

Town of Wallkill
PLANNING BOARD MINUTES
September 5, 2018

Members in Attendance: Gary Lake
Tom Hamilton, Clark Najac, Bill Capozella
J. Keegan, & A. Guattery
Absent – Doug Dulgarian

Also in Attendance: Dick McGoey, MH&E PC, Consulting Engineer
Tad Barone, PB Attorney

PLEDGE OF ALLEGIANCE

7:30 PM – MEETING OPENED

1. Berman 14 Lot SD – Ext. of Conditional Final approval 525 Rt. 17K (5-1-3.2) # 66-04

H. Berman I'm the applicant and I'm looking for an ext. to the conditional final approval.

G. Lake There have been a few. Is anything happening?

H. Berman We are actively looking to sell the property. we are in discussion with a couple of people with the understanding that it is subject to final approval.

G. Lake I have to say the board was always excited about this project. it's been since 2004 and normally we don't run quite this long with extensions. I'm going to recommend a one year extension with hopes it moves forward. Do you agree, this will probably be the last one. This time it is on the record.

H. Berman Yes.

B. Capozella This was/is our first conservation one so we would like to see it move forward.

(no other comments from the Board)

G. Lake Motion for one year ext. to conditional final approval. Tom/Andy 6 ayes.

2. Lakeview Nursing Home SP/SUP- Midland Lake & O'Brien Roads (40-1-28.321) #12-18

B. Cleverly Brad Cleverly, MJS Engineering. This is an existing 13.8 acre lot. It is at the corner of Midland Lake and O'Brien Rds . the owner would like to construct a sanitorium/nursing home with a165 beds and include in this facility a nursing school for 30 students. The facility would have an associated well and the facility would hook into a town sewer system.

R. McGoey Just so the board knows, this is not in a sewer district.

G. Lake You say you are doing a nursing school also? (yes). Who would authorize doing that?

B. Cleverly The state education dept.

G. Lake Have you looked into that yet?

L. Too I am the owner and I am a nurse. It is not a nursing school – it is employee training education.

G. Lake I'm assuming under a nursing home you would have to have a certain number on staff at any given time. you would do that and train the non-nursing staff to do non-nursing functions. I will say take the nursing school off the plan.

B. Cleverly We will rephrase that.

G. Lake Have you talked to the Town about the road infrastructure there?

B. Cleverly The purpose of going to the Board now is this is also going to be a low traffic, we are here for sketch. These type of care facilities are relatively low traffic. It's not going to have a lot of people going in and out.

G. Lake I was out that way and the road system is not the best, talk to the DPW before you come back. Also talk to the Fire Dept. (WHFD) before you come back. How big is the bldg.

B. Cleverly 60,000 s.f. it will be sprinklered.

G. Lake How will you achieve that – I know you have the lake across the street. I'll go thru the board.

J. Keegan I had questions on the schooling but it's employee training so that's good. Will this be more like hospice or a nursing home/long term care?

B. Cleverly there will be levels of care which is the sanitorium- low level care vs. the nursing home which is a greater level of care.

J. Keegan There will be visitors but I agree with Gary that the road system is a concern. It's a one lane road and anything that is going to go back there will create some kind of issue with traffic. It's going to add quite a bit of traffic to what is there now. I don't have an issue with the use. I'm ok with sketch but I would prefer to see any outdoor areas, more details etc.

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B. Capozella I agree. We are just looking at a blank piece of paper right now. We are under the assumption this will be a nursing home with some training going on. We will be looking for more detail down the road. The only thing that strikes me is that since it is a nursing home we are looking for the HC parking to be as close as possible to the facility. I know you have a drop off/pick up stop but the HC is farther away than the parking on the side. Something to think about is what we look for. Right now it's a blank piece of paper.

