

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

**REGULAR MEETING  
April 20, 2023**

This Regular Meeting of the Township of Franklin Zoning Board of Adjustment was held 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, Richard Procanik, Alan Rich, Gary Rosenthal, Michael Dougherty, and Chairman Thomas

**ABSENT:** Joel Reiss, Robert Shepherd, Vaseem Firdaus, and Faraz Khan,

**ALSO PRESENT:** Ms. Rebecca Maioriello, Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

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**RESOLUTIONS:**

- **American Outdoor Advertising / ZBA-22-00019**

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

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

**AGAINST:** None

- **Dollar Tree Stores, Inc. / ZBA-22-00025**

Ms. Bethea 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. Procanik, Mr. Rosenthal, and Chairman Thomas

**AGAINST:** None

- **Linda Swayne / ZBA-23-00000**

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

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

AGAINST: None

**HEARINGS:**

- **ALAN & GLORIA RICH / ZBA-23-00008**

Applicant received permit to build an addition. After construction, it was found to be slightly closer to side lot line than permitted at 45 Ellison Road, Somerset; Block 386.01, Lot 113, in an R-40 Zone.

Mr. Healey indicated that the Applicant did an As-Built Survey after the construction was completed and it showed an actual setback of 24.2 ft. where 25 ft. was permitted.

Chairman Thomas then opened the meeting to the public to hear any comments.

Mr. Bob Posgay, 38 Ellison Road, Somerset, NJ, came forward and was sworn in. Mr. Posgay asked who was at fault for approving the plans. Mr. Healey indicated that the plans were approved and that the contractor placed the structure too close to the side setback lines.

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

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

FOR: Ms. Bethea, Mr. Procanik, Mr. Rosenthal, Mr. Daugherty, and Chairman Thomas

AGAINST: None

- **SOMERSET AT ATRIUM, LLC / ZBA-23-00005**

Mr. John DeLuca, Esq., Attorney, appeared before the Board on behalf of the Applicant, Somerset At Atrium, LLC. He indicated that they were there that evening to obtain a Sign Variance in which the Applicant sought approval for height and size for a sign at 240 Atrium Drive, Somerset; Block 468.01, Lot 21.11, in the Business & Industry (B-I) Zone – **CARRIED FROM APRIL 13, 2023 – newspaper notification required.**

Mr. DeLuca put on the record that the Zoning Board of Adjustment had the proper jurisdiction to hear the Application and that proper notification was given at least 10 days prior to the hearing.

He then described the current conditions on the property, indicating that there was a four (4)-story, 101-room hotel that was currently under construction. Mr. DeLuca indicated that the application was to place façade signs on the hotel building, with one (1) sign on the west side of the building (142 sq. ft.) and the other on the south side of the building (79 sq. ft.). He indicated that both signs depicted the hotel brand Hampton Inn & Suites. Mr. DeLuca then stated that they were only seeking variances for sign area and sign height that evening.

Ms. Bethea then interjected that there was also another variance being requested for the number of allowed signs as well. Mr. DeLuca stated that he had inadvertently forgotten to mention that requested variance, asking for two (2) signs where only one (1) was permitted, and agreed with Ms. Bethea.

Mr. Craig Stires, Engineer, came forward and was sworn in. The Board accepted his qualifications. Referring to the plans on the screen, Mr. Stires indicated that the first sign was on the front of the building, facing Atrium Drive, on the southwest side of the building and over the top of the main entrance to the hotel. He then indicated that the second sign would be on the side of the building right above where it said, "Indoor Pool". Mr. Stires then indicated that the proposed sign over the front entrance of the building would be 7'4" high by 19 ft. wide, with the one on the side of the building measuring 5'6" high by 14 ft. wide that included all of the lettering for the sign. During the Application process, Mr. Stires indicated that they started out proposing three (3) signs but agreed to go down to two (2) signs. He then noted that the change in sizing of the signs was to go along with the branding of the Hampton Inn & Suites. Mr. Stires then told the Board that when they got approval for the building, they also got approval for two (2) signs in the two (2) locations being discussed that evening.

Mr. Wayne Chu, Applicant/President of Somerset Atrium, LLC, 240 Atrium Drive, Somerset, NJ, came forward and was sworn in. Mr. Chu then explained the choice of the signs being proposed that evening. He indicated that the hotel was a Hampton Inn & Suites, part of the Hilton family, and that they had brand standardization with the height of the building and requirements for the size of the signs.

Mr. Rich then asked what clientele they were trying to draw from – Route 287 or the other areas. Mr. Chu indicated that they were trying to attract the business traveler coming from out of state and needed direction to orient them to their hotel with a certain sized sign. A discussion ensued, and Mr. Chu stated that the signs were not just to direct travelers to the hotel, but to showcase the brand name.

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

Mr. DeLuca indicated that they had approval for two (2) signs and were seeking approval that evening for the proposed size of the signs, which were larger than what was previously approved.

Ms. Bethea then asked for information regarding a welcome sign on the building, which would appear to be asking for three (3) sign approvals. Mr. Stires indicated that the welcome sign was located just above the canopy at the front entrance. He also indicated that all of the signs had been approved as part of the original application, with the two (2) branded signs being 70 sq. ft. He did state that he didn't think they had the welcome sign on the original

approval and that it would be a brand new request. He did then state that the two (2) branded signs would still be in their original locations that were approved, but would now be larger, both in height and size. Mr. Chu then stated that the welcome sign was part of the original plan, and was a 12" x 6' sign.

Mr. Procanik asked if the justification for the sign sizes was just to match the brand standard. He also asked that if the signs were approved five (5) years ago and were appropriately sized for the size of the building at that time, why did they need to be larger now. A discussion ensued regarding the size of the signs being matched with branding standards of today. Mr. Stires also added that the building-mounted signs that they were proposing would assist travelers to find the hotel if they were looking for it.

Chairman Thomas then opened to the public again after having discussed a third sign on the building. Seeing no one coming forward, the meeting was closed to the public.

Mr. Rich made a motion to approve Sign Variances for Somerset Atrium, LLC for the three (3) signs requested. Ms. Bethea seconded the motion, and the roll was called as follows:

FOR: Ms. Bethea, Mr. Rich, Mr. Rosenthal, Mr. Daugherty, and Chairman Thomas

AGAINST: Mr. Procanik

Mr. Procanik indicated that he voted "No" because he didn't believe enough testimony was provided to support the claim for the need for the larger signage.

- **GABRIEL MERCADO & LUZILDA MERCADO-ESPARRA / ZBA-23-00003**

Mr. John DeLuca, Esq., Attorney, appeared before the Board on behalf of the Applicant, Gabriel Mercade & Luzilda Mercado-Esparr. He stated that they were requesting a "C" Variance in which the Applicant proposed to gut the existing single-story dwelling and add a full second story as well as adding a nearly equal-sized two (2)-story addition, converting the structure into a duplex at 85 Henry Street, Somerset; Block 174, Lot 38.01, in an R-7 Zone – **CARRIED FROM APRIL 13, 2023 – newspaper notification required.**

Mr. DeLuca put on the record that the Zoning Board of Adjustment had the proper jurisdiction to hear the Application and that proper notification was given at least 10 days prior to the hearing.

Mr. DeLuca indicated that the property was located in the R-7 Zone, which allowed for both single-family residences as well as two(2)-family dwellings. He noted that the property was situated on a corner lot at the intersection of Henry Street and Lillian Street, with driveway access from Henry Street. He then noted that a single-family home and small, detached garage currently existed on the property and that the Applicant proposed to convert the small home into a two(2)-family home. Mr. DeLuca indicated that the only variance required for the Application was for Minimum Lot Frontage on Lillian Street, where 150 ft. was required and 100 ft. was proposed.

Chairman Thomas asked for clarification regarding what they were voting on that evening, and Mr. Healey stated that they were voting on the approval of the variance for Minimum Lot Frontage. Mr. Healey added that the Applicant might also want to touch on how the Application otherwise complied.

Mr. William Chapin, Engineer, 22 Republic Road, Somerset, NJ, came forward and was sworn in. The Board accepted his qualifications.

Mr. Chapin then identified the Site Plan that was being shown on the monitor and detailed the layout of the proposed buildings, driveways, etc. He noted a Table on the plan that showed that everything else was compliant with zoning, with the exception of the Minimum Lot Frontage. He described the scope of the project, with the existing house gutted and a second floor added to it to create a duplex home and adding a brand new unit next to it making it a duplex. He then noted an existing driveway on the property that would be widened as part of the project. Mr. Chapin added that they needed to provide 3.5 parking spaces per the Residential Site Improvement Standards (RSIS) for the left driveway and effectively have four (4) spaces there. He noted that they had two (2) spaces along the frontage for some additional parking.

