

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
MAY 4, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Vice Chairwoman DeSarno at 7:08 P.M. Members present were Vice Chairwoman Mary DeSarno, Dominick Cinelli, Wilma Morrissey, Jim Gray, first alternate Bob Kerr, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Dan Swayze, Planner John Fussa and Court Reporter Arnone.

SALUTE TO THE FLAG

Attorney Hirsch announced that all requirements under the Open Public Meetings Act had been complied with for this meeting and read the purposes of the Board of Adjustment.

CARRIED APPLICATIONS

CASE #BA38-2003 – Date application complete: December 22, 2003. Carried from February 18, 2004, March 9, 2004, March 17, 2004, March 30, 2004 and April 7, 2004.

APPLICANT: SUNNYSIDE MANOR

PROPERTY: Ramshorn Drive & Lakewood Road, Block 876, Lot 16 and 44.01, R-30 zone

RELIEF REQUESTED: Use with variances

Michael Landis, Esq. appeared for the applicant.

David Boesch, previously sworn, said they had an EIS done.

Star Katz, 1523 Lakewood Road, said the new drainage basin that will be installed under the parking lot was not approved for use. What if it is not approved? Would you have to come back? Mr. Boesch said there is a request into DEP for review. If they do not approve it we would have to come back.

Ed Brown, 1606 Lakewood Road, asked if they were going to put in poplars. Mr. Boesch said yes for their fast growth. Mr. Brown said you will be irrigating them as well. Mr. Boesch said yes. Once installed and established Mr. Brown asked what is the water requirement in time of a drought? Mr. Boesch said they are tulip poplar. Mr. Boesch explained these are not Lombardi poplar but tulip poplar which is a native to New Jersey. We just hope once the plants are put in they will have a vigorous enough system to see them through any drought. Mr. Brown asked for the difference between Lombardi and tulip poplars as far as water requirements. Mr. Boesch said he did not know the difference in water requirements. Mr. Brown said it is critical they have sufficient water. Attorney Hirsch said even during the last drought new plantings were allowed to be watered. They have to submit a maintenance plan to ensure the plantings and shrubs survive. Mr. Brown asked if the proposed irrigation system would be sufficient. Mr. Boesch

said yes. Mr. Brown said he looked at the plans this afternoon and there were few evergreens. Most were deciduous and there will be no shielding of the building. Mr. Boesch disagreed. He said of 512 replacement trees 97 of them are shade trees, 368 are conifers. Mr. Brown asked if 500 trees in the area a great number by normal standards. Mr. Boesch said this is the most intensive design he has ever put together. There will be white pines, Colorado spruce, Douglas firs, some holly, etc. They will be throughout the site. Mr. Brown asked are they sparsely or densely? Mr. Boesch said 11' high conifers will be planted along the southerly property line. There will be normal size evergreens around the perimeter.

Entered into evidence:

- OB-2 Mr. Brown altered A-8 as modified
- OB-3 Mr. Brown altered a copy of a section of A-9
- OB-4 Photo taken by Mr. Brown
- OB-5 Photo taken by Mr. Brown

Mr. Brown, using A-13, said you took a site line from the low side in the middle of the road which is 3'6" to the top of the building? Mr. Boesch said that is correct. Mr. Brown said a 6' man standing up there would be 2' 6" to the top of the building. Mr. Boesch said that is not accurate because you are looking at the roof line. You have to look at the angle of the site line not just adding an additional 2½' over the top of the established line of sight. The roof top equipment would not be seen. Mr. Brown said on grid 78 what would the sight line be from there. He said you will be able to see into the top of the flat top building. Mr. Boesch disagreed. He said we are dealing with a distance of about 480'. If you increase the elevation about 6' you just barely see the top only of the southernmost HVAC unit. Mr. Boesch explained, using OB - 4, there is a significant amount of landscaping along Sycamore Street that would further obstruct the line of sight.

Mr. Brown asked if he would be seeing the parking lot, loading dock looking down from his house. Mr. Boesch said there is no loading area in that parking lot. Because the driveway is aligned with Sycamore you will be able to see down Sycamore into that parking lot.

Mr. Brown said the entrance is going to be covered with shrubbery. Mr. Boesch said we have to respect the sight triangle.

