

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

**VIRTUAL MEETING  
March 18, 2021**

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:** Cheryl Bethea, Bruce McCracken, Joel Reiss, Alan Rich, Gary Rosenthal, Robert Shepherd, Richard Procanik, Kunal Lakhia, Vaseem Firdaus 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:**

- **Thomas and Karen Duffy / ZBA-19-00034**

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

**FOR:** Ms. Bethea, Mr. Reiss, Mr. Rich, Mr. Rosenthal, Mr. Procanik, Mr. Lakhia, and Chairman Thomas

**AGAINST:** None

**DISCUSSION:**

- **Franklin II Associates, Ltd – Appeal of Zoning Decision – Carried to May 6, 2021**

**HEARINGS:**

- **CEDAR HILL PREP SCHOOL / ZBA-19-00041**

Applicant was seeking a “D” Variance to allow for the operation of a summer day camp and Site Plan to install a soccer field and running track at 152 Cedar Grove Lane, Somerset; Block 424.12, Lot 6.03, in an R-40 Zone - **CARRIED TO APRIL 15, 2021 – with no further notification required.**

- **DIMITRAKIS GENERAL CONTRACTING, INC / ZBA-20-00025**

Mr. James Mitchell, Esq., Attorney, appeared before the Board on behalf of the Applicant, Dimitrakis General Contracting, Inc., who were the contract purchasers of the subject lot. He explained that they were before the Board that evening to obtain approval for “C” Variances in which the Applicant was seeking to build a single-family home at 40 Suydam Road, Somerset; Block 36.01, Lot 13.02, in the Agricultural (A) Zone - **CARRIED FROM MARCH 4, 2021 – further notification was required.**

Mr. Mitchell enumerated the following variances that were required in the zone:

- Lot Area: 6 acres required – 2.00056 existing/proposed
- Lot Frontage: 400 ft. required – 215 ft. existing/proposed
- Side Yard: 75 ft. required – 73.02 ft. proposed.
- Total Side Yard: 150 required - 148.02 ft. proposed.

Mr. Mitchell indicated that they were seeking de minimus relief for the side yard setback but testified that they could eliminate the need for that relief if the Board did not agree that the granting of the relief would advance the goals of good planning. He went on to state that they were seeking approval to construct a single-family home on a two (2)-acre lot where, technically, the zone requirement was for six (6) acres. Mr. Mitchell also added that they were seeking permission for a frontage of 215 ft. where, technically, 400 ft. would be required. Mr. Mitchell then went on to state that the term he was using, “technically”, was because the non-conformity of the lot they were seeking permission to redevelop was an anomaly and possibly the result of an oversight. He told the Board that when the lot was created as a two (2)-acre lot, it was not only conforming, but oversized because the zone at the time required 50,000 sq. ft.,(just over one (1) acre) and a home was built on the lot. After the lot was developed, the lands on both sides of it, behind it and across the street from it were developed; and as part of that development, all the surrounding land was incorporated into the NRPC Overlay Zone where two (2)-acre minimum lot sizes and 200 ft. of frontage were required. According to the letter submitted and on file at the Township by Mr. Mitchell’s partner, Steve Hamburg, the information related to the history of the lot appears to convey that Township staff at one point believed the subject lot had been included in the two (2)-acre zone. The reasoning is because, even though the home and the existing barn on the site had been demolished in 2012, the owner of the lot checked with the Township staff and was assured that the lot would remain as an as-of-right buildable lot because it was in conformance with the surrounding lots. Accordingly, Mr. Mitchell indicated that the development that they now proposed was completely in keeping with the surrounding development and arguably even permitted, since the existing owner did not intend to abandon the grandfathered residential use of the site when he demolished the existing home. Mr. Mitchell then went on to state that they were there that evening seeking relief from the Board in the form of bulk variance relief to develop the property.

Mr. Frank Antisell, Engineer/Planner, 12 Concord Drive, Kendall Park, NJ, came forward and was sworn in. The Board accepted his qualifications as both an Engineer and a Planner in the State of NJ. In taking a look at the Application and the surrounding area as well as the relevant zoning, Mr. Antisell found that the property was currently zoned Agricultural (A) Zone which required a six (6) acre lot. He noted that the property previously contained a home and a barn built in the 1980’s when the zoning of the property was at 50,000 sq. ft. He reiterated

Mr. Mitchell's previous testimony by stating that the home and the barn were demolished in 2012, and that the Applicant was now looking to build a 3,051 sq. ft. residential building that was in character with the other dwellings in the area. Mr. Antisell then testified that all of the other homes surrounding the subject lot were located in the Natural Resource Preservation Cluster (NRPC) Overlay Zone. He explained that the NRPC Overlay Zone developed everything surrounding the subject property and left that lot out. Mr. Antisell stated that the property met all of the requirements of the NRPC Overlay Zone, but that the property was located in the Agricultural (A) Zone and was required to meet all of the requirements for that zone, to include lot area of six (6) acres required, lot frontage of 400 ft. required, side yard of 75 ft. required and a total side yard of 150 ft. Mr. Antisell stated that they looked at the adjoining properties to see if there was any land they could purchase that would eliminate the variances. He then described the adjoining properties as somewhere between 2 acres and 2.3 acres in size, so if they were able to purchase any portion of the adjacent properties, there would still not be enough land to remove the non-conformities or variances that they were requesting. Mr. Antisell also mentioned that the surrounding properties were of similar size to the subject property and included 200 ft. frontages.

