

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
OCTOBER 12, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairman Clayton at 7:10 P.M. Members present were Chairman Michael Clayton, Vice Chairperson Mary DeSarno, Dominick Cinelli, Anthony Rembiszewski, Jim Gray, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Dan 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, June 22, 2004, June 29, 2004, July 26, 2004, August 17, 2004 and September 30, 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 Hirsch said there was a re-notice because of the last meetings cancellation. He said he has reviewed the file and the Board has jurisdiction to proceed. The applicant had rested some time ago. The case now is open to the public. Attorney Gasiorowski represents some citizens. He has some expert witnesses. The public, not Attorney Gasiorowski's clients, will now have its chance to give testimony. At the conclusion the applicant has the opportunity for rebuttal. Attorney Landis intends to present some rebuttal witnesses. When he presents those witnesses you then can cross examine. At the end of that rebuttal we will end the case. There will be summations and then the Board will vote. In the public portion of the case the amount of time is going to be limited. The Board agreed on five minutes. The Board recognizes the concerns of the public. Please do not be repetitious.

Attorney Gasiorowski said he intends to enter into evidence the decision of this Board the resolution of denial.

Entered into evidence:

OG-5 Denial resolution

PUBLIC

Ms. Shultz, Spring Lake Heights, was sworn. Ms. Schultz said her dad was a patient at Sunnyside four months ago. He had terminal cancer. He was admitted to the VA Hospital in East Orange for one month. He could barely move. She said her father never wanted to go into a nursing home. But he went into Sunnyside. The staff encouraged him. She said she is thankful for what he can still do. He is slowly dying. We can care for him now but he will be back at Sunnyside. We are grateful for the comfort they provided.

Patricia Padula was sworn. Ms. Padula said she has lived in Wall since 1968. She raised her children in Wall. She said she really enjoys her life here. She put her mom in Sunnyside. It is so beautiful. The staff at Sunnyside performed miracles. Within two weeks she was walking and eating. It was so nice. She said she did not want to put her mother in a home on a major highway.

Ray Maloney, Avon-by-the-Sea, was sworn. Mr. Maloney said his wife has been in Sunnyside for two years. She has been sick for 10 years. There is no home that can compare to Sunnyside. They do a great job there. They have the best nurses and best aides. This is a beautiful building. There is no place like Sunnyside. None can compare. They received the highest mark possible from the State. There is no such thing as an expert real estate agent. Nobody can tell you in five to ten years from now what your property is worth.

Pat Craghan, 1219 Minnihaha Trail, was sworn. Mr. Craghan said he has lived here for 37 years. When he was growing up his mother taught him the meaning of compassion. Sunnyside is a home. His aunt has been there for 3½ years. He said he was a teacher in Wall. He has known many people who live near Sunnyside and now when he goes and visits his aunt he sees people he has worked with. They are not strangers. He said he has never heard a negative word about Sunnyside from anyone in that facility or anyone who lives near there. He said he would love to see this facility improve and stay right where it is.

Ron DePasquale, Manasquan, was sworn. Mr. DePasquale said he is here on behalf of Sunnyside. His mother has been there for 9½ years. About ten years ago she suffered a heart attack and stroke. We knew she needed a place that was going to care for her. After looking at ten homes in Monmouth County Sunnyside was the best. He said he is amazed she is still alive. She gets everything she needs on a daily basis. The nursing staff, the aides, administration, custodial staff, culinary staff had something to do with my mother still being here. They were not the only reasons. It was family. Family is very important. They treat each individual personally. She lived in a neighborhood after marriage. He said he had to find her a place that would give her a feeling of living in a neighborhood.

Cheryl Spillane, Birch Place, was sworn. Ms. Spillane said she has lived here for 22 years. She said she doesn't think the issues are about personal issues. She thinks it is about the building itself. The area is beautiful. The area is very populated with children. It is the issue of how the building is being expanded. It will ruin the area in my opinion. It is not about personal issues. It is about the building itself.

Alex Trail, 3921 Belmar Boulevard, was sworn. Mr. Trail said he agrees with the gentleman that was here before regarding the buffer. Sunnyside is the best place there is along the shore. Sunnyside is the best. He said his wife was in Sunnyside. The therapists at Sunnyside are the best. She is now home. She walks with a walker. Sunnyside was there before they built their

house. He said he was born in the white house near Mr. Verruni. Sunnyside was a home for young girls. It has been there a long while. It is one of the best nursing homes there is.

Major Faktordo, 2528 River Road, was sworn. Mr. Faktordo said he moved there 7 – 8 years ago. He moved here because it is a beautiful wooded area. He said he is not affected directly by any building Sunnyside does. He thinks we are getting a little off the topic. We are moving away from the issues of where this is being located and the affect it is going to have on the location. The thing is you are building a three story structure that is surrounded by residential structures. He said he thinks it is a little massive. There is a lot of traffic on Ramshorn Drive and it is guaranteed to get worse. This massive structure does not fit. The issue is putting a three story structure where there are just two story structures. This is going to have an impact on the streets in the area.

Dennis Malanga, Autumn Drive, was sworn. Mr. Malanga said he had a discussion with the Planning Board attorney and this is political. The landscaping is a legal issue. This application has just visited the problems of the first application. This violates the zoning in the area. None of the issues were adequately addressed by the experts. The Township's experts and applicants have different opinions. The landscape architect, he gave testimony on traffic, etc. He was not an expert. Mr. Keane is an expert in running Sunnyside not an expert on other things. If given variances for this application they will run with the land.

Luis Grella, 2512 Ramshorn Drive, was sworn. He said he gives his time back to Mr. Malanga. Attorney Hirsch said that is ok but you will not be allowed to speak.

Mr. Malanga said the public never knew what map we were using. At every meeting there was a new map. Mr. Higgins gave testimony regarding positive and negative. Our planner indicated he had a problem with it. It is an entirely new use. The landscape expert did not present his case. Mr. Malanga said he thinks the Board wants to do what is right for the people and town.

Luis Grella said he really thanks the people that came here to support Sunnyside. They showed us no reason to change Sunnyside. As far as comparison care I am all for that. The people on Ramshorn Drive drive the speed limit others don't. They go 40 – 60 MPH.

Jeff Erb, Ramshorn Drive, was sworn. Mr. Erb said he works for DOT. He was going to talk about snow removal, a never tried detention basin and building height. The people here for Sunnyside are showing us that Sunnyside should remain small. The new building will not be a residential home. We are not trying to close it down just keep it small.

Debby Gallo, 1530 Lakewood Road, was sworn. Ms. Gallo said none of us have anything against Sunnyside as it is. A 50 bed nursing home would not be considered changing the characteristic of the neighborhood. The one proposed would change the characteristic of the neighborhood. Mr. Keane said he will not have to increase the staff. I have lived on Lakewood Road for ten years. There has been an increase in traffic. There will also be an increase in emergency traffic.

Kerry Hudson, Pharmacist, was sworn. Ms. Hudson said she has been licensed for 23 years. She has seen changes. She has been at Sunnyside for 23 years. This is the place she decided to put her mother. She said she had to wait because there were no beds. She said she is for the

expansion. You need to improve it. You need to keep up the pace. It is a wonderful facility. The Township does need the expansion.

Glen Gordon, Cherry Street, was sworn. Mr. Gordon said he has been at almost all the meetings. After tonight it has become clear. Listening to the testimony on behalf of Sunnyside there is only one thing that applies to the application and that is the type of building it is. They shouldn't change it. If you make a dramatic change it may not be what it was before. The Board has a simple decision. Do the right thing. Vote down the application. If the suit continues you did the right thing.

Tom Gnizdowski, 2603 Woodchuck, was sworn. Mr. Gnizdowski said he represents Sterling Woods Association. They would like to go on record. Attorney Hirsch said you cannot speak for them. Mr. Gnizdowski said he would like to go on record he opposes the addition of Sunnyside. This facility will not just appear to be three stories, it will be. It will have the same setback as a residential home. 170 children are picked up just on Ramshorn Drive by school buses. There has not been an adequate study done. There are other nursing homes in the area.

Ed Cook, Ramshorn Drive, was sworn. Mr. Cook said for him it is the amount of traffic that will come down Lakewood Road. The speed limit is 30 MPH but they are going faster. The amber light means nothing. The existing building is 25,000 s.f. The proposed building will be 3½ times the size.

Mary Ellen Keane Donadio, Manasquan, was sworn. Ms. Donadio said she is Mr. Keane's daughter. Seven years ago he said he wanted to add assisted living. She said her grandmother is in an assisted living. She has not used her car. She was upset she might have to come to Sunnyside and we were a nursing home. Sunnyside is their residence. It is their home. The goal is to provide more services to the people of Wall Township.

Tom Ross, 2407 Ramshorn Drive, was sworn. Mr. Ross said in the middle of Sterling Woods and Manasquan Park there is Sunnyside. They have been there for a long time. There are 417 homes in Manasquan Park. Over \$400 million in property taxes. What we are trying to do is what is right for the neighborhood. They keep the property fine just the way it is. The proposed building is coming closer to the road. We are looking for what is right for the neighborhood. We want to keep our neighborhood the way it is.

Pat O'Neill was sworn. Ms. O'Neill said there is a difference in trends. There is expansion all over the place. We can't be the way we were 30 years ago. She said what she sees at Sunnyside is a family run business. That is not going to change despite the size. She said she did not see nearly the amount of children they are concerned about. She said she does not see cars ignoring school buses and hitting children.

Susanne Zuczyk, 2609 River Road, was sworn. Ms. Zuczyk said they have a right to expand their facility. I would like to see Sunnyside be successful. There is enough land there to have an addition. 90,000 s.f is a bit excessive. I would like to see something in between.

Louise McInerney, 2411 Cherry Street, was sworn. She said she has lived there since 1952. Wall Township was a residential area. There has been changes in two nursing homes in Monmouth County. One filed bankruptcy and one is closed. No one on this Board lives in

Sterling Woods. The Master Plan states commercial should be on Route 34 and 35. She said she feels she has a right to say as to what type of building goes in her neighborhood.

8:50 P.M. the Board recessed.

9:10 P.M. the meeting resumed.

Attorney Hirsch thanked the public for the way they have conducted themselves. Sunnyside is a good facility. No one has ever contested that fact.

John Goodfellow was sworn. Mr. Goodfellow said he lives directly across the street from the proposed facility. He is concerned about what he is going to be seeing and what it is going to do to his property, how the increased traffic is going to impact him. The extra size is not going to create more traffic in just the employees but also by visitors. The traffic study was not reasonable. It was done at the wrong time of the day. He said he has counted the cars. Commuters are going to work in the A.M. that is when the heavy traffic is. That intersection is already dangerous. People have to go to work everyday. The comments that the owner has made, such as, deliveries and size of trucks, who is going to enforce that? The storm drain situation to handle the water at that intersection is a problem. The solution they have proposed is a new process. During construction we are going to have to put up with further invasion into a residential area.

Janet Hentchel, Troy Drive, was sworn. Ms. Hentchel said she lives on a block with a large facility at the end. She said she has never heard deliveries or AC. She said she doesn't smell anything. The traffic might have increased but not to the amount it affects her driving. Other concerns are maintenance of the grounds and drainage system. The grounds are maintained. The new building would be a ratable to the Township but no impact on the school system. Please approve this plan.

Pierre Salmon, 3409 Brandon Road, was sworn. Mr. Salmon said he came out of interest and reading about this in the papers. Some of the arguments made tonight and a recurring one is the increase in traffic. The increase in traffic comes no matter who comes in town. The other point was the applicant did not make any specifics as to how many patients would be forthcoming. To me, as one who has had heart surgeries in the last two years, we are living much too long. This business is going to increase.

Katie Hudson, was sworn. Ms. Hudson said she's lived here for 22 years. She said she is a member of the Manasquan First Aid Squad. Alert has the contract for Sunnyside. 90% of the time we do not use lights or sirens. The residents are going to the doctors or going to the hospital. She said she supports Sunnyside 100%. Sunnyside is the best. It will not affect us. She said she has never had a problem with Sunnyside being there. Four Seasons is more of a detriment to us than Sunnyside could ever be.

Martha Seybuchler, Lenape Trail, was sworn. Ms. Seybuchler said there is not much more to be said. You could pick and choose the experts you want to believe. You could pit one against the other. Sunnyside is the best and I have visited many. The age and population of the United States is at the highest it has ever been. We need more Sunnyside's.

Richard Capparelli, Ramshorn Drive, was sworn. Mr. Capparelli said he has been coming to the meetings for months. He said he has heard expert witnesses' state 10% - 35% property values will go down. We will lose money in the value of our homes. When Sunnyside was first built it was not meant to be a multi million dollar business. As a resident I can't see how the Board can approve this expansion in a residential neighborhood. If you move the facility they will be just as good if not better.

Doug Megill, Woodfield Avenue, was sworn. He said he is a 39 year resident. This nursing home blends in with the neighborhood. His grandmother was in Sunnyside two years ago. You have the facts in front of you. He said he has heard a lot about traffic. The only thing is there are so many new houses there. You don't get a lot of traffic during the day. It is established building with a great reputation.

Attorney Gasiorowski called Ed Brown as a witness.

Mr. Brown has lived at 1606 Lakewood Road since November 2003.

Attorney Gasiorowski asked how close his house is to the proposed structure. Mr. Brown said 105'.

Attorney Gasiorowski said you have listened to all the testimony. Have you formed an opinion? Explain your opinion to the Board. Mr. Brown said there were two plans showing the north elevation of the building. Along Lakewood Road the second plan was a contour plan of the area. They were not included in the final set of plans. There are two entrances from the overflow car park. It is assumed that it will be used for special functions. Also in the first plan on the proposed land taken by the Township it will be public open space. Roger J. McLaughlin, Esq. said it will be public open space. Because of this there will be mud on Lakewood Road. I will see many more winters from my home. A lot of the landscaping is deciduous.

Entered into Evidence:

- OB-6 Photo from front door of Mr. Brown's home looking into the parking lot
- OB-7 Photo looking from the rear of Mr. Brown's yard toward the facility
- OB-8 Photo standing in the road looking toward the property on Sycamore Street
- OB-9 Copy of front elevation previously marked OB-2
- OB-10 Topographic map of Lakewood Road, Ramshorn Drive and Sycamore Drive

Richard Drewes, Ramshorn Drive, was sworn. Mr. Drewes said to bring back into focus what we have done over the last ten months. He said he tried to get all the facts into the record. Burden of proof has always been with the applicant. There have been requests that the applicant has not given certain testimony. He was requested to provide environmental experts and he refused. He was asked to provide a better architect and he refused. Noise he refused. Drainage, we still have sand bags out on the street. This project would be different if the Township did not donate that 1½ acres. Let him do it on the property he owns. Don't forget everything that was presented and everything that was not presented.

James Higgins was previously sworn.

Attorney Landis said Mr. Higgins are you are aware that the applicant has filed a CON. Mr. Higgins said it is his understanding that was his testimony.

Attorney Gasiorowski objected. He said Mr. Higgins was not here during all the testimony. Attorney Hirsch said he does not think the question was asked the appropriate way. He can give an opinion as to what he said.

Attorney Landis said do you have an opinion as a planner as to whether or not the applicant has a need for this structure. Mr. Higgins said one of the items a planner reviews is that there is a CON. That is issued by the State. That shows there is a need for the use. In the past when the State first issued CON's it was because there was an assumption made that there was a need. Now in order to get an extension of a CON it is necessary for an applicant to document that there continues to be a need. He said he has two letters of approvals from the State. The first is dated February 2003 and the second August 2004.

Entered into Evidence:

A-19 State approval letter dated February 24, 2003

A-20 State approval letter dated August 31, 2004 advising Clifford R. Lacy that the CON has been approved for an extension

Attorney Gasiorowski said he has not seen those letters previously. Are they an extension of the CON?

Mr. Higgins said February 24, 2003 – Subject: CN#ER971213-13-37E-T – Sunnyside expansion dated August 2004. Mr. Higgins read the letter. The second letter again refers to the same number approves the extension of time.

Attorney Hirsch asked where the change in the process occurred. Mr. Higgins said he did not know.

Attorney Gasiorowski said he is going to object to the documents. This is hearsay evidence. Attorney Hirsch said these documents can be admitted. The weight given by the Board can be argued. They should go into evidence. You can argue what weight they give.

Attorney Gasiorowski asked did you give testimony in 1990 – 2000 when the Board denied the application. Mr. Higgins said yes.

Attorney Gasiorowski read paragraph two on the last page of the letter dated August 31, 2004. This is not an approval given by the State. Mr. Higgins said he never said this was an approval of the application. This is a CON approval. It just certifies that there is a need in that area. Attorney Gasiorowski said that is the generic area described by Mr. Keane. Mr. Higgins said yes.

Attorney Gasiorowski asked if Mr. Higgins did an independent study. Mr. Higgins said he did look at some back-up data. He said he did not do an independent study.

Attorney Gasiorowski asked if Mr. Higgins read the October 17, 2001 Board's decision. Mr. Higgins said he probably has.

Attorney Gasiorowski asked if he gave testimony at that hearing. Mr. Higgins said yes.

Attorney Gasiorowski said when the Board made their decision the CON was already in place. Mr. Higgins said originally the CON did not require documentation. Now you have to apply to the State for a facility in Wall Township for an extension. You have to demonstrate that there is still a need. That is for the expansion of the Sunnyside facility. Attorney Gasiorowski said it is your opinion that the Township provided for all of the necessary assisted living and nursing home facilities but the surrounding facilities provided or did not provide for those facilities to be constructed. Mr. Higgins said if you have a facility located in Farmingdale that it would a different catchman area. It is a regional need.

Attorney Gasiorowski said on page 51 the Board found that the applicant did not provide evidence that there was a need for this type of use in Wall Township. Has that ever been challenged in a court in New Jersey. Mr. Higgins said he doesn't think so.

Mr. Bernard asked if Mr. Higgins knew what information Mr. Keane gave to the State. Mr. Higgins said yes it is documented in the August 31, 2004 letter. Mr. Bernard asked if the Board can get a copy of what Mr. Keane provided to the State. Mr. Higgins said he would ask Mr. Higgins.

Attorney Gasiorowski asked if Mr. Higgins reviewed the statutes. Mr. Higgins said no. Attorney Gasiorowski said they provide for certain exemptions.

Entered into evidence:

OG-6 Copy of letter

Attorney Gasiorowski said what evidence was put in the application that was in terms of need. Mr. Higgins said Mr. Keane gave testimony with regard to these two letters.

Mr. Rembiszewski asked if the CON application is sent to Trenton. Does the staff from that agency come out and look at the property. Mr. Higgins said no.

Joe Lamendella, 1555 Deer Run, said before the State had a moratorium when they did look at these applications. Do you know if they gave their demolition date? Mr. Higgins said yes.

Dennis Malanga said are you aware there are different CON applications. Mr. Higgins said different in regard to what? Mr. Malanga said the standard. Mr. Higgins said no.

Mr. Malanga said was the application filed a full application or expedited. Mr. Higgins said it was not expedited. The letters speak for themselves.

Susann Mazurscyk, 269 River Road, asked for the difference between residential health care facility and assisted living facility as to need and use. Mr. Higgins said they are two separate facilities. The application for Sunnyside is for assisted living residents. It deals with a level of health care.

Ms. Mazurscyk asked if there is a legal reason for distinguishing between them. We are looking at a residential area. Mr. Bernard said a residential health care facility deals with a certain level

of care. Assisted living provides for more care. There is very limited medical care given residents in a health care facility.

Robert Gagliano was sworn.

Attorney Gasiorowski said Mr. Gagliano was from an appraisal company.

Attorney Landis said you did a limited impact study for Sunnyside. What is a market impact study? Mr. Gagliano said an appraisal doesn't really exist. The industry is still in its infancy. He said there are two different types of sales. There is primary sales analysis and there is the statistical analysis.

Attorney Landis asked if Mr. Gagliano inspected the site. Mr. Gagliano said yes on September 13, 2004. He said he was provided with copies of site plans of the existing building and the proposed use of the property. We analyzed that. We walked the property and neighborhood. We looked at some sales. We used County data. It is in south Wall. It is in a residential area. Most of these uses are along Route 34. Property values have improved over the last years. There are two new neighborhoods since Sunnyside was built. The neighborhood was built around the facility.

Attorney Landis asked when was Autumn Drive built. Mr. Gagliano said late 80's, early 90's.

Attorney Landis said you did some analysis of some sales. Mr. Gagliano said we first looked at the area in the neighborhood that we thought would be most impacted. We avoided Pheasant Hollow and Four Seasons.

Attorney Landis asked how did you proceed. Mr. Gagliano said we looked at the sales of properties in that neighborhood from 1997. We looked to see if some have sold and resold. Six properties were sold and resold. Of these six sales we found two properties to be good sales. 2435 Ramshorn Drive and 2430 Sycamore Street. They are located north of Sunnyside. We found in the first sale, 2435 Ramshorn Drive, it had sold once in May 1999 for \$269,000 and in April 2003 for \$365,625. There were no building permits issues between the sales. 2430 Sycamore Street sold in October 1999 for \$311,500 and resold in November 2002 for \$450,000. No building permits issued between the sales. They appreciated slightly faster than the rest of Wall Township. The other four sales had issues. The first 2126 Cedar Street sold in July 2000 and in April 2003. The house was torn down so we through that out. 2216 Cherry Street was sold in August 1999 for \$167,000 and August 2001 for \$377,500. The second sale was a new house so we through that out. 2504 Autumn Drive sold in March 1999 for \$530,000 and in December 2002 sold for \$1,325,000. They added a very large addition so we through that out. 2516 Autumn Drive sold in October 2000 for \$629,000 and in March 2003 for \$775,000. The property had a unique layout. They sold it in 2000 after nine days on the market. The design was a California layout. There are three bedrooms in this house. In 2003 it was on the market for 161 days.

Mr. Gagliano said at present the way it stands today Sunnyside has no affect on property values.

Attorney Landis asked about analysis investigation. Mr. Gagliano said we did all the sales in Wall Township in the same time limit. We used two things, time and sale prices. The prices in this neighborhood are going up faster than the rest of Wall.

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Attorney Landis asked what conclusions you arrived at. Mr. Gagliano said the Sunnyside property has no negative impact on the surrounding properties. It is a non-conforming use. It has a residential look to it. There is a significant amount of buffer. It will not have much impact.

Attorney Hirsch said this will be carried to October 18, 2004.

Mr. Bernard said he cannot make it that night. He will have someone cover for him.

Chairman Clayton said summations will be limited to 20 minutes.

There being no further business to come before the Board, a motion was made, seconded and unanimously approved to adjourn the meeting at 11:15 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary