

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
JUNE 29, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairman Clayton at 7:15 P.M. Members present were Chairman Michael Clayton, Vice Chairperson Mary DeSarno, Dominick Cinelli, Wilma Morrissey, Jim Gray, Wayne Palmer, first alternate Bob Kerr, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Swayze, Planner Art Bernard and court reporter Deborah 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 APPLICATION

CASE #BA38-2003 – Date application complete: December 22, 2003. Carried from February 18, 2004, March 9, 2004, March 17, 2004, March 30, 2004, April 7, 2004, May 4, 2004, May 18, 2004 and June 22, 2004.

APPLICANT: SUNNYSIDE MANOR

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

RELIEF REQUESTED: Use with variances

Attorney Landis said at the last meeting Mr. Keane was in the middle of his cross examination.

Attorney Gasiorowski said if there are no other questions he will begin. He wants to be last.

John Goodfellow, 1602 Lakewood Road, said several times during Mr. Keane's testimony he mentioned that he had control over deliveries and time schedules. Is that correct? Mr. Keane said he stated he would monitor it. Sometimes there may be an exception. Mr. Goodfellow said Mr. Keane said there were no deliveries until 8:15 A.M. or after 4:00 P.M. Mr. Keane said sometimes UPS comes after 4:00 P.M. Mr. Goodfellow said on June 23, 2004 at 7:55 A.M. there was a delivery. It was a large silver box truck. Mr. Keane said we had no one to take the delivery so it was probably sent back. Mr. Goodfellow said at 2:05 P.M. there was a tractor trailer with Campbells written on it. Mr. Keane said there is a sign stating no tractor trailers. They are sent away. Sometimes one slips through. Mr. Goodfellow said he has a list of deliveries that have come after the time you said. Mr. Keane asked over how long a period of time. Mr. Goodfellow said after you made the comments to this Board. The first was on August 5, 2002 and so on.

Mr. Goodfellow asked if they planned on sidewalks. Attorney Hirsch said that would be up to the Board. They will do whatever the Board required. There was testimony regarding that. The public did not want sidewalks. The Board will take that all into account. It will not be up to Mr. Keane.

Mr. Goodfellow said his house is directly across from the proposed new building. What will I see from my upstairs windows? They are 15' – 20' above curb level. Mr. Keane said if you look at the plans you will see one corner of the building. You would see a 50' wide building. You will see a two story building. You may see the second floor. It is not a high building.

Mr. Goodfellow said another issue is the security of your residents. Mr. Keane said as far as the wanderers are concerned there is an alarm system. We have lock downs. We haven't had anyone go off the property in four to five years. Mr. Goodfellow said he saw a resident 2/3 of the way down the street. Mr. Keane said there was an alarm failure. He was a difficult resident.

Mr. Cinelli asked if in the new building the security will be enhanced. Mr. Keane said yes.

Mr. Palmer asked about shift changes. Mr. Keane said shifts are at 7:00 A.M. – 3:00 P.M., 3:00 – 11:00 P.M. and 11:00 P.M. – 7:00 A.M. The kitchen personnel work from 6:00 A.M. – 2:00 P.M. and 11:00 A.M. – 7:00 P.M. The office personnel start at 9:00 A.M. Laundry personnel start at 8:00 A.M. Housekeeping starts between 7:00 – 8:00 A.M.

Dennis Malanga, 2520 Autumn Drive, said he spoke with Mr. Trochia and spoke about he window units, roofing shingles and siding. Did he speak to you? Mr. Keane said we discussed it but it is not finalized. We discussed it and we will continue to discuss it. We want it to be a pleasant looking building and fit into the neighborhood. We have several choices. He said he is flexible. Mr. Malanga asked if he were to bring in samples would Mr. Keane consider them. Mr. Keane said sure. Attorney Hirsch said the architect testified to that. The Board can advise the applicant what they would like. Mr. Keane said we basically stand with what we presented. If we look at it and change it we are very will to submit it to the Board or Building Department. Attorney Hirsch said the esthetics are very important. The Board is going to have to approve a plan. They are going to indicate the type of material, color, texture, etc. Once it is approved that is what you will have to use. We cannot leave it open.

Mr. Malanga said to Mr. Keane you did a study of supply and demand and quoted census data. What was the area? Mr. Keane said he believes it was Wall Township, Manasquan, Brielle, Spring Lake, Point Pleasant, Belmar and Farmingdale. Mr. Malanga said you also did a supply analysis. Was that the same area? Mr. Keane said yes. Mr. Malanga asked if he added the existing facility. Mr. Keane said yes. Mr. Malanga asked if he included the new facility on Holly Boulevard. Mr. Keane said no. He said he called Wall Township and the State for active applications.

Mr. Malanga said you made a statement that this would fill the need for assisted living in Wall Township and we would meet 8% additional in demand for the next few years. Do you feel it is saturated now? Mr. Keane said this is a free market. There will be an 8% growth in this area between 2000 and 2010. No, it is not saturated. It would be a competitive market. It will be 2008 before we will be fully occupied.

Mr. Malanga asked if he knew there were assisted living closings because they are going bankrupt in the north section of Dover. Mr. Keane said he has never heard of it. Developers were going out and building them without experience. There may be other reasons. Mr. Malanga said what concerns him is the similarity. It was left abandoned. What occupancy do you project to break even? Mr. Keane said they are admitting five a month. He said he predicts breaking even at the end of the first year. We will be transferring over 70 residents from day one.

Mr. Malanga said if you don't have the occupancy you need can you rent to anyone. Mr. Keane said no. He said he is better off with empty beds. Mr. Malanga asked who controls who you rent to. Mr. Keane said he does. Mr. Malanga said he is alarmed about the saturation of assisted living in the area. Will you rent to people that are homeless, psychiatric type of needs? If there are no criteria you can rent to anyone. Mr. Keane said there are no restrictions. He said he just intends to expand his mission.

Chairman Clayton said he has noticed people in their 20's and 30's in nursing homes. Why are they there? Mr. Keane said they may be developmentally disabled. They do have that type of facility. Patients that need that type of facility do not appeal to the people that come to Sunnyside. People do not want their mothers and fathers with some of them. Chairman Clayton asked if they apply to you can you say yes or no. Mr. Keane said yes.

Mr. Gray asked about the size of the sign outside the building. Mr. Keane said it was drawn to regulation. It will be the same as it is now. Attorney Landis said it is 5' X 7'.

Mrs. Morrissey said at the last meeting you said you were going to check to see whether the residents can drive. Mr. Keane said parking is more than adequate for what we need. To restrict the right of people to drive I don't think there is a necessity. If it affects our parking I will.

Barrie Riddle, 2420 Riverside Terrace, said she has a few concerns regarding parking. What can we do if all of the people in the assisted living want to have cars? She is concerned about the overflow. Mr. Keane said he doesn't think that is going to be a problem.

Jennifer Delgado, 2520 River Road, said what would you be allowed to build without the variances. Attorney Hirsch said you can't build it without variances.

Chairman Clayton said he went over the plans and between recreational, coffee rooms, living rooms there is 14,000 – 15,000 s.f. of recreational space. 10,000 s.f. of that is on the lower level. Will you bring the people down those two floors? The lower level does not have one bed. Mr. Keane said he went through the design of the structure. We put everything down in the basement level that we could. The second floor has two similar sitting rooms. It is a place to play cards, etc. There is no way, except by raising the building up, to put residents in the basement. All the others are designed without a basement. They have all the stuff on the first level which makes the building larger.

Attorney Landis said the square footage that is mentioned, is that typical. Mr. Keane said yes it is very typical. We have a lot more recreational space than most of them do.

Mr. Bernard said last week he asked about low and moderate income housing. How many units and how are they going to be priced. Mr. Keane said we did have a meeting. We came to a understanding. We are in agreement but until such time the Township decides to share them with the court and the Judge I think we have to sit back and let the Township do what they have to do.

Mr. Bernard asked what is the benefit of low and moderate income housing. Low and moderate was part of the settlement. Attorney Landis said yes and no. That is something we cannot determine here. Mr. Keane said we signed an agreement for 30 bed units. We have not changed that agreement with Wall Township. If the court wants that changed we have no control over it. It is just part of the negotiation. Attorney Hirsch said there is a settlement that we have discussed. At that time it was 30 beds. We know that number is not in your control. We understand that everyone is working with the master which would affect the number of units. This application is for a use variance. As part of the consideration the Board has to determine the special reasons. You need to give the Board some perimeters. At what point can we know that? If that is part of your base that has to be before the Board. Attorney Landis said we do want it considered as a special reason. The number we agreed to is 30. Attorney Hirsch said before this goes to a vote we would like to know where that stands.

Mr. Bernard said it is his understanding that there were 8,000 potential residents over the age of 75. Did you project that into the future? Mr. Keane said the census projects an 8% growth. Mr. Bernard said in Monmouth County there were 36,909 residents over 75 now and it is projected in 2020 there will be 42,200. Mr. Keane said he doesn't doubt it. Mr. Bernard asked what percentage over 75 live in assisted living. Mr. Keane said we based our projections on the market. 81% of admissions come from the near area. Mr. Bernard said 14% of people over 85 live in assisted living.

8:35 P.M. the Board recessed.

8:50 P.M. the meeting resumed.

Ron Gasiorowski, Esq. entered items for identification.

- OG-1 Photo showing subject property and immediate area
- OG-2 Photo showing the area of Sunrise
- OG-3 Photo showing the area of Waterford Glen & Westford

Attorney Gasiorowski gave Attorney Hirsch a list of names he represents. Attorney Hirsch read the list.

Attorney Gasiorowski addressed the Mount Laurel Housing Agreement. He said it is his understanding if you qualify for Mount Laurel housing you would be able to seek admission to this facility. Mr. Keane said there are regulations for Mount Laurel. They are separate from normal rental appointments. Attorney Hirsch said it is not the intent of the agreement to allow the applicant to rent units for Mount Laurel. It is for nursing and assisted living.

Attorney Gasiorowski said his understanding is that if a person qualifies for Mount Laurel housing would they be admitted to nursing or assisted living. Mr. Keane said only to assisted living. They are purely assisted living beds. Attorney Gasiorowski said 30 beds for Mount Laurel. You would not be able to rent them simply for Mount Laurel. Mr. Keane said correct.

Attorney Gasiorowski, referring to OG-1, asked Mr. Keane if he recognized the area. Mr. Keane said yes. Attorney Gasiorowski asked if he owned the part in red. Mr. Keane said yes and additional. Attorney Gasiorowski said, pointing to a portion of property on the southwest side, there is some additional property that was not included. He said all of the surrounding properties are residential homes. Mr. Keane said all including Sunnyside is residential. Attorney Gasiorowski said are the other structures around you that are residential homes. Mr. Keane said yes.

Attorney Gasiorowski asked if he knew where an arterial roadway is. Mr. Keane said we had a traffic expert here. Attorney Gasiorowski asked if he saw two major highways to the east of the site. Mr. Keane said yes. Attorney Gasiorowski said that is off of Route 34/35. In order for a commercial facility, that facility would have to come from Route 34 or 35. Mr. Keane said he hopes they would. Attorney Gasiorowski said they would have to drive through residential area. Mr. Keane said yes. Attorney Gasiorowski said there are other roads that would be affected. Mr. Keane said yes. Attorney Gasiorowski said there are no other commercial establishments using commercial traffic. Mr. Keane said not on a regular basis. Attorney Gasiorowski said you are the sole person generating commercial traffic.

Attorney Gasiorowski said you said your first experience had to do with employment in New York City. Mr. Keane said that was not his first employment. It was his first full-time employment. Attorney Gasiorowski said when. Mr. Keane said he started in 1978. Attorney Gasiorowski asked who the employer was at that time. Mr. Keane said the Archdiocese of New York. Attorney Gasiorowski asked what your duties were. Mr. Keane said he was CFO for about 30 days and then CEO. Attorney Gasiorowski said you were in charge. Mr. Keane said he was in charge of a 440 bed hospital when he started. He was to convert it to a 160 bed disabled and expand the facility. Attorney Gasiorowski said you were responsible to oversee the entire facility, financial aspects, etc. Mr. Keane said yes.

Attorney Gasiorowski asked for other employment. Mr. Keane said in 1980 he was employed by St. Vincent Hospital. It needed restructuring. He arranged bank financing. He said he was also appointed President of St. Claire's Hospital. Mr. Keane went over his work history.

Attorney Gasiorowski said would it be fair to say that you had the experience whether it would operate profitably or not. Mr. Keane said yes.

Attorney Gasiorowski asked when you first learned of the availability of Sunnyside. Mr. Keane said around April 1990. Attorney Gasiorowski said when you became aware of this facility you could tell if it was going to be viable. Mr. Keane said yes. Attorney Gasiorowski said you thought you could make it work. Mr. Keane said yes. Attorney Gasiorowski asked if he hired an attorney. Mr. Keane said yes.

Attorney Gasiorowski said it was zoned residential but it was a non-conforming use. Mr. Keane said yes.

Attorney Gasiorowski asked if he thought the site had short term or long term potential. Mr. Keane said long term.

Attorney Gasiorowski asked if his attorney told him he would need to get a use variance. Mr. Keane said yes. Attorney Gasiorowski said you understood if you wanted to expand you would have to come before the Board of Adjustment and get a use variance. Mr. Keane said yes.

Attorney Gasiorowski said after you purchased this property you made a determination you would have to expand it. Mr. Keane said yes. Attorney Gasiorowski said in 1993 you came before the Board to expand the size and number of beds. Mr. Keane said yes. Attorney Gasiorowski asked if any of the residents came out and objected. Mr. Keane said he didn't recall. Attorney Gasiorowski said the increase on the size of the building was limited to one level. Mr. Keane said there was an expansion of the existing building. Attorney Gasiorowski said the expansion of only one level. Mr. Keane said yes. Attorney Gasiorowski said it would be visible from Lakewood Road. Mr. Keane said yes. Attorney Gasiorowski said in 1991 the size of the building was 13,000 s.f. Mr. Keane said that sounds about right. Attorney Gasiorowski said you increased it by 18,000 s.f. Mr. Keane said sounds right.

Attorney Gasiorowski asked if he indicated to the Board that he would come back again. Mr. Keane said no.

Attorney Gasiorowski said in 1993 when you realized that the market had changed to assisted living did you make an attempt to see if there was any other property available. Mr. Keane said yes.

Attorney Gasiorowski said in 1991 you were not familiar with the zoning. You are saying in 1995 you realized there was a change in the market and you would be better off if you had more assisted living. Back in 1995 did you hire someone to give you a report to let you know what the need for assisted living was? Mr. Keane said he was given a study.

Attorney Gasiorowski said in 1995 you also realized that you would have to come back before the Board of Adjustment and get a use variance. Mr. Keane said yes.

Attorney Gasiorowski said since 1991 how many new houses were constructed. Mr. Keane said he does not know. Attorney Gasiorowski said in 1991 what percentage of this property remained open space. Mr. Keane said Mr. Boesch testified to that. I don't know.

Attorney Gasiorowski said your present application is for more than 90,000 s.f. Mr. Keane said yes. The footprint is just a little over 30,000 s.f.

Attorney Gasiorowski asked what the square footage was in 1991. Mr. Keane said about 30,490 s.f. Attorney Gasiorowski said now you are coming before this Board and you want to triple the size of the building that you originally purchased. Mr. Keane said that is about right.

Attorney Gasiorowski said you said you do not understand why the neighbors are objecting to this. Mr. Keane said no. Attorney Gasiorowski said you are surprised. Mr. Keane said he understands some of the fears.

Attorney Gasiorowski said your building is in the up-scale portion of Wall Township. Mr. Keane said yes.

Attorney Gasiorowski said the nearest commercial roadway is one-half mile away. Mr. Keane said yes. Attorney Gasiorowski said can they compare with Ramshorn Drive or Lakewood Road. Mr. Keane said no.

Attorney Gasiorowski said you made reference to three or four other assisted living. Your site is different from these other sites. Mr. Keane said correct. Attorney Gasiorowski asked if he was familiar with the Sunrise area. Mr. Keane said yes. Attorney Gasiorowski said Sunrise is located on Route 34/35. Mr. Keane said he disagrees. Attorney Gasiorowski said Wexford is on Route 35. Attorney Hirsch said Sunrise is not on 34/35. Attorney Gasiorowski said these three facilities are located in neighborhoods that are completely diametrical to what you are doing. Mr. Keane said yes. Attorney Gasiorowski said the zoning ordinance, when dealing with a nursing home, very clearly state that nursing homes and assisted living homes must be on arterial roads. You want your facility on a residential road. Mr. Keane said yes. Attorney Hirsch said some of this is not based on fact. The Board of Adjustment granted use variances for Sunrise and Wexford.

Attorney Gasiorowski said Wexford and Sunrise the total number of beds for assisted living is 295. Mr. Keane said he is proposing 268.

Attorney Gasiorowski said in early testimony you said residents would come from Wall Township and Manasquan area. Mr. Keane said correct. Attorney Gasiorowski said when you went into it earlier you included Spring Lake, Sea Girt and others. More than just Wall Township and Manasquan. Mr. Keane said yes. Attorney Gasiorowski said that would mean you would also add other towns. Mr. Keane said he did. Attorney Gasiorowski said Mr. Bernard questioned you about the necessity for this additional facility. Mr. Keane said yes. Attorney Gasiorowski said were applications made for Meridian. Mr. Keane said yes. Attorney Gasiorowski asked how many assisted living in that facility. Mr. Keane said he did not know. Attorney Gasiorowski said more than 50 – 100. Mr. Keane said yes.

Attorney Gasiorowski asked if he thought this would have any negative impact to the surrounding residential homes. Mr. Keane said not a significant amount.

Attorney Gasiorowski said Mr. Bernard posed the question that it would be appropriate for you to provide the need for assisted living beds. Did you have any study done as to the need for these units you are going to construct? Mr. Keane said no. Attorney Gasiorowski asked if any analysis has been done regarding how many seniors are able to live independently. Mr. Keane said it is something that is very hard to determine. Attorney Gasiorowski asked what percentage of seniors requires assisted living. Mr. Keane said he testified to that. Attorney Gasiorowski asked if there was anything other than the census numbers. Once you determine would you then

make a determination within 10 – 15 miles. Mr. Keane said the market is not within 10 – 15 miles of here. The market is very small. It is within 4 – 5 miles.

Attorney Gasiorowski asked if he took into consideration the 300 units approved in Wall Township add them into those numbers. Mr. Keane said you are lumping all facilities together. You are not talking about the type of facility I am proposing. Attorney Gasiorowski said it may be more desirable for someone to live in a residential area. Should that work to the detriment of the neighborhood? If living in a residential area were so important then this town is missing the boat because they don't have it as a permitted use.

Attorney Gasiorowski said your point is that these people are being discriminated against because they do not live in a residential area. Mr. Keane said yes. Attorney Gasiorowski said you said these people that live in nursing homes have a right to live in a residential area. Mr. Keane said yes. Attorney Gasiorowski said even if the residents that live there object to it.

Attorney Gasiorowski said he did not see the complaint that was filed. He only read the consent order. One of the applications was that you should be permitted to construct this facility in a residential zone. Attorney Gasiorowski read a portion of the document.

Attorney Gasiorowski asked if there were any multi family houses located within one-half mile of your site. Mr. Keane said not to his knowledge. Attorney Gasiorowski said other assisted livings are adjacent to multi family homes, commercial zones, etc. Attorney Gasiorowski asked if there will be an impact on the neighborhood. Mr. Keane said he answered that.

Chairman Clayton said this application will be carried to July 25, 2005 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 10:10 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary