

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

REGULAR MEETING  
July 17, 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 Vice Chair Graumann, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

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PRESENT: Raymond Betterbid, Laura Graumann, Donald Johnson, Alan Rich, Robert Shepherd, Anthony Caldwell, Joel Reiss and Cheryl Bergailo

ABSENT: Bruce McCracken, Gary Rosenthal and Robert Thomas

ALSO PRESENT: Patrick Bradshaw, Board Attorney and Mark Healey, Director of Planning

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**MINUTES:**

- **Regular Meeting – May 1, 2014**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Caldwell, Mr. Reiss and Ms. Bergailo

AGAINST: None

**RESOLUTIONS:**

- **Chen & Wu / ZBA-13-00001**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Caldwell and Ms. Bergailo

AGAINST: None

- **Hague / ZBA-14-00006**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich and Ms. Bergailo

AGAINST: None

**DISCUSSION:**

***Vouchers:***

- **Patrick Bradshaw – June & July Retainers - \$1,730.00  
Various Matters - \$780.00**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Reiss and Ms. Bergailo

***Relief of Conditions:***

- **St. Thomas Syro-Malabar Catholic Church, Inc. / ZBA-10-00028**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, St. Thomas Syro-Malabar Catholic Church, Inc. Mr. Lanfrit explained that they received D(3) Variance, Site Plan and Bulk Variance approvals granted by the Board of Adjustment on March 17, 2011 and memorialized on April 20, 2011. He explained that the church was presently under construction and that they were before the Board that evening to request Relief of Condition from what was originally proposed at the March 17, 2011 Board of Adjustment meeting as it related to the proposed HVAC and other such equipment for the Fellowship Hall building. He went on to further explain that the original proposal was for a pitched roof with the HVAC equipment placed on the ground for both the church building as well as the Fellowship Hall building. He now indicated that they have changed the plans to accommodate a flat roof for the Fellowship Hall and would like to place the mechanical equipment on the roof. Mr. Lanfrit noted that the architectural plans show that the building was hardly visible from any surrounding roadways and would not be seen by the travelling public. A discussion ensued among the Board.

Vice Chair Graumann then opened the meeting to the public. Seeing no one coming forward, the meeting was closed to the public.

Mr. Reiss made a motion to approve the Relief of Conditions as requested. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Shepherd, Mr. Caldwell and Mr. Reiss

AGAINST: None

## HEARINGS:

- **PHUOC DUYEN BUDDHIST of NJ, INC. / ZBA-14-00003**

Use Variance & Site Plan w/variances in which applicant is proposing an addition to the building and adding 13 parking spaces at 970 Hamilton Street, Somerset; Block 104, Lot 9, in an M-2 Zone - **CARRIED TO SEPTEMBER 18, 2014 – with no further notice required.**

- **DANIEL J. COOK / ZBA -14-00009**

Hardship Variance in which Applicant is proposing to erect a 1-car garage, kitchen & foyer addition and master bedroom suite at 2084 Amwell Road, Somerset; Block 73, Lot 38.02, in the A Zone.

Mr. Daniel J. Cook, Applicant, came forward and was sworn in. Mr. Cook explained that they were looking to put a master bedroom suite over an existing structure as well as expanding the kitchen and adding a 1-car, 1-story garage to the side of the existing two-car garage. Mr. Cook stated that the homes in the immediate vicinity were built to one side of the property, so that there would be a septic field and driveway between the proposed additional garage and the neighboring home. Mr. Cook then discussed the Dept. of Health letter regarding the existing septic system being able to handle an additional master bedroom suite, stating that they were not adding a bedroom, but enlarging an existing bedroom to create a master bedroom suite with an entrance hallway and laundry area.

Vice Chair Graumann discussed the variances required as being any one side yard and two side yards. Mr. Healey added that the home was not located in a rural area characterized by 6-acre lots and was nearby an R-40 Zone.

Ms. Bergailo inquired about how close Mr. Cook's home was to the neighbor's home, with Mr. Cook responding that they were about 100 ft. apart. He added that there was naturalized vegetation with trees and shrubs which they intend to keep.

Vice Chair Graumann asked Mr. Cook whether he discussed his plans with his neighbors. He answered in the affirmative and noted there were no negative comments from them regarding the proposal.

The Vice Chair then opened the meeting to the public. Seeing no one coming forward, the meeting was closed to the public.

Mr. Reiss made a motion to grant the Variances as requested, with the provision that the Applicant meets all requirements of the Health Dept. regarding the septic system. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Shepherd, Mr. Caldwell and Mr. Reiss

AGAINST: None

- **SOCCER CENTER, LLC / ZBA-14-00010**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Soccer Center, LLC. Mr. Lanfrit explained to the Board that they were there that evening to obtain a Use Variance in which the Applicant was seeking a waiver of site plan from height variance at 300 Memorial Drive, Somerset; Block 517.1, Lots 3.19 & 3.20, in the M-1 Zone.

Mr. Lanfrit went on to state that in 2000, Soccer Center, LLC received a Site Plan approval to construct their facility on Memorial Drive off of Cottontail Lane, which he described as an air suspended recreational structure for indoor soccer. He stated that when they went before the Planning Board (soccer center was a permitted use in the zone), they also had a height of 54.9 ft. approved because the height deviation was less than 10%. Mr. Lanfrit indicated that Soccer Center, LLC was planning to replace the bubble that was presently there and would present testimony as to the need for replacement and height variance request.

Mr. Cull, a Principal of Soccer Center, LLC, came forward and was sworn in. Mr. Cull explained that they were planning to replace the bubble because they have a life-span of about 14-15 years and they were at the end of the life span of the present facility. He then testified that the footprint of the bubble would not change as a result of the replacement, so whatever was approved by the Planning Board as to area would remain the same. Mr. Cull explained that they were asking for a height variance because the higher pitched angle of the top of the bubble would help snow slide off much better and to reduce the chances of a collapse from too much snow build-up. He noted that there were a number of bubble collapses throughout New Jersey due to the snow and cold weather experienced. He then described the issues that they encountered that past winter with snow buildup on the top of the facility, noting a partial collapse, and the need to "babysit" the facility by pumping up the air volume. He testified that the increased height of the proposed bubble would not allow for the snow buildup. Mr. Cull also told the Board that the change in the height of the facility would not have any effect on the operation of said facility. He also told the Board that their facility was approximately 10-11 ft. lower than the main road, so that the additional height would not be visible. He said that there was heavy tree cover along the western and the southern side of the bubble. Mr. Cull then addressed the transition that would take place from the old bubble to the new bubble (a week-long project), noting that a

portion of the old vinyl would protect the artificial turf as well as the kitchen and other facilities there. He added that they would build some scaffolding over the kitchen area to support the weight of the old vinyl when it comes down. Mr. Cull then agreed to work with Ms. Elliott of the Health Dept. to re-inspect the kitchen and facility

Vice Chair Graumann inquired as to whether there were other bubbles constructed in New Jersey of the same height that were requesting a variance for. Mr. Cull indicated that he believed there was one in Flemington (Health Quest) that was approximately 120 ft. high due to the size (span) of the facility.

Mr. Healey added that shown in the memo from the Township Technical Review Committee (TRC), was an aerial of the facility showing industrial uses and wooded areas surrounding the site.

Vice Chair Graumann then opened the meeting for public comment and questions. Seeing no one coming forward, the meeting was closed to the public.

Mr. Reiss made a motion to approve Application with Height Variance, as described during the hearing. Mr. Johnson seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Shepherd, Mr. Caldwell and Mr. Reiss

AGAINST: None

- **CHINESE CHRISTIAN CHURCH IN SOMERSET, INC / ZBA-14-00008**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Chinese Christian Church in Somerset, Inc. Mr. Lanfrit explained that they were there that evening for approval of a Site Plan w/Use Variance in which the Applicant was proposing to build a new church at 758 Hamilton Street, Somerset; Block 154, Lot 1.02, in the HBD Zone.

Mr. Lanfrit explained that the church, at the present time, has three structures, including the church and a house that was used as the office that front along Hamilton Street and the other building directly behind the church that has frontage along Matilda. He noted that the Application was to replace the old building behind the church with a new building. Mr. Lanfrit testified that the proposed construction would not change any of the activities or the operation of the church. He said the replacement of the old building was just to modernize it.

Mr. Lanfrit then stated that they did not receive a report from the Planning Dept. or the Engineer's dept., but would be happy to sit down with representatives if there were any issues. Mr. Healey, the Planning Director, indicated he would offer comments as they proceeded.

Pastor Whisman, one of three pastors at the Chinese Christian (non-denominational) Church, came forward and was sworn in. Pastor Whisman briefly described the mission of the church and that they had been at their present location since 1988. He went on to describe a multi-faceted schedule of worship, with everything starting at 9:30 a.m. on Sundays. He stated that they have three separate congregations, with one speaking Cantonese, the next speaking Mandarin and the third speaking English. Pastor Whisman then indicated that he was the Pastor of the English-speaking ministry. He noted that when the Cantonese-speaking congregation had their services, the other two ministries had their Bible classes within the other two buildings on the campus. He then testified that the Mandarin- and English-speaking congregations then have their service at 11:00 a.m. and the Cantonese congregation and the children have their Bible classes. Past Whisman stated that the church building houses the services as well as a Fellowship Hall that was also used for worship space and fellowship. He then testified that the other building fronting Hamilton Street that was used for office space also houses a nursery that was used during services on Sunday. He then stated that the building to the rear of the church was primarily used for classrooms as well as for the Youth Ministry. Pastor Whisman indicated that services end on Sundays at approximately 12:30/12:45 p.m. and then congregants typically stay for fellowship till about 1:30 p.m. He also noted that people who regularly attend services number in the range of 250-275 people, including families with children. He then went on to detail the parking situation, stating that congregants parking within the 25 parking spaces on-site, street parking and through a parking license with Levin Management that has 60 parking spaces (Tropical Food Market, Fire House, etc.). Pastor Whisman then testified that they have the availability of using the additional 60 parking spaces, but never have a need and have never had parking problems. He then noted that all three buildings were utilized on Friday nights for fellowship nights (approx. 100 people attending, on average) and youth ministry between the hours of roughly 8 p.m. to 10:00 p.m.. The pastor also added that they have an English class on Wednesday mornings (9:30 a.m. to noon) for immigrants trying to learn to speak English. He testified that all activities take place within the confines of the buildings on-site. According to the pastor, only the nursery would be relocated to the new building from the home on Hamilton Street that currently was used for that purpose and office space.

Vice Chair Graumann asked whether all of the activities that presently occur on-site had been addressed in a prior resolution. Mr. Lanfrit indicated that there was a hearing in 2004 with the Applicant that Mr. Ardman, the project's engineer handled.

The Board Attorney, Patrick Bradshaw asked what type of "D" variance was being requested that evening. Mr. Lanfrit indicated that the church was a permitted conditional use in the Hamilton Street Business District. He spoke about parking requirements and buffering requirements, all which he indicated would be discussed during Mr. Ardman, the project's engineer's, testimony. Mr. Lanfrit also indicated that there were some bulk variances in place as well. He then told Mr. Bradshaw that there were some minor site modifications in the 2004 Resolution.

Ms. Bergailo asked what the reasoning was to construct a new building on the site. Mr. Lanfrit stated that the architect would testify that there were numerous code violations and was quite old and did not function well any longer.

Mr. Reiss drew the Pastor's attention to the Health Dept. letter asking whether there would be a day care center there. Pastor Whisman answered in the negative. He then opened a discussion regarding their concern for the two proposed kitchens in the new building. The Pastor indicated that there were two kitchens proposed, but the one area only had a sink and a toilet for the nursery area and that there was no stove in that area. He then stated that the other kitchen was simply to warm food.

Mr. Healey then asked the Pastor to speak to the fact that the proposed new building seems to be somewhat larger in footprint than what presently existed on the Matilda Avenue frontage and was a full two stories tall. They discussed the inclusion of a "nursery" area and 7 classrooms. Pastor Whisman indicated that the nursery was for the care of infants and toddlers by volunteers during church services on Sundays and that the 7 classrooms were for religious classes, also taking place on Sundays. He also explained that the new building would be more handicapped friendly and could house the Cantonese services (50-60 congregants) as well as provide space for the Youth Ministry. Mr. Healey then inquired as to whether services would be held in the new building and the church building on the corner at the same time. He indicated that there was a possibility of doing that, but that right now they were just planning on keeping everything to the same schedule that exists today with the Cantonese congregation coming at 9:30 a.m. and the other two congregations being held at 11:00 a.m.. A discussion ensued.

Vice Chair Graumann then opened the meeting to the public for questions of Pastor Whisman. Seeing no one coming forward, the meeting was then closed to the public.

Mr. Kissane, Architect, came forward and was sworn in. The Board accepted his qualifications. Mr. Kissane discussed the condition of the existing building and what was proposed. He indicated that the building started out as a residential center hall colonial home and at some point became an assembly building for the church. He added that it still had all of the parts and pieces of a residential structure – the doors were not fire rated, the halls were very narrow, circulation throughout the building was a bit dangerous, especially in a smoke condition, and the electrical system was questionable. Mr. Kissane testified that there was significant discussion as to whether to tear the building down and rebuild or to repair the existing building. He told the Board that the approximate size of the existing building was 74 ft. wide x 28 ft. deep. He then noted that the proposed new building was 80 ft. wide x 40 ft. deep. Mr. Kissane stated that they would be putting the extra 12 ft. depth towards Matilda Avenue.

Mr. Kissane then entered into the record as Exhibit A-4, consisting of architectural drawings of the exterior of the proposed building. He entered into the record as Exhibit A-3, which were the architectural drawings of the interior of the proposed new building as well as Exhibit A-1 and A-2, which were the renderings of the exterior of the building from two different sides.

Mr. Shepherd then inquired as to whether the building would be built on a slab and Mr. Kissane indicated that it would be built on a full basement. He indicated that the basement would be 4 ft. below grade, with 2-1/2 stories above ground in order to provide windows to the basement classrooms. Mr. Kissane stated that the building would have a handicapped ramp to the front door. He then drew the Board's attention

to the proposed building materials, including polished concrete block as a base course, brick on the first floor and vinyl siding on the upper floor to save weight and cost.

Vice Chair Graumann asked if there would be any handicapped access to the basement and second floor and Mr. Kissane indicated that they were planning to include an elevator in the building. He then testified that the roof materials would be residential style asphalt shingles.

He then discussed Exhibit A-3, which was the interior floor plan of the building. He directed the Board's attention to the two sets of egress from each floor and pointed out the elevator location as well as the handicapped bathrooms on each floor. Mr. Kissane stated that Mr. Healey's question regarding why the building was being enlarged from the approximately 4,500 sq. ft. to the 9,922 sq. ft. could now be explained with the inclusion of the wider hallways and handicapped accessible amenities. He then explained that there was some office space as well as a refrigerator and a sink off the proposed nursery on the first floor in the new building and would not be considered a kitchen, as such. He did state, however, the proposed kitchen off of the lobby was a full kitchen. He noted that the second floor had a multi-purpose room for the kids and a smaller space for a smaller congregation as well as two more classrooms. He testified that they were basically replicated the rooms in the old building, but just to a larger scale in the new building. Mr. Kissane indicated that they were also planning to put a sprinkler system in the building.

Mr. Healey questioned what the occupancy load would now be with the newer building. Mr. Kissane stated that they have basically doubled the occupancy load that the new building can bear, legally. He did add, however, that the congregation did not increase and the use of the space was not changing. Mr. Healey opened a discussion regarding whether the larger building was going to result in a higher parking demand for the site. A discussion ensued regarding the number of cars coming to the site, and Pastor Whisman stated that carpooling was very common within their congregation as families travel together, elderly people are picked up and brought to the site and some Rutgers college students get picked up or carpool to the site as well.

Mr. Caldwell asked whether they felt that the congregation might grow significantly to affect the parking situation negatively. Pastor Whisman indicated that their congregation has remained fairly static over the past years. He asked for confirmation from Mr. Lanfrit that he was asking, on behalf of the Applicant, for a waiver of providing a traffic study since the congregation was not going to increase. Mr. Lanfrit concurred and indicated that they do seek a waiver to provide the traffic study. He also added that since Hamilton Street was a County road, they had to make a driveway apron improvement, but there were no other comments in their letter.

Vice Chair Graumann made a motion to open the meeting to the public for questions of the architect. Seeing no one coming forward, the meeting was closed to the public.

Vice Chair Graumann then asked for a 10-minute break and the hearing concluded when the Board returned to the dais.



Mr. Mitchell Ardman, Engineer and Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. Ardman testified that he was the engineer of record in 2004 when the Applicant came before the Board for a hearing. Mr. Ardman entered into the record as Exhibit A-5, a colorized dimension plan set that was submitted along with the Application. He then proceeded to orient the Board members to the site and what was being proposed.

Mr. Shepherd opened a discussion regarding the lot size being adequate for the zone. Mr. Healey indicated that in the HBD, a commercial zone, the requirement was 10,000 sq. ft. and Mr. Ardman testified that they have 35,782 sq. ft. Mr. Ardman then discussed the zone requirements that the property did not comply with as the "build to" requirement for the main church building (21.7 ft. existing with 0 ft. to 10 ft. maximum allowed). He added that a variance was already granted and the main building will be unchanged as part of the Application. Mr. Ardman then indicated that the only other zone requirement that did not conform was the expansion of a previously granted variance for parking (ZBA-2004-0114) by the 230 seat count; sanctuary (77 parking stalls required, 25 provided). He continued the discussion by saying that they were going to lose one parking stall to comply with ADA standards for parking stall and drive aisle size and would now have 24 parking stalls. For the record, Mr. Ardman testified that the Matilda lot was purchased in 1994 and was not formally combined with the rest of the parcel until 2004 and received its use variance at that time. He then spoke about the resolution from the 2004 hearing, granting the approvals for the 25 parking stalls and included the agreement with Levin Management for allowing parking spaces to be used by the church on their property. In adding the parking availability, Mr. Ardman stated that with the 24 on-site parking stalls, the 60 available through the agreement with Levin Management and the on-street parking, there appears to be approximately 100 parking stalls, which would be adequate based upon the testimony of the pastor regarding the attendance and the carpooling that occurs.

Mr. Ardman then drew the Board's attention to the handicapped accessibility planned for the site at the corner of Victor St. and Matilda Avenue. He added that they would also be constructing a public sidewalk on the Matilda Avenue side as well as two street trees. He stated that even though the new building's footprint would be increased, they've adjusted the pavement area on the site and there would be a slight reduction in impervious coverage area on-site so that there were no storm water issues. He added that any water issues at grade would be mitigated by piping to the existing inlet. He then testified that they were not required to put in a detention basin as they were not increasing the impervious coverage area. Mr. Ardman then discussed the utilities, noting that they would be updating the sanitary connection, a new water connection for fire suppression with the building being sprinklered. He noted that the only new lighting would be to replace what existed for the structure that was being removed and replaced. He added that there would be security lights on the corners of the building only.

