



ZONING BOARD OF ADJUSTMENT
Thursday, May 7, 2015
ADOPTED MINUTES

You couldn't pick a better place.

OPENING: The meeting was called to order by Chairperson Rardin at 7:48 pm.

PLEDGE OF ALLEGIANCE: Led by Chairperson Rardin.

OPMA STATEMENT: Read by Chairperson Rardin in compliance with the Sunshine Law.

ROLL CALL

- **Members in attendance:** Daniel DiRenzo, Jr.; William Carter; Wyatt Sklar; Steven Sweeney; Scott Marcus; Farhat Biviji, Vice-Chairperson; and Jonathan Rardin, Chairperson
- **Professionals in attendance:** Paul Stridick, AIA, Director of Community Development; Jacob Richman, PP, AICP, Planning Technician; Chris Noll, PE, CME, PP, Planning Board Engineer; Allen Zeller, Esq., Zoning Board Solicitor; and Cosmas Diamantis, Esq., Alternate Zoning Board Solicitor.

COMMENTS FROM THE PUBLIC: None received.

ADMINISTRATIVE ITEMS

Approval of Meeting Minutes from April 16, 2015. Mr. DiRenzo made a Motion to Approve the Minutes from 04-16-2015, which was seconded by Mr. Sklar, with affirmative votes by Sklar, Rardin, DiRenzo, and Biviji. Motion carried.

AGENDA ITEMS

14-Z-0038

Block(s) 429.02 Lot(s) 3

Zone: Residential (R2) Zone

Relief Requested: Bifurcated Use (D)1 variance to demolish a vacant single family home and construct a model home with a faux detached 3-car garage that will be used as the Schaeffer Homes' office space.

Schaeffer Family Trust

42 Haddonfield-Berlin Road

Cherry Hill, NJ

Applicant's Representatives: Richard Hoff, Esq. – Attorney for the applicant; Brian Peterman, PE – Engineer for the applicant; Leah Furey-Bruder, PP, AICP – Planner for the applicant; and Jason Schaeffer – Owner of Schaeffer Homes

Exhibits Submitted: A-1 – Aerial Photo; A-2 – Color Rendering of Concept Plan; A-3 – Concept Plan; A-4 – Conversion Plan; A-5 thru A-9 – Photos of the site; A-10 – Elevation & Floor Plan Rendering; A-11 – Façade of Garage; and A-12 – Signage Concept.

Mr. Hoff introduced the application for a bifurcated use variance and submitted exhibits A-5 thru A-9. Mr. Hoff called Mr. Peterman to testify in regard to the proposed plan. Mr. Peterman gave brief description of the site and surrounding uses and noted that the applicant is proposing to erect a model home with a 900 SF detached garage to be used as the applicant's office space/showroom. A discussion of the ADA routes into and throughout the site ensued with a note that there will be thirteen (13) parking spaces provided. Mr. Peterman explained that the reason for proposing a 900 SF garage is that when the site is eventually converted back to residential, this sized garage will allow for three (3) cars to be parked in it and thus will keep cars off the street. The specific details of the garage will be discussed during the site plan portion of the application, but that traffic generated to the site while it is a model home will be light.

Mr. Peterman explained that the intent is to eventually convert the model home and office/showroom back to residential. The existing home on the site will be taken down and the model home will be erected with the same non-conforming front yard setback but that they will be lessening the existing non-conforming side yard setback. Parking in the rear will help maintain the residential character of the proposed use. Mr. Peterman noted that the concept plan being presented before the Board will generally be the same plan for when there is an official site plan submission.

Mr. Schaeffer stated that Schaeffer Homes have been building homes for twenty-five (25) years and he has owned that business since 2006. Exhibit A-10 was presented to the Board in order to show the layout and look of the model home, specifically that it will look exactly like a residential home. Mr. Schaeffer testified that there is no intent for anyone to live in the model home. The faux garage will be used as showroom where potential home buyers can make selections as to the type of materials they would like to see in their house. It is anticipated that there will be two (2) appointments per day, with one in the morning and one in the afternoon. Mr. Schaeffer hopes to sell 30 to 50 homes with this venture. There will be two (2) employees working in the showroom and two (2) employees working in the model home. Mr. Schaeffer noted that the original size of the garage was supposed to be 100 SF but after working with a consultant, it was determined that a viable showroom could work in a 900 SF footprint, but no less than that. While he believes the site is suited to eventually become a residential use again, the lot has been on the market for about nine (9) years.

Mr. Hoff noted that if another applicant wanted to do a different type of non-residential use, then they would have to come to the Board for a use variance. Mr. Peterman detailed how the site would convert back to residential from a site planning standpoint but alluded to the fact that these issues will be worked out during their site plan application.

