

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

REGULAR MEETING
January 8, 2015

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: Laura Graumann, Bruce McCracken, Alan Rich, Robert Shepherd, Cheryl Bergailo and Chairman Thomas

ABSENT: Raymond Betterbid, Donald Johnson, Anthony Caldwell, Gary Rosenthal and Joel Reiss

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

OATH OF OFFICE:

- **Robert Thomas**
- **Bruce McCracken**
- **Gary Rosenthal**
- **Joel Reiss**

REORGANIZATION:

- **Nomination/Selection of Chairperson**

Ms. Graumann made a motion to nominate Robert Thomas as Chairperson and Mr. Shepherd seconded the motion. Seeing no other nominations being brought forth, the vote was taken and all were in favor.

- **Nomination/Selection of Vice Chairperson**

Mr. McCracken made a motion to nominate Laura Graumann for Vice Chairperson and Mr. Rich seconded the motion. Seeing no other nominations being brought forth, the vote was taken and all were in favor.

- **Witness Oath – Director of Planning, Mark Healey and Zoning Officer, Vincent Dominach**

Mr. Patrick Bradshaw, Board Attorney, gave the Oath of Office to Mr. Healey and Mr. Dominach for all meetings throughout the coming year.

RESOLUTIONS:

- **Bahmer / ZBA-14-00016**

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

FOR: Vice Chair Graumann, Mr. McCracken, Mr. Rich, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **Soos / ZBA-14-00017 APPROVED**

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

FOR: Vice Chair Graumann, Mr. McCracken, Mr. Rich, Ms. Bergailo and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

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

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

HEARINGS:

- **PHYLLIS MILLER / ZBA-14 00011**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Phyllis Miller. Mr. Lanfrit explained that they were before the Board that evening for a Hardship Variance in which the Applicant was proposing an addition at 122 Sydney Place, Somerset; Block 170, Lot 11.01, in an R-7 Zone.

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: 75 ft. minimum, 50 ft. existing/proposed
3. Side yard setback: 8 ft. minimum, 7.3 ft. proposed
4. Total side yard setback: 20 ft. minimum, 7.3 ft. proposed
5. Impervious coverage: 30% maximum, 48.5% proposed

Mr. Lanfrit went on to explain that the property was attached on one side, as it was a duplex, and that Ms. Miller was proposing an addition for her portion of the property.

Mr. Larry C. Johnson, Architect, came forward and was sworn in and the Board accepted his qualifications. Mr. Johnson prepared three (3) exhibits, two of which were larger versions of what was submitted with the Application. These exhibits were marked into evidence as Exhibits A-1, A-2 and A-3. Mr. Johnson then described the size of the existing dwelling and how many rooms were presently located within the dwelling. He indicated that the home was a 2-story, slab on grade dwelling with no basement and has approximately 525 sq. ft. on each floor. He also added that there was a zero lot line on one side of the home with a shared wall as the home was part of a duplex. Mr. Johnson then drew the Board's attention to Exhibit A-2, showing the proposed changes to the home. He indicated that they proposed a reconfiguration of the first floor, with a game room (140 sq. ft.), a family room (195 sq. ft.) and a 2-car garage (440 sq. ft.) with entrance directly into the house on the first level. The second level remained the same, with an addition to include a new small bedroom, a new laundry area, and a master bedroom with an attached bathroom. Mr. Johnson indicated that the entire second floor footprint would now be approximately 800 sq. ft. and the home would now include four (4) bedrooms. He then drew the Board's attention to Exhibit A-3, which showed the proposed exterior of the home, indicating how the home presently looks as well as how the home would look after renovations. A discussion ensued among the Board and Mr. Rich inquired as to what the proposed square footage of the home would be after the addition was included. Mr. Johnson indicated that the new square footage would be approximately 2,400 sq. ft.

Mr. Healey brought up a discussion regarding a deed restriction brought forth by Habitat for Humanity as the property is one of their homes. He read from the deed restriction that the grantee shall not make any changes to the common element unless such changes continue the uniformity to adjoining properties. He continued reading from the deed restriction, noting that siding, fencing and the like shall be uniform in their color and appearance. Mr. Healey asked Mr. Lanfrit what responsibility the Applicant had to go back to Habitat for Humanity to make sure the proposal was consistent with the deed restriction requirement. Mr. Lanfrit indicated that they would be happy to provide the materials and colors proposed prior to any construction commencing.

Mr. Bradshaw, Board Attorney, opened a discussion regarding the relationship of the Applicant and Habitat for Humanity and the history of the property. Mr. Lanfrit stated that the home was purchased by Ms. Miller in 1999 with a mortgage that has been paid off. He also discussed the documentation Ms. Miller signed at the time of purchase, which included the deed and deed restrictions. He explained that the deed restrictions go back to Habitat for Humanity as the grantors, with such things as for how much the home can be resold, that they have the right of first refusal, resale price must be set forth by COAH regulations and references to the statement read by Mr. Healey

regarding any changes made to the home. Mr. Bradshaw indicated that the deed restriction had no impact on the Board's decision that evening and that they can grant the approvals based on whether the Applicant meets the proofs required.

Vice Chair Graumann opened a discussion regarding how the expansion of the home might affect the COAH credits or the affordability issues. Mr. Healey explained that the Township did have an interest in the property regarding the affordable housing unit credits it commanded. Mr. Healey also added that the deed restriction on the property restricts the property to low income homeowners in perpetuity, but the language in the restriction was not specific. He then discussed the fact that the language included a statement that indicated that all future homeowner's of the property be income eligible to purchase the home, but it also didn't specific who would make that determination. Finally, Mr. Healey recommended that if the Board were inclined to approve the Application, that there be a condition placed upon any approval that there be an addendum to the deed clarifying those concerns. Mr. Lanfrit then discussed with Mr. Healey the Township's participation in the COAH program and its compliance. A discussion ensued among the Board.

Chairman Thomas made a motion to open the meeting to the public for any questions for the architect. Seeing no one coming forward, the Chairman closed the meeting to the public.

Mrs. Phyllis Miller, Applicant, came forward and was sworn in. Mrs. Miller testified that the copy of the deed shown to her by her attorney, Mr. Peter Lanfrit, was the deed she signed with Raritan Habitat for Humanity in July of 1999. Mr. Lanfrit entered the copy of the deed into the record as Exhibit A-4. Mrs. Miller agreed with Mr. Lanfrit's testimony regarding the deed restrictions imposed upon the property she purchased, noting that she can only sell the property to someone who meets the income criteria and was limited in the amount she can sell the property for. She also agreed with Mr. Lanfrit's statement that Habitat for Humanity has the right of first refusal if she ever wished to sell the property and the documentation regarding the other restrictions written with the deed. Mrs. Miller testified that she did not receive any other documentation regarding any other restrictions. She then stated that she and her three children moved into the home when she purchased the property in 1999. Since that time, her children have grown up and moved out, but she indicated that she presently was raising two grandchildren who live with her full time and a 4-year old granddaughter that stays with her on the weekends. Mrs. Miller also stated that she hoped to have her 82 year old mother move in with her soon. Mr. Lanfrit then discussed Mrs. Miller's contact with Habitat for Humanity in 2012 regarding the possible expansion of her home. Mrs. Miller went on to explain the content of the e-mail she received from Nancy Asbury of Habitat for Humanity, noting that they told her that she could expand the home as long as it did not impact the other homeowner and that the common areas matched what presently existed. She added that they also said that she needed to keep the expansion to a cost that would still fit into the market parameters of a Habitat for Humanity home. Mr. Lanfrit marked into evidence the e-mail from Habitat for Humanity as Exhibit A-5. He then distributed copies to the Board members for their perusal. Mrs. Miller then discussed the proposed use for the new room configurations and explained that she did not have an attic or basement for storage, so the garage would provide space for that as well as a place to park her car. A discussion ensued regarding between Mr. Healey,

Mr. Lanfrit and the Board regarding the risk the Applicant would take building a larger home, while being restricted to whom it could be sold to and for what price. The Board then discussed what was located to the other side of Mrs. Miller's home, with the Applicant indicating that it was a storage facility with trucks, trailers, etc. stored on the property. Mr. Lanfrit entered into evidence as Exhibit A-6, three photographs taken by Mrs. Miller that morning of what was presently located on the adjacent property. Mrs. Miller stated that a vacant lot was directly across the street from her property, with an electric company located just adjacent to that vacant lot.

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

Mr. Lanfrit then entered into the record as Exhibit A-7 a letter sent to an adjacent property owner asking if there was any interest in selling their property to the Applicant in order to make the property in question more compliant to the zone requirements. Mr. Lanfrit indicated that there was no interest in selling on the part of the adjacent property owner.

Mr. Marc Remo, Engineer, Planner and Principal of Remo Engineering, LLC, came forward and was sworn in. The Board accepted his qualifications. Mr. Remo then described the existing conditions on the subject property and discussed what was being proposed for the two story addition, approximately 860 sq. ft. He indicated that the two-car garage and driveway would provide for 3-1/2 parking spaces on-site and also discussed the storm water seepage pit for roof runoff and would offset the increase in lot coverage from development. The site would continue to be served by public gas, water, electric and sanitary sewer services. Mr. Remo then detailed the required variances, including those that were pre-existing and discussed the positive and negative criteria, providing the proofs necessary. A discussion ensued among the Board questioning the positive and negative criteria presented that evening that would support the required criteria. Mr. Remo stated that there was an approximate 3 ft. discrepancy between the two front yard setbacks.

Chairman Thomas made a motion to open the meeting to the public for questions of the Engineer/Planner.

Mr. Theodore Chase, Old Georgetown Road, came forward. Mr. Chase was inquiring as to the method of determining the sales price of a low income home. Mr. Lanfrit agreed with Mr. Chase regarding the price the State sets for the maximum price for a low income home at the time of sale, but he also added that it was determined by the size of the home and the number of bedrooms included.

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

Mr. Lanfrit recalled Mrs. Miller to discuss other similar types of duplex homes in the area. She indicated that there was another duplex home on Sydney Place that was larger than her home and included a garage for each unit. Mrs. Miller had a photo of that home and Mr. Lanfrit entered it into the record as Exhibit A-8. She discussed another property on Prospect Street that also was a larger duplex on a small lot size

and a large garage behind her property belonging to the nearby business owner. A discussion ensued among the Board.

Mr. Shepherd indicated that he would like to see the garage set back in line with the front of the other side of the duplex home to provide for more geometric conformity.

Mr. Lanfrit asked for a few minutes to speak to his client. Chairman Thomas indicated that they would take a 5-minute recess.

When the Board returned from their recess, they resumed the hearing. Mr. Lanfrit indicated that after speaking to the Applicant, Architect and Engineer, they determined that they could gain back 1 ft. for the rear yard setback, push the front of the home back 3 ft., but still retain a 2 ft. overhang on the upper floor to maintain decent sized bedrooms. He indicated that they would recalculate the numbers for the storm water management system. Mr. Lanfrit then testified that they would be able to comply with all staff reports and would not alter the plans the Board was reviewing that evening.

Chairman Thomas made a motion to open the meeting to the public for comments. Seeing no one coming forward, the meeting was closed to the public.

Vice Chair Graumann made a motion to approve the Application for a Hardship Variance, with the changes to the plan agreed to by moving the house back 3 ft. to more closely align it with the adjacent home, while still maintaining a 2 ft. overhang on the second floor. Additionally, that there be a condition whereby an addendum to the deed be drawn up clarifying that home remain a low-income home and that at the time of the sale of the home that the income certification be done by the Township's administrative agent. Mr. McCracken seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. McCracken, Mr. Rich, Mr. Shepherd, Ms. Bergailo and Chairman Thomas

AGAINST: None

• **SIMPLY YOGA / ZBA-14-00018**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Simply Yoga. Mr. Lanfrit explained that they were there that evening for a Use Variance & Site Plan approval in which the Applicant was proposing a yoga studio and single family dwelling at 24 Sycamore Place, Kingston; Block 5.02, Lot 152.04, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to convert an existing residential structure into a yoga studio and to construct a single family home in an R-20 Zone. The following variances were required:

1. D-1 Variance is required as a yoga studio is not a permitted use in an R-20 Zone.
2. Sign setback: where 20 ft. is the minimum and 10 ft. is proposed.

Mr. Lanfrit indicated that he had 5 witnesses to testify for the Application. His first witness was the Architect, the owner of the property and the yoga studio, Mr. Ardman, the Site Engineer, Ms. Dolan, the Traffic Consultant, and Mr. O'Brien, a Professional Planner.

