



Zoning Board of Adjustment

June 17, 2015

Meeting
(Minutes)

Prepared by:

Paul Demarest

◇ **OPENING REMARKS** (Commenced at 8:12pm) ◇

◇ **PLEDGE OF ALLEGIANCE** ◇

◇ **ATTENDANCE** ◇

Present

Joseph Bianco, RA/PP- Chairman
Mitchell Monaco- Vice Chairman
Dharamraj Baboo
Kenneth Wasserman
Antranig Ouzoonian, PE- Alternate #1
Joan Marks- Alternate #2
Phillip Kwon, Esq.- Alternate #4
Arthur Chagaris, Esq.- Board Attorney
Jeffrey Morris, PE- Board Engineer
Paul Demarest- Board Coordinator

Absent

Theodore West, DDS- Secretary
Heena Dhorajia, EIT
Evan Elias
Mindy Rothbaum- Alternate #3
Arthur Dolson- Council Liaison
Leonard Sinowitz- Zoning Officer

◇ **CORRESPONDENCE** ◇

In light of Secretary West's absence and on behalf of Vice Chairman Monaco, Mr. Wasserman read mail received by the Land Use Department into the record.

◇ **MINUTES** ◇

A motion was made by Mr. Ouzoonian and seconded by Vice Chairman Monaco, to approve the minutes for the May 20, 2015 Meeting. The motion passed (6-0-0):

YES- Kwon/Ouzoonian/Wasserman/Baboo/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

A motion was made by Vice Chairman Monaco and seconded by Ms. Marks, to approve the minutes for the May 27, 2015 (Special) Meeting. The motion passed (5-0-0):

YES- Kwon/Marks/Wasserman/Monaco/Bianco;

NO- n/a;

ABSTAIN- n/a;

◇ **SUBCOMMITTEE ASSIGNMENTS** ◇

◇ MISCELLANEOUS ◇

Chairman Bianco informed of a written request by the applicant for Case #Z-2013-18 (27 Pine Street/Forst), who previously sought and was granted a Bulk Variance for the construction of an addition, deck and pergola; he indicated the applicant now wishes to deviate from the approved design and have an extension of time in which to complete the project and fulfill the Board's conditions. Chairman Bianco noted the applicant has yet to apply for a construction permit with the Building Department and the corresponding Resolution was memorialized on January 15, 2014. He further noted that variance relief was obtained for a building coverage excess of 5.20% (the maximum allowance is 20% in District 2/Residential B). Chairman Bianco confirmed that, based upon architectural drawings prepared by Christian Albrecht, RA (the same design professional retained by the applicant during the Board proceedings), dated May 20, 2013 and last revised June 7, 2015, the proposal has been downsized, and the building coverage is reduced to 22.10%. Mr. Chagaris believed that because the current proposal involves a request for a less intense variance, its sanctioning does not warrant a new application filing, reopening of testimony or even a new Resolution being memorialized by the Board but rather the issue can be handled administratively. He further commented that being a variance runs with the land, the applicant or future owner of the subject property can choose to construct to the Board-approved building coverage (25.20%) without further approval.

Arthur Forst, 27 Pine Street, Closter, New Jersey, introduced himself and indicated he would be applying to the Building Department for a construction permit no later than August 31, 2015.

The Board directed Mr. Chagaris to author a memo regarding Case #Z-2013-18 (27 Pine Street/Forst) to both the Zoning Officer and Building Department relaying the Board's determination that it has approved of said design change (such will ensure a proper record being the above referenced revision is not cited in the memorialized Resolution nor signed by Chairman Bianco and Secretary West).

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 assured he would keep the Board abreast of future seminars/symposiums being offered by New Jersey Planning Officials (NJPO), the Bergen County Bar Association or local law firms.

Chairman Bianco revealed that 6 Board members have still not filed a Financial Disclosure Statement with the State of New Jersey; he indicated that the filing deadline was April 30, 2015. He also stated that the Board of Ethics welcomes them to attend its June 18, 2015 meeting to answer technical questions that local government officers tend to have when attempting to file their Statements electronically.

◇ OPEN TO THE PUBLIC ◇

n/a;

◇ MEMORIALIZATION OF RESOLUTION(S) ◇

A motion was made by Mr. Wasserman and seconded by Ms. Marks, to memorialize the Resolution for Case #Z-2015-03 (384 Knickerbocker Road/Frank). The motion passed (5-0-0):
YES- Kwon/Marks/Wasserman/Monaco/Bianco;
NO- n/a;
ABSTAIN- 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.

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;

Exhibits

- A-7: 6 photographs (entitled "Site Photographs") depicting existing conditions of subject properties, prepared by Witness #1's firm and dated June 16, 2015;
- A-8: Google Earth map dated 2012 (entitled "Aerial Photograph"), depicting subject properties and surrounding neighborhood (with property lines superimposed as provided by Bergen County Department of Planning and Economic Development), prepared by Witness #1's firm and dated November 12, 2014;
- A-9: map (entitled "Existing Land Use") depicting actual uses of subject and surrounding properties (with property lines superimposed as provided by Borough's tax map), prepared by Witness #1's firm and dated November 17, 2014;

- A-10:** map (entitled “Existing Zoning”) depicting zones of subject and surrounding properties (with property lines and zoning district boundary lines superimposed as provided by Borough’s tax map and zoning map respectively), prepared by Witness #1’s firm and dated 11-17-2014;
- A-11:** chart/graph (entitled “Projected Growth in Need for Alzheimer’s L.T.C. 2010-2030”) depicting projections for populations afflicted with Alzheimer’s disease in Boroughs of Closter, Emerson, Harrington Park, Haworth, Norwood and Old Tappan (utilizing statistics from both United States Census Bureau and Alzheimer’s Association), prepared by Witness #1’s firm and dated June 16, 2015;

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

- 1.)** applicant suggested it co-design landscape plan with both Borough and those residential property owners located on southwestern side of Michaels Lane for Borough-owned parcel (Block 1104/Lot 14 known as Van Sciver Street) located between subject properties and Michaels Lane whereby Borough would not be precluded from vacant lot’s future development but rather provide sufficient vegetation buffer (maximum of 8’ intrusion) between said residents and proposed assisted living facility <suggestion based upon balancing standard for inherently beneficial use variance- *SICA V. WALL BOARD OF ADJUSTMENT*>;
- 2.)** applicant suggested it provide funds for planting of trees, shrubs, bushes, etc. on Borough-owned parcel (Block 1104/Lot 14 known as Van Sciver Street) to provide sufficient vegetation buffer (maximum of 8’ intrusion) between residences located on southwestern side of Michaels Lane and proposed assisted living facility <suggestion based upon balancing standard for inherently beneficial use variance- *SICA V. WALL BOARD OF ADJUSTMENT*>;
- 3.)** applicant suggested it provide fencing along either northeastern property line of Borough-owned parcel (Block 1104/Lot 14 known as Van Sciver Street) or southwestern property lines of affected residences on Michaels Lane to provide additional buffer from proposed assisted living facility <suggestion based upon balancing standard for inherently beneficial use variance- *SICA V. WALL BOARD OF ADJUSTMENT*>;

New Board Requests

- 1.)** provide both application filing and Certificate of Need issued by New Jersey Department of Health (Division of Health Facilities Evaluation and Licensing) for proposed assisted living facility;

- 2.) 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);
- 3.) 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);
- 4.) 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);
- 5.) provide written breakdown of anticipated medical personnel on-site;
- 6.) explain differences between generic assisted living facility and one specializing in memory loss with respect to accommodations, services and treatments provided;
- 7.) provide both regional and national studies for existing assisted living facilities specializing in memory loss with respect to location, description and evaluation of services and treatments provided;
- 8.) 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);
- 9.) provide written breakdown of all anticipated staff on-site (including transient professionals) to determine adequacy of proposed off-street parking;
- 10.) provide written determination by New Jersey Department of Environmental Protection (NJDEP) as to whether wetlands on and surrounding subject properties are considered isolated <PRIOR REQUEST>;
- 11.) confirm proposed building height calculations are based on lower of average existing and proposed grades (measurements should be taken at midpoints of 2 higher ridges on both sides of porte-cochere and minarets/spires which are not excluded from regulation like church steeples, chimneys and flagpoles) <PRIOR REQUEST>;
- 12.) provide governmental and/or medical standards and/or guidelines regulating design and administration of assisted living facilities <PRIOR REQUEST>;
- 13.) 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>;
- 14.) 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>;

Public Questions

- 1.) John Finan, 55 Mac Arthur Avenue, Closter, New Jersey;
- 2.) Karine Airapetian, MD, 45 West Street, Closter, New Jersey;

Public Comments

n/a;

Decision

The case was adjourned to the July 15, 2015 Meeting.

◇ ADJOURNMENT OF MEETING ◇

A motion was made by Mr. Ouzoonian and seconded by Ms. Marks, to have the Board adjourn at 11:35pm. The motion passed by acclamation.
