

TOWNSHIP OF BERNARDS **ZONING BOARD OF ADJUSTMENT**

REGULAR MEETING AGENDA v3

Warren Craft Meeting Room

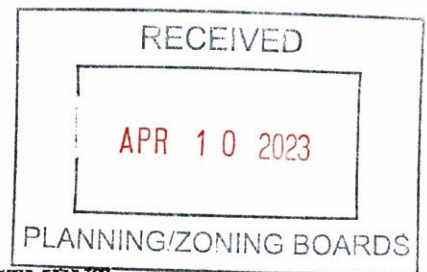
September 6, 2023

7:30 PM

This meeting will be held in person in the Warren Craft Meeting Room. For those interested in watching on their computers, the link will be available at 7:30 PM by clicking on the "Watch the Meeting Live" icon on the Bernards Township Zoning Board of Adjustment web page. Please note that all questions/comments must be made in person.

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. OPEN PUBLIC MEETING STATEMENT**
- 4. ROLL CALL**
- 5. COMPLETENESS HEARING**
 - A.** Rogers, Barbara (Mendham Country Day School); Block 501, Lot 10; 204 Morristown Road; Preliminary/Final Site Plan, Conditional Use Variance; ZB23-014
- 6. COMPLETENESS AND PUBLIC HEARING**
 - A.** [Basking Ridge Presbyterian Church](#); Block 1608, Lot 1; 12 East Allen Street; "d(1)" Use Variance; ZB23-007 (*carried from 06/15/2023*)
 - B.** [Faruk, Alamair & Belum, Tasim Ara](#); Block 6404, Lot 13; 145 Bernard Drive; Bulk Variances; ZB23-009
 - C.** [Maio, Peter A. & Nicole](#); Block 5203, Lot 18; 444 Mt. Airy Road; Bulk Variances; ZB23-012
- 7. COMMENTS FROM MEMBERS**
- 8. COMMENTS FROM STAFF**
- 9. ADJOURN**

09/05/2023 FINAL



BERNARDS TOWNSHIP ZONING BOARD OF ADJUSTMENT
APPLICATION

- | | |
|---|---|
| <p><input type="checkbox"/> Appeal Zoning Officer's Decision
(NJSA 40:55D-70a)</p> <p><input type="checkbox"/> Bulk or Dimensional Variance
(NJSA 40:55D-70c)</p> <p><input type="checkbox"/> Site Plan Approval:
Preliminary or Final or Amended</p> | <p><input type="checkbox"/> Interpretation of Zoning Ordinance
(NJSA 40:55D-70b)</p> <p><input checked="" type="checkbox"/> Use Variance – Special Reasons,
Conditional Use (NJSA 40:55D-70d)</p> <p><input type="checkbox"/> Other (specify) _____</p> |
|---|---|

1. Applicant: Basking Ridge Presbyterian Church

Address: 1 East Oak Street, Basking Ridge, New Jersey 07920

Phone Number (H) N.A. (W) (908) 766-1616

Email mpaterson@brpc.org (will be used for official notifications)

2. Owner (if different from applicant): Basking Ridge Presbyterian Church

Address: 1 East Oak Street, Basking Ridge, New Jersey 07920

Phone Number (H) N.A. (W) (908) 766-1616

Email mpaterson@brpc.org (will be used for official notifications)

3. Attorney (if applicable) Vincent T. Bisogno, Esq. & Frederick B. Zelley, Esq.

Address: 88 South Finley Ave., P.O. Box 408, Basking Ridge, New Jersey 07920

Phone Number (908) 766-6666 (Fax) (908) 766-7809

Email vbisogno@baskingridgelaw.com (will be used for official notifications)

4. Plans Prepared by (if applicable) Murphy & Hollows Associates, Inc. Profession: Engineer

Address: 192 Central Avenue, Stirling, New Jersey 07980

Phone Number (908) 580-1255 (Fax) _____

Email murphyhollows@gmail.com (will be used for official notifications)

5. Street Address of Subject Property 12 East Allen Street

Block 1609 Lot 1 Zone R-6 Tax Map Page 16

Lot Area in Sq. Ft. 1.29 acres

6. State the Section of the Bernards Township Land Use Ordinance For Which Relief is being sought: 21-10.4(a)(1); Table 501

7. State Specifically the Relief you are Requesting: Permission to operate a nonprofit food pantry to address the needs of families with food insecurity.

