

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

**VIRTUAL MEETING
July 1, 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:

PRESENT: Cheryl Bethea, Bruce McCracken, Joel Reiss, Alan Rich, Gary Rosenthal, Vaseem Firdaus and Chairman Thomas

ABSENT: Robert Shepherd, Richard Procanik, and Kunal Lakhia

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

MINUTES:

- **Regular Meeting – May 6, 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, Ms. Firdaus and Chairman Thomas

AGAINST: None

HEARINGS:

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

Preliminary & Final Major Site Plan w/C & D Variances in which the Applicant wanted to construct a 28,970 sq. ft. place of worship at 583 South Middlebush Road, Somerset; Block 36.01, Lot 6.03, in the Agricultural (A) Zone - **CARRIED TO JULY 15, 2021 – no further notification required.**

Ms. Christine Woodbury, Board Secretary, read off the instructions for the public to participate in the upcoming hearing on **JULY 15, 2021.**

- **TONY & NICOLE HUBBARD / ZBA-21-00013**

“C” Variance in which the Applicant was requesting to put up a pool in the back yard at 427 West Point Avenue, Somerset; Block 348, Lot 32, in an R-15 Zone – **CARRIED TO JULY 15, 2021 – with further notification required.**

Ms. Christine Woodbury, Board Secretary, read off the instructions for the public to participate in the upcoming hearing on **JULY 15, 2021.**

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

“D” Variance in which the Applicant was applying to park fifteen (15) school buses on the property at 2 JFK Boulevard, Somerset; Block 386.17, Lot 138, in the General Business (G-B) Zone - **CARRIED TO AUGUST 5, 2021 – with no further notification required.**

Chairman Thomas then made some remarks related to the above Application; however, they were not audible during the hearing.

Mr. Frank Regan, Board Attorney, indicated that the Applicant was for the existing tenant of the property and not the owner of the property, and he didn't believe that the Board could require the owner to appear at the next hearing. Mr. Regan indicated that he would double-check the protocols to make sure.

Again, Chairman Thomas made some additional remarks related to the Application; however, they were also not audible during the hearing.

Ms. Christine Woodbury, Board Secretary, read off the instructions for the public to participate in the upcoming hearing on **AUGUST 5, 2021.**

- **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 JUNE 17, 2021, with no further notification required.**

Mr. Lanfrit indicated that he presented at the last hearing what was going to be his last witness, so he did reserve the right to re-call witnesses after the objectors presented their witnesses. He added that he was advised that the objectors were going to present Traffic testimony that evening and was provided with a Traffic memorandum. He added that he understood that they may also be presenting Planning testimony as well that evening.

Ms. Jennifer Knarich, Attorney representing the Warwicks (646 South Middlebush Rd.), indicated that they were only going to present Traffic testimony that evening and would have their Environmental Expert and their Planner available at a subsequent meeting.

Mr. Lewis Luglio, Traffic Consultant, came forward and was sworn in. The Board accepted his qualifications. Mr. Frank Regan, Board Attorney, then asked that the Traffic memorandum that he prepared should be entered into evidence, the Traffic Impact Study and Parking Review. Mr. Luglio then reviewed his report, in summary format, first by indicating the existing conditions. He noted that South Middlebush Rd. was a very narrow roadway with no shoulders. He then discussed the traffic volumes on South Middlebush Road that were enumerated in his report. He stated that his results showed a standard volume in the peak hours, with a “dip” in volume in the mid-day. He added that the “peak hour” in the mornings were actually longer and were being called “peak hour spreading” because it happened within a longer period than one (1) hour. Mr. Luglio then told the Board that the same thing occurred with the evening peak hour which starts at 3:00 p.m. and runs through 7:00 p.m. He said that the morning peak hour counts were about 1,000 cars in an hour and about 1,500 to 1,800 vehicles in the evening peak hour. Mr. Luglio then discussed the Dolan & Dean traffic report, noting that they were using the basis of 150-175 people at a Friday night service/activity and up to 250 people twice a year on a Saturday and Sunday event. Mr. Luglio’s assessment was that people could be visiting the site between 6:00 p.m. and 7:00 p.m. and that 50 vehicles could possibly enter the site or leave within one (1) hour. He then indicated that the Dolan & Dean report was based upon provided information about how many people would be at the site, utilizing the three (3) people per vehicle to come up with the number used in their analysis. He then discussed utilizing the Institute of Traffic Engineer’s (ITE) trip generation manual to come up with the average number of trips that would be generated. Mr. Luglio stated that he also looked at various land uses that corresponded to a house of worship to include those for mosques, for churches, and for synagogues to show the Board that specific information. He said that they were looking at a Friday a.m. peak hour of 208 and a Friday p.m. peak hour at 401, a church on a Sunday would be 242 and a synagogue would be 171. Mr. Luglio then told the Board that all of the numbers were high numbers of traffic volume compared to what was reported in the Dolan & Dean report for the subject temple. He added that it, therefore, could be anywhere from 3-6.5 times high than what was estimated and analyzed in the Traffic Impact Study from Dolan & Dean.

Mr. Luglio recommended that the Board should request that the Applicant prepare a revised intersection analysis of the driveway based on 100 vehicles entering and exiting the site as well as another to do sensitivity analysis of up to 150 vehicles to fully understand what the traffic impacts along South Middlebush Road would be.

Ms. Knarich then asked to make sure that the Board received the Traffic Impact Analysis, and Chairman Thomas stated that he had received a copy well before the meeting. A discussion ensued among the Board members regarding who received the report. Ms. Woodbury indicated that she did note that a copy was sent to Mr. Regan, Board Attorney, as well as to her, but that there was a question on it, and didn’t know if the question was ever answered, so it did not go out to the Board members. Ms. Woodbury offered to go to her office and e-mail it to the Board members at that time if Ms. Knarich thought it would be helpful.

Ms. Bailey, Esq., Attorney for the Snyders, spoke about e-mailing Ms. Woodbury asking her to send the Traffic Impact Study and Parking Review to the Board members on June 15, 2021. Mr. Regan, Board Attorney, then spoke up and noted, for the record, that Ms. Woodbury had, in fact, e-mailed the Traffic Impact Study and Parking Review to the Board members on June 16, 2021.

Ms. Woodbury came back and indicated that she would send the Traffic Impact Study and Parking Review to the Board members again so that they would be able to follow along with the testimony that evening.

Mr. Luglio then discussed the Dolan & Dean analysis that the driveway to the site would function at an acceptable level of service. He then told the Board that he didn't think that the analysis considered the congestion that already existed along South Middlebush Road and the lack of gaps in traffic to complete a left-hand turn maneuver in the southbound direction. Additionally, Mr. Luglio indicated that the Dolan & Dean analysis was based upon only 25 vehicles making that southbound left-hand turn into the site. He noted that if the analysis included 100 vehicles making a southbound left-hand turn into the site, he believed that it would have a failing level of service. He also stated that he believed that vehicles trying to make a left-hand turn out of the site would have difficulty finding gaps from the one-way exit roadway onto South Middlebush Road. Mr. Luglio then testified that the Traffic Analysis that was prepared for the Sai Datta Mandir site by Dolan & Dean should have also been considered. He stated that the intersections and traffic that would be associated with that application would also have an affect on the subject driveway as well. Mr. Luglio mentioned that the Traffic Analysis for Sai Datta Mandir did not mention how long the driveway would be to accommodate a queue of cars waiting to enter/exit the site. He added that there was also no information regarding site lighting at the driveway entrance. Mr. Luglio reminded the Board that because there was not going to be a sufficient gap for southbound left-hand turns into the site and because the roadway had only one lane in each direction with no shoulder, there would be a backup in the southbound direction waiting for those congregants waiting to make a left-hand turn into the driveway. He added that it might also affect emergency vehicles trying to get by there as well.

Mr. Luglio then drew the Board's attention to on-site safety and circulation, where vehicles would have to exit the site on a one-way driveway. He also added that both of the proposed temples in this span of South Middlebush Road would cause additional congestion along an already heavily trafficked roadway.

Mr. Luglio indicated that the Board should require input and County approval for both projects before any approvals were made at the Board level to better understand that the County would have to widen South Middlebush Road to provide for an exclusive southbound left-hand turn lane into the site from the subject project to the proposed Sai Datta Mandir project. He then noted that if the County would not permit any widening due to the Scenic Corridor designation, the proposed driveway could be a traffic and safety issue.

Related to the parking requirement, Mr. Luglio stated that the Board should consider a calculation based on the square footage of the house of worship and would require 457 parking spaces on-site, where only 157 were being provided. He then indicated that he also looked at the ITE parking generation manual, which indicated that the site would require anywhere from 363 parking spaces to 420 parking spaces for a typical mosque, based on square footage and not based on the number of people proposed to attend. He felt that the ITE calculations were more in line with the parking needs than the 457 spaces required by the Township code and certainly more than the 157 parking spaces being provided by the Applicant.

Ms. Knarich then asked Mr. Luglio if the assessment made by the Applicant's Traffic Engineer that South Middlebush Road was considered an urban arterial roadway. Mr. Luglio answered in the affirmative, defining an urban arterial roadway as a local roadway that was connecting rural destinations or it could be a roadway that was connecting different municipalities. He added that it was an urban roadway, significant in nature, based on its proximity to land uses that could be along the way and handled a significant number of vehicles. When answering Ms. Knarich's next question, Mr. Luglio stated that the roadway handled a full mix of traffic types that included passenger vehicles, busses, school busses, tractor trailers and box trucks.

Ms. Knarich mentioned that the analysis of the traffic by the Applicant's Traffic Study noted that the pre-COVID traffic pattern during the peak hours was considered heavy along South Middlebush Road as it was presently. He noted that the traffic was heavy during the weekday peak travel times and very heavy and steady throughout the day on Saturdays and that any significant increase without any type of widening at certain locations with major driveways would place additional burden upon South Middlebush Road to process traffic. He indicated that one of two things could happen, to include longer periods of congestion during the day or motorists would have to find alternate routes to travel to where they wanted to go.

Mr. Luglio then discussed the level of service "F" and what that would mean along South Middlebush Road. He stated that level of service "F", if you were at a signalized intersection, would mean that you would have to wait for a second signal cycle to get through the light and considerable congestion and delay associated. He then discussed the number of vehicles trying to enter or exit the driveway at the same time and utilizing the square footage of the proposed building to assess the 457 parking spaces required, there would be a level of service "F" that would require some type of roadway improvement.

Ms. Martina Bailey, Esq., Attorney for the Snyders, came forward. Ms. Bailey had a follow-up question. She mentioned that the testimony that was given at an earlier hearing that the schedules of the two temples did not conflict. Mr. Luglio indicated that he believed that there was some overlap in the schedules between the two (2) facilities, especially on a Friday and even possibly on a Saturday. He noted that, assuming both temples were approved, if even one(1) of the two(2) became a different type of house of worship that was similar to the other, then they would both have the same type of schedule. Mr. Luglio reiterated that the Board should require that type of traffic analysis as well.

Chairman Thomas then indicated he had some questions of Mr. Luglio. The Chairman stated that he found it interesting that they were bringing up the traffic issues that having two larger institutions very close to one another on opposite sides of the roadway, but that no one was talking about the very active farm right next door and their traffic, that included left-hand turns in and out.

Chairman Thomas then stated that Mr. Luglio had gone so far as to suggest that the Board needed to consider asking the Applicant for additional traffic reviews, etc.; however, but disregarded the testimony of the Applicant indicating the number of people attending, when they would be attending and the number of cars that would require parking. He reminded Mr. Luglio that the use of the facility would not coincide with the peak hours of the roadway at any time of the day.

Mr. Healey reiterated the Chairman's concerns and indicated that they had two hearings worth of testimony from the Application regarding the operation, use an occupancy of the facility for all times of day and during the year. Mr. Healey then asked Mr. Luglio why, after all the testimony given by the Applicant and the testimony of the Applicant's traffic expert, that he would choose to give general ITE traffic information in terms of traffic generation and parking. Mr. Luglio indicated that ITE data was based on hundred, if not thousands of studies of different types of houses of worship, and a project of the size they were discussing (over 20,000 sq. ft.) that could handle over 150 people inside the building concerns him regarding how many vehicles would be accessing the site during the peak hours. He added that if the Applicant's Traffic Consultant only relied upon the data that the Applicant provided, Mr. Luglio stated that he thought that was insufficient. Mr. Healey then opened a discussion on the numbers given for a mosque use, and Mr. Luglio stated that they used all factors to come up with those numbers. They discussed how many studies each use was based upon, and he included other types of houses of worship to show the numbers for alternate houses of worship. A discussion ensued.

Mr. Lanfrit asked Mr. Luglio who retained his services as a Traffic Expert. Mr. Luglio indicated that both the Snyders and the Warwicks retained his services. Mr. Lanfrit then asked if he had heard all of the testimony at all of the hearings. Mr. Luglio indicated that he heard the testimony of the last four (4) the hearings that included that of the Applicant and the Applicant's Traffic Expert. They then discussed Mr. Luglio's testimony regarding the days of use testified to by the Applicant with Mr. Lanfrit questioning his presentation that the facility would be used on Fridays from 6 p.m. to 10 p.m... Mr. Lanfrit questioned his presentation that included the use for every Friday evening, which was not the testimony of the Applicant at all, and Mr. Luglio indicated that he did not mean every Friday. Mr. Lanfrit then asked if and when Mr. Luglio visited the site, with his response indicating there were numerous visits, starting in the end of 2020 on weekdays, but did not visit the site on a Saturday or Sunday. They then discussed the differences in traffic patterns and volumes on weekdays as opposed to weekends, agreeing that weekends were lighter travel days. Mr. Lanfrit then asked why Mr. Luglio would base his report on 457 people in attendance when the testimony given by the Applicant indicated 75-140 people would attend on Saturdays/Sundays, with the higher number once per month. Additionally, he added that the Applicant's testimony was that they could have up to 250 people on the high holy days. Mr. Luglio indicated that he based his testimony on the occupancy of the building, which was 457, and the equation of 3 people per vehicle to consider the number of parking spaces needed. Mr. Lanfrit then brought up the Applicant's Engineer's testimony regarding the capacity of the septic system that would limit the number of people who could occupy the building (less than 457 people). Mr. Luglio indicated he had not heard that testimony. Mr. Lanfrit then discussed the full paragraph in Mr. Luglio's related to Monday-Friday morning and evening peak hours. He asked Mr. Luglio if the temple was even open during the peak hours during the week, and he answered in the negative, which prompted Mr. Lanfrit to ask what relevance it had to the Application. Mr. Luglio indicated the purpose was to give the Board an idea of the traffic volumes on Monday-Friday during the peak hours. Mr. Lanfrit then asked why Mr. Luglio compared the proposed temple to a mosque, a church, and a synagogue if they all had fixed services. Mr. Lanfrit then reminded him of the Applicant's testimony that the temple would be open from 11:00 a.m. to 8:00 p.m. during which time approximately 100 people would come during those nine (9) hours. Mr. Luglio agreed that it was a significantly different operation than a mosque, a church or a synagogue and he argued that the southbound left-hand turn issue might still be a problem depending on when everyone arrived or wanted to leave the premises. A discussion

ensued regarding the absence of being specific about the driveway being a two-way driveway in Mr. Luglio's Traffic report. Mr. Lanfrit then opened a discussion regarding their Applicant already having made application to Somerset County since South Middlebush Road is a County roadway as well as the other applicant (Sai Datta Mandir) having done the same so that Somerset County could make their review of both applications at the same time. Mr. Luglio stated he was aware of that testimony but did not see any input or documentation back from the County regarding either application. Mr. Lanfrit then opened a discussion regarding Mr. Luglio's statement in his Traffic Analysis and Parking report that there was not adequate parking being provided, and Mr. Luglio indicated that it was based upon the square footage calculations. Mr. Lanfrit asked about why he did not do any calculations based upon the Applicant's testimony, and a discussion ensued. Mr. Lanfrit read from the ITE manual (page 3, par. 1.4) where it stated that "many elements of the procedures presented in the trip generation handbook require the use of professional judgement to make a proper and informed selection or estimation." A discussion ensued regarding that entry and the variables a traffic consultant can consider determining what was appropriate for a particular site. Mr. Luglio indicated that he used a mosque, church, or synagogue for comparison because there was nothing else similar to the subject use in the ITE manual. He added that he would be comfortable utilizing any type of data that could have been provided for what actually occurs at the Applicant's existing facility, but there was nothing of that nature available.

Chairman Thomas then opened the meeting to the public.

Ms. Leah Convery, Franklin Park resident, came forward. Ms. Convery asked whether there was a set range of people who come to these types of facilities, and Mr. Luglio answered that there was a range. She then asked if the facility had a membership drive and the number of congregants went up to the maximum capacity, then would his testimony be correct, and Mr. Luglio answered in the affirmative. She then opened a discussion regarding any increase in traffic due to construction, and Mr. Luglio answered that there would be some additional traffic with construction vehicles, but on a temporary basis.

Ms. Ten Broeke, 2346 Amwell Road, Somerset, NJ, came forward. Ms. Ten Broeke asked if Mr. Luglio's testimony regarding the other types of houses of worship was used for a predictive traffic pattern. He indicated that he looked at the peak hour of the other three (3) types of houses of worship to compare it to the peak hours for the subject Applications. Ms. Ten Broeke then asked for an explanation of levels of service discussed during Mr. Luglio's testimony, which he discussed. She then asked if the lower levels of service would translate to an increase of accident and injuries, and Mr. Luglio answered in the negative.

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

Ms. Bailey stated that they did not have any additional witnesses that evening to present but would be having an Environmental Expert and Planner for the next hearing.

Mr. Lanfrit inquired as to whether they could expect reports from their experts prior to the next meeting. Ms. Bailey stated that they would be submitted a report from the Environmental expert, but not from their Planner.

Ms. Christine Woodbury, Board Secretary, read off the instructions for the public to participate in the upcoming hearing on **August 5, 2021**.

Mr. Lanfrit gave the Board and extension of time until August 31, 2021 to hear the matter.

MEETING ADJOURNED:

Mr. Reiss made a motion to adjourn the meeting at 9:00 p.m. The motion was seconded, and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
July 30, 2021