

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

**REGULAR MEETING
June 2, 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, Laura Graumann, Donald Johnson, Bruce McCracken, Alan Rich, Anthony Caldwell, Gary Rosenthal, Joel Reiss, and Chairman Thomas

ABSENT: Robert Shepherd and Cheryl Bergailo

ALSO PRESENT: Peter Vignuolo, sitting in for Board Attorney, Patrick Bradshaw, and Mark Healey, Planning Director

MINUTES:

- **Regular Meeting – March 3, 2016**

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

FOR: Mr. McCracken, Mr. Rich, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **Regular Meeting – April 7, 016**

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. Rich, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

- **Regular Meeting – April 21, 2016**

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

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

AGAINST: None

RESOLUTIONS:

- **PJ Cavanaugh's / ZBA-1600002**

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

FOR: Mr. Johnson, Mr. Caldwell, Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **DeSapio / ZBA-15-00030**

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

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

AGAINST: None

- **Recon / ZBA-15-00021**

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

FOR: Mr. McCracken, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

- **Patrick Bradshaw – May Retainer - \$865.00**
-Various Matters (01/16-03/16) - \$385.00
-June Retainer – 865.00

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

Extension of Time:

- **Rt. 27 Car Wash Inc. (approved as Peter Fiorentino) / ZBA-2006-0009**

Mr. Peter Vignuolo, sitting in for Mr. Patrick Bradshaw, Board Attorney, indicated that he would have to recuse himself from providing assistance with respect to the Extension of Time Application that evening because his office provided legal counsel for the Applicant.

Mr. Kevin Morse, Esq., Attorney and Principal of Slavin & Morse, appeared before the Board on behalf of the Applicant, Rt. 27 Car Wash Inc. Mr. Morse indicated that the property was approved as a car wash/lube facility back in 2006. The owner got caught up in the poor economic times and the downturn in the economy and, therefore, never completed or built out the project. The Applicant acquired the property in 2013, and the property had never been the subject of an extension before because it was covered under the Permit Extension Act. Mr. Morse then noted that the Applicant was now planning to build out what was approved in 2006 and were asking for a one-year extension. He also said that if the Board were inclined to approve two (2) one-year extensions that evening, they would appreciate the extra time. Mr. Morse indicated that the Applicant was in the car wash business and was sufficiently resourced

Vice Chair Graumann made a motion to approve the Extension of Time for a period of one year... Mr. McCracken 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

- **Franklin Care Center / ZBA-2004-0917 & ZBA-2004-00001**

Ms. Susan R. Rubright, Esq., Attorney with the law offices of Brach/Eichler, appeared before the Board on behalf of the Applicant, Franklin Care Center. She explained that they were seeking an extension of approvals for a Use Variance and an FAR Variance. She explained to the Board that the initial approvals were obtained in 2004 to expand the existing facility to add 96 beds, renovate and modernize the existing building and construct an addition. Ms. Rubright added that the Application required a Use Variance for the expansion of a pre-existing, non-conforming use and FAR approvals. She went on to explain that they came before the Board again in September of 2007 for an Extension of Time to September, 2008, which was granted. Additionally, Ms. Rubright stated, that they had obtained financing and were about to close on the loan when one of the owner's passed away, requiring the closing and commencement of construction to be put off. She indicated that the financing through Bear Stearns was then affected by the financial crisis and funding was pulled. As a result of the economic crisis, she stated that the Permit Extension Act was implemented, and since that time they had been working to secure financing. At this time, Ms. Rubright indicated that they were seeking an Extension of Time for two years to July, 2018. She added that there have been some improvements and modifications made, along with necessary repairs, but they need to close the facility temporarily, as of July 1, 2016, in order to undertake total renovation of the center. After the renovation is completed, Ms. Rubright indicated that they would then like to construct the addition after the renovations of the existing building were completed because it was very difficult to do both at the same time. She testified that the Applicant was also the owners of the West Caldwell Care Center that just has undergone renovations and expansions, so they know how difficult it is to do both of these simultaneously.

In answer to the Vice Chair's inquiry about financing, Ms. Rubright replied that it was her understanding that it was in process at that time. A discussion ensued regarding the Center's commitment to complete the renovations and expansion in light of the eight years that have passed since they got their approvals. Ms. Rubright discussed the few times the Permit Extension Act was extended in order to assist with the fact that the economy was not recovering as quickly as hoped.

In answer to Mr. Reiss' inquiry regarding the Applicant following the same approvals that were originally granted, Ms. Rubright stated that the footprint of the building was going to be the same. She also indicated that she had submitted a colorized rendering of the proposed Site Plan which showed the new building, the existing building and how it was all going to be integrated.