Addressing the comments in the Technical Review Committee (TRC) review letter, dated January 28, 2021, Mr. Antisell testified that they agreed to comply with all of the comments included, with the exception of two (2) that they needed to discuss. He drew the Board's attention to the Other Comments section to the first comment that stated that the requested side yard and total side yard setback variances would appear avoidable with very minor modifications to the proposal. He indicated that the statement was absolutely true and could rotate the house slightly and eliminate both side yard setback variances; however, when they looked at the neighborhood, they saw that all of the homes were parallel to the roadway and equidistant on either side from the roadway. He then explained that they tried to mimic that placement. Mr. Antisell then told the Board that since their side lot lines were not at 90-degree angles to the roadway, it created a bulk variance for side yard setback. He indicated that they would like to keep the proposed home parallel to the street and request the de minimum side yard setback. The other comment that Mr. Antisell indicated that they wanted to discuss was the one related to the inclusion of sidewalks or curbing. In looking through the neighborhood, he stated that they did not see any sidewalks or curbing in the surrounding neighborhood, with all adjoining lots fully developed with existing homes that were occupied and well taken care of, so they were not proposing any, therefore, they were asking for the waiver from providing those elements to the plan.

Mr. Antisell stated that they believed the variances requested would fall under the C-1 criteria or the C-2 criteria. He gave explanations related to his previous testimony as to how the lot would qualify for each set of criteria. In describing the C-1 criteria, Mr. Antisell utilized the fact that all of the surrounding properties were comprised of two (2)-acre lots with 200 ft. frontages that were located in the NRPC Overlay Zone with no way to remove the non-conformity from the subject lot. From the C-2 perspective, he indicated that the existing lot and the existing lot frontage were in character and similar to the lots in the surrounding neighborhood. When looking at the special reasons for granting the variances, Mr. Antisell indicated that the Application could be found consistent with several of the stated purposes of the Municipal Land Use Law (MLUL), namely purpose "A", which was to encourage municipal action to guide the appropriate use or development of all lands in the State in a manner that supports the public health, safety, morals, and general welfare. He also spoke about special purpose "G" which was to provide sufficient space in appropriate locations for a variety of agricultural,

residential, recreational, commercial, and industrial uses, both public and private, in order to meet the needs of all citizens . Additionally, Mr. Antisell spoke about purpose "I", which was to promote a desirable visual environment in good civic designs and arrangements. As to addressing the negative criteria, Mr. Antisell testified that the proposed project would not present any substantial detriment to the public good, and the project was consistent with the surrounding uses. He added that the proposal posed no negatives to the neighborhood and that it was suitable to the area with the bulk variances being able to be granted without impairment to the Township zone plan or zoning ordinance.

Ms. Bethea brought up the fact that the Applicant had inquired about purchasing property form adjoining neighbors and wondered if they had any documentation to show that that effort was made by the Applicant. Mr. Mitchell testified that they did have letters that they sent to the neighbors to the left and the right of the subject property, with certified receipts for them. He noted that one of those homeowners may be on the call tonight and might be interested in selling some property to the Applicant, but it was his opinion that it did not satisfy the requirements under the law because the neighbor only had .33 acres of land to sell, and they needed four (4) acres to bring the Applicant's property into conformity.

Vice Chair Shepherd then asked whether the Applicant was required to produce the letters and the receipts showing proof that they did their due diligence or is the fact that the amount of land that they could purchase would not eliminate the need for the variances. Mr. Lagana, Board Attorney, indicated that the Applicant did indeed provide the Board with the letters and receipts, but that it remains that a buy/sell arrangement could not make the Applicant's property conforming.

Mr. Lagana, Board Attorney, had a question regarding the side yard setback. Mr. Antisell stated that the Agricultural (A) Zone required 75 ft. for side yard setback, and the Applicant was proposing 73.02 ft. on one side of the proposed home and 75 ft. on the other side. Mr. Lagana then asked if the 73.02 ft. for side yard setback complied with the NRCP Zone even if it did not comply with the Agricultural Zone. Mr. Antisell indicated that the side yard setback requirement for the NRCP Zone was 25 ft., and the proposal would comply if utilizing those requirements. Mr. Mitchell then spoke about their ability to comply by rearranging the home on the lot, but that they preferred to align the home parallel to the street just as the other homes in the neighborhood are oriented.

Mr. Healey then spoke about how the one side yard de minimum deviation would require another variance for the total side yard setback.

Mr. Rich then asked whether the proposed home would be hooked up to public water. Mr. Antisell answered in the affirmative.

Mr. Healey then summarized the proposal by incorporating all of the pertinent testimony given at the hearing that evening.

Vice Chair Shepherd then opened the meeting to the public for questions of the witness for engineering or planning concerns. Seeing no one coming forward to ask any questions, the meeting was then closed to the public.

Mr. Rich made a motion to approve the Application with Variances as well as grant the Waiver to provide sidewalks. Mr. Rosenthal seconded the motion, and the roll was called as follows:

FOR: Ms. Bethea, Mr. McCracken, Mr. Reiss, Mr. Rich, Mr. Rosenthal, Vice Chair Shepherd, and Mr. Procanik

ABSTAIN: Chairman Thomas

AGAINST: None

- **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 for 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 630 South Middlebush Road, Somerset; Block 37.02, Lot 46.03, in the Agricultural (A) Zone - **CARRIED TO APRIL 15, 2021 – with no further notification required.**

Mr. Daniel Lagana, Board Attorney, gave a brief overview of what a Zoning Board's function and powers were and how the proceedings work at a Zoning Board hearing for the benefit of the public and the Applicant. He noted that the Applicant had already conducted two (2) prior public hearings on the Application, one on October 1, 2020 and the second on October 15, 2020, and the night's hearing would be the third public hearing on the matter. Mr. Lagana then told the participating public that the Applicant would be providing testimony via several witnesses in the areas of engineering, architecture, traffic, etc. and the Board would then have the opportunity to ask questions of their direct testimony. Afterwards, Mr. Lagana indicated that the two (2) opposing counsel will also have an opportunity to ask additional questions of the witnesses. In addition, after the Board and attorneys have asked questions, the public will then have an opportunity to ask additional questions relevant to witness' testimony. He went on to further state that at the conclusion of all evidence presented, which he said would not likely happen that evening, the public would then be given the opportunity to provide sworn testimony of their own, i.e., express opinions and reasoning.

Mr. Lanfrit indicated that the subject property was approximately 16 acres in size. He noted that they were looking to obtain a D(3) Conditional Use Variance, Site Plan approval and were also seeking additional bulk variances, as enumerated below from Mr. Healey's Planning report:

- Site Plan approval
- D(3) Conditional Use Variances:
  - Off-Street Parking (112-37.D(1)): 457 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 the building proposed.
  - Building Setback – Side (112-37.G): 75 ft. required – 67.9 ft. proposed.

- Building Setback – Rear (112-37.G): 200 ft. required – 50 ft. proposed.
- Buffer (112-37.K(1) and (2)): 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) feet, 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 of 10 ft. on center with a minimum planting height of six (6) to eight (8) 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 ft. – 17.5 ft. mounting height proposed.
- “C” Variances
  - Freestanding Sign – Area: 25 sq. ft. permitted – 67.5 sq. ft. proposed.

Mr. Lanfrit addressed the buffer requirements and the parking location, noting that they original proposed the structure to be built in the open field closer to South Middlebush Rd. If they had moved forward with that original application, Mr. Lanfrit indicated that they would have eliminated the setback variances as well as the location of the parking as it would have been behind the temple. He went on to explain that the reason that they were moving forward to construct the temple in its present location was as a result of discussions with Township staff and their concern for preserving the Scenic Corridor. Mr. Lanfrit stated that the Township staff suggested moving the temple structure back and to the south of the property so that it would be somewhat screened from South Middlebush Rd. Mr. Lanfrit then indicated that they presented testimony at the previous hearings from Mr. Yogish Mistry, Architect, who described the facility, both exterior and interior, as well as the testimony of Mr. F. Mitchell Ardman, Engineer, over the course of the first two (2) hearings.

Since the last meeting, Mr. Lanfrit indicated that they had been in communication with counsel for the adjoining property owners, both Ms. Bailey who represented the Snyders, and Mr. Azedorian, who represented the Warwicks. He added that Mr. Azedorian had since left the firm that was representing the Warwicks and have now replaced him with Ms. Knarich from the same firm. Mr. Lanfrit explained that they had extensive meetings with all counsel, Mr. Ardman and himself and a Zoom meeting with the property owners concerning the project. As a result of those meetings. Mr. Lanfrit stated that they had come up with certain modifications to the Site Plan which came to them as a result of input that came from the adjoining property owners. He then indicated that he would have Mr. Ardman, Engineer, present testimony as to the changes that were made to the site as a result of the meetings. Additionally, Mr. Lanfrit indicated that there were some Board questions at the previous meetings where some concerns were expressed. He added that they took the opportunity to also incorporate some of those concerns into the changes that had been made. Mr. Lanfrit told the Board that their original application was to include Preliminary and Final Site Plan approval as well as the Conditional Use Variance and Bulk Variances. Since they did not have a fully revised and engineered plan in place yet, they would only be asking for Preliminary Site Plan approval.

Mr. F. Mitchell Ardman, Engineer, came forward and continued to be sworn in from the previous hearings. He added that his NJ license continued to be current. Mr. Ardman concurred with Mr. Lanfrit that they had been engaged in numerous meetings with the

Applicant as well as with the adjacent property owners and their attorneys. He also indicated that he had made some revisions to the Site Plan as a result of the meetings that had taken place along with some of the concerns of the Board members.

Mr. Ardman brought up the Site Plan exhibit for the proposal that was presented at the last hearings, discussing the Landscape Plan, location of the proposed building, the location in the front of the building of the associated parking, the location of the detention basin, the wetlands area, as well as the existing house in the center of the property along with the auxiliary parking area. Mr. Ardman then showed the locations of the Snyder Farm, to the east and the south side of the property, and the Warwick property near the driveway at the front of the subject property. He then showed the Board and public the location of the proposed septic area.

Mr. Ardman then brought up the exhibit showing the changes that had been made to the Site Plan. He entered the exhibit into the records as Overall Plan – Option A with a date of 12/18/20. He noted that there had been three (3) revisions, with the last revision date of 2/12/21. He added that what was being shown on the screen detailed the changes that were shown in red. Mr. Lanfrit indicated that he submitted a letter to the Board on February 12, 2021, outlining the changes that Mr. Ardman would be discussing that evening.

Mr. Ardman started the discussion at the driveway that entered out onto South Middlebush Road, stating that they had moved the driveway over away from the Warwick's property at their request and at the request/concern of Chairman Thomas. Mr. Ardman felt that the movement of the driveway 300 ft. away from the Warwick's property line would keep the traffic away from their property and create a better sight distance situation at the driveway. He added that the proposed monument sign would also move to stay with the location of the driveway. Mr. Ardman told the Board that the newly proposed driveway would also be utilized by any construction vehicles. He added that they would be posting signs along the entrance driveway noting that there would be no parking along the entire length of the driveway to satisfy Mr. Hauss, Fire Prevention Director. Mr. Ardman testified that they would be providing additional landscape screening along the area where the driveway was originally proposed to provide additional screening to the Warwick's property. He then told the Board that they were going to place the proposed street trees outside of the sight triangle with the Snyder's driveway.

Mr. Ardman then drew the Board's attention to the auxiliary parking area behind the Warwick's property and next to the existing residential structure on the subject property. He indicated that they agreed to add an evergreen hedge along the full row of parking that faces the Warwick's property line as well as have the closest row of parking a minimum of 100 ft. from the property line.

Mr. Ardman then discussed the movement of the temple structure away from the rear property line by an additional 80 ft. for a total of 130 ft., where 200 ft. was the minimum in the zone. He added that they had also moved the temple structure such that they also now complied with the side yard setback requirement of the zone (minimum of 75 ft. off the side yard) and would be able to eliminate that variance.

Mr. Ardman stated that one thing that was of utmost importance to Mr. Snyder was that they maintain the landscaping and buffering along the critical sides of the proposed temple

building. Along the common boundary line with the Snyder's property, Mr. Ardman testified that there were trees in that area, and they had agreed to supplement that area with additional 6-8 ft. pine trees in that location. He also stated that they had agreed to provide a 10 ft. high berm along the rear of the temple building planted with 8 ft. pine trees on top to provide a nice screen there to the Snyder's property, for a total height of 18 ft. According to Mr. Ardman, another important component to Mr. Snyder was the inclusion of fencing to prohibit temple members from wandering off their property and onto his farm field. He indicated that they agreed to place a deer-type fence along the eastern property line behind the wetlands and along the northerly property line up to South Middlebush Rd. Mr. Ardman then stated that they agreed to plant evergreens (6-8 ft. in height) behind the existing residential home on the property and would supplement with plantings in any areas where gaps exist.

Mr. Ardman then reiterated his testimony from the previous hearings, stating that the lighting for the auxiliary lot would be on a separate timer and separate circuits to be turned on only when necessary. He noted that the lights would go off after services were finished for the day. He added that they have agreed to abide by any federal guidelines for tree-clearing limitations, with some applying to the different times of the year that trees can be removed.

Mr. Ardman indicated that there was a letter from Ms. Bailey that was received by Mr. Lanfrit, and he wanted to get those requested items on the record that they had agreed to. He started out with item #6 that referenced the color of the building being all white as a preference, but that the Applicant agreed to have only the front façade in white, with the sides facing the Snyder property would be beige or an approved color. Mr. Ardman indicated that they also agreed to a 5-year maintenance agreement to ensure that all plantings survived.

Mr. Lanfrit brought up the fact that there were some significant trees along the Warwick property that they agreed to preserve and that they would supplement with evergreens in any gaps in the viewshed to the Warwick property. Mr. Ardman agreed with that statement. He also testified that they would only be removing the trees on the site that were necessary for the construction of the temple and/or the parking lots and would be preserving all the trees on the site that they were able to preserve.

Mr. Ardman then told the Board that they would only be seeking Preliminary Site Plan approval at this time, but that the design of the detention basin would stay as designed. In removing a driveway and replacing with another, the impervious coverage on the property would not change substantively, particularly with the entire project being moved closer to South Middlebush Rd. He also stated that the existing home on the property was still going to remain. He then added that the original plan had the driveway adjacent to the Warwick property accessing the existing home on the property, but now the home would be accessed through the new entrance driveway and going through the parking lot they were constructing, to reduce the impervious coverage by reducing any portion of the old driveway where possible.

Mr. Ardman testified that they came up with the draft plan that was before the Board through conversations with the counsel of the adjacent property owners. He also indicated that he had already spoken to the CME Engineers who reviewed the revised plan that was before the Board that evening and was confident that the storm water management system already designed would be adequate to handle all of the storm water on the site.



Mr. Ardman indicated that along with removing the existing driveway, there was an existing pipe along South Middlebush Rd. that allowed the driveway to connect to that roadway. As part of the removal of that driveway, the pipe would also be removed so that there would be better flow of water along South Middlebush Rd.

In reiterating his earlier testimony, Mr. Ardman told the Board that there would be new street trees along South Middlebush Rd. pursuant to either the County or the Township requirements, except where they may affect the sight distance of the Snyder Driveway.

Mr. Ardman then addressed the staff reports related to the original plan, starting with Mr. Healey's Planning report, dated January 8, 2020, which was his second revision, with comments regarding the Lighting Plan. He indicated that they would be revising the Lighting Plan to comply with Mr. Healey's comments regarding the height requirement and the foot candle requirement and would not be seeking any waivers or variances.

Mr. Ardman then agreed to comply with CME's Engineering report comments and had previously testified that they had an opportunity from a prior meeting to upgrade some things on the plans to limit some comments. He then added that they did obtain a wetlands delineation from NJDEP on December 11, 2019, and the wetlands shown on the plan were the only ones on the property. He then noted that there was a 50 ft. buffer area around the wetlands, and they were not going to disturb anything in the wetlands area or the buffer area.

Mr. Ardman then reiterated his earlier testimony by stating that they have eliminated the side yard setback variance since they now comply with the required 75 ft. minimum. He then added that they reduced the rear yard setback by providing 130 ft. setback where 200 ft. was required – previously, they only had a 50 ft. setback, but moved the location of the temple to make this requirement more conforming.

Mr. Ardman reminded the Board that they had originally proposed a monument sign and that they were still proposing the same size monument sign, however, they were moving it to be alongside the newly proposed driveway. Additionally, they still required a variance for sign size, but the total face of the sign itself would meet the 25 sq. ft. maximum.

Mr. Procanik asked Mr. Healey whether or not the draft plan before them that evening meet the requirements for Preliminary approval. Mr. Healey responded by stating that they had submitted a fully engineered Site Plan originally and what was before the Board that evening was a slight amendment to that original plan. He added that the testimony given was that the change in the impervious coverage was such that Mr. Ardman has defined it to indicate that it would not change his storm water management system plan significantly. Mr. Healey also indicated that they had provided enough testimony and through the presented exhibit as well as the fully engineered Site Plan enough information that it was clear that the Board could grant Preliminary Site Plan approval.

Mr. Reiss inquired as to whether the two (2) opposing counsel agreed to all the items they each requested in their letters. Mr. Lagana, Board Attorney, indicated that the counsel for the opposing neighbors would have an opportunity to cross examine Mr. Ardman and what the Board just heard were the revisions proposed by the Applicant.

Mr. Procanik then asked for clarification regarding the buffer variance that was originally requested. Mr. Ardman indicated that there was a technical requirement for a full width buffer variance around the entire property. He added that it was their testimony that there was an existing wooded area between the field and the woods that served that requirement, just not to the letter of the requirement.

Mr. Lanfrit then read into the record exactly what the requirement was for buffering. He added that as they indicated in the initial hearing, if they were to comply completely with that buffering requirement as listed in the ordinance, they would be taking out existing, more mature trees in order to plant new trees. He also added that they could not completely comply with what was requested in the ordinance since there were wetlands in the rear of the property and were not allowed to touch that area and require a deviation from that. Mr. Lanfrit stated that what they had done, from input from the Snyders, was to provide the buffer to the rear of the temple, a buffer to the side of the temple by preserving the existing tree line there and agreed to supplement that tree line with additional plantings. Mr. Lanfrit added that they had also proposed a deer fence around the property line along the rear of the property up to the wetlands area and along the area of the parking lot where the people would congregate.

Mr. Procanik then asked how many trees would have to be removed to construct the relocated driveway. Mr. Ardman stated that there would be no tree removal for the bulk of the new driveway because it was located in the open field. He did state, however, that they would have to cut through a portion of the wooded area closer to the temple location. Mr. Procanik then asked if they would be able to replace all of the trees on-site, so Mr. Ardman stated that the original replacement plan included 492 trees, with 107 on-site, and the revised plan would require less replacement trees since they had moved the temple structure forward. He added that they would work with the Township staff to place as many replacement trees as possible on-site, with the remainder to be made up by payment in lieu to the Township Tree Fund. Mr. Procanik discussed with Mr. Ardman possible locations on-site where replacement trees could be planted. They then discussed the possibility of planting tree along the entrance driveway.

Mr. Procanik then asked if the Applicant was planning for any land-banked parking on the site. Mr. Ardman stated that they were not.