Mr. Ardman then discussed the ability of the Board to grant the variances required based upon the approval for the site in the 2004 application and the testimony given regarding the fact that the site has remained with substantially the same use and the number of congregants had remained virtually the same. He also noted that the building size would be increased, but only to accommodate better for health and safety

for those already participating in activities at the church and to become ADA compliant. Mr. Ardman then discussed the hours of operation remaining relatively the same, with no increase in hours of operation and that the new building will bring a better visual aspect to the neighborhood. He also testified that the traffic patterns would not change or increase as a result of the proposed improvements and did not believe there would be any negative impact to the site or the neighbors.

Mr. Ardman then addressed the letter from the Traffic Safety Bureau requesting bollards between the parking spaces and the playground. He discussed the planted buffer between the two spaces and the post for the handicapped parking signage and noted that they would discuss with the bureau any concerns.

Vice Chair Graumann asked whether the planted buffer was proposed or already existing. Mr. Ardman stated that it already existed and that there were already street trees along the Hamilton Street side of the property. He reminded the Board that they would also be planting two new street trees on the Matilda Avenue side of the property. He also spoke to the number of handicapped parking spaces provided, noting that the requirement was for two (2) spaces for 25 on-site parking spaces, which they were providing.

Ms. Bergailo inquired whether the sidewalk along Hamilton Street was up to code. Mr. Ardman stated there were no issues there and that the County did not bring up the issue in their review. Mr. Lanfrit then added that the County did ask them to replace the driveway apron as well as the sidewalk along Hamilton Street and they would comply. She then asked whether Mr. Ardman could add some foundation shrub plantings on the southwestern corner of the building and he indicated that he could.

Mr. Healey then opened a discussion regarding a buffer variance requirement. He discussed keeping to the Hamilton Business District look along the frontages and there was less than 2 ft. on the easterly side of the property to provide landscaping. He recommended to the Applicant to provide more street trees along Matilda Avenue since there were residences in the area. He also gave some recommendations as to the type and species of trees to be planted. In addition, there was the recommendation to plant some columnar form of street trees to plant between the main building and the new building as well as looking to dress up the Victor Street frontage. Mr. Lanfrit indicated that they would come up with a landscaping plan and submit it to Mr. Healey for his review and approval.

Vice Chair Graumann then opened the meeting to the public, first for questions of Mr. Ardman and then for comments regarding the project as a whole. Seeing no one coming forward, the meeting was closed to the public. Mr. Lanfrit then made his closing statements.

Mr. Shepherd made a motion to grant the necessary variances, subject to their compliance with all the requirements of the professional reports and working with Mr. Healey to provide an adequate landscaping plan based upon the discussions during the hearing. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Shepherd, Mr. Caldwell and Mr. Reiss

AGAINST: None

- **CAAM DEVELOPMENT GROUP, INC. / ZBA-14-00005**

Ms. Kathryn Kopp, Esq., Attorney with the law firm of Peter U. Lanfrit, appeared before the Board on behalf of the Applicant, CAAM Development Group. Ms. Kopp indicated that they were there that evening for a Hardship Variance in which the Applicant was proposing to build a 2,000 sq. ft. single family two-story home at 42 William Street, Somerset; Block 62, Lots 7 & 8, in the R-10 Zone.

Mr. Michael Abramovitz, President of CAAM Development, came forward and was sworn in. Mr. Abramovitz testified that neighbors were sent certified letters asking them if they wanted to purchase either of CAAM Development's undersized lots. He added that they did not make any offers to purchase either lot. Ms. Kopp marked the letters to Mr. Robert Terullo and Mr. John F. Cave as Exhibit A-1 and letters to Mr. Steven Stankovitch and Ms. Jane Norris as Exhibit A-2.

Mr. Abramovitz then described the exterior of the proposed home, stating that the outside of the home would be mainly made up of maintenance-free siding. He entered into the record as Exhibit A-3, a rendition of the proposed exterior of the home showing two possible color variations. Mr. Shepherd asked if he would accept, as a condition of any approval, that the Applicant would build the house shown in the plans and exhibits. Mr. Abramovitz answered in the affirmative. He added that the home, as proposed, contained three bedrooms. He then went on to state that he was planning to construct the home on a slab, but would like the option to put a basement in if conditions warrant it. He indicated that he was proposing an attic for storage and utilities only, but if he constructed a basement, it would be for storage and he would locate the utilities in the basement instead of the attic. He stated that he believed the house style and design would fit in nicely in the neighborhood. He added that he originally proposed to set the house back 25 ft., but with direction from the Historic Commission, he was asked to move the home forward so that it would be in line with the rest of the homes on the block. Mr. Abramovitz testified that he was willing to comply. He then explained that he planned to include a one-car attached garage and a gravel driveway for a total of two parking spaces on-site. He then drew the Board's attention regarding their use of the property for parking space. He indicated that he had a discussion with the neighbor who said that they had a handicapped tenant who used the parking area for easier access. He went on to further explain that he would have an agreement between CAAM Development, the future homeowner and the landlord and tenant of the neighboring property that they would provide parking for the handicapped tenant on the subject property. He added that the agreement would cease to exist once the particular

tenant was no longer living there. Mr. Abramovitz also indicated that a planter as well as piping from the sanitary sewer line from the neighboring property was encroaching on his property, but was willing to put a 5 ft. utility easement in place to address any work that might need to be done.

The Vice Chair asked whether the easement and parking agreement would interfere with the construction process and Mr. Abramovitz indicated that it shouldn't be a problem. Ms. Kopp stated that, in speaking with the neighboring property owner, the sanitary sewer line was in place when they purchased their property. In discussing with the neighbor about the sump pump, Mr. Abramovitz indicated that the neighbor agreed to redirect the pipe from the subject property to a different location.

Mr. Abramovitz then directed the Board's attention to a discussion he had with the other neighbor to the right side of the subject property regarding the creation of a buffer between the two properties and agreed to look into planting some trees or tall shrubbery to create privacy between the two properties.

Vice Chair Graumann then made a motion to open the meeting to the public for questions of Mr. Abramovitz.

Mr. Robert Terullo, 36 William Street, Somerset, NJ, came forward. Mr. Terullo stated that he never received a certified letter giving him the opportunity to purchase the property. Vice Chair Graumann then asked Mr. Terullo if he was interested in purchasing the property and he replied that it would depend upon the price they were asking for the property. Mr. Bradshaw, the Board Attorney, explained that it would be fair market value of the lot as if they had approval to build a house on it. A discussion ensued regarding how the situation would be handled seeing that the Applicant would not have an asking price available that evening.

Ms. Kopp entered into the record as Exhibit A-4, a March, 2013 letter prepared by Century 21 Worden-Green, which stated the value of the lot at \$65,000-\$70,000. Ms. Kopp did remind the Board and the public that the value was set in March of 2013 and might not reflect the value of the property presently. Mr. Terullo asked for a minute of the Board's time to discuss the issue with his partner. Mr. Abramovitz stated that he did not have a buyer for the prospective home at present.

Ms. Kopp testified that in looking through her file, the original certified envelope was never picked up by Mr. Terullo, but it was sent.

While they were waiting for a discussion with Mr. Terullo and his partner, Ms. Bergailo asked Mr. Abramovitz to clarify the parking arrangements with the neighbor on the left side and where exactly the handicapped tenant would park and how that would fit in with the proposed gravel driveway. Ms. Kopp indicated that the project's engineer/planner would review that issue in detail.

Mr. Terullo came back to the podium and indicated that they would not be interested in purchasing the property at that time.

Seeing no one further coming forward, Vice Chair Graumann closed the meeting to the public.

Mr. John Hansen, Engineer/Planner, employed with Ferraro Engineering, came forward and was sworn in. The Board accepted his qualifications. Mr. Hansen then described the site as it currently existed. Mr. Hansen then entered into the record as Exhibit A-5, a 2012 aerial view of the surrounding area of East Millstone. He added that at 5,000 sq. ft., the lot was consistent with the other lots in the zone. He added that the lots in the area were served by public water and sewer, with electric overhead, and parking prevalent on the street. Mr. Hansen then marked into the record as Exhibit A-6, which was a rendering of the plan submitted with the application. He specified that the lot conforms to the zone, with the exception of the lot area and lot frontage of the R-10 Zone. He added that they were grading the property and driveway so that runoff would not affect other neighboring properties and would be placing a dry well system underground that would collect and store runoff.

Vice Chair Graumann reiterated Ms. Bergailo's earlier question about how the agreement with the neighbor to allow for their tenant's parking on the subject property going to affect the garage/driveway parking plan. Mr. Hansen testified that it would not interfere with the proposed plan and marked into evidence as Exhibit A-6, drawings drawn up that day by Mr. Hansen showing the proposed home located 10 feet closer to the roadway as requested by the Historic Commission. He then explained that they would also be allowing the tenant to park on a gravel driveway, which would increase the impervious coverage on the property by 100 sq. ft. and, therefore, would require a variance for 32% of lot coverage, where 30% was the maximum. Mr. Hansen also indicated that they were also incorporated the easement to allow the neighbor access to their sewer line that was currently located on the subject property. Mr. Hansen then told the Board that they would like to plant the required replacement trees along the north and south boundary lines to create a nice, visual privacy buffer to the rear yards of the adjoining neighbors property. He also added that they were asking for a waiver to construct curb and sidewalk since there was very little throughout that section of the Township. Mr. Healey concurred and stated that it would look out of place to have curbs and sidewalks since it would never connect to anything as the neighborhood was already developed.

Ms. Bergailo asked whether the Board could take a closer look at Exhibit A-6 and wanted to know if the Mr. Hansen had sketched out the 100 sq. ft. area for the next door neighbor's use for the handicapped tenant's parking. Mr. Healey was concerned that 100 sq. ft. would not be enough space to park a car and Mr. Hansen replied that the 100 sq. ft. was the portion of the parking area for the neighbor's car that encroached onto the proposed property.

Ms. Bergailo then opened a discussion regarding how the proposed gravel driveway seemed to be hanging out into the Right of Way. Mr. Healey then discussed the Historic Commissions recommendation to bring the proposed home closer to the roadway as the factor involved. A discussion ensued and Mr. Hansen testified that there was 15.1 ft. where 18 ft. was the typical parking space size. He felt that there would be ample space for an automobile to pull right up to the garage door to get out of

the Right of Way area and reiterated that it would be consistent to what was in the neighborhood.

Mr. Shepherd drew the Board and Mr. Hansen's attention to Mr. Healey's comment in his report with his concern that the proposed home to be built on the lot did not overwhelm the homes in the surrounding area. Mr. Healey clarified that he was concerned that the building coverage on the proposed lot was at 19.9%, where 20% was the maximum. He mentioned that the Board has seen that situation and the homeowner was returning to the Board for a variance to build a shed or other structure that increases the coverage over the maximum. A discussion ensued among the Board regarding possible conditions of approval, should they approve the Application that evening, including an agreement that follows the property not to add anything more to the lot and/or a request to reduce the size of the proposed home.

Mr. Hansen then drew the Board's attention to Exhibit A-5, showing the homes and the lot lines in the neighborhood. He noted that the subject property was actually larger than many of the surrounding lots in the neighborhood. He added that the lots to the rear that front Market Street were just in conformance to the zone at 10,000 sq. ft., so they could not purchase any additional property to make their lot conform without placing the other adjoining lot into non-conformity. He also stated that they had designed the mass of the home to be consistent to what was already found in the neighborhood. He also reminded the Board that they did not require any relief from bulk variances, except for the lot area and lot frontage, with placement of the home on the property in their original proposal. He indicated that they would also now need a variance for front yard setback, where 25 ft. was the minimum and 15.1 ft. was proposed, based upon the recommendations from the Historic Commission under the C-2 criteria. Mr. Hansen then discussed the positive and the negative criteria that have to be met as it related to the C-1 Hardship Variance. He then added that impervious coverage would be reduced by moving the home forward by 10 ft., making the driveway 10 ft. shorter. Mr. Hansen also mentioned that the gravel driveway allowance for the handicapped neighbor would be something that would go away once that tenant no longer lived there. He noted that the impervious coverage was at 32%, where 30% was allowed in the zone to provide for the neighbor parking area, a small patio and shed.

Mr. Hansen then described the storm water management system that would be in place, stating that there would be a series of 10 ft. x 10 ft. dry wells that were 6 ft. deep. He then went on to discuss the tree replacement plan, stating that by moving the home forward 10 ft., they were actually able to save a large 30 inch tree in the rear of the lot. As a result, Mr. Hansen calculated that they would then need 14 replacement trees, with 4 evergreens on each side of the lot to buffer the neighbors and requesting a waiver for the remaining six (6) trees.

Mr. Hansen then addressed the staff reports, stating that they would be able to comply with all of the comments, with the exception of the fee dedication for the Right of Way on Williams Street noted on the Engineer's report. He instead offered that they could grant a 5 ft. easement along the property frontage since they didn't believe that Williams Street would ever be widened. After discussions during the hearing with Mr. Healey, Mr. Hansen asked for a waiver for that item. He also asked for a waiver to reduce the size of the house as well as a waiver to replace six (6) trees on the site, per Mr. Healey's Planning report. Mr. Hansen stated that they could comply with all other

comments on the Planner's report. Finally, he testified that they would be able to comply with all requirements of the Delaware & Raritan Canal Commission (DRCC), but that they would receive, as a condition of any approval from the Board, their approval as well.

A Board member questioned the waiver for the replacement of six trees on-site and Mr. Healey indicated that there was a separate ordinance that required the replacement of trees on-site and/or payment in lieu if replacement was not possible. Mr. Hansen indicated that they could comply.

Mr. Healey then asked if they were proposing any street trees. Mr. Hansen indicated that the homes were so close to the street that he felt it would be better to propose some low plantings/shrubs to follow what was consistent on the street presently. Mr. Healey indicated that he would have no objection to that proposal. Mr. Healey indicated, however, that the variance requested for 32% impervious coverage to allow for a patio and/or shed on the property would also increase building coverage to about 22% for the small shed. He wanted to know if they were asking for the variance for that as well. Mr. Hansen indicated that they would ask for that if the Board was so inclined to grant it.

Mr. Shepherd asked advice from the Board Attorney regarding the inclusion of the neighbor agreement for an easement for the sewer line and the allowance for a gravel parking spot. Mr. Bradshaw, Board Attorney, indicated that the Board could include that in any resolution written.

Vice Chair Graumann opened the meeting to questions of the Engineer/Planner as well as comments.

Mr. Steve Stankovich, 51 Livingston Avenue, East Millstone, NJ, came forward and was sworn in. Mr. Stankovich stated that he owned 44 Williams Street and had a tenant that was handicapped who used the driveway on the proposed property. He stated that he believed the parking area was there for at least the past 50 years. He went on to state that he would be happy if he would be granted the easements for the sewer line as well as the parking area. Ms. Graumann asked whether Mr. Stankovich wanted a permanent easement for the parking area and he replied that he would like the parking easement for just as long as the tenant was living there, but asked for a permanent easement for the sewer line.

Mr. John Kade, 20 Tallmadge Avenue, Bound Brook, NJ, came forward and was sworn in. Mr. Kade stated that he owned the property at 36 William Street. He asked that the Applicant provide some shrubbery along the sides of their property to soften some of the hardscape with the home and the air conditioning unit. Mr. Hansen stated that he had already testified that they would be providing evergreens on both sides of the property. Mr. Kade then expressed concern for a flowering cherry tree that was in close proximity to the property line and might be affected should they have to excavate a full basement.

Mr. Robert Mettler, 2303 Amwell Rd., East Millstone, NJ, came forward and was sworn in. Mr. Mettler asked permission of the Board to hand out a copy of a map, which he did

after receiving permission to do so. Mr. Mettler explained that the map he handed out to the Board members was made by a company called Sanborne & Paris who made maps around the end of the 19<sup>th</sup> century and beginning of the 20<sup>th</sup> century for areas around industries, in this case, the Somerset Distillery. He noted that there were seven (7) company buildings on the west side of Williams Street at that time. He noted that the only building drawn on the map in existence today was the one that had been referred to during the hearing as the two-family house. He also stated that, according to the map, there had been one if not two homes on the subject property in the past and asked if a record could be made of what was found on the property during excavation and construction, especially if a full basement was dug. Mr. Mettler asked for the Board's consideration in making his request a condition of any approval. Ms. Kopp indicated that Mr. Mettler had already spoken to her and the Applicant has agreed to notify Mr. Mettler or any other member of the Franklin Township Historic Commission so that they could be present during the excavation to document anything that might be found of interest to them in order to photograph as long as it didn't cause any undue delay.

Mr. Robert Terullo, 36 William Street, East Millstone, NJ, came forward and was sworn in. Mr. Terullo asked whether the Township would have to review their plans and give approvals should the Applicant change their plans and go from providing a slab on grade to providing a full basement. Mr. Healey indicated that they would need to get the necessary approvals/permits from the Township, but would not have to appear again before the Board.

Ms. Jennifer Norris, 51 Livingston Avenue, East Millstone, NJ, came forward and was sworn in. She indicated that she was Steven Stankovich's wife and co-owned 44 William Street. Ms. Norris wanted to explain why the sewer line and the parking area were on the adjacent lot from theirs. She gave a history of the property in the area, stating that their property had been owned by the same person who owned the subject property, which might explain the present conditions.

Seeing no one further coming forward, Vice Chair Graumann made a motion to close the meeting to the public.

Ms. Bergailo asked that the project's engineer to revise the plan to show tree protection fencing around the neighbor's 14 inch cherry tree and the tree that would be able to be saved behind the house, along the drip line. Mr. Hansen indicated that they would comply.

Mr. Shepherd made a motion to grant the necessary variances, including a variance for up to 22% building coverage and up to 32% lot coverage. Mr. Shepherd added that they grant a variance to allow a shorter front set-back to allow the home to be constructed 15 ft. from the street rather than 25 ft. He added that the Board grant them a waiver of the sidewalk and curb requirement and that they enter into discussions with the owners of the adjacent property to allow for a permanent sewer line easement and to enter into an agreement wherein the handicapped tenant living at 44 William Street would be allowed to park her vehicle on the front corner of the lot at 42 William Street for as long as she lived there. Additionally, the Applicant would need to speak with Mr. Healey to plan for an appropriate landscaping plan for the front of the house. Vice Chair Graumann asked to add the protection to protect the trees as requested by Ms. Bergailo



and that the house that was developed look exactly as shown in the plans. The Applicant would also be required to give notice to the Historic Commission when excavation begins in order to take pictures of anything of historical interest, but not to delay the completion of construction. Also, the Applicant is to provide landscaping buffer around utilities and air conditioning unit to shield the view and sound from neighboring properties as well as to provide landscape buffers on both sides of the property for privacy. Mr. Healey added that the Applicant needed to provide more detail regarding the parking area both for the neighbor as well as for the home's driveway. Mr. Reiss seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. Rich, Mr. Shepherd, Mr. Caldwell, and Mr. Reiss

AGAINST: None

### **WORKSESSION/NEW BUSINESS**

There was no new business

### **MEETING ADJOURNED**

Vice Chair Graumann made a motion to close the regular meeting at 10:30 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
August 31, 2014