

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

REGULAR MEETING  
July 20, 2006

The 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 at 7:40 p.m. by Chairman Thomas. The Sunshine Law was read. Roll call was taken as follows:

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PRESENT: Bruce McCracken, Robert Shepherd, Harold Weber (departed at 11:35 p.m.), Grace Evans, Alan Rich, Anthony Caldwell and Chairman Thomas

ABSENT: Donald Johnson and Raymond Betterbid

ALSO PRESENT: Patrick Bradshaw, Board Attorney, Mark Healey, Professional Planner, Vincent Dominach, Sr. Zoning Officer, Olga Burke, Administrative Officer and Diane Milgram, Recording Secretary

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#### MINUTES

- **Regular Meeting – June 22, 2006**

Mr. McCracken made a motion to approve the minutes as submitted. Ms. Evans seconded the motion. The roll was called as follows:

FOR: Mr. McCracken, Mr. Shepherd, Mr. Weber, Ms. Evans, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

#### RESOLUTION

- **RUKH Development / Docket #ZBA 2005-0159**

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

FOR: Mr. McCracken, Mr. Shepherd, Mr. Weber, Ms. Evans and Chairman Thomas

AGAINST: None

#### DISCUSSION

- **First United Church of Jesus Christ (Apostolic), Inc., / Docket #ZBA 2002-0436**

Francis P. Linnus, Esq., appeared on behalf of the Applicant. The Applicant is seeking an extension of time for a Use Variance and Site Plan to allow a house of worship located at 1510 Old Hamilton Street, Block 87.06, Lot 10.01 in the R-20 Residential Zone.

Mr. Linnus explained that there were a few changes to the local ordinance regarding this matter and requested that this matter be carried until August 3, 2006 with no further notification required.

## HEARINGS

- **Ken Jacobson / Docket #ZBA 2006-0313**

Ken Jacobson, the Applicant, and Casey Titchenal, the owner of the property, were sworn in and appeared on their own behalf. The Applicant is seeking an approval for a Hardship Variance to construct an addition to a single family dwelling located at 105 Home Street, Block 183, Lots 85 & 86 in the R-7 Residential Zone. The following variances are required:

1. Lot area – 7,500sf minimum, 5,000 existing/proposed
2. Lot frontage – 75 foot minimum, 50 existing/proposed
3. Front yard setback (principal structure) – 25 foot minimum, 9 existing/proposed
4. Side yard setback (principal structure) – 8 foot minimum, 1.7 existing/proposed
5. Rear yard setback (accessory structure) – 10 foot minimum, 7.8 existing/proposed
6. Lot coverage – 20% maximum, 19.3% existing, 26.1% proposed
7. Impervious coverage – 30% maximum, 40.4% existing, and 43.1% proposed.

Mr. Jacobson explained that he would like to construct an 18 foot by 19 foot addition to the rear of his house which would match the existing house. The addition would allow the relocation of a very small existing kitchen and bathroom. He explained that his lot is undersized for the R-7 zone and cannot comply with lot coverage and impervious lot coverage. The other variances which are being requested are pre-existing.

Mr. Jacobson agreed to combine existing Block 183, Lots 85 & 86 into new Lot 85.01. Drainage for the site would be designed to go forward towards the road thus eliminating any potential drainage problems. The Applicants agreed to comply with the staff reports.

There was one individual who came forward to ask whether this application would affect his lot and the Applicant assured him that the addition would not affect his property. There were no other questions or comments from the public regarding this matter and the public portion of the meeting was closed.

Mr. McCracken made a motion to approve this Application as discussed. Ms. Evans seconded the motion. The roll was called as follows:

FOR: Mr. McCracken, Mr. Shepherd, Mr. Weber, Ms. Evans, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

- **Erwin & Kathleen Kuhblank / Docket #ZBA 2006-0314**

Erwin, Kathleen and Timothy Kuhblank were sworn in and appeared on their own behalf. The Applicants are seeking an approval for a Hardship Variance to construct a deck to a single family dwelling located at 253 Cedar Avenue, Block 484, Lots 1 and 2 in the R-10 Residential Zone. The following variances are required:

1. Front yard setback – principal structure (Temple Street) – 25 foot minimum, 31.34 existing, 19.34 proposed
2. Lot frontage – 105 foot minimum, 80 (Cedar Avenue) / 100 (Temple Street) existing/proposed
3. Lot area – 20,000sf minimum, 8,000 existing/proposed
4. Side yard – principal structure – 8 foot minimum, 6.21 existing/proposed

The Applicants explained that they want to construct a deck which would be technically located in the front yard, Temple Street. The frontage on Temple, which the Applicants referred to as their side yard, borders a dead-end street. There are two exits from the first floor located at the front and side of the dwelling. The side exit is nearest the driveway. Mr. Kuhblank explained that the existing side porch is crumbling and needs to be replaced. The Applicants explained that the side door is the logical placement for the deck since there is no back door. There is a pool that sits behind the house.

