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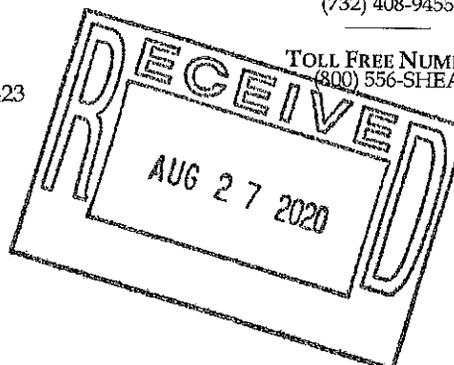
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August 27, 2020

Via Hand Delivery

Colts Neck Township Zoning Board of Adjustment
Ms. Ruth Leininger, Zoning Board of Adjustment Secretary
124 Cedar Drive
Colts Neck, NJ 07722

Re: APPEAL/INTERPRETATION
Morris Flanchbaum, Glen Dailey, and Doug Zagha – Colts Neck
Township Zoning Board of Adjustment
Colts Neck Community Church Application NO. 7393
Our File No. 13565

Dear Ms. Leininger:

As you are aware, this office represents the applicant, **Morris Flanchbaum, Glen Dailey, and Doug Zagha**, regarding the above referenced project. In connection with this application for **Appeal and Interpretation**, I am enclosing the following items for review and acceptance to be placed on the next available Zoning Board of Adjustment Public Hearing:

1. Original and five (5) copies of the application;
2. Original Escrow Replenishment Agreement;
3. Completed Checklist;
4. Completed W-9 Form;
5. Check in the amount of \$500.00, made payable to Colts Neck Township, representing the application fee for the Appeal;
6. Check in the amount of \$700.00, made payable to Colts Neck Township, representing the escrow fee for the Appeal;

R. C. SHEA & ASSOCIATES

COUNSELLORS AT LAW, P.C.

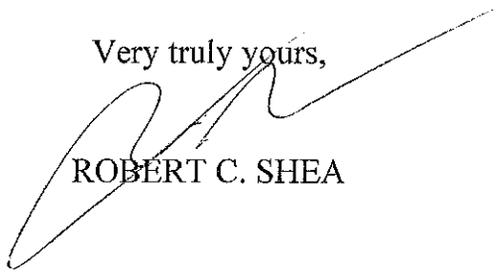
Page 2 of 2

7. Check in the amount of \$350.00, made payable to Colts Neck Township, representing the application fee for the Interpretation; and
8. Check in the amount of \$700.00, made payable to Colts Neck Township, representing the escrow fee for the Interpretation.

Naturally, if you should have any questions or concerns regarding the enclosed documents, please don't hesitate to contact our office.

Thank you.

Very truly yours,


ROBERT C. SHEA

RCS:dgt
Encls.

APP. NO. ZB10412 DATE FILED: 8/27/20
APP. NAME: Flanchbarm, ET AL FEE PAID: 8/27/20

Action by the Zoning Board
Recommended Granted Denied _____
Date: _____

TOWNSHIP OF COLTS NECK
Monmouth County, New Jersey
VARIANCE APPLICATION

1. I, _____, the applicant herein,
whose post office address is _____
_____ am the See attached as Schedule "A"
(owner, lessee, prospective purchaser, etc.)
of property located at or on 249 Route 537
and designated as Block 33, Lot(s) 21
on the Tax Map of the Township of Colts Neck.
Home Phone: _____ Work Phone: _____

2. Said property is in a A-1 Agricultural zone, is _____
_____ and has the following structures: ^{(give}
dimensions and area) Vacant
(indicate type of structure and use thereof)

3. Request is hereby made for permission to _____
Appeal - 40:55D-70A Interpretation 40:55D-70B
(State in detail the proposed construction and use)
See attached as Schedule "B"

4. The proposed building or use thereof is contrary to Article:
_____ Sections: _____ of the Zoning
Ordinance: N/A
(Other Ordinance)
of the Township of Colts Neck in the following particulars:

Schedule "A"

I, Morris Flancbaum, the applicant herein, whose post office address is 7C Yearling Path, Colts Neck, New Jersey, I am the owner

I, Glen Dailey, the applicant herein, whose post office address is 6 Camelot Drive, Colts Neck, New Jersey, I am the owner

I, Douglas Zagha, the applicant herein, whose post office address is 67 Camelot Drive, Colts Neck, New Jersey, I am the owner

