

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

**VIRTUAL MEETING  
May 6, 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 Vice Chairman Shepherd 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, Alan Rich, Gary Rosenthal, Richard Procanik, Kunal Lakhia, Vaseem Firdaus, and Robert Thomas

**ABSENT:** Joel Reiss and Robert Shepherd

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

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**MINUTES:**

- **Regular Meeting – March 18, 2021**

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

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

**AGAINST:** None

- **Regular Meeting – April 1, 2021**

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

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

## DISCUSSION:

- **Franklin II Associates, Ltd. – Appeal of Zoning Decision**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Franklin II Associates, Ltd. Mr. Lanfrit indicated that they were still working through some things with respect to the appeal and, perhaps, a new development application, so he requested that the matter be carried to the Board's first meeting in August. He stated that if they proceed on that evening, they will notice and advertise the hearing. Mr. Lanfrit then told the Board that they agreed to an extension of time for the appeal review and had already sent the letter to that effect.

Mr. McCracken made a motion to approve the meeting being carried to the first meeting in August of 2021. Mr. Rosenthal seconded the motion, and the roll was called as follows:

FOR: Ms. Bethea, Mr. McCracken, Mr. Rich, Mr. Rosenthal, Mr. Procanik, Mr. Lakhia, Ms. Firdaus and Chairman Thomas

AGAINST: None

The Board agreed that the Zoning Appeal could be **CARRIED TO AUGUST 5, 2021, with notification required.**

## HEARINGS:

- **CATHY DeWITT / ZBA-21-00003**

Applicant was seeking a "C" Variance for a solar array that was installed incorrectly in the backyard at 91 Walnut Avenue, Somerset: Block 452, Lot 59, in an R-20 Zone.

Mr. Fabian Wika, Solar Operations Manager, 1st Light Energy, 5 Dickerson Rd., Hillsborough, NJ, came forward and was sworn in. Mr. Wika indicated that he was responsible for all solar operations, from the process of sale to the installation and inspection of any solar systems in the State of New Jersey for his company. Mr. Wika explained that his company sold, designed, and installed the solar system on Ms. DeWitt's property at 91 Walnut Avenue in Somerset, NJ. Mr. Wika then stated that he would be testifying on Ms. DeWitt's behalf as to what happened with the installation of the equipment which caused a rear yard setback requirement.

Mr. Wika stated that Ms. DeWitt signed for the solar contract with his company; however, due to the size of the system and Ms. DeWitt's request that it not be roof mounted. He further indicated that the system was too large for her roof and that she has potential future plans to expand her one (1)-story ranch to a two (2)-story home, so they designed a ground-mounted system that was within the ordinance of the Township. He went on to state that he personally walked the property with Ms. DeWitt and also received the required setbacks, including the side-, front- and rear-yard property. During the time of the stakeout when they marked the preliminary location of the ground mount, Ms. DeWitt indicated that she had a grove of cedar trees along the back of the property between her and her rear neighbor. Mr. Wika told the

Board that he used that as his marker when taking his measurements. He added that Ms. DeWitt also wanted to preserve as much property in her backyard as possible for her family's use and for a possible future expansion of a shed and a garden. Mr. Wika then told the Board that he had marked out the property and had a licensed engineering company come to the property to pre-drill holes for the ground mount and his company then completed the solar installation. He then told the Board that they passed their building and electrical inspections and was told that to complete and receive a ground mount certificate from the Township, they would need a survey. Mr. Wika then explained that he hired a surveyor who completed the work and gave Ms. DeWitt some markers on the property on the four (4) corners since they were not there previously. Finally, Mr. Wika told the Board that when they received the survey, they found that the furthest northern or rear property marker was marked at 18.6 ft. from the property line, about 6.5 ft. off of the proper setback line where 25 ft. was required in the zone.

Mr. Wika discussed the options given to him by the Township professionals, one of which would be to move the solar arrays. He explained that it would be cost prohibitive and that it was custom built and welded onsite. Mr. Wika then told the Board that his second option would be to apply to the Zoning Board with a request for a variance to reduce the distance from 25 ft. to 19 ft. so that the project would be in compliance with the rear most portion of that ground-mounted solar system.

Ms. Bethea asked for clarification regarding whether there was a survey prior to construction or if the measurements were just provided from the homeowner. Mr. Wika indicated that they do not typically perform any sort of ground-mounted systems on properties that do not have ample acreage for that type of system. He also stated that a survey was not required before submission and that they had since found out that the cedar trees do not belong on Ms. DeWitt's property, per the surveyor.

Mr. Rosenthal then asked if there were any conversations with her neighbors. Mr. Wika deferred to Ms. DeWitt to answer that question.

Chairman Thomas then asked Mr. Healey, Planning Director, as to whether there was a permit required prior to the construction. Mr. Healey indicated that they did submit a drawing of the ground-mounted solar array at the time of the zoning permit process. He added that the location of the solar panels was drawn on a copy of the survey, and the way it was drawn did comply; however, when it was time to translate that to the field, there were mistakes made as to where their property line was located. Chairman Thomas wanted Ms. DeWitt to know that any approval for a variance that might be given that evening, did not allow for a possible shed to be placed in the area where it would violate the setback.

