

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

REGULAR MEETING
December 18, 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: Donald Johnson (arrived at 7:50 p.m.), Bruce McCracken, Alan Rich, Robert Shepherd, Gary Rosenthal, Cheryl Bergailo and Chairman Thomas

ABSENT: Raymond Betterbid, Laura Graumann, Anthony Caldwell and Joel Reiss

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

MINUTES:

- **Regular Meeting – November 6, 2014**

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

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

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – December Retainer - \$865.00**
 - **CAMM Development – Resolution - \$195.00**
 - **Cook – Resolution - \$120.00**
 - **Ramirez – Resolution - \$150.00**
 - **D’Orsogna – Resolution - \$135.00**

A motion was made and seconded to approve the Vouchers as submitted. Upon a voice vote all in attendance voted yes.

Discussion:

▪ RFQ'S

Mr. Dominach indicated that the Zoning Board By-Laws require that every year the Zoning Board, under the fair and open process, seek proposals for Board Attorney. Chairman Thomas made a comment that there was no public to open the meeting to discuss this matter. Mr. Dominach indicated that one proposal from the present Board Attorney, Mr. Patrick Bradshaw was received.

In response to Board inquiry, Mr. Bradshaw indicated that he had enjoyed his time working with the Board and would like to continue in the position if the Board so desired and confirmed that his fees would remain the same.

A motion was made and seconded to appoint Mr. Patrick Bradshaw as Zoning Board of Adjustment attorney for 2015. Upon a roll call vote, all in attendance voted yes.

▪ 2015 Calendar - Resolution

A motion was made and seconded to approve a Resolution to approve the 2015 meeting calendar as submitted. The motion was seconded and upon a roll call vote all in attendance voted yes.

HEARINGS:

• PHYLLIS MILLER / ZBA-14 00011

Hardship Variance in which Applicant was proposing an addition at 122 Sydney Place, Somerset; Block 170, Lot 11.0, in an R-7 Zone - **CARRIED TO JANUARY 08, 2015 – with no further notification needed.**

• SEAN WALKER / ZBA-14 00017

C Variance application in which Applicant was proposing to keep two existing sheds that don't comply with setback requirements at 16 Park Lane, Princeton; Block 15, Lot 10, in an R-40 Zone.

Mr. Dominach summarized the nature of the application in that the sheds were noncompliant with the side yard setback (square shed) in that 14 foot setback existed and 10 feet existed (rectangular shed) where 25 feet is required. The site is also non-compliant with the 200-foot frontage requirement (161.28ft existing).

Mr. Sean Walker, the applicant, came forward and was sworn in. In response to Board inquiry, he confirmed the accuracy of Mr. Dominach's summary, indicated that the sheds were in place when he purchased the property, and indicated that moving the sheds to a compliant setback would not be feasible as the sheds are not in the greatest condition.

Mr. McCracken made a motion to approve the Application subject to the condition that the variances for the sheds relates to the existing sheds only and that any sheds placed on the property in the future must comply with applicable setbacks. The motion was seconded and the roll was called as follows:

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

AGAINST: None

- **MIDDLEBUSH REFORMED CHURCH / ZBA-14 00015**

Sign Variance in which Applicant was proposing to erect two freestanding signs and remove one existing sign at 1 South Middlebush Road, Somerset; Blocks 79 & 81, Lots 6, 7.01 & 1, in the R-20H Zone.

Ms. Nancy Lottinville, Esq., Attorney, appeared before the Board on behalf of the Applicant. She explained that the applicant seeks to construct two freestanding signs for which they need the following variances: one freestanding sign permitted where two freestanding signs are proposed; and sign setback where 25 feet minimum is required and both signs would be set back less than 25 feet. She indicated that the proposal went before the Township's Historic Commission and received their approval.

Pastor George Montanari of Middlebush Reformed Church, came forward, was sworn in and explained the need for the signage.

Kurt J. Ludwig, Architect, came forward and was sworn in and qualified as an expert as an architect. Mr. Ludwig explained that the 5-foot by 3-foot double-sided sign was proposed along Amwell Road in the location shown on Drawing No. S-1 submitted with the Board's packet (12.6 feet from the curb) while the 2-foot by 8-foot one-sided sign was proposed at the South Middlebush/Thompson Parkway intersection in the location shown on Drawing No. S-1 (17 feet from the curb along Thompson Parkway and 20.08 feet from the South Middlebush Road curb).

Mr. James T. Kyle came forward and was sworn in and qualified as an expert as a licensed planner. Mr. Kyle indicated that the variances could be granted under both the c-1 and c-2 criteria, citing the location of the existing church building and the unusual layout of the surrounding roadway network as hardships and indicating that proposed placement would be an improvement over signs placed in a compliant manner. Since there would be no detrimental effects, he opined that the positives substantially outweighed any negatives resulting from grant of the variances

Mr. Shepherd made a motion to approve the Sign Variance subject to the following conditions: the signs shall be located as shown on Drawing No. S-1; the existing brick and metal sign shall be removed when the new signs are erected; applicant shall satisfy staff comments however comments 1-4 in the Engineering report are waived; and, the applicant shall return to the Historic Commission if sign lighting were to differ from that reviewed and approved by the Commission. The motion was seconded and the roll was called as follows:

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **GENESIS FBCCDC SOMERSET SENIOR HOUSING URBAN RENEWAL, LLC / ZBA-14 00014**

D-5 Density Variance in which Applicant was proposing to remove an off-site parking lot from project at 17 Norma Avenue/630 Franklin Boulevard, Somerset; Blocks 231/232, Lots 1.01/1.01, in an HBD Zone.

