

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

**REGULAR MEETING
May 2, 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:

PRESENT: Anthony Caldwell, Laura Graumann, Donald Johnson, Bruce McCracken, Alan Rich, Gary Rosenthal, Joel Reiss, Cheryl Bethea and Robert Thomas

ABSENT: Robert Shepherd and Cheryl Bergailo

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

RESOLUTIONS:

- **Corporate Community Connection, Inc. / ZBA-17-00001**

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal and Chairman Thomas

AGAINST: None

- **Abel Smith / ZBA-19-00002**

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

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

AGAINST: None

- **Jarrett Sutton / ZBA-18-00018**

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

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. Rich, Mr. Rosenthal 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 for a continuation of the previous hearing on April 18, 2019. 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. – **CARRIED FROM APRIL 18, 2019 – with no further notification required.**

Chairman Thomas indicated that he believed that they had gone through most, if not all, of the testimony, but thought that there were a few loose ends to tie up. He added that the Board had asked for some additional information and that if there were any additional witnesses, they would listen to that testimony first and then open the meeting to the public.

Ms. Voight indicated that since they had covered so much ground at the last hearing, they were going to be providing limited additional testimony to specifically address some of the questions that the Board posed.

Dr. David Barile, M.D., Co-Owner of Green Care Farms, 566 Princeton-Kingston Road, Princeton, NJ, came forward and was sworn in. Dr. Barile then gave some background with his experience with dementia and dementia care homes. He stated that he was Board Certified in Internal Medicine and Geriatric Medicine and was Section Chief in Geriatric Medicine at Princeton Hospital and oversees the geriatric services in the ACE Unit there. He added that he was Fellowship-trained in Geriatrics and worked part-time with the hospital as well as had his own private practice. Dr. Barile then told the Board and public that he worked in two (2) dementia care homes, with 12 and 15 beds, respectively. He testified that there were three (3) staff personnel on hand when the 15 bed facility was at capacity and two (2) for the 12-bed facility, per applicable New Jersey licensing requirements. He indicated that he considered the staffing at both facilities to be adequate based on his observations. Dr. Barile then stated that the per day charges for the other two facilities were just over \$300.00 per day and that the dementia care home model was an acceptable model even without accepting Medicaid.

Dr. Barile then explained what his relationship to Green Care Farms was by saying that he was a co-owner with Mr. Rajiv Singh.

Vice Chair Graumann then opened a discussion regarding the other two (2) facilities and whether they incorporated farming and other amenities that were described at the previous hearing. Dr. Barile explained that in the other two (2) existing facilities, the two (2) staff at each of those helped in guiding the patients to get up in the morning and getting dressed and helping with food preparation. He noted that the two (2) overnight staff members also help with food preparation. The doctor testified that there was additional staff that came in to help with trash collection, cleaning and changing linens and laundry and a Director of Nursing who came into those facilities to assist with medication dispensing throughout the day. He wanted to add that the dementia residents at these facilities were still able to walk about and still able to dress themselves with some guidance, but might need some assistance with bathing. Dr. Barile then indicated that the residents who live at these types of facilities have mild to moderate dementia and were not bed-bound. The Vice Chair then expressed her concern that three (3) staff members per shift would be adequate, and Dr. Barile stated that his partner testified that if it were determined at any point in the facilities' operation that they needed an additional staff member, that one would be hired to oversee the greenhouse operations. He added that that person may or may not be involved in helping with patient care. Dr. Barile did testify and agree with Mr. Singh's previous testimony that three (3) staff members per shift was an adequate model.

Dr. Barile clarified his testimony, stating that the Director of Nursing would likely be a part-time position and that collection of trash, cleaning, changing of linens and laundry would essentially be a service provider that would come into the facility.

Mr. Rosenthal inquired as to whether they would employ the same caregivers on a regular basis, and Dr. Barile stated that they would be full-time employees.

Mr. Reiss then asked if residents would be making up their own beds, and Dr. Barile indicated that they would do so if they were able, and that the idea was to get each resident as engaged as possible (cognitively and physically) by also getting them to help with food preparation, gardening and activities throughout the day. Dr. Barile then discussed how the dementia care (green care) model was popular and successful throughout Europe as well as this type of facility was seen across the United States, but not yet with dementia patients involved. He added that they were trying to incorporate dementia patients within this model in the United States.

