

TOWNSHIP OF EVESHAM

Zoning Board

Minutes

7:00 pm

May 13, 2019

Municipal Building

Call to Order

Chairman Parikh made the call to order at 7:08 pm

Flag Salute

Statement of Conformance with Open Public Meetings Act

Chairman Parikh made the statement of conformance with the Open Public Meeting Act and the Municipal Land Use Legislation

Roll Call

Present: Davé, Lutner, Rodgers, Osno, Wilson, Thompson, Parikh

Also Present: Wieliczko, Furey, Arcari, Loughlin, Selover, Boulton

Absent: Alperin, Student, Wessner, Shah

Continuation of Scheduled Matters

Meeting Minutes:

April 15, 2019

Motion: Rodgers

Second: Osno

Ayes: Lutner, Rodgers, Osno, Wilson, Parikh

Unfinished/New Business

1. **Care One** **ZB98-073A**
870-874 Route 70 East, Block 16, Lot 3 (C-1 Zone District)
Applicant is amending prior approval in 2012 to expand a 25775 sf addition accommodating 41 additional beds, common areas, amenities, parking areas and landscaping; current proposal seeks approval for additional 1171 sf without increasing number of beds
Jennifer Porter, Attorney

Exhibits:

- A1 – Submitted Site Plan, Revision 6, dated May 2, 2019
- A2 – Elevations Drawing A4, dated November 12, 2018; revised April 23, 2019
- A3 – 1st and 2nd Floor Plans, dated November 12, 2018; revised May 3, 2019

Witnesses sworn in:

Mike Fowler, Engineer, Langan Engineering
Paul Phillips, Architect Planner
Mike Azarian, Architect
Carl Pehnke, Vice President, Langan Engineering
Angelo Caputo, Care One

Jennifer Porter, Applicant Attorney:

- Applicant is seeking an amendment to previously granted preliminary and final Site Plan approval and variance relief in connection with a minor addition proposed with existing Care One facility
- Present use is 2 buildings containing 68 bed assisted living facilities and 159 skilled nursing beds
- 2009 approvals were obtained for alternative use of site, no longer being proposed
- 1998 ZB approved and in 2003, for height variance, back again in 2009, approvals expired and being vacated
- 2012 proposal to expand to 25775 square foot addition to existing facility to accommodate an additional 41 beds
- Bringing facility to 78005 square feet, total 109 beds
- Currently before Board seeking additional 1171 square feet over what was previously approved
- No increase in number of beds
- Modest increase to accommodate the proposed common area on the 2nd floor of the addition

Board Solicitor:

- Prior Resolution of approval included in 2012, major Site Plan preliminary and final approval with D variances and C variances to add 25775 square feet addition to add 41 beds
- Now 2019 proposal is to increase square footage from 25775 to 26946 square feet to add space and common areas to the 2nd floor addition

Mike Fowler, Engineer Testimony:

- Professional Engineer since 1987
- Accepted as Expert Witness
- Back for modest expansion to 2nd floor
- 197 parking spaces on site
- 227 beds in assisted living facility to the north (top) and skilled nursing facility on the south side
- Access to Route 70 and Evesham Medford Road
- Driveways not changing
- 2 story expansion to square footage, plus the 1171 additional square foot on 2nd floor
- Skilled nursing beds remain at 159 and assisted living/memory care will be increased to 109, 41 bed increase; total of 268 beds on entire site
- Assisted living to go from current 68 beds to 109; building A (northern portion of site)
- Site Plan Exhibit A1, referenced is revision 6, dated May 2, 2019
- 2009 approval to skilled nursing facility have been vacated
- Improvements no longer valid; noted to come back to the Board if any changes
- Roadway between 2 buildings shown as existing condition today; not modified for skilled nursing facility
- Relocated trash enclosure per Township Planner recommendations
- Detail for water feature on plans
- Drawing for landscaping improvements around water feature