C. Najac Agree that they need to go see the Hwy Dept. One of the issues is for you to get out of there we will have to take Cottage Ave. Ext. or Bisch Rd. Neither one is big enough to allow much traffic. The people that live there get away with it but there is only 5-6 homes. The new east section of road there is Cottage Ave. Ext. and they normally don't even have a trip plate in the road. They have a camera that picks up the vehicle that comes across- there is just a big culvert in the road there. they have to move themselves up a little so it picks them up. it doesn't work so they back up and pull up again to line up again in the right place. If we are looking at a facility this size you will have a number of employees as well. You need a serious conversation with the DPW> I'm glad the education aspect is off as well.

A. Guattery Yes, traffic is a big issue. There will be emergency services and visitors coming to the facility and an ambulance or two. You will not get emergency equipment up Midland Lake Rd. If you look at your sketch your driveway is wider than Midland Lake Rd. I have no problem with the idea but it will require infrastructure improvements to make it safe for everyone. Along with that I would like to have better detail on what it is you are going to be doing with the educational end of it. What is it and what approvals are needed? The point is to make sure it is a success and you never have to hear from us again. More detail on that and it's a great idea. You might even want to consider the idea of possibly getting a 2nd entrance off of O'Brien. For me that is a huge concern. Let's make it right.

T. Hamilton have you done any test wells? You have not done any research at all.

B. Cleverly We need to go in front of the PB to get referred to the TB...

T. Hamilton The design should be better, you have kitchen facilities that have to cook for the people and the nursing home will be showering etc. you need to think about that and also if you can even get the sewer extension. We need more information on what you are intending to do, what kind of training the people will need, etc.

G. Lake you heard the board. They like it and I think we can move forward to sketch. That will give you the ability to go down and talk to the Town Board for the sewer hook up. you will need to come back to worksession. I don't know if this is your layout of the bldg that you have shown here. (yes, it is).

B. Cleverly It will be 3 stories.

G. Lake Maybe we can get a rendering next time?

T. Hamilton Did she mention that she ran a nursing home? We would like information on that to research...

L. Too I have not run a nursing home - we train nurse aides, home health aides.

T. Hamilton Just give us information to research.

G. Lake Motion to accept sketch – Andy/Jim 6 ayes.

3. LAC PLAZA SP REV. Daycare Use 453 Rt. 211e (53-2-28) #08-17

K. McManus This is the 3 story office bldg. 30,000 s.f. since our last meeting we have a request to convert the low level to a daycare facility. This would be operated by the Learning Experience. They are extensive in areas out of NJ and NY. With that we understand that in this zone daycare is permitted with a SUP. We propose a minor site plan amendment to provide the daycare facility with a 2950 s.f. play area outside the bldg, directly abutting the bldg. it would be turf and rubberized sport type surface. Basically it would cause the removal of 7 parking spaces. The balance of the bldg is proposed to be medical office per our last approval process. I provide calcs that show meeting the Town Code for the proposed parking spaces including the existing and with the loss of the 7 spaces we still have enough to provide for these uses. This is a minor site plan amendment and SUP. We understand that we need a PH for the approval and request that be scheduled. One of the other comments raised by the Town Engineer is the set of stairs that run from the middle level to the lower. They are fairly new and were relocated from the end of the retaining wall. Our proposal is to move them back out to the end of the wall so this security area is maintained where the children will be playing with no pass thru pedestrians.

G. Lake No problem with the comments? (no) I'll go thru the board.

J. Keegan No issues with the Daycare. Less of an impact on parking. People will drive thru the loop of the existing openings for drop off and pick up.

C. Najac No issues. perfect in and out. the lighting (existing) behind the bldg, are you changing it? (yes) perfect.

A Guattery the staircase is being moved back out to where the 2 spaces are by the drop off? (yes) The use is great, I have no problem. The 6 parking spaces in the upper lot that face the retaining wall – what will be put in place to prevent someone from driving into the kids or dropping something?

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K. McManus We can show detail for the parapet wall.

A Guattery I would like to see that. Make sure we have something in place should or when that happens. NO other issues.

T. Hamilton The play area is on ground level facing 211. What protection is there that close to 211? Normally you don't see Daycare centers with playgrounds in an area like this where everyone sees everything. Can it be put somewhere less conspicuous?