8. Describe the proposed additions or changes in buildings or uses which necessitate this application (include dimensions of proposed changes and dimensions from lot lines as shown on survey) _____

Change of one bay garage door to a man-door. Use of one garage space for food pantry.

9. Describe all existing buildings and their uses on the property: 2 bay garage currently used for storage and attached child care center.

10. List any non-conforming structures and/or uses on the property; identify the non-conformity and the date same commenced: _____

Child care center was granted a variance in Resolution #ZB07-015 dated 8/8/2007 attached. Also see Resolution #99-04.

11. Restrictions, Covenants, Easements, Associated By-Laws, existing or proposed on the property. Existing: ☒ No ☐ Yes (specify) _____

Proposed: ☒ No ☐ Yes (specify) _____

Note: All deed restrictions, covenants, easements, association by-laws, existing and proposed must be submitted.

12. Previous applications before the Planning Board or the Board of Adjustment involving this property: ☐ no ☐ yes ☒ (If yes, please explain.) _____

Resolution #99-04 and #ZB07-15. Both Resolutions attached.

13. Are there currently any violations of building codes or zoning ordinances known to the applicant? ☐ no ☒ yes (If yes, please explain) _____

See attached Plan of Murphy & Hollows and Resolutions above. Board approved various Bulk violations.

14. Have all taxes, fees and assessments made against this property been paid in full?
☐ no ☒ yes (If no, please explain) Exempt from taxes.

15. The following arguments are urged in support of this application: _____

See attached.

16. I, Nancy Deutsch, Trustee President
hereby depose and say that all the above statements and the statements continued in the papers submitted herewith are true and correct.

Signature of Applicant(s):

Nancy Deutsch Trustee Pres
Basking Ridge Presbyterian Church
Nancy Deutsch, Trustee President

Sworn and subscribed before me, this 3rd day of April, 2023.

Vincent T. Bisogno
Notary

Vincent T. Bisogno
An Attorney at Law of the
State of New Jersey

17. If application is made by person or entity other than the property owner or by less than all of the property owners, then the property owner or additional owners must complete the following sections and have his/her signature notarized:

I/we _____, the owner(s) of the property described in this application, hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Owner Name: _____ Signature: _____

Sworn and subscribed before me, this _____ day of _____, 2013

Notary



STATEMENT EXPLAINING APPLICATION

This is the application of God's Co-op Pantry to use one bay in the existing garage at 12 East Allen Street, owned by the Basking Ridge Presbyterian Church, for storage and distribution of food to people with food insecurity.

As was stated in the brochure of God's Co-op Pantry "In 2011 ten women from the Bible Study Group at the Basking Ridge Presbyterian Church were concerned when they learned the U.S. Census Bureau reported more than 2,300 people in the communities of Basking Ridge, Bernardsville, Liberty Corner, Lyons, and Peapack-Gladstone were living below the poverty level, today \$26,760 a year for a family of four. They formed God's Co-Op Panty to serve these communities. The Pantry, run entirely by volunteers, is partially funded as a mission of the Basking Ridge Presbyterian Church which operates under 501 (C) guidelines."

Applicant presently occupies space at the Bernardsville Presbyterian Church. However, that space will not be available shortly and applicant must move to another location. The Basking Ridge Presbyterian Church has offered one bay in its existing garage at 12 East Allen Street for use by the applicant.