Mr. Johnson then asked how patients would be selected to become residents in the home. Dr. Barile indicated that there would be marketing and promotion and typically patients were recommended for a facility such as the Green Care Farms by their primary care physician or the family sought advice from their family doctor about assisted living or nursing home care as well as dementia home care placement. He added that referrals would also come from social workers. He then discussed the financing of such a placement and that insurance would not cover such expenses, and Dr. Barile was in agreement with his statements.

Mr. McCracken then inquired as to the average length of time that people stay at a facility such as the one that was being proposed. Dr. Barile testified that patients average, from the diagnosis of Alzheimer's/dementia to death, of a time period of about 7-9 years. He continued to say that they were looking at a window of about 3-4 years where someone was memory impaired and could not live alone, but high functioning enough that they could live comfortably in the proposed type of setting. Dr. Barile added that when care was at such a point that they

need additional care, they would be moved to a nursing home to obtain a higher level of care. The doctor then briefly described dementia as an umbrella term that basically defined an older person with cognitive and memory troubles. He did note, however, that 85% of all dementia cases in the United States were Alzheimer's dementia cases. Dr. Barile then stated that the remaining few were vascular dementia, which is dementia from strokes, or Parkinson related dementia as well as other rare types of dementia.

Ms. Voight then explained, for anyone in the audience who was not at the previous hearing, she was introducing Ms. Betsy Dolan, Traffic Engineer, for Green Care Farms, and had already been certified as an expert and provided previous traffic testimony. She added that Mr. Rajiv Singh, the other Director of Green Care Farms, provided some testimony that in the event that they did discover the need for some additional staffing, they would certainly respond accordingly. She further went on to explain that that discussion raised the question of whether any additional staffing would change the traffic impacts of the project. Ms. Voight then stated that they brought Ms. Dolan back to address that question.

Ms. Betsy Dolan, Traffic Engineer and Principal of Dolan and Dean, stated that at the last hearing, she presented her findings from the December, 2018 report that was submitted. She indicated that the trip estimates were based upon the Institute of Transportation Engineers' (ITE) assisted living trip research. She then stated that the other category that was discussed briefly at the last hearing was a nursing home where there was many more staff and where the residents do need more care. Based on ITE, Ms. Dolan told the Board and public that nursing homes, for the size of the building and number of beds, the maximum would be nine (9) trips in an hour. She continued by stating that even if that number was doubled, that number was still well below what would be considered significant in traffic engineering terms. Ms. Dolan then indicated that State highway access management code and ITE define significant as 100 trips or more in a peak hour. She then stated that the proposed development would not get anywhere close to that number, and that even if the staffing levels doubled, there would not be a negative traffic impact on the roadway or surrounding area. She added that the traffic impact of what was being proposed would not be any greater than what a community home would bring, which was permitted in all residential zones.

Vice Chair Graumann then opened a discussion regarding how many of the area residents were very concerned that the proposal was focused on being placed on a very narrow, country road. She then asked Ms. Dolan to discuss significance insofar as the impact on that kind of a roadway.

Ms. Dolan then directed the Board's and the public's attention to the design of the access intersection. For example, Ms. Dolan stated that they didn't warrant a left-hand turn lane on the road because the volumes were not high enough and that there were engineering criteria for those types of things. While Bennetts Lane was a narrow roadway and motorists might have to wait to get around a delivery vehicle, the driveway was residential in character that had a long driveway so that people who were turning into the site wouldn't have any obstructions or parking at the access intersection, so that they were free to get off the road and come into the site. As for anyone wanting to leave the site, Ms. Dolan stated that they would wait on the driveway until there was a gap and then they would turn. She then testified that she didn't believe that it would operate any differently than a residential driveway, i.e., Residential Site Improvement Standards (RSIS) allowed one driveway to serve four (4) homes, and would be comparable. Ms. Dolan then stated that the proposal was not

generating any heavy vehicle activity that would really compromise the circulation on the roadway.

Vice Chair Graumann then brought up the fact that there had been a three (3)-lot subdivision that had been previously approved for the property and she asked how the proposed traffic impact would compare to that of the previously proposed three (3)-lot subdivision. Ms. Dolan testified that the traffic impact would be comparable because that would generate about three (3) trips in a peak hour where the proposed development would generate about 3-4 trips in a peak hour based on the ITE assisted living numbers and felt that they made sense in terms of what had been testified to regarding the operations.

