

Attorney Hirsch said to your right is Lot 95 what is on that lot. Ms. Gilmartin said a single family dwelling. Attorney Hirsch asked if that home was set back from the front the same as Ms. Gilmartin's. Ms. Gilmartin said it is just about the same, maybe a little further back.

Attorney Hirsch asked what is on Lot 92. Ms. Gilmartin said there is a house on that lot and it is set back the same as mine. It does not have a porch.

Attorney Hirsch asked if there was any buffering on the side. Ms. Gilmartin said it is open. There are two large trees.

Chairman Clayton asked how far the houses from the property line are. Ms. Gilmartin said there is about 25' between the houses.

Mrs. DeSarno asked if the two large trees will stay. Ms. Gilmartin said yes.

Mrs. Morrissey asked if additional landscaping was planned. Ms. Gilmartin said yes.

Mr. Gray asked would you have any problem if the Board made a condition that the porch never be screened. Ms. Gilmartin said no problem.

Chairman Clayton said the porch will be 22' from the road. Ms. Gilmartin said it will be 22' to the street. Mr. Hoover said the proposed setback is 17'. Chairman Clayton asked if that is to the property line. Mr. Hoover said yes. It is about 27' from the street.

The application was open and closed to the public.

Ms. Morrissey moved to approve the application. Mrs. DeSarno seconded the motion, which was unanimously approved by a roll call vote. Mr. Gray made a condition that the porch not be closed. (Mesdames Morrissey, DeSarno, Messrs Rembiszewski, Palmer, Gray, Cinelli and Clayton voted yes.)

The Board recessed at 8:00 P.M.

The meeting resumed at 8:05 P.M.

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, September 30, 2004, October 12, 2004 and October 18, 2004

APPLICANT: SUNNYSIDE MANOR

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

RELIEF REQUESTED: Use with variances

Chairman Clayton announced tonight we are hearing summations. There is a 20 minute limit.

Attorney Hirsch said all the Board members have either been at every meeting or have read the transcripts and signed affidavits that they read them. They are all eligible to vote.

Attorney Gasiorowski said cases like this have become like mini trials. Testimony was redundant on both sides. The facts are not in dispute. The existing facility is on 6.4 acres, 26,000 s.f. The application before you seeks to change that. They are seeking to put a 93,000 s.f. building on 5.7 acres. It will be enlarging the size of the building and reducing the size of the property. In all of my testimony I referred back to the Master Plan and Ordinances. This building has been on this site for almost 100 years. The nursing home has been there for a long time. The Planning Board and Township Committee, when doing the Master Plan knew this building was there. The area is all zoned residential. That is a clear statement by the Planning Board and Township Committee that they did not intend for this use to expand. There are no bad people in this application. The owners basically have a hands on operation. No one is attempting to close down Sunnyside. The objectors want it to remain as it is. The applicant wants to expand this facility. If the Township Committee wanted this to happen they could have rezoned the area. They did not do that. We are saying he should not be able to expand it. The Township Committee has made other areas for this type of facility. In the last five to ten years there has been three assisted living buildings constructed. There are two additional approvals that have not been constructed. This applicant said he knew the limitations of this property. He came before the Board to expand the building in the late 1990's. This building is buffered and cannot be seen. It blends in with some of the character of the neighborhood. The owner wants to destroy this and build a large structure. The previous owner of this land sold off the property and it is now residential. This applicant came before the Board with an expansion of the existing building. It was slightly smaller than this application. This Board, after many meetings, denied that application. I submitted as evidence the resolution denying that application. The facts in that case are a near image of what is being presented in this application. The Board decided there was no need for additional assisted living. I read Mr. Keane's transcripts. He spoke about the catchman area. He listed four or five towns. Those are the areas he is drawing from. 35% of the residents in his facility come from Wall Township, 35% from Manasquan, etc. The application is for 70 assisted beds. There are 12 now. That is a gain of 60 assisted living beds. 35% of that is about 22 beds. The applicant stated there was a need for this in this town. In this case there is no need for additional assisted living beds. There are 268 beds in place and an approval for an additional 100. Mr. Keane said this would take three to five years to build, the construction of a new facility and the razing of the existing building. We are not saying to close down Sunnyside.

Attorney Landis said when you weigh the application you have to consider the applicant, the township and the residents. The Board also has to consider the residents of Sunnyside and the benefit that the Township will have. The applicant addressed the Board's concerns. Compare what you have now to what you will be getting. The existing facility does a very good job. The building is old. It is almost 100 years old. The new building will be a better alternative for the residents. It will have better access for the residents. This new facility will provide for the aging in place concept. The first application needed a number of bulk variances. This one conforms to bulk variances. The applicant met with this Board pre-meeting. The applicant submitted three different plans before one was satisfactory to the Board. The applicant has addressed the

Board's and neighbor's concerns. One big concern was traffic. The applicant and the Board's engineer concurred there would be no additional traffic. The old application provided for a detention basin. The applicant came up with a better system. The deliveries will not increase. The number of deliveries will not increase but decrease. They will now be limited to the front of the facility. The impact will decrease. The applicant revised the parking plan. He proposed a landscape plan that will shield the building from the neighborhood. The height of the facility does not exceed the height of the existing building. This will not have an impact on the school system. It provides benefits to the Township through Mount Laurel. The Township gets three buildable lots. The biggest concern is the size of the facility. The Board asked if some of the rooms could be made smaller. They are not larger than what is required. The Board members asked if we can make the building smaller by using the basement. If the basement rooms are used it won't change the structure. Mr. Keane has been in the business for at least 25 years. He is not going to propose anything that is going to fail. These type facilities are becoming more and more necessary. We compared the sales in the neighborhood. They would not be impacted. Many of the neighbors said that the existing facility blends in and they didn't even know it was there. This facility is going to blend into the neighborhood and will not impact the values of the homes in the neighborhood.

Attorney Pepper said the Board has to use its best judgment for the good of Wall Township and that includes people who are frail. You have to consider state law, consent order, Federal law, Fair Housing and Disability Act. The purpose of the law is to integrate people with disabilities. Housing for people with disabilities does not take the form of single family homes. Many people with disabilities need services and support. The law states that nursing and assisted living housing should be provided in residential zoning. Attorney Pepper explained *Housens vs. Brick*. As a result of the court proceedings the variance shall be granted in the residential zone. Mr. Keane said people who have disabilities should live in residential areas. They will flourish. This is their right. Courts allowed townships to change zoning by granting use variances. Attorney Pepper went over the Fair Housing Law. This project does not change the nature of the neighborhood. Responsible changes do involve some cost and some action. Developing this is a responsible change. The assisted living is already at the location. This will be low density. It will have a minor impact on the neighbors. Some residents did not even know this facility was there. The facility will continue to function and operate as it has for the last 14 years. This will enrich the community.

Attorney Hirsch said there is a house cleaning matter. We missed two of the reports. We need to put them into evidence.

BOA-13 Review letter prepared by Art Bernard dated June 17, 2004

BOA-14 Review letter prepared by Art Bernard dated April 22, 2004

Attorney Hirsch said they were part of the record but were never marked into evidence.

Attorney Hirsch said these types of applications are never easy. The interested parties have covered the law. The Board is familiar with the standards.

Mr. Cinelli said this application has been difficult. The Board has gone back and forth over 15 meetings. It is not a simple yes or no. The Board can request certain modifications. The Board

has to consider, will this have a negative impact on the neighborhood? Does it meet the setbacks? The professionals presented why this should be granted. We spent much time on size, height, etc. The design gives the appearance of a commercial structure. We had no noise expert. The traffic expert said there would be a 48% increase in traffic. Mr. Cinelli said he would feel more comfortable if it was in keeping with the surrounding neighborhood. It should be made smaller. Based on the proposed application I cannot approve this application. I make a motion to deny the application.

Mr. Palmer seconded the motion.

Mr. Gray said he was not on the Board for the first application. He said that needed a lot of variances. He said he liked that this application did not need any variances but one for a loading dock. It looks like a three story building to me. I don't think it should be 90,000 s.f. It is too much for a residential area. He said he is concerned about the noise and traffic. It is wrong for Wall Township. I vote yes.

Mrs. Morrissey said she echoes Mr. Gray's comments. She said she believes Mr. Keane is sincere. She said her concern is the size of the building. We had our attorney ask you to downsize and it was denied. I deny the application as well.

Mrs. DeSarno said there is ample nursing home and assisted living beds and we have met the need of our community already. I vote yes.

Chairman Clayton echoing some of the testimony. We asked that a noise study be conducted we were denied that. Without that study we can only assume. The building will increase three times its size. The traffic report was done in November rather than in the summer. Circulation around the building is not provided. It can hamper the emergency services. The building is extremely tall. It is massive. There are 250 windows on one elevation alone. It is in the middle of a residential neighborhood. I vote yes.

The application was denied by a roll call (Messrs Cinelli, Palmer, Rembiszewski, Mrs. Morrissey, Mr. Gray, Mrs. DeSarno and Mr. Clayton voted yes.) The application was denied.

RESOLUTIONS TO BE MEMORIALIZED:

JAN AND HOLLY KOKES – BA#29-2004
Block 886, Lot 20

DeSarno/Gray

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 9:15 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary