

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

REGULAR MEETING
May 7, 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: Raymond Betterbid, Laura Graumann and Donald Johnson, Bruce McCracken, Alan Rich, Anthony Caldwell, Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

ABSENT: Robert Shepherd

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

DISCUSSION:

Vouchers:

- 1. Patrick Bradshaw –May Retainer- \$865.00**
 - Bahmer Resolution - \$180.00**
 - Soos Resolution - \$135.00**
 - Onka Resolution - \$120**
 - Walker Resolution - \$120.00**
 - Middlebush Reformed Church - \$120.00**

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

Relief of Conditions:

- 2. Stage House, Inc. / ZBA-12-00018**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Stage House, Inc. Mr. Lanfrit explained to the Board that in 2012, they came before the Board to redo the parking lot that included landscaping, etc. At that time, Mr. Lanfrit stated that when they did the addition to the parking lot, they were slightly under the requirements for parking under the ordinance. As a result, when the Board approved that Application, he indicated that they were precluded from using the upstairs when the patio was open. Also at that time, he added that there was a large grass area next to the service bar. Mr. Lanfrit indicated that they

would now like to use the grass area for outside dining, but realized that they would have to provide additional parking if they wanted to do that and keep all of the approved uses inside as well. He indicated that they had already started negotiations and entered into an agreement to utilize the Shree Swaminarayan Temple parking lot for overflow parking. He then told the Board that they next met with the Township staff, which was not in approval of the idea because of safety concerns walking at night from one site to the other. Mr. Lanfrit testified that the Applicant then felt the best alternative was to eliminate inside seating within the restaurant when the outdoor seating was being utilized. He added that the Applicant had indicated that the two back rooms would be closed when outdoor seating was being utilized. He stated that one room could accommodate about 30 people and the other room seated approximately 50 people. The main dining room would be left open, accommodating for approximately 100 people, according to Mr. Lanfrit, the bar and bar area that also seated about 100 people, as well as the porch area. He told the Board he did not have a seating capacity number for the porch area, however. He did indicate that they would have about 200+ seats inside available while the outdoor grassy area was in use. In the case of inclement weather or wintertime when the outdoor area was not being utilized, they would open up the two inside rooms earlier identified. He was asking the Board that evening to grant a Relief of Conditions because the Resolution specifically stated that they could not utilize that grassy, outdoor area, in addition to the all the indoor areas, according to the ordinance.

A discussion ensued among the Board, and Mr. Rosenthal brought up the topic of noise level increasing. He stated that the neighbors along Amwell Road have already complained of the noise coming from the outdoor dining area, and wondered how much worse the situation would get by adding additional outdoor seating. Mr. Lanfrit stated that he was unaware of any complaints, but conceded that the noise would mostly come from the music that was piped outdoors. He stated that the level would not change by including more seating and that the music doesn't go on that late into the evening.

Vice Chair Graumann asked Board Attorney, Mr. Bradshaw, whether the hearing would have had to be noticed to the public because it was a change in condition. Mr. Bradshaw discussed the issue with Mr. Lanfrit, who indicated that it was a non-conforming use, but he didn't think that the hearing would have to be noticed because he didn't believe it was increasing the intensity of the use. He stated that they were basically just reconfiguring the use within the confines of the facility and would have the equivalent of 81 seats in the outdoor area during the nicer weather. He added that there would be some tables outside, but the Applicant did not have a definitive picture of whether there would be a full menu available in the outside area. Mr. Bradshaw discussed whether there was an occupancy level dictated by the Fire Dept. in the outside area. Mr. Lanfrit stated that there was only an occupancy level posted for the inside areas. A discussion ensued among the Board and Mr. Healey testified that to his knowledge, the previous noise complaints have come from the volume of the music played on Thursday, Friday and Saturday nights. He did indicate, however, that he believed there were measures taken in modifications to the sound system to reduce the noise levels. The Board discussed neighbor complaints and whether or not the hearing that evening should have been noticed.

Mr. Lanfrit was looking at the Resolution and indicated that it remained silent on whether any public attending the original hearing. He did not recall having any public at that hearing. A discussion ensued among the Board regarding whether the restaurant had parties booked on nice weather evenings in the summer. Mr. Healey suggested that the Board could make a

condition of any approval regarding the use of the two back indoor rooms during the summer months to avoid any overuse of the facility.

