. Mr. Asadorian then drew Mr. Mistry's attention back to the food and wanted to know when and where the food would be delivered to the temple. Mr. Mistry stated that the food could be brought in through the side entrance area to deliver to the kitchen. Mr. Asadorian then reverted back to questions regarding the signage and wanted to know if/how the double-sided freestanding sign would be illuminated. Mr. Mistry stated that it would not be internally lit but would have up lighting on either side of the sign. They then discussed the sign size as being one (1) space at 25 ft. and two (2) spaces at 44.4 sq. ft. with the total area not to exceed 25 sq. ft. Mr. Asadorian indicated that he believed that the total area was going to be comprised of 67.5 sq. ft., and Mr. Mistry agreed and explained how the calculations were measured and felt that the sign was appropriately scaled to the site and to provide clear visibility. The colors of the sign were discussed, and Mr. Mistry indicated they would be using only two (2) colors. He also added that they would have no problem

conforming to the scenic corridor requirements as well to include a precast stone base and pilasters which were essentially a beige color to be kept in the same character as the rest of the sign. Their discussion then was about the hours of illumination of the sign, which Mr. Mistry did not know, and its exact location, which Mr. Mistry indicated that the location was on the Site Engineer's drawings and was better discussed with him. Mr. Asadorian then opened a discussion regarding the use of larger signs to be utilized to accommodate for faster drive by speeds. Mr. Lanfrit objected to the questioning, stating that they did have a Traffic Engineer and a Site Engineer who could better address those questions. They then discussed the type of lighting that would be used, and Mr. Mistry indicated that they were up lights and that all lighting was LED now. He added that they were usually 10-15 watts for four LED's and that he did not anticipate any light spillage onto other properties. There was then a discussion regarding the security lighting for the building, noting that they were probably about 10 ft. off the ground on the building.

Ms. Tina Bailey, Esq., Attorney for adjacent property owners, asked what portion of the sign diagram would be considered the base as opposed to just the face of the sign. A discussion was held for Ms. Bailey's clarification, with Mr. Mistry indicating that the total area of the sign with the base and pilasters was 13 ft. 6 in. x 5 ft. high. A discussion ensued about the height of the building, and Mr. Mistry clarified that the first floor to the top of the building stayed the same at 31 ft. 6 in. and that the changes in height seen on the plans also incorporated the change in grade of the property around the building in the calculations. Ms. Bailey then opened a discussion regarding the roof utilities and whether anyone could see from the floor level to the roof. Mr. Mistry explained that it would have the roof structure and then a ceiling above the floor so that the roof structure would be incorporated into that space and that the parapet would go beyond the top of the building to shield the utilities there and to allow the slope of the roofline to creep up so that there would be proper drainage off the roof. He added that the building height incorporated the parapet into the measurements.

Mr. Healey then interjected as the Township's Planner and Zoning Officer by stating that the parapet did not count towards the building height. He then read from Page 7 of his Planning report where he asked Mr. Mistry for some clarifications on building height and read from his report where he detailed the definition of "building height". Mr. Healey then stated that their measurements were to the top of the parapet, so he believed the measurements would be much lower when measured to the top of the roof. Mr. Mistry stated that the parapets were approximately 2.5 ft. high. Mr. Healey then explained that they usually used a point every 10 ft. along the front of the building and utilize the average from the finished grade as the established height for the finished building, not including the parapets as long as they were not taller than 5 ft..

Ms. Bailey then opened a discussion asking for clarification about the various spaces inside the temple and their uses. Ms. Bailey then drew the attention to the aesthetics of the exterior of the building, noting that it needed to comply with the aesthetics of the scenic corridor. She then asked if the colors and materials chosen for the building were based more on the preference of the temple members to conform to their religious preferences. Mr. Mistry indicated that the building color and materials were based upon the requests of the temple members, but also took into consideration that the site was heavily wooded and would be screened by being over 700 ft. off of South Middlebush Road. He also added that the building was of a lower height as well. Ms. Bailey then asked Mr. Mistry and the Board to consider that the side yards and the rear yards were much less than 700 ft., with the rear yard being

only 50 ft. and the side yards being similar. She indicated that the impact to the neighboring property owners was significant because of these calculations. Ms. Bailey stated that she represented the owners of the property just east of the site, and that her client's property wrapped around the east side of the proposed lot. She indicated that the setbacks were 50 ft. from the rear and 67 ft. from the side, so that the visibility of the building would be much more apparent to the property owner than it would be from the road.