Mr. Daniel Lagana, Board Attorney, then asked Mr. Wika for clarification regarding the setback, stating that the previous testimony that he gave asked for a variance for 19 ft. when he believed Mr. Wika meant 18 ft. Mr. Wika agreed with Mr. Lagana that he should have stated 18 ft.

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

Mr. Wika offered to show recent photographs of the solar array as it looks on Ms. DeWitt's property. Chairman Thomas asked if any of the Board members needed to have the photographs shown or if they could move on with a motion. Hearing no one wishing to do so, the Chairman asked for a motion on the matter.

Mr. Rich made a motion to approve the variance, as requested. Mr. McCracken seconded the motion, and the roll was called as follows:

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

AGAINST: None

- **ROZI & SIVA DHANDU / ZBA-21-00008**

"C" Variance in which the Applicant wanted to construct a deck and patio at 16 Supra Court, Princeton; Block 11.01, Lot 10.36, in the R-10A Zone.

Ms. Rozi Dhandu, Co-Applicant, and Mr. Siva Dhandu, Co-Applicant, 16 Supra Court, Princeton, NJ both came forward and were sworn in.

Ms. Dhandu explained that they were planning to build a deck and a patio because they have a walk-out basement and need to construct the two (2) levels. She indicated that the maximum coverage allowed in the R-10A Zone was 35% - existing was 31.% - proposed was 41.4%.

Chairman Thomas asked whether the size of what they were proposing could be reduced to reduce the impervious coverage. Ms. Dhandu stated that they would have to reduce the size by 800 sq. ft. in order to comply, which she stated was significant. She testified that she had her parents living with them and had kids and wanted to create an enjoyable outdoor living space for their family. Ms. Dhandu stated that she would be willing to reduce the size by a few hundred sq. ft., but more than that would not provide the outdoor space they required for their family.

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

Mr. Lagana, Board Attorney, posed a few questions to the Applicants. He opened a discussion with Ms. Dhandu regarding the fact that their home was located on the road just as a motorist would approach the cul-de-sac. She stated that most of the properties were about the same size; however, her neighbor on the cul-de-sac had slightly less property due to the cul-de-sac cutting into it. She testified that their allotment for impervious coverage did not take into the fact that they have a preserve at the rear of their property. Ms. Dhandu then discussed the slope at the rear of the property that allowed for run-off to the rear of the property to the preserve.

Mr. Rosenthal asked if they had spoken to their neighbors. Ms. Dhandu stated that they notified all of the people on the 200 ft. list that they received from the Township. She then stated that no one had an objection to the proposal.

Ms. Bethea asked the Applicants whether they looked at the comments from the Township staff in the Technical Review Committee (TRC) report regarding storm water management. Ms. Dhandra testified that they would comply with all the comment in the TRC reports.

Mr. Lakhia made a motion to approve the Application. Mr. McCracken seconded the motion, and the roll was called as follows:

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

AGAINST: None

- **SAHAROSE, INC. / ZBA-20-00026**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Saharose, Inc. He explained that they were before the Board that evening to request "D-1" Use Variance approval in which the Applicant was applying for permission to park fifteen (15) school buses on the property at 2 JFK Boulevard, Somerset; Block 386.17, Lot 138, in the G-B Zone.

Mr. Lanfrit stated that they were not proposing any site changes or site improvements. He then told the Board that they did appear before the Historic Commission concerning the Application since they were within 1,000 ft. from the Delaware & Raritan Canal. Mr. Lanfrit told the Board that the Historic Commission approved the proposal, with certain recommendations that were included in the Technical Review Committee (TRC) report.

Mr. Merghani Ali, Principal of Saharose, 227 Krauss Rd., Edison, NJ, came forward and was sworn in. Mr. Ali stated that he currently rented office space at 2 JFK Boulevard, Somerset, NJ. Mr. Ali stated that his company was charged with transporting children to schools in New Jersey and told the Board that he had a contract with the Board of Education. Mr. Ali told the Board that he currently had 25 busses. He added that the Application before the Board that evening was to park 15 busses in a portion of the parking lot. Mr. Ali indicated that the other 10 busses were kept in the driver's own driveway. He then told the Board that the busses could hold from 16-24 students and that they were small busses. Mr. Ali added that he did not own any larger busses. He testified that the drivers would pick up the busses from 7 a.m. to 8 a.m. in the morning and leave their personal vehicles, depending on when the schools operate, and come back at around 9:30 a.m. to pick up their personal vehicles until their afternoon run, He did add that some of the drivers keep the busses with them until after they have done their afternoon pick-up/drop-off of kids. Mr. Ali testified that his company did not do any weekday evening or weekend bus runs. He stated that he did not yet have any contracts for doing bus runs for sporting events after school. Mr. Ali told the Board that they would park the busses in a designated area of the parking lot and would always be maintained in that area. He agreed that they would not be performing any bus maintenance

or repairs in the parking lot. Mr. Ali stated that he maintains an office in the complex and has never noticed a parking issue or problems with patrons finding parking in the parking lot.

