

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

REGULAR MEETING
March 20, 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 (arrived at 7:31 p.m.), Alan Rich, Anthony Caldwell (arrived at 7:33 p.m.), Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Robert Thomas

ABSENT: Laura Graumann and Robert Shepherd

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

MINUTES:

• **Regular Meeting – January 09, 2014**

A motion was made to approve the Minutes as submitted. The motion was seconded and the roll was called as follows:

FOR: Mr. Betterbid, Mr. McCracken, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

• **Regular Meeting – February 06, 2014**

A motion was made to approve the Minutes as submitted. The motion was seconded and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

RESOLUTIONS:

- **Dunbar Homes Interpretation**

Mr. Rosenthal 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. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **Family Dollar Store / ZBA-13-00025**

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

FOR: Mr. McCracken, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

- **Matson / ZBA-13-00024**

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

FOR: Mr. Betterbid, Mr. McCracken, Mr. Rosenthal, Ms. Bergailo and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – March Retainer - \$865.00**

Mr. Betterbid made a motion to approve the Vouchers as submitted. Chairman Thomas seconded and all were in favor.

Relief of Conditions:

- **Franklin Nursing – ZBA-12-00001**

Mr. Francis P. Linnus, Esq., Attorney, appeared before the Board on behalf of the Applicant, Franklin Nursing. Mr. Dominach indicated that they had made some changes to the architectural style of the building. Even though staff has had conversations with the attorney, Mr. Linnus, and believe that the changes were an improvement, he noted that the Board spent some time discussing it

Mr. Linnus indicated that in July of 2012, the Board of Adjustment granted approval for a 161-bed nursing skilled nursing facility at 780 Old New Brunswick Rd. During the Resolution Compliance phase, the Architect determined that there were some technical difficulties with some energy codes and things of that nature and would preclude the placing of the hardy plank siding on the building. Since the Board saw the hardy plank as part of the elevations and part of the plans and they made changes because of the technical difficulties, they were proposing to switch over a portion of the building to stucco siding. Mr. Linnus indicated that there was one review by the Planner, Mr. Healey, and felt that they had satisfied his comments. He then drew the Board's attention to the large poster on the easel showing what the new façade would look like with the stucco siding and entered it into evidence as Exhibit A-1.

Mr. McCracken made a motion to grant Relief of Conditions for the provision of stucco siding as shown in Exhibit A-1. Mr. Betterbid seconded the motion and the roll was called as follows:

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

AGAINST: None

HEARINGS:

- **DAVID NOSWORTHY / ZBA-13-00007**

Application for a Hardship Variance in which the Applicant was seeking a side yard variance for an already constructed chimney at 115 Fourth Street, Somerset; Block 461, Lot 1.01, in anR-20 Zone.

Mr. Dominach's Zoning report stated that in 2005, the Applicant built an addition to his house and that all approvals, including zoning, were obtained. He noted that just recently the Certificate of Occupancy permit was finalized and it was noticed that the chimney did not meet the minimum setback requirement and the house did not meet the front yard setback. The chimney and house location were shown on the original plot plan submittal and were approved by the Zoning officer.

The following variances were required:

1. Side yard setback: 15 ft. minimum, 13 ft. existing/proposed
2. Total side yard setback: 30 ft. minimum, 29 ft. existing/proposed
3. Front yard setback: 35 ft. minimum, 33.8 ft. existing/proposed
4. Lot area: 26,000 sq. ft. minimum, 16,000 sq. ft. existing/proposed
5. Lot frontage: 130 ft. minimum, 100 ft. existing/proposed

Mr. McCracken made a motion to approve the Hardship Variances that were presented that evening. Mr. Johnson seconded the motion and the roll was called as follows:

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

AGAINST: None

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

Mr. Peter Gallagher, Esq., Attorney, appeared before the Board on behalf of the Applicant, The Jewish Home & Health Care Center. Mr. Gallagher explained that they were there before the Board for a Minor Subdivision in which the Applicant was attempting to perfect their property boundaries included in prior Board applications at 330 DeMott Lane, Somerset; Block 386.07, Lots 54.03, 54.05 and 55.02, in R-20 Zone – **carried from March 6, 2014, with no notification required.**

Mr. Dominach's Zoning report indicated that the Applicant received subdivision approval from the Zoning Board in 2000 via Docket #Z-2003-40, but did not perfect the subdivision. The current application is to re-approve the subdivision so it can be perfected. Additionally, the Zoning Officer indicated in his report that there was no change in the subdivision from the 2000 application that was approved by the Zoning Board. The Resolution of the 2000 approval that was attached to the Zoning report details the variances that need to be re-approved.

During the hearing, Mr. Dominach reminded the Board that the Jewish Home & Health Care Center had recently been before the Board for another hearing to build a new building on their property. He stated that they needed to clear up the matter of filing and perfecting the subdivision before the new building can be constructed.

Mr. McCracken made a motion to approve the Application to perfect the Minor Subdivision. Mr. Betterbid seconded the motion and the roll was called as follows:

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

AGAINST: None

- **THE CENTER FOR GREAT EXPECTATIONS / ZBA-14-00004**

Ms. Catherine Cobb, Esq., Attorney employed with the law offices of Peter U. Lanfrit, appeared before the Board on behalf of the Applicant, The Center For Great Expectations. Ms. Cobb explained that they were there that evening for an Amended Site Plan w/Use Variance in which the Applicant was proposing a 1,100 sq. ft. addition at 19 Dellwood Lane, Somerset; Block 424.04, Lot 39.09, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing an addition to their existing building for pregnant, homeless women. The report noted that the building received Use Variance and Site Plan approval in 2005, but that now a D-1 Variance was needed for the improvements as a center for pregnant, homeless women was not permitted in the R-20 Zone. Additionally, the Applicant must provide testimony that the proposed parking would still be adequate.

Ms. Cobb indicated that the addition proposed was to provide for four (4) additional bedrooms and some common area space for the clients to use while they were staying at the center. She then indicated that they received Use Variance and Site Plan approval in 2005 for the center to be constructed at its current location and were now seeking to expand the use.

Ms. Peg Wright, Founder and CEO of The Center For Great Expectations, came forward. Ms. Wright was then sworn in and she went on to explain to the Board what The Center For Great Expectations does. She stated that the center provides residential treatment for pregnant and parenting women and adolescents. She added that they also occupy 16 supportive housing units at Avalon Bay, directly behind the two residential sites and also currently provide intensive out-patient treatment indigent women at St. Peter's clinic on Howe Lane in Middlesex, NJ. She described the number of clientele presently at 16 mothers and approximately 16 infants and children. Ms. Wright added that they consistently have a waiting list since their incorporation in 1998 and recently secured a request for proposal to add four additional units for their adolescent mothers. She explained that they have \$3 million budget, and the Center raises funds to cover approximately 40% of their revenue or a little over \$1 million dollars. Mr. Dominach then interjected that the Township had also provided funding for the Center and understands the importance of the work taking place there. Ms. Wright also indicated that in doing research, she noted that approximately 300 families in the immediate area support the center, including Rutgers Prep and Avalon Bay as well as some significant association with Rutgers University in the areas of research. Ms. Wright then testified that they did have a complaint about lighting from surrounding residents, but moved the light in the parking lot in response to that. She added that aside from that one issue, there had been no other complaints about the Center. She also testified that should the application be approved, they would have four (4) additional adolescent clients and potentially eight (8) infants. Ms. Wright then indicated that they would not have to add any additional staff as a result of the additional space and that the addition of four more clients would not change how the Center presently operates. She stated that clients were not allowed to have cars on site, so the parking allowance would not have to be increased. She also stated that all conditions of the 2005 Resolution were in effect and would remain so should the Board approve the addition.

Ms. Antonette Mitterando, Engineer/Architect, came forward and was sworn in. The Board accepted her qualifications. Ms. Mitterando described the site, indicating that the building to be expanded was a two-story with a finished basement. She explained that the basement included a medical exam room, consultation room, additional play area underneath the proposed four additional bedrooms and a utility room for HVAC, sump pump and sink. She then described the 1st floor with two additional bedrooms and an expanded dining room, a yoga room and quiet space with computers to bring in a space for education as well as room for counselor. Ms. Mitterando indicated that there would be two additional bedrooms on the 2nd floor with a common space. Ms. Mitterando marked as Exhibit A-1, showing the building elevations. She testified that they would be matching the exterior fascia with the same finishes and colors and would have air conditioning condensers as would be seen in a residential setting. She indicated that one HVAC unit would be in the basement to serve that area and another in the attic to serve the 1st and 2nd floors. The noise level of the condenser units would be similar to that found in a residential setting, but would only be large enough to support an additional 1,000 sq. ft.

Mr. Jeromie Lange, Engineer/Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. Lange gave the Board a description of the current conditions on the site. Mr. Lange then entered into the record as Exhibit A-2, which was an aerial photograph taken on 9/18/2013. He pointed out various elements on the property, noting that there were 14 parking stalls, 2 with handicapped accessibility and a looped driveway. Mr. Lange indicated that no aspect of the circulation on-site or the parking would change as a result of the addition being constructed. He then pointed out to the Board the building that was proposed to be expanded and discussed the changes planned. He discussed that there would be no grading changes in the front of the building and the continuation of the walk-out basement in the rear. He then discussed the grading and drainage in the rear of the property, indicating that it was presently less than ideal. Mr. Lange then told the Board that they would be placing three yard inlets and reworking the playground area so that water can runoff the safety surface there. He then indicated that there were no changes to the landscaping on the property. He then spoke about the uniqueness of the use in relation to the parking standards. He also stated that there would be no additional traffic created as a result of constructing the addition. Mr. Lange then indicated that a D-1 Variance would be required if the Center was a new use for the site, but they were simply expanded the building and expanding the use by increasing the number of clients that could be served. No matter the type of Use Variance, it was an inherently beneficial use and has four different State licenses for the various services that were provided on-site. He indicated that the site was well suited, particularly because it is an expansion of the present use and was in close proximity to both St. Peter's University Hospital and Robert Wood Johnson University Hospital, which made the partnerships with these facilities and the Center possible. He added that the site was directly behind the Avalon Bay community, with 16 of those units dedicated to the Center for permanent support of housing for their clients. Mr. Lange then spoke about the purposes of the Municipal Land Use Law and how the expansion fits into the "special reasons" for the variance. He then indicated that he did not believe there were any negative consequences to the proposed expansion and noted that there were no single-family homes in the immediate vicinity around the site. He noted that the site was surrounded by two multi-residential uses, included McCarrick Care Center and Avalon Bay. He spoke about the substantial tree line on one side of

the property, with only a few residences able to actually see the Center. He did remind the Board, though, that the expansion was not being constructed on the residential side of the site. He then indicated that the Center mostly closely represents a community residence, which was a conditional use in the zone, but felt that the use meets in the spirit and intent of the ordinance. Mr. Lange then directed the Board's attention to the staff reports and indicated that they could comply with all of the reports. He spoke about two issues regarding storm water management that were listed on the Township Engineer's report (items #10, #11, #12 and #15) that had to do with local ordinances. He indicated he would work with the Township Engineer to his satisfaction. Mr. Lange testified that none of the issues listed in the reports would substantially alter the proposal that the Board was considering that evening.

Mr. Caldwell asked whether there would be visitors allowed at the site. Mr. Lange indicated that visitors were allowed on-site up until 6:00 p.m., but that it was a very controlled environment and they would have to be expected. Ms. Wright indicated that the adolescents were basically without family and most of the visitors were DYFS workers.

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

Ms. Bergailo opened a discussion regarding her thought that the Application was an expansion of an already non-conforming use. Mr. Dominach indicated that it was, in fact, a D-1 Variance that the Applicant needed.

Mr. McCracken made a motion to approve the Amended Site Plan and D-1 Use Variance to include all of the conditions of the prior Resolution.

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

AGAINST: None

WORKSESSION/NEW BUSINESS

MEETING ADJOURNED

Mr. Betterbid made a motion to close the regular meeting at 8:07 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
April 4, 2014