

**TOWNSHIP OF FRANKLIN  
ZONING BOARD OF ADJUSTMENT  
COUNTY OF SOMERSET, NEW JERSEY**

**REGULAR MEETING  
April 18, 2019**

This Regular Meeting of the Township of Franklin Zoning Board of Adjustment was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman, Robert Thomas, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

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**PRESENT:** Laura Graumann, Alan Rich, Gary Rosenthal, Joel Reiss, and Robert Thomas

**ABSENT:** Anthony Caldwell, Donald Johnson, Bruce McCracken, Robert Shepherd, Cheryl Bethea and Cheryl Bergailo

**ALSO PRESENT:** Mr. James Kinneally, Zoning Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

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**MINUTES:**

- **Regular Meeting – March 7, 2019**

Vice Chair Graumann made a motion to approve the Minutes as submitted. Mr. Rich seconded the motion and the roll was called as follows:

**FOR:** Vice Chair Graumann, Mr. Rich, Mr. Rosenthal and Chairman Thomas

**AGAINST:** None

- **Regular Meeting – March 21, 2019**

Mr. Rosenthal made a motion to approve the Minutes as submitted. Mr. Rich seconded the motion and the roll was called as follows:

**FOR:** Mr. Rich, Mr. Rosenthal and Chairman Thomas

**AGAINST:** None

**RESOLUTIONS:**

- **Surinder & Rano Singh / ZBA-17-00020**

Vice Chair Graumann made a motion to approve the Minutes as submitted. Mr. Rich seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, and Chairman Thomas

AGAINST: None

- **Franklin TWSP/AP Realty / ZBA-18-00010**

Mr. Rich made a motion to approve the Minutes as submitted. Mr. Rosenthal seconded the motion and the roll was called as follows:

FOR: Mr. Rich, Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **Praise Presbyterian Church, Inc. / ZBA-17-00028**

Mr. Rich made a motion to approve the Minutes as submitted. Chairman Thomas seconded the motion and the roll was called as follows:

FOR: Mr. Rich, Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **RUKH Cedar Grove Lane Properties, LLC / ZBA-18-00022**

Mr. Rich made a motion to approve the Resolution as submitted. Chairman Thomas seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich and Chairman Thomas

AGAINST: None

## HEARINGS:

- **GREEN CARE FARMS, LLC / ZBA-19-00003**

Ms. Nicole Voight, Attorney, appeared before the Board on behalf of the Applicant, Green Care Farms. She indicated that the Applicant was seeking a D(1) Use Variance w/Associated Site Plan and C Variance for construction of a 9,000 sq. ft. dementia care facility at 389 Bennetts Lane, Somerset; Block 85, Lots 15.06, 15.07 and 15.08 in an R-40 Zone.

Chairman Thomas then noticed the Applicant that they only had five (5) members attending that evening and a quorum required five (5) votes, so he gave the Applicant an option to come back another time or be heard that evening.

Ms. Voight indicated that they were willing to go on with the hearing that evening, knowing that the members not present that evening would be willing to watch the tapes, and that they would conclude the hearing at the next meeting.

Ms. Voight started off the hearing by presenting her Affidavit of Service and noted that there were two sets of service she was providing, noting that they did an initial service and then the Application was amended to reflect the additional C variances and went ahead and re-noticed everyone via Certified Mail and publication.

Ms. Voight then gave a brief background of dementia care homes and indicated that they were recently removed from the residence category and redefined certain elements of the community residence categories such that dementia care homes were no longer included in that category. She then told the Board and public that that was why they were there that evening for a Use Variance for a conditional use for community residences. Ms. Voight then offered that there was currently pending litigation where the constitutionality of that regulation had been challenged, specifically as to zoning, under the guise that treating people with Alzheimer's differently than other people in dementia care facilities was unconstitutional discrimination.