5. The conditions obtaining and the reasons for this request are as follows:

See attached as Schedule "B"

-
6. The names, addresses, lot and block numbers as they appear on the latest Tax Duplicate and Tax Map of the Township of Colts Neck, and of adjoining municipalities, of all owners of property within 200 feet of the boundaries of the property affected by this application are:

<u>NAME</u>	<u>ADDRESS</u>	<u>BLOCK</u>	<u>LOT</u>
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See attached Request

(Attach Rider if Space is Insufficient)

Schedule “B”
Request for Appeal and Request for Interpretation
pursuant to
N.J.S.A. 40:55D-70(A) and (B)

DESCRIPTION OF THE APPLICATION:

The Applicant makes this Request for Appeal pursuant to N.J.S.A. 40:55D-70(A), which states the Board of Adjustment shall have the power to, “...hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance” referred to (Appeal). The Township Planner, Timothy Anfuso, (Planner), made various zoning determinations on August 7, 2020 relative to the Conditional Use criteria, variances, design waivers and various determinations on utilization of the buffer areas, (zoning determinations), which are now being challenged by the Applicant in this Appeal.

Additionally, the Applicant makes this Request for Interpretation pursuant to N.J.S.A. 40:55D-70(B), which gives the Board of Adjustment the power to “...hear and decide request for interpretation of the zoning map or ordinance or for decisions upon other special question upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act”, referred to as (Interpretation). The various above zoning determinations were also supplemented by the Board Engineer, Glenn R. Gerken, (Engineer) in his August 7, 2020 letter. The Applicant believes that the various interpretations made by the Planner and Engineer were improper, wherein the Applicant requests this Board to review the same in this Interpretation. The Requests for Appeal and Interpretation are jointly referred to as “Application”.

The zoning determinations and ordinance interpretations, as referred to in this Application, relate to Application PB739, which proposes the development of the Colts Neck Community Church to be located at 249 Route 537, Block 33, Lot 21, (Church Application). The Church Application proposes the construction of a 22,557 sf house of worship with 400 seats, 176 parking spaces, gathering area with warming kitchen and five classrooms for Sunday School purposes, covered drop off area, and site improvements including but not limited to basins, storm water management, parking, driveways and signage. This Application requires that the Board review and consider the expert testimony and exhibits that will be presented to the Board from the Applicant to determine if the previous zoning determinations utilized the proper interpretation of the ordinances in review of the Church Application.

The Applicant argues the following items for this Board to review and consider for Appeal and Interpretation:

- §102-11B of the Ordinance imposes standards on all conditional uses. §102-11B specifically requires the “approving authority to ... give due consideration to ... the effect (of the use) on adjacent properties, the buffer area, ... the character of the area, vehicular traffic patterns and access, ... landscaping, ... signs, noise... parking, ... screening,” Therefore Municipal Land Use Law provides that the Zoning Board has jurisdiction regarding approval of the requested sign variance and design waivers. The generally applicable provisions of the Ordinance enacted to mitigate against the types of adverse impacts that are cited in §102-11B must be treated as standards applicable to the conditional use.
 - The Applicant has requested sign variances to permit both freestanding and façade signs with an area of 15 sf per sign, wherein an area of 12 sf is permitted for each sign and to permit two signs where only one sign is permitted. Because §102-11B specifically mandates a particular concern regarding the adverse effects of signage related to conditional uses, the Zoning Board has jurisdiction over a variance from Ordinance signage requirements. If the proposed signage requires a variance, there is a conditional use variance.
 - The design waivers also impact considerations embedded in §102-11B. At least two (2) of the requested design waivers – the noncompliant buffer to residential uses to the east §102-90 and the noncompliant parking lot landscaping contrary to §102-119A2 relate directly to design requirements enacted to mitigate against the same types of adverse impacts to the neighbors that are cited in §102-11B. Therefore they have the same effect as granting a variance from a conditional use standard.

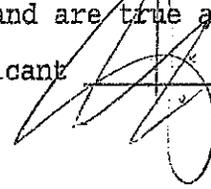
This Applicant requests that until this Board makes the determinations as requested in this Application, the Church Application before the Planning Board must be stayed pursuant to N.J.S.A. 40:55D-75. It is up to this Board to determine if the Church Application is a permitted Condition Use under the ordinance criteria, which may remain with the Planning Board. However, if the same Conditional Use Criteria is not met the Church Application must be refiled with this Board requesting a Use Variance.

- 7. Does applicant propose to use the entire tract of land? _____
- 8. Has the property been separated from a larger tract of land?
 If so, when? _____ Has the Planning
 Board approved the Subdivision? _____ When? _____
- 9. Has there been any previous appeal involving these premises?
 If so, state date of filing: _____
 character of appeal _____
 disposition of same _____
- 10. By filing a second application do applicant and owner, if
 other than applicant, waive any and all rights gained in the
 first application? _____
- 11. Attached hereto and made a part hereof are the following:
 - a. Two sets of drawings, drawn to scale, and containing
 all necessary measurements and all features involved in
 this application.
 - b. Duplicate plot plans, drawn to scale, showing
 dimensions and area of property in question and all
 properties within 200 feet of the boundaries of said
 property.
 - c. Check or money in the sum of \$_____ in payment of
 the filing fee. Make checks payable to the "Township
 of Colts Neck".

I, the undersigned, being duly sworn according to law upon
 my oath do depose and say that all of the statements contained
 herein are based on my own knowledge and are true and correct.

Dated: 8-27-2020 Signature of Applicant _____

Sworn and Subscribed to
 before me this 27th day
 of August 2020



Denise G. Torakis
 Notary Public
 State of New Jersey
 My Commission Expires January 29, 2023

If applicant is not the owner of property
 herein, owner must sign the following consent:

The foregoing application is hereby consented
 to this _____ day of _____ 20 _____.

 Signature of Owner

See attached as Schedule "A"
 Post Office Address _____

7. Does applicant propose to use the entire tract of land? _____
8. Has the property been separated from a larger tract of land?
 If so, when? _____ Has the Planning Board approved the subdivision? _____ When? _____
9. Has there been any previous appeal involving these premises?
 If so, state date of filing: _____; character of appeal _____; disposition of same _____
10. By filing a second application do applicant and owner, if other than applicant, waive any and all rights gained in the first application? _____
11. Attached hereto and made a part hereof are the following:
 - a. Two sets of drawings, drawn to scale, and containing all necessary measurements and all features involved in this application.
 - b. Duplicate plot plans, drawn to scale, showing dimensions and area of property in question and all properties within 200 feet of the boundaries of said property.
 - c. Check or money in the sum of \$ _____ in payment of the filing fee. Make checks payable to the "Township of Colts Neck".

I, the undersigned, being duly sworn according to law upon my oath do depose and say that all of the statements contained herein are based on my own knowledge and are true and correct.

Dated: 8/27/20 Signature of Applicant *Glen Dailey*
 Glen Dailey

Sworn and Subscribed to before me this 27th day of August 2020

Denise G. Torakis
 Notary Public
 State of New Jersey
 My Commission Expires January 29, 2023

If applicant is not the owner of property herein, owner must sign the following consent:

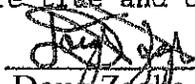
The foregoing application is hereby consented to this _____ day of _____ 20 ____.

 Signature of Owner

 Post Office Address

7. Does applicant propose to use the entire tract of land? _____
8. Has the property been separated from a larger tract of land?
 If so, when? _____ Has the Planning
 Board approved the Subdivision? _____ When? _____
9. Has there been any previous appeal involving these premises?
 If so, state date of filing: _____;
 character of appeal _____;
 disposition of same _____
10. By filing a second application do applicant and owner, if
 other than applicant, waive any and all rights gained in the
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11. Attached hereto and made a part hereof are the following:
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 properties within 200 feet of the boundaries of said
 property.
 - c. Check or money in the sum of \$_____ in payment of
 the filing fee. Make checks payable to the "Township
 of Colts Neck".

I, the undersigned, being duly sworn according to law upon my oath do depose and say that all of the statements contained herein are based on my own knowledge and are true and correct.

Dated: 8/27/2020 Signature of Applicant 
 Doug Zagha

Sworn and Subscribed to
 before me this 27th day
 of August 2020

Denise G. Torakis
 Notary Public
 State of New Jersey
 My Commission Expires January 29, 2023

If applicant is not the owner of property
 herein, owner must sign the following consent:

The foregoing application is hereby consented
 to this _____ day of _____ 20 _____.

 Signature of Owner

See attached as Schedule "A"
 Post Office Address _____