Mr. Reiss then brought up the testimony that was given at the last hearing regarding the residents not having many, if any at all, visitors to the facility. He stated that he couldn't imagine that the families would never visit their loved ones. Ms. Dolan clarified the testimony given at the last hearing, which was that sadly, there was not a lot of visitors expected because it was very sad to visit a parent who did not remember their children or family any longer. She further stated that the parking supply was intended to accommodate the employees as well as the occasional visitor. Ms. Dolan then reiterated the number of parking spaces as 12 parking spaces proposed on-site.

Chairman Thomas then discussed the low levels of deliveries and the low impact an additional one (2) or two (2) employees would have on the traffic in the area, with four (4) as the maximum in the peak hour. The Chairman then asked if the facility intended to limit the hours or days that visitors could come to the facility. Dr. Barile stated that they would have recommended hours for visitation.

Chairman Thomas then opened the meeting to the public for questions or comments.

Ms. Betsy Kormeluk, 5 Nepote Place, Somerset, NJ, came forward and was sworn in. Ms. Kormeluk stated that she was a nurse and thought that the proposal was a much needed resource, but expressed her disagreement that the dementia care home should be placed on Bennetts Lane. She stated that she lived in the development for many years and with each change to the area, more traffic came through the area. She stated that motorists come through that roadway at 50-60 miles per hour and at one point, with the way the roadway was angled, it was difficult to see very far down the road and was a hazard to all motorists. She then explained that Bennetts Lane was a farm road and that people were not experienced driving on farm roads. Ms. Kormeluk also expressed concerns for the environmental impacts due to the stream across the way and wetlands and the impacts to the wildlife. She also stated that where the driveway was placed, there was a blind hill and motorists would not see anyone coming out of that driveway until it was almost too late. She also thought that the trash removal, linen service, food deliveries would also bring added traffic to an already busy road that was not meant to handle the traffic. She then expressed her concern for the re-zoning of the property and setting a precedent for all the other open space in the area.

Chairman Thomas wanted to make clear that they were not re-zoning property and that the property would remain in the R-40 zone. He also reminded the public that any house of worship of any size would be allowed by right, as a permitted conditional use, with a large parking lot

Mr. Darryl Beatty, One Kristen Court, Somerset, NJ, came forward and was sworn in. Mr. Beatty explained that he had a parent he cared for who had Alzheimer's and didn't feel that three (3) people per shift would be adequate enough to care for 12-15 people along with farming, caring for animals and a greenhouse on-site. He told the Board that the area should not be a testing ground for a model that supposedly works well in Europe without obtaining more information about how it does so. Mr. Beatty also expressed concern for what it would do to their property taxes.

Chairman Thomas then verified that the facility would be a tax paying entity and would be a tax benefit for the Township.

Mr. Eric Hu, 357 Bennetts Lane, Somerset, NJ came forward and was sworn in. Mr. Hu indicated that he knew that a house of worship would be allowed on the property, but what was being proposed was a commercial medical facility. Mr. Hu indicated that a house of worship was already a permitted use in the R-40 Zone per the Master Plan, but the medical facility was not. Both Chairman Thomas and Vice Chair Graumann were trying to find out whether Mr. Hu's concern was the impact of the proposed facility. She then explained that any house of worship or certain other permitted uses, there would be a substantially greater impact on the traffic in the area and the fact that it was permitted would give the surrounding residents very little leeway to fight it. Mr. Hu still believed that allowing a commercial medical or any commercial use in the R-40 Zone would set a precedent for other R-40 Zones in the Township. Chairman Thomas then explained that each application stands or falls on its own merits. Mr. Hu then drew the Board's and the public's attention about the lack of some key statistical data that was missing from the Traffic Engineer's testimony. He reminded everyone that the roadway was 16 ft. wide, with no shoulder and was a crowned road that was a country lane. He then discussed the width of an average car being 6 ft. wide and an emergency ambulance vehicle was 14 ft. wide, with not much room between the two to pass each other on the roadway. Mr. Hu then brought up such issues as storm runoff onto the State owned open space land and entering the stream there in the wetlands. Finally, Mr. Hu stated that he didn't believe that a rural community, R-40 zoned area could accommodate a 24/7 commercial operation.

Mr. Doug Lambertson, 384 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Mr. Lambertson expressed his concern for the type of security facilities that would be put in place to secure the residents and keep them safe from wandering. Mr. Lambertson asked what measures would be put in place to prevent that from happening.

Vice Chair Graumann then explained that part of the plan that was presented at the last hearing included an enclosed, fenced in area of approximately 2-1/2 acres would be available to the residents with a locked gate and would not be allowed to go beyond that.

Mr. Lambertson indicated that many residents have swimming pools on their properties that were required to have a fence and a gate that was so high and self closes and locks to mainly keep children safe. He expressed his concern for the residents who might wander in the path of the roadway that was already a dangerous road for the reasons already specified. He then also spoke about having to help many motorists out of the ditch at the side of the road as it drops off. Mr. Lambertson brought up his concern about property values dropping by putting in a commercial development in the area.

Chairman Thomas opened a discussion with Mr. Lambertson regarding the fact that the farming in the area was also commercial development, with Mr. Lambertson stating that the farms preceded the neighborhood and was part of the allure to live in that area. The Chairman also explained that he would think that any other use surrounding the proposed property has more impact on the subject facility than the other way around.

Mr. Alex Kharazi, a Bennetts Lane area resident, came forward and was sworn in. Mr. Kharazi expressed his biggest concern was what bringing the facility into the area would do to the quality of life there. He respectfully asked the Board members to please listen to the neighbors, respect their opinions and desires, and do not approve the project.

Mr. Steven Kormeluk, 5 Nepote Place, Somerset, NJ, came forward and was sworn in. Mr. Kormeluk inquired as to what type of areas were the successful dementia home facilities in Europe located. Dr. Barile indicated that they were located in rural areas. Mr. Kormeluk then asked what the benefit would be to the community and to the neighborhood with having such a facility located there. He asked about ratables for the Township, preferential treatment and access for residents of the Township and the immediate area or would they come from an outside area that would bring additional traffic into the Township. He suggested that there were many vacant commercial spaces that could be utilized for this type of facility. Mr. Kormeluk asked whether the proposed dementia care home a fixed occupancy of 15 residents or could there be the possibility of expansion, either through additional floors or additional horizontal floor space.

Mr. Kinneally, Board Attorney, indicated that should there be an expansion proposed, the Applicant would have to go through another Board hearing

Vice Chair Graumann suggested that Mr. Kormeluk take a look at the plans because the way it was designed, it could not utilize a repurposed commercial building. She added that it was designed specifically for the use of dementia patients to locate their rooms easily. Because of the design and model, the Vice Chair explained that it was not possible for there to be expansion. She also stated that the project was vetted by the Economic Development group of the Township specifically to bring in revenues to the Township and was not a non-profit organization.

Mr. Kormeluk then expressed his concern for construction vehicles coming into the area and causing damage to the roadways in the area, potentially shutting down roads for repairs. Mr. Healey stated that there would be much more and larger construction vehicles coming in if a three (3) single family home subdivision were built there instead.

Mr. Kormeluk then asked what the protocol would be should the Board act favorably on the application. Mr. Kinneally, Board Attorney explained that any time the Board voted on an application, the Board would then memorialize that in a written document called a Resolution would be drafted and adopted by the Board and any interested party could ask for an appeal and would be heard at the County courthouse within 3-4 months. He added that the judge would review the transcripts of the hearings and would decide whether or not he/she believed that the Board acted properly and applied the proper law. Mr. Kinneally then explained that if the judge agreed with what the Board did, he would uphold the findings of the Board and if he disagreed with what the Board did, he/she can reverse the Board. Mr. Kinneally stated that if any interested party was not pleased with the judge's ruling, they could go and apply to the

Appellate Division. He then explained that there were many other approvals that were necessary (County, State) approvals that would be required and were outside of the parameters of the Zoning Board.

Mr. Skip Schaeffer, 2 Laird Terrance, Somerset, NJ, came forward and was sworn in. Mr. Schaeffer didn't feel that it was believable that three (3) people would be able to handle the care of 15 people at the proposed facility. He then spoke about being true to the Master Plan of the Township in regards to zoning and indicated that something like that should not be taken lightly. Mr. Schaeffer then spoke about the speed with which motorists travel on Bennetts Lane, a 35 mile per hour zone. He indicated that unless someone lived on Bennetts Lane, they would have no idea how many cars travel that roadway and how fast they travel. Mr. Schaeffer then discussed the safety of the residents and small farm animals at the facility.

Vice Chair Graumann asked Mr. Healey, Township Planning Director, about a question that was raised about the Master Plan and to what extent the requested variance either agrees with or does not agree with the Master Plan. She then asked Mr. Healey address that issue. Mr. Healey explained that the very reason the Zoning Board existed was to hear applications for things that do not conform to the zoning ordinance. He further stated that when putting together zoning ordinances or a Master Plan, there were certain things that would not be thought of or there might be unique circumstances affecting properties where someone would have to come in asking for relief from the zoning ordinance. Vice Chair Graumann then brought up the fact that certain proofs had to be satisfied in order to grant variances. Mr. Healey stated that the Applicant basically had to satisfy the positive criteria and the negative criteria. For the positive criteria side, Mr. Healey stated that the Applicant had to prove that the site was particularly suitable for the use. He noted that the Applicant presented testimony indicating how the site was particularly suitable. Mr. Healey added that the Applicant, after presenting that testimony, stated that he really didn't even have to present that because the use was an inherently beneficial use. On the negative side, Mr. Healey stated that the Applicant had to prove that the site did not have substantial impact on the surrounding area and on the zone plan. Mr. Healey then noted that the Applicant gave testimony based on his own opinion, on the traffic test, testimony based upon the design itself that included the architecture of the building, the layout of the property, the screening, etc. Finally, Mr. Healey stated that the Applicant felt that the positives of the proposal outweighed any negatives.

Ms. Pat Ricicki, 9 Laird Terrace, Somerset, NJ, came forward and was sworn in. Ms. Ricicki explained that she was a nurse for 40 years and was concerned about the staff ratio that was proposed. She also felt that the surrounding roadways were very busy and filled with lots of traffic and not suitable for the use. A discussion ensued among the Board.

Ms. Dolan, Traffic Engineer, stated that she didn't think turning in and out of the proposed driveway was going to be much different than turning in and out of the various streets or driveways that were already along Bennetts Lane. Ms. Dolan then addressed the concerns some residents had about the sight distances, and she noted that the plans include the sight triangles on the plans. Ms. Rocicki then stated that there had been a few residential developments in the area of Bennetts Lane over the years and each time, the impacts to the roadways could be felt, and she just didn't think the roadways in the area could handle one more development.

Mr. Tony Ricicki, 9 Laird Terrance, Somerset, NJ came forward and was sworn in. Mr. Ricicki just wanted to confirm and agree with the testimony given by his wife regarding the roadways and the safety of the residents.

Ms. Laurie VanDyke, 355 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Ms. VanDyke was concerned about the testimony given by Mr. Singh regarding having internships at the facility. She stated that there could be multiple types of internships on the property, including those with caring for the animals, nursing, doctors, etc., that would increase the number of people coming to the site. Ms. VanDyke asked whether any of the residents would have a life line fob with a GPS included. Mr. Singh indicated that they were in the process of evaluating the use of life line fobs with the various technologies that exist. Ms. VanDyke then discussed the need for deliveries at the facility for the smooth running of it. She compared that to the occasional delivery at a residential property.

Ms. Susan Hu, 357 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Ms. Hu spoke about what she perceived as differing testimony from the last hearing on April 18 and that night's testimony.

Mr. Healey indicated that the testimony from their Planner was that the proposed was a facility to take care of people with Alzheimer's, which by State law, was inherently beneficial to the public. Vice Chair Graumann then discussed the information that the Zoning Board needs to use to determine whether they accept or reject the Application. Mr. Healey then stated that the discussion that was had at the last hearing was that the Municipal Land Use Law (MLUL) said that certain types of group homes, up to 15 people, that included people with developmental disabilities, people with head injuries, victims of domestic abuse, etc., had to be permitted by staff by permit just as they would for a single family home. He then added that the reason the Applicant was before the Board was because the use did not quite fit into the group home category, even though it was very similar to that use.

Mr. Gerald McNee, 5 Casey Court, Somerset, NJ, came forward and was sworn in. Mr. McNee did not want to see a commercial business on the property and would like to see the three (3) single family homes built there. He also stated that he didn't think that 12 parking spaces would be adequate enough for the different people who had to come to the facility in order to care for the residents as well as for the visitors. Mr. McNee then stated that he was concerned that the facility would grow and expand in time because of the need for such facilities.

Ms. Joyce Kocylowskyi, 22 Nepote Place, Somerset, NJ, came forward and was sworn in. Ms. Kocylowskyi expressed her concerns that her quality of life that she moved to her home for 25 years ago was going to be compromised by allowing the commercial facility to come to the area.

Ms. Chelsea O'Brien, 359 Bennetts Lane, Somerset, NJ, came forward and was sworn in. Ms. O'Brien indicated that she felt that there would be a need for many more staff people on-site in order to not only take care of the residents but also to show them and engage them in the proposed activities. Chairman Thomas then told Ms. O'Brien that the Zoning Board was not in a position to tell the Applicant how to staff their facility, especially since they had testified that they meet all the State guidelines and were State licensed. Ms. O'Brien then

suggested that the driveway should be wider to accommodate for emergency medical personnel.

Ms. Dolan, Traffic Engineer, stated that the proposed driveway was 26 ft. in width and was a two-way driveway.

Ms. O'Brien then asked whether there would be pole mounted lighting in the parking area for nighttime illumination.

Mr. Andrew Vaccarello, Engineer employed with Van Cleef Engineering, 32 Brower Lane, Hillsborough, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Vaccarello answered Ms. O'Brien's question by stating that they had done a lighting study which showed a model of the area where no lighting goes off the site. He then indicated that the lighting fixtures in the parking areas were proposed at 15 ft. in height and shouldn't be visible from the adjacent properties.

Ms. O'Brien then asked whether allowing this variance change the maximum height of the proposed building compared to a single family home that might be built on the same property. Mr. Healey stated that the Applicant complied with the requirements of the zone and were not seeking a height variance.

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

Mr. Vincent Dominach, Township Economic Development Director, stated that he spoke at the last meeting and would not repeat what was said last time, but that he wanted to speak about the review process. He added that the Board very much appreciated all of the public comments as it helped them in the decision-making process. Mr. Dominach wanted the public to know that there was very limited ability for the Board to consider many of the points that were brought up and that the Board acted in a quasi-judicial manner and could only consider and put certain weights on certain testimony. He further stated that all of the testimony presented went towards the proofs of getting the proposal approved and that the Board does take into consideration the comments from the Board. Mr. Dominach added that the comments from the public did not have the same weight as the testimony from the professional witnesses, by a matter of law. He then indicated that the Board had to go by what case law says, what the Municipal Land Use Law (MLUL) says and what the land use required them to consider.

Ms. Voight then gave her summation by recapping the most relevant points for the Board to consider as well as to address some of the concerns of the residents. She reminded everyone that the property was currently approved for the development of three (3) single family homes and a public road that would service them. She also stated that the area was not a dementia-free area and that any home in the community could care for a loved one in their home who had dementia without the security that was required by the DCA of the proposed site. Ms. Voight then explained that the proposal was for a dementia care home and not for a facility, a hospital or an institution, and New Jersey had created a new license for a care home. She added that the proposed home was not dissimilar to a community residence which was permitted in all residential zones in New Jersey. In order to expand upon Mr. Healey's explanation, Ms. Voight stated that a community residence included people

with terminal illnesses, those with head injuries, the elderly, those with physical disabilities who require supplemental services and were permitted as of right in all residential zones. Ms. Voight stated that recently dementia care homes were removed from the definition of community care residences and was currently being reviewed by the federal court because they didn't necessarily see that there was any legitimate reason to treat dementia care homes differently than a community residence. Ms. Voight then described the testimony of Mr. Rajiv Singh who had explained that the agricultural setting and activities that Green Care Farms has envisioned included many benefits for dementia patients, noting that it had an agricultural character and not an agricultural operation as indicated by characterizing the animals as pets. She reminded everyone that Mr. Rajiv Singh testified that Green Care Farms was similar to other dementia care homes that charge much more and were enjoying demonstrated success. Ms. Voight then stated that the staffing requirements of the proposed home would be as per the New Jersey Department of Health guidelines and, at the same time, if there was a need for more staff, the owners would respond accordingly. She then reminded the Board and public that the testimony of Ms. Betsey Dolan, Traffic Engineer, clarified that even with the addition of extra staff that it would not be near significant as per the standards. Ms. Voight reiterated Ms. Dolan's testimony that indicated that the driveway was residential in character, that the use was a low trip generator and that the project was currently permitted with three (3) single family homes that would have similar peak traffic volumes and would have the same ability to accommodate for an ambulance to service the property and would not be dissimilar to package deliveries that likely occur in the area. Ms. Voight also stated that the public was concerned about the possible transition of the home to a subsequent owner and what use might come as a result, it was not an appropriate basis for denial, and that they had heard the testimony of Dr. David Barile who clarified that with his experience working in similar places, Green Care Farms anticipated great success with the proposed dementia care home. She then stated that Dr. Barile provided testimony that the business model worked, as exhibited in other dementia care homes as well as in Europe and was not a test case, but a proven model. She also reminded everyone there that any subsequent occupant would use the building for a permitted use such as a community residence or would require further land use approvals. She then spoke of the architect's testimony, where great thought and detail was put into the design of the building in compliance with regulatory requirements for dementia care homes. He explained that Green Care Farms was proposing to utilize the agricultural character and setting to exceed the quality of life experience by most elders with dementia compared to what they would experience at other institutions. Ms. Voight then strongly suggested that the public watch the testimony given at the previous hearing to have a better understanding of what was being proposed and that Mr. Ford, the project's Engineer gave testimony and addressed the comments in the Township professional's memorandums, showing that they have also reviewed the proposal. Ms. Voight then explained that the project was subject to outside agency review that would address any concerns the public might have regarding environmental concerns or constraints. She explained that there were other permits that were required from other agencies such as the Delaware & Raritan Canal Commission (DRCC) and the New Jersey Department of Environmental Protection (NJDEP) and have the expertise to review the project and its impact. Ms. Voight then discussed the testimony given by Mr. Ford regarding the waiver of having to loop the water supply and the hardship it would create for the Applicant, asking that the approvals not be conditioned to do so. She also detailed Mr. Ford's testimony regarding the flood hazard area and specifically requested that certain comments in CME's report did not need to be complied with as well as his comments regarding the green elements proposed for the project which were consistent with the Township's intent for green planning. She then explained that Mr. Ford testified that the

NJDCA reviewed all site plans and architectural plans to confirm that the requirements for dementia care homes were met, including the safety concerns that including fencing and such.

Ms. Voight then told the audience that Mr. Jim Kyle, the project's Planner, gave testimony that addressed many of the comments heard that evening and explained that the Board had the choice of options in approving the use variance and could determine whether they would defer to the inherently beneficial use of the project where the positive criteria of the use were presumptively satisfied, where Green Care Farms did not have to show that the project was uniquely suited to the property because of the inherently beneficial use. Regardless, Ms. Voight stated that the planner went through the Medici test and provided testimony of the public benefit, the lack of detrimental effects, the ability to condition the project and the favorable outcome of balancing the positive and negative criteria. She then indicated that Mr. Kyle also demonstrated that the property was particularly suited for the proposed use because it had sufficient area, sufficient space between the residential uses and that the Applicants proposed additional buffers. She also indicated that Mr. Kyle demonstrated that the use was consistent with the intents of the residential zone and the goals and objectives of the Master Plan of the Township and reviewed the testimony given stating that they felt the project was less impactful than the currently permitted three (3) residential structures and less impactful than a community residence, which was permitted in the zone.

Vice Chair Graumann addressed the audience and noted that she could not address specifically many of the concerns of the public since they were not in the Board's purview and needed to address the proofs put before the Board. She then made a motion to approve the Application and to waive the requirement for a looping water line. The Chairman wanted to make clear that if the motion were approved; it would not bring a zoning change to the area, but a variance to a particular property and would not create a precedent. Mr. McCracken seconded the motion and the roll was called as follows:

FOR: Mr. Caldwell, Vice Chair Graumann, Mr. Johnson, Mr. McCracken, Mr. Rich, Mr. Rosenthal and Chairman Thomas

AGAINST: None

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 9:55 p.m. and was seconded. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
May 28, 2019