Mr. Lagana, Board Attorney, suggested to Mr. Lanfrit, as part of the final Site Plan, that the Applicant could provide a more detailed Landscaping Plan with the proposed trees to be removed and the number and location of the replacement trees on-site. Mr. Lanfrit agreed to do so. He added that one of the things that prompted the relocation of the house of worship from the middle of the property was the Scenic Corridor and to protect the viewshed of the Scenic Corridor along South Middlebush Road. He added that the minute you start artificially planting trees and placing them in an open field, it may end up destroying what people were trying to protect. Mr. Healey stated that Mr. Ardman's firm had a Landscape Architect, and if the Board was to place some type of condition regarding that issue of placing as many replacement trees as possible back on the property in a way that balances screening of the building with trying to preserve the nature of the Scenic Corridor.

Mr. Procanik asked if the Board were to grant Preliminary approval that evening if the Landscape Architect could be present at the meeting when they were requesting final approval. Mr. Ardman agreed that that could happen, and Mr. Lagana indicated that he would have to give testimony as to the Landscaping Plan.

Mr. Healey then asked Mr. Ardman how many parking spaces result with the newly proposed plan. Mr. Ardman indicated that there would be the same number of spaces as previously testified to (157 parking spaces).

Mr. Ardman then discussed the Scenic Corridor Ordinance that was enumerated in Mr. Healey's Planning report. He added that with some of the adjustments that were made to the plan, he still felt that his testimony would still stand that they addressed the intent of the Scenic Corridor provisions.

Ms. Bethea then asked for clarification regarding whether the Warwicks and the Snyders had their own access drives into their properties or whether they accessed their properties through the subject property. Mr. Ardman indicated that the Warwicks and the Snyders both had their own access drives and were never involved in the plan for the subject property.

Chairman Thomas then opened the meeting to the opposing counsel for the adjoining property owners (Warwicks and Snyders).

Ms. Martina Bailey, Esq., Attorney representing Ray and John Snyder, came forward. Ms. Bailey then asked if she could have her letter of February 12, 2021 entered into the record. Mr. Lagana informed Ms. Bailey that her letter was already submitted and was currently part of the record. To respond to Mr. Reiss' inquiry regarding whether the opposing counsel agreed. Ms. Bailey stated that there were five (5) items that they did not see on Mr. Lanfrit's letter that were included in her list of items on her letter. She then stated that Mr. Ardman and Mr. Lanfrit covered the topics of interest in their testimony this evening and she indicated that she was thankful for that. Ms. Bailey then wanted to make it part of the record that her clients never waived their right to take the position of opposing the Application.

Ms. Bailey indicated that the subject property was about a 16-acre lot, and the proposed development was for less than 3 acres. One of the overriding questions that she and her clients have had included why it was that the design could not be done in such a way that does not necessitate a Use Variance. She indicated that she was under the impression, from everything that Mr. Ardman has testified to, that what was driving the design of the development was the fact that there was an existing dwelling on the site and what was causing the need for a Rear Yard Setback Variance because they were unable to provide the required space due to the location of the existing dwelling on the site.

Mr. Ardman then reiterated his previous testimony that evening and indicated that by eliminating the Rear Yard Setback Variance, they would have to push the location of the house of worship even further forward, which would require them to also push forward the auxiliary parking area closer to the property line with the Warwick property and more into the viewshed of South Middlebush Rd. He also added that they had made an agreement with the Warwick's to keep the 100 ft. buffer from the auxiliary parking lot to their rear property line.

Ms. Bailey then ask whether any thought was given to relocating the existing dwelling or demolishing it altogether. Mr. Ardman testified that the desire was to keep the existing dwelling on the property, and moving a structure, while possible, is easier said than done.

Ms. Bailey then opened a discussion with Mr. Ardman regarding the design of the building, noting that what she was hearing from the testimony was more driven by architectural design reasons rather than for any engineering reasons. Mr. Ardman indicated that that was not what he was saying, but that the design came from a combination of an engineering standpoint as well as from a site design standpoint that they believed balanced all of the neighbors concerns and preserving the viewshed from South Middlebush Rd.

Ms. Bailey then asked for clarification regarding whether the septic system design was considered fully engineered and would not be substantially affected by some of the changes that were presented that evening. She asked whether it too would qualify to have the Board consider Preliminary Site Plan Approval at that juncture and what the status was for a County approval for that. Mr. Ardman indicated that they worked with a separate consultant regarding the septic system design and the County approval was pending until they were able to receive Preliminary Site Plan approval from the Board. He did add, however, that they fully witnessed the soil testing that was done on the site in the specific location where the septic system would be located on the site. She then asked if a final septic design generally considered part of a fully engineered plan. Mr. Ardman answered her by stating that it was not a necessity, however, having passing logs and perks was a definite requirement as well as having the layout of the site planned out. Ms. Bailey then asked when they thought they might have the plans finalized, and Mr. Ardman stated that if they receive Preliminary Site Plan approval for the project, that they would move ahead with the septic design approval.

Ms. Bailey then asked a question regarding the height of the existing dwelling, recalling that the topic had come up before at a previous meeting, but that the information was not available at that time. Mr. Ardman indicated that the existing dwelling was a 2-1/2 story standard residential dwelling height but said that he did not have the exact measurement at that moment and would have to get back to her with that information.

Ms. Bailey then asked a question regarding the run-off from the newly relocated driveway. She asked what provisions were being made for the runoff from the asphalt driveway. As much as possible, Mr. Ardman stated that they were going to pick up the runoff in their drainage system and pipe it underground to the detention basin. He noted that the detention basin was approved by the Delaware & Raritan Canal Commission (DRCC) as well as by the Township's Consulting Engineer, CME. Mr. Ardman explained that some of the run-off would sheet flow across (as it did with the existing driveway) and down to the easterly corner of the property. He added that they would balance the drainage to make sure that there was no more sheet flow than what was existing there before and make sure that they meet all of the storm water criteria for that driveway. He added that part of what they did previously would continue by adding some environmental plantings in that easterly area which would help with storm water run-off, specifically with water quality provisions.

Ms. Bailey then indicated that there was some concern that the water ran off and floods and drains onto the Snyder property and wanted to know how much of that drains out towards South Middlebush Rd. Mr. Ardman explained that the bulk of the water drained along the existing driveway, with the runoff from the back of the site drained into the area where they plan for the detention basin.

Ms. Jennifer Knarich, Attorney representing the Warwicks, came forward. Ms. Knarich indicated that most of their concerns were addressed, but that she had a few questions and

clarifications. She asked what it meant that the newly created driveway would be planted, and Mr. Ardman stated that there would be a series of 6 ft. high evergreens that would be placed in that location.

Ms. Knarich then asked a question regarding the testimony given that the parking lot lights would be turned off after the services were finished and wanted to know approximately when the services would be completed. Mr. Ardman indicated that that would be a question of the Applicant.

Ms. Knarich then asked if they would be getting approval by the County Dept. of Health regarding the septic system prior to the Board granting Final Site Plan approval. Mr. Ardman stated that that does not always occur prior to Final approval and was typically a condition of approval, and Mr. Lanfrit also stated that it was not an accurate assumption that the approval would come from the County prior to Final Site Plan approval. Mr. Lanfrit also added that they had to receive County approval for the septic system as well as DRCC approval before the Township would allow construction to begin. Mr. Ardman then added that they would also need to get approval from Somerset Union Soil Conservation, Somerset County Planning Board as well as the DRCC, as Mr. Lanfrit mentioned. Mr. Ardman then told Ms. Knarich that they were considered technically complete but could not receive DRCC approval prior to receiving the Township Zoning Board Final Approval Resolution before they would have their actual vote on the plan. He also noted that they would have to send the changes that were recently made to the plan to Somerset Union Soil Conservation and Somerset County Planning Board and give their approvals.

Ms. Knarich then asked for clarification as to why replacement trees would not be beneficial to plant on the site in the area of open field, as mentioned by a Board member. Mr. Ardman indicated that the ordinance requirement, in general, asks that an Applicant replace as many trees as possible on the property; however, because South Middlebush Rd. is a Scenic Corridor, part of the corridor is overlooking a part of historic farm fields so that they could plant a series of standard or native trees that would reflect the original corridor, but might not reflect the intention of the ordinance. Mr. Ardman added that his Landscape Architect would work with Mr. Healey and other Board members to see a balance on that issue. Some trees maybe could be planted along the property line to replicate a hedgerow that would be standard for a farm field.

Vice Chair Shepherd opened a discussion regarding the establishment of a time for the cutoff of lighting. He repeated the testimony that lights would be cutoff in the parking lots as soon as services were over, but felt that it means something different if services were over at 8:00 p.m. or if they were over at 2:00 a.m. The Vice Chair asked whether the timing of services had been established yet, and Mr. Lanfrit testified that it had not been determined yet because the Applicant had not testified yet but would be when he does so. Mr. Lanfrit stated that the Applicant would be the next witness, whether he was heard that evening or at the next meeting.

Chairman Thomas made a motion to open the meeting to the public. He again explained how the proceedings would work and reminded the public that the questioning would be just for the testimony that was just given by the Applicant's Engineer, Mr. Ardman. He added that they were not taking statements or opinions from people that evening as that would be reserved for a later point.

Ms. Barbara Lawrence, 383 South Middlebush Rd., Somerset, NJ, came forward. She noted that she was a 40-year resident and a former member/chairperson of the Historic Preservation Commission. She gave her appreciation to Mr. Lanfrit who stated that they were doing all they could to protect the Scenic Corridor.

Mr. Greg Foster, resident, Somerset, NJ, came forward. Mr. Foster asked whether the proposed monument sign down near South Middlebush Rd. would be back-lit so that the light would come through the panels or illuminated by a flood light. Mr. Ardman stated that the monument sign would not be back-lit but would be lit by a ground-mounted up light onto the sign. Mr. Foster asked whether they thought the lighted sign would interfere with the intention of the Scenic Corridor. Mr. Ardman indicated that they felt it was much more appropriate in the area than a back-lit sign and would be just enough light to give a directional purpose. Mr. Foster then asked if the light on the sign would be shut off when the parking lot lights were turned off at the end of services. Mr. Ardman answered in the affirmative. Mr. Foster then asked why the house of worship could not be moved further away from the rear property line, and Mr. Ardman reiterated his testimony, stating that the house of worship would get too close to the Scenic Corridor and they would be pushing the auxiliary or secondary parking lot more toward the neighbor, the Warwicks, rear yard. Mr. Foster then asked how tall the proposed house of worship would be. Mr. Ardman indicated that the building was only one story tall (under 35 ft.), with a basement. Mr. Foster then opened a discussion why the Applicant needed a one-story building to be that tall, and Mr. Ardman explained that it was a function of the use of the one room for worship space. He also added that 35 ft. was also the height allowed in the zone for residential homes.

Mr. Healey then reminded the public that the Site Plans and Architectural Plans were located on the Township website, including the plans for the sign (Sheet A-2.01 on the Architectural plans) if anyone wanted to look at them.

Mr. Kunal Parikh, Somerset resident, came forward. Mr. Park asked why there was a variance required for not having enough parking for the building size to match what should be there. Mr. Ardman then explained the calculations that were done to come up with the appropriate number of parking spaces required based upon one (1) parking space for every 15 sq. ft. of floor space in the worship area. He added that it really counts all of the potential area in the building that could be used simultaneously and comes up to 457 spaces required. He added that there was also an occupancy calculation (458 people, with 3 people per car) that came out to 153 parking spaces. Per zoning requirement, the larger number prevails, and although some general testimony was given, the Applicant would be giving more specific testimony regarding the use of the proposed building and balance the parking needs accordingly. Mr. Ardman added that the first lot closest to the building would be adequate for the weekly services, and the auxiliary parking lot would be required for the monthly and quarterly services. Mr. Parikh asked how many parking spaces were being provided, and Mr. Lanfrit indicated that it was 157. When asked about what would happen if there were not enough parking spaces for all who wished to come, Mr. Ardman referred Mr. Parikh to listen to the testimony from the Applicant who would discuss alternative plans.

Mr. Robert Peterson, 66 Wilson Rd., Somerset, NJ, came forward. Mr. Peterson asked how many variances were being requested and what they were for. Mr. Lanfrit indicated that they were seeking one (1) variance for Rear Yard Setback where 200 ft. was required, and they

were providing 130 ft. He added that the other relief that they were seeking was for non-compliance of the Conditional Use Standards for houses of worship and required a D(3) Use Variance. A discussion ensued regarding the conditions that needed to be met in the zone and were enumerated at the beginning of the hearing to include the buffer, the number of parking spaces and the location of the parking spaces. Mr. Peterson asked when they would be hearing Traffic testimony, and Mr. Lanfrit indicated that a Traffic Consultant would be testifying as to the impact of the site on South Middlebush Rd. and stated that it was their position that the roadway would not need to be widened because the testimony regarding the use of the site would explain. A discussion ensued regarding the number of trees that would need to be removed on the site, and Mr. Ardman stated that an update to the plan would be made available. Mr. Peterson asked why there was such a delay and why there needed to be so many meetings. Mr. Lanfrit explained that there were three meetings, and part of the recent delay was taking the time to discuss with the adjacent neighbors to satisfy their concerns as well as some technical difficulties in scheduling.

Mr. Gupta, 64 Winding Way, Somerset, NJ, came forward. Mr. Gupta asked how they would accommodate parking for the various heavy worship days. Mr. Lanfrit asked that the question be tabled until the Applicant can give testimony and answer questions.

Mr. Healey indicated that there were no other public that wished to ask a question of Mr. Ardman. Seeing no one further coming forward, Chairman Thomas closed the meeting to the public.

Mr. Healey announced that there were two additional people who wanted to ask questions, and the Chairman allowed it.

Ms. Amita Patani, resident, came forward. Ms. Patani asked whether the engineers for both structures proposed across the street from each other on South Middlebush Rd. have discussed issues like parking and traffic. Mr. Lanfrit indicated that he was the attorney handled both hearings for the houses of worship that were in close proximity to each other on South Middlebush Rd. on the opposite sides of the street. He indicated that the Site Engineers were not the same for both projects, the Traffic Engineer is the same for both. He also added that the County was aware of both projects and were reviewing them at the same time.

Mr. Kunal Parikh came forward again and asked when testimony would be given by the Traffic Consultant. Mr. Lanfrit explained the procedures and that Mr. Parikh would be able to ask questions of the Traffic Consultant after he gave his testimony.

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

Noting the late hour, Mr. Lanfrit asked if the matter could be continued at the hearing on April 15, 2021.

Christine Woodbury read the notification that the hearing would be carried to the meeting of April 15, 2021, with no further notification required.

**MEETING ADJOURNED:**

Mr. Reiss made a motion to adjourn the meeting at 10:00 p.m. The motion was seconded, and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
April 12, 2021