

RESOLUTION

**TOWNSHIP OF HOWELL PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
PRELIMINARY SITE PLAN APPROVAL
WITH ANCILLARY VARIANCE RELIEF**

**Approved: May 17, 2007
Memorialized: June 21, 2007**

MATTER OF NEW BEGINNINGS CHRISTIAN FELLOWSHIP, INC.

APPLICATION NO. SP-893

WHEREAS, an application for preliminary site plan approval with ancillary variance relief has been made to the Howell Township Planning Board (hereinafter referred to as the "Board") by New Beginnings Christian Fellowship, Inc. (hereinafter referred to as the "Applicant") on lands known and designated as Block 42, Lot 88, as depicted on the Tax Map of the Township of Howell (hereinafter "Township"), and more specifically located at Lakewood-Allenwood Road within the ARE-6 (Agriculture Borough Estate) Zone; and

WHEREAS, a Public Hearing was held before the Board on May 17, 2007 with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant, witnesses and consultants, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Howell Township Planning Board make the following findings of fact and conclusions of law with regard to this application:

1. The Applicant proposes to construct a house of worship containing approximately 15,000 square feet with parking for 84 vehicles located behind the building. The building is proposed to contain areas dedicated for a sanctuary, lobby, multipurpose room, offices, classroom, nursery, arcade and lounge, bookstore, as well as kitchen and restrooms. Access is proposed by a 25 foot wide drive near the southwest property corner with a drop off loading area including a building portico. The building is to be serviced by well and septic disposal systems located on site. Stormwater management is proposed by partially walled/detention infiltration basin along the northerly side of the property. An underground storage chamber beneath the parking area is also proposed outside the buffer easement areas associated with the Sandy Hill Brook.

2. The subject site contains 9.5 acres with 338 feet of frontage along Lakewood-Allenwood Road located approximately 1,135 feet west of the Cascades Avenue intersection, within the ARE-6 Zoning District. The site is currently vacant and wooded and is traversed by the Sandy Hill Brook as well as associated wetlands and buffers towards the rear third of the property. Pursuant to 188-69B(3), houses are worship are a conditional use within the ARE-6 Zone.

3. Counsel for the Applicant Todd A. Cohen, Esq., stated that the Applicant was seeking preliminary site plan approval so as to construct a house of worship on the subject site. He noted that houses of worship are a conditional use with the zone and that the subject application satisfied all conditions.

4. The Applicant's Engineer, Michael Intile, P.E., testified that the subject site contained approximately 9.5 acres and was located on Lakewood-Allenwood Road within the ARE-6 Agricultural Zone. He stated that ball fields and a hockey rink were located north of the property and that residential uses surrounded all other areas. He stated that the Applicant was seeking to construct a house of worship with approximately 15,000 square feet. He further noted that 338 feet of frontage existed on the lot.

5. Mr. Intile, then described the physical constraints of the property. He specifically noted that due to the location of the brook as well as associated wetlands only 1/3 of the subject site was developable. He further noted that the Applicant had applied for and received an LOI for the site. As a result of the constraints of the property he stated that the infiltration basins were located near the ball field. He further testified that access to the site would be off of Lakewood-Allenwood Road. He stated that the site would use septic and wells and would be illuminated through 7 single pole lights located on islands in the parking lot.

6. Mr. Intile then testified that the Applicant was seeking variance relief from Section 188-63A where a minimum 50 foot wide buffer is required around the perimeter of all site plans separating a non-residential use from a residential zone. He further noted that waiver relief is required from Section 256-4A where signs are not permitted to exceed 4 square feet in area and the Applicant is proposing an 82 square foot sign. In discussion with the Board, however, the Applicant agreed that the size of sign would comply with those located in other houses of worship in the area. The Applicant further requested waiver relief from the Township's newly adopted community design standards. The Applicant specifically sought relief from Section 188-226G wherein all lots are required to

have private walkway access to a public sidewalk in the right-of-way. He further noted that waiver relief was required from Section 188-226A where curbing in new developments are required to be made of granite or equivalent. He further noted that waiver relief was required from Section 188-227G in which the interior of all parking lots shall be landscaped to provide shade and visual relief. The ordinance states that this is best achieved by protected planting islands or peninsulas within the perimeter of the parking lot. In parking lots with eleven (11) or more spaces, a minimum of one (1) shade tree is required to be planted in the parking lot for every five (5) parking spaces, within a six (6) square foot planting strip, diamond or equivalent planter. Relief from 188-230D is also required in that no wall shall have a blank, uninterrupted length exceeding 50 feet without including a revealed pilaster, change in texture, color or material, or equivalent element. Maximum space in between such articulation shall be 40 feet.

7. Mr. Intile testified that the variance for the infiltration basin was necessary due to the hardship caused by the constraints of the property. He specifically stated as only 1/3 of the property is developable the basin could only be placed within the buffer near the ball fields. He further testified that the Applicant would comply with all recommendations contained in the Board Engineer's report.

8. Testimony was then provided by Pastor Joseph Sorce. The Pastor testified that two (2) Sunday services were held in the church along with one mid week service. He further stated that a Friday night youth service was also being provided. In response to questions from the Board he stated that the church would not operate a nursery school and would rather provide religious instructions on a Sunday school basis. He further noted that Monday through Friday, the site would be opened generally between 7:00 a.m. and

9:00 p.m. with weekends being opened until mid afternoon. He further stated that 240 to 250 seats were proposed in the church but that his expectation was that only 175 seats would be occupied at the time. He further noted that the Applicant would place a fence around the basin for child safety.

9. Testimony was then provided by the Applicant's traffic Engineer Mr. Frank Miskovitch who testified that the proposed parking would meet the needs of the congregation based upon the number of seats and activities provided. He further noted that the Applicant would coordinate with the Police Department so as to better plan high density events. He further stated that the Applicant would provide a pro rata contribution to overall police presence in the area during Sunday and high density events so as to provide better traffic circulation.

10. The hearing was then opened to the public at which time John Costigan questioned the buffer towards the nearest house. Mr. Intile testified that there was 200 feet between the subject site to the nearest house.

11. Pauline Smith then questioned the location of the farm to south.

12. Edward Britton then expressed concern with regard to traffic in the area and the overall design of the site.

13. Donald Smith then testified that the farmland buffer needed to be four season so as to properly screen the site. He further expressed concern with the design of building which he found to be aesthetically displeasing.

14. Testimony was then provided by the Township's Certified Tree Expert, Zig Panek, who stated that he would meet with the Applicant so as to design the proper buffer between the subject site and the farm.

15. Joe Zabloska then testified that the entire design of the site was visually unappealing.

16. The Board has received, reviewed and considered various exhibits and reports with regard to this application. Those exhibits and reports are set forth on the attached Exhibit List, and all exhibits and reports as set forth on said Exhibit List have been incorporated herein in their entirety.

WHEREAS, the Howell Township Planning Board, having reviewed the proposed application and having considered the impact of the proposed application on the Township and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Township of Howell; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant's preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 as well as variance relief pursuant to N.J.S.A. 40:55D-70c(1) with waiver relief pursuant to N.J.S.A. 40:55D-51, should be granted.

The Board first finds that houses of worship are a conditional use within the ARE-6 Zone. The Board finds that the Applicant has satisfied all conditions and that the Board has proper jurisdiction to hear the matter.

The Applicant satisfies virtually all of the requirements of the Township Zoning Ordinance however requires some variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to

relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Applicant requires variance relief from Section 188-63A wherein a minimum 50 foot wide buffer is required around the perimeter of site plans separating a non-residential use from either a residential use or a residential zone. The Board finds that

the Applicant has satisfied the positive criteria with regard to this request. The Board specifically finds that the Applicant's site is severely environmentally constrained. As a result, only 1/3 of the subject parcel is developable. In applying the strict requirements of the ordinance it would be difficult to develop the site for any permitted use or for a house of worship. As such, the Applicant has experienced a hardship. The Board further finds that the Applicant has satisfied the negative criteria. The Board finds that houses of worship are a conditional use within the zone and the Applicant complies with all conditions. The Applicant has therefore proposed a use which is consistent with other houses of worship in the area. The reduction in the buffer is being compensated by vegetation which has been selected in coordination with the Township's Certified Tree Expert. The nearest house is also 200 feet away from the property line. The Board therefore finds that there is no substantial detriment to the zone plan or zoning ordinance. The Board therefore finds that variance relief pursuant to N.J.S.A. 40:55D-70c(1) is appropriated.

The Board further finds that the Applicant requires waiver relief from Sections 188-226G, 188-226A, 188-227G and 188-230D. As previously stated, the subject site is uniquely challenged due to environmental constraints. As such, only 1/3 of the property is developable. The Applicant has strived to provide a creative design to satisfy all requirements. The Board however finds that the topography creates practicable difficulty for developing this site for its permitted use while applying the strict requirements of the ordinance. The Board therefore finds that waiver relief pursuant to N.J.S.A. 40:55D-51 is appropriate.

Aside from the above relief, the Applicant has satisfied all requirements of the Township's site plan ordinance. The Board finds that the Applicant is therefore entitled to preliminary site plan approval pursuant to N.J.S.A. 40:55D-46.

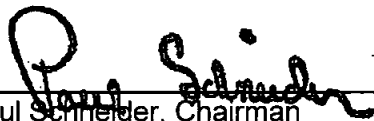
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Howell on this 21st day of June, 2007, that the action of the Planning Board taken on May 17, 2007 granting preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 with ancillary relief pursuant N.J.S.A. 40:55D-70c(1) with waiver relief pursuant to N.J.S.A. 40:55D-51 is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. The development of the site shall take place in strict conformance with the testimony and with the plans and drawings which have been submitted to the Board with the application or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with all recommendations contained in the reports of the Boards professionals.
3. The Applicant shall comply with all recommendations contained in the report of the Township Fire Bureau.
4. The Applicant shall re-design the sign so as to comply with ordinance requirements.
5. The Applicant shall place a fence around the basin subject to the review and approval of the Board Engineer.
6. The Applicant shall coordinate with police and provide a pro rata contribution for traffic control in the area during high density events.
7. The Applicant shall meet with the Township's Certified Tree Expert to the design the four season buffer between the site and the adjacent farm use.
8. The Applicant shall provide testimony from its architect at the time of final approval.

9. The Applicant shall provide a certificate that taxes are paid to date of approval.
10. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
11. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Howell, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicant and to the Township clerk, engineer, attorney and tax assessor, and shall make same available to all other interested parties.


Paul Schneider, Chairman
Howell Township Planning Board

ON MOTION OF: Mr. Bohlin

SECONDED BY: Mr. Burgess

ROLL CALL:

YES: Messrs. Burgess, Bohlin, Howell, Morello, Schneider

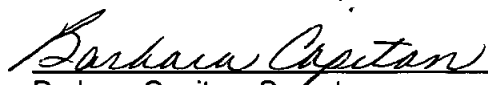
NO:

ABSTAINED:

ABSENT:

DATED: June 21, 2007

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Howell Township Planning Board, Monmouth County, New Jersey at a public meeting held on June 21, 2007,


Barbara Capitan, Secretary
Howell Township Planning Board

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