Ms. Furey-Bruder discussed the positive criteria of the application and how this site particularly suited to the proposed use. In regard to the negative criteria, there will be no impairment of the Master Plan or to the surrounding uses. Ms. Furey-Bruder stated that the area around the site is a mixture of residential, retail, and office. Additionally, many commercial uses have replaced residential uses in the area. While the proposed use is technically non-residential, it will still have a residential character to it. Only limited traffic will be generated and she believes that the high quality design of the model home will have a positive impact on the surrounding area. Furthermore, the proposed use is low in intensity and will fit in well in a mixed zoned area.

Following some questions from the Board, Mr. Schaeffer stated that he envisions using the sales office/showroom as long it is successful. The proposed garage will only have electric and HVAC. Mr. Schaeffer stated that their old design center located in West Berlin, NJ was utilized for thirteen (13) years. It was explained that the only intended use is to support the home building business and that nothing related to purchasing a home will be conducted on-site. Mr. Schaeffer agreed to the condition that it will be utilized as a model homes and sales office/showroom related to the operation of the model home, only. Mr. Peterman noted that the applicant will address the driveway, turn visibility, and signage during the site plan application and County Planning Board application.

Public Discussion: None.

Motion to approve: Motion made by Mr. DiRenzo and seconded by Mr. Marcus, with affirmative votes for approval by DiRenzo, Carter, Marcus, Sweeney, Sklar, Biviji, and Rardin. Motion carried.

14-Z-0030

Block(s) 341.11 Lot(s) 12
Zone: Residential (R2) Zone

Relief Requested: Use (D)1 variance to permit a for-profit, sober living facility for men within the Single Family Residential (R2) zone, where such use is not specifically permitted.

Foundation House

995 Kingston Drive
Cherry Hill, NJ

Applicant's Representatives: Francis Falkenstein, Esq. – Attorney for the applicant; Samuel Renauro, PE, PP – Engineer/Planner for the applicant; Michael Saia – House Manager for Foundation House; and Justin Wroblecky – Prior tenant of Foundation House.

Exhibits Submitted: A-1 – Floor Plan & Survey; A-2 – Letter from Foundation House counsel; A-3 – House Rules; and A-4 – Mission Statement.

Mr. Falkenstein introduced the application and called Mr. Saia to testify. Mr. Saia stated that there are currently ten (10) residents in the house with a max capacity of twelve (12). It was noted that Foundation House is a for profit business for a sober living house. Mr. Saia then described the operations of Foundation House including that they administer drug testing and breathalyzers, that there are no medical services offered at the house, that no residents are court mandated to be there, that each resident is there on their own free will, and that people can stay as long as they follow the house rules. These rules include staying drug and alcohol free and paying rent on time (no other fees are collected). Other characteristics of Foundation house include that here is no rehabilitation therapy offered at the house, all area of the house are common access, there are weekly meetings to discuss any problems, the design of the house is to function as a family unit, and they are not affiliated with Oxford House.

Mr. Wroblecky stated that he was the first resident of Foundation House beginning in September of 2013. He noted that he used to abuse drugs and alcohol and couldn't get sober (and stay sober) until joining Foundation House. Without Foundation House, he would be homeless and that the other residents became his family. The house provided structure in

his life (12-step affiliated) and a sense of responsibility. It helped him get back to life free from drugs and alcohol. Mr. Wroblesky stated that he maintained a job outside of the house, and was free to come and go except having to be back before curfew. Residents at Foundation House share chores as well. Mr. Wroblesky stated that he needed the support of the other residents in order to become a productive member of society. He also discussed his relationship with the House Managers and the owner. Mr. Wroblesky noted he has been clean of drugs and alcohol for almost two years and has his own apartment.

Solicitor Zeller stated that Foundation House does have components of an inherently beneficial use but that other components potentially do not. Solicitor Zeller asked the applicant to provide more testimony as to how this use promotes the general welfare component of being an inherently beneficial use.

Mr. Renauro testified in regard to the positive components of Foundation House and how the use fits well into the neighborhood. Mr. Renauro believes the operation meets the positive criteria. He stated that it is particularly suited to this location as bus transit is close by and that this use does not impair the intent of the Master Plan. He noted that the other Foundation House location, in Gibbsboro, NJ, is in good standing and the Cherry Hill location has not had any complaints from neighbors or police.

Mr. Saia answered a number of Board questions. He stated that aside from drug and alcohol use, other reasons for expulsion from Foundation House include fighting, excessive curfew breaking, and having females over to the house (not including family members). He noted that the weekly meetings are not mandatory and counselors do not come for rehabilitation purposes. Mr. Saia enforces house rules such as curfew and in theory, if the curfew breaking is habitual, then it could lead to eviction. Mr. Saia stated it is more likely the resident gets high if they are breaking curfew and for that reason more than breaking curfew would a resident get evicted. He wouldn't permit non-residents at the house except for family or a sponsor. Only residents that are clean recovering addicts are allowed to stay at Foundation House. He noted that the average resident stays about 7 to 8 months and that they average ten (10) total residents at any given time. The rent is \$200 per week. Mr. Saia stated that the house manager does not live on the premises. The house manager themselves, has to be clean for at least two (2) years in order to become a house manager. They also have to be knowledgeable about Alcoholics Anonymous (AA). Residents of Foundation House maintain the house grounds and the house manager administers all drug testing and breathalyzers. It was noted that Foundation House does not profit from recommending residents to other treatment options.

Exhibit A-1 was then presented to the Board and Mr. Saia explained that there are currently five (5) cars at the residence and could be more at times. Residents park in the driveway. After a discussion of house chores, Mr. Saia explained that there are four (4) House Managers and that they rotate between the two locations. A house manager is on site at all times. If someone breaks the drug/alcohol use rule, they are given options on where to go but they must leave the house. It was clarified that this is the procedure and that they don't immediately kick someone out onto the street... essentially the present the resident options for a new living situation.

Mr. Falkenstein noted that the applicant is open to conditions the Board may place upon them. He then presented the remaining exhibits as evidence. Mr. Falkenstein stated that Foundation House opened in Cherry Hill in 2013 and that they didn't know they needed to obtain a zoning permit to occupy the site. It was stated that the applicant is required to obtain proper permits if approved. Mr. Falkenstein did note that they registered as a landlord and received a C/O as a rental property.

Public Discussion:

- 1) Chris Stipa noted that he lives behind the subject property and has a brother in a similar program. His only concern is that they have been operating without proper approvals and wanted to know what a variance approval would mean. Solicitor Zeller explained the case law and how facilities similar to the proposed one are permitted. Mr. Stridick explained that since it is not a treatment facility, it is a protected class per the Federal Fair Housing Act. The Township wanted the applicant to come in for a use variance in order to make sure that the public welfare was being served and so that the applicant could explain their operation in more detail. A discussion then ensued as to how things got to this point and what the Board has to consider in their determination.
- 2) Jerry Winchester had concerns about the potential clustering of the group homes and the lack of controls over that aspect. Mr. Winchester had concerns that letting for profit group homes in the Township could open up the floodgates. A discussion ensued as to what a use variance means (if granted) and how Federal law trumps state and local laws. It was clarified that a use variance approval does not change the zoning ordinance; it only gives permission to operate such a use on the subject property.
- 3) Joseph Sokolic appreciated the rules of the house but has concerns that a school bus stop is nearby and worries someone may break the house rules and affect the neighborhood. Mr. Sokolic wanted clarification as to what happens if someone breaks the rules outside of the house.
- 4) Jared Taylor noted how large the driveway at the house is and had concerns of people parking in the way of the sidewalk (since there are a lot of cars parked there). He also asked if the home needs to be ADA compliant.

Seeing no other public comment, Chairperson Rardin closed that portion of the meeting.

Mr. Falkenstein stated that if anything illegal happens inside or outside of the house, they would all the police to handle the matter. He then offered the House Manager's cellphone number to the residents in case they have any issues (including the driveway/parking issue). The House Manager can then help correct any issues that may arise. Mr. Falkenstein noted that Foundation House does not accept any medical insurance.

Each Zoning Board member then expressed their opinion on the application with all but one Board Member expressing their support of the application. Mr. Marcus had concerns over whether this facility is a single-family type of establishment, but after clarification on the broad definition of what a family is, Mr. Marcus noted he changed his stance on the application. The Board generally felt that the positive and negative criteria have been, that this use is inherently beneficial, and no problems have been reported between Foundation House and the neighborhood. The Board noted that as a condition of approval that the applicant must obtain the proper permits and comply with code and inspections.

Motion to approve: Motion made by Mr. Sweeney and seconded by Mr. Sklar, with affirmative votes for approval by DiRenzo, Carter, Marcus, Sweeney, Sklar, Biviji, and Rardin. Motion carried.

15-Z-0004

Block(s) 494.01 Lot(s) 1
Zone: Industrial Restricted (IR) Zone

Relief Requested: A site plan waiver with a use D(1) Variance to permit an after-school learning center (Cherry Hill Kumon Center) in the Industrial Restricted zone.

Yung Chung

2020 Springdale Road – Suite 200
Cherry Hill, NJ

The applicant's attorney, Kenneth Morgan, Esq. stated that his professional planner was unable to make it to the meeting and requested an adjournment to the next Zoning Board Meeting.

Motion to carry the application to May 21, 2015: All in favor motion with a unanimous vote in the affirmative. Motion carried. *Solicitor Zeller noted that the applicant will not need to re-notice for the hearing.*

RESOLUTIONS: None.

Meeting Adjourned: at 10:25 pm.

CERTIFICATION

The meeting minutes herein, adopted administratively by the Zoning Board of Adjustment, is a true copy of the action taken by the Board at its meeting held on May, 21, 2015.

(Month) (Day) (Year)



Paul Stridick, AIA
Zoning Board Secretary