

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

**REGULAR MEETING
July 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:

PRESENT: Cheryl Bethea, Richard Procanik, Gary Rosenthal, Vaseem Firdaus, and Chairman Thomas

ABSENT: Joel Reiss, Alan Rich, Robert Shepherd, Faraz Khan, and Michael Dougherty

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

MINUTES:

- **Regular Meeting – April 20, 2023**

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. Procanik, Mr. Rosenthal, and Chairman Thomas

AGAINST: None

- **Regular Meeting – May 4, 2023**

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

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

AGAINST: None

- **Regular Meeting – May 18, 2023**

Chairman Thomas made a motion to approve the Minutes, as submitted. Mr. Procanik seconded the motion, and the roll was called as follows:

FOR: Mr. Procanik, Mr. Rosenthal, Ms. Firdaus, and Chairman Thomas

AGAINST: None

RESOLUTIONS:

- **Alan & Gloria Rich / ZBA-23-00008**

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

- **Thirukumaran Velayudhan / ZBA-22-00006**

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. Rosenthal, Ms. Firdaus, and Chairman Thomas

AGAINST: None

- **Somerset at Atrium, LLC / ZBA-22-00005**

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

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

AGAINST:

- **Gabriel Mercado and Luzilda Mercado-Esparra / ZBA-23-00003**

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. Rosenthal, Ms. Firdaus, and Chairman Thomas

AGAINST: None

- **Franklin Greens Fieldstone, LLC / ZBA-23-00012**

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

FOR: Mr. Procanik, Mr. Rosenthal, Ms. Firdaus, and Chairman Thomas

AGAINST: None

HEARINGS:

- **VENKATESWAR & PADMAJA VAKKALAGADDA / ZBA-22-00024**

“C” Variance in which the Applicant proposed to construct a new two (2)-story, three(3)-bedroom single family home at 76 Battle Place, Somerset; Block 136, Lots 1-2, in an R-7 Zone - **CARRIED TO SEPTEMBER 7, 2023 - with no further notification required.**

DL - 7/13/2023

- **BANK OF AMERICA / ZBA-23-00011**

Mr. Tom Letizia, Esq., Attorney, appeared before the Board on behalf of the Applicant, Bank of America. He explained that they were there that evening to obtain Sign Variance approval in which the Applicant sought to replace the signage on the property, including three (3) building-mounted signs at 1848 Easton Avenue, Somerset; Block 468.09, Lot 70, in the Business & Industry (B-I) Zone.

Mr. Letizia indicated that the subject site had operated as a bank since 1967 when Franklin State Bank, the predecessor to UJB, was at the location. He then explained that Bank of America was in the process of a nation-wide rebranding of its sites, which included an analysis of the exterior and the signage at each of their locations. Mr. Letizia then stated that the subject site was determined to need additional signage to provide the necessary visibility of the bank for customers and visitors at that location, which had tricky access from World’s Fair Drive. He then stated that they were there that evening to update the building signage and to request three (3) variances related to that signage. In addition to the signs, Mr. Letizia indicated that the Bank proposed the following improvements which did not require the Board’s approval, to include updating the bollards on the site, repainting and repairing the trim

on the building, cleaning the brick, replacing the green vinyl slats in the dumpster enclosure with black vinyl slats. Mr. Letizia then stated that the bank was doing an in-kind replacement of the pilon sign at the corner of Easton Avenue and World's Fair Drive. He then told the Board that in March of 2023, they presented the Application to the Historic Preservation Commission (HPC) because the property was located within 1,000 ft. of the Delaware & Raritan Canal. Mr. Letizia then went on to state that the building was not historic in nature and had no historic significance and was not located in the Historic Canal Preservation Zone which ran along the west side of the Township. He then told the Board that the HPC looked upon the Application favorably. The variances requested were as follows:

- Number of Signs: Three (3) signs (3rd sign not located on side of building with customer entrance) where only two (2) were permitted.
- Sign Area: 30 sq. ft. maximum permitted where one (1) sign was proposed at 63.16 sq. ft. (facing Easton Avenue) and two (2) signs were proposed at 59.90 sq. ft. (facing Worlds Fair Drive and the other on the rear of the building).
- Sign Vertical Dimensions: three (3) ft. maximum permitted where one (1) sign was proposed at 4.615 ft. (facing Easton Avenue) and two (2) signs were proposed at 3.167 ft. (facing Worlds Fair Drive and the other on the rear of the building).

Mr. Jake Modestow, Engineer, 92 Park Avenue, Rutherford, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Modestow then oriented the Board to the property utilizing the plan set submitted by his office to the Township on May 30, 2023. He added that he felt it important to note the close proximity of the site to Route 287 to the north of the property and on a corner lot just over one (1) acre in size. He added that the 4,000 sq. ft. building was located centrally on the lot with drive-up lanes to the south. Mr. Modestow then discussed the access to the site from Route 287 via Easton Avenue to Worlds Fair Drive via the ingress only driveway at the southwest of the lot. Egress from that site was also on Worlds Fair Drive as well as from the drive-thru lanes leaving the site onto Easton Avenue. Mr. Modestow then described the one (1) monument sign on the Easton Avenue side of the site, with building-mounted sign on the Worlds Fair Drive side of the building. He indicated that they would be replacing the monument sign, in the same location, with new Bank of America branding and a capital improvement to its facilities. Mr. Modestow then showed an exhibit, prepared by his office on 7/19/2023, that showed all of the frontages of the building, and entered it into the record as Exhibit A-1. The exhibit showed the proposed signage as close to scale as possible and Mr. Modestow drew the Board's attention first to the building signage proposed for Worlds Fair Drive. He noted that there was the existing sign that was being replaced by a new 59.90 sq. ft. sign that would have a height of 3.167 ft. generally in the same location along the soffit line, breaking up the mass. Mr. Modestow then showed the rendering of the proposed signage on Easton Avenue (63.16 sq. ft and 4.615 ft. in height). Additionally, he showed a third sign at the rear of the building that was also 59.90 sq. ft. with 3.167 ft. in height.

Mr. Procanik then asked for clarification related to the signage that they were seeking, and Mr. Letizia provided that information related to the variances, as delineated earlier, for the three (3) signs. Mr. Procanik then asked about the three (3) informational/directional signs (3.02 ft. and proposing 2.87 ft). Mr. Modestow indicated that they were replacing the existing directional signs and reducing their non-conformity to size in the process.

Mr. Rosenthal asked if they were going to add any lighting to the signs, and Mr. Modestow stated that the signs would now be internally illuminated where he believed the building-mounted sign on Worlds Fair Drive was currently back-lit.

Mr. Healey asked for clarification, with Mr. Modestow testifying that just the lettering would be illuminated at night and the white backing to provide a back-drop to the lettering during the daytime to make them more visible.

Mr. Thomas Ricci, Planner, 92 Park Avenue, Rutherford, NJ, came forward and was sworn in. The Board accepted his qualifications. He reiterated Mr. Modestow's testimony by stating that Bank of America was updating their locations, nationwide, with their branding, boost legibility of the site signage and increase safety in locating the facility by asking for three (3) building-mounted signs at the site. He added that they were seeking a variance for the third building-mounted sign that was located on the rear of the building. He then brought up the two(2)-page photo exhibit by Google Earth of the street views of the site that was prepared by his office and marked into evidence as Exhibit A-2 dated July 19, 2023. Mr. Ricci then explained the need for the third sign at the rear of the building and adjacent to the drive-thru lanes, noting that coming from Worlds Fair Drive, that sign would notify them that they were approaching the bank location so that motorists/customers would not miss the ingress driveway to access the site. He went on to explain that that third sign would also be used to break up the brick façade in that location. Mr. Ricci then discussed the variances they were seeking for the sign areas, noting that the sign area for building-mounted signage facing Easton Avenue was proposed at 63.16 sq. ft., with the ones on the Worlds Fair Drive and rear façade of the site were both proposed at 59.90 sq. ft. He went on to explain that the white space behind the text and logo area was counted in the calculations as well as the building area (gable) that the sign was placed upon when speaking of the Easton Avenue signage. He added that the letters were only 11 sq. ft., and the logo was only 7-1/2 sq. ft., in total just over 18 sq. ft. Mr. Ricci then drew the Board's attention to the sign on Worlds Fair Drive and on the rear of the building where the justification was the same. He explained that there was 10-inch lettering (just over 11 sq. ft.) and the 2.8 sq. ft. logo. Again, Mr. Ricci indicated that they also had to count all of the surrounding white space behind the sign that would not be lit, but just created a bright backdrop for the bank lettering and logo. Mr. Ricci then testified that making the lettering smaller to comply with the ordinance would not allow the sign to be seen from the roadway and was scaled to the size of the façade it was being placed upon. Finally, Mr. Ricci discussed the vertical sign dimensions, deferring to the photo renderings related to the size of the text and logo and that the vertical height of the sign also included the white space behind those as well as the rest of the space that made up the gable that it was being placed upon on the Easton Avenue façade. He mentioned the stacking of the text and logo to fit into the gable roof element as the reason the vertical height of the sign exceeded what was allowed. Mr. Ricci then testified that the other two (2) building-mounted signs were over by 0.167 ft. over the height maximum, which was de minimus and standard sizing for Bank of America lettering for visibility. Mr. Ricci then addressed the negative criteria, indicating that he opined that there was no detriment to the public good, to the zone plan and zoning ordinance, and no change of use with the existing site/building with no changes to the building. He then added that they were cleaning up the site/facelift with replacing some worn items at the site, as testified to by the Site Engineer. Mr. Ricci then indicated that he believed that the variances could be granted under the C-2 criteria of the Municipal Land Use Law (MLUL), that is the flexible or balancing position where the benefits of the project as a whole substantially outweigh any detriments as they were just improving the visual aesthetics of the

site, the legibility of the signage and including other miscellaneous improvements to clean up the site and felt that the balancing act had been satisfied.

Chairman Thomas asked that while the visual aesthetics of the building were being improved, could some street trees and lower landscaping be included along Easton Avenue in that endeavor. A discussion ensued, and Mr. Ricci mentioned the need to see the monument signage and driveways along a faster moving roadway such as Easton Avenue. Mr. Healey added that there was nothing to preclude having street trees/landscaping in a commercial corridor.

Mr. Healey then introduced the idea where he felt that one (1) of the variances could go away considering that there was 18.83 sq. ft. of sign space on the Easton Avenue façade and that the gable was not considered part of the sign structure. Mr. Healey then added that that sign still needed the variance for the height of the sign because the text and logo were stacked, and that area was considered the height of the sign.

Mr. Procanik stated that he would condition the request of the variance to include street trees along Easton Avenue. Mr. Letizia indicated that they would be happy to consider it but did not feel it was required for the granting of the variances requested. Ms. Maioriello, Acting Board Attorney, agreed with the Applicant that it was an Application for variances for signs and didn't believe that the Board could condition those variance approvals by conditioning the inclusion of street trees.

Chairman Thomas then opened the meeting to the public for questions of the witnesses. Seeing no one coming forward, the public portion of the meeting was closed.

A discussion ensued with Mr. Letizia related to the inclusion of trees, with him noting that they did not want to block the sign on the Easton Avenue façade. Mr. Modestow indicated that the signage on the front façade would be the only signage facing northbound Easton Avenue. He then spoke of moving the location of any street tree that would move closer to the ATM drive-up lanes and stated that there was a State code of compliance for the ATMs when it came to lighting. He added by planting trees that would block that lighting would put the facility out of compliance with that State code and was the reason they stated that they could look into the possibility of planting trees in the front yard of the building. Mr. Procanik then opened a discussion regarding the lighting requirement with Mr. Modestow. Mr. Modestow offered that they could include some low plantings (3-6) around the base of the pylon sign that was below 36 inches in height.

Mr. Healey suggested that if the Board was inclined to approve the variances that a condition could be included for the Applicant to look into street trees, 50 ft. on center, and 2-1/2 inch caliper upon planting and work it out with staff regarding the issues related to the ATM lighting. Mr. Letizia then added that they could not block the signage that they were there to gain approval for upgrading. Mr. Healey then noted that almost every commercial business had street trees and trees within their parking lot – a discussion ensued.

Ms. Firdaus brought up the fact that she would feel more secure when approaching an ATM at night that there would be some visibility from a safety issue. A discussion ensued. Mr. Modestow stated that they would be willing to look into the inclusion of street trees, but

reserved the right to place low-growing shrubbery in lieu if that would put them out of State code for ATM lighting and sign disturbance. Additional discussion ensued.

Mr. Letizia then gave his summation remarks.

Ms. Bethea made a motion to approve the Variances enumerated in the Technical Review Committee report (TRC), three (3) signs for vertical dimension and two (2) of them for sign area. Also included was the consideration for landscaping to further improve the aesthetics of the site. Ms. Firdaus seconded the motion, and the roll was called as follows:

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

AGAINST: None

MEETING ADJOURNED:

Mr. Rosenthal made a motion to adjourn the meeting at 8:30 p.m. The motion was seconded, and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
September 5, 2023