Ms. Rubright then discussed the color coded exhibit, noting that the Site Plan was not going to be changing from what was approved back in 2007/2008. Mr. Vignuolo, sitting in for Board Attorney, Patrick Bradshaw, indicated that they had received two previous Extensions of Time, and have utilized two out of the three years to extend an approval, which leaves them with one year to extend the approvals, statutorily. A discussion ensued among the Board.

Ms. Rubright then stated that she believed the Board had discretion to grant an extension longer than one year and didn't believe there was anything prohibiting the Board from granting a longer extension for the Site Plan approval. She also indicated that she was asking for an extension of time for the Use Variance and FAR approvals that were previously granted and didn't believe that there was a time limit to do so. She offered to agree to an 18-month

Extension of Approval, for the Site Plan as well as the Use Variance and FAR approvals if the Board was not comfortable with the request for two years.

Vice Chair Graumann made a motion to grant the Extension of Time for a period of one year. Mr. McCracken 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

- **CAAM Development Group, Inc. / ZBA-14-00005**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, CAAM Development Group, Inc. Mr. Lanfrit indicated that they were before the Board that evening to request a one-year Extension of Time for a bulk variance application for an undersized lot that was granted on July 17, 2014 and memorialized in a Resolution on November 6, 2014. He said that they needed an extension of approval as they were unable to perfect the bulk variance approval. Mr. Lanfrit did testify that they were now ready to build the home on the subject property this summer.

Vice Chair Graumann made a motion to grant the Extension of Time for a period of one year. Mr. McCracken 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

- **New Jersey Tabernacle, Inc. / ABA-13-00015**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, NJ Tabernacle, Inc. Mr. Lanfrit indicated that they were before the Board that evening to request a one-year Extension of Time for a Conditional Use Variance and Site Plan application to construct a house of worship granted on January 9, 2014 and memorialized in a Resolution on May 1, 2014. He said that they needed an extension of approval as they were unable to perfect the Conditional Use Variance and Site Plan approval. Mr. Lanfrit did testify that they were in the process of raising financing and do have a bank commitment provided that they have a certain amount of funds provided by the congregation. Since the financing was subject to fundraising through the congregation, Mr. Lanfrit then decided to instead ask for an extension of two-years to make sure they have enough time to raise the funding. He indicated that this was the first extension they were requesting and that there had been no change in the zoning or change in the surrounding area or character of the neighborhood. A discussion ensued among the Board and Mr. Vignuolo stated that they were essentially asking for two one-year extensions at the same time.

Vice Chair Graumann made a motion to grant the Extension of Time for a period of two years. Mr. McCracken 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

- **New Jersey Buddhist Vihara / ZBA-12-11-00020**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, New Jersey Buddhist Vihara. Mr. Lanfrit indicated that the Applicant received approval in 2013, but has had major issues with the State of New Jersey concerning DEP issues due to the fact that they had wetlands on the site. He then testified that all issues have been resolved and have made all of their submissions and do plan to start construction within the next year and, therefore, would be asking for a one-year Extension of Time.

Vice Chair Graumann made a motion to grant the Extension of Time for a period of one year. Mr. McCracken 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

- **Rajos Holdings, LLC / ZBA-11-00001**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Rajos Holdings, LLC. Mr. Lanfrit indicated that the Applicant received approval in 2012 for a Use Variance and Site Plan for a landscaping business on South Middlebush Road. He added that part of the Site Plan was to construct a storage building. Mr. Lanfrit then testified that they just completed, within the last 30 days, the last of the compliance items, which were currently being reviewed. Assuming all of the items were in order, He indicated that they would then be in the position to apply for building permits and would ask for a one-year extension. He noted that this was the first extension they have applied for.

Mr. Healey inquired about when the construction of the building would occur, and Mr. Lanfrit indicated that they would agree to commence construction of the building within one year. Mr. Healey explained to the Board that the construction of the storage building was for a place to store vehicles, and that the Applicant agreed to do any repairs on any vehicles within the storage building as part of their original approval. Mr. Healey then suggested that the Board make it a condition of approval that the Applicant continued to agree to that condition as part of any extension of time. Mr. Lanfrit stated that they would not have any problem agreeing to that condition.

Mr. Caldwell made a motion to grant the Extension of Time for a period of one year. Mr. McCracken 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

- **Panna Enterprises, LLC / ZBA-2005-0281 & ZBA 2004-0429**

Mr. Francis P. Linnus, Esq., Attorney, appeared before the Board on behalf of the Applicant, Panna Enterprises, LLC. Mr. Linnus explained that the Board approved and adopted the Resolution on December 14, 2006, memorializing the expansion of an existing, non-conforming use as well as Site Plan approval to construct a commercial facility on South Middlebush Road, at the intersection of South Middlebush Rd. and Suydam Rd. He indicated that they had not been before the Board to ask for any Extension of Time prior to that evening, and ran into some issues with septic approvals and investor issues. Mr. Linnus added that they were very hopeful that within the next year, they will be able to move the project forward. He respectfully requested the Board to grant two (2) one-year extensions that evening.

Vice Chair Graumann made a motion to approve the Extension of Time for a period of two years. Mr. Johnson 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:

- **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 JULY 7, 2016 - WITH NO FURTHER NOTIFICATION REQUIRED.**

Chairman Thomas opened a discussion regarding the timing of when the Application would be heard since it had been on the docket multiple times over the past months. A discussion regarding the upholding of the terms of the approval ensued.

- **RICHARD BERG / ZBA-14-00007**

Hardship Variance in which the Applicant was requesting permission to construct a one-story addition, approximately 240 sq. ft., at 63 Evelyn Avenue, Somerset; Block 45, Lot 17, in an R-20 Zone - **CARRIED FROM MAY 19, 2016 – with no further notification required.**

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

1. Front yard setback: 35 ft. minimum, 29.78 existing/proposed
2. Side yard setback: 15 ft. minimum, 6 ft. existing (bump out) and 12 ft. proposed for the addition.

Mr. Richard Berg, Applicant, came forward and was sworn in. Mr. Berg explained that his family needs more room, and he wanted to put the addition on to create more space in his son's bedroom. He testified that the home was built in the 1930's.

Chairman Thomas made a motion to open the hearing to the public for comments. Seeing no one further coming forward, the meeting was closed to the public.

Vice Chair Graumann made a motion to approve the Application with Hardship Variance. Mr. McCracken 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

- **LINDSEY MAULDIN / ZBA-16-00012**

Hardship Variance in which the Applicant was proposing to erect a 30' x 42' garage at 571 Elizabeth Avenue, Somerset; Block 508.02, Lot 65, in an R-40 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to erect a 30 ft. by 42 ft. garage on the property. He noted that one new variance was needed, where the minimum side yard setback was 25 ft. and 20 ft. was proposed. In addition, he included the following existing variances that were required:\

1. Lot frontage: 200 ft. minimum, 153.3 ft. existing/proposed
2. Side yard setback: 25 ft. minimum, 19.52 ft. existing/proposed
3. Total side yard setback: 75 ft. minimum, 65.52 ft. existing/proposed

The report included information that the Applicant had submitted a recent, updated survey to confirm that they do not exceed lot and impervious coverage maximums.

Ms. Mauldin and Mr. Lindsey Mauldin, Applicants, came forward and were both sworn in. Mr. Mauldin explained that they were trying to align the proposed garage up with the existing line of the house.

Chairman Thomas asked whether there was anywhere on the property they could place the proposed garage that would conform to the setbacks. Mr. Mauldin indicated that they were trying not to place the garage too far back into the yard. Mr. Healey stated that they would have to place the garage setback slightly behind the house to conform as opposed to bringing it forward toward the driveway. The Chairman then asked what the purpose the garage was meant for, and Mr. Mauldin stated it would be for the storage of vehicles and patio furniture, etc.

Mr. Healey stated that he felt that it was more of a C-2 variance (better design/layout for the property) than a Hardship Variance.

A Board member asked the Applicant if there would be any sewer/water going into the garage, and Mr. Mauldin answered in the negative.

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

Vice Chair Graumann made a motion to approve the Application. Mr. Johnson 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

- **SOMERSET WOODS REHABILITATION NURSING CENTER / ZBA-16-00010**

Mr. Francis P. Linnus, Esq., Attorney, appeared before the Board on behalf of the Applicant, Somerset Woods Rehabilitation Nursing Center. Mr. Linnus indicated that they were there that evening to obtain a Sign Variance in which the Applicant was requesting permission for a free-standing sign at the entrance of 780 Old New Brunswick Road, Somerset; Block 502.01, Lot 58.02, in the CB(RDO) Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to erect a sign for their Rehabilitation and Nursing Center, with the following variances required:

1. Sign area: 25 sq. ft. maximum, 86 sq. ft. proposed
2. Setback: 25 ft. minimum, 2 ft. proposed

Mr. Reiss recused himself because he lived within 200 ft. of the subject property. Vice Chair Graumann recused herself as well.

Mr. Linnus stated that the center was granted approval in 2012 and it was constructed and has been operating, however, it was difficult for people to find.