Mr. Frank Antisell, Engineer/Planner, 12 Concord Drive, Kendall Park, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Antisell then described the property and the existing uses on the property. He then showed an aerial photograph of the subject property, marked into the record as Exhibit A-1, noting that the property was comprised of 3.72 acres with a 7,328 sq. ft. commercial building with approximately 136 parking spaces on-site. He noted that there were three (3) parking areas on-site, including the front parking area, the rear parking area behind the building used for employees, and a parking area to the right of the building where the proposed 15-bus parking area would be located. Mr. Antisell indicated that there were two (2) restaurants in the building, a Krauzers and a Max Challenge fitness business, Dependable Cleaners and Tailors, Fitness Doctor for personal training, and a dentist and a nail salon. He added that there were also several small offices, that would include an office that the Applicant maintains there. He then entered into the record as Exhibit A-2, which was a blow-up of the previous aerial photo that focused in on the proposed bus parking area. Mr. Antisell testified that the proposed parking area currently contained a total of 57 parking spaces, where they were proposing to park 15 mini-school busses in that portion of the parking lot. He noted that the parking lot was bordered by Easton Avenue as well as the ramp from Easton Avenue. He then added that behind the parking lot was the Cube Smart self-storage facility. Mr. Antisell then indicated that between the parking lot, Cube Smart, Easton Avenue, and the Easton Avenue ramp was a pretty densely wooded area that created a very nice buffer for the subject parking lot. Mr. Antisell then entered into the record as Exhibit A-3, a photo of the subject parking area with the busses parked to the very right to show how they would look in the parking lot. He told the Board that they were looking to park 8 mini-busses on one side and 7 mini-busses on the other side all the way at the end of the parking lot. Since a school bus parking lot was not permitted in the G-B Zone, Mr. Antisell stated that they were before the Board requesting a D-1 Use Variance. He then indicated that they had to show that the site was particularly suited for the use and that there was case law in the State of New Jersey showing that school bus parking was an inherently beneficial use because it was a necessary and accessory use to schools themselves. He then drew the Board's attention to the negative criteria, looking at the impact of the surrounding area, Mr. Antisell testified that there was a pretty densely wooded area surrounding the parking area and were not visible to any of the surrounding properties and seemed to be a very appropriate site. When looking at the Master Plan and the amendments, Mr. Antisell did not see any impacts to the Master Plan, the zoning ordinance and zoning plan, with no impacts to the surrounding land uses or detriment to the neighborhood. Taking all of this into consideration, he felt that the site was suitable for the use and that the variances could be granted without substantial detriment to the public good.

Mr. Antisell testified that he had been to the property the previous Monday at around mid-day and noted that there were approximately nine (9) vehicles in the front parking area where 57 were provided. In the rear parking facility behind the building, he noted that about half of the 22 employee parking spaces were occupied. He then told the Board that the parking area to the right of the building, the parking area that was the subject of the Application, he testified that there were four (4) passenger vehicles as well as the school busses that they had brought onto the site to depict how they would look. Mr. Antisell then told the Board that some of the uses on the property, such as the cleaners/tailor and the fitness center would have greater attendance in the mornings where the two (2) restaurants would have greater

attendance in the evenings/weekends. He noted that each minibus was 9 ft. in width and would need 11 parking spaces on the one side to park eight (8) school busses and 10 spaces on the other side to park seven (7) of the school busses, for a total of 21 parking spaces on-site out of the 135 parking spaces provided on-site for the entire shopping center. Mr. Antisell stated that it would be appropriate to put markings in the parking lot, either by painting or by signage, delineating the designated parking spaces for the school busses. He added that the designated parking spaces for the school busses were the furthest from the building and probably the least desirable parking spaces on the site for the other uses in the facility for the public to park in.

Mr. Lanfrit then addressed the comments in the Historic Preservation Advisory Commission report, which was attached to the TRC report. He indicated that the Historic Commission did not want to have full size school busses or charter busses parked there and stated that they did not propose to have any of those larger busses on-site. Mr. Lanfrit added, though, that if a larger bus pulled into that parking lot that was not one of theirs, they would have no control or responsibility for that. He added that they would also have no control if box trucks or tractor trailers pulled into the parking lot as they were also not their trucks and not their responsibility. He did say, however, that they were agreeable to the comment that there would only be a maximum of 15 busses on-site and that they would be parking in the furthest part of the parking area as proposed in Exhibit A-3. Finally, Mr. Lanfrit stated that they would be agreeable to the comment regarding no maintenance or repairs to the busses, beyond general cleaning, and that the busses be operational. He added that they were agreeable to, if their lease was terminated, remove all the busses from the property.

Mr. Rich questioned the thickness of the vegetation on the site. Mr. Antisell indicated that the photographs of the site shown in the exhibits presented that evening were all taken on the previous Monday, days before the hearing, and clearly showed the presence of trees and vegetation. He then asked what would happen if a driver showed up in the morning and there was a flat tire, or the bus would not start. Mr. Lanfrit stated that he did not think that was what the Historic Preservation Advisory Commission was talking about. He testified that there would be no maintenance such as oil changes and no washing of the vehicles on-site. A discussion ensued. Then, Mr. Rich asked if there would be fueling on the site, and Mr. Ali answered in the negative. Mr. Rich then inquired about all 15 busses starting at the same time and the noise and pollution that would occur as a result. Mr. Lanfrit reminded him that not all of the busses would be leaving the site in the morning at 7:00 a.m. and that they would be staggered between the 7:00 a.m. and 8:00 a.m. hour. Mr. Ali stated that he also did not have 15 routes in the morning, and that he only had three (3) or four (4) busses leaving in the morning. A discussion ensued regarding other bus companies possibly utilizing the designated bus parking spaces.

