

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

REGULAR MEETING
February 6, 2014

The 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: Raymond Betterbid, Donald Johnson, Bruce McCracken, Alan Rich, Robert Shepherd, Anthony Caldwell, Joel Reiss, Cheryl Bergailo and Robert Thomas

ABSENT: Laura Graumann and Gary Rosenthal

ALSO PRESENT: Patrick Bradshaw, Board Attorney, Mark Healey, Director of Planning and Vincent Dominach, Sr. Zoning Officer

MINUTES:

• **Special Meeting – October 31, 2013**

Mr. McCracken made a motion to approve the Minutes as submitted. Mr. Shepherd seconded the motion and the roll was called as follows:

FOR: Mr. McCracken, Mr. Shepherd, Mr. Caldwell, Mr. Reiss and Chairman Thomas

AGAINST: None

• **Special Meeting - November 13, 2013**

Mr. McCracken made a motion to approve the Minutes as submitted. Mr. Johnson seconded the motion and the roll was called as follows:

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Caldwell, Mr. Reiss and Chairman Thomas

AGAINST: None

- **Regular Meeting – December 5, 2013**

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

FOR: Mr. McCracken, Mr. Rich, Mr. Reiss and Chairman Thomas

AGAINST: None

RESOLUTIONS:

- **Snyder / ZBA-13-00019**

Mr. McCracken made a motion to approve the Resolution as submitted. The motion was seconded and the roll was called as follows:

FOR: Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Reiss and Chairman Thomas

AGAINST: None

- **Wild Heart Bulk Land Supplies / ZBA-13-00016**

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

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas

AGAINST: None

- **1340 Hamilton Street, LLC / ZBA-13-0003**

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

FOR: Mr. McCracken, Mr. Shepherd, Mr. Caldwell, Mr. Reiss and Chairman Thomas

AGAINST: None

- **The Center School / ZBA-13-00022**

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

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – February Retainer - \$865.00
Various Matters 11/13/13 - 12/05/13 - \$165.00**

Mr. Shepherd made a motion to approve the Vouchers as submitted. Mr. McCracken seconded the motion and all were in favor.

HEARINGS:

- **ROBERT & FRANCES BREUNIG / ZBA-13-00023**

Hardship Variance in which Applicant is proposing an addition at property located at 37 Radio Court, Somerset; Block 259, Lot 21, in an R-20 Zone - **CARRIED TO MARCH 6, 2014 – no further notification required.**

DL 05/22/2014

- **THE JEWISH HOME & HEALTH CARE CENTER / ZBA-14-00001**

Minor Subdivision in which Applicant is attempting to perfect their property boundaries, included in prior Board applications at 330 DeMott Lane, Somerset; Block 386.07, Lots 54.03, 54.05, 55.02, in an R-20 Zone - **CARRIED TO MARCH 6, 2014 – legal notification required.**

DL 03/03/2014

- **DIAMOND INVESTOR & BUILDERS / ZBA-13-00023**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Diamond Investor & Builders. Mr. Lanfrit indicated that they were there that evening for a Hardship Variance in which the Applicant seeks to build an approximately 2,360 sq. ft. 2-story, four bedroom single family dwelling at 57 Ray Street, Somerset; Block 155, Lots 17 & 18, in an R-7 Zone - **CARRIED FROM JANUARY 9, 2014 – no further notification required.**

Mr. Dominach's Zoning report indicated that the following variances were required:

1. Lot area: 7,500 sq. ft. minimum, 5,000 sq. ft. existing/proposed
2. Lot frontage: 100 ft. minimum, 50 ft. existing/proposed
3. Lot coverage: 20% maximum, 23.6% proposed
4. Impervious coverage: 30% maximum, 32% proposed.

At the hearing Mr. Lanfrit indicated that they were proposing a 29 ft. wide by 42 ft. deep (2,091 sq. ft.) home. He then discussed the unique history of the proposed property, stating that it used to contain Lots 15, 16, 17 and 18, which consisted of 10,000 sq. ft. and was a conforming lot. Mr. Lanfrit explained that a Mr. Davis owned all four lots in 2000, and in 2004 sold lots 15 & 16 to a Mr. Conteh but never obtained a subdivision approval and just sold off the two lots with the house). Thereafter, Mr. Lanfrit explained that Lots 15 & 16, with the house, was sold in a Sheriffs sale to a bank and in 2011 was sold to its present owner. He added that Lots 17 & 18 remained with Mr. Davis until taxes went unpaid when it went up for tax sale to Mr. Polusky in a tax sale foreclosure situation in 2012. Mr. Lanfrit further explained that the Applicant contracted to buy Lots 17 & 18 from Mr. Polusky without knowledge of the property's history. Mr. Lanfrit then informed the Board that they did try to eliminate the variance by attempting to sell the vacant parcel (Lots 17 & 18) to the owners of Lots 15 & 16 and also to the owner of Lot 19, with no success. He added that letters were prepared to both property owners on August 14, 2013 and sent certified mail, return receipt requested, as well as through regular mail. Mr. Lanfrit testified that they received no response from either property owner and entered into the record as Exhibit A-1 and Exhibit A-2, the letters and the certified mail receipt.

Mr. Lanfrit then indicated that they submitted a plan with the Application by a professional engineer, Mr. William Scott, that shows the property with the proposed dwelling and noted variances required. He stated that he reviewed all of the staff reports with Mr. Scott and can agree to comply with all the conditions within the reports. He noted that there was a request for a sidewalk and they agreed to construct the sidewalk requested, but were requesting a waiver from placing curbing since there was none elsewhere in the neighborhood.. As part of their submission, Mr. Lanfrit indicated that they included a rendering of the proposed home and testified that they would agree to build the home depicted in the plans should the Board act favorably with the Application that evening.

Mr. Michael Pessolano, Planner and Realtor, came forward and was sworn in. The Board accepted his qualifications. Mr. Pessolano detailed his preparation work in reviewing the Application for that night's hearing. He then briefly described the

Application and what was being proposed that evening, including the four variances that were being requested. Mr. Pessolano described the lot area and lot frontage variances as being classified as C-1 Hardship variances based upon the history of the property given previously by Mr. Lanfrit. He indicated that the lot coverage and impervious coverage variances requested were being created as a result of constructing the proposed home on the property. Mr. Pessolano then discussed the coverage variances, noting that they were de minimus. He indicated that he felt the Applicant was doing a great job with proposing a home on a 5,000 sq. ft. lot that did not include any setback variances and would not create a negative visual impact. He then spoke about the expectations of new housing, with the inclusion of at least four bedrooms or more to make it desirable in the marketplace. Mr. Pessolano then discussed the types of property located within the surrounding area and neighborhood and the development patterns in the area. He also spoke of the storm water management system, with the plan for roof runoff and disposal on-site directly addressing any negative concerns for the small percentage of impervious coverage over the maximum amount allowed in the zone. Specifically, he noted that the homes to each side and the rear of the proposed property had vertical elements that would allow for the proposed two-story home to fit in nicely. He added that since the home at 55 Ray Street (Lots 15 and 16) was located very close to the property line adjacent with the proposal property, they had planned to provide for a more generous amount of space on that side of the new home. He again reminded the Board that there were no side yard variances proposed. Finally, Mr. Pessolano indicated that the siting of the home on the proposed lot warranted the granting of relief for lot coverage and impervious coverage under the C-2 criteria. He then gave testimony that would support the C-2 criteria. He discussed the other new home cited in the neighborhood, noting that the area's homes were aging and that new construction and updates would add a needed improvement in the area that included larger living spaces and encourage other improvements. Another benefit noted by Mr. Pessolano was the ability to provide for on-site parking of two vehicles. Mr. Pessolano indicated that he didn't feel there would be any negative impacts into the area and that there would be no visual negative impacts with an additional 180 sq. ft. of footprint. Mr. Pessolano then entered into the record as Exhibit A-3, an analysis of neighborhood lot size, and had a discussion of the variety of lot sizes.

Mr. Shepherd asked the Board Attorney, Patrick Bradshaw, what implications the "illegal" subdivision had on the Application before the Board. Mr. Bradshaw explained that it seemed that the Township had accepted what had gone on in the past and had readjusted its tax maps accordingly. A discussion ensued.

Mr. Shepherd opened a discussion regarding the number of bedrooms in the homes in the surrounding area. Mr. Pessolano indicated that the data was not available. Mr. Shepherd then asked if Mr. Pessolano had any interest in Diamond Investor & Builders, considering that he was also a real estate agent. Mr. Pessolano answered in the negative. Mr. Reiss indicated to Mr. Pessolano that he could go to the Tax Assessors office to find out the number of bedrooms in the homes in the surrounding area.

Ms. Bergailo asked how much square footage they were over on building coverage. Mr. Pessolano indicated that it was 180 sq. ft. over the maximum and Mr. Healey interjected that it was also 420 sq. ft. over the allowed impervious coverage. Ms. Bergailo asked about the possibility of shrinking the proposed home by 1 sq. ft. from the width and 1 sq.

ft. from the depth to comply. Mr. Pessolano indicated that it would be possible, but it would create a situation where at least one room would lose its functionality. A discussion ensued regarding the justification of granting the coverage variances from a planning perspective.

Mr. Lanfrit told the Board that they did have available plans sketched out by Mr. Drug for a smaller home that would meet the coverage requirements. Mr. Lanfrit entered the alternate home plan into the record as Exhibit A-4.

Mr. Healey opened a discussion regarding Mr. Pessolano's comment that he felt the neighborhood gave the feeling of verticality that was in direct opposition of Mr. Healey's opinion. A discussion ensued among the Board regarding future additional improvements to the property as well as storage issues, both of automobiles and the need for additional storage space for a larger home.

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

Mr. Lanfrit stated that if the Board were more inclined to approve the smaller home shown, the building coverage would then be reduced to 19.2% and the impervious coverage would be reduced to 27%, both of which would be conforming to the zone requirements.

Mr. Shepherd made a motion to grant the area and frontage variances that would allow the Applicant to build the smaller home set forth in Exhibit A-4, with the ability to flip the garage to one side or the other. The motion was seconded and the roll was called as follows:

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Reiss and Chairman Thomas

AGAINST: None

WORKSESSION/NEW BUSINESS

MEETING ADJOURNED

Mr. Shepherd made a motion to close the regular meeting at 8:45 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
February 22, 2014