

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

**REGULAR MEETING
April 21, 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: Laura Graumann, Alan Rich, Robert Shepherd (arrived at 7:39 p.m.), Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

ABSENT: Raymond Betterbid, Donald Johnson, Bruce McCracken and Anthony Caldwell

ALSO PRESENT: Patrick Bradshaw, Board Attorney, and Mark Healey, Planning Director

MINUTES:

- **Regular Meeting – March 17, 2016**

Mr. Rosenthal made a motion to approve the Minutes as submitted. Ms. Bergailo seconded the motion and the roll was called as follows:

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

AGAINST: None

HEARINGS:

- **MAY SHEN / ZBA-16-00005**

This was a hearing for a Hardship Variance in which the Applicant was proposing an addition at 33 Weston Road, Somerset; Block 507.01, Lot 33.01, in an R-40 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing an addition to their home and that the following variances were needed:

1. Side yard setback: 25 ft. minimum, 13.6 ft. and 24 ft. proposed
2. Side yard setback combined: 75 ft minimum, 37.5 ft. proposed
3. Side yard setback accessory structure (garage): 25 ft. minimum, 17.25 ft. existing/proposed

4. Side yard setback accessory structure (solar array): 25 ft. minimum, 22 ft. and 23 ft. existing/proposed (Applicant must explain how As Built Survey at time of construction permit approval showed that the setbacks were met, but now they are not (same survey company)).
5. Side yard setback accessory structure (shed): 25 ft. minimum, 2 ft. existing/proposed

Ms. May Shen, Applicant, came forward and was sworn in. Mr. Healey then gave a brief description of what the Applicant was seeking. Ms. Shen explained that she did not have a dining room and that the living room square footage was only 120 sq. ft. She then indicated that the 120 sq. ft. was being used as both a living room and dining room presently and stated that her parents live with her and that she was currently adopting a child.

Mr. Healey asked why she could not add the expansion to the rear of the home as that would reduce the variances from adding on to the side of the home. Ms. Shen indicated that for interior design reasons and exterior aesthetic reasons, she felt it would be better to construct it that way. Mr. Healey stated that the submitted architectural renderings showed what the home would look like and that the Board should review those in relation to the question of aesthetics and interior layout.

Vice Chair Graumann opened a discussion regarding the separate sunroom. Ms. Shen discussed the existing room that has an exterior access door and access to the basement, but no connection to the rest of the home. She indicated that she wanted to use the existing room, that also had a bathroom, for her parents, and to add the sunroom so that her mother could continue to grow her plants during the colder months of the year.

Ms. Shen then spoke about her discussions with her neighbors regarding her plans and she indicated that they were very happy about the improvements as they said it would improve the neighborhood.

Mr. Healey then opened a discussion about why the solar arrays were shown differently on two different sets of plans by the same surveying company. The Board members discussed the minor differences and that it was located way in the back of the property and not affecting any adjoining neighbors.

Chairman Thomas inquired as to how many bedrooms there would be after construction. Ms. Shen indicated that there were presently four (4) bedrooms and there would be four bedrooms after construction since they were planning to make one of the existing bedrooms into a dining room.

Mr. Shepherd discussed the floor plans submitted by the Applicant, gaining some insight into the uses of each room shown.

Chairman Thomas then discussed the lack of access from the guest room to the interior of the rest of the home and whether a bathroom was required. Mr. Healey indicated that there was no requirement for a bathroom, but Ms. Shen testified that there was already an existing bathroom there.

Chairman Thomas then opened the meeting to the public for questions or comments.

Mr. John Kinghorn, 49 Weston Road, Somerset, NJ, came forward and was sworn in. Mr. Kinghorn was supportive of Ms. Shen's efforts and stated that she has shown a significant intention to be a good neighbor by the superficial improvements she has already made to the aging property. He also indicated that the proposal she had made to the Township was looked upon by the neighbors as positive improvement to the neighborhood. He did request, however, that the suggestion by the Township Engineer to have an additional 13.5 ft. right-of-way imposed upon the property in order to match adjacent and nearby properties be rejected as he felt it was not in character with the neighborhood. He testified that the speed limit on that section of Weston Rd. between Cedar Grove and Elizabeth Avenue was higher than that on Elizabeth Avenue, which was a more major arterial roadway. He added that the neighborhood has already been asked to give up a portion of their front yards to the right-of-way and that it felt wrong to ask Ms. Shen to give up even more, which he felt was out of character with the neighborhood.

Mr. Healey then referred the Board to page 3 of the Township Engineer's report that shows the width of the roadway, indicating that it was mostly 60 ft. wide. He stated that the roadway was already mostly 60 ft. wide, as shown on the small map in the Township Engineer's report. The request from the Engineer's report was just a way to correct the deed information at the time of variance request and not a means to widen the roadway any further.