- Corrections to Stormwater Report
- Minor revisions
- Proposed parking; recovering some parking spaces from western side of site; was previously approved PAD site for another building which will not be constructed
- Final parking count is 168 parking spaces; 29 space decrease, where 116 are required; meet Ordinance
- Variances requested; FAR are now .215 on revised plans
- Less than .22 approved in 2012; no longer need variance
- Buffer between parking and adjacent lot (aka SKOOTERS previously)
- Obtained parking buffer variance in 2012; clause in Ordinance providing buffer between non-compatible uses
- Providing 12.5 feet; both in same zone; SKOOTERS site is vacant
- Phase I Environmental Report submitting now
- Water feature; updated utility connection locations
- Wider sidewalks per Board Engineers recommendations
- No changes to grading, drainage, lighting
- Minimal changes to landscaping to accommodate small building expansion
- Comments in ARH letter are acceptable; made revisions to sidewalk and Stormwater Management Report; same driveway
- Added notes to Phasing Plan per ARH; final pavement course will be installed after substantial completion of construction
- Repair necessary to facility will be made
- Agree to requested conditions of ARH letter
- May 8, 2019 ERI letter; parking was noted that waiver was required for adding 3 loading spaces, where 6 are required; incorrectly noted as 5 on the plan
- Corrected; do need 6
- Adjust cross walk/sidewalk to make a 90° crossing in lower left of proposed building
- Epoxy or thermoplastic striping requested; very expensive
- Applicant is willing to provide thermoplastic for fire lane striping, stop bars and cross walk; regular stripes for the parking spaces will be standard paint
- Requesting waiver from Environmental Impact Statement; no change from 2012 approval
- Drainage, traffic, all addressed in those reports; no change
- Board Attorney asked if any issues were identified in the Phase I that need to be addressed
- Applicant replied no
- 2 copies will be provided to Secretary and Environmental Engineer tonight
- Planner comments letter May 8, 2019; trees that have been removed are now showing as not being removed; updated plan
- Electrical and water service going to the water feature
- Additional tree transplanting notes as requested
- Irrigation was requested and agreed to by Applicant; planting beds around building
- Affordable units will be addressed
- Dimensions shown for trash enclosures on plan
- Intention of security fence for assisted living facility; needs to be secure area

- Letter from Fire Marshal, February 6, 2019, addressed; misunderstanding on plan about existing connection and new connection for expansion; can't be 2 connections
- Not intent to have 2 connections; will only have 1 fire department connection

Michael Azarian, Architect Testimony:

- Licensed architect in NJ, NY and MA
- Accepted as Expert Witness
- Exhibit A2; elevations same materials as 2012 submission; addition of brick along face
- North and West elevations will match existing building per Township Planner
- Added significant amount of brick; materials same stucco, siding, shingles
- Match existing building
- Ridge of building is 6 inches higher than previous version
- Turned roof area into terrace between structure and existing building
- Elevations are minor changes to previous submission
- Floor plans exactly same position as in 2012
- 1171 square feet added to project; primarily to assist with patient amenity rooms
- Ambiance
- 9 square feet on 2nd floor; 1162 on 2nd floor
- May 8, 2019 letter from Planner, regarding architecture and site plan inconsistencies
- Addressed and corrected on architectural plan and on site plan
- Signage will be installed; 12'6 clearance; will work with Township to provide signage required

Paul Phillips, Phillips Price, Professional Planner Testimony:

- Accepted as Expert Witness
- Applicant seeking to modify prior Zoning Board approval granted in 2012 permitting Care One to expand existing assisted living facility to accommodate additional 41 beds
- Site also accommodates 159 bed skilled nursing facility in separate building
- Current application proposing very modest change relative to 2012 approval
- Requesting additional 1171 square feet FAR sought to add common area to 2nd floor
- Only other change proposed relative to 2012 approval are minor site related changes; trash enclosure and water feature; modest architectural changes
- Number of additional beds remains same
- C-1 commercial district; doesn't permit assisted living or existing skilled nursing facility; applicant continues to seek D variance relief to allow modification in terms of expansion
- Use considered to be inherently beneficial; Board agreed in 2012 inherent use outweighed any negative impacts
- Physical changes proposed are minimal relative to prior approval
- Driven by desire to improve patient care
- 4 part test from NJ Supreme Court case; demonstrated in 2012
- Public interest to be served
- Inherently beneficial use

- Projects impact (changes relative to approval) are minor changes to previously approved plan
- Parking remains unchanged; site layout unchanged
- Project continues to afford sufficient protections to surrounding properties
- Well buffered site from surrounding land uses
- No changes proposed to parking layout, circulation, grading or drainage
- Positives continue to outweigh the negatives
- Public interest continues to be served
- Legitimate to grant relief being sought
- C variances in Planner's Report; most existing variance conditions previously approved in 2012

Leah Furey Bruder, Township Planner:

- Review Letter dated May 8, 2019
- Applicant submitted revisions in response to comments
- Responded to majority of comments already
- Adequately justified expansion on use
- Use is appropriate to site in community on practical level
- No detrimental impact to surrounding area
- Responded to architectural recommendations
- Deferred comment number 3 regarding affordable housing
- Asked Applicant if they would indicate whether any of the beds will be set aside for low/moderate income residents as Medicaid beds
- Typically 10% Medicaid beds in assisted living facilities
- Asking Applicants to assist the Township with satisfying Affordable Housing obligations; particularly with age restricted portion by Deed restricting the 10%
- Positive response from other applicants; Artis, Brightview
- Applicant's attorney advised there will be 10% beds set aside as Medicaid beds; Applicant willing to agree as a Condition of Approval
- Applicant unwilling to agree to Deed restricted; very difficult to change or undo in future
- Applicant will be bound by it as a Condition of Approval
- Mr. Parikh asked how it would be enforced
- Township Planner advised it is helpful to the community to have units available to lower income individuals; doesn't help Township meeting Fair Share obligation without evidence to provide to Special Master and to the court
- Deed restriction provides the evidence
- Request the Deed restriction; would help the town
- Mr. Parikh asked if this was addressed in 2012 application
- Township Planner advised it was requested but Fair Share wasn't worked out at that time
- Adjacent former SKOOTERS facility; what is the status; not part of this application
- Applicant advised that Care One does own but no present plans with respect to the use of property currently proposed

Board Solicitor:

- Board Solicitor advised Applicant's attorney that they could take a moment to discuss Deed Restriction with client
- Similar facilities in town have Deed restriction in place
- If sell, ability to vacate the Deed restriction, if used in some different way
- Similar to other towns in NJ

Stacey Arcari, Township Traffic Engineer:

- Review Letter dated May 8, 2019
- No comments related to traffic
- Applicant made modifications to the plan
- Request Applicant's Traffic Engineer put on record if expansion would impact State Access Permit
- Site Plan review striping; ask that all Applicants provide either long life Epoxy or Thermoplastic
- More expensive yes, but lasts much longer
- Traffic striping is usually last thing maintained on site
- In long run, better quality
- Request higher quality materials; all Applicants agree to it
- Respectfully requesting Applicant to agree to it

Carl Pehnke, Traffic Engineer:

- Practicing over 33 years
- Accepted as Expert Witness
- NJDOT Permit for access to Route 70
- Additional trips associated with additional 41 beds proposed will not generate level of traffic requiring any further permitting or revision to the permits with the DOT
- DOT Permits grant allowance up to 100 additional trips per hour during peak hours; in this case about 14 additional trips
- Well below limits what DOT would consider significant increase

Mark Selover, Township Environmental Engineer:

- Requested Applicant review Phase I Environmental Report submitted with 2012 application
- Prepared a new Phase I; satisfying request
- Environmental impact statement waiver; reviewed 1999 impact statement in 2012 and approved since site was already developed; agree that waiver is acceptable

Bill Loughney, Township Engineer:

- Review Letter dated April 29, 2019
- Comments already addressed; addition of water feature detail, updating of width of sidewalk southern portion; discrepancies between Stormwater Reports and site plans and agreement to fix deteriorated pavement in parking lot
- Detail regarding pavement section; has it been upgraded to thickness of surface course and base course based on Zoning requirement
- Michael Fowler, Langan Engineering responded that they have upgraded the thickness to Town standard; already on plan

Board Comment:

- Mr. Wilson asked about the parking lot striping and the cost difference; is there an estimate on the cost difference between the 2; asking to determine severity of potential detriment to using epoxy or thermoplastic to something else
- Applicant advised they don't have an estimate

Chairman Parikh requested a 5-minute break at 8:11pm for Applicant attorney and client to discuss the Deed Restriction

Applicant Attorney:

- 2 outstanding comments; #3 in Planner's report dated May 8, 2019 Affordable Units; Applicant has agreed to provide and deed restrict 10% of units for Medicaid beds
- #3 in Traffic Engineer review concerning use of epoxy or thermoplastic; Applicant has agreed to provide for the new areas, if the town or consultants can provide them with list of 5 potential bidders that can provide services
- Board Solicitor advised as professional courtesy, will provide Applicant with 5 without any preference or recommendation in local south Jersey area that do this type of work; client will have ability to solicit bids; not Conditioned on us doing it, but good faith representation that we will try to get 5 vendors

Public Comment:

- Jack Flynn, 38 Mitchell Court, sworn in
- Most questions already answered
- When does the project anticipate being finished
- Board Solicitor advised that Applicant cannot start until they get approval
- Assuming they get approval what is the timeframe; 3 years? 4 years?
- Goes back to 2012 with approval, this time with slight change to it
- Must be some idea of when it will be done
- SKOOTERS building has been there a while
- Thorn amongst roses
- Condo units very well appointed; Legacy Oaks
- SKOOTERS building is not well kept
- Parking lot is a mess
- Is there anything in the tank behind the building
- Has anyone cut the grass; Is it going to sit there a long time
- This building does NOT add to the community

Angelo Caputo, Care One

- If approved, only commissioned architects to start project in motion after DCA reviews project before going local
- State is pretty busy
- Overtime at state level; will proceed with the project; want to build it
- Looking at about 8-9 months at the state level to look at construction documents
- Local level will take a month; resolution compliance all in order
- Building will take 14-16 months
- Front of building will take the longest; major undertaking at the front
- Will probably go into Spring 2020

- Started sending out Site Plans already for pricing
- Engineering and thermoplastic numbers, will have to be amended
- Care One has no intentions to sell SKOOTERS
- Ownership doesn't know what they intend to do with it yet
- Holding on to it
- Acre and a half / building quite big for lot size

Board Solicitor Summary:

- Applicant proposing to construct a 2 story addition to a building that already exists on property to accommodate 41 additional beds
- Approval already granted in 2012 for major preliminary and final site plan approval with D variances and C variances
- Applicant now before Board for an addition of 1171 square feet over what was approved in 2012
- Same number of beds; would increase the proposed square footage to 26946 square feet over and above what exists
- Added space to provide an additional common area and make more aesthetically pleasing
- Facility is a non-conforming use
- Applicant seeks to expand pre-existing non-conforming use (use variance granted in 1998)
- Applicant detailed use of building on site; skilled nursing facility
- Thanks to the Applicants Professionals and counsel for the efforts put in meeting with Township Professionals at Staff Review meeting and comprehensive and detailed submissions, as well as revised plans based on suggestions/requests
- Appreciate evaluation and deliberation Applicant engaged in with agreement on the 10% being set aside for Medicaid beds being Deed restricted; as well as agreement on epoxy/thermoplastic striping
- Addressed concerns of Fire Marshal with 1 connection
- Applicant will also agree as a Condition of Approval meet and abide by all prior Conditions of Approval in prior Resolutions not otherwise modified herein
- Applicant's attorney agreed

Motion to Approve ZB98-07A3

Motion: Rodgers

Second: Lutner

Ayes: Rodgers, Lutner, Dave, Osno, Wilson, Thompson, Parikh

Resolutions

ZB 18-31 FT Equities

Motion: Rodgers

Second: Dave

Ayes: Dave, Lutner, Rodgers, Osno

ZB 19-04 St. Joan of Arc

Motion: Rodgers

Second: Lutner

Ayes: Rodgers, Lutner, Osno, Wilson, Parikh

ZB 19-09 Barletta

Motion: Osno
Second: Wilson
Ayes: Osno, Wilson, Lutner, Rodgers, Parikh

ZB 19-10 Kearney

Motion: Parikh
Second: Lutner
Ayes: Parikh, Lutner, Rodgers, Osno, Wilson

ZB 19-12 Gavio

Motion: Wilson
Second: Osno
Ayes: Wilson, Osno, Lutner, Rodgers, Parikh

ZB 19-11 Hyland Levin

Motion: Osno
Second: Wilson
Ayes: Lutner, Osno, Rodgers, Wilson, Parikh

ZB 19-07 Altar'd State

Motion: Wilson
Second: Osno
Ayes: Wilson, Osno, Lutner, Rodgers, Parikh

Communications/Organization

Next Meeting: June 17, 2019

Motion to Adjourn

Ayes: All in favor

Meeting adjourned at 8:30 pm