Mr. Healey then asked if any public was interested in asking the Architect any questions.

Ms. Shipra Pemireti, People's Line Road resident across from the temple property on South Middlebush Rd. Ms. Pemireti asked what would be located within the multi-purpose hall, and Mr. Mistry gave his explanation utilizing his exhibits.

Mr. Angelo Onello, Professional Engineer on behalf of Snyder's Farm and the single-family residential property owned by the Warwicks, came forward. Mr. Lanfrit objected because both property owners mentioned he was representing were already represented by counsel. Mr. Lagana, Board Attorney, sustained Mr. Lanfrit's objections and told Mr. Onello that he could provide testimony later in the hearing, however, he should leave the questioning of witnesses to Mr. Asadorian.

Seeing no one further coming forward, Chairman Thomas made a motion to close the meeting to the public for questions of the Architect.

Mr. F. Mitchell Ardman, Engineer, came forward, was previously sworn in and remained under oath. Mr. Ardman testified that he was a licensed engineer in the State of New Jersey as well as a licensed Planner in the State of New Jersey. Mr. Ardman then described the subject property, what it currently consists of and described the surrounding land uses.

Mr. Lagana asked that Mr. Ardman limit himself and engage only in the engineering testimony that evening since there was a professional planner going to be testifying at the hearing. Mr. Ardman entered into the records as Exhibit A-3, which was an aerial view of the property with Site Plan superimposed. He showed the property as it sat along South Middlebush Road with approximately 400 ft. of frontage, with 300 ft. of frontage, which was the open field area. Mr. Ardman stated that a significant portion of the property was wooded and he then showed the Board and public where the wetlands on the property were located, which was in the southern part of the property along with a 50 ft. buffer. Mr. Ardman then added that they did have a Letter of Interpretation (LOI) for those wetlands. He then showed the location of the driveway, which was located on the south side of the frontage along South Middlebush Road. Mr. Ardman then showed the adjacent property (farmland) to the north that also swings to the east. He indicated that it was a preserved farm (Lot 46.04). Mr. Ardman then stated that Lot 65 was south of the property and was a wooded area and preserved Open Space. He then told the Board that the property drained to the southwest area to the wetlands area.

Ms. Bailey indicated that she and her clients could not hear Mr. Ardman very well, so Mr. Healey suggested that they re-adjourn the meeting and start with Mr. Ardman's testimony at the next hearing and then discuss what he felt would be a good number of questions from the Board, the public and the opposing counsel. Mr. Lanfrit agreed that it was still difficult hearing Mr. Ardman, and felt it was a better idea to start his testimony fresh at the next hearing.



Mr. Healey suggested that October 15, 2020 would be the next available meeting date. Mr. Lanfrit respectfully requested that the matter be **CARRIED TO OCTOBER 15, 2020, with no further notice required.**

**DL 11/30/2020**

Mr. Healey then read the link for the next hearing, through Webex, was read into the record for the Board, the witnesses, and the public's benefit. He also explained to the public that they would follow the same format at the next hearing, starting with Mr. Ardman's Engineering testimony and then allow for questions of each witness. After all testimony was given, Mr. Healey explained that anyone in the public could provide their comments on the hearing.

**WORK SESSION/NEW BUSINESS:**

There was no work session or new business discussed.

**MEETING ADJOURNED:**

Mr. Reiss made a motion to adjourn the meeting at 9:30 p.m. The motion was seconded, and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
November 15, 2020