

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

**REGULAR MEETING
February 4, 2016**

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 Robert Thomas, Chairperson, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Raymond Betterbid, Donald Johnson, Bruce McCracken (arrived at 7:32 p.m.), Gary Rosenthal, Cheryl Bergailo and Chairman Thomas

ABSENT: Laura Graumann, Alan Rich, Robert Shepherd, Anthony Caldwell and Joel Reiss

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

DISCUSSION:

Vouchers:

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

Mr. Betterbid made a motion to approve the Vouchers as submitted. The motion was seconded and all were in favor.

- **Temporary Use – Montauk Transit Service**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Montauk Transit Service. Mr. Lanfrit indicated to the Board that Montauk bus service, the contract bus provider for Franklin Township, New Brunswick and parts of North Brunswick, took over when the previous bus provider went bankrupt a few years ago. He indicated that Montauk Transit Service had been providing bus service for those school boards since 2013. At the present time, Mr. Lanfrit stated that they leased space in New Brunswick on Howe Lane, but their lease was expiring. He went on to explain to the Board that Montauk Transit Service had signed a contract to purchase the Phillips Concrete site on Rte. 27, adjacent to Tara Greens Golf. He testified that they were in the process of preparing a site plan and variance application to permanently park their busses on that property. He added that there was a lot of work to be done to prepare the site plan, so they were not in a position to submit it now. Unfortunately, Mr. Lanfrit went on to explain, the Applicant received notice from the landlord on Howe Lane that they were not going to renew their lease, which will expire at the end of February. Mr. Lanfrit then told the Board that they were there that evening to seek a Temporary Use Permit so that they can park 51 school busses on the proposed property until

such time as they can complete their site plan application, come in before the Board to ask for approval to permanently park the busses.

Mr. Dominach indicated that the Applicant had been working with the Township staff for the last three or four months, and that they had probably gone through four (4) or five (5) iterations of the plan. He went on to state that all of the site plan issues had been worked out or are in the process, i.e., the Lighting Plan. Mr. Healey clarified what Mr. Dominach meant by "site plan issues" as circulation plans within the site.

The Technical Review Committee (TRC) had reviewed the Application and had the following comments:

The TRC will be meeting with the Applicant to go over the comments on February 2nd and will revise the following accordingly and provide a new memo to the Board at their meeting on February 4th.

1. Revise the plan to delineate the dimensions of the parking spaces and whether the spaces are for busses or cars.
2. Place a note on the plan that all spaces will be delineated on the ground and provide a detail on the plan for all vehicular and pedestrian movements..
3. Revise plan to show circulation plan for all vehicular and pedestrian movements.
4. Place a note on the plan regarding hours of operation.
5. How will the fuel tank shown on the northern end of the parking area be protected?
6. There are 57 proposed bus parking spaces, but only 49 car parking spaces (4 are handicap spaces). Explain how this deficiency will be overcome.
7. All utility poles and barriers to be removed must be shaded and noted on the plan as to be removed.
8. Consideration should be given to removing the drive aisle between the bus parking areas on the eastern side of the site. This may allow for safer and easier vehicular movements.
9. Is there a need for additional lighting, especially as it relates to vehicular and pedestrian conflicts?

Mr. Lanfrit indicated that the plan that Mr. Stires, Site Engineer for the Applicant, was handing out to the Board was a modification to the plan that they previously submitted as a result of the meetings that they were having with the Township staff. He stated that the plan actually reduced the number of busses stored on the property to 51 busses. He asked the Board to grant a Temporary Use Permit to use the property for six (6) months, with the understanding that before the expiration of that six (6) month period of time, they will submit an Application for Use Variance and Site Plan. He testified that if they needed more time during the review of the Application, they would come before the Board to ask for an Extension of Time.

Chairman Thomas asked if they were planning on using the property for servicing or fueling of busses. Mr. Lanfrit testified that they would only be using the office for dispatching of busses and that there would be no servicing or fueling of busses on the site for the Temporary Use.

Mr. Stires, Site Engineer, came forward and was sworn in. The Board accepted his qualifications. Mr. Stires indicated to the Board that the lighting on the site now was essentially just security lighting, with only three (3) to four (4) lights on the site. He then indicated that

there were about a half dozen more lights on the site that were not operating, but he did explain that the working lights on the site were strategically placed to light the areas where the busses would be parked. Mr. Stires then stated that if the lighting was not adequate, the Applicant was prepared to put temporary lighting in place during the temporary use phase of the Application.

The Chairman then asked whether they were planning on removing various buildings that were presently on the site during the Temporary Use phase. Mr. Lanfrit responded by stating that they have to go through an evaluation process to see which buildings they might want to salvage and use and which ones they want to get rid of. He did note, however, that the concrete manufacturing portion of the site would be removed once the Applicant received site plan approval.

Chairman Thomas expressed concern that the site be landscaped and kept up and busses parking in an organized fashion as opposed to what the Howe Lane site looked like presently. Mr. Lanfrit stated that the site was not in the Redevelopment area and, because the site was behind the Dollar Store, they did not feel that the busses would even be seen from Rte. 27. A discussion ensued among the Board and Applicant regarding the provision of an attractive entrance on Rte. 27.

Mr. Healey indicated that those types of issues had been discussed with the Applicant already and that they have been made aware by the Township staff that the site appearance needed to also be landscaped and maintained even after a site plan approval. Mr. Healey then asked Mr. Lanfrit if they had received NJDOT approval, and Mr. Lanfrit indicated that they had submitted an application or a letter of no interest to the NJDOT. He added that after they redesign the site, they would be able to accommodate more busses and would then have to resubmit an application again to the NJDOT for the redesign.

Mr. Lanfrit stated that the busses will be active on the site during the Temporary Use phase, leaving the site every day during the weekdays at approximately 6:00 a.m. and returning and then going out again in the afternoon and returning to the site at approximately 4:00 p.m. or a little later if there was an athletic event. He also added that there might be some limited Saturday use for athletic events. Mr. Lanfrit also explained that the letter of no interest was to document that the use would be no more active than the previous use of the site when Phillips Concrete was operating their business there.

Mr. McCracken then discussed the frontage of Tara Greens, across the street. Mr. Lanfrit stated that the proposed site had two driveways, one on each side of the retail store and that the plan was to use just one of the driveways, allowing for the other driveway to be dedicated solely to the Dollar Store. Mr. Lanfrit indicated that they did not have anything to do with the access points along the Tara Greens frontage.

A question was raised as to where the bus drivers would park their personal vehicles on the site while they drove the busses. Mr. Lanfrit stated that they would be parking along the main entrance and behind the store and all the busses would be parked in the rear. A discussion ensued among the Board and Chairman Thomas stated that he would be looking for a sidewalk since the property was close to the Redevelopment area near Churchill Avenue.

Mr. McCracken made a motion to approve a 6-month Temporary Use Permit to allow 51 busses to park on the former Phillips Concrete site while Montauk Transit prepares a Site Plan for the site within that 6-month period, with no service and fueling of busses allowed. The motion was seconded and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Johnson, Mr. McCracken, Mr. Rosenthal, Mr. Bergailo and Chairman Thomas

AGAINST: None

HEARINGS:

- **JACOB & MARYKUTTY KURIAKOSE / ZBA-15-00001**

Use Variance in which the Applicant was requesting to convert from home occupation to professional office at 1174 Easton Avenue, Somerset; Block 386.17, Lot 133.01, in an R-20 Zone – **CARRIED TO MAY 4, 2016, with no further notification required.**

- **DeSAPIO FRANKLIN DEVELOPMENT, LLC / ZBA-15-00028**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, DeSapio Franklin Development, LLC. Mr. Lanfrit stated that they were before that evening to obtain a Hardship Variance in which the Applicant was requesting the variance due to construction of overhanging living space not shown on the prior application at 176 Walnut Avenue, Somerset; Block 428, Lot 14.01, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was requesting a variance for rear yard setback of 27.6 ft. due to the construction of an overhanging living space not shown on the prior Application (ZBA2004-0981). The rear yard setback of the main dwelling is also less than that approved in the prior application, 29.6 ft. vs. 30 ft.

Mr. Lanfrit explained that they received approval, in 2004, for Richardson to construct a single-family residential dwelling on the property. He noted that Mr. Richardson waited many years before he started to construct the home and Mr. DeSapio was an investor. He then told the Board that Mr. Richardson started to build the home, but did not finish it, and Mr. DeSapio took title to the property and completed the home. Furthermore, Mr. Lanfrit explained that now that they were going to apply for a building permit, it was discovered either through survey error or through an error on Mr. Richardson's part, that there was a slight deviation in the rear yard because there was an overhang on the house that they received the building permit for. He noted that the overhang was 27.6 ft. from the property line and the house was 29.6 ft. from the property line, which should have been 30 ft. away. Mr. Lanfrit said that the house was basically up and completed and that they were now unable to obtain a Certificate of Occupation (CO), which was why they were requesting the variance for the rear yard at 27.6 ft.

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

Mr. Lanfrit stated, when questioned about the payment of the taxes, that the Board could make that a condition of any approval. He also indicated that they could also comply with all of the comments from the Township staff.

Mr. McCracken made a motion to approve the Variance for rear yard setback for 27.6 ft. with the conditions discussed. The motion was seconded and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Johnson, Mr. McCracken, Mr. Rosenthal, Mr. Bergailo and
Chairman Thomas

AGAINST: None

- **DeSAPIO FRANKLIN DEVELOPMENT, LLC / ZBA-15-00030**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, DeSapio Franklin Development, LLC. Mr. Lanfrit explained that they were before the Board that evening to obtain a Hardship Variance in which the Applicant was proposing to construct a single family house at 129 Culver Street, Somerset; Block 436, Lot 5, in an R-20 Zone.

Mr. Dominach's Zoning report stated that the Applicant was proposing to construct a single family home in an R-20 Zone and that one variance was needed where 26,000 sq. ft. was the minimum lot area and 21,478 sq. ft. was existing/proposed.

Mr. Lanfrit again stated that the Application dealt with something that Mr. Richardson was involved in and that Mr. DeSapio took title of in approximately 2014. He noted that the parcel in question was comprised of approximately 21,000 sq. ft. in an R-20 Zone. But for the fact that the property was a corner lot, they would have a conforming lot, not in need of requiring any variances. Mr. Lanfrit stated, for the record, that the plans that they did submit showed a house of 1,888 sq. ft., which was a building coverage of 8.8%, and he indicated that they were allowed to have a building coverage up to 15%. He then told the Board that the impervious coverage that they were proposing for the single family home was 13.4%, where they were allowed to have 25%. He also stated that they were proposing to build a modest sized home and not seeking variances for front yard, rear yard or side yard variances.

Mr. Antonio DeSapio, Applicant, came forward and was sworn in. Mr. Lanfrit testified that they were compelled to make the undersized lot a conforming lot and that there were two adjoining properties (Lot 301 and Lot 401). He then indicated that he sent a letter to both property owners in September of 2015 asking if they would be interested in buying the property from Mr. DeSapio, and they do not have enough land to sell to him in order to make his lot a conforming lot. Mr. Lanfrit testified that they did not receive a response from either property owner and entered into the record as Exhibit A-1 (123 Culver Street) and Exhibit A-2 (129 12th Street), a copy of the letters he sent. He also entered into the record as Exhibit A-3, which was the tax map showing the lot areas of the adjoining properties. He then entered into evidence as Exhibit A-4, which was an enlargement of the bottom part of page 3 in Mr. Healey's Planning report, which showed the surrounding areas. Mr. Healey indicated that the depiction in his report came from the Township GIS system and has the lots overlaid over the area and was quite accurate.

Mr. Lanfrit reviewed with Mr. DeSapio the exhibit that was prepared by Mr. Fisk, noting that the corner lots directly adjacent to the subject lot were a 15,000 sq. ft. lot, a 22,000 sq. ft. and a 24,000 sq. ft. Mr. DeSapio then discussed the other corner lots on both Culver Street and 12th Street, testifying that most are undersized lots and do not meet the 26,000 sq. ft. requirement. He added that some of the single family lots do not even meet the 20,000 sq. ft. requirement in the zone. Mr. DeSapio then indicated that he would be able to comply with all of the comments in the staff reports, but asked for a waiver for sidewalks and curbing since there was neither in the area.

Mr. Lanfrit then stated that he spoke to Ms. Webber and that she indicated that there was supposed to be a drainage swale to the rear of the subject property. He stated that if it should have been there and was not, they would make sure that they include it with the construction of the single family home to handle runoff in the area since there were sometimes problems with drainage in that neighborhood. Also, as part of the record he included that he told Ms. Webber, as part of any home that would be built on the subject property, that they were also required to put in a dry well to hold the water, which should solve any drainage issues on the property.

Chairman Thomas then opened the meeting to the public.

Ms. Eleanor Webber, 115 Culver Street, Somerset, NJ, came forward and was sworn in. Ms. Webber expressed concern for a drainage problem they already have in the area, with backyards flooding after a bigger storm. She then stated that 11th Street was vacated by the Township, with 25 ft. going to her property and 25 ft. going to the Caden's property, with an additional two parcels of 25 ft. to the rear portion, in order to maintain the drainage between the properties. To date, Ms. Webber explained that there was a pipe that ran alongside her property, but there was a ditch that ran completely behind the other two properties that had not been maintained properly. She stated that a number of property owners get flooded out and the Township was supposed to clean out the culvert underneath 12th Street, which never happened. She then expressed concern for their well situation and wanted to know how many bedrooms and bathrooms were going to be included in the new home. Mr. Lanfrit indicated that there were four (4) bedrooms and three (3) bathrooms included in the proposed home.

Mr. Healey addressed Ms. Webber's concerns by showing the grading plan and noting the inclusion of a swale at the back of the property. He also explained the zoning codes in the area and the fact that the proposed home was under the required size for the area. He also reminded Ms. Webber and the rest of the public that the Township Engineer was requiring the Applicant, before he would receive his building permit, to give specific details regarding the drainage plans. Mr. Healey suggested that the Board, in any approval, make note of the issues in the Resolution. Mr. Lanfrit stated that if there was a culvert underneath 12th Street that was not being maintained, he felt that someone should be alerting the proper department in the Township to make sure that it was addressed.

Ms. Mary Ellen Caden, 123 Culvert Street, Somerset, NJ, came forward and was sworn in. Ms. Caden inquired as to whether the new home would be utilizing the existing well on the property or digging a new well. Mr. Dominach indicated that they would have to get their permits for the well through the Health Dept. Ms. Caden then inquired as to the size of the home, and Mr. Lanfrit indicated that it would have an 1,880 sq. ft. footprint, with a total of 2,900 sq. ft., including the second floor. Mr. Lanfrit stated that the Township required them to include

a dry well as part of the project to capture the water runoff from the new home, with the idea that there would be less water on the property after construction than currently existed now.

Mr. Paul Shorbino, resident on the corner of 12th Street and John E. Busch Street, came forward and was sworn in. He stated he was there to support his neighbors and had a discussion with Mr. Dominach regarding the Township's requirement of a dry well and the issue of the need for someone in Engineering to address the cleanout of the culvert under 12th Street.

Mr. Healey brought up the home on the plans and asked Mr. Lanfrit whether it was drawn to scale. A discussion ensued regarding the size of the proposed home being built and the fact that it was smaller than what was allowed. Mr. Healey asked Mr. Lanfrit if they would be opposed to agreeing to any condition of approval to build the exact home that was shown on the plan. Mr. Lanfrit indicated that they wouldn't have a problem with that condition.

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

Ms. Bergailo pointed out that the plans indicate that a dry well was not proposed to be constructed. Mr. Dominach indicated that it was a requirement of the Minor Development Ordinance for it to be constructed.

Mr. McCracken made a motion to approve the Application for a Hardship Variance, including all conditions discussed and payment into the Township Sidewalk fund in lieu of providing sidewalks and curbing. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Johnson, Mr. McCracken, Mr. Rosenthal, Mr. 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 8:15 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
March 20, 2016