Vice Chair Graumann made a motion to approve the Application for Relief of Conditions, including the condition that no private parties be booked for either of the two indoor rooms discussed during the season that the patio and lawn area was in use. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

HEARINGS:

3. RISHAY GROUP, LLC / ZBA-15-00007

Sign Variance in which Applicant was asking permission to erect a sign at 1762 Easton Avenue, Somerset; Block 424.02, Lot 23.02, in a GB Zone - **CARRIED TO JUNE 4, 2015 with no further notification required.**

DL - 08/08/2015

4. MIKULAS CHOMA / ZBA-15-00004

Hardship Variance in which Applicant was seeking approval of an addition at 217 Adams Street, Somerset; Block 550, Lots 40-45, in an R-10 Zone.

Mr. Dominach's Zoning report stated that the Applicant was proposing an addition to his home and the following variances were required:

1. Lot area: 20,000 sq. ft. minimum, 15,000 sq. ft. existing/proposed
2. Front yard setback: 25 ft. minimum, 4.1 ft. existing, 4.1 ft. proposed (for existing portion of house and 11 ft. proposed for addition).

Mr. Mikulas Choma, Applicant, came forward and was sworn in. Mr. Choma explained the changes he wanted to make to his home on the side and the rear.

Vice Chair Graumann asked whether Mr. Choma was an architect or engineer because the plans presented were not clear to her. Mr. Choma indicated that he was in the building business.

Chairman Thomas tried to clarify what Mr. Choma wanted to do with his property, noting that he wanted to add 1,100 sq. ft., with an addition out the back, a dormer on the front and an attached 2-car garage. The Vice Chair asked the Applicant if he received the report from the Township Engineer and he stated he did not receive the Engineer's report. Since there were

so many requests from the Township Engineer for information that needed to be provided, Vice Chair Graumann recommended that the matter be carried so that the Applicant could review the plans with the Engineer.

The Board asked that the matter be carried and that the plans provided by the Applicant be made clearer. Chairman Thomas asked that they get a better rendering of what the house looked like presently and what it would look like after the additions were made. Vice Chair Graumann asked to see photographs of the Applicant's home from various viewpoints or elevations. Mr. Healey agreed and also suggested providing an aerial of the surrounding area for the Board's edification. He stated that he and Mr. Dominach, the Zoning Officer, would meet with Mr. Choma and the Engineer to make his plans more clear. The Board and Applicant agreed to carry the matter until more information was available - **CARRIED TO JUNE 4, 2015 – with no further notification required.**

DL- 07/06/2015

5. MUHAMMED ANDHA & MARYAM ARIF / ZBA-15-00008

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Muhammed Andha & Maryam Arif. Mr. Lanfrit indicated that they were before the Board that evening for a Hardship Variance in which the Applicant was asking permission to add a shed, brick driveway, patio and in-ground pool at 23 Valley Wood Drive, Somerset; Block 508.02, Lot 3.38, in an R-40 Zone.

Mr. Dominach's Zoning report indicated that the Applicant made improvements to their property without obtaining the necessary permits. The following variances were required:

1. Side yard setback for garden shed: 5 ft. minimum, 1.7 ft. existing/proposed
2. Impervious coverage: 30% maximum, 34% existing/proposed

Mr. Lanfrit indicated, during the hearing, that he believed the Applicant was 1.9% over the allowed impervious coverage. He then distributed two exhibits to the Board, entering them into the record as Exhibit A-1, a Google Earth photograph of the subject property taken in 2014, and Exhibit A-2, seven (7) pictures showing the front of the house, side of the house, the pool area and the shed, taken by the homeowner during the past week.

Mr. Mohammed Andha, Applicant, came forward and was sworn in. Mr. Andha testified that he purchased the property in 2010 and has resided there with his wife and four children ever since. He also indicated that a survey was done as a result of purchasing the property, which did not have a pool constructed at that time. Mr. Andha indicated that he had a contractor install a pool and obtained the proper permits and inspections. He also testified that the shed was on the property when he moved in, but that he had relocated it adjacent to the pool after he purchased the property. He stated that the shed was being used to house the pool accessories. Mr. Andha also indicated that he added stone work around the pool after it was constructed and changed the sidewalk in the front of the home, making it a bit larger. He then told the Board that after the construction was completed, he provided the Township with an As-Built Survey, when it was noticed that the impervious coverage was over the maximum allowed

in the zone by 1.9%. Mr. Andha also indicated that he spoke to the surrounding neighbors who did not have any issues. A discussion ensued among the Board members.

Ms. Bergailo asked who owned the wooded area behind Mr. Andha's property. Mr. Lanfrit indicated that it was a conservation easement, put in place when the development was built as a cluster residential area with the inclusion of dedicated open space to allow the R-20 sized lots to be built in an R-40 Zone. Mr. Andha indicated that there was a fence around the pool when questioned by a Board member.

Chairman Thomas then opened the meeting to the public. Seeing on one coming forward, the meeting was closed to the public.

Vice Chair Graumann made a motion to approve the Application. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

3. DAYAL ENTERPRISES, LLC / ZBA-15-00006

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Dayal Enterprises, LLC. Mr. Lanfrit indicated that they were there before the Board for an Amended Site Plan in which the Applicant was asking permission to increase the footprint at 315 Churchill Avenue, Somerset; Block 89.03, Lot 3.01, in an M-2 Zone.

Mr. Healey noted that the property behind the subject property was Township owned preserved Open Space.

Mr. Dominach's Zoning report indicated that the Applicant was amending their previously approved Site Plan and that no new variances were required.

Mr. Lanfrit stated that they were there that evening to amend the approved Site Plan of Block 89.03, Lot 3.01. He stated that the property received a Use Variance a number of years ago for the construction of a bank that both fronts on Hamilton Street and Churchill Avenue. He noted that the original plans had the building on the right side of the property while facing it from Churchill Avenue and then amended it. The amendment showed a smaller building that was relocated. Mr. Lanfrit stated that the building was currently under construction, and it was noticed that one of the pre-function rooms was smaller than it should have been. He indicated that the Applicant was proposing to add 1,750 sq. ft. of building to the pre-function room. Mr. Lanfrit pointed out the area in question on an Exhibit that he marked as Exhibit A-2, showing a glassed in room that fits into the existing architecture. He then indicated that it was a pre-function room and did not add any more people or seating capacity. Mr. Lanfrit then marked into evidence, the Site Plan with Landscape Plan, which was entered into the record as Exhibit A-1. He then called the Site Engineer.

Mr. Michael K. Ford, Engineer employed with Van Cleef Engineering, came forward and was sworn in. Mr. Ford gave the Board the benefit of his background and the Board accepted his qualifications. Utilizing Exhibit A-1, Mr. Ford explained to the Board the changes that were proposed. He stated that the 1,750 sq. ft. addition just took advantage of the existing patio on the plan, which was included in the original impervious coverage calculations, and incorporated it into the already planned pre-function room that connected to an already planned outdoor patio area that remained unchanged. He indicated that they also wanted to add another small outdoor patio area that connected to another small, indoor cocktail area on the Churchill Avenue side of the building that would add about 1,700 sq. ft. Mr. Ford then indicated that the Application did not require any variances and met all of the bulk variance requirements in the zone, including the parking requirements. Mr. Ford testified that he reviewed all of the staff reports and would comply with all requirements. He added that any changes requested would not alter significantly the Site Plan before the Board that evening.

Mr. Healey asked Mr. Ford whether there were any changes to the exterior Lighting and Landscape Plans that were approved. Mr. Ford indicated that the overall Landscape Plan was unchanged as is the drainage plan for the site.

Mr. Reiss opened a discussion regarding the landscaping or lack thereof on the property presently, and Mr. Ford indicated that there was an extensive plan, including landscaping around the detention basin the front, that would be put in once the main construction was completed. A discussion ensued.

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

Vice Chair Graumann made a motion to approve the Application, subject to all staff reports and including all conditions included in the original approval. The motion was seconded and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Vice Chair Graumann made a motion to adjourn the meeting at 8:33 p.m. Mr. Betterbid seconded the motion and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary

May 29, 2015