

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

SPECIAL MEETING
September 10, 2015

This special 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, Donald Johnson, Bruce McCracken, Alan Rich, Anthony Caldwell (arrived at 7:34 p.m.), Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

ABSENT: Raymond Betterbid and Robert Shepherd

ALSO PRESENT: Patrick Bradshaw, Board Attorney, and Mark Healey, Planning Director. Mr. Vincent Dominach, Senior Zoning Officer, was not in attendance that evening.

MINUTES:

- **Regular Meeting – July 16, 2015**

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

RESOLUTIONS:

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

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

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

AGAINST: None

- **Luck / ZBA-15-00009**

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

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

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – June thru September Retainers - \$3,460**
 - **Promotion in Motion Resolution - \$210.00**
 - **Stage House Resolution - \$255.00**
 - **Naadimuthu Resolution - \$240**
 - **Miller Resolution - \$210.00**
 - **Arif Resolution - \$255.00**
 - **Dayal Enterprises, LLC Resolution - \$330.00**
 - **Various Matters January thru May, 2015 - \$990.00**

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

HEARINGS:

- **EDWARD & MAUREEN MATSON / ZBA-15-00014**

Ms. Kathryn Kopp, Esq., Attorney with the law offices of Peter U. Lanfrit, Esq., appeared before the Board on behalf of the Applicant, Edward & Maureen Matson. Ms. Kopp indicated that they were there that evening to obtain a Hardship Variance in which the Applicant was asking permission to build a two-story, single family dwelling at 76 Twelfth Street, Somerset; Block 434, Lot 21.01, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to construct a house in an R-20 Zone, with the following variances required:

1. Front yard setback: 35 ft. minimum, 25 ft. proposed
2. Rear yard setback: 50 ft. minimum, 37.7 ft. proposed

Ms. Kopp explained to the Board that even though the building was allowed in the Zone, the building envelope was too small to construct a residence that would be functional and desirable to the ultimate homeowner and that would also fit the character of the neighborhood.

Ms. Maureen Matson, Vice President of Matson Construction, came forward and was sworn in. Ms. Matson testified that there was a report indicating that the taxes were outstanding on the property and that they had subsequently been paid. She then stated that they were planning to build a two-story, single-family home on the site that included four bedrooms, a two-car garage, a small porch on the front of the house, a small deck on the rear, a paved driveway, and a full basement, attic and walkway.

Vice Chair Graumann asked for clarification regarding the home's square footage. Ms. Matson indicated that the home would be 2,733 sq. ft.

Ms. Matson went on to state that they would be doing some landscaping on the property and removing approximately 11 trees to accommodate the home. She added that they would be including eight (8) new trees in the landscaping plan. Ms. Matson indicated that they would be requesting a waiver to provide a sidewalk and curbing at the edge of the property near the street because there were presently no sidewalks or curbs in the area. She then told the Board that the proposed home would be generally consistent in appearance with what was presently in the neighborhood. She added that there were several different styles of homes there and that they would be building a two-story colonial style home.

Mr. McCracken asked whether the plans in their packet showed the actual house that would be built, and Ms. Matson testified that the proposed home would be just as depicted in the plans.

Vice Chair Graumann indicated that there was a requirement that there be a Landscape Plan showing the trees that would be removed and those that would be replaced. Ms. Kopp indicated that their Planner, Mr. Fisk, could answer to those concerns.

Mr. Stephen Fisk, Planner & Land Surveyor, 631 Union Avenue, Middlesex, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Fisk then described the zone requirements and told the Board that the property included 25,000 sq. ft., which exceeded the requirements, and that all the bulk requirements would be satisfied, with the exception of the front yard and rear yard setbacks. Mr. Fisk indicated that the property was 250 ft. wide and 100 ft. deep, the usual requirements being just the opposite with 100 ft. width and 250 ft. depth. He further stated that have a hardship if they attempted to build a home, keeping to the front and rear setbacks, and would only have a building envelope of 15 ft. from front to back. Mr. Fisk noted the different homes that were surrounding the property, indicating that the one proposed to the rear was going to be larger and some in the neighborhood were smaller. He then detailed the variances they were seeking as well as approval for a wood deck, which would be proposed at 25 ft. from the rear yard property line. He indicated that they required a variance for the deck because it would not be 50 feet from the back property line. Mr. Fisk then entered into the record as Exhibit A-1, a marked copy of the map that was included in the packet the Board received prior to the hearing showing the various setback lines of the homes in the neighborhood. He noted a property built nearby in 1991 that had a similar situation with only a 25-26 ft. front setback with only a 100 ft. deep by 150 ft. wide lot that also created an undersized lot. He then detailed a 2005 Planning Board approved subdivision which created a lot that only had a 30 ft. rear yard setback. He indicated that both lots were undersized, with only 15,000 sq. ft. lot sizes. He then detailed a property that was currently under construction to build a home that was exactly the same size as the one proposed with the Application that evening. Mr. Fisk testified that there was a wooded buffer between the proposed lot and the one to the east, to further mitigate any differences in the setback between the two property

lines. He then noted that the adjacent property was only 5.2 ft. from the Applicant's property line, and that they were adjusting their building envelope accordingly, but still providing 60 ft. side yard setback on the opposite side, where 15 ft. was required. Finally, Mr. Fisk testified that all requirements in the zone would be met, with the exception of the front yard and the rear yard for the reasons testified to.

Mr. Fisk then discussed the staff reports, addressing Mr. Healey's Planning report of August 13, 2015 first. He noted that they had already asked for a waiver to construct sidewalks and curbing and indicated that they would be providing a Landscaping Plan as requested by both Mr. Healey and the Township Engineer. The plan would provide a plan showing the proposed eight (8) trees to be planted on the property. Mr. Fisk then indicated that as seen in their existing plan, there were already trees along the street for about 75% of the property and that they would be filling in the remaining 25%. He stated that he didn't believe that any additional specific street trees would be necessary and, therefore, a waiver would be requested for that. He indicated that the Applicant could comply with all other requirements in the Planning report. He then addressed the Township Engineer's report, dated August 31, 2015. He noted that #7 regarding sidewalks and curbing, that they had already requested a waiver from constructing those. He stated that #11 regarding easements, exceptions, deviations or liens on the property was not applicable. He then noted #12, which indicated that the Applicant was requesting a waiver from providing an Environmental Impact Statement, noting that the Engineering Dept. did not have an objection to the Board granting the waiver. Finally, Mr. Fisk stated that they agree to all other items on the Township Engineer's report.

Mr. Fisk then spoke about how the Application was in conformance with the Master Plan regarding density issues and blending in with the neighborhood as well as supporting the purposes of the Municipal Land Use Law (MLUL). Mr. Fisk indicated that the granting of the variances requested would not have any negative impacts upon the neighborhood.

Mr. Rosenthal asked whether there was a contract of sale on the property, and the Applicant answered in the negative. Vice Chair Graumann asked whether the home would look like the architectural drawings included in the packet. Ms. Matson answered in the affirmative and agreed that it would be constructed exactly as shown as a condition of approval.

Mr. Healey stated that someone had come into the Township to look at the plans and questioned why the proposed home was not centered on the lot. Mr. Fisk drew the Board's attention to the testimony given previously regarding the desire to move the proposed away further away from the adjacent property where the home was only 5.2 ft. from the property line. Mr. Healey then opened a discussion with Mr. Fisk regarding the setbacks of the homes across the street from the proposed property. Mr. Fisk indicated that the setbacks vary from 32.5 ft. on Lot 1 up to 45 ft. on lots 15-18, with two lots that were less than 35 ft. and two that were more than 35 ft. Mr. Healey then asked how the homes on those lots compared regarding size and style of home. Mr. Fisk noted that most of the homes in the neighborhood were two-story homes, noting that the two homes directly across the street from the proposed home were actually larger homes than what the Applicant had proposed. A discussion ensued. Mr. Healey then indicated that if the proposed wood deck was planned to be uncovered, then the Applicant would not need a variance since the requirement was 25 ft. off the rear property line.

Ms. Bergailo asked Mr. Healey regarding the tree replacement requirement as she wondered if the trees to be replaced need to be street trees. Mr. Healey indicated that at the time of issuing a building permit, the Applicant would have to provide the replacement of trees on the site or make a payment in lieu to the Township.

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

Vice Chair Graumann made a motion to approve the Application, with Variances, including all items discussed during the hearing. Mr. Johnson seconded the motion and the roll was called as follows:

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

AGAINST: None

• **ROCHELLE L. BAILEY. / ZBA-15-00016**

Hardship Variance in which the Applicant was asking permission to replace a building, same in kind, at 83 Evelyn Avenue, Franklin Park; Block 45, Lot 22, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to replace a garage on his property that was damaged in a storm. Also included in the report was information indicating that the Applicant stated that they were replacing the previous garage, which measured 40 ft. x 52 ft., with the same size garage, but then stated that the new garage would measure 40 ft. x 48 ft. - the Applicant shall confirm the actual size at the hearing. Also noted in the Zoning report was that the following variances were required:

1. Impervious surface: 25% maximum, approximately 33% existing/proposed (exact amount to be calculated when As Built Survey is submitted after construction of new garage).
2. Side yard setback: 15 ft. minimum, 10 ft. existing/proposed (House)
3. Side yard setback: 15 ft. minimum, 6 ft. existing/proposed (Garage)
4. Rear yard setback: 25 Ft. minimum, 6 ft. existing/proposed (Garage)

Ms. Rochelle Bailey, Applicant, came forward and was sworn in. Ms. Bailey then discussed what she planned to do on her property, noting that she wanted to replace the garage on the same foundation with the same size structure (40 ft. x 48 ft.). Ms. Bailey stated that the garage would be slightly smaller than the existing garage, but that they wanted to keep it on the same foundation. She stated that she spoke with her neighbors and that she didn't believe that anyone had any problems with what they were proposing to do.

Mr. Healey drew the Board's attention to the Township Engineer's report that included an aerial view on page two showing wooded areas behind and to the side of the garage. Ms. Graumann noted that there didn't seem to be any negative impact to the surrounding area with the proposal. Mr. Healey discussed with the Applicant what the existing height of the garage was and if the proposed garage would be the same height or different. Ms. Bailey was not

sure of the height measurements of either structure, just that it was a one-story structure that would be replaced with a one-story structure. A Board member asked whether there would be electricity and water provided to the new structure. Ms. Bailey indicated that there would be electricity, but no water or sewer services for the new garage.

Chairman Thomas opened the meeting to the public. Noting that there was no one coming forward at the hearing, the Chairman then closed the meeting to the public.

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

FOR: Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss 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 8:05 p.m. The motion was seconded and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
September 25, 2015