

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

**REGULAR MEETING
July 21, 2016**

This regular meeting of the Township of Franklin Zoning Board of Adjustment was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by 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 7:38 p.m.), Anthony Caldwell (arrived at 7:33 p.m.), Gary Rosenthal, Joel Reiss, Cheryl Bergailo and Chairman Thomas

ABSENT: Raymond Betterbid, Donald Johnson and Bruce McCracken

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

RESOLUTIONS:

- **Shen / ZBA-16-00005**

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

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

AGAINST: None

- **Ali / ZBA-16-00006**

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

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

AGAINST: None

- **Somerset Fitness Club / ZBA-16-00007**

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

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

AGAINST: None

- **Berg / ZBA-14-00007**

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

- **Mauldin / ZBA-16-00012**

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

- **Somerset Woods / ZBA-16-00010**

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

FOR: Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

ABSTAIN: Vice Chair Graumann

- **Tabatchnick / ZBA-15-00018**

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

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

AGAINST: None

Extensions of Time:

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

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

- **Franklin Care Center / ZBA-2004-0197 & ZBA-2004-00001**

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

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

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

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

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

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

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

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

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

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

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

FOR: Vice Chair Graumann, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

DISCUSSION:

Vouchers:

1. Patrick Bradshaw – Polize, Inc. - \$682.50

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

HEARINGS:

2. MATSON CONSTRUCTION, INC. / ZBA-16-00019

Variance in which the Applicant was requesting permission to build a single family home at 10 Maxwell Lane, Somerset; Block 449.01, Lots 7-15, in an R-20 Zone - **CARRIED TO AUGUST 4, 2016 – with no further notification required.**

DL - 10/07/2016

3. ELVIN CARABALLO / ZBA-16-00018

Variance in which the Applicant was proposing to construct an attached garage at 31 Kassul Place, Somerset; Block 171.01, Lots 164-165, 197-199, in an R-7 Zone – **CARRIED TO SEPTEMBER 1, 2016 - with public notice required, but no further individual notice required.**

DL – 10/07/2016

4. STAR BAZAAR / ZBA-16-00027

Sign Variance in which the Applicant put up a sign without the proper permits at 1760 Easton Avenue, Somerset; Block 424.02, Lot 23.02, in a CB Zone.

Mr. Dominach's Zoning report stated that the Applicant erected a sign without the necessary approvals. He also noted that the Historic Preservation Commission had taken no exception to the sign, and the following variances were required:

1. Sign area – 30 ft. maximum, 104.66 sq. ft. existing/proposed (88 sq. ft. main sign with a 16.6 sq. ft. "star")
2. Sign height – 3 ft. maximum, 7.66 ft. existing/proposed (3.66 ft. main sign with a 4 ft. "star")

Mr. Healey indicted to the Board that it was his understanding that the Applicant had now gone through the permitting process in terms of Zoning and Construction. Since the property was within 1,000 ft. of the canal, the Application went to the Historic Preservation Commission and

stated that they had no objections to the sign. He indicated that the Applicant was located right next to the Bottled Up on Easton Avenue, which was of similar scale. Mr. Healey stated that the exhibits that were in the packet show the scale of the sign in relation to the building, and the sign was a good deal larger than permitted, mostly due to the star on the top.

Mr. Larry Lavender, Attorney, appeared before the Board on behalf of the Applicant, Star Bazaar. He stated that Mr. Healey gave a good summarization of the situation and felt that the sign met the regulations and was compatible with the surroundings and not distracting. He handed out pictures of the sign for the Board's edification.

Mr. Shashi Mittal, Applicant, came forward and was sworn in. He stated that there was a misunderstanding, but that he had submitted the entire Application to the Township. When they got the paperwork back, they thought the sign was approved, but it had skipped the Zoning Department. He added that they were committed to do whatever it took to go through the process and get the final approval. Mr. Mittal also indicated that they have another store in the Princeton/Lawrenceville area with the same type of sign.

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

Mr. Shepherd asked whether the sign was illuminated, and Mr. Mittal answered in the positive. He then asked whether the sign was on all night, and Mr. Mittal stated that it was turned off at 11:00 p.m.

Vice Chair Graumann made a motion to approve the Sign Application with the agreement that the illuminated sign gets turned off a half hour after store closing. Mr. Rich seconded the motion and the roll was called as follows:

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

AGAINST: None

5. CHRIS FIORINO / ZBA-16-00026

Variance in which the Applicant was asking permission to erect a 12 ft. x 20 ft. above ground pool at 11 Forest Avenue, Princeton; Block 22, Lot 17, in an R-40 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to erect a 12 ft. x 20 ft. above ground pool in the R-40 Zone. Of note, there were two variances that were needed where the side and rear yard minimums are 25 ft., and 10 ft. was proposed for both.

Mr. Healey stated that the Applicant had submitted a sketch, which was in the Board's packet, that showed the location of the proposed pool. He added that the plan showed that there was an existing stockade fence around the pool. He then asked the Applicant to explain why they could not comply with the 25 ft. setbacks.

Mr. Chris Fiorino, Applicant, came forward and was sworn in. He stated that the yard was not big enough to provide the 25 ft. setbacks, but had enough room to provide for 10 ft. side and rear yard setbacks. Mr. Healey indicated that it looked like they had a lot width of about 75 ft., and 100 to 125 ft. was required in the R-40 Zone, so the lot was deficient in width. Mr. Fiorino also added that the lot was tree lined on one side, so the location of the pool was out of the tree line.

Vice Chair Graumann asked whether Mr. Fiorino had read the memorandum from the Township Engineer stating that the Applicant would be required to submit a CAD generated data file and that no soil could be imported or exported. He said he had not seen the memo she was referring to. Mr. Healey also added that they would need an As Built Survey to make sure that the pool was placed where they say they will be placing the pool as it was approved by the Board.

Mr. Shepherd brought up a discussion regarding the letter from the Township Sewerage Authority asking for a plan that showed that the pool drainage was not connected to the sanitary sewer system. Mr. Bradshaw, Board Attorney stated that he would add language to the Resolution that the Applicant agreed not to connect the pool's drainage to the sewer system as a condition of approval.

Mr. Healey asked whether they plan to have decking around the pool, and Mr. Fiorino answered in the negative.

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

Mr. Reiss made a motion to approve the Application, with all the conditions discussed. Mr. Caldwell seconded the motion and the roll was called as follows:

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

AGAINST: None

6. JOSEPH G. RUDOLPH / ZBA-16-00023

Variance in which the Applicant was proposing a roof over front steps and another roof over the patio at 53 Evelyn Avenue, Franklin Park; Block 45, Lot 15.02, in an R-20 Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing to put a roof over the front steps and to construct a roof over an existing patio in the R-20 Zone. He noted that the following variances were required:

1. Front yard setback: 35 ft. minimum, 32.3 ft. existing, 27.36 ft. proposed
2. Side yard setback: 15 ft. minimum, 6 ft. existing, 6.5 ft. proposed for roof over patio
3. Side yard setback (alum. shed): 5 ft. minimum, 2 ft. existing/proposed
4. Side yard setback (wood shed): 15 ft. minimum, 10 ft. existing/proposed
5. Rear yard setback (wood shed): 25 ft. minimum, 24 ft. existing/proposed

6. Impervious coverage: 25% maximum, 35% proposed (new survey was submitted confirming 35%)

Mr. Healey stated that there were a number of variances required, with two of them directly relating to what the Applicant was proposing. He said that the Applicant was proposing a roof over his front steps on an older home that currently was non-conforming in terms of the front yard setback and created a slight increase in the non-conformity. In the rear, Mr. Healey explained that the Applicant was putting a roof over an existing concrete patio

Mr. Joseph Rudolph, Applicant, came forward and was sworn in. Mr. Rudolph stated that the patio in the rear already had an existing roof over it, but that he was planning on re-roofing the house and wanted to make the existing roof over the patio taller. He testified that the roof over the existing patio was the same size as the concrete patio (approximately 30 ft. x 12 ft.) and he was planning on extending the roof over the patio an additional 3 ft. out from the house, making the size 30 ft. x 15 ft.

Mr. Healey noted that there was an updated survey (dated 7/8/16) that showed the covered patio with a drawing showing the extension of what was existing by 3 ft. In discussions with the Board Attorney, Patrick Bradshaw, it was noted that the Zoning report reflected the changes proposed by the Applicant as well as the confirmed impervious coverage, which was an existing condition.

Chairman Thomas asked the Applicant if he had reviewed the comments from the Engineering Dept., and Mr. Rudolph answered in the negative. Vice Chair Graumann stated that the Township Engineer questioned some of the calculations to protect the homeowner and also asked for an As Built Survey prepared by a licensed surveyor to be submitted to the Township after the construction was completed to make sure that what was approved was built in accordance to that approval. A discussion ensued between the Board and the Applicant for clarification and understanding.

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. Bradshaw asked whether the roof over the patio would be enclosed. Mr. Rudolph answered in the negative. He also stated that he spoke to Mr. Dominach regarding whether he would need another variance should he want to enclose the roof over the patio in the future and was told that he did not have to come back before the Board.

Vice Chair Graumann made a motion to approve the Application, with Variances, including the correction by the Township Engineer for the front yard setback from 27.36' to 26.14' as calculated from the front right of the dwelling and subject to the Engineering report comments. Mr. Shepherd seconded the motion and the roll was called as follows:

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

AGAINST: None

7. MICHAEL & ROSE MARIE CAPUTO / ZBA-16-00025

Variance in which the Applicant was proposing an addition (sunroom) at 52 Spangenberg Lane, Somerset; Block 507.40, Lot 30, in the SCV Zone.

Mr. Dominach's Zoning report indicated that the Applicant was proposing an addition (sunroom) to their home in the SCV Zone and that the Homeowner's Association had approved the sunroom. Also stated in the report was the need for one variance, where 15 ft. was the minimum rear yard setback and 5 ft. was proposed.

Mr. Healey noted that the home was located in the Sterling Pointe development, and there was a plan that showed the deck and sunroom in the rear of the property. He also stated that the Applicant had already gotten approval from the Homeowner's Association and was in the file.

Mr. Michael Caputo and Mrs. Rose Marie Caputo, Co-Applicants, both came forward and were sworn in. Mr. Caputo concurred that they had obtained approval from the Architectural Review Committee of the Homeowner's Association. He noted that his wife, Rose Marie Caputo had some medical issues that make it impossible to use the rear yard as it is and wanted the Board to know that their property backed up to a conservation area with a lot of mosquitoes and ticks. He testified that Mrs. Caputo already had a compromised immune system and that a mosquito bite or tick bite could easily cause an infection. He went on to add that they felt the only way she could use the backyard was with the addition of a sunroom.

Mr. Shepherd questioned the photo that was in the Board's packet, and Mr. Caputo testified that it was a photo of the proposed sunroom. He added that there would be a 15 ft. x 30 ft. deck, with the sunroom sitting on half of the deck at 15 ft. x 16 ft. Mr. Shepherd asked if the deck already existed, and Mr. Caputo indicated that it was not and that they would be adding that as well. Mr. Caputo also noted that the conservation area was behind their property and along the right side as well, so they would not be impacting any neighbors. He added that they sent letters to all of the neighbors, but did not get any feedback from anyone. He said that they had also discussed it with their neighbors and have gotten no objections.

Mr. Caputo stated that he did receive the Engineer's report as noted on the letter he received from the Township to pick up a copy prior to the hearing. He also said that he understands that an As Built Survey would be required after the sunroom/deck was constructed and that no soil can be brought in or taken away.

Chairman Thomas opened the meeting to the public for questions or comments. Seeing no one coming forward, he 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. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss and Chairman Thomas

AGAINST: None

8. JOHN SULLY & KATHERINE ROHRER / ZBA-16-00020

Variance in which the Applicant was proposing an addition at 84 Coppermine Road, Princeton; Block 11.01, Lot 39, in an RR-5 Zone.

Mr. Dominach's report indicated that the Applicant was proposing an addition to their home in the RR-5 Zone and that the following variances were required:

1. Side yard setback: 25 ft. minimum, 13 ft. proposed
2. Lot area: 5 acres minimum, 4.803 acres existing/proposed
3. Side yard setback (garage): 25 ft. minimum, 12.85 ft. existing/proposed

Mr. Healey explained that there were a total of three (3) variances, with two (2) of them already existing conditions. He stated that the side yard setback was proposed at 13 ft. where 25 ft. was the minimum. Mr. Healey then explained that there was a survey that showed the property, with the house location up near the corner where Coppermine Road makes a very severe 90 degree turn left or right. He also noted that the property was narrow in that location and the house was close to the property line. He added that the proposed addition was planned to go on the right side of the house. Mr. Healey told the Board that he thought it would be best for the Applicant to explain why the addition needed to be on that side of the house as opposed to some other location since that was what required the need for a variance.

Mr. John Sully and Ms. Katherine Rohrer, Co-Applicants, came forward and were sworn in. Mr. Sully explained that the addition needed to be close to the kitchen. He added that if they added the room to the back of the house, they would have to completely reconstruct the kitchen, which would be a costly proposition. Also, he indicated that they had developed quite a nice eastward view since purchasing the property in 1980 by cleaning up the derelict farmland from brambles. He stated that adding the room in the rear would obstruct that view and felt it would be more conspicuous to the next door neighbors who are happy with the present scheme than what was proposed. Mr. Sully explained that by placing the room as proposed, it would overlap the house by about 12 ft. Ms. Rohrer stated that the room was proposed to be a family room, which the house did not have, and it needed to be in proximity to the family room so that the mothers and grandmothers would have a view of the young grandchildren as they played.

Chairman Thomas noted that there was no public in the room to open the meeting to for questions or comments. He asked whether the Applicants had reviewed the Engineer's report and they answered in the negative. A discussion ensued regarding the need for an As Built Survey after the room was constructed. Mr. Healey noted that the Engineer's report suggested that since the survey was 23 years old and the architectural plans were drafted by the homeowner, that the Applicants might want to ask for a side yard variance of 12 ft. or even 10 ft. to cover any possible error that might be found in those plans. He also indicated that they would be required to provide an As Built Survey after the room was constructed.

Vice Chair Graumann made a motion to approve the Application to include a 10 ft. side yard variance. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Rosenthal, Mr. Reiss 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 9:43 p.m. and the motion was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
August 24, 2016