Ms. Beth Strom, Planner and Landscape Architect, employed with Menlo Engineering, came forward and was sworn in. The Board accepted her qualifications. Ms. Strom briefly oriented the Board as to the location of the site and what they were proposing. She first testified that she had visited the site and examined the Franklin Township Land Use Ordinance and was familiar with the Municipal Land Use Law (MLUL). At this time, Ms. Strom entered into the record as Exhibit A-1, an aerial view of the site taken from NJ Information Systems. She also handed out 11" x 17" copies of the same aerial view for the Board's edification. She indicated that it was an "under construction" view of the nursing home and the surrounding properties. She then showed an enlarged version of the Free-Standing Sign Plan that was submitted in February of 2016. She then entered into the record as Exhibit A-2, the elevation view of the proposed sign, which she handed out to the Board for their review. Ms. Strom indicated that the elevation view was identical to the sign submitted with the plans in February of 2016.

Ms. Strom testified that the building was located at the intersection of New Brunswick Rd. and Old New Brunswick Rd. and 500 ft. northwest from the intersection with Davidson Avenue. She went on to explain that the property was within the Corporate Business (CB) Zone and received a D-1 Use Variance as well as bulk variance approvals and Site Plan approvals. She then also added that they also received a variance for a sign with a 10 ft. setback. She then detailed the surrounding area uses.

Ms. Strom then drew the Board's attention to the proposed free-standing sign, which was proposed at 86 sq. ft., which included the columns. She then noted that the sign face, itself, was only 60 sq. ft., 8.5 ft. high and 15 ft. wide. She noted that the sign was being proposed for the southeast corner of the property, 2 ft. from the property line and just due west of the conservation easement, which was a densely wooded area. She then discussed the unique circumstances to the property, i.e., the entrance drive located at the southeastern boundary was adjacent to the more heavily trafficked roadway, New Brunswick Rd. However, the nursing home was situated along Old New Brunswick Rd., which was the less likely approach for visitors and deliveries, and had limited frontage along Old New Brunswick Rd. She also stated that there was a distance of about 150 ft. from the eastern property line, the location they were proposing for the sign, and the intersection with New Brunswick Rd. After passing the heavily wooded conservation area on New Brunswick Rd., the point at which a travelling motorist would first have a view of the building was, in fact, 120 ft. to the property line. Because of that configuration, Ms. Strom indicated that they wanted to locate the sign as close to the property line as possible to maximize visibility. She noted that the sign, as previously approved, was located at the center of the site, located 10 ft. from the property line, but on Old New Brunswick Rd., which was not in a very visible location at all. Because the current location of the sign was placed on a steeply graded slope, was heavily landscaped and also contained multiple utilities in that area, Ms. Strom testified that the Applicant felt that it would be a much more appropriate and utilitarian location to its relocated position as proposed this evening. She went on to explain that they were focusing on the C-2 variance relief criteria, the flexible "c" standard, but testified that they do have aspects of the Hardship or C-1 variance relief, which required a higher standard of proof. She indicated that they were faced with a lot that does have limited frontage because of the alignment of Old New Brunswick Rd. and the property, itself, did not come anywhere near the New Brunswick Rd. right-of-way. She then discussed the purposes of the Municipal Land Use Law (MLUL) as it related to the application. Ms. Strom testified that she believed the sign was proportional in scale with the building, which was an 85,000 sq. ft., three-story building. Mr. Linnus then discussed the Franklin Township

Sign Ordinance as it related to the proposed signage with Ms. Strom, and she testified that she didn't believe there were any negative impacts or detriments to the public good or any detriments to the zone plan or zone ordinance..

Mr. Rosenthal asked whether the 2nd quarter taxes had been paid, and Mr. Linnus stated that they had and noted the date of the report (5/3/2016) with a notation that taxes were due by 5/10/2016.

Mr. Joseph Friedman, Representative of the Applicant, testified that taxes and water bills were both paid before their due dates, as confirmed by contacting the Township offices.

Mr. Betterbid inquired as to why the sign had to be as large as they were proposing, just because it was in scale with the building. Mr. Friedman indicated that the actual sign was only 60 sq. ft. in size, indicating that anything smaller would be swallowed up by the large size of the building.

Mr. Healey reminded the Board that the location of the site was in the Corporate Business Zone (CB), and if the development there was an office building or a retail site, they would be allowed to build a 100 sq. ft. sign, 10 ft. from the property line. He did testify that under the ordinance, nursing homes were limited to signs 25 ft. off the property line. Mr. Healey, however, indicated that he felt the sign was in scale with the very large building, and as testified to by the Planner, even though the proposed sign was only 2 ft. off the property line, it was 75 ft. off one roadway and 120 ft. from the other roadway. He told the Board that the proposed sign was the appropriate size to be seen from the roadway.

Mr. Healey asked whether the bricks in the sign posts would match the design of the building, and Mr. Friedman answered in the affirmative. He then noted that the ordinance required that the base of the sign be landscaped and wanted to know if the Applicant would comply. Mr. Friedman indicated that they would comply.