Mr. Peter U. Lanfrit, Esq., appeared before the Board on behalf of the Applicant. Mr. Lanfrit provided a history and description of the application. The site is located at the northeast corner of the intersection of Hamilton Street and Franklin Boulevard and is occupied by a mixed-use building with office and residential use on the first floor and residential units on the 2nd and 3rd floors. The site is located within the Hamilton Business District (HBD) where mixed-use buildings (i.e., buildings containing residential and non-residential uses) are permitted when fronting Hamilton Street. All of the units are restricted to seniors (with a few reserved for veterans) and all are low- or moderate-income units. The development received Preliminary Site Plan approval by the Planning Board on 8/3/11 under Docket #PLN-11-00015 and Amended Preliminary and Final Site Plan approval by the Planning Board on 12/7/11. The development is now constructed and occupied. As approved, the site is comprised of two parcels: Block 232, Lot 1.01 (the "main lot") contains the mixed-use building and 140 parking spaces; and block 231, Lot 1.01 (the "off-site parking lot") contains 40 "landbanked" spaces which have not been built

Mr. Lanfrit explained that while Block 232 Lot 1.01 contains the approved (and constructed development), Block 231, Lot 1.01 (which was under common ownership at the time of the application) was necessary for the development for two reasons: (1) it provided the land area necessary for the development to comply with the applicable 24 unit/ acre density limitation; and (2) provided 40 "banked" parking spaces to comply with the parking requirements.

The applicant seeks approval to remove Block 231 Lot 1.01 (the "off-site parking lot") from the project. Doing so will trigger the need for a D(5) Density Variance as removal of the 0.4519 acre "off-site parking lot" from the project will technically increase the density of the development to 27.93 units per acre from 23.33 (where 24 units to the acre is the maximum permitted).

Mr. Lanfrit indicated that pursuant to the parking requirements for the Hamilton Street zone, the applicant will be required to pay the in-lieu amount to the degree the development is short (i.e., 10 spaces). He also indicated that the applicant seeks to have the Board waive improvement of the proposed sidewalk along Martin Street and handicapped ramp improvements/ crosswalk striping at the Martin Street/ Norma Avenue intersection that were "banked" (to be constructed if the "banked" spaces in the "off-site parking lot" were constructed) under the Planning Board's approval.

Ms. Nicole Lockett, representative of Genesis, the developers of the project, came forward and was sworn in. She explained the need for the proposal and indicated that in her experience at the site that more than enough parking was already provided.

Ms. Elizabeth Dolan came forward and was sworn in and qualified as an expert in traffic engineering. Ms. Dolan conducted a survey of parking needs for the site and opined that the remaining parking available on the main site would continue to significantly exceed parking demand for the site.

Mr. Shepherd made a motion to approve the Variances subject to the following conditions: the Board waives the improvements of the previously "banked" improvements; and the applicant shall pay the in-lieu parking payment within 2 months of the Board's Resolution of approval being adopted. The motion was seconded and the roll was called as follows:

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **THOMAS ONKA**

Certificate of Pre-Existing Non-Conforming Use. Property in question is Block 65 Lot 5 also known as 2366 Amwell Road.

The application is for a certification of a pre-existing nonconforming use to wit an apartment above the carriage house which is an accessory structure on the property.

Thomas Onka the owner of the property testified that he was 66 years of age and that he grew up on the property adjacent to the subject property. The subject property consisted of a single family residential dwelling and a detached building which was commonly referred to as a carriage house which consisted of a first floor which was used for storage and an apartment on the second floor which had a bedroom living room, dining room, kitchen, and bath. He testified that the property was purchased by his parents in the 1970's and that when his parents passed the property was inherited by his brother Kenneth and that when his brother Kenneth passed in 2007 he inherited the property. He testified that prior to his parents owning the property when he was a child the carriage house always contain that rental apartment and was always being used for rental purposes. He further testified that during the time his parents own the property and the time both he and his brother owned the property that apartment was actively being used as a rental property.

The second witness who testified was Mr. George Lazicky. He testified that he lives on Market Street across the street from the subject property and is 83 years of age. He testified that he is familiar with the property and that the carriage house has always been used for rental purposes. He testified that in the 1940s he worked for a grocery store and made deliveries to the property specifically the carriage house. He further

indicated that the property has continuously been used for rental purposes since the 1940's.

Robert Mettler was sworn and testified. Mr. Mettler lives in close proximity to the subject property and has lived there his entire life. Mr. Mettler is 70 years old. Mr. Mettler is also the Township Historian. He testified that he is familiar with the subject property and in particular the carriage house. He indicated that based on his knowledge of the area the house in question as well as the carriage house probably date back to the 1860's that as of 1958 and prior thereto the carriage house was used as a rental apartment accessory to the main single family dwelling

A motion was made to approve the Certificate of Non-Conforming Pre-Existing Use. The motion was seconded and the roll was called as follows:

FOR: Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Ms. Bergailo and Chairman Thomas

AGAINST: None

▪ **Minutetrac**

Justin M. Heyman, the Township's Director of Information Technology, was in attendance and made a presentation explaining how Minutetrac would be used for the distribution of the Board's agenda and associated materials.

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

A motion was made to close meeting. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
December 30, 2014