K. McManus It is not right on 211. It abuts the building and the access into the play area is from the school and an emergency gate for the gate out that is required by code. We can provide some screening/landscaping to alleviate that. this is the area that abuts the location of the school.

G. Lake You heard the comments. We will set a PH for 9/19/18. Motion- Bill/Jim 6 ayes. Thank you.

4. Crystal Run Resource Recovery SP/SUP – 68 Crystal Run Rd. (78-1-17.1) #31-16

G. Jacobowitz I am here for the applicant. Present is Jeff (?) one of the owners, Darren Gable, one of the owners and Donna DePiova(sp) who is a (unable to hear). We are here for an application for a SP/SUP for an inpatient detox /rehabilitation facility in what is now being operated as the Holiday Inn on Crystal Run Rd. A formal application with your board was filed on 4/3/18. This document, which I believe all of you have had an opportunity to know about. On August 20th we filed a supplemental application dated August 17th to add some additional information we thought would be helpful to you as a board. We have enlarged the submission to include more information about the facility operations and its mission and how it is going to be operating because it was a matter of interest to the broader community in the Town of Wallkill whether we were here before and also to the official family. We have rec'd conditional approval for this facility from OASIS, the office of Alcohol Services and Substance abuse and the Department of Hygiene, that is in the package. It is conditional approval with three conditions. One is the certificate of the LLC be amended to include some specific language related to the particular nature, the second was that we show that there is employment opportunity here to staff of the facility. The third is an actual physical inspection when we are ready to open up the door. The last thing we can't do at this moment, slightly premature. The other 2 conditions from the State of New York are what we need to satisfy. Part of the staffing ability will be jobs that are there and to advertise and open it to the public to come and apply. We are also providing that all the present employees are going to have jobs in the facility. The same things they are doing at the hotel facility are things we need as part of this detox and treatment facility. All those folks will be offered employment at the new facility and that will be less disruption in their lives and we will be getting a bunch of experienced people that know the bldg. And know their basic way around a residential facility.

There is a couple words that get very confusing I would like to take a moment to explain them if I might. We are a medical supervised facility. The other kind is medically managed facility. Our certificate is medical supervision. The reason there is a distinction is because of the nature of the patient. It is all

determined by that. If there is an acute condition, addiction and physical condition, that is someone that goes to a medically managed condition. Someone that does not have an acute condition is a person/patient at this facility. In the whole range of addiction, the folks that we are going to be treating are those that are not in the worse condition, but are in bad condition. I think that is important because there are a lot of issues about security and the neighborhood and the kind of people who are going to be there. This should characterize it in a much more meaningful way. The other part that you should keep in mind is that this voluntary. This is not a place that people will be sentenced to or sent to on condition of threat of jail. This is strictly voluntary. The people who are going to be coming here are people that already have a desire and an interest in trying to break their habits. In the package there is a series of pages that are called answered to frequently asked questions? We did that because there is some very direct and accurate information about different aspects of this entire facility. You also have a narrative description in the package to explain how things operate. In addition, we left there (2) 3 ring binders in which a relevantly short time we filled them up with articles about the opiate and addiction problem in our society. It's broken out into local, state and national and you don't have to go far into it to see that we have a serious problem in society that needs to have remedy.

I'd like to emphasize for you what we are not. We are not a methadone dispensary. We are not an outpatient treatment facility. We are not medically manned which I explained already. We do not have involuntary admission. This is not short term confinement. The detox is a 3-5-7 day program and the rehabilitation is 15, 18 or 21 days. The usual maximum time is 28 days. However, there can be shorter time and in a few instances there may be a need to go beyond. That is kind of dictated by financial aspects of insurance and the patients of the facility to pay. There is a program that tries to accomplish the goal within those specified times.

What are we? We are a residential in patient medical care provider. We provide medical treatment of addiction to alcohol and drugs. We are a vital service to provide the missing detoxification and rehabilitation programs to counter addiction. There are lots of facilities that serve our community and do a good job. However, there is nobody who has detox and rehabilitation on an inpatient resident basis. We are a community resource to complement the existing service providers. We are providing cooperation to all other agencies/organizations that are providing service to this aspect of our society's problem. In the package you will see there are memorandums of understanding including the applicant and Catholic Charities. There is also a memo of understanding with Honor, which is one of the other service providers in the area. Donna and Jeff and Darren have met with every other service provider to let them know what this is about and how they can work together. You also have letters from ORMC, and CRHC in support of this and that they recognize this is an important component for providing care and treatment for those who have addiction problems.

I believe you all have seen copies of plans – 4 sheets? The C1 and C2 – the C1 is assuming 105 bed facilities. All calculations of parking etc are on there. They also show what the parking would be for 190 beds on C2. On C2 the major change is the expansion of the parking area to meet your code requirements. We doubt very much that the amount of parking will be needed. There are no visitors

here. The family has sporadic counseling sessions with the staff about the addiction and future of patients but no one drives here to make themselves a patient, when they leave there has to be a name for them to be picked up and taken to a designated pre-determined destination. That is done when they are admitted to identify who is going to be the person that is going to be responsible for having this patient returned to their community. If there is a situation where someone does not have a family member or friend that is able to do that this facility has vans that are able to do that and will drive them to their destination. The parking requirements meet the code and we also can meet it at 190 beds as depicted on page C2. What we are suggesting to you and your consideration is that the approval would be the 190 but in 2 phases. The first would be 120 and then we would be able to go to the larger upon meeting certain conditions that you will make part of your approval. One would be that the OASIS license would be in effect, that the parking requirements are adequate and satisfied, and that there are no substantial or repetitive incidents that have required your Police Dept to be called. And any other kinds of things you think would be necessary to allow for this beneficial use. We are comfortable that the conditions are all doable and it gives us two bites at the apple and we can work with that arrangement.

At what point will we ask you to allow the 2nd phase? It really depends on a lot of factors which at the moment are just guesstimates and that would be the market demand, the staffing availability and things of that type which at this point are too difficult to predict. We are comfortable at the 120 to meet the needs of the community. The facility is more than adequate to take care of 112 patients. The 2nd set of papers you got – c3 is the bldg as it is now. The 2nd page – c4 shows you where the facilities that are relevant to the operation of this medical care facility will be located. They are identified on the plan with a full range of treatment rooms, Dr. Offices, Nurses stations, and all the kinds of things that are naturally required for a medical treatment type facility. That is why you have 4 sheets there.

We rec'd review comments from McGoey. We believe all those comments in the most recent review letter (the 28th of August), we show all that on there satisfactory. There is one item in Dick's letter that deals with a trailer that is there on the property. The thought was why do we need it? We did not take it off because we are not quite sure ow much storage the facility will need to run it as a medical care facility. We are showing it on the plan; it is hidden behind the bldg. We may need it to have storage. All the other comments were met. You got a letter from Mike Sandor addressing the same items in letter form from the worksession and review letter.

At this point we would like to declare Lead Agency which is one of the pre-conditions of going forward. I think the submission satisfies the sketch plan requirement- it's almost got a final amount of detail on it. Since we are within 500' a 239 situation it has to go to OCP for their review. When would a hearing be appropriate after you have had a chance to digest everything. We thought we would err on the side of more information rather than less.

I have one more thing – our clients have hired Parrish and Weiner and he has done a report to address the planning questions you might have. I have copies and will hand them out. He reviewed the zoning

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law and special use permit/Site plan requirements and then he analyzed the neighborhood and what is there and what he believes were the purposes of your zoning law in respect to that particular area. He has provided the benefit of his thinking and analysis. He's a well-regarded person in the planning field.

G. Lake As you know Tom and I have been to most Town Board meetings you have been at basically, every 28 days there is a rollover of people?

G. Jacobowitz it's more irregular, someone could need a 2 day detox and so on.

G. Lake Theoretically it could be every 28 days we are rolling someone over. What happens at that point? Are they sent home? Do they hook up with the Catholic Charities? What happens then? The parking – that is an easy one. I don't know if we need to expand that. We have a thing in the Town called banked parking and this board is more interested in leaving the green if possible. If you can prove that out so be it.

What you did not hit on is where this is going to fit in the zoning. At the one worksession you called it a hospital but I noticed you avoided that tonight. Are we still calling it a hospital? If not, if you are going to call it a Recovery Center I will turn to Tad or Dick and ask where does that fit in the zoning. The reason I am going to say that is because this board does not have the right to interpret the Zoning Law. I'm not sure if you are calling it a hospital yet? Are you calling it a Recovery Center, or a nursing home? I just don't know what direction you want this board to move forward at. One, obviously if it is a nursing home we need to look it up to see if it fits, if it's a hospital we need to look it up and find out if it fits or let somebody else make that determination. A recovery center, which I do not believe is spelled out in the zoning, we would have to find out how to interpret that. What are we calling this?

G. Jacobowitz A Hospital. 4/3/18 the transmittal letter of the original application. Transmitted to the Honorable Marylynn Hunt we are enclosing 10 copies of the application for site plan approval and special use permit or a Hospital.

G. Lake Ok – I bought that up because that word was not used up until this point on your half. I'm going to go thru the board for their questions and make a determination at some time of where we go.

J. Keegan I have a laundry list of questions but are we calling it a hospital? We are not able to interpret that on our own. I can't see beating them up with all my questions if they need to be referred to the ZBA or figure out an interpretation for the Hospital use before I even get into all this stuff. What is the direction?

G. Lake I understand what you are saying.

B. Capozella You did mention the facility is a medical care facility. I believe that is what you said. Now we are told that it is a hospital. Here is my one question- what you gave us here with the exhibits –

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exhibit B,...in here is a letter from the Office of Alcoholism and Substance Abuse Services – this is what your certification is of what you are going for? That you are applying for Substance Abuse and Alcohol. What goes thru my head is we are now saying it's a hospital. Yet, your certification is substance abuse. I'm not saying anything derogatory towards that but maybe part of a hospital is you get one of those certifications along with probably other certifications. I'm not an expert in applying for a hospital application. I know in the state you have to apply for an application to the State to get approval.

G Jacobowitz Article 28 – Hospital, you get that from the Health Department. There are many hospitals that are not Article 28 hospitals. In the entire County of Orange there is only one Zoning Law with a definition that includes Article 28, DOH approval. One out of 42. Hospital does not have to be approved by NYS DOH to be a Hospital. If you look at your own definition you do not have an article 28 DOH License. You didn't require it and you are not alone. There are 40 plus others.

T. Barone Gerry – you make that point but you ignore the fact that you have a definition for a sanitarium. Did you when you surveyed these other zoning laws look to see if they have similar distinctions?

G. Jacobowitz Yes, the result is a sanitarium can be a hospital. A hospital can be a sanitarium.

T. Barone Per local zoning? Other local municipalities, is that what you are saying?

G. Jacobowitz We surveyed all the zoning laws and did a detailed table with respect to all these questions to see if maybe the definition is so well established that you can't call an elephant a giraffe. And you have to do it. That is not the case. We all think of a hospital in a certain way. If you go to Cornwall they have no emergency, no surgery, no heart specialty, it's a facility that is run as a hospital but does not provide what we generally think services a hospital should be giving. They are an Article 28, DOH Hospital. The point is they don't do any of the things there that you and I commonly would say Hospital. We go to your definition in your law and go thru it and your definition 249-3 ...

T. Barone You are going to go thru all this analysis and I'm sure the board members would agree with me that in their years of experience here rarely if ever do we see an applicant appearing in front of us making their case that their use fits a particular definition in the code. Usually it's rather clear and straightforward. Here you have been in front of the Town Board, seeking one type of approval for the same use, now you have come here seeking the same approval but calling it something different. What you are asking us to do is to interpret how this use fits under our code. The board members have legitimate concerns, and they do not (planning board members) have the authority to make this type of interpretation. The only avenue to pursue this is with the ZBA. That is my recommendation to them, that this matter be referred to the ZBA for an interpretation. You can make your case to the ZBA if you want I can submit the application on your behalf or you can submit the application. That is my recommendation to the board.

G. Lake Let me finish the board. Then we will go from there.

C. Najac Doesn't sound like I want to go against what our legal advisor is telling. We can't make an interpretation, so I am going to listen to what Mr. Barone is telling us and suggest we send this to the ZBA.

A Guattery I will agree with Clark. I can tell you this Mr. Jacobowitz, I have read every single piece of paper you have forwarded including the 3 binders. I just finished the letter you handed us. I can tell you right off the bat that I have a pile of questions. We really need to clarify where we stand and it's just not us. Article 28 vs. Article 32. Is it Dept of Mental Hygiene, is it a hospital, is it a sanitarium. The Town has zoning that points to these things but it is not for us to determine where that fits. It's up to the Appellate side which is the ZBA. I will defer to our attorney as well and say we need to get that before we can do anything. For everyone's sake let's make sure we do it the right way. It's not a question of whether we want it or not but that it is done correctly and every I is dotted and every T is crossed. I think Mr. Barone is giving very good advice for both sides.

T. Hamilton I will go with Mr. Barones advice.

G. Lake You heard the board. I think Mr. Guattery hit it on the head saying we need to do it right and safe for everyone involved. I will refer you to the ZBA. If you choose not to I will refer Mr. Barone to file the application on behalf of the PB and send it to ZBA.

T. Barone Why don't we have a motion by the board to refer this matter to the ZBA for the purpose of interpreting whether the use is properly classified as a hospital or properly classified as a sanitarium or possibly something else. Depending on the board's vote on that motion Mr. Jacobowitz can decide if he is going to marshal the application or want the PB to submit the application. At this juncture let us decide if we are going to refer it to the ZBA.

G. Jacobowitz You are making an assumption that is not justified. And that is that under your own definition of hospital this is not a hospital. I respectfully submit to you that if you read your own definition there is no reason why this is not a hospital What happened at the Town Board has a long explanation. It is no relevant to this at all and should not be bought in to confuse everybody. It was under a different section of the Town Law that everybody thought could apply and turned out it can't apply.

G. Lake Why would that be any different for us then?

G. Jacobowitz Because that section doesn't apply to this facility. That section only applies to other types of facilities.

G. Lake We can go back and forth on this and I think said awhile back that this board is one of the few boards that have had experience in approving a hospital. (ORMC) this board went thru that process for

at least 9- 12 months. I am not an expert on hospitals and what their approval is but I do believe there are certain regulations when you call something a hospital. When they did the zoning a question like this was probably the farthest thing from their mind. I'm going to err on the side of caution. I see ramifications for many other institutions around the Town. This might be far-fetched but Crystal Run might be here tomorrow asking to be a hospital. They do everything plus. I do think there is a definite difference. I am not saying everyone here is saying this is not needed. I'm saying I believe we have to do it right. I think you are asking this board to stretch what its understanding. We are laymen not lawyers and we do not have the tools to make those types of decisions. We do not have the same rules as the ZBA has. I understand you would like to sit and argue for a bit more or comment but I believe the board has made it very clear that the safest way for everyone involved is to send you to the ZBA. I think that I am going to make that motion. Again, if you decide not to do it I will have our attorney do it on behalf of the planning board. That is the safe way to do it.

I just think we need to err on the side of caution. It is the right thing to do. If it fit in that zone in any way, shape or form in any category we would be moving forward. I think we need a definite answer by the right body to make that interpretation. Motion to send to the ZBA by the client or the Planning board. Clark/Andy.

D. DULGARIAN ABSENT

J. KEEGAN AYE

B CAPOZELLA AYE

C. NAJAC AYE

A GUATTERY AYE

T HAMILTON AYE

G. LAKE AYE.

t. Barone Please let me know if you want to do the application or if you want me to do the application

G. Jacobowitz I'll take it under advice and let you know.

T. Barone I'll give you until Friday to let me know?

T. Hamilton Motion to adjourn. Second- Gary Lake. 6 ayes.

Respectfully submitted,

Gary Lake, Chairman