Mr. Johnson asked whether the globes on top of the columns would be illuminated, and Mr. Friedman answered in the affirmative. A discussion ensued about whether there would be any glare coming from that lighting, and Mr. Healey indicated that there was a code in place that handles that and would be reviewed at time of building permit.

Mr. Linnus indicated that the staff reports either listed no comments or that there were no objections to the proposed sign. He then testified that they had just received an exemption letter from the Delaware & Raritan Canal Commission (DRCC).

Chairman Thomas made a motion to open the meeting to the public for questions or comments. Seeing no one coming forward, the meeting was closed to the public.

Mr. McCracken made a motion to approve the Application with Sign Variance. Mr. Betterbid seconded the motion, and the roll was called as follows

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

AGAINST: None

- **PARAMASAMY CHANDRANATHAN / ZBA-16-00009**

Hardship Variance in which the Applicant was requesting a variance for an undersized lot at 4292 Route #27, Somerset; Block 6, Lot 24.01, in the RR-5 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was requesting a variance for an undersized lot in an RR-5 Zone, where 5 acres was the minimum and 2.73 acres was existing/proposed. He also noted in his report that there was no house proposed at this time.

Mr. Paramasamy Chandranathan, Applicant, came forward and was sworn in. Mr. John Chadwick, Planner, appeared before the Board in order to assist Mr. Chandranathan with the presentation of the Application. The Board accepted his qualifications.

Mr. Chadwick stated that he had just distributed copies of an aerial photograph of the property, which was entered into the record as Exhibit A-1. He told the Board that the Application was basically to go through the steps to be able to build upon the property in the future. He indicated that there was no available property to purchase to make the lot conforming, as shown on the aerial photograph. He also noted that the property was situated in a portion of Franklin Township that no one seems to know was in Franklin Township. He explained that they submitted to the County and to the Delaware and Raritan Canal Commission (DRCC). He testified that they had received an exemption from the DRCC and were still waiting to hear from the County. Mr. Chadwick stated that the subject property was more than twice the size of any other properties in the immediate vicinity, which was comprised of older, smaller homes, a Pentecostal church down the street and a landscape business two lots away. In his judgment, he believed they met the standards, there was no way to cure it by making the lot conforming, and he indicated that they can comply with all of the other bulk standards that were shown on the survey that accompanied the Application.

Vice Chair Graumann asked whether they offered up any portion of the property to the adjacent property owners. Mr. Chadwick indicated that they did not because all of the other properties were already fully developed. Mr. Vignuolo, Acting Board Attorney, asked whether they offered the property up for sale, and Mr. Chadwick stated that one of the adjacent properties was a non-conforming use. Mr. Healey opened a discussion regarding establishing hardship by either purchasing adjoining land or offering up the Applicant's land for sale to adjoining land owners. Mr. Vignuolo explained that by looking at the aerial photograph he could see that it was not possible to purchase land from an adjoining neighbor without making their property even more non-conforming in size than it already was, but certainly felt that the Applicant would have an obligation to offer his lot for sale to them as an element of hardship under New Jersey case law. Mr. Chadwick said that he understood the hardship obligation, but thought they were limited because an adjacent owner already had a non-conforming use and would be increasing that non-conforming use by purchasing additional land. He then explained that the property to the north was a residential property, but it was owned and occupied with a residential structure with a nursery, another non-conforming use. Mr. Chadwick testified that the circumstances of being surrounded by non-conforming uses were an exception to the buy-sell provisions. A discussion ensued among the Board.

Chairman Thomas made a motion to open the meeting to the public for questions and comments.

Mr. George Kane, Rt. 27 resident directly across the street from the subject property, came forward and was sworn in. Mr. Kane expressed concern that the property was purchased for development of a business on the property in the future. He indicated that he had lived in the same home since 1971 and had observed that the property was low and wet, and wondered if there was ever any soil testing done in order to determine if a home could be built there. He said he visited the site that afternoon and noticed a cleared portion in the center of the property that had standing water with algae and was concerned that this might not be a potential homeowner wanting to purchase the land to build a residence.

Mr. Chandranathan explained that he did not have any plans for a business on the property, but planned to build a ranch-style home on one floor in his retirement so that his wife didn't have to climb stairs, as it was difficult for her presently in three three-story townhome. He was knowledgeable about the fact that they would have to plan for the construction of a septic system, but stated that there was public water available to the site.

Chairman Thomas brought up a discussion about what position they were in being asked to grant a variance on a lot that had failed a permeability test. Mr. Healey explained that it was one thing to prove hardship by providing buy-sell letters, but it was quite another if they could not get the soil to pass a permeability test. In that case, it would be their problem. The Chairman asked if they should be looking at plans for a home and how they would deal with the permeability and other issues along with the required Hardship Variance all at the same time. Mr. Chadwick stated that they were first trying to establish whether they would be able to construct a home on an undersized lot and were then going to deal with the other issues after that was established. He did indicate that he might have gone through the process of offering the buy/sell letters to explain their hardship.

Mr. Chadwick asked if the Board would allow them to carry the hearing so that they could send the buy/sell letters to help establish the hardship.

Mr. Kane asked that if a Hardship Variance were to be granted by the Board, that it be specified that it only be able to be developed by a residential home. A discussion ensued among the Board and Chairman Thomas explained that they would have to hear their plan and go on the advice of the Board Attorney. Mr. Healey explained that with the acreage they own, they would not be able to do anything other than build a residential home on the property.

Mr. Peter Madden, 4312 Rt. 27, Princeton, NJ, came forward and was sworn in. Chairman Thomas asked him if he would be interested in purchasing the property since he was an adjacent landowner. Mr. Madden stated that he would have to think about it since he didn't know it was a possibility. Mr. Madden testified that the fire hydrants were condemned and if there was a fire, they would have to use South Brunswick water. He told the Board that he didn't understand why the Applicant would come for a variance without first exploring and testing the ground for permeability and having house plans available.

Vice Chair Graumann explained to Mr. Madden that if she were the Applicant, she would not go to the expense of all the testing unless she knew the lot was buildable in the first place.

Chairman Thomas asked whether the Township would be liable to purchase the lot if they deny the Hardship Variance on the grounds that it was not a buildable lot, based upon the lot size. Mr. Vignuolo indicated that there is a possibility of that happening, depending upon the

reason for the denial. A discussion ensued among the Board, and Mr. Healey indicated that the Board's approval should be subject to a LOI/approval from the NJDEP. He added that the Applicant would have to get a design to see if they can even get the septic system on the site. Mr. Healey also stated that he felt those issues were separate from whether they had established hardship for a 3-acre lot from a zoning perspective, which was the Board's focus. The Chairman agreed and indicated that he thought the risk was the Applicant's as to whether the property would allow the other aspects such as sewer, water, etc.

Mr. Madden asked the Applicant if he was a realtor. Mr. Chandranathan explained that he worked in the IT sector for both IBM and ATT for the past thirty years.

Mr. Robert Menghi, adjoining property owner, came forward and was sworn in. Mr. Menghi was interested in what he could do with the property if he decided to purchase the subject property from Mr. Chandranathan. A discussion ensued among the Board and Mr. Vignuolo explained about the possibility of the Township zoning the property into inutility by not granting the Hardship Variance. Mr. Menghi also explained that he was concerned with whether the granting of the variance would somehow affect his property. He mentioned that he already has flooding issues on his own property

Mr. Chadwick indicated that the buy/sell letters will be in the adjoining land owners' hands very quickly and asked the Board if they could put a reply by date on the letters so the situation doesn't drag out. Mr. Vignuolo indicated that Mr. Chadwick ask that they reply back before the next hearing date or respond at the hearing what their decision was regarding the property.

Mr. Reiss asked the Applicant when the taxes would be paid up on the property. The Applicant indicated that they would be paid up by the time of the next hearing.

Mr. Chadwick mentioned other outstanding items listed in Mr. Healey's Planning report, noting that they planned to get through this first process of obtaining the variance to build a single-family home on the property and then would proceed at that time with the other concerns, i.e., water supply, sewer systems, further determinations regarding water on the property. Mr. Chadwick testified that they had a letter from an engineering firm that states that there were no wetlands on the property. He indicated that they would also have to go through NJDEP for an LOI.

Mr. Chadwick gave his summarization regarding the property, noting that the subject property was substantially larger than those in that particular area of the RR5 Zone (between Old Rd. and Rt. 27). He then stated that the property did appear to have some environmental constraints and would be dealt with during the course of putting together a development plan for the property. Mr. Chadwick added that many of the lots in that section of Old Rd. were all non-conforming, not only in terms of lot sizes, but many of them in terms of use with a number of variances granted along that section. He felt that the granting of a single-family home on a lot that was roughly 60% of the 5-acre requirement was appropriate and reinforces the Township's zoning plan. Mr. Chadwick added that there was no substantial detriment to the neighborhood or the zoning plan as a result of that action.

The Board and the Applicant agreed to continue the hearing at the next meeting agreeable to all. Mr. Healey confirmed that should the Board give their approval, the access to the property would be from Old Rd. He also discussed the fact that the Applicant would have to work out

an on-site septic system on the property since there was no public sewer availability in the area and would need to be subject to any NJDEP requirements, including an LOI to delineate any wetlands on the property. He added that on the survey that was submitted, it was unclear where the right of way was on Old Rd. and should be clarified as it might affect the lot area - **CARRIED TO SEPTEMBER 15, 2016 – with no further notification required.**

- **SHREE SWAMINARAYAN SATSANG MANDAL, INC. / ZBA-15-00019**

Mr. Peter U. Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, Shree Swaminarayan Satsang Mandal, Inc. Mr. Lanfrit explained that they were there that evening for an Amended Site Plan w/Variations & Appeal in which the Applicant was proposing a storage building, outdoor play area and attached sign at 1667 Amwell Road, Somerset; Block 86.04, Lot 34, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing a storage building, an outdoor play area and an attached sign, with the following variances required:

1. D-3 – Technically, a D-3 variance was needed as the site did not meet some of the current conditional use standards (buffering, parking location), but the Application did not create any new non-conformities to the conditional use standards.
2. Sign area: 25 sq. ft. maximum, 42.19 sq. ft. existing/proposed.

Mr. Lanfrit testified that they were withdrawing the request for approval of an outdoor play area in the wooded area next to the Post Office. He briefly took the Board through the history of the site, stating that the original approval for the house of worship was granted in 1997, and the building was constructed sometime in the early 2000's. He went on to explain that there was a minor amendment of the original application to the kitchen, which was granted as well. In 2012, Mr. Lanfrit testified that he appeared for a sign variance for two free-standing signs to replace two temporary signs that were on the property, and they were approved. He added that there was also a request for an attached sign (88 sq. ft.), which was put on the building prior to coming before the Board. He noted that the sign include two lines and two symbols on each side. Mr. Lanfrit marked into evidence as Exhibit A-1, the plan that was submitted in 2012 for the attached sign (ZBA-15-00019). He then discussed the fact that the sign variance was denied at that time and the Applicant only removed a portion of the sign. He explained that they were back before the Board that evening to seek approval for the one line that remains of the sign, which measures 42 sq. ft. in size, where 25 sq. ft. was the maximum. Mr. Lanfrit reminded the Board that that sign was painted on the building and was not illuminated.

Mr. Lanfrit then drew the Board's attention to an error in the Application, stating that they had previously obtained a Use Variance; however, when they received the original approval for the house of worship, it was a permitted use in the zone and they received a Site Plan approval from the Planning Board. Mr. Lanfrit explained that the reason they were there now was because the ordinance had changed since 1999, and the house of worship had become a conditional use in the zone.

Mr. Garesh Patel, Trustee, came forward and was sworn in. Mr. Patel testified that within the confines of the temple, there was a worship area, a kitchen and a multipurpose area for events for dining or public functions with a stage. He indicated that there was no storage area within

the confines of the building. He stated that they wanted to construct a 2,500 sq. ft. storage building placed to the rear of the temple. Mr. Patel testified that they would use the storage building to store tables, chairs, supplies and reusable decorations. Mr. Patel explained that they located the storage building to the rear of the temple because it was the closest place to the back door to access the temple easily. He added that the storage building would have electricity, but they do not intend to heat it or used for occupancy at all. Mr. Patel then noted that there was presently lighting at the exit doors at the rear of the temple, and they were not proposing any new lighting on the storage building.

Mr. Lanfrit then discussed with Mr. Patel the limits of the sign ordinance as it related to sign size and Mr. Patel agreed that the congregation painted the original sign of 88 sq. ft. on the building without permits or approvals. Mr. Patel explained that after being denied the variance for the larger sign, they removed a portion of the sign and were asking for approval for a sign of 42 sq. ft. He stated that the sign that remains on the building identifies what religion the temple belonged to.

Chairman Thomas then opened a discussion regarding the reasons given back in 2012 for the larger sign to have variance approval. He spoke about it being an identifier of the temple, but that testimony was given at the 2012 hearing indicating that the sign was not visible from the roadway. It was the Chairman's position that if it were not visible from the roadway due to the temple's location on the property, then why couldn't the Applicant come forward with a conforming sign. Chairman Thomas also asked if they were still planning on having two smaller street signs. Mr. Lanfrit stated that they were approved as part of the 2012 hearing, and he believed were shown in the Exhibit A-1 that was just placed into evidence that evening for the present application. Chairman Thomas indicated that he felt that the two approved street signs were more important, from a public safety perspective, and wondered why a few years have gone by and they were still not in place. Mr. Lanfrit indicated that they would be put in place as part of the approval before the Board that evening for the proposed storage building. He also stated that he felt that the building sign was in character and in scale with the size of the building, as was testified to back in 2012.

Chairman Thomas then mentioned a comment from the Zoning Officer's report related to the fact that the site did not meet some of the current conditional use standards related to buffering and parking location. Mr. Lanfrit then stated that the storage building did not change the parking requirements and that the parking lot functions in its current state 99% of the time, with the exception of special holidays. He noted that the buffering of the property was naturally wooded along all of its boundaries, with the exception of Amwell Rd., which was not required to be buffered. He added, however, that if there was a need for some additional landscaping, he stated that he was sure it could be provided.

Mr. Eric Rupnarain, Engineer, employed with Goldenbaum Baill Engineering, Inc., came forward and was sworn in. The Board accepted his qualifications. Mr. Rupnarain entered into the record as Exhibit A-2, a colorized rendering of the Application Plan and photos of the storage building and part of the property. He explained that in order to construct the storage building, there was going to be some removal of trees in order to level the ground and place a dry well. He stated that he expected to have approximately 120 ft. of vegetation undisturbed after construction of the storage building. He went on to explained that the top photo showed the undisturbed buffering, with the remaining two photos showing views in either direction through the area where the storage building was proposed. Mr. Rupnarain stated that the

photos were taken by himself that very afternoon. He testified that they could provide some evergreen buffering around the storage shed after construction was completed, if the Board felt it was appropriate. Additionally, he stated that the primary entrance to the temple was through the front, and they had an opportunity to place some additional landscaping along the southerly portion of the building, and, if needed, along the rear portion of the building to further screen the proposed storage building. Mr. Rupnarain then proposed storm water management to address the additional impervious coverage by proposing an on-site dry well which would connect to the roof leaders of the storage building. He stated that the plan for the dry well would have to be reviewed by the both the Township Engineer and the Delaware & Raritan Canal Commission (DRCC).

Mr. Rupnarain then explained that he also took photographs of the existing building sign, which was located on the left bottom corner of Exhibit A-2. He explained that the existing building sign was proportionate to the size and scale of the existing temple building. He added that the existing temple building was approximately 274 ft. from Amwell Road and that the sign was an additional 50 ft. from Amwell Road, for a total of 325+ ft. from that roadway. He also explained that there was some visibility of the sign through the trees from Amwell Road. Mr. Rupnarain testified that they would lose the visibility that the temple was looking for and the sign would look out of place and out of scale to the building if they reduced it to 25 sq. ft.

Mr. Rupnarain testified that they would be able to comply with all comments from all staff reports, particularly the Township Engineer's report, dated April 25, 2016. He added that by complying with all staff comments, it would not significantly alter the plan that was before the Board that evening. He also testified that there was no new lighting proposed for the storage building. Mr. Rupnarain then stated that they were proposing a 4 ft. concrete sidewalk, which would lead from the existing concrete sidewalk to the rear of the temple. He added that there was also a 6 ft. sidewalk in front of the proposed storage building to access the two roll-up doors.

Vice Chair Graumann agreed that the building sign was in scale with the building, but with the monument signs proposed at both driveways, she wondered if the building sign was really necessary as an identifier or just something nice to have. A discussion ensued among the Applicant and the Board.

Chairman Thomas again asked why the monument signs were not placed, as approved over three (3) years ago for public safety purposes as well as why it took so long for the Applicant to come back before the Board to get the smaller sign approved. Mr. Lanfrit indicated that they had been working for the past few years on the plan for the storage building and wanted to incorporate the sign approval at the same time. Mr. Lanfrit suggested that, if the Board were inclined to approval the Variances that evening, that before they get the building permits for the storage building, they put the monument signs up.

Chairman Thomas then opened a discussion regarding some existing playground equipment near the front of the building, and Mr. Lanfrit indicated that it was approval, through zoning.

Mr. Vignuolo, Acting Board Attorney, asked Mr. Lanfrit if he needed an Extension of Time for the approvals on the two free-standing signs. Mr. Lanfrit didn't believe he did, but requested a

30-day Extension of Time to install the monument signs just to be on the safe side so they did not have to come back before the Board.

Seeing that there was no public, the Chairman waived the need to open the meeting to the public for comment or question.

Vice Chair Graumann made a motion to approve the Application with Sign Variance. Conditions of approval would include no heat or occupancy allowed in the storage building, no lighting on the storage building, having to place the monument signs prior to any building permit received for the construction of the storage building, leave at least 120 ft. of undisturbed forested area between the storage building and the adjoining properties, revise the Site Plan to clearly show the limit of disturbance and how it would be delineated in the field with the use of orange construction fences, with additional landscaping around the storage building to supplement. Also included in the conditions of approval was to bring the water bill current. Mr. McCracken 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

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Vice Chair Graumann made a motion to adjourn the meeting at 10:06 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
June 27, 2016