



Zoning Board of Adjustment

July 15, 2015

Meeting
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:08pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman
Heena Dhorajia, EIT
Dharamraj Baboo
Evan Elias
Kenneth Wasserman
Antranig Ouzoonian, PE- Alternate #1
Joan Marks- Alternate #2
Mindy Rothbaum- Alternate #3
Phillip Kwon, Esq.- Alternate #4
Arthur Dolson- Council Liaison
Leonard Sinowitz- Zoning Officer
Daniel Steinhagen, Esq.- Board Attorney
Jeffrey Morris, PE- Board Engineer
Paul Demarest- Board Coordinator

Absent

Mitchell Monaco- Vice Chairman
Theodore West, DDS- Secretary

◇ **CORRESPONDENCE** ◇

In light of Secretary West's absence, Mr. Wasserman read mail received by the Land Use Department into the record.

◇ **MINUTES** ◇

Due to the late distribution of the minutes for the June 17, 2015 Meeting, the Board delayed a vote on their approval until the August 19, 2015 Meeting to allow sufficient time for review.

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

July 22, 2015 Work Session: ***CANCELLED***;

◇ **MISCELLANEOUS** ◇

Mr. Steinhagen elaborated on a pending request by former Board Attorney, Michael Kates, Esq. to have the Borough take possession of litigation files his firm has compiled and stored throughout his tenure with the Board. He said the American Bar Association Model Rules of Professional Conduct dictate that an attorney maintains files for a period of time, which he

believed to be 7 years; he questioned whether his firm wished to take over as custodian of such records.

The Board directed Mr. Steinhagen to resolve the matter with Mr. Kates.

With respect to those Board members (Elias/Wasserman/Rothbaum) who have yet to obtain land use board certification from an agency/affiliate recognized by the State of New Jersey within 18 months of their initial appointments by the Governing Body, Mr. Demarest indicated dates for future seminars/symposiums have not been announced by New Jersey Planning Officials (NJPO), the Bergen County Bar Association or local law firms.

◇ **OPEN TO THE PUBLIC** ◇

n/a;

◇ **MEMORIALIZATION OF RESOLUTION(S)** ◇

n/a;

◇ **CASELOAD** ◇

<p>Case #Z-2014-17 Closter Assisted Living, LLC 59 West Street, 11 & 15 Van Sciver Street (Block 1104/Lots 15.02, 15.03 & 15.04) District #6- Affordable Housing</p>

Case History

The applicant is seeking a Use Variance and Site Plan Approval for the construction of a new building (containing an assisted living facility) at the subject properties; the application was received October 9, 2014 and scheduled for the November 19, 2014 (Special) Work Session, at which time, it was deemed incomplete; pending the Subcommittee's receipt of requested items, the application was rescheduled for the December 17, 2014 (Special) Work Session, at which time, it was perfected; pending the Board's receipt of requested items and public noticing requirements, the application was scheduled for the February 18, 2015 Meeting; the applicant (via 10% owner of 1 of 4 principals forming entity) completed initial testimony and the case was adjourned, with no items required, to the March 25, 2015 (Special) Meeting; the applicant's engineer completed initial testimony and the case was adjourned, with no items required, to the April 22, 2015 (Special) Meeting; due to a pending determination by the New Jersey Department of Environmental Protection relating to wetlands on-site, the application was postponed, pending the Board's receipt of public *re-noticing* requirements, to the May 20, 2015 Meeting; the applicant's architect completed initial testimony and the case was adjourned, with no items required, to the June 17, 2015 Meeting; the applicant's planner completed initial testimony and the case was adjourned, with no items required, to the July 15, 2015 Meeting.

Representation

- 1.) Elliot Urdang, Esq., 19 Engle Street, Tenafly, New Jersey;

Witnesses

- #1: Steven Lydon, PP, Burgis Associates, Inc., 25 Westwood Avenue, Westwood, New Jersey;
- #2: Amit Shah, 14 Skyline Drive, Englewood Cliffs, New Jersey;

Exhibits

- A-12: Open Public Records Act (OPRA) Request asking for history of motor vehicle accidents occurring in front of subject properties during 2012, 2013 and 2014, prepared by Witness #1 and dated July 8, 2015/response to OPRA Request indicating 8 incidents (5 considered non-reportable and 3 considered reportable), prepared by Police Department and dated July 8, 2015;
- A-13: Certificate of Need issued by New Jersey Department of Health (Division of Health Facilities Evaluation and Licensing) for proposed assisted living facility, prepared by William Conroy (Deputy Commissioner) and dated December 5, 2014;
- A-14: Freshwater Wetlands Letter of Interpretation/Line Verification issued by New Jersey Department of Environmental Protection (Division of Land Use Regulation) for subject properties, prepared by Andrew Clark (Supervisor) and dated May 20, 2015 <PAGE #2 OF 3-PAGE EXHIBIT WAS NOT PRESENTED>;
- A-15: chart (entitled "New Jersey Council on Affordable Housing/2014 Affordable Housing Regional Income Limits") depicting eligibility thresholds (indicated as median, moderate, low and very low) for households comprised of 1 to 8 persons located in 6 regions throughout New Jersey, uncredited and undated;

Relief Sought

- 1.) Use Variance: assisted living facility is not permitted in District #6;
- 2.) Use Variance: building height exceeds maximum allowed by $\geq 10'$ and/or 10% (30' maximum allowed/43.20' provided);
- 3.) Site Plan Approval-
 - a.) Design Waiver: number of parking spaces (72 spaces minimum required/28 spaces provided);
 - b.) Design Waiver: parking space area (200 sf minimum required/135 sf provided);
 - c.) Design Waiver: aisle width (18' minimum required/12' provided);
 - d.) Design Waiver: front yard parking setback <corner lot- facing Van Sciver Street> (20' minimum required/17' provided);
- 4.) Bulk Variance: number of stories (2.5 stories maximum allowed/3 stories provided);
- 5.) Bulk Variance: impervious coverage (50% maximum allowed/68% provided);
- 6.) Bulk Variance: side yard setback- corner lot (10' minimum required/3.40' provided);

Response to Prior Board and/or Subcommittee Requests

n/a;

New Board Requests

- 1.) provide escrow deposit (amount was not determined) to compensate planner to be retained by Board for review of subject application;
- 2.) provide Page 2 of Exhibit #A-14;
- 3.) clarify length dimension of proposed parking spaces (scale to 15', not 18', on site plan) <PRIOR REQUEST>;
- 4.) provide turning template for typical ambulance utilizing proposed porte-cochere <PRIOR REQUEST>;

- 5.) indicate proposed fencing on site plan <PRIOR REQUEST>;
- 6.) clarify whether or not walkways and patios are proposed in side yard and revise impervious coverage calculations accordingly (such is proposed on landscape plan but not site plan)<PRIOR REQUEST>;
- 7.) provide distance to scale measured from side yard property line of subject site to house situated at 45 West Street <PRIOR REQUEST>;
- 8.) provide governmental and/or medical standards and/or guidelines regulating design and administration of assisted living facilities <PRIOR REQUEST>;
- 9.) revise Exhibit #'s A-5 and A-6 to include hourly gradation of shadows casted after 4:00pm as well as property lines and buildings relating to lots located within 200' radius of subject properties <PRIOR REQUEST>;
- 10.) provide additional colorized/3-dimensional graphic rendering of proposed development depicted at lower perspective than that of Exhibit #A-4 and including viewpoints from front, both sides and rear of building <PRIOR REQUEST>;
- 11.) clarify discrepancy between testimony by applicant's planner and landscape architecturals prepared by Leonard Di Tomaso, CLA, dated October 10, 2014 and last revised May 20, 2015 with respect to proposed outdoor accommodations in rear yard (latest revision eliminates proposed covered porch/roof overhang) <PRIOR REQUEST>;
- 12.) consider use of renewable energy resources to counteract proposed tree removal on subject properties (balance of loss of adequate light, air and open space suffered by adjacent property owners) <PRIOR REQUEST>;
- 13.) clarify testimony by applicant's planner which inferred that 10% of proposed 99 beds to be dedicated to those residents on federally-administered Medicaid program would also count as credit for Borough towards its New Jersey affordable housing obligations as required by Council on Affordable Housing (COAH) <PRIOR REQUEST>;
- 14.) provide written breakdown of all anticipated staff on-site (including medical/transient professionals) as well as shift changes to ensure minimum staffing requirements for each position are met 24 hours a day <PRIOR REQUEST>;
- 15.) explain differences between generic assisted living facility and one specializing in memory loss with respect to accommodations, services and treatments provided <PRIOR REQUEST>;
- 16.) provide both regional and national studies (peer review) for existing assisted living facilities specializing in memory loss with respect to location, description and evaluation of services and treatments provided <PRIOR REQUEST>;
- 17.) consider widening portion of Van Sciver Street abutting subject properties by additional 4' (from 26' to 30') as condition of Board approval (such had been condition of Planning Board approval circa 1993 when current owner of subject properties <then William Eisenring/now Estate of> was granted Major Subdivision Approval) <PRIOR REQUEST>;
- 18.) provide Medicaid equivalent of Exhibit #A-15 to compare federal program's income eligibility thresholds with those of COAH;
- 19.) provide written summary of daily operations for applicant's existing assisted living facilities (in lieu of actual operations manual);
- 20.) provide website addresses for applicant's existing assisted living facilities (in lieu of brochures);
- 21.) provide testimony on ramifications for Borough if subject application is approved/denied by Board as it relates to recent decision by Supreme Court of New Jersey on COAH and municipalities providing their "fair share" of affordable housing <TO BE PROVIDED BY BOARD'S PLANNER>;

Public Questions

- 1.) John Finan, 55 Mac Arthur Avenue, Closter, New Jersey;
- 2.) Sant Batmaz, 45 West Street, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the August 19, 2015 Meeting.

◇ ADJOURNMENT OF MEETING ◇

A motion was made by Mr. Wasserman and seconded by Mr. Baboo, to authorize Mr. Steinhagen's firm (Beattie Padovano, LLC) to arrange for the retention of a planner to review relevant aspects of Case #Z-2014-17 (59 West Street, 11 & 15 Van Sciver Street/Closter Assisted Living, LLC) on behalf of the Board. The motion passed (7-0-0):

YES- Marks/Ouzoonian/Wasserman/Elias/Baboo/Dhorajia/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Ms. Marks and seconded by Mr. Wasserman, to have the Board adjourn at 11:45pm. The motion passed by acclamation.