Mr. Rajiv Singh, Director of Green Care Farms, 59 Wild Azalea Lane, Skillman, NJ, came forward and was sworn in. He then told the Board and public that his co-owner was Dr. David Barile, M.D. who was a fellow and trained in geriatric medicine and was currently the Director of Geriatric and Palliative medicine at Penn Medicine in Princeton, NJ and had been practicing for 20 years, with a large number of his patients having dementia. Mr. Singh then gave his background, noting that he had been a resident of Somerset County for 20 years, with four (4) of his first years in the country in Franklin Township on Franklin Boulevard. He told the Board that he owned a Kellerman's real estate franchise that had 90 agents in Montgomery Township, a title insurance agency and had also owned several other successful companies in the past. He indicated that he was his grandfather's caregiver for four years due to dementia and that his father now had had dementia for the past eight (8) years. Mr. Singh then proceeded to discuss the nature of the project, noting that their goal was to provide the best possible living environment for those with Alzheimer's. He then indicated that they had a unique architectural design that promoted way-finding and reduced anxiety. Mr. Singh then testified that they had applied for a patent whereby every patient could see their room and, therefore, always knowing where they are, thereby reducing agitation. He then explained that farm activities significantly improved quality of life for those suffering with

Alzheimer's, giving them purposeful activities such as gardening, food preparation, arts and crafts and tending to farm pets such as dogs, cats, chickens, rabbits or goats. He then stated that the project was proposed to house 15 residents, each with a private bath, and common areas with a kitchen, library, dining area and activity area. Mr. Singh then added that all of the design of the facilities was approved or in the process of being approved by NJDOH and DCA. He then explained that the difference between other dementia care facilities and their facilities was that the other types of care were institutionalized care and they were providing a home-like environment. He indicated that most facilities were locked, with alarms, whereas their facility proposed to allow residents to roam freely with silent alarms and were very crowded. In contrast, he indicated that their facility was only meant for 15 residents. He added that typical care facilities have long corridors, were multi-story and had confusing architecture, whereas their proposed facility was only one-story, with just one corridor. Mr. Singh then stated that they had a barn and greenhouse on-site (4,000 sq. ft. passive solar aquaponic greenhouse), utilizing hemp as an insulator or thermal batting. He then stated that residents would be encouraged to participate in horticultural activities and caring for farm animals. He then indicated that the immediate area outside the main entrance would be fenced in as well as the entire property. Mr. Singh then testified that there would be three (3) employees per shift, with three (3) shifts, according to the prescribed guidelines from NJDOH. He then explained, per Mr. Reiss' inquiry, that those people on each shift would also be providing cooking, meal preparation and cleaning of the facility, whenever their time allowed, and added that once the facility was up and running they would re-evaluate the staffing levels for the cleaning and cooking in the facility. Mr. Singh also indicated that the facility would not take Medicare and Medicaid and would be solely private pay. He then drew the Board's attention to the traffic generated by the facility, noting that sadly there were very few visitors only staying an hour in duration. He added that there would be no significant delivery trucks other than farming materials once or twice per week. As far as safety was concerned, he told the Board that residents would not be able to leave the property without staff unlocking the outer perimeter gate. As indicated earlier, Mr. Singh said that food preparation would happen on-site, cooked by staff, with assistance by residents and that the trash and recycling would be picked up once per week. He added that there was very little in the way of medical waste, which would be removed by a private contractor. Mr. Singh then stated that all prescriptions would be administered by licensed staff, with all prescriptions kept in a locked closet and that there would be a minimum of two staff members on-site 24 hours per day, 7 days per week. He then told the Board that residents rarely leave the premises and each resident must be examined by a physician a minimum of once per year on- or off-site, with specialty medical appointments and transportation arranged by friends and family.

Mr. Singh then discussed the many community benefits the facility would provide, noting that there were no dementia care homes presently in Somerset County or Hunterdon County. He then noted that dementia care homes have much different caregiver requirements compared to memory care wings in assisted living facilities and nursing homes. He stated that NJDOH required that caregivers in a dementia care home have specific experience for a minimum of one (1) year and specialized training to work with dementia patients as well as education. Mr. Singh stated that they hoped to offer scholarship programs in the community for nursing, healthcare administration and agricultural engineering students that would be the future ambassadors of their care model as well as hope to raise the standards of "green" construction in a home operation.

Mr. Singh then drew the Board and public's attention to an exhibit showing what the facility would look like from all the different angles. He stated that it was designed to look like a farm home. Showing the interior of the facility indicated an ever widening hallway, which was what they were applying for with a patent to allow residents to always know where their room was located. Mr. Singh then showed a few 3 dimensional perspectives of what the entire facility would look like from the outside from various angles.

Mr. Reiss then asked how much the cost would be to residents, and Mr. Singh indicated that they plan to charge \$285.00 a day per person.

Mr. Ralph Finelli, Architect, P. O. Box 144, Sergeantsville, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Finelli stated that the feeling and look of the building were planned to be familiar and traditional architectural elements. He noted that there would be the inclusion of residential scale siding along with a residentially scaled building. He then drew everyone's attention to the floor plan, noting that each of the 15 rooms had its own handicapped bathroom, sleeping area, sitting area, space for visitors, and the telescoping corridor space that was the key to working for people who have dementia living there. Mr. Finelli then pointed out the kitchen and the prep areas that were open to the corridor to allow the residents to take part in the preparation of foods as well as open to the common area, the seating area and the TV area. He then pointed out the administrative areas where the offices, employees and public entrance would be located. Mr. Finelli then showed one of the 3D renderings, noting the fencing that was around the perimeter, allowing residents to walk around freely outside of the building to walk in the orchards, the gardens and the farm components of the facility, but also would not allow them into the parking area or outside the facility. Mr. Finelli then showed the main ingress and egress with a covered patio for sitting outside.

Ms. Voight then indicated that they would be providing a birds-eye view of the entire property, showing the two adjacent PSE&G easements that total 350 ft. wide

Vice Chair Graumann then asked about what looked to be a second story, and Mr. Finelli indicated that there was a small basement under the administration area that would only house the utilities for the building and that there was no second floor.

Mr. Healey then asked Mr. Finelli to summarize the exterior building materials. Mr. Finelli stated that they were planning to use regular clapboard siding (James Hardy – a cement fiber board or Borol – a fly- ash composition) or a high-end vinyl with extra insulation behind it. He added that they were looking at a metal roof on the outbuildings, possibly a standing seam metal roof and more than likely asphalt shingles on the residence building due to sound issues they might have during a heavy rain. Mr. Finelli then testified that the plans they were seeing that evening were the ones submitted with the Application on March 5, 2019. Mr. Healey had indicated that an earlier version had the building looking more modern, and Mr. Finelli stated that they had replaced those designs with the more traditional look everyone was seeing that evening.

Mr. Michael Ford, Engineer, employed with Van Cleef Engineering Associates, came forward and was sworn in. The Board accepted his qualifications. Mr. Ford gave details of the property, including that it was comprised of 5.85 acres in an R-40 Zone and encompasses three (3) separate lots and a public right-of-way that was filed as part of a prior subdivision

approval for the property to create three (3) single family lots all to be serviced by on-site septic systems and public water connected to the utilities in Bennetts Lane. Mr. Ford testified that that prior approval would be abandoned as part of the proposed Application and the right-of-way for the public road that was about 700 ft. long would be vacated with the entire property would be consolidated back into one (1) parcel of 5.85 acres. Mr. Ford then answered Vice Chair Graumann's earlier question of how much of the property would the residents be able to take advantage of by stating that they would be allowed to walk on and around about half of the 5.85 acres (about 2+ acres). Mr. Ford referenced the PSE&G power line easement as well as the open field under that area that could not be developed and would not be accessible to the residents for that reason. He then added that once the lots were consolidated again, it would essentially be a flag lot again with the residence in front of the property. Utilizing an overview slide, Mr. Ford detailed the area that would be fenced so that residents would not be able to access the parking lot and single access driveway (24 ft. wide) with a one-way loop-type entrance and a landscaped island in the middle. He then stated that there were only 6 parking spaces proposed immediately adjacent to the entrance, with a public walkway around the building to the rear for service where there was a trash enclosure along the driveway. He then spoke about the barn, which was small in nature to house the animals that were part of the therapy environment.

Mr. Ford then detailed all of the surrounding uses and then discussed the required "C" variances that had to do with the auxiliary structures on the property, as detailed in Mr. Healey's Planning report and shown below:

- Greenhouse: 40 ft. setback required – 25.5 ft. proposed.
- Barn: 100 ft. setback required (if housing of animals was proposed) – 40 ft. proposed.
- Chicken Coop: 100 ft. setback required – 25 ft. proposed.

He noted that there was a chicken coop, a hydroponic greenhouse with both fish and vegetable raising and the small barn to house the proposed small farm animals. He then spoke of the storm water management system that was along the easterly boundary of the property with a proposed bio-retention type basin and had implemented a few areas of pervious pavement to enhance water quality. Mr. Ford then told the Board that they had applied to all of the typical agencies; i.e., the Delaware & Raritan Canal Commission (DRCC), the Somerset County Planning Board and Somerset Union Soil Conservation District, which were all pending. He then noted that they not only performed soil testing for the storm water management system, but also for an on-site septic system. Mr. Ford indicated that they would be connected to public water and extending the water main from in front of the adjacent property down to the driveway of the subject property and into the property. He then addressed some of the review memorandums and explained that Public Works had suggested a loop system which would require another 700 ft. of water main down Bennetts Lane and were asking for relief from providing that because they didn't feel it was necessary for the type of project they were proposing and the small volume of water they would be using. Mr. Ford also stated that looping the water main would be a hardship.

Mr. Ford then addressed the April 9, 2019 from CME Associates, the contracted engineering firm of the Township, testifying that they would comply with each and every item in the report. He did want to point out to the Board, for clarification, was that paragraph "F", items 5, 6 and 7 in the engineer's report, points to the Township's ordinance regarding stream corridors. Mr. Ford then told the Board that there was a water course about 250 ft. to the east of the

property and a flood hazard area associated with that, however, which did not encroach onto the property. He did explain that beyond that there was a potential stream corridor that would encroach onto the property slightly, but with the development of the plans and meeting with other staff members of the Township, it was pointed out that the ordinance also included language regarding a stream corridor, if it was previously disturbed, would not be applicable. Mr. Healey concurred with Mr. Ford's determination that the ordinance would not apply because the stream corridor had been previously disturbed. Mr. Ford then pointed out that there were a number of items in the CME Associates April 9, 2019 report that were already satisfied. He added that between their last hearing date in March and that evening, they had endeavored to address many of the comments in the engineering report as well as Mr. Healey's Planning report, dated March 26, 2019. He then explained that they would agree to comply with the Township's Tree Preservation ordinance noted on page 5 of Mr. Healey's Planning report. Mr. Ford then explained that there was a suggestion that they provide a 3D rendering of the proposal, and they had already shown those in the hearing that evening. He added that they would comply with item # 4 in the Planning report asking for building mounted lighting that concealed the light course and directed light to the ground. Mr. Ford then stated that he believed they had satisfied all other comments in Mr. Healey's report.

Mr. Ford then drew the Board and public's attention to the April 8, 2019 memorandum from the Somerset County Board of Health. According to Mr. Ford, the report stated that they had done the on-site soil testing for the septic system and the design had been included as part of the civil engineering site plan set. He then added that they would comply with the requirements of the Health Dept. regarding the design and secure their approval for that. Mr. Ford then noted that he had already spoken to a March 5, 2019 memorandum from Public Works regarding the suggestion for the water main looping, asking for a waiver from that requirement as it would be a hardship for the Applicant. Mr. Ford then stated that there was a review memorandum from the Environmental Commission that suggested some green energy elements, and that they had already implemented some green energy items to the project.

Mr. Rich asked about the areas on the property that would be open for the residents to go freely, and Mr. Ford showed a 3D rendered exhibit and explained the areas accessible to residents in the rear of the property, including where the gardening would be done. Mr. Singh reminded the Board that there was a gate near the patio area that would allow for entrance to the barn, greenhouse and chicken coop so to allow for supervision in those areas. Mr. Rich asked why Public Works suggested the use of a looped water system and Mr. Ford explained that it would provide a secondary source of water should the primary water main break. He added that the land that the loop would be extended to was State owned open space and that they would have to cross a bridge and a culvert which would be a costly endeavor. Mr. Ford stated that there would also be no other potential users connecting to the looped portion because it was not developable land.

Mr. Healey then asked if there would be a sign proposed along Bennetts Lane to announce the facility. Mr. Ford indicated that they were proposing a destinational street address signage. Mr. Healey followed up his questioning by stating that they would have to comply with all the requirements or they would have had to ask for a variance. His second question asked what measures were there in place to keep residents possibly accessing the storm water basin. Mr. Ford testified that the storm water basin was fenced with a split rail fence with wire mesh on the outside because there was a retaining wall around the basin and would

be 4 ft. high on top of the wall. Mr. Ford indicated that they had a wrought iron fence along the perimeter of the property.

Ms. Voight indicated that she wanted to give the Applicant the opportunity to comment on the fencing question in terms of the review by the agencies that license the dementia care home. Mr. Singh then discussed the requirements ensuring that residents would not be able to roam into hazards, noting that DCA reviews all site plans as well as the architectural drawings which encompassed a very intense process in doing so.

Vice Chair Graumann then opened a line of questioning regarding having enough interested parties who could afford the \$285.00 per day cost going into the future in order to afford to maintain the property. Mr. Singh indicated that assisted living facilities in the State of New Jersey were currently at 91% occupancy and that properly managed memory care facilities were at 98% occupancy and charging much more than the proposed rate suggested. He added that he and his partner were hoping to introduce legislation in order to make the care at a dementia care facility more accessible to more people. Mr. Singh also indicated that he and his partner had done their homework in order to assure that they would be able to provide a sustainable business model, noting that there were other active dementia care homes that did not accept Medicare or Medicaid, but were still over 90% occupied charging a similar or higher rate per day.

Ms. Elizabeth Dolan, Traffic Engineer and Principal of Dolan and Dean Consultants, appeared before the Board and was sworn in. The Board accepted her qualifications. Ms. Dolan indicated that she did submit a Traffic Impact Statement, dated December 6, 2018, and indicated that the proposal was a very low trip generator with four (4) trips in the busiest hour. She added that she felt that the parking was sufficient enough to accommodate that and that there would be no significant impact to the adjacent roadway system.

Mr. Healey indicated that there was a permitted use for single family homes in the zone and that there was a subdivision in place for three (3) single family homes. He added that schools and places of worship would be considered for the zone as conditional uses. Mr. Healey then asked Ms. Dolan to describe the differences between the proposal and permitted uses in the zone. Ms. Dolan stated that the traffic generated by the dementia care home would be comparable to three (3) single family homes because those would generate three (3) trips in an hour and a school or a place of worship with a higher population density would generate a much higher activity level on a peak hour basis because of the greater concentration of people being brought to and from the site on a regular basis. Mr. Thomas mentioned that the 5-acre property could accommodate a larger house of worship and would not have to come before the Board because it would be conforming to the zone.

Mr. James Kyle, Planner and Principal of Kyle McManus Associates, P.O. Box 236 in Hopewell, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Kyle then testified that he was retained by the Applicant to review the planning issues associated with the Application. He noted that the proposed use was not permitted in the R-40 Zone and that he had reviewed the nature of the use and the site plan, the Township zoning ordinance and the Township Master Plan as well as visited the site. Mr. Kyle indicated that he was utilizing a Google Earth aerial view of the property and discussed the single family zoning district that the property was located in. In addition to some of the other permitted uses in the zone that were previously discussed, he noted that farming operations and golf



courses were also permitted in the zone as well. Mr. Kyle then added that barns, silos and other customarily utilized farm buildings as well as private garages and private swimming pools, signs and home occupations. Mr. Kyle then detailed the conditionally permitted uses in the zone to include, public utility installations, hospitals, philanthropic uses and member swimming pools, community residences, churches and other similar places of worship. Mr. Kyle then told the Board and public that the proposed use did not fall under the category of community residences and was taken out of that category with recent legislations and, therefore, were required to get a D-1 Use Variance as well as a few other bulk requirements related to the accessory structures. He then spoke of the increased setback requirements because they were planning to house animals in some of the accessory structures, and the exact bulk variances needed were detailed in Mr. Healey's Planning report and spoken about earlier in the hearing. In terms of the Use Variance that they were seeking and the positive and negative criteria that was required, Mr. Kyle stated that he felt quite confident that the proposal qualified as one that was inherently beneficial. He then noted that even though it was not specifically included in the definition that was added to the Municipal Land Use Law (MLUL) in 2009, "group home" was one of those items that the legislature specifically identified as an inherently beneficial use. He then compared a "group home" with what was being provided and indicated that it was very similar to what was being proposed, where care giving was provided 24/7. Mr. Kyle then stated that the proposal was different than a community residence, which was a private facility that did not necessarily have 24 hour care. He told the Board that the model for the care provided at the facility transitioned into a different continuum of care for dementia care patients as compared to an institutional model where heavy use of sedation take place without many activities. He felt that the positive criteria were presumptively satisfied due to the fact that it was considered an inherently beneficial use. Mr. Kyle added that they did not have to demonstrate that the site was particularly suited to the proposed use as one would have to in a non-inherently beneficial use. He then spoke about the negative criteria, noting that the courts had modified the traditional tests that they would apply and the enhanced quality of proof required under Medici. Because of the inherently beneficial use label, they would be able to utilize the four (4)-part balancing test that came from the case Szika v. Wall Board of Adjustment, a case that involved a group home for residents with head injuries and traumatic brain injuries to see if there were any detriments to the public good. Mr. Kyle then testified that the type of care proposed was a departure from traditional care, keeps residents more engaged in a familiar environment by way of the design, breeds familiarity, limits confusion and decreases the possibility of agitation all within a residential setting. A discussion ensued among the Board regarding the setting aside of a good portion of the property for farming use and was adjacent to a permanently preserved State-owned property. Mr. Kyle stated that the proposed structure was about 187 feet away from the nearest residential structure and that they were proposing to put in some additional landscaping to buffer those uses. He then noted that off to the north of the proposed property was a very active commercial farm, and the building and other outbuildings mirror that type of activity in the area. Mr. Kyle then spoke to the positive criteria even if the Board did not think of the proposal as an inherently beneficial use. He then reminded the Board that the traffic generated from the site would be akin to three (3) single family homes and would not create any substantial detrimental effect on the neighborhood in that regard. He added that there would only be one (1) or two (2) commercial deliveries during the week and would not have a negative impact upon the traffic on Bennetts Lane or the surrounding roadways. He testified that the positives outweigh any negatives to the zone plan or zone scheme and that there would not be any substantial detriment to the public good.

Vice Chair Graumann then opened a discussion regarding the potential for a future use of the property to change and dramatically affect the roadway and surrounding residential properties. Mr. Kyle indicated that should a different use come to the property in the future that Applicant would have to come before the Board for approval of their proposal, even if it was a conditional use in the zone. Mr. Kyle stated that the Applicant would be amenable to having a condition placed upon any approval stating the same. A discussion ensued among the Board.

Mr. Healey then mentioned that there were certain categories of community residences within the Municipal Land Use Law (MLUL) that included community residences for disabled, community shelters for victims of domestic violence, community residences for persons with head injuries or community residences for persons that were terminally ill to include 15 residents or less. He then stated that if someone wanted to operate one of those listed communities, by the MLUL, the Zoning Officer has to allow them just as they would a single family home. After those explanations, Mr. Healey stated that the proposed use was very similar to the uses listed above but just didn't fit any of those uses because they were not specific to the type of residents cared for there. Mr. Healey then told the Board that if the proposal were not to succeed and they wanted to convert their facility to one of the community residences listed earlier, they could not be compelled to come back to the Board for approval. He then told the Board that the Municipal Land Use Law (MLUL) superseded the Township's zoning.

Chairman Thomas then stated that the proposed use was really a very low-intensity use. A discussion ensued among the Board.

Chairman Thomas then opened the meeting to the public for questions or comments of any of the witness' testimony that evening.

Mr. Eric Hu, 357 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Mr. Hu stated that he was concerned about the infrastructure surrounding the facility, noting that Bennetts Lane was a rural 1-1/2 car wide road with no divider and no median. He felt that any type of commercial vehicle utilizing that roadway, including emergency vehicles, would cause a safety problem. The next concern he expressed was the potential runoff and contamination of the wetlands. Thirdly, he indicated that the zoning was R-40 and he didn't feel the facility fell within the intended use of the currently intended zone and he didn't feel that the points made in testimony were strong enough to sustain the proposed use.

Mr. Ford then stated that they had described the prior approval for the three (3) residential lots that included an NJDEP Freshwater Wetlands Letter of Interpretation (LOI) that indicated there were no wetlands or wetland buffers on the entirety of the 5.83 acres and that the Applicant had filed with NJDEP to renew that verification that there were no wetlands or wetland buffers on the property that would be impacted by the project. Mr. Ford then stated that the stream corridor per the Township ordinance was discussed earlier, and he stated that Mr. Healey pointed out that it didn't apply in a case such as the proposed where there was already land that was disturbed. He further explained that from a storm water runoff standpoint, the entire property ran towards the south, towards that preserved NJDEP owned property, noting that they had located the detention basin on that southerly boundary line. He added that they were taking a substantial area of disturbed land now, albeit by agriculture, and turning it back into a vegetative area, lawn and other fields associated with the proposed

agricultural use and mitigating for additional impervious coverage, that is about 10% over the entire property. Mr. Ford also indicated that the proposal had a storm water management basin that had been designed in accordance with the State and Township standards so as to reduce the run-off, the bio-retention system promoted infiltration and also addressed water quality. Vice Chair Graumann asked about the runoff from the agricultural uses, and Mr. Ford stated that all of the runoff from the barn and other outbuildings would go to the infiltration system in the bio-retention basin. Mr. Healey stated that that would not happen if it were an actual agricultural use they were proposing for the property.

Ms. Dolan then addressed Mr. Hu's question about the adequacy of the roadway for larger vehicles on the country road that was not up to the current RSIS standards, but that there must be deliveries along the roadway to the various properties on occasion now and that there was most certainly trash pickup from time to time presently. She stated that she wouldn't expect the development of the proposed use to change the intensity of that and that trash would be picked up once per week as testified to by the Applicant. She added that other than the initial setup of the building, there would be no large deliveries.

Ms. Mary Nepote, 361 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Ms. Nepote gave her disbelief that two (2) or three (3) employees would be able to handle 15 residents in the building, the barn, the orchards and the greenhouse all at one time. She also indicated that there would be large trucks coming in regularly with food deliveries and felt that they would need more people per shift to prepare food and supervise the residents.

Mr. Rich then asked exactly where Ms. Nepote lived and she said it was east of Mary's Lane on the other side of the brook.

Ms. Laurie Van Dyke, 355 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Ms. Van Dyke thought that the concept was a wonderful idea for dementia patients, but didn't feel it should be located in a residential neighborhood as was agreed to by her neighbors. She explained that she went around and had her neighbors sign a petition regarding the proposed development. Mr. Kinneally told Ms. Van Dyke that the Zoning Board was not allowed to accept petitions and people actually had to come in to testify so that they could be questioned by the Board. Mr. Kinneally told Ms. Van Dyke and the public that the meeting would not conclude that evening and that there would be another hearing for the people who signed the petition want to come in and testify. Ms. Van Dyke explained that there were many medical issues that go along with dementia and knows firsthand because both her parents have it and her mother died from it. She also then expressed concern that it could be a viable business model with the cost to reside there and the fact that there would only be 15 residents. Vice Chair Graumann then explained the proofs that the Applicant needed to provide in order to show that they would be able to obtain a Use Variance.

Mr. Rich then asked Ms. Van Dyke exactly where she lived, and she showed them on the exhibit.

Mr. Robert Puskas, 170 South Middlebush Rd., Somerset, NJ, came forward and was sworn in. Mr. Puskas asked what stage the dementia patients would be in to reside at the facility. Mr. Singh explained that the stage of dementia could vary depending on when the patient came to live there and the ability of the family to care for them at home. Mr. Singh also stated that they were not a nursing home and did not provide medical care, such that someone with

bed sores would not be able to stay at the facility. Mr. Puskas shared Ms. Nepote's concern that there would be enough staff to care for the residents and didn't agree that there wouldn't be more visitors coming to the site. He then told the Board that if the Applicant was concerned for the noise generated by rain on a metal roof, they should also know that there was a lot of hunting on the Township owned property and wildlife control operations on the State owned land right next to the proposed property.

Mr. Rich then asked where exactly in relation to the proposed site Mr. Puskas lived, and he showed the Board on the exhibit. The issue of water pressure was discussed, and Mr. Puskas felt that there would be a great need for water than the Applicant suggested, especially with the inclusion of a aquaponic greenhouse.

Mr. Franco DiMeglio, 409 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Mr. DiMeglio stated that he didn't feel the split rail fence with mesh attached would be secure enough. Mr. Kinneally stated that he thought the testimony given showed that type of fence was only specified for around the detention basin. Mr. Ford indicated that the fence around the perimeter was a metal fence with a minimum of 4 ft. high. Mr. DiMeglio indicated that he felt the fence should be a minimum of a 6 ft. high fence. Mr. Ford stated that portions of the fencing would be a 6 ft. high stockade fence around the sides and around the trash enclosure as well.

Mr. Vincent Dominach, Township Economic Development Director, came forward and was sworn in. Mr. Dominach explained that he had worked with the Applicant for almost two (2) years looking at different properties working with staff and Mr. Healey to try to find the perfect piece of property in the Township for the type of use. Mr. Dominach then explained that the reason why the Water Dept. wanted a looped water main system was for water quality purposes. In the proposed situation, Mr. Dominach explained that it had nothing to do with the amount of water or the water pressure. He went on to further explain that the water main was currently dead ended and it would be supplying a very low impact development as compared to a small housing development. Mr. Dominach recommended that they do waive the requirement for the looped water main. He then drew the Board's attention to the traffic testimony that was given, noting that Ms. Dolan's testimony indicated that the intensity of the site would be equal to the originally approved three (3)-lot subdivision. He then explained that he was very satisfied with the business model and the systems in place for oversight by the State. Mr. Dominach stated that he had visited other similar facilities with the Applicant and that they were not at the high end of what was proposed to be charged. He then brought up the testimony given by the Applicant's Planner as well as Mr. Healey, the Township Planning Director as to the type of uses that can and would be permitted in the zone.

Chairman Thomas, seeing no one further coming forward, closed the meeting to the public.

Mr. Kinneally suggested to the Applicant that they bring their professionals back at the next hearing because they would be adjourning that evening since there were not enough Board members present for a vote and those not present that evening may have questions to ask of those witnesses.

Mr. Reiss then put on the record that he agreed with the residents who presented that evening that he didn't think that three (3) employees would be a sufficient enough number of personnel on-site at any one time to take care of the animals and feed and supervise 15

residents. Mr. Healey then added that the Board members should think about whether there were six (6) employees on-site per shift and if that would change anything presented. A discussion ensued among the Board and they discussed the fact that there were 12 parking spots being provided on-site. The Board agreed to carry the meeting and suggested that Ms. Dolan, the Traffic Engineer, give the Board a sense of the impact of the site should there need to be additional employees coming to the site. The Board agreed to reconvene the hearing on May 2, 2019, with witnesses attending or sending representatives - **CARRIED TO MAY 02, 2019 – with no further notification required.**

**DL - 06/14/2019**

**WORK SESSION/NEW BUSINESS:**

There was no work session or new business discussed.

**MEETING ADJOURNED**

Chairman Thomas made a motion to adjourn the meeting at 9:30 p.m. and was seconded. All were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
May 21, 2019