Mr. Chapin then discussed the suitability of the site for the project, noting that many of the other buildings had already been removed so that the new structure could be built. He indicated that when the project was completed, there would be less impervious coverage on the site than what was there three (3) years ago due to the recent removal of structures on the property. He also stated that because of that they would not be subject to having to add storm water management facilities and would ask for a waiver for providing that system. Mr. Chapin added that he felt the property would have more green space than other properties and would complement the neighborhood nicely.

Ms. Bethea asked for a total impervious coverage calculation after removing some of the structures on the site. Mr. Chapin stated that they would have a total of 3,735 sq .ft. (21.2%) when the project was complete, with about 120 sq. ft. less than when all of the structures were on the property.

Mr. Healey explained that they required a Minimum Lot Frontage Variance because they were converting the single-family home on the property to a duplex on a corner lot that had a 150 ft. Minimum Lot Frontage requirement for Lillian Street, that currently only had 100 ft. Mr. Healey then clarified the requirements of the storm water system.

Mr. Chapin indicated that the homes faced Henry Street, and he testified that he didn't see any detriments to the need for a Lot Frontage Variance on Lillian Street. He then discussed the benefits of the proposal as it related to the Municipal Land Use Law (MLUL), including the additional green space that other lots in the neighborhood did not have. He did indicate that he did not believe that there were other two-family uses in the immediate area. The Board and Applicant discussed the Lot Frontage requirement in the zone for corner lots, and the rectangular shape of the lot was creating the need for a variance for Lot Frontage on Lillian Street as well as the conversion from a single-family home to a duplex where that calculation was larger.

Mr. Procanik then asked if they were allowed to have two (2) driveways and if the public roadway could be used for parking calculations.

Mr. Chapin indicated that there was room on the site to park six (6) cars because the driveways were 36 ft. deep.

Mr. Gabriel Mercado, Applicant, 444 Girard Avenue, Somerset, NJ, came forward and was sworn in. Mr. Mercado entered into the record as Exhibit A-1, a rendering of what the proposed duplex would look like.

Mr. DeLuca explained that the Architect was unable to attend the hearing that evening as he was in the hospital recovering from heart surgery. Mr. DeLuca did indicate that there were architectural plans that were submitted with the Application and that he would be showing them on the screen for the Board's edification.

Mr. Mercado stated that one portion of the duplex was set back slightly from the other side and that each has an unfinished basement. He then described the kitchen/family room open layout and formal living space and dining room on the first floor of each unit as well as four (4) bedrooms on the second floor of each unit. He then stated that the right unit will have 2.5 bathrooms in total, with two (2) full bathrooms for the left unit. Mr. Mercado then told the Board that there was a similar sized home on the back side of the proposed lot (126 Main Street) and down the street a bit. He indicated that his proposal was similar except for the fact that it was located on a corner lot and, thus, was deficient in lot frontage, but just on Lillian Street. He added that the proposal was compliant otherwise. He stated that architecturally, the proposed home does fit into the neighborhood and that they had plenty of green space and plenty of parking.

Chairman Thomas then opened the meeting to the public for questions or comments.

Mr. Calvin Ronsami, 97 Henry Street, Somerset, NJ, came forward and was sworn in. Mr. Ronsami indicated that he felt that building the duplex would change the character of the neighborhood since there was not another one within the vicinity of the close neighborhood on Henry Street. Mr. Ronsami stated that he was also concerned for additional taxes, parking, noise, etc., related to the proposal.

Mr. Rodney Britton, 90 Henry Street, Somerset, NJ, came forward and was sworn in. Mr. Britton expressed his concerns for the large façade not fitting into the neighborhood of single-family homes, increased traffic due to a narrow street, parking issues, etc.

Ms. Mary Ronsami, 97 Henry Street, Somerset, NJ, came forward and was sworn in. Ms. Ronsami stated her concern for her children's safety with the extra traffic and noise.