Mr. Kuhblank stated that the new deck would improve the look of the house and would not detract from the appeal of the neighborhood.

The Applicants agreed to comply with the staff reports.

There were no questions or comments from the public.

Mr. McCracken made a motion to approve this application as discussed. Ms. Evans seconded the motion. The roll was called as follows:

FOR: Mr. McCracken, Mr. Shepherd, Mr. Weber, Ms. Evans, Mr. Rich, Mr. Caldwell and Chairman Thomas

AGAINST: None

- **Natalie Santayana / Docket #ZBA 2006-0488**

Natalie Santayana and Randy Schoenhaus were sworn in and appeared on their own behalf. They are seeking an approval for a Hardship Variance to construct a single family dwelling located at 37 Fort Street, Block 495 Lot 10.01 in the R-10 Residential Zone. One variance is required for rear yard setback, 40 feet minimum and 31 feet proposed.

Ms. Santayana explained that the property was subdivided (M91011MS) and variances for lot area (10,000sf minimum, 8,000 provided) and rear yard setback (40ft minimum, 31 proposed) were granted. The Board discussed the expiration of the rear yard setback variance approval and advised the Applicant to seek legal advice. The Board also informed Ms. Santayana that she is required to try to eliminate the hardship by purchasing additional property to make her lot conforming or sell her property.

Ms. Santayana requested that this matter be carried to August 3, 2006 with no further notification required.

- **Alan Morelock / Docket #ZBA 2005-0787**

Mr. Caldwell recused himself from hearing this matter.

Peter Lanfrit, Esq., appeared on behalf of the Applicant. The Applicant is seeking an approval for a Use Variance to allow a "small landscaping/tree service business" located at 54 Bennetts Lane, Block 88.02, Lot 23.01 in the R-40 Residential Zone.

Mr. Lanfrit requested that this matter be carried to September 21, 2006 until a full Board could hear this matter. No further notification is required and an extension of time was granted to the Board by Mr. Lanfrit until September 31, 2006.

- **Panna Enterprises, LLC / Docket # ZBA 2004-0429**

This application is seeking an approval for a Use Variance to allow the expansion of an existing commercial facility located at 795 South Middlebush Road, Block 33.01 Lot 8 in the Agricultural Zone.

- **Panna Enterprises, LLC / Docket # ZBA 2005-0281**

This application is seeking an approval for a Site Plan to construct a commercial facility consisting of a country store, hardware store and nursery/greenhouse with associated parking located at 795 South Middlebush Road, Block 33.01 Lot 8 in the Agricultural Zone.

Francis P. Linnus, Esq., 21 Clyde Road, appeared on behalf of the Applicant. This matter was being continued from May 4, 2006. Mr. Linnus summarized the last meeting and reminded the Board and the public that the Applicant is voluntarily correcting the existing drainage "ponding" and the traffic issues.

The meeting was continued by offering the public an opportunity to question Mr. Chadwick's previous testimony, but first the Board had several questions. Ms. Evans wanted to know precisely what would be sold at the stores and to be assured that the Board was not approving a national chain store, as the site would not be ideally suited. The Applicant agreed to condition the items that would be sold in the stores including no kiosk area. There was a discussion regarding the items that the stores would sell as the Board expressed that they did not want the site developed as a commercial convenience site. The Board wanted to be assured that the site would be developed in a character that reflects a country feel with quality items and with a respect to the site's history.

Mr. Shepherd requested that Mr. Chadwick address the positive and negative effects of the application. For the positive criteria, Mr. Chadwick explained the suitability of the site which has been a commercial site for over 127 years. Then he explained the special reasons which included the promoting of a desirable visual environment through creative development and the historical preservation. As for the negative criteria, he explained that there is no substantial detriment to the public good and that two impact issues (traffic and drainage) were being voluntarily addressed by the Applicant. Mr. Chadwick reminded the Board that the Applicant is not creating these issues but has agreed to correct these existing conditions. He explained that the Applicant has reduced the size of the original plan to better suit the site and that the development would not substantially impair the intent and purpose of the zone plan. Mr. Shepherd asked why the Applicant required the expansion of the existing commercial facility. Mr. Chadwick explained that it is Mr. Patel's intention to use the site's history to create a viable commercial village site which includes a range of uses and services.

There were approximately 13 individuals who came forward asking an array of questions regarding Mr. Chadwick's testimony. There were several individuals who had general comments about the development of the site and the Chairman reminded the individuals that this portion of the meeting was reserved for questions related to Mr. Chadwick's recent testimony. In general, the public questioned Mr. Chadwick's methodology and the accuracy of the information he presented before the Board. Several individuals questioned the history of the commercial site, the approved uses, the feasibility of developing this site, the need for the commercial development and the impact this commercial site would have on the surrounding development. Some individuals asked direct questions regarding containing the litter from the site and light pollution. Mr. Chadwick, and at times Mr. Lanfrit, responded to the public's questions appropriately.

After the meeting resumed from a ten minute break, Mr. Chadwick explained that the second floor of the rehabilitated Laird's store would be used for storage only and not opened to the public. Ms. Evans addressed the Applicant and her concerns that they have not offered a unique and special business concept plan that is warranted by this site for its uniqueness and historical value. She tried to express in words that the site requires items that are not readily available along the corridor of Route 27, convenience stores or retail chain stores. Mr. Chadwick responded to Ms. Evans' concern and explained that the site would be unique but still offer items found along Route 27, such as drinks, and that the antique store would have high end items. There was a discussion regarding the frustration that the residents and the Board had with this application regarding the lack of knowledge of the items that would be sold at the stores. It was suggested that the Applicant supply details of the types of stores that he plans to bring to the site.

In response to a public question, the Applicant agreed to have security alarms for the buildings turned off in an appropriate amount of time if they were to be set off. The Applicant also agreed to restrict access to the site during off hours. They also agreed not to sell alcohol, tobacco products or lottery tickets.

The Applicant agreed to work with the Historical Commission with respect to the restoration of the existing Laird's General Store.

After the public question portion of the meeting was closed, the Board briefly discussed the requirements for granting a use variance.

The meeting was again opened to the public for their comments regarding this matter. The following individuals were sworn in prior to giving their comments against the Board approving the application as submitted:

Dr. Brian Johnson, 18 Mattawang Drive  
Shirley Eberle, Councilwoman representing Woodlawn  
Curtis Johnson  
Ilene Marcial, Mattawang Drive  
Joe Janeczek, Becky Place  
Amber Tolat  
Don Andersem, 18 Grist Mill Lane  
Laura Johnson  
Doris Johnson, 1 Benjamin Drive  
Carmen Panlilio, Grist Mill Lane  
Lynette Samuels  
Williams Phillip, Peoples Line Road  
(Inaudible) Castor, Mattawan Drive  
Lisa Wright, Garretson Drive

These individuals came forward opposing this application and stated various reasons why the Board should not approve the application. One individual noted his concerns with the enforcement of the quality of products, issues relating to the safety of the children in the area and the lack of a business plan to provide proof that the site would be viable. Several individuals made comments regarding the traffic issue and the lack of a need for the services and products being offered by this application. Individuals noted their concerns for developing this site with services and products that are widely available along the Route 27 corridor. One individual spoke about the increase of impervious coverage and the visual impact the developed site would have on the surrounding homes. Several individuals reiterated that the proposed project is not in proportion to the site. Some individuals stated their support for remediating of the existing historical structure, but not the application as it is currently proposed.

The following individuals, supporting the application, were sworn in prior to giving their comments:

Mr. Lairs' Son-In-Law  
Tom Gale, a member of the Historical Commission  
Penny Sherwood, a member of the Historical Commission  
John Walker, Claremont Road

These individuals noted the need to preserve the historical structure on the site and support Mr. Patel's vision to develop the site. Some individuals commented on the development of the area that has occurred over the years and reminisced about the time when there were no traffic issues or housing developments in area. They noted that the traffic and other related issues were created by these recent developments. Individuals supporting this application stated their appreciation for Mr. Patel's attempts to work with the community and the Board's conditions.

The public portion of the meeting was closed. However, before the Board could vote on this matter, Mr. Weber departed the meeting for medical reasons. Mr. Linnus requested that the Board continue this matter until a full Board is present to vote. One individual from the public interjected their dissatisfaction with the continuation of this matter. Chairman Thomas announced that this matter will continued on August 4, 2006 with no further notification required. The matter will be heard at 7:30 p.m. with Mr. Linnus' summation.

## **MEETING ADJOURNED**

A motion was made and seconded to adjourn the meeting at 12:05 p.m. All members were in favor.

Respectfully submitted,

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Diane Milgram, Recording Secretary  
August 30, 2006