Chairman Thomas did not feel that Mr. Ali should allow other bus companies to utilize his 15 parking spaces just because they might be available. Mr. Lanfrit stated that they would be agreeable to a condition of any approval that the busses on the designated site would have to be owned by Mr. Ali. Chairman Thomas then asked where the busses were taken for servicing, and Mr. Lanfrit indicated that the busses were taken to service stations that service busses. Mr. Ali stated that he took his busses for servicing and repairs to 686 Livingston Avenue, North Brunswick, NJ. The Chairman then asked why that parking lot was chosen and what makes it suitable for doing so. Mr. Ali indicated that he has an office upstairs in the facility there. A discussion ensued. Chairman Thomas noted that the vegetation was sparse

for about six (6) months of the year. He then asked Mr. Ali if they had a circulation plan for how the busses were coming into the parking lot. Mr. Lanfrit indicated that they had not done a traffic analysis, but if the Board felt it would be important for their consideration, they would be happy to do one for the site and would come back before the Board to provide testimony.

Ms. Bethea felt that a traffic analysis would be a good idea since she had some questions related to managing the use of the parking spaces. A discussion ensued.

Mr. Procanik then asked what would happen if a driver who took the bus home to park now could no longer do so. Mr. Lanfrit testified that they have an agreement to park 15 busses and would have to come back before the Board if they wanted to add to that number. He again stated that they would agree to that as a condition of approval. Mr. Procanik then asked if a parking variance would be required for the shopping center, and Mr. Lanfrit stated he would have to look into that.

Mr. Healey noted that the testimony was that the busses would be taking up 21 parking spaces but wanted to know how many parking spaces would be taken up by the drivers' personal vehicles. Mr. Lanfrit discussed the way the drivers would move their personal vehicles into the bus space while they were out with the bus. Mr. Healey stated that if they were going to be coming back before the Board for a continuation of the hearing, they would need a calculation of the parking based on the square footage of the shopping center. After the calculations were done, the Applicant would have to prove that the 114 parking spaces left for the rest of the shopping center would comply with the parking requirements.

Since the parking in the back of the parking area were to be designated as bus parking only, Chairman Thomas indicated that he would not want to see driver's cars parking interchangeably with the busses when the busses leave the parking lot. He did not see that the Applicant has shown how the various businesses on the site complement each other. A discussion ensued.

Ms. Bethea indicated that she felt it was unrealistic to expect that the bus drivers would be parking their personal vehicles only in the parking spots designated for the busses. Mr. Lanfrit indicated that they would examine all of the issues brought up by the Board in a traffic analysis study.

Mr. Lagana brought up the recent approval for a company, DeJaiz, LLC, where there were a few conditions of approval where the facility would have a maximum capacity of 150 occupants and needed to provide valet service for all events exceeding 75 people. Additionally, for events of 75 people or less, the applicant's approval was conditioned by having to reserve parking in the rear of the building for employees only. He went on to state that the conditional approval included, for events of 75 or more, the valets were asked to guide people to the rear of the property. Mr. Lagana then told the Applicant that the approval by the Board contemplated utilizing the parking spaces to the right of the building for that catering company. A discussion ensued.

Chairman Thomas then brought up Ms. Bethea's concern of asking drivers to park their cars one place and busses park another place and they would be depending on people following the guidelines. The Chairman brought up the fact that the owner, Mr. Ali, according to his



testimony, may not be on-site all the time to supervise. He then asked that that circumstance be addressed as well at the next hearing.

Chairman Thomas then made a motion to open to the public for questions or comments.

Mr. Foster, 39 Lebed Drive, Somerset, NJ, came forward. He asked if the busses had diesel engines, and Mr. Ali indicated that his busses did not have diesel engines. Mr. Foster was confused about the fact that the owner of the shopping center was renting parking spaces to businesses in the facility without Board approval. Mr. Lanfrit explained that Mr. Ali received a violation notice when he brought busses onto the site without approval and submitted an application which was being heard that evening. He told Mr. Foster that an application could be brought to the Township by either the owner of the property or the applicant.

Mr. Lagana, Board Attorney, then informed Mr. Foster that every day the busses are on the site without approval comes a new violation. A discussion ensued, and Mr. Lanfrit stated that they had asked the Township if the busses could be left there while the Application was pending, and that was what they had done.

Chairman Thomas asked Board Attorney, Mr. Daniel Lagana, if the Board were to seriously consider the application as inherently beneficial. Mr. Lagana indicated that in reading the case with Scholastic Bus, it should be considered an inherently beneficial use since the case had similar facts. He told the Board that their focus should be on the negative criteria and the substantial impact to the surrounding neighborhood and to the intent of the zone plan and Master Plan. He added that the questioning of parking and site circulation were very relevant to the negative criteria.

The Board agreed to continue the hearing as follows - **CARRIED TO JULY 1, 2021 – with no notification required.**

**DL – 7/31/2021**

The Board Secretary then read the instructions for the public to attend the carried meeting, either by phone or by Webex.

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

Mr. Lanfrit gave a summary of what testimony had already been given in the previous hearings, including the architectural testimony at the first hearing, Engineering testimony at the past hearings as well as the Applicant concerning the operation of the house of worship at the last hearing. He added that they would be presenting Traffic testimony that evening.

For the record, Ms. Woodbury, Board Secretary, wanted to make everyone aware that both Ms. Cheryl Bethea and Mr. Kunal Lakhia have provided Certificates of Authenticity that they had listened to the previous testimony related to the hearing.

Mr. Lagana, Board Attorney, asked that the opposing council be brought on because there were some communications between, he and Ms. Bailey, opposing council, regarding evidentiary issues and was prepared to discuss them that evening, but apparently Ms. Bailey was okay with reserving that discussion for another time. Ms. Bailey confirmed that statement.

Ms. Elizabeth Dolan, Traffic Engineer, Dolan & Dean Consulting Engineers, LLC, 181 West High Street in Somerville, NJ, came forward and was sworn in. Her qualifications were accepted by the Board. Ms. Dolan then indicated that she had heard the testimony of the Applicant at the hearing on April 15, 2021 and was consistent with the information she was given by the Applicant in the matter. She then discussed the primary activities on the premises as being Friday evenings, from 6 p.m. to 10 p.m., Saturdays, from 9: a.m. to 9 p.m., and Sundays, from 9 a.m. to 9 p.m. Based on that information, she indicated that the house of worship would be considered an off-peak use and not coincide with the peak hours of commuting time Monday-Friday. She then spoke of the use not having a specific start and end time like other houses of worship have and that the activity was more fluid, with people coming and going during the periods of activity at the site. She then referred to a November 21, 2019 Traffic Study that was prepared and submitted to the Township with the study's counts being performed in April, 2019, based upon a worst-case scenario. In that report, she indicated that they assumed that the maximum capacity would arrive and depart in a one-hour period of time during the one (1) highest traffic hour on South Middlebush Rd. She then discussed a Saturday peak hour with 1,378 vehicles travelling two-ways on South Middlebush Rd. and the weekday peak hour traffic of almost 1,900 vehicles. Based on their data, and assuming the maximum capacity would arrive and depart in a one-hour period where they calculated acceptable levels of service entering the site, with a level of service "E" waiting to exit, which would be a delay on-site. Ms. Dolan reiterated that that scenario was not expected to happen because people were arriving and departing throughout different periods of time. She then indicated that the analysis was considered "conservative", indicating that there was sufficient capacity on South Middlebush Rd. to accommodate the movements. As was described at the April 15<sup>th</sup> hearing, Ms. Dolan reiterated the testimony given by the Applicant that if there were a high attendance activity, the Applicant was willing to use an off-duty police

officer to move traffic into and out of the site to afford the gaps that were regularly available on South Middlebush Rd.

Ms. Dolan then opened a discussion regarding the need for a possible left-turn lane on South Middlebush Rd. but stated that she felt that it was not warranted unless they were actually experiencing a peak load for an event-type of activity. Ms. Dolan added that the April 15<sup>th</sup> testimony included the fact that a peak load event-type activity would not be happening on-site. She testified that she looked at the Application as a low-impact, off-peak use and were working with the County on the approval for the South Middlebush Rd. access.

Ms. Dolan then discussed the parking proposed on-site, which she indicated was in keeping with the anticipated demand of the proposed use. She added that no parking was allowed, nor would it be appropriate, on South Middlebush Rd.

Ms. Dolan then testified that the re-located driveway on the site provided adequate sight distances for vehicles exiting the site, which she indicated that the County would require the appropriate sight triangles and sight distances.

Ms. Dolan mentioned that her office prepared a supplemental letter to the County in July of 2020 because they were concerned about the coincident activity of the subject Application with the Sai Datta Mandir project proposed on the opposite site of South Middlebush Rd. She indicated that they did provide the supplemental letter to indicate that there was no coincident activity and, again, to suggest that there was no need for a left-hand turn lane on South Middlebush Rd.

Ms. Dolan then differentiated the two (2) projects, noting why they were not identical as far as operations were concerned. She explained that the Sai Datta Application had what they would call "floating" activity on the site where there was no defined start and end times of worship. Ms. Dolan indicated that Sai Datta had submitted to her that their peak activities would be on Monday, Tuesday, Wednesday, and Thursday. She then noted that they have 100-200 devotees on Saturday, coming and going throughout the course of the day, with similar activity on Sunday.

Ms. Dolan indicated that their analysis for the effect of the additional traffic from both the Dada Bhagwan Institute and Sai Datta Mandir projects on South Middlebush Rd. would go back to the counts from 2019, which was pre-COVID, and included a 1% per year background growth factor over two (2) years. She noted that they found, pre-COVID, that traffic was plateauing, and also found that traffic had dropped off more due to the pandemic. Since they were being very conservative, Ms. Dolan felt that their projections were an over-projection of activity, even at pre-COVID volumes, for the activity of the subject use.

Ms. Dolan then discussed the spike in traffic on two Fridays and Saturday/Sunday on the two (2) visits per year made by the priest from India. She indicated that employing an off-duty police officer to control traffic was an appropriate way to accommodate, primarily, the discharge from the site.

Mr. Lakhia discussed the testimony given for the number of devotees who might attend either temple that were being proposed on South Middlebush Rd. He indicated that being of a similar faith, he felt that it was a gross underestimation of people coming to the site,

particularly on Thursdays for the other project and during high holy days. He expressed his concern that people would park along the access road into the site during those times

Mr. Richard Procanik reiterated testimony given at the April 15<sup>th</sup> hearing that there would be a maximum of 250 people coming to the site, which equates to 83 parking spaces required, based upon the ordinance requirements. Mr. Procanik then asked if 83 parking spaces were typical of a 21,000 sq. ft. house of worship. Ms. Dolan indicated that the Institute of Traffic Engineers (ITE) directs them to look at the seating capacity rather than the building area, because building areas vary due to the ancillary facilities associated. Ms. Dolan did testify that 83 parking spaces would be adequate for the particular use in question.

Mr. Procanik then opened a discussion regarding the use of a police officer to direct traffic, however, with the two (2) houses of worship and the farm next door that sponsors events throughout the summer and fall, would it be appropriate to require police presence at all three (3) locations. She indicated that it really came down to creating the gaps in the South Middlebush traffic to allow the exiting from all three (2) sites, particularly if the activities of some or all of the entities were concurrent.

Mr. Procanik then asked Ms. Dolan how far away they were from meeting the requirements for a traffic signal with the inclusion of the two (2) houses of worship. Ms. Dolan indicated that they were very far away from that requirement. She explained that the traffic volumes would have to be sustained on the outbound driveway approaches for at least a peak hour and a better scenario for that requirement would be over four (4) hours.

Mr. Lagana, Board Attorney, asked for some clarification from Ms. Dolan, wondering if the 83 parking spaces were for the consideration of up to 250 attendees on the two (2) high holy days twice a year on a Saturday and Sunday, to assume that all 83 vehicles would show up at once. Ms. Dolan indicated that that was how they calculated the numbers. He then asked if they anticipated 150 people on a typical Saturday entering the site and requiring 50 parking spaces within one (1) hour and leaving within one (1) hour. Ms. Dolan agreed that that was correct.

Mr. Lagana then asked what the total parking spaces was available on the site, and Mr. Lanfrit stated that they had 156 total parking spaces. Mr. Lagana wanted to know if Ms. Dolan felt that the 83 vehicles on site at one time was the maximum that could accommodate for safe site circulation. She explained that the site circulation would accommodate the 83 vehicles coming on-site during the high holy days as well as the 50 vehicles coming on-site on a typical weekend day because they have an appropriate designed site circulation plan. Mr. Lagana then asked Ms. Dolan if there was a number of vehicles at which point, she did not feel comfortable that the site would accommodate that number of vehicles showing up at once. Based on the anticipated operation of the site, with attendees arriving and departing at different times, she indicated that she did not see a problem with activity at the driveway and would come up with the same level of service calculation. Ms. Dolan also reiterated that if there were a peak event happening on-site, they would have a police officer there to help people navigate out of the site when it might be more problematic than entering the site. Mr. Lagana asked, and Ms. Dolan responded to the question of 250 people during their largest event over a three (3)-day period. A discussion ensued regarding capacity analysis.

Mr. Lanfrit indicated that with other houses of worship within the Township, they have agreed to have a meeting with the Township officials, including police, fire, etc. to discuss the event, based upon the anticipation of attendance at the event. During those conversations, it would make a determination whether police presence would be required. He added that for the larger events, there would be a requirement for an application to the Township for approval of the event. Mr. Lagana indicated that doing what Mr. Lanfrit has suggested has been done with other houses of worship would be a better alternative when there are larger events planned, and he stated he would recommend that to the Board that they impose that as a condition of any approval.

Mr. Lakhia wanted the Board to know that with a second house of worship located across the street and that also had the same high holy days needed to be taken into consideration by the Board. Mr. Lanfrit reminded Mr. Lakhia of the previous testimony given that, regardless of when the high holy days occurred, they would only be open on Fridays, Saturdays, and Sundays

Mr. Healey mentioned that the parking requirements on the Site Plan were based on one (1) parking space for three (3) people during the largest gathering and that the figure listed on the Site Plan was 458 divided by 3 was 153 parking spaces, therefore 157 parking spaces were proposed. Mr. Healey then asked Mr. Lanfrit where the 458 number came from. Mr. Lanfrit indicated that he believed that 458 number was based upon the square footage of the building. Ms. Dolan confirmed that it was the building area that got them to the 458-person capacity, which was then used to calculate how many parking spaces were required. Mr. Healey stated that the testimony that there would not be more than 250 people in the building at any one time, so the 83 parking spaces may be the number for the Board to consider in order to reduce the amount of overall site disturbance, reduce tree removal, etc. He also suggested that they might consider providing a bit more parking, with the remainder to be placed on the Site Plan as land-banked spaces. A discussion ensued for a future meeting.

Ms. Firdaus asked whether any of the parking spaces would be designated for electric charging stations. Mr. Lanfrit indicated that the parking was not set up that way because it was their understanding that people would not be there for extended periods of time so that a charging station would not be necessary. Mr. Lanfrit indicated that they could include them if the Board so wished, however.

Ms. Jennifer Knarich, Esq., Attorney representing the Warwick's, came forward. Ms. Knarich asked Ms. Dolan if she considered the traffic on South Middlebush Rd. to be light, medium, or heavy, generally. Ms. Dolan indicated that the traffic would be considered heavy during historical peak activity, and she felt that they were getting back to those numbers as the months progress after COVID. Ms. Knarich then asked Ms. Dolan if the Sai Datta project was taken into account when preparing the subject traffic study. Ms. Dolan indicated that they did provide a letter to the County, dated July 7, 2020, to address those comments, but indicated that they were not coincident with peak-hour uses. In response to Ms. Knarich's questioning of being provided the letter of which Ms. Dolan speaks, Mr. Lanfrit stated that he would review the letter and provide it if he felt it made sense and that it shed light on both of the projects, he would be happy to provide a copy.

Ms. Knarich then asked Ms. Dolan if she had the measurements of the distance between the two (2) driveways of the two (2) houses of worship. Ms. Dolan indicated she did not have that measurement, but perhaps was a question for the Site Engineer.

Ms. Knarich asked Ms. Dolan if any provisions were being made to ensure safety of turns in and out of the site, besides providing a police officer. Ms. Dolan stated that they had to provide the right sight distance for the County, an appropriately designed driveway and shown that there was appropriate capacity. Other than that, Ms. Dolan stated that they were agreeing to provide an off-duty police officer during the peak activity.

Ms. Knarich then asked Ms. Dolan if she had looked into whether there were any accidents or incidents in that area. Ms. Dolan answered in the negative, and Ms. Knarich asked whether or not that would be something she would look into in terms of a traffic standpoint. Ms. Dolan indicated that they do not typically do an accident study in Franklin Township because we typically do get a review from the Police Dept. Mr. Lanfrit then indicated that they did get a review report from the Police Dept. on May 23, 2020, where there were no comments at that time.

Ms. Knarich asked Ms. Dolan if there was any consideration for doing traffic counts for a similar institution to get real-time comparison traffic counts. Ms. Dolan stated that they did not do that but relied on the information from the Applicant that was testified to at the last hearing and that was presented to her at the onset of the project to develop the estimates.

Ms. Knarich then asked Ms. Dolan if there was an ITE standard for the type of use being reviewed that night. Ms. Dolan indicated that there was an ITE standard but did not have that data in front of her at that moment. She again explained that for parking, they typically look at seating.

Ms. Martina Bailey, Esq., Attorney for the Snyder's, came forward. Ms. Bailey opened a discussion regarding the fact that ITE standards for parking was based upon seating, but that Ms. Dolan's analysis seemed to be based upon the Applicant's projected attendance. Ms. Bailey discussed the previous testimony, and she felt it would be beneficial to know what the ITE standards for parking were, considering that there was a variance requested to provide 458 parking spaces, which was a Township ordinance. Ms. Bailey asked Ms. Dolan why she would not utilize the ITE standards, and Ms. Dolan indicated that the ITE provided guidelines, but that they also indicate that engineering judgement should be utilized as well. She further stated that her job was to understand the application, understand the operation, and look at what was actually proposed since ITE addresses generic churches, mosques, temples, etc. She added that typical ITE data work on the assumption that people arrive for a service at a specific time and leave the service at a specific time, which was not the case with the application.

Ms. Bailey then asked Ms. Dolan if her advice and analysis extend to an analysis of the parking requirements. Ms. Dolan answered that it would only be on a limited basis.

Ms. Bailey then reiterated Mr. Lagana's questioning regarding what number of vehicles entering/exiting the house of worship would give Ms. Dolan some concern in a traffic perspective. Ms. Dolan stated that 100 cars trying to exit the house of worship during a peak traffic hour would probably end up with a level of service of "F". However, for any large

attendance, they would be looking at an off-duty police officer to facilitate movements out of the site. Ms. Dolan then explained their analyzation of 50 cars coming out of the site in an hour. They then discussed the various two-way traffic flow of traffic during different time frames on a Saturday, with the highest volume from 12p to 1 p (1,378 vehicles)

Ms. Bailey then asked what service level "E" meant to a layperson. Ms. Dolan explained that on average a person who was leaving the site would be waiting somewhere between 35 and 50 seconds to exit the site.

Ms. Bailey then asked about the queue on the site as vehicles wait their turn to exit the site if 50 cars leave within an hours' time. Ms. Bailey stated that it would be a concern to the adjacent neighbors for that many cars idling along the driveway with their headlights on.

Mr. Michael Bell, 70 Coppermine Rd., Princeton, NJ, came forward. Mr. Bell asked whether the traffic counts were taken while the Snyder Farm was operating on the next driveway down with their various activities throughout the summer/fall. Ms. Dolan indicated that the specific count was taken on a Saturday on April 6, 2019. Mr. Bell stated that the April date would not coincide with the peak usage of South Middlebush Rd. to visit Snyder Farm as well as in the summer when people would be using the recreational facilities there.

Ms. Leah Convery, 43 Townsend Court, Franklin Park, NJ, came forward. Ms. Convery asked where the attendees of the house of worship coming from and what roadways would they be utilizing in the Township to get to and leave from the site. Ms. Dolan indicated that that aspect was not studied. Ms. Dolan indicated that the traffic study was done to assess the driveway intersection on South Middlebush Rd. to ensure that there was an appropriate capacity to accommodate movements into and out of the driveway of the house of worship for the routine operation of the facility. She stated that the caller was looking at a much broader scope traffic analysis of activity on the roadway corridor, but that we were not looking at it in that way for a Site Plan application. Ms. Dolan further explained that the analysis would be more of a traffic planning study that might be undertaken by the Township to look at the overall development impacts of regional development and looking at possible improvements to the overall roadway system. A discussion ensued. Ms. Dolan reminded Ms. Convery that this would be a gradual arrival and departure times of devotees to the facility, and the guidance for traffic studies was 100 trips at an intersection in an hour was worthy of analysis. She added that the proposal was not going to create that level of activity that would warrant that level of analysis. Ms. Convery respectfully disagreed because of the difficulty of getting out of Jacques Lane and Cortelyous Lane where there are many traffic accidents where there was no way to get around them when they occur.