Mr. Kevin Wilkes, Architect and Principal of Wilkes Architects, came forward and was sworn in. The Board accepted his qualifications. Mr. Wilkes indicated that he has had many years of experience working with historic properties and discussed the current structure on the subject property. He testified that he believed the existing structure on the property was that of a Sears Craftsman kit home from the 1930's that underwent remodeling in 1999, which was partially commenced and not completed. He also added that there was a detached garage and barn on the property. Mr. Wilkes then went on to describe the existing home on the property as in poor shape as of late summer, 2014. Mr. Lanfrit marked some photographs of the structure as Exhibit A-6, showing the interior and exterior of the current home on the property. Mr. Lanfrit passed out copies of the photos to the Board members for their perusal. Mr. Wilkes then described the photos. He indicated that there was an open permit from 1999 and they had the Construction officials inspect the property and give the go ahead to clear up any of the unsafe conditions on the property. Mr. Wilkes indicated that they removed the original home and plan to complete the shell of the home that was being proposed in 1999, while keeping the basement of the original home. He added that they were proposing the demolition of the garage at the end of the driveway and keeping the gamble barn, but removing the small shed addition.

Mr. Dominach added that the Applicant would be seeking the Historic Commission's approval and that their report would be available at the Board's next hearing when the discussion started this evening would be continued.

Mr. Wilkes started discussing the exhibit that was labeled Exhibit A-3, the floor plan of the proposed yoga studio that would be located in the renovated existing building. He indicated that the front of the home would look just as the single family home was proposed, with the entrance to the yoga studio from the rear. Mr. Wilkes then testified that the basement would not be useable space, but just a place to house the mechanicals for the building and the upper loft was strictly for office use and storage, with rest rooms on the first floor and an open area for the yoga classes. Mr. Wilkes then answered Mrs. Shepherd's inquiry as to how many students could be accommodated at any one time. He determined that there would be three rows of 11, equally 33 students at any one time. He then testified that the original home was 1,222 sq. ft. with a total of 1,384 sq. ft. to complete the approved renovations, along with 149 sq. ft. for the upstairs office loft, for a total of 1,533 sq. ft.

Mr. Wilkes went on to describe Exhibit A-4, which showed the four (4) elevations of the exterior of the yoga studio building. He indicated that they were planning on picking up the exterior details that were uncovered from the original home, including clapboard siding. He then detailed the exterior materials and colors utilized by referring to Exhibits A-1 and A-2. Mr. Wilkes then discussed the proposed new single family home for the owner of the property shown on Exhibit A-5, a two-bedroom home with 1,742 sq. ft.

The Board had a discussion regarding occupancy rates for fire codes and sewerage capacity. Mr. Lanfrit indicated that the property was serviced by South Brunswick, but it was served by public water and sewer.

Chairman Thomas opened the meeting to the public for questions of the architect only.

Mr. Jerry Jerns, 55 Laurel Avenue, came forward. Mr. Jerns questioned whether an engineer inspected the roof to make sure that the structure was supported properly without having any interior wall supports. Mr. Wilkes answered the concern by explaining how they proceeded to support the structure.

Ms. Kathy Pavilack, 35 Laurel Avenue, asked a question about any possible complaints regarding the original structure.

Ms. Meredith Rogers, 17 Laurel Avenue, was interested in what the parking lot would look like. Mr. Wilkes indicated that the engineer would be able to answer her questions.

Mr. Jim Diaforle, Sycamore Place, was also interested in information regarding the parking lot, and Mr. Wilkes again deferred to the engineer.

Mr. Al Russo, 34 Sycamore Place, asked whether they had moved forward with the building construction. Mr. Wilkes indicated that they had just completed the demolition of the original home that was inside the newer, partially finished construction.

Mr. Lanfrit then asked Mr. Wilke what the use would be for the existing dwelling if the Board did not grant the variance. He indicated that it could be utilized for anything that would fit into the planned 1,384 sq. ft.

Due to the lateness of the hour, Mr. Lanfrit asked that the matter be carried to the next meeting. The Board agreed and the meeting will be continued - **CARRIED TO FEBRUARY 5, 2015 – with no further notification required.**

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Vice Chair Graumann made a motion to close the regular meeting at 9:37 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
February 17, 2015