

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

REGULAR MEETING
July 16, 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, Robert Shepherd, Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

ABSENT: Donald Johnson, Bruce McCracken, Alan Rich and Anthony Caldwell

ALSO PRESENT: Patrick Bradshaw, Board Attorney, and Vincent Dominach, Senior Zoning Officer.

MINUTES:

- **Regular Meeting – March 19, 2015**

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

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

AGAINST: None

- **Regular Meeting – April 16, 2015**

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

FOR: Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **Regular Meeting – May 07, 2015**

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

RESOLUTIONS:

- **Central Jersey College Prep / ZBA-14-00020**

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

FOR: Mr. Shepherd, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **Naadimuthu / ZBA-15-00003**

Chairman Thomas made a motion to approve the Resolution as submitted. Mr. Shepherd seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Shepherd and Chairman Thomas

AGAINST: None

- **Promotion in Motion / ZBA-15-00005**

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

FOR: Mr. Betterbid, Mr. Shepherd and Chairman Thomas

AGAINST: None

- **Alternatives, Inc. / ZBA-14-00021**

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

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

AGAINST: None

- **Stage House Inc. / ZBA-12-00018 (Relief of Condition)**

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

FOR: Mr. Betterbid, Vice Chair Graumann and Chairman Thomas

AGAINST: None

- **Andha & Arif / ZBA-15-00008**

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

FOR: Mr. Betterbid, Vice Chair Graumann and Chairman Thomas

AGAINST: None

- **Dayal Enterprises LLC / ZBA-15-00006**

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

FOR: Mr. Betterbid, Vice Chair Graumann and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

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

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

Extension of Time:

- **The Jewish Home & Health Care Center / ZBA-14-00001**

Vice Chair Graumann asked to be recused from voting on the matter as she was on the board for The Jewish Home & Health Care Center/The Foundation of Oscar and Ella Wilf Campus for Senior Living, Inc. Mr. Shepherd then also asked to be recused from voting on the matter as he was employed by the same firm as the presenting attorney.

Mr. Larry Calli, Esq., Attorney, with the law firm of Porzio, Bromberg & Newman, appeared before the Board on behalf of the Applicant, The Jewish Home & Health Care Center. He explained to the Board that they were there that evening to obtain and Extension of Time on a subdivision approval that the Zoning Board granted. He added that the extension was necessary because he had to record the subdivision, per statute, within a certain amount of days from the granting of subdivision approval. Mr. Calli explained that the subdivision came about because of a report that issued post-approval on the office building Use Variance that was prosecuted a few years ago. He noted that the Township Engineer had indicated that the subdivision had been effected, but not perfected, in the year 2000 and that they needed to clean up some “housekeeping” items by perfecting the subdivision at the night’s hearing. Mr. Calli then told the Board that the issue involved a minor sub-division deed to portion off 24+ acres of undeveloped land. He noted that the Chairman had already reviewed and signed off on the deed as well as the Board Secretary.

Chairman Thomas offered an Extension of Time for 90 days, which Mr. Calli accepted.

Ms. Bergailo made a motion to grant the Extension of Time of 90 days. Mr. Betterbid seconded the motion and the roll was called as follows:

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

AGAINST: None

HEARINGS:

- **1340 HAMILTON / ZBA -15-00010**

Site plan Application in which Applicant was proposing a gas pumping station and retail building at 1340 Hamilton Street, Somerset; Block 90, Lots 1 and 2, in an M-1 Zone. Applicant was previously granted Use Variance approval - **CARRIED TO SEPTEMBER 10, 2015, WITH NO FURTHER NOTICE REQUIRED.**

- **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 – **CARRIED FROM MAY 7, 2015, WITH NO FURTHER NOTICE REQUIRED.**

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. Dominach indicated, at the hearing that night, that the Applicant had submitted some additional information and that even though he was not at the last meeting, that Mr. Healey had brought him up to date. He described the additional information that was being submitted that night and showed the area on the site where demolition would take place. He also brought the Board's attention to the site plan showing the home (outlined in yellow) and the driveway and sidewalk area as well as the area in the front of the property that would be demolished. Mr. Dominach also referred to the picture that was submitted that he told the Board gives a fairly decent representation of what the house to look like. A discussion ensued among the Board.

Mr. Mikulas Choma, Applicant, came forward and was sworn in. Mr. Choma agreed with the description given by Mr. Dominach of what he wanted to do on his property.

Mr. William Choma, also came forward and was sworn in.

Mr. Shepherd asked the Applicant if the picture of the home's representation was accurate and if that was what the home would look like after construction of the addition. Mr. Mikulas Choma answered in the affirmative. Mr. Shepherd then asked where the picture of the home represented in the Board's packet came from. Mr. William Choma indicated that the proposed home with addition would look almost the same as what was pictured.

Chairman Thomas then opened the meeting to the public for questions or comments. Seeing no one coming forward, the meeting was then closed to the public.

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **GEORGE & SARAH LUCK / ZBA-15-00009**

Hardship Variance in which the Applicant was asking permission to install a covered porch at 11 Shaw Drive, Kingston; Block 5.02, Lot 138, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the following variances were required:

1) New Variances

- a. Front yard setback: 35 ft. minimum, 31.3 ft. existing, 21 ft. proposed
- b. Lot coverage: 15% maximum, 17.6% proposed
- c. Impervious coverage: 25% maximum, 26% proposed

2) Existing Variances

- a. Lot frontage: 100 ft. minimum, 76.7 ft. existing
- b. Lot area: 20,000 sq. ft. minimum, 10,747 sq. ft. existing
- c. Side yard setback: 15 ft. minimum, 12.9 ft. existing

Mr. Patrick Bradshaw, the Board Attorney, asked that both Applicants come forward and be sworn in. Both George and Sarah Luck came forward and were sworn in.

Mr. Dominach then gave a brief description of what the Luck's wanted to do on their property for the Board's edification. Sarah Luck then described the proposed covered porch, with dimensions of 10 ft. x 24 ft. She then showed a picture of a covered porch similar to what they want to construct.

Vice Chair Graumann asked if it were going to be screened in and if they had spoken to their neighbors. Ms. Luck indicated that it would not be screened in and would just have railings along the front. She indicated that they had spoken with their neighbors and no one had any objections.

Ms. Bergailo asked whether there were other homes between theirs and Rte. 27 that had porches on the front with similar setbacks. Mr. Luck indicated that their next door neighbor had a porch with a similar setback and there was another home on the other side of the street with a porch in front and similar setback.

Chairman Thomas then opened the meeting to the public for questions or comments. Seeing no one coming forward, the meeting was closed to the public.

Vice Chair Graumann made a motion to approve the Application with Variances, and Mr. Betterbid seconded the motion.

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **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.

Mr. Dominach's Zoning report indicated that the Applicant was proposing new attached signage and a modification to their existing freestanding sign. Also noted was that the following variances would be required:

1. Maximum sign area: (front sign) 30 sq. ft. maximum, 180 sq. ft. proposed
2. Maximum sign height: (front sign) 3 ft. maximum, 5 ft. proposed
3. Maximum sign area: (side sign) 30 sq. ft. maximum, 40.5 sq. ft. proposed
4. Maximum sign height: (side sign) 3 ft. maximum, 4 ft. proposed
5. Minimum setback: 20 ft. minimum, 15 ft. existing/proposed

During the hearing, Mr. Dominach stated that the Township had been working with the Applicant for 5-6 months to design a sign package that the Applicant was happy with and that was also agreeable to Township staff. He also noted that the report from the Engineering Dept. stated that they take no exception to the plan. He explained to the Board that Mark Healey, Planning Director, did not publish a memorandum because they had been working with the Applicant and were pleased with what they will present that evening. He then detailed the variances that would be required. He also explained that the freestanding sign on the property, when erected, met the standards of the zone. He added that since then, the County took part of the right-of-way, which made the sign closer to the roadway.

Mr. John Wiley, Esq. appeared before the Board on behalf of the Applicant, Rishay Group, LLC.

Mr. Drew Patel, Co-Owner of Bottlecraft, came forward and was sworn in. He spoke about the larger empty space in the shopping center being replaced by two users, Bottlekraft and Asian Fusion.

Mr. Rosenthal asked whether any of the plans had changed since the plans before them, dated 2008, were drawn up. Mr. Drew Patel indicated that there had been no changes since the plans were drawn up in 2008.

Ms. Bergailo asked what color the façade signage was going to be.

Mr. Drew Patel indicated that the Bottlecraft sign would be white and red and black and would look exactly like the renderings that were submitted with the plan.

Chairman Thomas then opened the meeting to the public for questions or comments. Seeing no one coming forward, the meeting was then closed to the public.

Ms. Bergailo commented that the sign seems to be in scale with the building and harmonizes with the rest of the building.

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

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo and Chairman Thomas

AGAINST: None

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Mr. Betterbid made a motion to adjourn the meeting at 8:00 p.m. Mr. Shepherd seconded the motion and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
August 21, 2015