Ms. Smith, 96 Henry Street, Somerset, NJ, came forward and was sworn in. Ms. Smith stated that her concern was for safety when navigating the corner of Henry Street and Lillian Street with the large duplex building on the corner. She indicated that she felt it would be hard to view any traffic coming from the Main Street direction, especially with a bus stop right on the corner there.

Ms. Ashley Huggins, 78 Henry Street, Somerset, NJ, came forward and was sworn in. Ms. Huggins indicated that she was also concerned for the safety of the children with a bus stop

right on the corner of Henry Street and Lillian Street. Also, she brought up the fact that there was street parking only one side of the roadway.

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

Mr. DeLuca attempted to respond to some of the concerns of the neighbors but stated that a duplex was a permitted use in the zone and the size of the duplex complied with all of the bulk requirements in the zone. He also added that they not only comply but exceed the parking requirements. Mr. DeLuca added that they were providing off-street parking, so that they were not taking away any on-street parking. He then noted that all of the public commenters lived on Henry Street and would not be affected by the variance being requested for the lot frontage for Lillian Street.

Ms. Bethea then asked if the Applicant was seeking a C-1 Variance (Hardship) or a C-2 Variance (Better Zoning Alternative). Mr. DeLuca indicated that they were seeking a C-2 Variance as he felt the property had good suitability for the proposal and furthering the purposes of the Municipal Land Use Law (MLUL).

Mr. Procanik then asked if they were allowed to have two (2) driveways and if the public roadway could be used for parking calculations.

Mr. Healey was responding to Mr. Procanik's earlier questioning regarding the driveways and parking. Mr. Healey stated that a driveway needed to be 25 ft. from the corner, which he stated that it complied being 50 ft. from the corner, and the two (2) driveways on the site needed to be separated by 50 ft. Mr. Chapin confirmed that the two (2) driveways were 53 ft. apart. Mr. Healey then discussed with the Board the configuration of the parking on the one driveway having a practical issue with it being "double-stacked". He asked the Applicant if there would be a way to have three (3) cars side by side on each side so that there would be no need to shuffle the cars around. Mr. Healey suggested that the Applicant might want to look into redesigning the driveway to accommodate that. A discussion ensued.

Mr. Rich made a motion to approve the Variance for Minimum Lot Frontage. Mr. Procanik seconded the motion, and the roll was called as follows:

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

AGAINST: None

- **64 CASA ESENCIA, LLC / ZBA-21-00027**

Mr. Peter Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, 64 Casa Esencia, LLC. He stated that they were there to obtain Preliminary & Final Major Site Plan w/D Variance in which the Applicant sought to build 12 townhouse units at 64 Norma Avenue, Somerset; Block 234, Lots 3-7, in the O-P Zone - **CARRIED TO MAY 18, 2023 – with no further notification required.**

Mr. Lanfrit indicated that the Application was filed in November of 2021 and then had numerous meetings with Township staff and had some concerns about the original application. He added that the night's presentation was a result of the Applicant working with the Township staff to come up with the best plan for the project.

Mr. Richard Edelson, Engineer, employed with the firm of Frank H. Lehr Associates, 101 S. Harrison Street, E. Orange, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Edelson described the subject property and the existing land uses. Mr. Edelson drew the Board's attention to a Google aerial survey of the subject property that was entered into the record as Exhibit A-1. He added that it was a 73,875 sq. ft. parcel that fronted on Norma Avenue and Franklin Blvd. He indicated that there was a school, an empty office building, an apartment building and a mixture of single-family and multi-family homes as surrounding uses. Mr. Edelson stated that the property sloped down the south side of Norma Avenue to Franklin Blvd. by about 20 ft. across the site. He described Franklin Blvd. as fairly straight coming out from the school and started to bend into a curve at the southern end of the subject property.

Mr. Edelson then described for the Board what was being proposed. He indicated that there would be a 28 ft. wide entrance drive into a circular roadway with five (5) buildings around the circle coming in off of Norma Avenue, which complied with Residential Site Improvement Standards (RSIS). He then noted that the roadway would be constructed of porous pavement, with 38 parking spaces provided in the form of 14 garage spaces, 14 driveway spaces and 10 visitor spaces (including 2 Handicapped spaces), which met RSIS as well. He added that they were proposing a recreation area, with approximately 4,950 sq. ft. in the corner and a retaining wall along the edge, as well as other green spaces around the site. He added that those could also be converted to a tot lot or an exercise area with equipment.