Ms. Convery then asked what the impact on traffic would be during the construction of the house of worship. Mr. Lanfrit indicated that they had agreed to was to build the new driveway in its new location so that all construction vehicles would be able to safely enter and leave the site on the new driveway and not use the existing driveway on the property.

Ms. Carol Kroll, 13 Marco Polo Court, Franklin Park, NJ, came forward. She asked Ms. Dolan whether she considered in her traffic study what 20 vehicles on South Middlebush Rd. heading south and having to make a left into the site would do to traffic on South Middlebush Rd. during peak times. Ms. Dolan indicated that she did include that in her traffic study that was submitted, dated November 21, 2019, and found that there was acceptable levels of

service and gaps available to make the left turn into the site without impeding southbound traffic (level of service "A"), based on the highest traffic volume recorded in one-hour mid-day on a Saturday. A discussion ensued.

Ms. Kroll then asked if Ms. Dolan considered the bicycle traffic on South Middlebush Rd., especially from about May/June through the fall. Ms. Dolan answered that there was no specific attention to bicycle traffic in the traffic report. Ms. Kroll then asked if Ms. Dolan knew that the specific length of roadway on South Middlebush Rd. was the narrowest portion of the roadway. Ms. Dolan indicated that the lane configuration in that area was considered.

Mr. Schmidt, resident, asked how the clear cutting of a tree stand benefit the people of Franklin Township by the applicant paying into a tree fund and planting a few trees to satisfy the Board. Mr. Lanfrit objected to the question because it did not have anything to do with traffic and was also discussed at previous hearings. A discussion ensued.

Mr. Bell, 70 Coppermine Rd., Princeton, NJ, came forward again. Mr. Bell pointed out that the Police Dept. made public the accidents that have been occurring on South Middlebush Road on a Nixle notification. He then addressed the left turn from southbound South Middlebush Rd. into the site and felt that it was completely unrealistic to average the left turns into the site over the course of an hour. He wanted to know if Ms. Dolan had done any statistical analysis of the averaging period over which the traffic was counted in order to calculate the wait time for a left turn. Ms. Dolan stated that she would assume that all of the attendees would arrive in one (1) hour as the applicant had testified at the April 15<sup>th</sup> hearing that the people would be arriving and departing gradually over several hours.

Mr. Selva Ramisami, Somerset, NJ resident, came forward. He was asking whether they had considered this proposal on such a narrow road and what it would do to the traffic. Mr. Ramisami did not agree with Ms. Dolan's wait time numbers having traveled the road. Mr. Ramisami also questioned the delay of two cars coming out of the site at the same time, with one (1) turning right and the other turning left. Ms. Dolan indicated that the delay was an on-site delay as opposed to a delay to vehicular travel going straight on South Middlebush Rd. A discussion ensued. Mr. Ramisami then opened a discussion regarding how the traffic would be impacted if all parking spaces were filled. A discussion ensued.

Ms. Danielle Hanley, 115 Almond Drive, Somerset, NJ, came forward. Ms. Hanley asked when does a traffic report become deemed outdated. Ms. Dolan indicated that 2019 was indicative of typical traffic conditions, especially since there was a significant impact on traffic due to COVID's work from home, remote schooling, etc. and did not see the historical growth that NJDOT had predicted. Ms. Hanley then asked Ms. Dolan if it were normal to not take into consideration the number and severity of traffic accidents that were reported on any given roadway given to study. Ms. Dolan stated that they do not typically do historical traffic accident studies through the normal course of a traffic impact study. She added that usually, through the review process, either through the engineering review, traffic engineering review or, in this case, a police dept. review where accidents were known to be an issue, is when they would pursue that course. A discussion ensued.

Mr. Healey asked Ms. Dolan if the County brought up traffic accidents and ask her to look at that. Ms. Dolan answered in the negative.



Mr. Jeff Green, 1 Lenape Drive, Franklin Park, NJ, came forward. Mr. Green asked if there was a disproportionate consideration given in this testimony, specifically, the surrounding residents and not those residents living a little further down the road and their impact. Ms. Dolan stated that, again, she felt that lent itself more to a traffic planning type of analysis, but that they did analyze the traffic in the general area. Mr. Lagana explained to Mr. Green that it was not in the Board's jurisdiction to look at traffic down the road from an applicant or the totality of traffic for the entire Township.

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

In trying to plan the scheduling of further meetings, Mr. Lanfrit suggested it might be helpful if the opposing counsel could advise Mr. Healey in the next few days whether they intend to call any witnesses.

Chairman Thomas then asked for a future date to continue the hearing. Mr. Lanfrit asked that the matter be **CARRIED TO MAY 20, 2021 – with no further notification required.**

**DL – 6/30/2021**

Ms. Christine Woodbury, Board Secretary, then read off the instructions on how to participate in the next scheduled hearing for **DADA BHAGWAN VIGNAN INSTITUTE**

**MEETING ADJOURNED:**

The Chairman made a motion to adjourn the meeting at 10:51 p.m. The motion was seconded, and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
June 18, 2021