The existing Pantry currently serves over 500 individuals per month including veterans from the Valley Brook Community in Lyons, residents of Ridge Oak Senior Housing and members of the general public. The food service schedule is as follows:

A. FOOD PICK UP BY THE PUBLIC:

1. 1st and 3rd Wednesday from 6:00 p.m. to 7:30 p.m.
2. 1st and 3rd Sunday from 6:00 p.m. to 7:00 p.m.

B. FOOD BAGGING BY VOLUNTEERS: 10 times per month, three volunteers bag food for 4 hours usually between 10:00 a.m. and 1:00 p.m.

C. FOOD DELIVERY: Food is delivered by Shoprite of Bernardsville and the Community Food Bank on Saturday morning, 2 times per month. They are on site approximately 30 minutes and there is one volunteer supervising the delivery.

Applicant is seeking a use variance because the food storage and food pick up services are not permitted in the R-6 Zone of Bernards Township. If the proposed use was located on the same lot as the Basking Ridge Presbyterian Church, immediately across the street from the subject property, it would be an accessory use to the church.

The only construction proposed is changing one garage bay door to a man door. There are several bulk variances listed on the plans that were previously approved by Resolution of this Board under Docket #99-04 and #ZB07-015.

Applicant submits that the proposed use is an “Inherently Beneficial Use” under applicable New Jersey law and satisfies the positive criteria of the statute. The use serves the general welfare.

In regard to the negative criteria of the statute, applicant submits the criteria as set forth in **Sica v. Board of Adjustment of Township of Wall**, 127 N.J. 152, 165 (1992), is satisfied in that the public interest is served by providing food for people with food insecurity. Balancing the positive effect against the limited negative effect, clearly indicates the positive is more prevalent. There is a limited negative effect since the use is not full time and reasonable conditions, if required, can be imposed to prevent any negative impact on the surrounding properties.

Applicant also submits that the enhanced Burden of Proof required by **Medici v. BPR Co.**, 107 N.J. 1 (1987), either is not required for our proposed use or Bernards Township did not include our specific use in permitted uses in this zone since it is an implied accessory use to a church.

**TOWNSHIP OF BERNARDS
2023 ZONING BOARD OF ADJUSTMENT APPLICATION**

- | | |
|---|---|
| <p><input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance
<input type="checkbox"/> Use ("d") Variance
<input type="checkbox"/> Conditional Use ("d") Variance
<input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance
<input type="checkbox"/> Site Plan - Preliminary / Final</p> | <p><input type="checkbox"/> Appeal of Zoning Officer's Decision
<input type="checkbox"/> Interpretation of Zoning Ordinance
<input type="checkbox"/> Minor Subdivision
<input type="checkbox"/> Major Subdivision - Preliminary / Final
<input type="checkbox"/> Other (specify): _____</p> |
|---|---|

1. APPLICANT: ALAM AIR FARUK & TASIM AIR BELUM
Address: 145 BERNARD DR. BASKING RIDGE NJ 07920
Phone: (home) 848-248-9688 (work) _____ (mobile) _____
Email (will be used for official notifications): ALAMFARUK76@gmail.com

2. OWNER (if different from applicant): _____
Address: _____
Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: _____
Address: _____
Phone: _____ Email (will be used for official notifications): _____

4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):
Name: MGL Associates Profession: Engineer
Address: 237-1 Burris Rd, Burlington, NJ 08016
Phone: 609-556-4915 Email (will be used for official notifications): MGLASSOCIATESLLC@GMAIL.COM

5. PROPERTY INFORMATION: Block(s): 162.07 Lot(s): 13 Zone: RC-4
Street Address: 145 Bernard Dr. Total Area (square feet/acres): 21,805 sf

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? ☒ No ☐ Yes (if yes, explain or attach Board resolution) _____

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? ☒ No ☐ Yes (if yes, explain) _____

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

[☒] No [] Yes (if yes, explain) _____

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: _____

In-ground swimming pool and pavilion and walkway

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.): _____

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION: _____

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

APPLICANT(S) SIGN HERE:

I/we, ALAMAIR FARUK and TASIM ARA BELUM hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): A. Faruk and Tasim A. Belum

Sworn and subscribed before me, this 1st day of FEBRUARY, 2023

Notary

MANJUSREE R. REVURI
NOTARY PUBLIC OF NEW JERSEY
ID # 50001769
My Commission Expires 8/13/2024

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application,

hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

Sworn and subscribed before me, this _____ day of _____, 20__.

Notary

TOWNSHIP OF BERNARDS
2023 ZONING BOARD OF ADJUSTMENT APPLICATION

RECEIVED

JUN 15 2023

- | | |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance | <input type="checkbox"/> Appeal of Zoning Officer's Decision |
| <input type="checkbox"/> Use ("d") Variance | <input type="checkbox"/> Interpretation of Zoning Ordinance |
| <input type="checkbox"/> Conditional Use ("d") Variance | <input type="checkbox"/> Minor Subdivision |
| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final | <input type="checkbox"/> Other (specify): _____ |

1. APPLICANT: Peter Maio

Address: 444 Mount Airy Road, Basking Ridge, NJ 07920

Phone: (home) _____ (work) _____ (mobile) 908-873-4991

Email (will be used for official notifications): peteranthonymaio@gmail.com

2. OWNER (if different from applicant): Same as applicant

Address: _____

Phone: _____ Email (will be used for official notifications): _____

3. ATTORNEY: _____

Address: _____

Phone: _____ Email (will be used for official notifications): _____

4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):

Name: Catherine A. Mueller, P.E. Profession: Engineer

Address: Page-Mueller Engineering Consultants, P.C., P.O. Box 4619, Warren, NJ 07059

Phone: 732-805-3979 Email (will be used for official notifications): cmueller@pagemuellereng.com

5. PROPERTY INFORMATION: Block(s): 5203 Lot(s): 18 Zone: R-4

Street Address: 444 Mount Airy Road Total Area (square feet/acres): 54,645 sf / 1.255 ac.

6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY? ☒ No ☐ Yes (if yes, explain or attach Board resolution) _____

7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY? ☐ No ☒ Yes (if yes, explain) The applicant received a stop work order from the Township due to unauthorized disturbance of steep slopes.

8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?

02/06/19

Bernards Township Zoning Board of Adjustment

Page 1 of 2

☒ No ☐ Yes (if yes, explain) _____

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST: _____

The applicant has cleared and re-graded portions of the property, and constructed retaining walls in order to create more usable space on the property. The applicant is requesting after-the-fact variances for the steep slope disturbance on the property. There are also pre-existing non-conforming conditions for minimum lot width and minimum front yard setback.

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):

Sec. 21-14.2.b.2(a): Maximum disturbance of slopes 15-19.9% = 40% of slopes 15-19.9%; Proposed = 47.2% of slopes 15-19.9%

Sec. 21-14.2.b.2(b): Maximum disturbance of slopes 20-25% = 20% of slopes 20-25%; Proposed = 84.5% of slopes 20-25%

Sec. 21-14.2.b.3: No disturbance of slopes greater than 25% permitted; Proposed = 83.8% of slopes >25%

Table 501: Min. Lot Width = 200'; Ex./Pr. = 196.88'; Min. Front Yard = 75'; Ex.Pr. = 71.1'

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION: _____

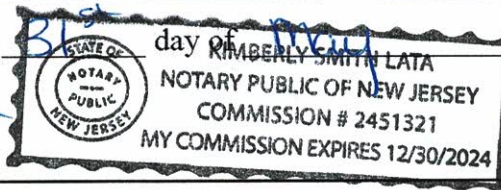
12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

APPLICANT(S) SIGN HERE:

I/we, Peter Maio and Nicole Maio do hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): _____ and _____

Sworn and subscribed before me, this



Notary

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, _____ the owner(s) of the property described in this application,

hereby authorize _____ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): _____

Sworn and subscribed before me, this _____ day of _____, 20__.

Notary