Jeff Erb, 2421 Ramshorn Drive, asked if they were trying to construct a non-conforming commercial structure within a residential zone. Mr. Boesch said we are before the Board of Adjustment so we are a non-conforming use. Mr. Erb said non-conforming commercial? Mr. Boesch said that's yet to be determined. Mr. Erb said commercial means in the dictionary to have profit, success. Attorney Hirsch said that is for the Board to decide.

Mr. Erb said the construction of this building depends on several variances and a land swap with the township. Has the applicant asked the town to swap land in another area. Attorney Hirsch said Mr. Boesch would not be able to testify to that.

Mr. Erb asked what steps have been taken that there is no echo effect from the HVAC system. Mr. Boesch said he is not a sound expert or architect.

Mr. Erb asked what steps are being taken to keep the residents from walking in any direction. There are no sidewalks to control the foot travel. Mr. Boesch said there is landscaping and some contour changing in the patio area. Mr. Keane will better answer that. Mr. Erb asked if there will be railings around the patio. Mr. Boesch said no.

Mr. Erb said you are going to build a retention basin of 8700 s.f. to pull the water off Ramshorn Drive and store it so it does not run into the 50' wide drainage easement. That is going to hold a lot of water. He said he thought the detention basin was going to be eliminated. Mr. Boesch said the storm water management system is being located underneath the southern parking area.

Mr. Erb said you have trees being planted within the sump area. That would not help the perking of that system. It would make water retain longer. Mr. Boesch disagreed.

Mr. Erb said according to the civil action suit you have 90 days to remove the existing nursing home. What studies have been done to locate and document lead base paints? Mr. Boesch said he has not been involved in that.

Michael Carroll, 1567 Horseshoe Drive, said isn't just your opinion that the landscape plan will filter this concrete monster? Mr. Boesch said that is his opinion.

Mr. Carroll gave an example of objective filtering. He asked Mr. Boesch what degree the landscape plan proposed is to hide this structure from the surrounding community. Mr. Boesch said I can't give precise numbers. The screening of architectural features is as depicted on the plan. This does conform to the standards of practice for buffering and screening.

Mr. Carroll said trees take time to mature. What happens to the filtering prior to the trees blooming into full life? What happens when autumn comes and the leaves fall? Mr. Boesch said that will only happen with the deciduous trees. A vast majority of the replacement trees, 368, are conifer trees. They will not have that seasonal change. Mr. Carroll asked what percentage did you say. Mr. Boesch said he did not give a percentage. He gave the number of conifer trees. Mr. Boesch said some of the trees will be 6' – 8' in height. Other trees will be 11' – 12'. There is a variety. Mr. Carroll said so it won't produce immediate filtration. Mr. Boesch said it will offer filtering. Mr. Carroll said in five to ten years. Mr. Boesch said it will offer filtering. The degree will change as the trees grow. Mr. Carroll said the filtering will be minimal. Mr. Boesch said a complete obstruction is not feasible or realistic with landscape materials.

Mr. Carroll asked Mr. Boesch how many years experience he had. Mr. Boesch said 20. Mr. Carroll said Mr. Boesch made an error in calculations at the last meeting. Mr. Boesch said that error involved the basement.

Mr. Carroll said this structure is quite different from the residential homes in the area. Do you think it is possible to filter such a gigantic structure? Mr. Boesch said yes.

Mr. Carroll said last month the traffic engineer said the building will be quite large. He said this building would be unlikely to miss. Do you think this structure can fit in with the rural nature of the neighborhood? Mr. Boesch said suburban yes, rural no. The landscape plan is appropriate for this use in this location.

Mr. Carroll said last month the traffic engineer made another statement. He said the building would not be attractive. Don't you think this structure would be better on Route 34 or Route 35? Mr. Boesch said I do not believe that our loved ones should be put on a state highway. They should enjoy comfort in a residential setting. Mr. Carroll said don't you think the structure would be more in harmony with other surrounding commercial properties. Mr. Boesch said the architect has offered a style and layout to minimize the impact. Mr. Carroll asked if Mr. Boesch still felt, after all the neighborhood concerns that this building should be in a beautiful residential area in Wall. Mr. Boesch said he feels this location is ideally suited because it is where the existing facility is.

Mr. Carroll said the existing structure is set back from Ramshorn Road and Lakewood Drive. Mr. Boesch said the existing structure is set off Ramshorn Drive. Mr. Carroll said it is tucked back nicely where it is. Mr. Boesch it is only 31' off of Lakewood Road. Mr. Carroll said it is about 300' from the cross road intersection of Lakewood Road and Ramshorn. Mr. Boesch said it is probably more than that.

Mr. Cinelli asked the Board Professionals if they find the initial plantings and the number of proposed plantings sufficient for this site. Mr. Swayze said our certified landscape architect is satisfied with the plan as presented.

Mrs. Morrissey asked for the results of the EIS. Mr. Swayze asked the results as in what context. Mrs. Morrissey said she does not have a copy. Mr. Swayze said the result was that it was minimal impact to the environment. Mr. Boesch said the original EIS held a date of 1998. The landscape project ongoing from the NJDEP tracks numerous threatened endangered species. The entire Manasquan River Wildlife area is considered foraging area for the nesting of a pair off bald eagles. The Protocols for the Establishment of Exceptional Resource Value Wetlands Pursuant to the Fresh Water Wetlands Protection Act dated February 2004 indicates that a buffer of approximately 90 meters is appropriate for a foraging area.

James Higgins, Planner, was sworn. Mr. Higgins gave his credentials which were accepted by the Board.

Attorney Landis said the project has been described. He asked Mr. Higgins to go over the zoning.

Mr. Higgins said the property is located in the R-30 zone. R-30 is a residential zone. Single family dwellings and agricultural production are permitted. There are also conditionally permitted uses allowed. Conditionally permitted uses are uses that are permitted by right in the zone, provided they meet certain specific conditions related to the nature of that use. Some of the uses are professional offices, aboveground communication and utilities, golf courses, etc. Attorney Landis said the existing use is a pre-existing non-conforming use, correct? Mr. Higgins said that is correct. Mr. Higgins explained to the north of the property is an R-10 zone. Attorney Landis said is a transitional site. Mr. Higgins said that is correct. It is located between two zones.

Attorney Landis asked Mr. Higgins, how the Master Plan impacts on the site. Mr. Higgins said the Master Plan designates the site for low intensity residential use. It does not address the quasi

public uses. It does not address assisted living. Attorney Landis said there is no where in the Master Plan prohibiting this use. Mr. Higgins said that is correct.

Attorney Landis asked Mr. Higgins to explain what inherently beneficial use means with regard to this application. Mr. Higgins said it is a use that by its very nature is determined to be a special reason for the granting of a use variance. The applicant must provide a positive special reason for the granting of a variance. Schools, churches, nursing homes are inherently beneficial uses. Attorney Landis said the applicant has satisfied the special reasons criteria by virtue of being deemed an inherently beneficial use. Mr. Higgins said that is correct.

Mr. Higgins explained when you have a use variance application you have to show positive reasons or special reasons and you have to show that there is no negative detriment. Here you have an existing 70 bed facility that is older. It is on the rear portion of the site. It is tucked in among a bunch of residence. What is being proposed is a 135 mixed nursing home and assisted living facility. One of the purposes of the MLUL is to provide for senior citizen housing. This is a form of senior citizen housing.

Attorney Landis said the newer facility will provide for a system as you age for a resident to move from assisted living to nursing home. How does that impact? Mr. Higgins said it adds to the benefit because the current thinking is to provide for the aged.

Attorney Landis asked Mr. Higgins to go over the second step of the four part balancing test. Mr. Higgins said that is to see if there are any detrimental affects. You have to look at traffic, noise, aesthetics, etc. This building will be more attractive. The proposed structure will be 76' from Lakewood Road and 120' from the closest residential structure. The R-30 zone permits 14% building coverage and 25% impervious coverage. The proposed building has less than 25% impervious coverage and less than 14% building coverage.

Mr. Higgins explained the existing building sets much higher on the site because the site slopes upward. While this may be a larger building the height is lower. The wooded area along Lakewood Road will screen the building from Lakewood Road. He said he cannot see any negative impact relative to noise. The other would be smell and the facility currently exists. The garbage is substantially away from the residential neighborhoods. It will also be enclosed. I do not see any substantial negative impact to the granting of this application.

Mr. Higgins went over the third step. The third step is imposing reasonable conditions. The largest potential impact would be the visual impact. The landscape plan is excessive and I think it would substantially filter the view. There is a substantial improvement with this application. The driveway that runs from Ramshorn Drive up along the back of several residences will be eliminated. Mr. Higgins said he saw no need to impose any conditions.

Mr. Cinelli said you talked about reasonable conditions. What about on deliveries to and from the site. Would the Board have a right to impose restrictions regarding the type of trucks and hours of deliveries? Mr. Higgins said of course. You don't want deliveries at 1:00 – 2:00 A.M. With inherently beneficial use you can have a detriment and still approve the application. This application has substantial benefits.

Attorney Landis asked if when you do the balancing test the negative impacts have to be substantial. Mr. Higgins said that is correct.

Attorney Landis asked Mr. Higgins to address whether this is a commercial facility. Mr. Higgins said it is clearly a residential use. People reside here 100% of the time. Nursing homes and assisted living homes are residential uses. It is a residence from planning and zoning points of view. One of the members of the public raised the issue if you make money on it it is commercial. If I rent out my house does that become a commercial structure because I am making money on it? This is a residence.

Attorney Landis said there was a comment from the audience stating it would be much better to locate this structure on Route 34. Is the fact that the structure is in a residential setting a special reason with regard to the residents who live there. Mr. Higgins said nursing homes and assisted living facilities are usually located in residential zones. They can also be located in commercial zones. A residential zone is a much better location.

Attorney Landis asked Mr. Higgins if he felt that this application would have an adverse impact on the township's master plan or zoning ordinance. Mr. Higgins said no. The area has grown despite this facility. This facility has existed on the site for a number of years. Many of the homes have developed around the facility. Mr. Higgins said he does not think there is going to be a substantial detriment on the surrounding area.

Mrs. Morrissey asked, as a planner, most of the residents are concerned about the size of the structure. What would your opinion be if it remained the same in design but was reduced by 25%? Mr. Higgins said if you reduced it by 25% then you reduce the magnitude of the benefit by 25%. Mr. Higgins said he felt by reducing it 25% you would not gain that much and the project would probably be killed. That means there would be no benefit at all.

Mr. Fussa asked Mr. Higgins if he stated the Master Plan was silent on this facility. Mr. Higgins said yes. Mr. Fussa said your testimony takes the silence of the master plan as basically ensuring to its benefit. Because it is silent it doesn't preclude both this use and more importantly its expansion of this use. Mr. Higgins said at this site that is correct. Mr. Fussa said so the master plan would essentially be not favoring the expansion but perhaps neutral. Mr. Higgins said that is correct.

Mr. Fussa asked would it be accurate to say that some uses including inherently beneficial uses have a greater benefit to the public than others. Mr. Higgins said yes.

Mr. Fussa said would it be accurate to say that the inherent public benefit for this use should be analyzed within the context of the availability of similar uses both locally and broadly within the region. Mr. Higgins said with regard to the application there's another important aspect and that is you have an existing facility on the site. If this is not approved it will likely continue to function for a long time in the future.

Mr. Fussa asked if Mr. Higgins has reviewed Mr. Bernard's letter of April 22nd. Mr. Higgins said he didn't know it existed.

Attorney Hirsch said we will take a break and Mr. Higgins can review the letter.

Mr. Fussa said he had a question to ask Mr. Higgins that did not refer to the review letter. Mr. Fussa said Mr. Higgins stated that the building will be relocated from the rear of the property to the front of the property, closer to Ramshorn Drive. Is it a benefit to increase the visibility to some degree? Mr. Higgins said it would increase the visibility from Ramshorn Drive. It would reduce the visibility from the residences that surround it. He said his testimony was that by moving it the building gets further from the residences. I think that is an improvement.

Mr. Fussa asked if the intersection of Lakewood Road and Ramshorn Drive would be considered high traffic Gateway location. Mr. Higgins said he would not call it a Gateway location.

Mr. Fussa asked if Lakewood Road was high traffic because of its connection to Route 34. Mr. Higgins said yes.

Mr. Fussa asked if it was possible to have a building of this size and scale be not visible. Mr. Higgins said he did not think it would be. It may be possible. It would be completely inappropriate.

Mr. Fussa asked would it be more of a benefit if a portion of the facility was targeted to low and moderate income. Mr. Higgins said absolutely.

Mr. Fussa asked if some of the detriments for any development would be traffic, noise, aesthetics or visual impact, etc. Mr. Higgins said yes. Mr. Fussa asked how the impacts of this facility compare to that of permitted principle uses. Mr. Higgins said it would depend on the residences. This facility would likely have more traffic than a residence. It would depend on the design, how the subdivision was designed.

Mr. Fussa said it is your opinion that the issue regarding deliveries can be dealt with by the Board through conditions if the Board approved this. Mr. Higgins said that is correct.

Mr. Fussa asked if the deliveries will be coming through Ramshorn Drive only. Mr. Higgins said that is correct. The Lakewood Drive entrance is for visitors only.

Mr. Fussa asked if the primary driveway curb cut is off of Ramshorn. Mr. Higgins said that is correct. Mr. Fussa asked if there were three proposed driveway curb cuts including two off of Lakewood. Mr. Higgins said there is only one off Lakewood. There are two driveways, one off Lakewood and one off Ramshorn. Mr. Fussa said he thought there would be a curb cut at the overflow parking area. Mr. Higgins said there may be a dropped driveway curb there but it is not going to be a driveway. It will look like a grassed area. Mr. Fussa asked if a gate or block access could be put in. Mr. Higgins said it would not be appropriate because what the gate does is sets that access off as an access point.

The meeting recessed at 8:50 P.M.

The meeting resumed at 9:20 P.M.

Mr. Fussa said on page 3 of Mr. Bernard's report he does an analysis of the size of nursing rooms, skilled nursing rooms and living units vs. the minimum State standard. Do the rooms meet the minimum requirement or do they provide additional space? Mr. Higgins said it provides additional space above the minimum. Mr. Fussa asked if it would apply to both the nursing units and assisted living units. Mr. Higgins said he did not know.

Mr. Fussa said on page 4 of Mr. Bernard's report he does an analysis of the size of the assisted living units. Do they meet minimum standards or do they exceed? Mr. Higgins said they exceed.

Mr. Fussa read a portion of Mr. Bernard's report. It stated that he does not believe the applicant requires all the space on the bottom floor. That space can be reduced. Mr. Fussa asked how you would characterize the fact that additional space above the State standard is provided, does that provide opportunities to reduce the size of the units and do you agree or disagree with that conclusion. Mr. Higgins said those State standards are minimum standards. That is the smallest they can be. Mr. Higgins said he was not involved in the planning. He said he could not comment on whether or not those units could be reduced. He said State standards change continually. Their adequacy is constantly reviewed. Mr. Fussa said larger units would provide additional flexibility to go into the future. Mr. Higgins said it may make the residents lives more comfortable. Mr. Fussa said if reduced in size the number of beds would remain the same. Mr. Higgins said that is correct.

Mr. Fussa referring to page 5 of Mr. Bernard's report, asked if there was a sufficient supply of skilled nursing and assisted living within the region? Mr. Higgins said no.

David Harpel, 2417 Ramshorn Drive, said to get a use variance you have to meet certain conditions. Does this facility meet the requirements? Mr. Higgins said to get a use variance you need to meet several criteria. You have to provide a special reason for the variance. In this case it is inherently beneficial. Then he has to prove that the benefits are greater than the detriments.

Mr. Harpel said in the Township ordinance book it states a conditional use permit shall be granted provided the following standards are met. One of those is a 250' front yard setback. Other standards are 100' setback from all other properties and minimum site coverage of 20%. Mr. Harpel said this application does not meet those requirements. Mr. Higgins said they are not required in a use variance application.

Deborah Gallo, 1530 Lakewood Road, said when she is at the intersection of Lakewood Road and Ramshorn Drive she doesn't see anything except a Sunnyside sign and a lot of trees. In the winter I may see the parking lot. What will I see if this application is approved? Mr. Higgins said you will see the proposed building. You will also see landscaping surrounding the building.

Ms. Gallo asked how many trees are going to be in front of the facility and will any of them block the facility. Mr. Higgins said he couldn't say.

Ms. Gallo asked if Mr. Higgins was aware that Erickson Retirement Communities in Tinton Falls has aging in place. Mr. Higgins said yes. Ms. Gallo said so there is a facility in Monmouth

County that has independent living, assisted living. Mr. Higgins said they do not have nursing care. Ms. Gallo said they do. Mr. Higgins said he was not aware they had a nursing facility.

Louis Grella, 2512 Ramshorn Drive, asked what percentage of residents will be able to move from the assisted living to the nursing facility. Mr. Higgins said he has not done that study. Mr. Keane will be able to give that information.

Mr. Grella asked when he drives down Lakewood Road to Ramshorn what percentage of the present facility do you see. Mr. Higgins said he does not know percentage wise. You can see the facility. Mr. Grella said he's lived on Ramshorn for three years before he knew this facility was there. Does that surprise you? Attorney Hirsch said that is not a question for Mr. Higgins.

Dennis Malanga, 2520 Autumn Drive, asked if the existing use of this facility is nursing or is it nursing and assisted living. Mr. Higgins said it is both. Mr. Malanga asked when did they get approval for assisted living. Mr. Higgins said he did not know. Mr. Malanga asked if he knew if they had an official approval for assisted living. Mr. Higgins said he did not know. Mr. Malanga said if it was not approved and it is an illegal use would the assisted living be grandfathered in. Mr. Higgins said he does not know the specifics. Mr. Malanga said not legally, hypothetically. Mr. Higgins asked approved by whom? Mr. Malanga said the town. Mr. Higgins said if it did not predate, it would not be. Mr. Malanga asked how that would affect this application. Mr. Higgins said it doesn't. It would not affect it because then it would remain a nursing home. Mr. Malanga said then they are going for a new use. Mr. Higgins said we are going for a new use anyway. We are going for an expansion of the use. He said his testimony would be exactly the same regardless of whether the facility was just a nursing home or a nursing home with an assisted living. Mr. Malanga said if it were not grandfathered in the application would be the same. Mr. Higgins said it would be somewhat stronger. Mr. Malanga asked stronger how. Mr. Higgins said in terms for providing for a special reason for the granting of the variance and the magnitude of the public benefit.

Mr. Malanga said in Mr. Higgins description this will be a more modern facility. You compared it to the old facility. Mr. Malanga said you are taking a 90,000 s.f. building and wrapping it in vinyl and stripped shingles. Mr. Higgins said he takes exception to the term wrapping it in vinyl and stripped shingles. It will be built with modern materials. It will have a very nice design. Mr. Malanga said that is a matter of taste.

Mr. Malanga asked about the aesthetics of having under the window air conditioners. Mr. Higgins said it depends on the design. They could be designed so you don't even notice them. Mr. Malanga said can you see them on the rendering. Mr. Higgins said you can't tell from the rendering.

Mr. Malanga asked if he were to build a Residence Inn which houses people on a long-term basis would you indicate and agree that that is not a commercial building. Mr. Higgins said a Residence Inn does not house people for years. It houses people for a month, two months maximum. That's a hotel. Mr. Malanga asked where the cut-off is. Mr. Higgins said there is none. In planning and zoning there is no black and white. This is a form of residence. It is a residential building.

Mr. Malanga said when Mr. Keane went for an approval for an addition to the building quite a number of years ago are you aware there were a number of objectors. Mr. Higgins said yes. Mr. Malanga asked how many compared to what we have here. Attorney Hirsch said that is not relevant.

Mr. Malanga asked what is the impact of having too many approvals for any kind of use, not just assisted living, in one area. Mr. Higgins said he would need a specific use and numbers. Mr. Malanga said what about assisted living. Mr. Higgins said he does not think there are too many.

Mr. Malanga said the financial viability of the project has to pass muster from the State in order to be approved. Doesn't that have some relationship to over building? Mr. Higgins said yes it does. If the market is being saturated there won't be building. Right now the general population is aging.

Ed Brown, 1606 Lakewood Road, asked if there were four or five special reasons. Mr. Higgins said there is a four step balancing test.

Mr. Brown asked if valuation was also taken into the equation. Mr. Higgins said not from a planning and zoning standpoint.

Mr. Brown asked if Mr. Higgins was aware of the directives the governor signed in March concerning at home living. Mr. Higgins said no. Mr. Brown said it also encourages steps to elderly people to be taken care of in their homes. Mr. Higgins said no.

Mr. Brown said would you recommend as the State does that patients should be able to be dropped off at the front door. They shouldn't have to walk 400' from the southerly car park to the front door through a car park in all weather..... Mr. Higgins stopped Mr. Brown and said he was totally lost. Attorney Hirsch asked if Mr. Brown wanted to know if the parking areas are too far away from the front door. Is the parking appropriate for this type of facility? Mr. Higgins said he was not involved in the layout of the site plan. Attorney Hirsch said Mr. Nelson testified on that issue.

Mr. Brown said have you, I believe have you seen that is a no parking fire zone? Mr. Higgins said that does not stop people from dropping people off and then going to park. Mr. Brown asked how long can somebody park in a non-parking fire zone. Mr. Higgins said he does not know.

Mr. Brown said the majority of people will be the elderly. Mr. Higgins said yes. Mr. Higgins said there was a traffic expert that testified that the design is appropriate and safe.

Mr. Brown asked if Mr. Higgins knew the State did not want balconies on these buildings. Mr. Higgins said that is outside his expertise.

Mr. Brown asked if the owner gets approval and the building is built, would the owner be able to put another building in here. Attorney Hirsch said no. That is not a question for Mr. Higgins. This application is before the Board. If this Board approved the application and the applicant wanted to do anything else he would have to come back to the Board.

Mr. Brown asked what will be the residual zoning or use permitted on here in the..... after this is built? Attorney Hirsch asked if he was talking about the overflow parking. Mr. Brown said yes. Attorney Hirsch said there has already been a lot of testimony on that. Mr. Brown said how would this stand? Is this zoned....still be zoned commercial? Attorney Hirsch said it is not zoned commercial. The zone does not change.

Mr. Brown asked what the affect of the 3' drop from the curb there down into there be. Mr. Higgins asked in what regard. Mr. Brown said visual. Mr. Higgins said I don't think there would be any visual effect. It will look like a sloping lawn area.

Mr. Brown, using exhibit A-8, said there are approximately 25 windows. The impact to the houses along Lakewood Road toward Ramshorn would be less than the houses up here. Mr. Higgins said yes in terms of light, air and open space, in terms of the setback of the building and in terms of the visual impact because the building will be set down.

Mr. Brown said the residence on the top floor will have their lights on. Will that have an adverse affect? Mr. Higgins said in what regard. Mr. Brown said to the residents in the houses. Mr. Higgins said I don't think there is going to be any adverse effect.

Richard Capparelli, 2525 Ramshorn Drive, said he has quite a few questions. Mr. Capparelli asked do you feel that the property that Sunnyside is on is increased in value substantially making it much more profitable to knock down the existing building and build a massive building in order to gain the maximum financial benefit rather than to sell the property to a builder for single family homes and relocate Sunnyside elsewhere. Attorney Hirsch said that is not a relevant question. Attorney Hirsch said you cannot ask a witness about whether he thinks the applicant will make more or less money on this development.

Mr. Capparelli stated that many assisted living and nursing homes are now in residential areas compared to being in commercial areas. What percent of new homes or homes that are being added on or knocked down and rebuilt are in residential areas in New Jersey? Mr. Higgins said in New Jersey. I can't give you a percentage.

Mr. Capparelli asked what percent of older mature people are living in residential communities. Mr. Higgins said he couldn't give a percent. They are typically located in residential zones. There are some in commercial zones.

Mr. Capparelli asked if Mr. Higgins was being paid to be here. Mr. Higgins said yes. Mr. Capparelli asked if Mr. Higgins opinion was being paid for. Mr. Higgins said his opinion is not being paid for. His appearance is being paid for.

Mr. Caparelli said it was stated before about the inherent benefit that we are going to see. Please explain that? Mr. Higgins said the benefit is providing housing and acute medical care for elderly residents of the State of New Jersey. Mr. Caparelli said and that is a benefit to each one of us. What benefit is that? Mr. Higgins explained that it is a benefit to all of the residents of the State of New Jersey. The Supreme Court said that these uses are inherently beneficial. Mr. Caparelli asked how that benefits me and everybody else in this room. Mr. Higgins said it is a benefit to the general welfare that has been determined by the court.

Richard Drewes, 2505 Ramshorn Drive, said regarding the size of rooms you said it is minimum standard and that minimum may increase in size in the future. Mr. Higgins said yes. Mr. Drewes asked if there has been any increase in size in the last 10 years. Mr. Higgins said he did not know. Mr. Drewes said they can stay the same. Mr. Higgins said the point he was making is that the sizes are minimum acceptable sizes.

Mr. Drewes said you compared this to a garden apartment or townhouse. Can you clarify that statement? Mr. Higgins said he didn't say the building he said the use.

Mr. Drewes asked do you know what the allowable density is for garden apartments and how that compares. Mr. Higgins said he does not know and it is irrelevant.

Mr. Drewes asked if there is an industry standard. Mr. Higgins said not to his knowledge. Mr. Drewes asked then how do you know what the density of this project is. Mr. Higgins said he doesn't.

Mr. Drewes asked if Mr. Higgins was aware that the applicant was asking for numerous variances and design waivers. Mr. Higgins said he is aware that there are some variances and design waivers that may be necessary. A lot of them relate to the fact that this is a single family residential zone.

Mr. Drewes asked what zones nursing/assisted living facilities are allowed. Mr. Higgins said he thinks they are allowed in some of the highway zones, some of the commercial zones. Mr. Drewes asked if they were allowed or conditional uses. Mr. Higgins said conditional uses.

Mr. Drewes asked Mr. Higgins to list the variances required. Mr. Higgins said he doesn't think there are any specific variances necessary. There is an issue as to whether one is needed for buffer.

Mr. Gray said he is not very clear on what exact variances are necessary. He said he has an application from December 2003 and the only variance is for use. I think there are others. Attorney Landis said in the application there is only one other variance and that is for the loading area. Mr. Gray asked you want to have less loading zones. Attorney Landis said yes. Mr. Gray asked if there were any other variances. Mr. Drewes said bulk variances. Attorney Landis said there is only one we applied for. He said another was applied for for the intrusion of the detention basin. We are down to one which is for loading zones. Mr. Gray said we are only voting on a use variance. Attorney Landis said yes unless the Board determines another is needed.

Mr. Drewes said the plans still show an encroachment in the buffer. Attorney Landis said we resolved that. Mr. Drewes said the plans still show parking in the buffer area. Mr. Gray advised Attorney Landis to check with the Board experts before the next meeting just to make sure you agree on the exact variances.

Mr. Drewes asked Attorney Hirsch if it was typical to go through most of the witnesses and not know what variances are required. Attorney Hirsch said they have already gone through the

variances for the loading zone. They previously discussed the encroachment into the buffer area. That has been changed.

Mr. Drewes said at the last meeting he identified a half dozen or so variances. Attorney Hirsch said the Board professionals analyze the plans and advise the Board.

Mr. Drewes asked what is the density in this zone surrounding this particular piece of property. Mr. Higgins said permitted density is one unit per 30,000 square feet. Mr. Drewes said that is one and one half per acre. Mr. Higgins said it is one and one quarter per acre.

Mr. Drewes said you gave testimony stating most applications had a market study or build out analysis for those particular projects and asked do you think in this particular application if one had been done it would have helped you with your presentation. Mr. Higgins said most of the applications he has worked on did not have them done.

Mr. Drewes said the Township is part of this application. Mr. Higgins said yes. Mr. Higgins said the Township made a land swap. The Township did not provide one point five acres of land. The Township provided 44,000 s.f. in return for a dedication of 90,000 s.f. of land.

Mr. Drewes said with the land swap don't you think the design professionals could have designed something with no variances. Mr. Drewes asked with the land swap don't you think you should come back with a clean application. Mr. Higgins said no. In a perfect world one might expect that. In the real world there are many other considerations.

Mr. Drewes asked if Mr. Higgins was now prepared to go through all those variances. Mr. Higgins said he doesn't believe there are any variances.

Mr. Drewes asked how many stories is this building. Mr. Higgins said this building is a two-story building. Mr. Drewes asked by sight or ordinance. Mr. Higgins said by ordinance.

Mr. Drewes asked if Mr. Higgins was aware at the end of the year the Township re-codified the building height as an amendment to their ordinance. Mr. Higgins said he has not looked at the height issue. Mr. Drewes said there was previous testimony referencing the old ordinance.

Mr. Drewes asked Mr. Higgins if he had any part in the preparing the EIS. Mr. Higgins said no.

Doug Hazard asked if the Ocean Township Senior Complex was located on a major road. Mr. Higgins asked which one there are a number of them. Mr. Hazard said one was mentioned with a gated entrance. Mr. Higgins said that is a single family age restricted community. It is located on two major roads.

Mr. Hazard asked if Mr. Higgins knew where the Shrewsbury/Meridian was. Mr. Higgins said yes. Mr. Hazard asked is the Shrewsbury/Meridian Age facility located in a residential neighborhood. Mr. Higgins said no.

Mr. Hazard asked, as a professional, do you think this should be located on a major road or in a residential neighborhood. Mr. Higgins said the proposed use should be located on this site.

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Joe Lamendella said inherently beneficial use, based on the number of units, as it increases so increases the magnitude of the inherent beneficial use. Mr. Higgins said yes. Mr. Lamendella said the bigger it is the more beneficial it is. Mr. Higgins said yes.

Mr. Lamendella said I heard you give an answer that the surrounding property values are not considered to be or would not be considered a negative impact. Mr. Higgins said that would not be something that I would look at as a planner.

Mr. Lamendella said if the property values went up would it be a beneficial value. Mr. Higgins said no.

Attorney Hirsch said this will be carried to May 18, 2004 at 7:00 P.M.

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 10:45 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary