

MINUTES – ZONING BOARD – February 12, 2023

The Cranford Zoning Board of Adjustment meeting scheduled for Monday, February 12, 2024 at 7:30 p.m. was conducted virtually.

This meeting is in compliance with the “Open Public Meetings Act” as adequate notice of this meeting has been provided to the Westfield Leader and the Star Ledger with the agenda specifying the time, place and matters to be heard having been posted on a bulletin board in the Town Hall reserved for such announcements and the filing of said agenda with the Township Clerk of Cranford. Formal action may be taken at this meeting.

The workshop portion of the meeting was called to order at 7:32 p.m. Ms. Daly, Chair.

ROLL CALL:

Members Present:

Ms. Daly
Mr. Marotta
Mr. Aschenbach
Mr. Cukierski
Mr. Lucas
Mr. Rees

Members Absent:

Mr. Quinn

Alternates Present:

Ms. Vidwans

Alternates Absent:

Ms. Oliver

Also in attendance: Thomas Jardim, Esq., Kathy Lenahan, Board Administrator, Carl O'Brien, Board Engineer, Greer Patras, Board Planner

COMMUNICATIONS:

A letter from Justin Radico, the applicant, for 126 Thomas Street, was read into the record. The applicant is requesting to withdraw his application.

MINUTES:

A motion to adopt the minutes of the January 8, 2024 Reorganization meeting, as amended, was made by Mr. Marotta, seconded by Mr. Cukierski and passed on unanimous voice vote.

RESOLUTIONS:

1. Application #ZBA 23-019
Lauren King & Sean Swift
101 Herning Avenue
Block: 208 Lot: 14, R-4 Zone

The applicant is requesting a c(2) variance for the construction of a side entrance with a small platform and steps to the house. Minimum required front yard setback (prevailing) – Herning Avenue is 29.6', where existing is 29.8' and proposed is 25.3'. Minimum required front yard

setback (prevailing) – Summit Road is 29.6', where existing is 30' and proposed is 25'. Minimum required side yard setback is 7', where existing is 6.7' and proposed is 3.3'. §255-34 Attachment 1. Required off-street parking is 2 parking spaces, where existing is 2 parking spaces and proposed is 1 parking space §255-44 B. A design waiver for driveway paving where the requirement is to pave from the driveway apron to the front building setback line, existing is paved to the front building setback line and proposed is gravel to the front building setback line. §255-26.G(8)(h).

The Resolution of Memorialization was reviewed by the Board. After discussion, a motion to approve the resolution, was made by Mr. Marotta, seconded by Mr. Aschenbach and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

Motion to adopt Resolution of Memorialization No. 24-01 appointing Thomas Jardim, Esq., as the Board Attorney for 2024, was made by Mr. Marotta, seconded by Mr. Cukierski and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

Motion to adopt Resolution of Memorization No.24-02 appointing the Board Officers and Board Administrator for 2024, was made by Mr. Marotta, seconded by Mr. Aschenbach, and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

Motion to adopt Resolution of Memorialization No. 24-03 appointing Colliers Engineering as Board Engineer for 2024, was made by Mr. Marotta, seconded by Mr. Cukierski, and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

Motion to adopt Resolution of Memorialization No. 24-04 appointing Topology LLC as Board Planner, and Harbor Consultants as secondary planner for 2024, was made by Mr. Marotta, seconded by-Mr. Cukierski and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

Motion to adopt Resolution of Memorialization No. 24-05 appointing the Westfield Leader and Star Ledger as Board newspapers, was made by Mr. Marotta, seconded by Mr. Aschenbach, and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

Motion to adopt Resolution of Memorialization No. 24-06 adopting the 2024 Rules and Regulations, was made by Mr. Marotta, seconded by Mr. Cukierski and passed by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas

Opposed: None

OLD/NEW BUSINESS:

None

PUBLIC PORTION:

A public meeting of the Cranford Board of Adjustment was called to order by Ms. Daly on February 12, 2024, at 7:45 p.m. via Google Meet. Ms. Daly announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader and the Star Ledger have been notified and the agenda posted in the municipal building as required.

Ms. Daly explained the protocol, purpose and procedure that will be followed during the hearing.

1. Application #ZBA 23-015 - WITHDRAWN
Justin & Michele Radico
126 Thomas Street
Block: 516 Lot: 10.01 R-4 Zone

Applicant is requesting a c(2) variance for the construction of a new 782 SF patio and steps in the rear yard. Maximum allowed impervious coverage is 40% where existing is 38.5% and proposed is 44.5% §255-34, Attachment 1, Schedule 1.

2. Application #ZBA 23-013 – Continued from November 6, 2024
Applicant: 34 Leo LLC
Owner: Joel Rosenberg
30 Commerce Drive
Block: 644 Lot: 2, C-1 Zone

The applicant is requesting a d(1) use variance and Minor Site Plan approval to convert an existing single-family dwelling into a Mikvah (commercial therapeutic bath) §255-36.D(1). Existing non-conforming conditions are not proposed to change with this application, but may require relief due to the change in use to a new non-confirming use.

Steve Merman, Esq., appeared and reviewed the application. Summarized the testimony heard at the last meeting. Stated it will be a religious use, the hours of operation, and it will be limited to a small population of Jewish women. It is not just women in Cranford, but also the surrounding areas. There will be limited activity in the morning, (cleaning and staff setting up) there will be three to six visits per night, by appointment only. Last appointment would be 6 or 7pm. Business will close early on Fridays, and Friday night and Saturday during the day, the center would be closed. Visits last one to two hours. Most of the women do not drive. Parking will only be for a short duration and there will be no parking on the street. There will be two workers: one receptionist and one cleaner and it will serve approximately 60 women. There will be a charge to the women for use of facility. It is a commercial venture, but does has a religious aspect.

John Taikia appeared and was sworn in. Presented his qualifications to the Board and was accepted as an expert in planning.

Questions from Mr. Merman to Mr. Taikia ascertained the following:

He has reviewed the plans and all the professional reports, along with the Master Plan and the ordinance. Toured the site and the surrounding neighborhood. Presented aerial photos (4) marked as Exhibit A-5, taken on November 6th. Described the photos as the subject site, pulled out view looking west, behind the site, and aerial from top looking straight down. Stated behind the subject site is an assisted living facility. The zoning is in the C-1 zone and designed for the large-scale commerce business park. The site is on the edge of the zone and is an outlier. Lot is undersized for the zone. The site is out of character for the neighborhood. Reviewed the reasons for the d(1) use variance. Stated the site is suited by its location. It is small and suited to a boutique use. Taking the residential use to a commercial Mikvah. There will be limited clientele and by appointment only; similar to a boutique medical office. Promotes the general welfare with A, G, I and N in the Purpose of Zoning. Described the negative criteria as having no impact on the neighborhood, operating only a few hours at the end of the day. Self-sufficient in terms of parking, only need parking for operational staff. It is a non-residential use in a non-residential zone. Religious uses are usually inherently beneficial uses. The nature of a Mikvah bath is limited in nature. There will be two to three people at a time. The Board can impose conditions so that excess use does not occur.

Discussed the c(1) variance hardship relief, which relates solely to the property. The front and rear yard setbacks meet and cross. The parking lot will be treated for stormwater management. Mikvah does use rain water, which will be captured and reused. This project replaces a non-conforming residential use with a non-residential use and is similar to a boutique office use. The nature of the use is positive. Believes criteria has been met for both the d(1) and c(1) variances.

Questions from the Board for this witness, ascertain the following:

It is a limited portion of the Jewish community that will use this site. All businesses do grow. If there is growth, he does not see the impacts rising to a standard of substantial detriment to the area. There will be an address on the building for public safety and identification. Last appointment will be between 6 and 7pm, and no patrons after 8pm. The building will be open during the day, but the Mikvah bath will not be used during the day. It would be open for cleaning and accepting deliveries. The Mikvah hours are 4 to 8pm. A d(1) use variance would not be needed for a doctor's office. The Master Plan does not list every use that could be accommodated in the zone. Uses are broadening and moving into commercial areas with buildings that are empty. It is a single-family house, not sure when it was last occupied. Usually the use is limited by the building code. This is a unique use and most patrons do not drive, they have a need for drop off spaces.

Ms. Patras stated that in previous testimony, it was mentioned that there could be 100 memberships.

Mr. Merman stated there is a potential for growth. Based on the bath itself, with only one bath, the number of people being served is limited. The facility does have a maximum capacity of about five to six patrons a night, six nights a week. He is not comfortable with limiting the number of people per day.

Ms. Patras stated her note says it would open by 1pm or later for cleaning and prep and would close by 9pm. The days of operation are Sunday through Thursday, being closed at sundown on Friday and Saturday during the day.

Mr. Merman stated they would accept a condition to limiting the hours of the bath to a specific number. For the most part, the women in this sect do not drive. This is not a use that will be intense at all. Because of the limited number of changing rooms, and the cleaning of the rooms, it is about an hour and a half that someone would be in the facility and for each person to move through the process. A maximum of three

to five women would be using the Mikvah on any given day. If they needed additional parking, they could make arrangements with one of the adjacent parking lots to accommodate any overflow.

Ms. Daly asked if anyone from the Public had questions for this witness, the following appeared:

Nicole Dreyer – 12 Hampton Street – Asked about business generating taxes.

Mr. Merman stated it is ritual bath and the business is not a not for profit business and cannot seek a religious exemption at this time.

Mr. Jardim stated the tax assessor would determine if this property was eligible for a tax exemption, based upon statutory guidelines and is not a determination for this Board.

Melissa Trumbull - 18 Iroquois Road – Asked the usage of the property going forward.

Mr. Merman stated the approval runs with the land. If it was sold, the Mikvah use would still be permitted.

Rosanna Bryan – 208 Dietz Street – Asked if the owner of 201 Dietz Street is the same as the owner of this property. Also asked about a future tax exemption on this property.

Mr. Merman stated he does not know if the owner of this property owns 201 Dietz Street. The owner of this property is not on the call.

Mr. Jardim stated the tax assessor would determine an exemption.

Joanne Ryan - 706 Hory Street – Asked if the women being served by the Mikvah are local. Asked about women coming from Brooklyn or from the Mikvah in Linden. Asked if Mr. Freund is the owner of 201 Dietz Street.

Mr. Merman stated they are local for the most part.

David Freund appeared and was reminded he was still under oath. Stated it will probably be the same community of women from Linden using the Cranford Mikvah. But people from Brooklyn will not be coming to Cranford to use the Mikvah. Stated he is not the owner of 201 Dietz Street or 30 Commerce Drive.

Follow up questions for Mr. Freund from the Board ascertained the following:

Most of the women will be walking or coming by taxi. There won't be more than two or three people at a time, with a maximum of six people a night, and that technically they have six spaces. This is based on the customer base being 90% from Cranford.

Maura Campbell – 215 Birchwood Avenue – Asked if the Board can impose a limitation on how many people can go there.

Ms. Daly stated the Board can impose conditions.

Rita LaBrutto – 104 Arlington Road – Asked about zoning and if parking for a boutique medical office would be more. Asked about being driven by their husbands and about the drop off zone and using the parking spaces. Asked about how many people would be there on a given night. Asked about the zoning for office use and about the hours for appointments.

Mr. Taikia stated yes, it would be about eight parking spaces for a medical office. Stated they have six parking spots. They might be dropped off by a taxi or ride share, not necessarily a family member. They would be dropped off in the parking lot. There would be approximately six clients a night, which is very low intensity. It is zoned for an office use. The appointments would be dependent on the time of year, relating to sunset. It would be operational from 1 to 9pm and the Mikvah baths would be 4 to 8pm, ceasing use at 8pm.

Joanne Ryan – 706 Hory Street – Asked about the 60 women being from Cranford.

Mr. Freund stated yes, 90% are Cranford residents.

Rosanna Bryan – 208 Dietz Street – Asked about the garbage here vs. in Linden.

Mr. Merman objected to the question.

Mr. Merman stated it was testified to that it would generate low amounts of paper waste.

Mr. Freund stated the garbage would be empty bottles of shampoo and soap. Will have a private company taking the garbage.

Mr. Chisvette, applicants engineer, appeared and was reminded he is still under oath. Plans show a dumpster area for compliance, but feels the volume would be low enough for trash cans kept in the garage and brought out for a private hauler. They would remove the dumpster area as a condition of approval. It would be less than a residential use. The hauler would retrieve it from the garage or it will be arranged when the cleaner is there to open the garage.

Ms. Daly asked if anyone from the Public had a comment either for or against this application. The following appeared:

Nicole Dreyer – 12 Hampton Street appeared and was sworn in. Stated the applicant said it is similar to a health club or day spa, which are open to the public; whereas, the Mikvah is not. Does not feel it is a benefit to Cranford.

Allison Mennor - 230 North Ave West appeared and was sworn in. Stated she feels the Board should get feedback from the Tax Assessor if this property would get a tax exemption. Does feel it could have a negative effect on the other taxpayers of Cranford. Also asked about a condition to require the Mikvah to pay sales tax. Concerned that the Mikvah is not held to the same standard as other therapeutic baths.

Rosanna Bryan – 208 Dietz Street appeared and was sworn in. Concerned about what she has witnessed at 201 Dietz Street. Stated that property was bought in 2020 by this community and a school was run there illegally. Concerned about the neighborhood and the residents. Feels no garbage on the site is not realistic. Concerned about the rules being followed and believes it will be tax exempt sooner than later.

Rita LaBrutto – 104 Arlington Road appeared and was sworn in. Stated the testimony has been confusing and conflicting. No mention about the Mikvah in Elizabeth or on Orchard Street. Does not feel there has been enough data provided for the parking requirement. The drop off zone will be on Commerce, and taxi will not pull into a parking space. Should put six appointments per day in the resolution. Feels it is too intense. Loading space should not be used for drop off and police wanted that spot clearly marked. Feels there will be garage cans sitting on curb all day. The zoning is changed forever and is much more suited as a professional use.

Mr. Merman summarized the application. Stated this is a difficult application. There were aspects brought out about what others have done somewhere else. The Public's comments are speculation. The applicant has the burden of proof. Stated there are certain purposes of zoning served by this application, at least four, if not six or eight. Land needs to be used for appropriate and diverse purposes. It is a religious use, but it is also a commercial use. Women will be paying for the use of the services. Believes extremely compatible with the zoning for the commercial neighborhood. Does not believe the comparison for other properties can be considered with this application. The need is in the community. The Mikvah is not a permitted use in any of the zones within the Township. The house is out of character for the neighborhood. They are using good planning and zoning to reuse this structure. Requesting the Board approve the application with the conditions already discussed.

Mr. Jardim stated that each application is judged on its own merits. The Planner, Mr. Tiakia, discussed the inherently beneficial use under MLUL. Reviewed the RLUIPA of 2000. Stated that the testimony given is that this will be a purely commercial enterprise, which has a religious aspect to it. Discussed some the conditions of Ms. Patras' memo of November 23, 2023.

Mr. Merman stated they cannot put 30 trees on the site, so they would contribute to the municipality based on the Board's recommendation. They would be seeking a waiver for the trees. Also discussed a bicycle waiver or bicycle rack. They are agreeing to a five-hour window for operations at the site.

Ms. Patras stated the agreement was 12 trees on site and a sum for the additional 18 trees would be based on the ordinance. Ms. Patras reviewed the uses that would not be allowed (school, house of worship, residence).

Mr. Merman agreed to Ms. Patras' statement on the use at the site. Also stated, they agree to all the Cranford ordinances relative to any garbage.

Mr. Freund agreed to the five-hour window for operations.

Mr. O'Brien, Board Engineer, recommended adding the engineer and planner reports as exhibits to the resolution. Stated after the stormwater is designed, they will need to submit an Operations Manual.

Mr. Jardim stated the Board cannot consider any tax ramifications.

3. DELIBRATION: Application #ZBA 23-013
Applicant: 34 Leo LLC
Owner: Joel Rosenberg
30 Commerce Drive
Block: 644 Lot: 2, C-1 Zone

The applicant is requesting a d(1) use variance and Minor Site Plan approval to convert an existing single-family dwelling into a Mikvah (commercial therapeutic bath) §255-36.D(1). Existing non-conforming conditions are not proposed to change with this application, but may require relief due to the change in use to a new non-confirming use.

Board comments consisted of the following:

Worried about what it transformed into. Would not consider this without all the conditions. Hears the residents and the community. Potential impact to the neighborhood. Has concerns about questions answered ambiguously. Keep being told different things. There are going to be cars showing up at the location. Not enough parking or drop off zone for this use. It is an improvement to the property that has been vacant. This is a business park. Not a significant impact on traffic. Testimony was that it would be

limited to six appointments a day. No detriment to the immediate neighborhood. Does not impair the intent of the Master Plan and minimal effect with limited hours. People coming to the business park, come from all over. Bringing a non-conforming use to more conforming. The nature and size of the building, limits how many people they can service. Lower use business. Because of the size of the lot, it is hard for it to be a true C-1 use. Good reuse of an existing structure. Not going to change the appearance. Commerce Drive has large commercial buildings. Lowest intensity that you could expect to see. Atria people mostly are not from Cranford. Applicant believes they have enough parking. Applicant would not make it inconvenient for their customer. Applicant agreed to no street parking. Limited number of people who can use it at one time, which would limit the number of cars coming to the site.

Discussion was held as to a possible condition for the applicant to secure parking spots at another location, not on the street.

Mr. Merman stated they will make arrangements to provide an additional six parking spaces in the area. Asked to table the application to the next meeting for the applicant to seek the additional parking.

Mr. Freund stated he knows two properties owners, one at 655 Raritan Road and the other at 25 Commerce Drive for parking spaces. Stated he spoke to one of the owners and has agreed to rent six parking spaces.

A motion to approve the application with conditions of limitation of hours being 1 to 9pm, with service hours from 4 to 8pm, contribution to the tree fund, removal of the garbage pad and minimum signage on the building, no on-street parking, the basement only used for storage, complying with the planning and engineering memos, and including the agreement for the additional six parking spaces, was made by Mr. Aschenbach, seconded by Mr. Cukierski and passed on roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Cukierski, Mr. Lucas, Mr. Rees, Ms. Vidwans

Opposed: None

PUBLIC PORTION:

None

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 10:49 p.m.

Daniel Aschenbach, Alternate Secretary