Mr. Edelson then discussed the drainage for the property, bringing up again the fact that they would be using porous pavement as well as other methods of storm water management. He stated that the storm water management system had been reviewed by the Township Engineer (CME) and indicated that there was nothing in their comments that they could not address.

Mr. Edelson then discussing the Lighting Plan, stating that they would be utilizing fixtures that would provide uniform lighting levels of 1-2 foot candles around the site to primarily light the roadway and the houses. He added that there would not be any light spillage off the property.

Mr. Edelson then told the Board that there would be no trash enclosures, and the residents would put their trash cans out at the curb for pick-up. They did not specifically look at whether trash trucks would be able to navigate the roadway; however, they did make sure that the



largest fire/emergency vehicle could navigate the roadway and garbage trucks had more maneuverability.

Mr. Edelson then discussed the Landscape Plan for the project, noting that the property was partially wooded and 27 trees would have to be removed, with many not in very good shape. He told the Board that there would be a tree replacement calculation of 90 trees, with very dense plantings all around the site and clusters of shrubbery at the front entrances. He added that the remainder of the site would be grass covered and mowed. Mr. Edelson then discussed the use of retaining walls on the site to deal with the change in topography.

Mr. Edelson then discussed the "C" variances that were required with for the Application, as follows:

- Minimum Front Yard Setback – 40 ft. required (Franklin Boulevard) – 30.9 ft. provided.
- Maximum Impervious Coverage – 40% maximum permitted – 46.2% proposed.
- FAR (Floor Area Ratio) Variance – 0.25 max. permitted – 0.42 proposed.

Mr. Edelson explained that the front yard setback was enhanced because the property was on Franklin Boulevard, a County roadway and would have complied otherwise.

Mr. Edelson then discussed the staff reports related to the Application. He indicated that they could comply with the comments in the CME Engineering report with minor technical changes that would not alter what the Board was reviewing that evening. He discussed item #15, noting a conflict in backing out of Unit #4 and Unit #5 and stated they could straighten out the curve a bit, but felt that it works. Next he spoke about snow removal, and Mr. Edelson indicated that there were places to stack snow. He added that there was some ground water near Unit #8, so that they were going to reduce the depth of the basement from 10 ft. to 8 ft. to avoid any ground water.

He noted that the Police Dept. had no objection, and Mr. Hauss' Fire Prevention memorandum indicated the inclusion of some parking signs that Mr. Edelson indicated they would provide. He then discussed Mr. Healey's report, touching on the Engineering aspects.

Mr. Healey then asked if a refuse truck could maneuver through the site, and Mr. Edelson reiterated his previous testimony that a refuse truck was much smaller than a fire truck, which the site could handle. Mr. Rich discussed whether the residents would get a single private hauler, and Mr. Edelson answered in the affirmative.

Ms. Banafsheh Soltami, Associate Architect, Raiffe Design, 302 City Place, Edgewater, NJ, came forward and was sworn in. Ms. Soltami stated that Mr. Adam Raiffe was the licensed architect that prepared the plans. The Board accepted her qualifications as it related to giving facts listed on the plans. Ms. Soltami drew the Board's attention to the colorized rendering of the plans and entered into the record as Exhibit A-2. She then described the project as having five (5) buildings, with 12 units, and including two (2) one(1)-bedroom units and ten (10) two(2)-bedroom units.

The Board discussed with Mr. Lanfrit the idea of bringing in the licensed Architect to discuss that portion of the hearing. Mr. Lanfrit asked for an adjournment. Ms. Woodbury offered May

18, 2023 as the next available date to present the architectural testimony and the rest of his case.

Chairman Thomas then opened up the meeting for questions of the Engineer on his testimony.

A Somerset resident asked whether any of the surrounding roads (Norma Avenue) could be opened up as a result of any new construction on Norma Avenue going forward. Mr. Edelson indicated that they had to upgrade their water main past their driveway and needed to re-pave the lower section of Norma Avenue, but nothing beyond the frontage of the proposed property. A discussion ensued.

Chairman Thomas then closed the meeting to the public, seeing no one further wanting to come forward.

**MEETING ADJOURNED:**

Mr. Rich made a motion to adjourn the meeting at 9:34 p.m. The motion was seconded by Ms. Bethea, and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
May 23, 2023