Seeing no on further coming forward, the meeting was closed to the public.

Vice Chair Graumann made a motion to approve the Application, with Variances, with the conditions recommended in the Township Engineer's report. Ms. Bergailo added that the Applicant's agreement to the Engineer's condition of acquiring additional right-of-way on her property be a condition of obtaining a Certificate of Occupancy as opposed to obtaining a Building Permit. Mr. Reiss seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **SHAMSHAIR ALI / ZBA-16-00006**

Hardship Variance in which the Applicant constructed an addition with permitted approval, but the As-Built Survey shows they went over the maximum impervious coverage at 58 Gurley Street, Somerset; Block 114, Lots 20 & 21, in an RF/NBR Zone.

Mr. Dominach's Zoning report indicated that the Applicant constructed an addition with permits, but upon submitting the As-Built Survey, it was determined that a variance for impervious coverage was needed where 30% was the maximum and 36.4% now existed.

Mr. Shamshair Ali, Applicant, came forward and was sworn in. Mr. Ali explained that he did not know how they ended up going over the maximum allowed impervious coverage since he worked closely with the Engineering Dept. at the Township and Mr. Dominach in the Zoning Dept., getting all the required permits.

Mr. Healey, while looking at the Township Engineer's report, seemed to think that the Township Engineer thought that the addition was built slightly larger (by two (2) feet) than what was shown on the plans that were submitted for approval. Mr. Ali testified that he was not aware of that happening. He also stated that the tool shed on the property was there prior to construction and was told by Mr. Dominach that removing the tool shed would not reduce the impervious coverage enough to make a difference.

Mr. Healey then opened a discussion regarding the new driveway they constructed, noting that the plans stated that the new driveway was to be 16' x 32'. He asked the Applicant if the new size was to make the driveway to be conforming, and Mr. Ali answered in the affirmative. He also testified that the driveway was not notched in any way and was just a straight driveway. Mr. Healey indicated that the two surveys were again inconsistent.

Mr. Healey then discussed with Mr. Ali the need for either a dry well or rain garden. Mr. Ali indicated that there was already a dry well installed under the addition that was constructed. Mr. Healey then stated that he would have to contact the Engineering Dept. and discuss what was done with the Township Engineer for compliance.

Mr. Rich pointed out to the Applicant that the Sewerage Authority was interested in knowing what the addition was going to be used for and if it were going to be used for business purposes, thereby increasing sewer generation. Mr. Ali testified that he expanded the home to increase the living room and dining room areas for his family and would not be used for any business purpose.

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

Mr. Shepherd made a motion to grant the variance to allow the additional impervious coverage (total of 36.4%) with the requirement that he consult with the Engineering Dept. to either get them to agree that the existing drywell was satisfactory and, if not, that he construct an additional drywell to the satisfaction of the Township Engineering Dept. Additionally, the motion also included the increase of building coverage from the allowed amount of 20% to the current 23.2%. Mr. Reiss seconded the motion and the roll was called as follows:

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

AGAINST: None

- **SOMERSET FITNESS CLUB, LLC / ZBA-16-00007**

Catherine Copp, Esq., Attorney employed with the law firm of Peter U. Lanfrit, Esq., appeared before the Board on behalf of the Applicant, Somerset Fitness Club. Sign Variance in which the Applicant was requesting to install a sign at 940 Easton Avenue, Somerset; Block 385, Lot 2.07, in a GB Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to install an attached sign, with the following variances required"

1. 30 sq. ft. maximum, 163 sq. ft. proposed
2. 3 ft. vertical dimension maximum, 7 ft. proposed

Ms. Copp introduced herself and stated that she felt they had a very brief presentation for a sign approval for Crunch Fitness and then brought forth her first and only witness that evening, Mr. Eric Wahad.

Mr. Eric Wahad, Operations Manager, came forward and was sworn in. Mr. Wahad then described the sign that they were proposing. He indicated that they were looking to put a logo box and the word "Fitness" in channel letters mounted to the building. He stated that their location was to the left of the Office Depot space and was blocked from view from Easton Avenue by the Stop & Shop. He indicated that the sign would only be slightly visible to Easton Avenue when the leaves were down from the trees. Mr. Wahad testified that to have any visibility from within the shopping center, they would require a sign of the size they were requesting. He then added that the sign would be internally lit with LED lighting and that the colors would be as shown in the plans submitted.

Mr. Shepherd inquired when they would be opening and Mr. Wahad stated that they were in the tenant approval stage prior to build-out and were looking to open probably around the first week of June. Mr. Shepherd then asked about the hours of operation, and Mr. Wahad indicated that they were looking to be open from 5:00 a.m. to 11:00 p.m. Mr. Shepherd then asked if he would agree to a condition to shut off the sign lights after closing and Mr. Wahad agreed stating he was just looking to have the sign lights illuminated during business hours. A discussion ensued among the Board members regarding the lack of impact to any adjacent neighbors since there was another shopping center to one side and JFK Boulevard to the other.

Mr. Healey stated that they had granted a similar sign variance to the Office Depot. Mr. Healey then asked if their space was the same size as Office Depot, and Mr. Wahad indicated that they were slightly smaller. When asked about the sign colors by Board Attorney, Mr. Patrick Bradshaw, Mr. Wahad indicated that they would be blue and white, as shown in the rendering he handed to him.

A question was raised about the water bill being delinquent, and Ms. Copp indicated that they would follow-up with the landlord to make sure the water bill gets paid.

Chairman Thomas then 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 Sign Variance. Mr. Reiss seconded the motion and the roll was called as follows:

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

AGAINST: None

US CLEAN ENERGY, LLC / ZBA-16-00004

Catherine Copp, Esq., Attorney employed with the law firm of Peter U. Lanfrit, Esq., appeared before the Board on behalf of the Applicant, US Clean Energy. Ms. Copp explained that they were there before the Board for an Amended Site Plan in which the Applicant was proposing to construct a carport solar array at 61-65-71 Cedar Grove Lane, Somerset; Block 468.09, Lot 41.02, in an R-40 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to construct a carport solar array and that no variances were required.

Ms. Copp stated that the Applicant was looking to construct a solar panel field in the parking lot located to the rear of the site.

Mr. Jeff Reynolds, Engineer and Principal of the Reynolds Group, came forward and was sworn in. The Board accepted his qualifications. Mr. Reynolds then explained to the Board what they proposed to do by including four (4) solar carports over the existing rear parking lot. He indicated that each carport would span three parking stalls. He testified that the parking lot would not change and no parking stalls would be lost with this addition. He noted that four (4) existing site lights would be removed and replaced with new site lighting underneath the carports. He also stated that the addition of the carports would affect some drainage pipes on-site and that they would be re-routed around the carports. Mr. Reynolds then indicated that nothing else would be changed and that all the trees would remain. He explained that the carport structure would be 15 ft. tall and would be lit with the new LED lighting that would be diffused by lenses. Mr. Reynolds also noted that the lighting would be mounted at about 14 ft. high, under the structure, and were similar to round parking garage lights. He added that there would be 12 lights per structure. He also explained that there would be an 8.5 ft. clearance under the canopy in the center, with a 15 ft. clearance at the edges where it was cantilevered over.

Ms. Copp indicated that the Township Fire Official asked that signs be placed under the canopies to designate the height clearance, and Mr. Reynolds indicated that they could comply. He also testified that all of the drive aisles would remain as they are with the same circulation plan. Mr. Reynolds added that the piers that hold up the columns would be raised above the ground about 30 inches high so that if a car bumper were to hit it, it would not damage the support pole.

Mr. Reynolds explained that there was a change in impervious coverage and that they were before the Board for an Amended Site Plan because they found an error in the previous survey. He stated that the outbound of the property was correct, however, the total area was incorrect. Vice Chair Graumann indicated that the corrected impervious coverage was 49.4%. Mr. Reynolds concurred with that figure and thought that the difference from the previously stated figure was an increase of about 1,050 sq. ft... He added that even though the square footage of the property changed, he believed that it did not change the percentage for impervious coverage.

Ms. Bergailo asked about whether it increased the building coverage, and Mr. Reynolds indicated that it did not change the building coverage because the carports were not buildings. Mr. Healey stated that they would check with Mr. Dominach, the Zoning Officer, but that they

were so far under the maximum of 10% building coverage for the site that it would not be a concern.

Mr. Reynolds then testified that they could comply with all comments in both the Planning and Engineering reports from the Township.

In discussions regarding any increase in impervious coverage, Ms. Copp indicated that they were also seeking variance approval for impervious coverage. Mr. Healey indicated that he did not believe they noticed for a variance approval, so they would need to check their records before the Board could render their decision. Ms. Copp stated that she was correcting their prior testimony and that they did notice the neighbors for variance approval for a change from 48.6% to the corrected impervious coverage of 49.4% even though they were not changing any impervious coverage, but wanted to correct the record.

Mr. Rich opened a discussion regarding the vehicle clearance under the carports.

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

Mr. Shepherd gave positive comments regarding the project and made a motion to approve the Application with impervious coverage variance. Vice Chair Graumann seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Rosenthal, Mr. Reiss, Ms. Bergailo 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 8:40 p.m., and Mr. Shepherd seconded the motion. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
May 28, 2016